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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
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.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC
(TWO BRIEFINGS)

WHEN: June 15 at 9:00 am and 1:30 pm

WHERE: Office of the Federal Register, 7th Floor Conference Room, 800 North Capitol Street NW, Washington, DC (3 blocks north of Union Station Metro)

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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.

FEDERAL TRADE COMMISSION

5 CFR Chapter XLVII

RIN 3209–AA04 and 3209–AA15

Supplemental Standards of Ethical Conduct for Employees of the Federal Trade Commission

AGENCY: Federal Trade Commission (FTC).

ACTION: Interim rule, with request for comments.

SUMMARY: The Federal Trade Commission, with the concurrence of the Office of Government Ethics (OGE), is issuing a regulation for officers and employees of the FTC that supplements the Standards of Ethical Conduct for Employees of the Executive Branch issued by OGE on August 7, 1992. The supplemental rule requires FTC employees to receive prior approval to engage in outside employment.

DATES: Interm rule effective May 27, 1993. Comments are invited and must be received on or before July 12, 1993.

ADDRESSES: Send comments to the Federal Trade Commission, 6th and Pennsylvania Ave., NW., Washington, DC 20580, ATTN.: Kathleen A. Rittner.

FOR FURTHER INFORMATION CONTACT: Kathleen A. Rittner, (202) 326–2498 or Ira S. Kaye, (202) 326–2426, Federal Trade Commission, Office of General Counsel.

SUPPLEMENTARY INFORMATION:

I. Analysis of Regulation

On August 7, 1992, the Office of Government Ethics published a final rule entitled "Standards of Ethical Conduct for Employees of the Executive Branch" (Standards). See 57 FR 35006–35067 as corrected at 57 FR 48557 (October 27, 1992) and 57 FR 52583 (November 4, 1992). The Standards, codified at 5 CFR part 2635 and effective February 3, 1993, establish uniform standards of ethical conduct that are applicable to all executive branch personnel.

With the concurrence of OGE, 5 CFR 2635.105 authorizes executive branch agencies to publish agency-specific supplemental regulations that are necessary to implement an agency's ethics program. The Standards, at 5 CFR 2635.803, specifically recognize that individual agencies may find it necessary or desirable to supplement the executive branch-wide regulations with a requirement for their employees to obtain approval prior to engaging in outside employment or activities. The FTC standards of conduct regulations have long required employees, other than Commissioners, to obtain written permission before engaging in outside employment. Because the FTC has found this requirement useful in ensuring that the outside employment activities of employees conform to all applicable laws and regulations, it has determined, in accordance with 5 CFR 2635.803, that it is necessary to the administration of its ethics program to continue to require prior approval.

Section 5701.101(a) of this supplemental regulation continues, with minor modification, the FTC's past requirement for prior approval for outside employment. Section 5701.101(b) clarifies that this supplemental regulation does not itself provide a basis to deny an employee's request for approval. Section 5701.101(c) includes a definition intended to ensure that the requirement for prior approval of outside employment is not applied to activities appropriately characterized as personal activities or to activities not involving the provision of services, such as an employee's management of his or her own investment portfolio.

II. Matters of Regulatory Procedure

Administrative Procedure Act

The Commission has found good cause pursuant to 5 U.S.C. 553(b) for waiving, as unnecessary and contrary to the public interest, the general notice of proposed rulemaking and the 30-day delay in effectiveness as to this interim rule. The reason for this determination is that it is important to a smooth transition from the FTC's prior ethics rules to the new executive branch-wide Standards that these rulemaking actions take place as soon as possible. Furthermore, this rulemaking is related to FTC organization, procedure, and practice. Nonetheless, this is an interim rulemaking, with provision for a 45-day public comment period. The Federal Trade Commission will review all comments received during the comment period and will consider any modifications that appear appropriate in adopting these rules as final, with the concurrence of the Office of Government Ethics.

Regulatory Flexibility Act

The Commission has determined under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this regulation will not have a significant economic impact on a substantial number of small business entities because it affects only Federal employees.

Paperwork Reduction Act

The Commission has determined that the Paperwork Act (44 U.S.C. chapter 35) does not apply because this regulation does not contain any information collection requirements that require the approval of the Office of Management and Budget.

List of Subjects in 5 CFR Part 5701

Conflict of interests, Government employees.

Dated: May 4, 1993.

By direction of the Commission.

Donald S. Clark,

Secretary.

Approved: May 21, 1993.

Stephen D. Potts,

Director, Office of Government Ethics.

For the reasons set forth in the preamble, the Federal Trade Commission, with the concurrence of the Office of Government Ethics, is amending title 5 of the Code of Federal Regulations by adding a new chapter XLVII, consisting of part 5701, to read as follows:

5 CFR CHAPTER XLVII—FEDERAL TRADE COMMISSION

PART 5701—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE FEDERAL TRADE COMMISSION

§ 5701.101 Prior approval for outside employment.

(a) Before engaging in any outside employment, whether or not for compensation, an employee of the

Federal Trade Commission, other than a Commissioner, must obtain the written approval of his or her supervisor and the Designated Agency Ethics Official (DAEO) or his or her designee. Requests for approval shall be forwarded through normal supervisory channels to the DAEO and shall include, at a minimum, the following:

(1) A statement of the name of the person, group, or organization for whom the work is to be performed; the type of work to be performed; and the proposed hours of work and approximate dates of employment;

(2) The employee's certification that the outside employment will not depend in any way on information obtained as a result of the employee's official Government position;

(3) The employee's certification that no official duty time or Government property, resource, or facilities not available to the general public will be used in connection with the outside employment;

(4) The employee's certification that he has read, is familiar with, and will abide by the restrictions contained in all applicable Federal laws and regulations, including those found in 18 U.S.C. chapter 11 and those found or referenced in subpart H ("Outside Activities") of 5 CFR part 2635 (Standards of Ethical Conduct for Employees of the Executive Branch); and

(5) The written approval of the employee's immediate supervisor.

(b) Approval shall be granted only upon a determination that the outside employment is not expected to involve conduct prohibited by statute or Federal regulation. In the case of an employee who wishes to practice a profession involving a fiduciary relationship, as defined in 5 CFR 2636.305(b), approval will be granted only on a case-by-case basis.

(c) For purposes of this section, "employment" means any form of non-Federal employment or business relationship involving the provision of personal services by the employee, whether or not for compensation. It includes but it is not limited to personal services as an officer, director, employee, agent, attorney, consultant, contractor, general partner, or trustee. Prior approval is not required, however, to participate in the activities of a nonprofit charitable, religious, professional, social, fraternal, educational, recreational, public service, or civic organization, unless such activities involve the provision of professional services or advice or are for compensation other than reimbursement of expenses.

Authority: 5 U.S.C. 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); 15 U.S.C. 46(g); E.O. 12674, 57 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.803.

[FR Doc. 93–12605 Filed 5–26–93; 8:45 am]
BILLING CODE 6750–01–M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 1

Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary

CFR Correction

In title 7 of the Code of Federal Regulations, parts 0-26, revised as of January 1, 1993, on page 67, a portion of paragraph (a)(2) was inadvertently removed from § 1.142. As reinstated, the text of paragraph (a)(2) reads as follows:

§ 1.142 Post-hearing procedure.

(a) * * *

(2)Unless a party files such a motion in the manner prescribed, the transcript shall be presumed, except for obvious typographical errors, to be a true, correct, and complete transcript of the testimony given at the hearing and to contain an accurate description or reference to all exhibits received in evidence and made part of the hearing record, and shall be deemed to be certified without further action by the Judge.

* * * * *

BILLING CODE 1505-01-D

Agricultural Marketing Service

7 CFR Part 923

[Docket No. FV92–923–1IFR]

Sweet Cherries Grown in Designated Counties in Washington; Change in Size and Pack Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule.

SUMMARY: This interim final rule will increase the minimum size requirement for Washington sweet cherries that can be shipped to fresh market outlets from 52/64 to 54/64 inch in diameter. Such an increase will provide fresh markets and consumers with slightly larger fruit. The change is intended to enhance the image of Washington sweet cherries, improve returns to producers, and improve the quality of cherries offered to consumers. The marketing of smaller sizes undermines buyer confidence in the fruit and discourages repeat purchases. Such smaller size fruit is likely to be less mature and sweet. Hence, requiring handlers to market more desirable sizes of sweet cherries should have a positive effect on sales and industry returns. This action was recommended by the Washington Cherry Marketing Committee, which works with the Department of Agriculture (Department) in administering the marketing order. The Department is revising current pack requirements under the marketing order. This revision will conform those provisions of the pack requirements that address minimum diameter markings under the marketing order to the off-size tolerances in the United States and Washington State Standards for Grades of Sweet Cherries (Standards). This will eliminate possible confusion about these requirements. This action will also clarify pack requirements for containers with row count markings under the marketing order.

DATES: This interim final rule becomes effective May 27, 1993.

Comments which are received by June 28, 1993 will be considered prior to issuance of any final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, or faxogram (202) 720–5698. Three copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours. All comments should reference the docket number, date, and page number of this issue of the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Mark J. Kreaggor, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, room 2526–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–5127; or Teresa Hutchinson, Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 1220 SW. Third Avenue, room 369, Portland, OR 97204; telephone: (503) 326–2724.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under Marketing Order No. 923 (7 CFR part 923), as amended, regulating the handling of sweet cherries grown in designated counties in Washington,

hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

This interim final rule has been reviewed by the Department of Agriculture (Department) in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This interim final rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary will rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 50 handlers of Washington sweet cherries that are subject to regulation under the marketing order. In addition, there are approximately 1,100 producers in the regulated area. The majority of handlers and producers of Washington sweet cherries may be classified as small entities as defined by the Small Business Administration (SBA) (13 CFR 121.601). Small agricultural producers have been defined by the SBA as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000.

This action is based upon a recommendation of the Washington Cherry Marketing Committee (WCMC). At its meeting on November 18, 1992, the WCMC recommended by a vote of nine to three to increase the minimum size requirement established for fresh market shipments from 52/64 to 54/64 inch in diameter. The increase of 2/64 inch in diameter will eliminate the 52/64 inch or "13 row size" pack and make the 54/64 inch or "12 row size" pack the minimum allowable size.

This change will improve the image of Washington sweet cherries in the marketplace and provide buyers with slightly larger sized fruit, thus improving the quality level and flavor. This should encourage repeat purchases and increase cherry sales, shipments, and grower returns.

Approximately 90 million pounds of sweet cherries were shipped during the 1992 season. Shipments of fruit less than 54/64 inch in diameter accounted for less than one percent of total industry shipments. Approximately 1/10th of one percent of 1992 shipments consisted of fruit designated as 13 row size. A 2/64 of an inch increase in the size requirement for sweet cherries grown in designated counties in Washington will have a negligible impact on industry supplies. In addition, this action will improve the overall fruit size and quality of the pack. Small cherries tend to be less mature, of poorer flavor, and have more defects affecting quality. Approximately 95 percent of the total shipments of 13 row size fruit during the 1992 season were shipped during the first two weeks of the season, and 100 percent were shipped during the first four weeks of the season. Initial offerings of cherries set the market tone for the remainder of the season. Purchases of larger, higher quality fruit at the beginning of the season should encourage consumers to make subsequent purchases, thus expanding and stabilizing market demand and increasing returns to growers and handlers.

It is the Department's view that this action will benefit producers and handlers. The anticipated increase in demand and grower returns will significantly offset the costs of compliance with the regulations. In addition, the WCMC believes that the regulatory change is needed to improve returns to producers in the production area while consistently providing fresh markets with slightly larger, good quality, flavorful sweet cherries.

The committee also recommended a conforming change to the handling requirements. Currently, at least 90 percent of the cherries in a lot of face packed containers or containers of 20 pounds or more must measure not less than 54/64 inch in diameter, and not more than 5 percent may be less than 52/64 inch in diameter. The intent of the current language was to restrict the shipment of "13 row size" cherries to containers of 12 pounds or less. Since the change in the minimum size requirement will preclude the shipment of 13 row size cherries, this language is no longer necessary. Therefore, this action revises paragraph (a)(2) of § 923.322 to reflect the revised minimum size requirement and deleting paragraph (a)(3) of that section relating to face-packed containers and containers of 20 pounds or more.

The Department is also adopting a conforming change to the Washington cherry pack requirements. Paragraphs (c)(2) and (c)(3) of § 923.322, establish pack requirements under the marketing order, that are not currently in conformity with the Washington State Standards for Grades of Sweet Cherries (Standards). These paragraphs state that containers marked with a minimum diameter may be shipped if at least 90 percent, by count, of the cherries in any lot meet the minimum diameter requirements. The Standards provide that containers marked with a minimum diameter may be shipped only if at least 95 percent, by count, of the cherries in any lot meet the specified minimum diameter. Therefore, this rule revises the current pack requirements under the marketing order concerning minimum diameter markings to conform with the off-size tolerances of the Standards. The change will amend paragraph (c)(2), and eliminate paragraph (c)(3) of § 923.332. The new language will permit containers marked with a minimum diameter to be shipped only if at least 95 percent, by count, of the cherries in any lot meet the minimum diameter requirements. This change will eliminate possible confusion about labelling requirements. This action will clarify requirements, resulting in better service to the industry.

This action will also clarify pack requirements for containers of cherries with row count markings. This will specify that the percentage count for off-size cherries applies only to individual lots and does not apply only to individual containers.

Based on the above information, the Administrator of the AMS has

determined that this action will not have a significant impact on a substantial number of small entities and that the action set forth herein will benefit producers and handlers of sweet cherries grown in designated counties in Washington State.

After consideration of all relevant matter presented and other available information, it is found that this interim final rule will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined, upon good cause, that it is impracticable, unnecessary and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) Growers and handlers of sweet cherries grown in designated counties in Washington need to be apprised of this action, as soon as possible, since shipments of sweet cherries are expected to begin in May; (2) the rule provides a 30-day comment period, and any written comments received will be considered prior to any finalization of this interim final rule; and (3) this action was recommended by the WCMC at a public meeting.

List of Subjects in 7 CFR Part 923

Cherries, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 923 is amended as follows:

PART 923—SWEET CHERRIES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

1. The authority citation for 7 CFR Part 923 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 923.322 is amended by removing paragraph (a)(2); paragraph (a)(3) is redesignated as paragraph (a)(2) and revised; and revising paragraph (c) to read as follows:

Note: This section will appear in the annual Code of Federal Regulations.

§ 923.322 Washington cherry regulation 22.

* * * * *

(a) * * *

(2) At least 90 percent, by count, of the cherries in any lot shall measure not less than 54/64 inch in diameter and not more than 5 percent, by count, may be less than 52/64 inch in diameter.

* * * * *

(c) *Pack.* (1) When containers of cherries are marked with a row count/row size designation the row count/row size marked shall be one of those shown in Column 1 of the following table and at least 90 percent, by count, of the cherries in any lot shall be not smaller than the corresponding diameter shown in Column 2 of such table:

Provided, That the content of individual containers in the lot are not limited as to the percentage of undersize; but the total of undersize of the entire lot shall be within the tolerance specified.

TABLE

Column 1, row count/row size	Column 2 diameter (inches)
9	75/64
9½	71/64
10	67/64
10½	64/64
11	61/64
11½	57/64
12	54/64

(2) When containers of cherries are marked with a minimum diameter, at least 95 percent, by count, of the cherries in any lot and at least 90 percent, by count, of the cherries in any container, shall be not smaller than such minimum diameter.

* * * * *

Dated: May 21, 1993.

Charles R. Brader,

Director, Fruit and Vegetable Division.

[FR Doc. 93–12607 Filed 5–26–93; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 103

[INS No. 1404F–92]

RIN 1115–AC34

Increase in Fee for Application for Naturalization Under Section 405 of the Immigration Act of 1990; Form N–400

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This rule amends the existing fee schedule for the Immigration and Naturalization Service (the Service) to recover the cost of providing special services under section 405 of the Immigration Act of 1990 (IMMACT), which allows for the naturalization of natives of the Philippines, based upon certain active duty military service during World War II, who would not otherwise be eligible for naturalization, and section 113 of the Departments of Commerce, State, Justice, and Related Agencies Appropriations Act of 1993, which permits the interview and naturalization of these persons in the Philippines. The fee has been raised to recover the cost of providing these special services and benefits.

DATES: This interim rule is effective June 28, 1993. Written comments must be submitted on or before July 12, 1993.

ADDRESSES: Please submit written comments, in triplicate, to the Records System Division, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street NW., room 2001–D, Washington, DC 20536. To ensure proper handling, please reference INS No. 1404F–92 on your correspondence.

FOR FURTHER INFORMATION CONTACT: Stella Jarina, Chief, Naturalization and Special Projects Branch, Immigration and Naturalization Service, 425 I Street NW., room 7122, Washington, DC 20536, telephone (202) 514–5014.

SUPPLEMENTARY INFORMATION:

Background

This fee adjustment rule is promulgated consistent with Federal user fee statutes and regulations, and specific Federal immigration laws. The enabling legislation for the Immigration Examinations Fee Account, 8 U.S.C. 1356(m), permits the collection of fees to meet the expenses of providing immigration adjudication and naturalization services and the costs of collecting, safeguarding, and accounting for the funds. Under the 1952 "user fee statute," 31 U.S.C. 9701, and the Office of Management and Budget (OMB) Circular A–25, User Charges, which implements that statute, it is required that special services and/or benefits provided to or for any person by a Federal Agency be self-sustaining to the fullest extent possible, taking into consideration direct and indirect costs to the Government, public policy or interest served, and other pertinent facts.

The 1993 Appropriations Act mandates that the Service conduct naturalization interviews and naturalization oath administration ceremonies in the Philippines for applicants eligible under section 405 of IMMACT. To conduct these interviews and ceremonies abroad, the Service will incur additional costs that are not accounted for in the normal fee for an application for naturalization, Form N–400. These include the cost of

transportation of Service personnel to the Philippines, housing for those employees in the Philippines, and additional secure office space in the Philippines. It is expected that 50,000 applications will be processed through this overseas naturalization program. The identified additional cost, based upon that projected number of applications, is $1,255,482. Of that amount, $412,389 are fixed costs over the three-year program. The remaining costs, those related to travel and housing of detailed employees, will vary based upon the actual number of applications received. The Service is currently processing approximately 10,000 applications, making 40,000 applications subject to the surcharge. It was determined that there will be at least $30.00 of additional costs associated with each application processed overseas. Therefore, the fee for those applications processed in the Philippines will be $120.00 as opposed to the fee of $90.00 for an application processed to completion in the United States.

The additional fee will be charged only for applications received by the Service on or after June 28, 1993. Applications currently pending with the Service will be processed without additional fee.

The Service's implementation of this rule as an interim rule, with provision for post-promulgation public comment, is based upon the "good cause" exception found at 5 U.S.C. 553(b)(B) and (d)(3). The reasons and the necessity for the immediate implementation of this interim rule without prior notice and comment are as follows: The statutory provision to conduct overseas processing of applications addressed in this rule is effective February 3, 1993. However, this provision applies to any case filed on or after November 29, 1990 but not yet adjudicated. It is clear that the Congressional intent was to implement this provision immediately. A notice and comment period for a proposed rule would have been impractical and contrary to the public interest. Section 113(a)(3) of the Appropriations Act specifically provides that the Attorney General shall prescribe such regulations as may be necessary to carry out this subsection. If an additional fee is not provided for, there will not be sufficient funds to carry out the provision for overseas processing of naturalization applications. Moreover, this interim rule confers a benefit upon eligible persons and does not impose a penalty of any kind. It is imperative that this interim rule become effective upon publication so that those persons who are entitled to the benefit may apply accordingly.

In accordance with 5 U.S.C. 605(b), the Commissioner of the Immigration and Naturalization Service certifies that this rule will not have a significant adverse economic impact on a substantial number of small entities. This rule is not considered to be a major rule within the meaning of section 1(b) of E.O. 12291, nor does this rule have Federalism implications warranting the preparation of a Federal Assessment in accordance with E.O. 12612.

The information collection requirements contained in this rule have been cleared by the Office of Management and Budget under the provisions of the Paperwork Reduction Act. Clearance numbers for this collection are contained in 8 CFR 299.5, Display of Control Numbers.

List of Subjects in 8 CFR Part 103

Administrative practice and procedures, Authority delegations (Government agencies), Fees, Forms, Freedom of information, Privacy, Reporting and recordkeeping requirements, Surety bonds.

Accordingly, part 103 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. The authority citation for part 103 continues to read as follows:

Authority: 5 U.S.C. 552, 552a; 8 U.S.C. 1101, 1103, 1201, 1252 note, 1252b, 1304, 1356; 31 U.S.C. 9701; E.O. 12356, 47 FR 14874, 15557, 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

2. In § 103.7, paragraph (b)(1) is amended by revising the entry for Form N–400 to read as follows:

§ 103.7 Fees.

* * * * *

(b) * * *

(1) * * *

Form N–400. For filing an application for naturalization—$90.00. For filing an application for naturalization under section 405 of the Immigration Act of 1990, if the applicant will be interviewed in the Philippines—$120.00.

* * * * *

Dated: March 30, 1993.

Chris Sale,

Acting Commissioner, Immigration and Naturalization Service.

[FR Doc. 93–12591 Filed 5–26–93; 8:45 am]

BILLING CODE 4410–10–M

8 CFR Part 204

[INS No. 1602–92]

Classification of Certain Scientists of the Commonwealth of Independent States of the Former Soviet Union and the Baltic States as Employment-Based Immigrants

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This rule implements the provisions of the Soviet Scientists Immigration Act of 1992 by providing petitioning procedures to establish eligibility as immigrants for certain qualifying scientists. This rule is necessary to prevent the employment of these scientists by unfriendly nations intent on developing weapons which can threaten the world's security.

DATES: This interim rule is effective May 27, 1993. Written comments must be submitted on or before June 28, 1993.

ADDRESSES: Please submit written comments, in triplicate, to the Records Systems Division, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., room 2001–D, Washington, DC 20536. To ensure proper handling, please reference the INS number 1602–92 on your correspondence.

FOR FURTHER INFORMATION CONTACT: Edward H. Skerrett, Chief, Immigrant Branch, Adjudications Division, Immigration and Naturalization Service, 425 I Street, NW., room 7122, Washington, DC 20536, telephone (202) 514–5014.

SUPPLEMENTARY INFORMATION: The Soviet Scientists Immigration Act of 1992, Public Law 102–509, dated October 24, 1992, provides that not more than 750 eligible scientists of the independent states of the former Soviet Union and the Baltic states (excluding spouses and children if accompanying or following to join) may be allotted immigrant visas under section 203(b)(2)(A) of the Immigration and Nationality Act (Act). To be eligible, these scientists must possess exceptional ability in the sciences. The provisions of Public Law 102–509 will terminate four years from the date of enactment; therefore, the Immigration and Naturalization Service will accept petitions for these scientists only through October 24, 1996.

The purpose of Public Law 102–509 is seen very clearly in the words of Senator Johnson of Colorado as he introduced the legislation to the Senate: "The situation in the former Soviet

Union is grave. Food is scarce, the military is demoralized and unemployment has reached record levels. It is not [sic] wonder that there is such great concern that scientists of the former Soviet Union may be willing to market their skills to unscrupulous nations bent on developing weapons that can threaten the world's security." (138 Cong. Rec. S1249 (daily ed. Feb. 6, 1992).)

The rule amends part 204 of title 8 of the Code of Federal Regulations by adding a new § 204.10 which sets forth regulatory requirements for eligibility under section 203(b)(2) of the Act and provides petitioning procedures.

General

Public Law 102–509 provides an automatic waiver of the requirement in section 203(b)(2)(A) of the Act that the alien's services be sought by an employer in the United States; therefore, this rule provides that the required petition for classification may be filed by the alien, or by anyone in the alien's behalf. The legislative history indicates that, although there is a provision for automatic waiver of the job offer requirement, any appropriate labor certification could be required. (See statement of Senator Brown in 138 Cong. Rec. S1249 (daily ed. Feb. 6, 1992).) The Immigration and Naturalization Service (the Service) has consulted with the Department of Labor on this issue in the course of drafting this rule, and previously in the context of the national interest waiver found at section 203(b)(2)(B) of the Act for aliens classifiable under section 203(b)(2). Both the Service and the Department of Labor agree that waiver of the job offer constitutes waiver of labor certification. Consequently, neither a job offer nor a labor certification will be required of a scientists eligible under Public Law 102–509.

Jurisdiction

The legislative history clearly indicates that this legislation was intended "to speed the process and remove existing obstacles" to immigration for scientists eligible under Public Law 102–509. (See statement of Sen. Brown in Cong. Rec. S1249 (daily ed. Feb. 6, 1992).) Consequently, the Associate Commissioner for Examinations of the Service has designated that, if a qualifying scientist is eligible for adjustment of status in the United States, the petition Form I–140, Immigration Petition for Alien Worker, may be filed concurrently with Form I–485, Application to Register for Permanent Residence or Adjust Status, at the local Service office having jurisdiction over the alien's place of residence in the United States. If the qualifying scientist is outside the United States, or is ineligible for adjustment of status, Form I–140 will be filed with the Service Center having jurisdiction over the alien's intended place of residence in the United States.

Definitions

The terms "Baltic states," "eligible independent states and Baltic scientists," and "independent states of the former Soviet Union" are defined in this rule to reflect definitions found in section 2 of Public Law 102–509.

Initial Evidence

This rule requires that the petition be accompanied by documentation demonstrating that the alien is a national of one of the independent states of the former Soviet Union or one of the Baltic states, and that the alien is of exceptional ability in the field. Service regulations at 8 CFR 204.5(k)(3)(ii) already prescribe the presentation of certain documentation to establish exceptional ability; however, since these scientists constitute such a specialized group, documentation to support exceptional ability in this context is limited to very select criteria. Therefore, this rule requires the presentation of written testimony as to the alien's qualifications either from two recognized national or international experts in the field or from an official of an agency of the United States Government.

The public law itself and its legislative history clearly indicate that not every scientist of the former Soviet Union is meant to benefit from this provision. In the words of Senator Brown, the aliens who are the subjects of this legislation are "scientists who have specialized in developing weapons of mass destruction." (See statement of Sen. Brown in Cong. Rec. S1249 (daily ed. Feb. 6, 1992)). It is apparent, therefore, that only those scientists who have expertise in, or who have worked in, defense-related sciences or engineering would qualify for this classification. The documentation submitted on the alien's qualifications, therefore, must reflect that the alien's expertise or work has been defense-related, or that his or her work is, or has been, defense-related.

Spouses and Children

Public Law 102–509 provides that not more than 750 scientists (excluding spouses and children) shall be allotted visas. In practicality, the Service sees this provision as limiting the number of petitions which may be approved. Since the alien beneficiaries will be classified under existing section 203(b)(2) of the Act, the Service sees nothing to preclude any spouses or unmarried children of the 750 eligible scientists from immigrating pursuant to section 203(d) of the Act.

The Service's implementation of this rule as an interim rule, with provisions for post-promulgation public comment, is based upon the "good cause" exceptions found at 5 U.S.C. 553(b)(B) and (d)(3). The reasons and the necessity for immediate implementation of this interim rule without prior notice and comment are as follows: The statutory provision addressed in this rule became effective on October 24, 1992. It is clear that the Congressional intent was to implement this provision immediately and any further delay would be contrary to this intent. A notice and comment period for the proposed rule would have been impracticable and contrary to the public interest. Moreover, this interim rule confers a benefit upon eligible persons and does not impose a penalty of any kind. It is imperative that this interim rule become effective upon publication so that those persons who are entitled to the benefit may apply accordingly. This rule is also necessary to safeguard the interests and security of the United States.

In accordance with 5 U.S.C. 605(b), the Commissioner of the Immigration and Naturalization Service certifies that this rule will not, if promulgated, have a significant adverse economic impact on a substantial number of small entities. This rule is not considered a major rule within the meaning of section 1(b) of E.O. 12291, nor does this rule have Federalism implications warranting the preparation of a Federal Assessment in accordance with E.O. 12612.

This rule contains information collection requirements which have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act. The OMB control numbers for these collections are contained in 8 CFR 299.5.

List of Subjects in 8 CFR Part 204

Administrative practice and procedures, Aliens, Immigration, Reporting and recordkeeping requirements.

Accordingly, part 204 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 204—IMMIGRANT PETITIONS

1. The authority citation for part 204 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1151, 1153, 1154, 1182, 1186a, 1255; 8 CFR part 2.

2. A new § 204.10 is added to read as follows:

§ 204.10 Petitions by, or for, certain scientists of the Commonwealth of Independent States or the Baltic states.

(a) *General.* A petition to classify an alien under section 203(b)(2) of the Act as a scientist of the eligible independent states of the former Soviet Union or the Baltic states must be filed on Form I–140, Immigrant Petition for Alien Worker. The petition may be filed by the alien, or anyone in the alien's behalf. Petitions under this provision will be accepted by the Service through October 24, 1996. Not more than 750 eligible scientists may be the beneficiaries of approved petitions under this section.

(b) *Jurisdiction.* Form I–140 must be filed with the Service Center having jurisdiction over the alien's place of intended residence in the United States. When the petition is accompanied by an application for adjustment of status (Form I–485), the petition may be filed with the local Service office having jurisdiction over the alien's place of residence in the United States. To clarify that the petition is for a Soviet scientist, the petitioner should check the block in Part 2 of Form I–140 which indicates that the petition is for "a member of the professions holding an advanced degree or an alien of exceptional ability" and should clearly print the words "SOVIET SCIENTIST" in an available space in Part 2.

(c) *Priority date.* The priority date of any petition filed for this classification shall be the date the completed, signed petition (including all initial evidence and the correct fee) is properly filed with the Service.

(d) *Definitions.* As used in this section:

Baltic states means the sovereign nations of Latvia, Lithuania, and Estonia.

Eligible independent states and Baltic scientists means aliens:

(i) Who are nationals of any of the independent states of the former Soviet Union or the Baltic states; and

(ii) Who are scientists or engineers who have expertise in nuclear, biological, chemical, or other high-technology fields including the design, development, and production of ballistic missiles or who are working on nuclear, biological, chemical, or other high-technology defense projects including the design, development, and production of ballistic missiles.

Independent states of the former Soviet Union means the sovereign nations of Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

(e) *Initial evidence.* A petition for classification as a scientist of the independent states of the former Soviet Union or the Baltic states must be accompanied by:

(1) Evidence that the alien is a national of one of the independent states of the former Soviet Union or one of the Baltic states. Such evidence includes, but is not limited to, identifying page(s) from a passport issued by the former Soviet Union, or by one of the independent or Baltic states; and

(2) Evidence that the alien possesses exceptional ability in the field. Such evidence shall consist of written testimony from either two recognized national or international experts in the field, or from an official of an agency of the Federal Government of the United States, that the alien has expertise in the field as it relates to a defense project or projects, or that the alien is, or has been, working on a high-technology defense project or projects in the field. An eligible scientist is not required to possess an advanced academic degree.

(f) *No offer of employment required.* Neither an offer of employment nor a labor certification is required for this classification.

(g) *Decision on and disposition of petition.* If the beneficiary is outside of the United States, the approved petition will be forwarded by the Service to the Department of State's processing center. If the beneficiary is in the United States and is eligible for adjustment of status under section 245 of the Act, the approved petition will be retained by the Service. If the petition is denied, the petitioner will be notified of the reasons for the denial and of the right to appeal in accordance with the provisions of 8 CFR part 103.

Dated: March 22, 1993.

Chris Sale,

Acting Commissioner, Immigration and Naturalization Service.

[FR Doc. 93–12590 Filed 5–26–93; 8:45 am]

BILLING CODE 4410–10–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 33

Commodity Option Transactions; Discretionary Accounts

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: In response to a petition filed by the Chicago Board of Trade (CBOT), the Commodity Futures Trading Commission (Commission) proposed to amend its regulations concerning domestic exchange-traded option contracts by deleting Rule 33.4(b)(9).[1] Rule 33.4(b)(9) requires a board of trade applying for designation as a contract market with respect to commodity option transactions to adopt rules governing the handling by its member futures commission merchants (FCMs) of discretionary accounts in option transactions. Based upon the comments received, the Commission has decided to adopt the amendment to delete the rule, as proposed.

EFFECTIVE DATE: June 28, 1993.

FOR FURTHER INFORMATION CONTACT: Lawrence B. Patent, Associate Chief Counsel, or George G. Wilder, Attorney-Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION:

I. Background

On November 13, 1992, the Commission published for comment in the **Federal Register** a proposal to amend part 33 of its regulations concerning domestic exchange-traded option contracts by deleting Rule 33.4(b)(9).[2] The Commission's proposal

[1] All references to rules herein are to Commission rules found at 17 CFR Ch. I (1992).

[2] 57 FR 53863. Rule 33.4(b)(9) requires that a board of trade seeking designation as a contract market for commodity options require each member FCM which engages in the offer or sale of option contracts to carry out certain duties in regard to each discretionary customer account. Specifically, under Rule 33.4(b)(9), the board of trade must have adopted rules requiring that: (1) The FCM ensure that the customer is provided with a full explanation of the nature and risks of the strategy to be followed in trading the customer's account; (2) a principal of the FCM approve in writing the discretionary authority given before any trading for the account commences; (3) a principal of the FCM approve, initial and date each discretionary order made for the account; (4) each discretionary order be identified as discretionary at the time of the entry of the trade; and (5) the FCM frequently review discretionary accounts. These provisions do not apply to the following types of accounts: (a) An

Continued

followed the filing by the CBOT of a petition for rulemaking seeking the repeal of Rule 33.4(b)(9). The CBOT stated in its petition that the rule provided "disparate treatment" between discretionary accounts for options trading and discretionary accounts for future trading and that, based upon its experience with exchange-traded option transactions, it believed that the rule no longer served a useful purpose.[3]

Rule 33.4(b)(9) was adopted in 1981 as part of the Commission's Part 33 rules to govern the domestic exchange-traded option pilot program. When the Commission ended the pilot status of the exchange-traded option program with respect to non-agricultural futures contracts, the Commission stated that it would continue to evaluate the requirements of part 33 as it gained further experience with public, "retail" participation in option contract trading after the termination of the pilot status of the exchange-traded option program. See 51 FR 17464, 17471 (May 13, 1986). The Commission at that time anticipated that continued refinements in futures sales practice standards should ultimately allow the harmonization of futures and option sales practice rules.[4]

Based upon more than ten years of experience with exchange-traded option contracts, the Commission has recently reassessed the necessity for certain of the sales practice and monitoring requirements adopted in 1981 with respect to exchange-traded option contracts and deleted former Rules 33.4(b)(4) and (8).[5] In this context, the Commission proposed to delete Rule 33.4(b)(9) based upon the view that compliance with the supervisory requirements of Rule 166.3,[6] the requirements of Rule 166.2 concerning authorization to trade, other Commission rules of general applicability, and SRO rules such as NFA Compliance Rule 2–8, should be adequate to address the regulatory concerns applicable to both option and futures customer discretionary accounts.[7]

II. Comments Received

The Commission received four comment letters on this proposal. The commenters included the Chicago Mercantile Exchange (CME), the Coffee, Sugar & Cocoa Exchange, Inc. (CSCE), the Futures Industry Association (FIA) and the NFA. All commenters supported deletion of Rule 33.4(b)(9) and responded to the Commission's request for comments on specific issues raised by CBOT's petition as discussed below.

The Commission requested general comments on whether a more unified treatment of futures and option sales practices was warranted and, if so, whether such treatment would assure adequate customer protection and render audit programs to review sales activities more efficient and effective. All commenters stated that the specific requirements of Rule 33.4(b)(9) create "disparate treatment" between discretionary option and discretionary futures accounts which is no longer warranted in light of the ten years of experience with domestic exchange-traded option contracts. NFA commented that the elimination of Rule 33.4(b)(9) would not adversely affect systems currently in place to provide customer protection with respect to supervision of option sales practices. FIA observed that option contract markets have "matured significantly" since 1981 and that the "special" supervisory procedures that Rule 33.4(b)(9) imposes with respect to discretionary option accounts are no longer necessary. With respect to the general subject of the appropriateness of unified standards with respect to sales and trade practices for futures and option contracts, FIA expressed the view such standards would be adequate to assure customer protection and will render audit programs to review such activities more efficient and effective.

The Commission also requested comment concerning the adequacy of the existing statutory and regulatory requirements, e.g., the anti-fraud proscriptions of section 4b of the Commodity Exchange Act (Act)[8] and Rule 166.3, generally applicable to futures and option accounts in the absence of the specific requirements imposed by Rule 33.4(b)(9) with regard to discretionary option accounts. The commenters agreed that existing statutory prohibitions and the disclosure and supervisory requirements applicable to futures and option accounts generally provide an adequate substitute for the specific protections currently provided by Rule 33.4(b)(9) and provide greater flexibility without loss of customer protection. In this regard, NFA noted that the main difference between the requirements of NFA Compliance Rule 2–8, which covers discretionary accounts generally, and the requirements imposed by Rule 33.4(b)(9) with respect to option customer discretionary accounts, is the requirement that FCMs must approve, initial and date each option order for a discretionary account. NFA stated that it had not noticed a discernible regulatory benefit from the latter requirement and that Compliance Rule 2–8 provides it with sufficient authority to adequately review the supervision of discretionary options and futures customer accounts.[9]

All commenters expressed the view that no specific amendments to the Commission's disclosure rules or additional rules to provide further safeguards with respect to discretionary accounts would be needed if Rule 33.4(b)(9) were deleted. Some commenters also indicated that additional requirements would not be consistent with the Commission's effort to simplify its rules and make them more cost effective.

Finally, the Commission noted that the domestic exchange-traded option program, as specified in part 33 of the regulations, was premised on the contract markets assuming direct and

account of a commodity pool operated by a commodity pool operator registered under the Act; (b) accounts for which the person who has discretionary authority is the spouse, parent or child of the option customer; or (c) an omnibus account.

[3] In conjunction with the filing of its petition to amend the Commission's part 33 rules, the CBOT also filed a petition to delete CBOT Rule 423.04, which requires that CBOT member firms follow the supervisory procedures set forth in Rule 33.4(b)(9) and was adopted pursuant to that rule.

[4] 51 FR at 17471. The Commission has in the past sought to harmonize audit standards and practices of the contract markets and the National Futures Association (NFA) in order to streamline and simplify regulatory compliance costs and burdens through joint audit plans among the contract markets and NFA. See, e.g., Rule 1.52(c).

[5] *See* 57 FR 58976 (December 14, 1992); see also 58 FR 4946 (January 19, 1993) (Commission proposal to delete Rule 33.4(b)(6), which requires boards of trade, as a condition of designation as a contract market for option transactions, to adopt rules requiring member FCMs engaged in exchange-traded option transactions to give notice to their designated self-regulatory organization (SRO) of any disciplinary action taken against the FCM or its associated persons (APs) by the Commission or by another self-regulatory organization).

[6] As noted in the proposing release, when the Commission adopted Rule 166.3, it discussed certain guidelines, previously proposed to be included as requirements in the text of Rule 166.3, as to the types of measures firms should adopt in order to properly supervise their employees. See Proposing Release at 53865, note 10. The Commission also has discussed the scope of the Rule 166.3 duty to supervise diligently in adjudicatory opinions. See, e.g., In re GNP Commodities, Inc., (1990–1992 Transfer Binder) Comm. Fut. L. Rep. (CCH) ¶ 25,399 (CFTC March 11, 1992).

[7] In this regard, the CBOT had stated in its petition that, following the deletion of CBOT Rule 423.04, CBOT's other general discretionary account and supervision rules would remain in effect and would continue to adequately address customer protection concerns with respect to options as well as futures.

[8] 7 U.S.C. 1 *et seq.*, as amended by the Futures Trading Practices Act of 1992, Public Law 102–546, 106 Stat. 3590 (1992).

[9] NFA also noted that eliminating the requirements of Rule 33.4(b)(9) as to FCMs will also have the effect of eliminating these requirements as to introducing brokers (IBs). See Rule 33.3(b)(ii).

primary authority with respect to compliance by their member firms.[10] The Commission requested comment concerning whether, if Rule 33.4(b)(9) were repealed, SROs would retain sufficient authority to adequately review and take disciplinary action relative to the supervision of discretionary option and futures accounts. The commenters generally were in agreement that existing SRO rules, together with Commission rules, provide adequate protection of customer interests and that no additional rules are necessary.

III. Conclusion

Based upon the comments received and its review of Rule 33.4(b)(9) in light of the regulatory and self-regulatory provisions discussed above and in the proposing release, the Commission has determined to adopt the proposed amendment. In adopting the amendment deleting Rule 33.4(b)(9), the Commission emphasizes that it expects firms to continue to make every effort to diligently supervise the handling by their partners, officers, employees and agents (or other persons occupying a similar status or performing a similar function) of option and futures customer discretionary accounts and SROs to continue to audit and investigate improper practices affecting such accounts. Such supervision must include the ability to review specific trades in such accounts and must take into account that "limited risk" transactions may require particularly close supervision as they may not be covered by internal controls related to financial risk. Merely reviewing daily equity runs would not constitute a supervisory review sufficient to meet a firm's duty in this regard.

IV. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, requires that agencies, in proposing rules, consider the impact of those rules on small businesses. In 1982, the Commission adopted a policy statement and established definitions of "small entities" for the purposes of the RFA in which it stated that contract markets and FCMs would not be "small entities." See 47 FR 18618 (April 30, 1982). Moreover, the proposed deletion will remove a regulatory burden. No comments were received on this issue.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1980 (PRA), 44 U.S.C. 3501 *et seq.*, imposes certain requirements on Federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. In compliance with PRA, the Commission has submitted the proposed deletion to the Office of Management and Budget. The proposed deletion has no paperwork burden.

List of Subjects in 17 CFR Part 33

Regulation of domestic exchange-traded commodity option transactions.

In consideration of the foregoing and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 4c and 8a(5) of said Act, the Commission hereby amends part 33 of title 17 of the Code of Federal Regulations as follows:

PART 33—REGULATION OF DOMESTIC EXCHANGE-TRADED COMMODITY OPTION TRANSACTIONS

1. The authority citation for part 33 continues to read as follows:

Authority: 7 U.S.C. 2, 4, 6, 6a, 6b, 6c, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 7, 7a, 7b, 8, 9, 11, 12a, 12c, 13a, 13a–1, 13b, 19, and 21, unless otherwise noted.

2. Section 33.4(b)(9) is removed and reserved.

§ 33.4 Designation as a contract market for the trading of commodity options.

* * * * *

(b) * * *

(9) [Reserved]

* * * * *

Issued at Washington, DC on this 24th day of May 1993, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93–12594 Filed 5–26–93; 8:45 am]

BILLING CODE 6351–01–M

[10] See 46 FR 54500, 54502 (Nov. 3, 1981). Rule 33.4(c) provides that a designated board of trade must conduct sales practice audits of member FCMs which engage in the offer and sale of option contracts regulated under part 33 and requires that such sales practice audits be of sufficient scope to enforce the contract market rules required by part 33.

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners: Prisoners Transferred to the United States Under Prisoner-Exchange Treaties

AGENCY: United States Parole Commission.

ACTION: Final rule.

SUMMARY: The U.S. Parole Commission is adding to its regulation concerning transfer treaty prisoners a comprehensive interpretation of the relevant federal statutes, with particular regard to the relationship between the "release date" to be determined by the Commission under 18 U.S.C. 4106A, and the "release date" to be determined by the Bureau of Prisons through a calculation of foreign and domestic good time credits under 18 U.S.C. 4105(c)(1) and 18 U.S.C. 3624(a). The rule reflects a recent upsurge of appellate litigation from transfer treaty prisoners seeking to have their good time credits deducted from the "release date" determined by the Commission under 18 U.S.C. 4106A. The Commission has also adopted a provision requiring each release date to contain a 15 percent downward adjustment to reflect the potential good time that would reduce the sentence of a similarly-situated U.S. Code offender. In response to public comment, modifications have also been made to the provisions for reopening previous determinations.

DATES: June 28, 1993.

FOR FURTHER INFORMATION CONTACT: Richard Preston, Office of General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, MD 20815. Telephone (301) 492–5959.

SUPPLEMENTARY INFORMATION: On January 13, 1993, the Parole Commission published a proposed rule containing a comprehensive interpretation of the Commission's authority to determine a release date, and a period of supervised release, for a prisoner transferred to the United States under a prisoner-exchange treaty (transferee), who committed a crime in the transferring country on or after November 1, 1987, under 18 U.S.C. 4106A(b)(1)(A).

Background

The statutory interpretation and consequent reorganization of § 2.62 adopted below was prompted by an upsurge in appellate litigation in which many transfer treaty prisoners have asserted that good time credits required by section 4105(c)(1) should be deducted from the release date set by the Commission under 4106A(b)(1)(A). Additionally, some prisoners have also argued that 4106A(b)(1)(A) requires that a mandatory minimum term of supervised release provided for certain drug offenders under U.S. laws must also be applied by the Commission in transfer treaty determinations, resulting

in a limit on the period of imprisonment which could be set by the Commission. See *Cannon* v. *U.S. Department of Justice*, 961 F.2d 82 (5th Cir.) (*Cannon I*), *reh'g denied*, *Cannon* v. *U.S. Department of Justice*, 973 F.2d 1190 (5th Cir. 1992) (*Cannon II*) (petition for certiorari pending), *and Molano-Garza* v. *U.S. Parole Commission*, 965 F.2d 20, 24–25 (5th Cir. 1992). The final rule below addresses these and related issues.

The final rule makes it clear that transferees are entitled to the benefit of any good time credits (or the equivalent) earned in the foreign country. After their transfer to the United States, they also receive the benefit of credit for satisfactory behavior under U.S. law. Under 18 U.S.C. 4105(c)(1), these combined credits are deducted from the foreign sentence to give the prisoner a mandatory "release date" pursuant to 18 U.S.C. 3624 (which assigns that responsibility to the U.S. Bureau of Prisons).

The release date established by the Parole Commission under section 4106A is made by reference to the applicable sentencing guideline range, as if the prisoner had been convicted of a "similar offense" under U.S. law. The Commission does not impose a new sentence, but merely executes the sentence imposed by the foreign court pursuant to 18 U.S.C. 4106A. The Commission's release date is, in some cases, earlier than the release date established by the Bureau of Prisons under 18 U.S.C. 4105(c)(1). See *Hansen* v. *U.S. Parole Commission*, 904 F.2d 306 (5th Cir. 1990). In other cases, the Parole Commission has determined that the prisoner should serve to the release date established by the Bureau of Prisons under section 4105(c)(1), especially in cases where the applicable sentencing guideline range requires as much or more prison time than the foreign sentence (less good time credits) will permit. See *Thorpe* v. *U.S. Parole Commission*, 902 F.2d 291 (5th Cir. 1990). Transfer treaty prisoners have the right to appeal the Commission's release date determination to a U.S. Court of Appeals. 18 U.S.C. 4106A(b)(2)(A).

Public Comment: The Parole Commission received comment from the Federal Public Defender for the Western District of Texas, Lucien Campbell, and the Chief U.S. Probation Officer for the Western District of Texas, H.H. Whitehill.

The public defender takes exception to two aspects of the proposed rule. First, the public defender believes that the Commission has misinterpreted the treaties and laws to mean that a released transferee "must serve a period of supervised release extending to the full term of the sentence imposed by the foreign court." The public defender believes that the rule as it was proposed would "perpetuate and compound the errors" made by the United States Court of Appeals for the Fifth Circuit in *Cannon II, supra*.

Second, the public defender believes the Commission has erred in asserting that good time credits (including credit for satisfactory behavior) are not deducted from the release date set by the Commission under section 4106A. The public defender argues that "the statutory scheme and the treaties require that *all* good-time credits be allowed against the release-from-imprisonment date and not the full foreign term." (Emphasis added). The public defender argues that the Commission's distinction between setting a release date and imposing a sentence is "meaningless," and that the Commission's determination should be treated as a sentence. Finally, the public defender argues that unless satisfactory behavior credits are deducted from the actual release date, there would be no incentive for transferees to observe prison rules.

On the other hand, the Chief U.S. Probation Officer agrees with the Commission's proposed action. The probation officer expresses concern, however, that the probation office and supervising district courts could fall victim to the "parade of horribles" discussed in *Cannon II*, 937 F.2d at 1197. Specifically, the probation officer is concerned about the U.S. Court of Appeals for the Fifth Circuit's opinion that the Commission is not allowed to limit the period of supervised release.

Discussion: The Commission agrees with the public defender that the *Cannon II* analysis of the United States-Mexican transfer treaty, the implementing legislation, 18 U.S.C. 4106A and the Commission's related regulations should not be "codified" by the following statutory interpretation. In particular, the Commission agrees that Congress did not intend that mandatory minimum prison terms applicable to U.S. Code offenders would apply to transfer treaty prisoners. The court in *Thorpe* v. *U.S. Parole Commission*, 902 F.2d 291 (5th Cir. 1990), applied U.S.S.G. section 5G1.1(a) only by analogy. It does not necessarily follow that U.S.S.G. section 5G1.1(b), which addresses mandatory minimum terms for U.S. Code offenders, would apply to transfer treaty cases. However, the Commission makes it clear that, in conformity with *Cannon II*, it will find "good cause" to depart from the mandatory minimum "guideline sentence," as the only way to apply the guidelines.

As to the treaty obligations of the United States with respect to other countries, the Commission has revised the proposed rule to make it clear that the Commission will follow the sentencing guideline in setting periods of supervised release unless the Commission finds that the applicable treaty requires that supervised release extend to the full term of the foreign sentence. The Commission will otherwise set a period of imprisonment plus a period of supervised release that may be less than the full term of the foreign sentence. The Commission does not, by implication, endorse the *Cannon II* interpretation of the United States-Mexican treaty, but will be obliged to follow *Cannon II* as the law of the Circuit. The Commission believes that other treaties, especially the multilateral Council of Europe treaty, are not susceptible of the same reading that the *Cannon II* court gave to the United States-Mexican treaty.

The Commission disagrees with the public defender's opinion on Congressional intent with regard to the good time issue. Congress clearly required that foreign work credit, foreign good time and domestic credit for satisfactory behavior be deducted from the full term date of the sentence imposed by the foreign court. The statute provides that foreign credits are given "toward the service of the sentence which had been given by the transferring country" and that the domestic credit for satisfactory behavior would be computed on the basis of the time remaining on the "sentence of the length of the total sentence imposed and certified by the foreign authorities". 18 U.S.C. 4105(c)(1). The credit provisions for new-law transfer treaty prisoners found at section 4105(c)(1) was enacted in 1984, four years before the enactment of section 4106A granting the Commission authority to set earlier release dates. If Congress had intended section 4106A to have any affect on how good time release dates were to be calculated it would have either amended section 4105(c) or cross-referenced section 4105 and section 4106A. Additionally, there is no mention of section 4105 in the legislative history of section 4106A suggesting that Congress had no intent to modify the operation of section 4105 when it enacted section 4106A.

Moreover, to interpret the statues as the public defender suggests would create windfalls for transferees who have received lengthy sentences. Foreign work credits and foreign and domestic credit for satisfactory behavior

are computed on the basis of the sentence imposed, not the release date set by the Commission. Therefore, those transferees serving longer sentences have greater potential credit. To deduct these credits from the Commission's release date would create the anomalous situation whereby a transferee would serve less time in prison than a similarly-situated U.S. Code offender.

However, the Commission recognizes that there is a legitimate concern about disparity between transferees and similarly-situated U.S. Code offenders. The Commission is cognizant that its release date is "real time," just as "real time" for a U.S. Code offender is the sentence imposed less 15 percent credit for satisfactory behavior. To ensure comparable punishment the Commission adopts subsection (i)(2) that expressly states that the final release date shall be the result of a downward adjustment of 15 percent from the date the Commission would otherwise have given the transferee. Additionally, that subsection expressly authorizes a decision below the guidelines for those prisoners who have clear conduct records in order to make this adjustment. (The use of the word "adjustment" in subsection (i)(2) is not synonymous with an "adjustment" in the context of the sentencing guidelines.) To address concerns about disciplinary problems, the Commission has modified its reopening rule at subsection (k)(7) to permit a retardation of the release date by the amount of satisfactory credit the Bureau of Prisons has withheld.

Additionally, at the recommendation of the public defender's office and others, the Commission has added and reorganized other provisions for reopening for the purpose of achieving substantial parity with U.S. Code offenders. The new provisions authorize reopening for (1) substantial cooperation with law enforcement officers; (2) extraordinary and compelling reasons upon a motion of the Director of the Bureau of Prisons pursuant to 18 U.S.C. 3582(c)(1)(A); and, (3) favorable reductions in the applicable sentencing guidelines upon a motion of either the transferee, the Director of the Bureau of Prisons or the Commission's own motion pursuant to 18 U.S.C. 3582(c)(2).

The Commission believes that the final rule will reduce or eliminate any substantial disparity (real or perceived) between transferees and similarly-situated U.S. Code offenders. However, the Commission recognizes that exact parity between transferees and U.S. Code offenders will not always be possible, or necessarily desirable, owing to the fact that all transferees are serving a foreign sentence imposed by a foreign court for a violation of foreign criminal law. The Commission is satisfied with the opinions in *Thorpe, Hansen,* and *Molano-Garza* that recognize that Commission's release date cannot, in any sense, be treated as a "sentence." The Commission release date is, in essence, a parole date, and the statutory interpretation set forth below reflects this understanding.

Finally, the Commission has modified the interpretative rule adopted on September 10, 1992, (see 57 FR 41393) and reorganized the affected sections to more logically and clearly express the Commission's statutory interpretation.

Implementation: This rule will be applied at all transfer treaty hearings held after the effective date. The rule will also be applied retroactively to prior determinations for transferees still in prison through a decision on the record. This rule will not apply to transferees who have already been released and it will not serve to modify or reduce any period of supervised release that a transferee is now serving.

Executive Order 12291 and Regulatory Flexibility Statement

The U.S. Parole Commission has determined that this rule is not a major rule within the meaning of Executive Order 12291. This rule will not have a significant economic impact upon a substantial number of small entities, within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 605(b).

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, probation and parole, prisoners.

Accordingly, the U.S. Parole Commission adopts the following amendment to 28 CFR part 2.

The Amendments

1. The authority citation for 28 CFR part 2 continues to read as follows:

Authority: 18 U.S.C. 4203(a)(1) and 4204 (a)(6).

2. 28 CFR part 2, § 2.62 is amended by revising paragraphs (a), (i) and (k) and by adding paragraph (l) to read as set forth below.

§ 2.62 Prisoners transferred pursuant to treaty.

(a) *Applicability, jurisdiction and statutory interpretation.* (1) Prisoners transferred pursuant to treaty (transferees) who committed their offenses on or after November 1, 1987, shall receive a special transferee hearing pursuant to the procedures found in this section and 18 U.S.C. 4106A. Transferees who committed their offenses prior to November 1, 1987, are immediately eligible for parole and shall receive a parole hearing pursuant to procedures found at 28 CFR § 2.13. The Parole Commission shall treat the foreign conviction as though it were a lawful conviction in a United States District Court.

(2) The jurisdiction of the Commission to set a release date and periods and conditions of supervised release extends until the transferee is released from prison or the transferee's case is otherwise transferred to a district court pursuant to an order of the Commission.

(3) It is the Commission's interpretation of 18 U.S.C. 4106A that every transferee is entitled to a release date determination by the Commission after considering the applicable sentencing guidelines in effect at the time of the hearing. Upon release from imprisonment the transferee may be required to serve a period of supervised release pursuant to section 5D1.2 of the sentencing guidelines. The combination of the period of imprisonment that results from the release date set by the Commission and the period of supervised release shall not exceed the full term of the sentence imposed by the foreign court. The combined periods of imprisonment and supervised release may be less than the full term of the sentence imposed by the foreign court unless the applicable treaty is found to require otherwise.

(4) The applicable offense guideline provision is determined by selecting the offense in the U.S. Code that is most similar to the offense for which the transferee was convicted in the foreign court. In so doing, the Commission considers itself required by law and treaty to respect the offense definitions contained in the foreign criminal code under which the prisoner was convicted, as well as the official documents supplied by the foreign court.

(5) The release date that is determined by the Commission under 18 U.S.C. 4106A(b)(1)(A) is a prison release determination and does not represent the imposition of a new sentence for the transferee. All foreign good time and/or work credit and domestic credit for satisfactory behavior earned by the transferee is therefore deducted by the Bureau of Prisons from the full term of the sentence imposed by the foreign court, pursuant to 18 U.S.C. 4105(c)(1) and 18 U.S.C. 3624(a), to produce a mandatory release date.

(6) If the Commission sets a release date under 18 U.S.C. 4106A(b)(1)(A) that is earlier than the mandatory

release date established by the Bureau of Prisons under 18 U.S.C. 4105(c)(1), then the release date set by the Commission controls. If the release date set by the Commission under 18 U.S.C. 4106A(b)(1)(A) is equal to or later than the mandatory release date set established by the Bureau of Prisons under 18 U.S.C. 4105(c)(1), then the mandatory release date established by the Bureau of Prisons controls.

(7) It is the Commission's interpretation of 18 U.S.C. 4106A that U.S. Code provisions for mandatory minimum terms of imprisonment and supervised release, as well as sentencing guideline provisions implementing such U.S. Code requirements (*e.g.*, section 5G1.1(b) of the sentencing guidelines), were not intended by Congress to be applicable in an 18 U.S.C. 4106A(b)(1)(A) determination. Alternatively, it is the Commission's position that there is good cause in every transfer treaty case for a departure from any statutorily required minimum sentence provision in the sentencing guidelines, including section 5G1.1(b) of the sentencing guidelines, because Congress did not enact mandatory sentence laws with transferees in mind. Thus, in every transfer treaty case, the release date will be determined through an exercise of Commission discretion, according to the sentencing guideline range that is derived from a case-specific "similar offense" determination, rather than by reference to any provision concerning mandatory minimum sentences of imprisonment or terms of supervised release.

* * * * *

(i) *Final decision.* (1) The Commission shall render a decision as soon as practicable and without unnecessary delay. The decision shall set a release date and a period and conditions of supervised release. If the Commission determines that the appropriate release date under 18 U.S.C. 4106A is the mandatory release date established under 18 U.S.C. Section 4105(c)(1), the Commission will order the transferee to "continue to expiration."

(2) Every release date set for a transferee (including a date resulting from a decision to "continue to expiration") shall be the result of a downward adjustment of 15 percent from the release date the Commission would otherwise have established pursuant to the applicable sentencing guideline range. This downward adjustment is granted in order to achieve comparable punishment with a similarly-situated U.S. Code offender. Because the sentencing guidelines contemplate that credit for satisfactory behavior would apply to any guideline sentence, the Commission may grant a downward departure from the applicable guideline range to accomplish this purpose. If the Commission would otherwise have established a release date above the applicable guideline range but for the 15 percent adjustment, the Commission shall treat the case as an upward departure and shall state a reason for departing from the guideline range. If the transferee has been found by the Bureau of Prisons to have violated prison rules, the Commission shall modify the 15 percent adjustment by the amount of credit for satisfactory behavior that has been withheld.

(3) The Commission may, in its discretion, defer a decision and order a rehearing, provided that a statement of the reason for ordering a rehearing is issued to the transferee and the transferee's counsel (if any).

(4) The Commission's final decision shall be supported by a statement of reasons explaining:

(i) The similar offense selected as the basis for the Commission's decision;

(ii) The basis for the guideline range applied; and

(iii) The reason for making a release determination above or below the guideline range. If the release date is within a guideline range that exceeds twenty-four months, the Commission shall identify the reason for the release date selected.

* * * * *

(k) *Reopening or modification of a determination prior to transfer of jurisdiction.* (1) A hearing and assistance of counsel will be provided to the transferee whenever a case is reopened under subparagraphs (2), (3), (4), and (5) below unless:

(i) Waived by the transferee; or

(ii) The action to be taken is favorable and no factual issue must be resolved.

(2) The Commission may reopen and modify a determination based upon information which was not previously considered. Such information must, however, be contained in the record of the foreign sentencing court.

(3) The Commission may reopen and modify a determination of the terms and conditions of supervised release. Modifications may include approval or disapproval of the transferee's release plan.

(4) The Commission shall reopen and modify a determination that has been found on appeal to have been imposed in violation of the law, to have been imposed as a result of an incorrect application of the sentencing guidelines, or to have been unreasonable.

(5) The Commission may reopen and modify a determination upon consideration of the factors listed in section 5K1.1 of the sentencing guidelines if the transferee provides substantial assistance to law enforcement authorities, and that assistance was not previously considered by the Commission. The Commission will treat a request from a foreign or a domestic law enforcement authority as the equivalent of a "motion of the government."

(6) The Commission may modify a determination based upon a clerical mistake or other error in accordance with Federal Rules of Criminal Procedure Rule 36.

(7) If the transferee violates prison rules and the Bureau of Prisons withholds credit for satisfactory behavior pursuant to 18 U.S.C. 3624(b), the Commission may reopen its determination (except for a decision to "continue to expiration"), and retard the release date by the amount of credit withheld by the Bureau.

(8) The Commission may reopen and modify the release date if it determines that a circumstance set forth in 18 U.S.C. 3582(c) is satisfied.

(l) *Supervised release.* (1) If a period of supervised release is imposed, the Commission presumes that the recommended conditions of supervised release in section 5B1.4(a) of the sentencing guidelines, a condition requiring the transferee to report to the probation office within 72 hours of release from the custody of the Bureau of Prisons, a condition that the transferee not commit another Federal, state or local crime, and a condition that the transferee not possess a firearm or other dangerous weapon are reasonably necessary in every case. These conditions, therefore, shall be imposed unless the Commission finds otherwise The Commission may also impose special conditions of supervised release whenever deemed reasonably necessary in an individual case.

(2) If the transferee is released pursuant to a date established by the Bureau of Prisons under 18 U.S.C. 4105(c)(1), then the period of supervised release commences upon the transferee's release from imprisonment.

* * * * *

Dated: April 23, 1993.

Edward F. Reilly, Jr.,

Chairman, U.S. Parole Commission.

[FR Doc. 93–12598 Filed 5–26–93; 8:45 am]

BILLING CODE 4410–01–P

DEPARTMENT OF THE TREASURY

Departmental Offices

31 CFR Part 129

Portfolio Investment Survey Reporting

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document establishes general guidelines for reporting on portfolio investment surveys provided for by the International Investment and Trade in Services Survey Act (the Act). The existing guidelines are being modified to provide a more general framework for the collection of international portfolio investment data on such surveys as specified in the Act or as deemed necessary by the Secretary of the Treasury. The effect of this final rule is to simplify and generalize existing regulations governing the procurement of information on international portfolio investment surveys under the Act.

EFFECTIVE DATE: May 27, 1993.

FOR FURTHER INFORMATION CONTACT: William L. Griever, Director, Office of Foreign Investment Studies, Department of the Treasury, room 5466, 1500 Pennsylvania Avenue NW., Washington, DC 20220, (202) 622–2240 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The overall purpose of the International Investment and Trade in Services Survey Act (22 U.S.C. 3101 et seq. (formerly the International Investment Survey Act of 1976) (the Act)) is to provide comprehensive and reliable information concerning international investment, including portfolio investment, while minimizing the reporting burden on respondents. The Act specifies that regular data collection programs and surveys, as specified in the Act or as deemed necessary by the Secretary of the Treasury pursuant to Executive Order (E.O.) 11961, shall be conducted to secure information on international capital flows and other information related to international portfolio investment, including information that may be necessary for computing and analyzing the U.S. balance of payments.

The existing regulations (31 CFR part 129) implementing certain provisions of the Act and E.O. 11961 govern the reporting of information on the quinquennial surveys of foreign portfolio investment in U.S. securities and provide detailed instructions to prospective survey respondents on how to report and what Forms to complete and submit when responding to the surveys. These regulations are being revised to generalize the reporting requirements with respect to portfolio investment surveys under the Act and E.O. 11961. Notice of specific surveys, including applicable report forms and instructions, will now be separately published in the **Federal Register**.

Special Analyses

Because this regulation concerns a foreign affairs function of the United States, the notice, public procedure, and delayed effective date provisions of 5 U.S.C. 553 do not apply. Similarly, the provisions of Executive Order 12291 do not apply. Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) do not apply.

List of Subjects in 29 CFR Part 129

Investments, Penalties, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, part 129 of title 31 of the Code of Federal Regulations is revised to read as follows:

PART 129—PORTFOLIO INVESTMENT SURVEY REPORTING

Sec.

129.1 Purpose.
129.2 Definitions.
129.3 Reporting Requirements.
129.4 Recordkeeping Requirements.
129.5 Confidentiality.
129.6 Penalties Specified by Law.

Authority: 22 U.S.C. 3101 et seq.; E.O. 11961, 42 FR 4321, 3 CFR, 1977 Comp., p. 86.

§ 129.1 Purpose.

The purpose of this part is to provide general information on portfolio investment survey data collection programs and analyses under the International Investment and Trade in Services Survey Act ((formerly the International Investment Survey Act of 1976) (the "Act")). The purpose of the Act is to provide for the collection of comprehensive and reliable information concerning international investment, including portfolio investment. The Act specifies that regular data collection programs and surveys specified by the Act or deemed necessary by the Secretary of the Treasury shall be conducted to secure information on international capital flows and other information related to international portfolio investment, including information that may be necessary for computing and analyzing the United States balance of payments.

§ 129.2 Definitions.

For purposes of the Act and for reporting requirements under this Part:

(a) *United States*, when used in a geographic sense, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

(b) *Foreign*, when used in a geographic sense, means that which is situated outside the United States or which belongs to or is characteristic of a country other than the United States.

(c) *Person* means any individual, branch, partnership, associated group, association, estate, trust, corporation, or other organization (whether or not organized under the laws of any State), and any government (including a foreign government, the United States Government, a State or local government, and any agency, corporation, financial institution, or other entity or instrumentality thereof, including a government-sponsored agency).

(d) *United States person* means any person resident in the United States or subject to the jurisdiction of the United States.

(e) *Foreign person* means any person resident outside the United States or subject to the jurisdiction of a country other than the United States.

(f) *Foreign parent* means any foreign person who owns or controls, directly or indirectly, 10 percent or more of the voting securities of an incorporated United States business enterprise, or an equivalent interest in an unincorporated United States business enterprise.

(g) *Reporter* means a United States person required to file a report.

(h) *Foreign official institution* means central governments of foreign countries and their possessions, including recognized central banks of issue.

§ 129.3 Reporting requirements.

(a) Notice of specific reporting requirements, including who is required to report, the information to be reported, the manner of reporting, and the time and place of filing reports, will be published by the Secretary of the Treasury in the **Federal Register** prior to the implementation of each survey or study.

(b) Written responses are required from all reporters.

(c) Information required from reporters shall be furnished under oath.

§ 129.4 Recordkeeping requirement.

Reporters shall maintain all information used in preparing a report under this part for the period specified in the notice published by the Secretary

of the Treasury pursuant to section 129.3, and shall make this information available for review and inspection at the request of the Department of the Treasury.

§ 129.5 Confidentiality.

(a) Information collected pursuant to the Act will be kept in confidence.

(b) Access to information collected pursuant to the Act shall be available only to officials and employees (including consultants and contractors and their employees) designated by the Secretary of the Treasury to perform functions under the Act.

(c) Nothing in this part shall be construed to require any Federal agency to disclose information otherwise protected by law.

(d) No person can compel the submission or disclosure of reports, or constituent parts thereof, or copies of such reports or constituents parts thereof, prepared pursuant to this part, without the prior written consent of the person who maintained or who furnished the report and the customer of the person who furnished the report, where the information supplied is identifiable as being derived from the records of the customer. As required by the Act, any published reports issued by the Treasury based upon information pursuant to this part will only contain data aggregated in such a way that neither the person supplying the information nor the investor can be identified.

§ 129.6 Penalties specified by law.

Reporters are advised that the Act provides the following penalties:

(a) *Civil Penalties.* Whoever fails to furnish any information required under the Act, whether required to be furnished in the form of a report or otherwise, or to comply with any other rule, regulation, order, or instruction promulgated under the Act, shall be subject to a civil penalty of not less than $2,500 and not more than $25,000.

(b) *Criminal Penalties.* Whoever willfully violates any rule, regulation, order, or instruction promulgated under the Act, upon conviction, shall be fined not more than $10,000 and, if an individual, may be imprisoned for not more than one year, or both, and any officer, director, employee, or agent of any corporation who knowingly participates in such violation, upon conviction, may be punished by a like fine, imprisonment or both.

Dated: May 21, 1993.

Alicia H. Munnell,

Assistant Secretary for Economic Policy.

[FR Doc. 93–12556 Filed 5–26–93; 8:45 am]

BILLING CODE 4810-25-M

LIBRARY OF CONGRESS

36 CFR Part 704

National Film Preservation Board; Final Amended Criteria for the Selection of Films and Procedures for Public Participation in the Selection of Films for the National Film Registry

AGENCY: National Film Preservation Board, Library of Congress.

ACTION: Final regulations.

SUMMARY: The Librarian of Congress, pursuant to section 203 of The National Film Preservation Act of 1992, publishes the following final regulations to establish criteria under which films may be included in the National Film Registry, except that no film shall be eligible for inclusion in the Registry until 10 years after such film's first publication; and establish procedures under which the general public may make recommendations to the Board regarding the inclusion of films in the National Film Registry.

EFFECTIVE DATE: July 12, 1993.

FOR FURTHER INFORMATION CONTACT: Eric Schwartz, Counsel, the National Film Preservation Board, Library of Congress, Washington, DC 20540. Telephone: (202) 707–8350.

SUPPLEMENTARY INFORMATION: In 1990, the Librarian of Congress issued final regulations establishing criteria for the selection of films and procedures for public participation in the selection of films for the National Film Registry in accordance with section 3 of Public Law 100–446, the National Film Preservation Act of 1988, 2 U.S.C. 178b. That Act expired on September 27, 1991. On June 26, 1992, President Bush signed into law the National Film Preservation Act of 1992, reauthorizing the National Film Preservation Act for an additional four years. the legislation (section 203(b), 2 U.S.C. 179a), requires the Librarian of Congress, in consultation with a newly formed National Film Preservation Board, to continue selecting up to twenty-five films a year for inclusion in the National Film Registry established by the 1988 Act. However, the 1992 Act made some changes from the 1988 Act in the criteria used to select films for the Registry. Under the 1992 Act, films will continue to be selected on the basis of their historical, cultural and aesthetic significance and they must be at least 10 years old. However, films no longer have to be feature-length nor are they required to have had a theatrical release in order to be included .

The Librarian proposes these broad criteria for the selection of films in order to allow as many films as possible to be eligible for inclusion in the National Film Registry. The procedures for public participation are intended to allow the public the greatest flexibility in nominating films for inclusion. This is in keeping with the two very broad goals of the Librarian in administering the National Film Preservation Act: (1) To promote film as an art form and (2) to generate public interest in the preservation of motion pictures.

On December 8, 1992 (57 FR 57979) the Librarian of Congress published a notice of proposed amended criteria for the selection of films in the National Film Registry, and procedures for allowing the general public to make recommendations to the Librarian for the selection of films. The proposed new criteria and procedures reflect changes made in the law in 1992 from the previous 1988 Act, and incorporate recommendations made by the National Film Preservation Board at its meeting in September 1992. Since no public comments were received on the proposed new criteria or procedure, the Librarian has adopted as final the proposals printed in the **Federal Register** in November.

List of Subjects in 36 CFR Part 704

Libraries, Motion pictures.

In consideration of the foregoing, 36 CFR part 704 is amended as set forth below.

1. The authority citation for part 704 is revised to read as follows:

Authority: Pub. L. 102–407, 106 Stat. 267 (2 U.S.C. 179).

Subpart A—Films Selected For Inclusion In The National Film Registry

2. Section 704.10 is revised to read as follows:

§ 704.10 Criteria for the selection of films for inclusion in the National Film Registry.

(a) All of the films nominated for inclusion in the National Film Registry should reflect the mission of the National Film Registry in the Library of Congress, found in section 202 of the National Film Preservation Act of 1992 (Pub. L. 102–307), of "maintaining and preserving films that are culturally, historically or aesthetically significant."

(b) In accordance with the intent of Congress, all of the guidelines for the selection of films in the National Film Registry are intended to be read broadly, so that as many films as possible will be eligible for inclusion in the National Film Registry.

(c) For the purposes of film selection, the term "film" means a "motion picture" as defined in the U.S. copyright law, except, that the term "film" does

not include any work not originally fixed on film stock, such as a work fixed on videotape or laser disks. "Motion pictures" are defined in the copyright law as: "audiovisual works consisting of a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any." 17 U.S.C. 101.

(d) Films should not be considered for inclusion in the National Film Registry if no element or copy of the film exists. While the Librarian intends to promote the goals of film preservation and restoration provided for in the Act, no film will be denied inclusion in the National Film Registry because that film has already been preserved or restored.

(e) No film is eligible for inclusion in the National Film Registry until 10 years after such film's first publication. "Publication" is defined in the copyright act as: "the distribution of copies or phonorecords of a work to the public by sale or other transfer of ownership, or by rental, lease, or lending. The offering to distribute copies or phonorecords to a group of persons for purposes of further distribution, public performance, or public display, constitutes publication. A public performance or display of a work does not of itself constitute publication." 17 U.S.C. 101.

3. Section 704.11 is revised to read as follows:

§704.11 Procedures for the public to recommend films for inclusion in the National Film Registry.

(a) The public shall be informed of all open meetings of the National Film Preservation Board.

(b) A mailing address within the Library of Congress will be maintained to allow the public to make nominations of films to the Librarian and the National Film Preservation Board. All nominations should include the film title, and any other relevant information necessary to prevent confusion with similarly named titles.

(c) Materials will be available to congressional offices and members of the Board to make information available to the public regarding nominations of films. Materials will also be made available for distribution to libraries, movie theaters, and through the guilds and societies representing directors, producers, screenwriters, actors, cinematographers, film critics, film preservation organizations and representatives of academic institutions with film study programs, in order to encourage broad participation from the general public. Nominations received by the Librarian, will be forwarded to the Board to assist in the film selection process.

(d) All nominations for inclusion of films in the National Film Registry must be submitted in writing to the Librarian of Congress no later than March 30th of each year. All nominations should be mailed to: National Film Registry, Library of Congress, Washington, DC 20540.

Dated: May 14, 1993.

James H. Billington,

The Librarian of Congress.

[FR Doc. 93–12554 Filed 5–26–93; 8:45 am]

BILLING CODE 1410–18–M

FEDERAL MARITIME COMMISSION

46 CFR Part 514

[Docket No. 93–03]

Filing of Tariffs and Service Contracts; Implementation of Section 502 of Public Law 102–582

AGENCY: Federal Maritime Commission.

ACTION: Final Rule.

SUMMARY: The Federal Maritime Commission ("Commission" or "FMC") is amending its regulations governing the filing of tariffs and service contracts in order to implement section 502 of Public Law 102–582, which requires certain tariff data to be electronically filed into the Commission's Automated Tariff Filing and Information System and requires this data to be made available without restriction to the public. The User-Agreement approach of the proposed rule is abandoned, but individuals making data available to secondary users still will be responsible for charging and collecting the indirect user charge of 46 cents a minute from all such users. Private-sector firms' systems to charge and collect the indirect access fees from public users must be approved by the FMC before these firms may purchase database tapes, in order to implement the new law's requirement that the Commission collect a per-minute fee for secondary (remote) computer access to the tariff data. ATFI full database tapes will not be made available for purchase until this rule becomes effective.

DATES: Effective Date: Section 514.21(m)(2)(i) of the final rule is made effective upon publication in the **Federal Register** in order that firms, if they desire, may immediately develop and submit for approval their charging systems so that they may begin obtaining database tapes by the time all tariffs have been filed in the first implementation window, i.e., by June 4, 1993. Otherwise, the effective date of the final rule is June 28, 1993.

FOR FURTHER INFORMATION CONTACT: John Robert Ewers, Deputy Managing Director, Office of the Managing Director, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573–0001.

SUPPLEMENTARY INFORMATION: On November 2, 1992, the President signed the "High Seas Driftnet Fisheries Enforcement Act," Public Law 102–582. Section 502 of this Act ("Section 502"), 46 U.S.C. app. 1707a, relates to the Federal Maritime Commission's "Automated Tariff Filing and Information System" ("ATFI"). In order to implement section 502, a notice of proposed rulemaking to amend 46 CFR part 514, was published in the **Federal Register** on February 8, 1993 (58 FR 7501). *See also* Docket No. 90–23, *Tariffs and Service Contracts*, interim rules of August 12, 1992 (57 FR 36248) and January 4, 1993 (58 FR 25). Public comments on the proposed rule were submitted in March 1993.

Comments

Comments on the proposed rule were filed by:

A. Conferences

Inter-American Discussion Agreement ("IADA"), FMC Agreement No. 203–011369, representing: FMC Agreement No. 202–009648A, Inter-American Freight Conference; FMC Agreement No. 202–009968, Brazil/Puerto Rico and U.S. Virgin Islands [conference]; FMC Agreement No. 202–010122, River Plate/Puerto Rico and U.S. Virgin Islands [conference]; and FMC Agreement No. 202–006400, Inter-American Freight Conference—Pacific Coast Area. [Also included in the "Joint Conferences."]

"Joint Conferences," which include: Asia North America Eastbound Rate Agreement; Central America Discussion Agreement; Central America Liner Association; the "8900" Lines Rate Agreement; Hispaniola Discussion Agreement; Inter-American Freight Conference Area River Plate/Puerto Rico and U.S. Virgin Islands; Inter-America Discussion Agreement; Inter-American Freight Conference; Inter-American Freight Conference/Pacific Coast Area Conference; Inter-American Freight Conference/Puerto Rico and U.S. Virgin Islands; the Israel Trade Conference; Jamaica Discussion Agreement; Mediterranean North Pacific Coast Freight Conference; PANAM Discussion Agreement; Puerto Rico/Caribbean Discussion Agreement; South Europe/USA Freight Conference; Southeastern Caribbean Discussion Agreement;

United States Atlantic and Gulf Ports/ Eastern Mediterranean and North African Freight Conference; United States/Southern and Eastern Africa Conference; U.S. Atlantic & Gulf/ Hispaniola Steamship Freight Association; U.S. Atlantic & Gulf/ Southeastern Caribbean Steamship Freight Association; U.S. Atlantic & Gulf/Western Mediterranean Rate Agreement; U.S./Panama Freight Association; and Venezuelan American Maritime Association.

Trans-Pacific Freight Conference of Japan and the Japan Atlantic and Gulf Freight Conference ("TPFCJ/JAG").

Transpacific Westbound Rate Agreement ("TWRA").

B. Shippers

The National Industrial Transportation League ("The League").

C. Ports

The Tampa Port Authority ("Tampa").

D. Tariff Service Firms

Dart Maritime Service ("Dart").

International Trade Tracking ("ITT").

Pacific Coast Tariff Bureau ("PCTB").

Rijnhaave Information Services, Inc. and World Tariff Services, Inc. ("RIS"). [Also included in comments of IIA, et al.]

Transax Data ("Transax"). [Also included in comments of IIA, et al.]

E. Others

Hellmuth M. (Hal) Dieterle ("Dieterle").

Information Industry Association; American Library Association; Association of American Publishers; Cambridge Information Group, Inc.; Commerce Clearing House, Inc.; Congressional Information Service, Inc.; Dialog Information Services, Inc.; The Dun & Bradstreet Corporation; Electronic Frontier Foundation; Federal Filings Incorporated; Mead Data Central; National Standards Association; Newspaper Association of America; OMB Watch; Reed Publishing [USA], Inc.; Rijnhaave Information Services, Inc.; Transax Data; Unison Institute; and West Publishing Company ("IIA, et al.").

Transax and IIA, et al., ask the Commission to "withdraw" its proposed rule; the other commenters suggest clarifications and/or modifications to address their concerns.

Discussion

No substantial comment was received on the proposed rule's changes to § 514.12(a)(1), which removes the reference to the remote retrieval restriction, and § 514.20(c)(2), which removes the arbitrary restriction (e.g., 30 minutes), itself. Accordingly, these changes are made final.

The major areas of the proposed rule that were addressed in the comments were fees and enforcement, including the proposed User Agreement ("User Agreement"), as more fully described hereinafter. The legislative history of Public Law 102–582 (H.R. 2152) is partially set forth in U.S. Code Congressional & Administrative News, ("U.S. Cong. News") Vol. No. 11B, January 1993, pp. 4090–4112. See also the reports on H.R. 2056 [H.R. Rep. No. 284, Parts 1 and 2, 102d Cong., 2d Sess. (1991)] and S. 2702 [S. Rep. No. 346, 102d Cong., 2d Sess. (1992)], neither of which is referred to in U.S. Cong. News as legislative history for P.L. 102–582, but both of which are cited by the commenters and herein.

Subsections (d) and (e) of section 502 provide as follows.

(d) Fees.—

(1) Amount of Fee.—The Commission shall charge, beginning July 1 of the fiscal year 1992 and in fiscal years 1993, 1994, and 1995—

(A) a fee of 46 cents for each minute of remote computer access by any individual of the information available electronically under this section; and

(B)(i) for electronic copies of the Automated Tariff Filing and Information System database (in bulk), or any portion of the database, a fee reflecting the cost of providing those copies, including the cost of duplication, distribution, and user-dedicated equipment; and

(ii) for a person operating or maintaining information in a database that has multiple tariff or service contract information, obtained directly or indirectly from the Commission, a fee of 46 cents for each minute that database is subsequently accessed by computer by any individual.

(2) Exemption for Federal Agencies.—A Federal agency is exempt from paying a fee under this subsection.

(e) Enforcement.—The Commission shall use systems controls or other appropriate methods to enforce subsection (d).

Except for the secondary-access user charge, the fee for each minute the database is subsequently accessed under subsection (d)(1)(B)(ii), section 502 provides substantially the same user charges as 46 CFR 514.21(g) and 514.21(j). To implement section 502, therefore, we are changing the 50 cents per minute of connect time in § 514.21(g) to 46 cents for each minute of remote computer access directly to the ATFI database by any individual, as provided in subsection (d)(1)(A) of section 502.

There appears to be no need to change the per-tape charge in § 514.21(j) for the purchase of database tapes under subsection (d)(1)(B)(i) of section 502, since it is based on the marginal cost of distribution, as stated in the Supplementary Information to the proposed rule. Language similar to that in subsection (d)(1)(B)(i) of section 502, i.e., a fee reflecting the cost of providing those copies, including the cost of duplication, distribution, and user-dedicated equipment, is added to § 514.21(j) for clarification. The Commission plans to make available the full ATFI database tapes, rather than attempt to break the database down into discrete portions (e.g., foreign, domestic) for sale to the public. Periodic updates of just those portions of the entire database which are being revised still are being planned for distribution.

The Commission intends to use system controls, as mentioned in subsection (e) of section 502, to enforce the collection of user fees for *all* items or services listed in § 514.21, to the extent possible. Secondary or subsequent access of ATFI data on other systems by other individuals, however, can neither be monitored readily nor reported electronically by ATFI. Accordingly, the Commission had indicated that vendors of such tariff data to secondary users *could* monitor such usage and the proposed rule contained a User Agreement whereby the vendor would be held accountable for the user charges for the tariff data it was allowing others to access. The Commission requested specific comment on methods of monitoring usage, including an honor system, whereby users would, for example, keep track of their own time and send in their monthly user fees to the Commission.

Extensive comments were received, beginning with questions and arguments concerning the interpretation of section 502, as more fully described in the following analysis:

A. Coverage of Section 502

1. Types of Users Covered

With regard to the type of person, for whose computer access a user fee of 46 cents a minute must be collected, section 502 states that it is "any individual," both under subsection (d)(1)(A) for direct access, and also under subsection (d)(1)(B)(ii) for subsequent access. For secondary usage in the latter case, however, subsection (d)(1)(B)(ii) provides that the Commission shall charge the "person operating or maintaining information in a database that has multiple tariff or service contract information, obtained directly or indirectly from the Commission." On this subject, the comments did not always make a distinction between the ultimate

accessor and the middle person making the data available.

Dart argues that the proposed rule's fee provisions are beyond the Commission's authority and that the fee should not apply to value-added services or to anyone who does not database. IADA believes that, if the IADA member conferences access the ATFI system under retrieval IDs, for the purposes of seeking information about competitive tariffs, then and only then, would the User Fees become applicable. IADA wants a clear, concise statement to the effect that filers accessing the system under their filer ID, as opposed to access under a retrieval ID, will not be subject to user fees.

The Joint Conferences believe that the proposed rule regarding secondary access may result in the imposition of user fees on persons that Congress did not intend to cover, i.e., carriers and conferences maintaining a database for their own proprietary use as transportation providers. Even if applicable to carriers and conferences, however, the Joint Conferences and TWRA maintain that the user fee should not be applied to a review of a carrier or conference's own data. For example, a conference secretariat would have to charge each member line accessing the tariff database a user fee, despite the fact that the members adopt the rates as their own. Thus, the Joint Conferences argue that the proposed regulations should not apply the user fee to tape purchasers accessing the tapes for their own proprietary use, nor should they require conferences, their member lines, carriers, or agents of tariff filers, to pay user fees when accessing the tapes for their own use.[1] Many commenters asked for further guidance as to the application of the user fee to internal access within the primary user's firm.

The Commission believes that section 502 and its legislative history are clear as to the ultimate accessor intended to be covered by the user fee requirements. Subsection (d)(1)(A) of section 502 provides for "a fee of 46 cents for each minute of *remote computer access by any individual* of the information available electronically under this section" (emphasis supplied). The "information available electronically" is anything in the official ATFI database under subsection (b)(2) of section 502. Thus, *anyone* who accesses the ATFI database by remote computer for the purpose of viewing the data already in the database has to pay the direct fee.[2] Where any information from the ATFI database is maintained in a database other than ATFI's official database, subsection (d)(1)(B)(ii) of section 502 provides for a secondary (indirect) access user fee of 46 cents for each minute that database is subsequently accessed by computer *by any individual*. Therefore, the indirect fee is for ATFI derived data that *anyone* views by computer.

As suggested by IADA, filers using a *filer* ID, which would allow them "write" privileges to make changes in the data in the database, are not subject to a user fee when directly accessing their own tariffs in the ATFI database to change them.[3] All other types of public-access users are subject to the user fee. When filing firms or employees thereof also register as public retrievers for access to all tariff data, all such access under a *retriever* ("read only") ID is subject to the retrieval user fees. For direct remote retrieval access, each individual who is permitted access must have an authorized USERID and password, for which the individual or the firm is billed. For secondary access, *see also* section C of this Supplementary Information.[4] Thus, neither the current ATFI rule at part 514 nor section 502 makes any distinction based on whether an indirect user, for whom a 46-cents-a-minute fee must be charged, is a tariff service firm, carrier, or conference, but there is a difference between a filer and retriever at the time of direct access to the official ATFI database.

While the language of section 502 is clear as to the ultimate user, i.e., any individual, the statute is not as clear with respect to the chargeable supplier of data for indirect use, i.e., a person operating or maintaining information in a database that has multiple tariff or service contract information, obtained directly or indirectly from the Commission. IADA and TWRA contend that the fee should be applicable only to those who extract and resell information that already has been filed by carriers, conferences and others who are mandated to file, including agents. The Joint Conferences argue that Congress intended to limit application of the user fee to those entities which are *in the business* of maintaining *multiple databases* for the purposes of *reselling* the information to the *public*, and meant to exclude carriers and conferences using databases in their own business operations from application of the user fee.

Any attempt to associate the statutory language with a particular type of business entity, such as a tariff service, would be strained and could lead to absurd results. For example, the proposed approach of the Joint Conferences emphasizes multiple databases, while the statute mentions database in the singular, which, as noted by Transax, has multiple tariff or service contract information. Even if the word "multiple" applies to "tariff or service contract," as opposed to "information," this would not exclude the clients of many carriers, or, if it did, the exclusion would produce an unfair and unmanageable dichotomy. As further provided in section C of this Supplementary Information, the person whom the Commission must charge for secondary use under section 502, is anyone who has an electronic database of ATFI data obtained from purchasing and using the ATFI database tapes.[5] This eliminates the collection of the secondary-use charge for such non-tariff data as E-Mail and ancillary tables, including the locations database. See also sections A.2 and A.3, *passim*.

Accordingly, the language of subsection (d)(1)(B)(ii) of section 502 is retained as § 514.21(g)(2), except that

[1] The Joint Conferences point out that, in Docket 92-16, the Commission held that a conference could not charge its member lines a fee to cover the cost of filing independent action rates for those members, and argue that it would be ironic, if the FMC now were to require a conference to charge the same member line for access to review the independent action rate filed on its behalf.

[2] The Joint Conferences suggest that the regulations are silent on how direct-access user fees should be collected and propose a procedure for this which is based on an "honors system," i.e, annually, a registered user would file a report of its total minutes of access and send this in with a check. This is not necessary, however, in view of ATFI's mechanism to report direct-access usage in detail in the form of an invoice to be mailed monthly to each user.

[3] "The bill would not impose a charge for filing tariffs with the FMC." H.R. Rep. No. 284, Part 2, 102d Cong., 2d Sess., 17 (1991). This non-imposition would apply to interactive filing by remote access, as well as to filing on computer tape which is physically delivered. The non-imposition would apply to the filing of amendments, as well as of complete, new tariffs. Where filers want to have their agents and/or employees access the system without the ability to change tariff data, any such access must be through a retriever ID. Section 502(d)(2) also exempts Federal agencies from paying the user fee.

[4] *See also* §§ 514.20(f) and 514.21(g). The tariff owner controls the issuance of filer IDs for "write" access to its tariffs under §§ 514.4 and 514.8. The fact that someone may be a *filer* is not a distinguishing factor for a tariff database maintained by someone other than the Commission, since all tariff data must be filed with the Commission under subsection (b)(1) of section 502.

[5] "The section imposes a fee of $0.46 per minute on remote, electronic retrieval of ATFI data. The Committee expects users of this information to include maritime carriers, shippers and freight forwarders." S. Rep. No. 346, 102d Cong., 2d Sess., 9 (1992). Based on the revenues from the user fees for remote access projected by the Congressional Budget Office of $730,000,000 to $810,000,000 for fiscal years 1993, 1994 and 1995, Congress did not intend to create many exemptions (other than for filers and Government Agencies). See H.R. Rep. No. 284, Part 2, 102d Cong., 2d Sess., 34 (1991), and S. Rep. No. 346, 102d Cong., 2d Sess., 6 (1992).

the preface, "Through September 30, 1995," is added to this and other paragraphs, because subsection (h) of section 502 provides that "No fee may be collected under this section after fiscal year 1995." However, the direct-access fee of 46 cents a minute under § 514.21(g)(1) would not be terminated automatically, since it is intended to recover the direct costs to the Government of making the information available. This direct fee could change, however, if it is found to be too high or low.

Additionally, as requested by IADA, new § 514.21(l)(2)(i) provides that Subject to secondary use restrictions and user fees under paragraph (m)(2) of this section [for purchase and use of database tapes] * * * Filers may, without the necessity of paying a user fee under this section, access only those tariffs or parts of tariffs for which they have an authorized filer USERID and password. Section 514.21(l) will continue to provide exemptions from paying a user fee for government agencies (for direct access only under subsection (d)(2)) and for marine terminal tariff data (for indirect access only), which is not covered by section 502.

2. Types of Data Covered

Under Section 502, the data, the remote computer access of which is subject to the 46-cents-a-minute user charge, is:

(a) "the information available electronically under this section" [Subsection (d)(1)(A)], which is:

(b) that information which the Commission "shall make available electronically . . . through appropriate access from remote terminals" [Subsection (b)(2) introductory text], i.e., "remote computer access" [Subsection (d)(1)(A)] and is:

(c) "all tariffs, and all essential terms of service contracts, required to be [electronically] filed by [each] common carrier or conference under the Shipping Act of 1984 (46 app. U.S.C. 1701 et seq.), the Shipping Act, 1916 (46 app. U.S.C. 801 et seq.), and the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.)" [Subsection (b)(1)], and is:

(d) "all tariff information, and all essential terms of service contracts, filed in the Commission's Automated Tariff Filing and Information System database; and * * * all tariff information in the System enhanced electronically by the Commission at any time" [Subsection (b)(2)].

For the secondary user fee of 46 cents a minute under subsection (d)(1)(B)(ii), the data is multiple tariff or service contract information obtained directly or indirectly from the Commission. The fee for indirect access is for computer access, and the only tariff and service contract information which the Commission will have will be in the electronic database.

Tariff information in the ATFI database will be available for the appropriate fee, whether or not enhanced by the Commission, as provided by subsection (b)(2)(B) of Section 502. If data other than that covered by § 514.21 is in the ATFI system, access to it would be governed by Freedom-of-Information-Act requirements.[6]

Because ancillary tables made available under § 514.21(k), "Miscellaneous Tapes," such as the Locations Database, are not tariff information nor essential terms of service contracts, the user fee would not apply. As requested by TWRA and PCTB, this corrects the reference in the proposed rule's User Agreement. Such tables are created before tariff information is filed.

IADA indicate that they may access the ATFI system on line to provide competitive information to their members and request clarification of to what extent, if any, extracts or reports so obtained will be subject to a user charge if they are sent to Conference members by electronic mail, or are placed in proprietary conference electronic administrative systems. IADA argue that this dissemination is not reselling. RIS and Transax agree, but characterize the questionable data as E-mail (e.g., containing notice of rejections). Transax asks about sending E-mail of a prompt screen. Other distinctions were pointed out, such as the differences between "computer" and "electronic" (Dieterle).[7]

TPFCJ/JAG, TWRA and PCTB request that the proposed rule be modified to clearly provide that the secondary use fee does not apply to the subsequent use of "writings," i.e., *all* printed ATFI data, not just data obtained from the Print Screen function. TPFCJ/JAG recognize that the computer time to generate print-outs from ATFI database tapes would be chargeable at the standard 46 cents per minute.

ITT asks for clarification of the user-fee consequences when a primary user uses a database to prepare a paper response to a rate inquiry. Transax indicates that when its service is being used by its clients, it cannot tell what specific use is being made by the client, e.g., print-screen or down-load.

The Commission interprets section 502 as prescribing a user fee for computer access of electronic data, either directly from the ATFI database, or indirectly, from a secondary database which contains any part of the electronic data from the Commission's database. Once reduced to paper, the data in printed form is not subject to a user fee, even if electronically converted back to electronic form by the user.[8] This, however, does not exempt from the user-fee requirement computer access to the data which remains in the electronic database, even if identical to that which is printed.

3. When a User Fee Applies

The Joint Conferences and RIS request that the Commission specifically define *when* an access fee starts or stops. RIS and several other commenters urge that the per-minute fee should begin when database matter itself is viewed, not for such things as log-in screens or electronic bulletin boards/mail, etc. The per-minute user fee for direct access retrieval to ATFI does not begin until after login, i.e., when the Tariff Retrieval option is selected from the ATFI Logo Menu, which takes the user to the Main Menu, where various items, e.g., Select Tariff, can be selected. Coming out, the per-minute user fee stops when Exit Tariff System is selected from the Main Menu, which takes the user back to the ATFI Logo Menu, where, without a user charge or interrupting disconnection, the user may select Retrieval Practice, Mailbox, etc., or decide to Logout.

Where a user fee applies to electronic or computer access, TPFCJ/JAG argue that only a single use should be charged, even though two or more additional video display terminals hooked together in a network are in simultaneous use viewing the interactively-displayed information. For *direct* access to ATFI, the user is charged for each minute that every USERID/password, for which the user is responsible, provides remote computer connection to tariff data, as described above. If a user wants two or more people to view one screen, or

[6] H.R. Rep. No. 284, Part 2, 102d Cong., 2d Sess., 29 (1991) provides: "The Committee does not intend for the FMC to constantly add enhancements to the System similar to those provided by a private provider of information services. The FMC would not be required to provide access to proprietary or investigative information that may be in the system."

[7] As Dieterle suggests, the term "computer," rather than the term "electronic," is used throughout this Supplementary Information and rule where appropriate (under section 502, etc.), since the term "electronic" can mean so many different things.

[8] This approach exempts from the secondary user fee such usage as that mentioned in H.R. Rep. No. 284, Part 2, 102d Cong., 2d Sess., 17–18 (1991): "However, if, for example, an individual is simply including the information copied from the database in a report that makes a recommendation to his or her employer on a decision, then no fee would be charged. This type of further use of the information is not of the type that is equivalent to accessing data in the ATFI system."

wants several screens to show the same data coming in on a single use of a USERID/password, that is up to the user and its own technology. Similarly, for *indirect* use, the vendor responsible for collecting the user fee is not required to monitor how many persons are looking at one screen, or how many split screens are set up for view of the exact same data coming in over the same, single wire. It will be sufficient for the vendor to set up a system similar to ATFI's, where each secondary user who wants to access its own selected data has a separate USERID/password, for which the per-minute fee is monitored and collected.[9]

B. Amount and Collection of the Fees

The Joint Conferences state that the statute does not provide for imposition of a fee on less than a full minute of access and therefore they believe there should be no charge for a fraction of a minute of access time. Allegedly, imposition of the user fee on such small increments of time would be an administrative burden on both users and the Commission, and the costs of administering the fee would likely outweigh the revenue collected. Under ATFI's system of monitoring and billing for direct retrieval access time, it makes no difference to the Commission or the user, in terms of administrative burdens, whether or not fractions of a minute are charged. For indirect usage, the Commission expects that the responsible vendor would have a similar system. Additionally, attempting to eliminate fractions of a minute could increase the Commission's burdens and invite attempts by users to stay under 59 seconds on every login to avoid *all* user fees. Accordingly, the Commission rejects this proposal.

ITT and The League argue that no add-ons, including a hook-up charge, be permitted to the 46-cents-a-minute fees. The League urges the Commission to use system controls to ensure that the secondary user may not be charged more than 46 cents per minute. Unless primary users are prohibited from imposing additional charges on secondary users, the League believes that shippers and other members of the public will be unduly restricted from accessing the ATFI system, contrary to the underlying purpose of Section 502 of Public Law 102–582.

The Commission does not have jurisdiction over tariff services, as such, except to the extent that section 502 requires the collection from secondary users of the 46-cents-a-minute fee. Accordingly, the final rule will not attempt to limit the cost to the ultimate user to 46 cents a minute.

C. Collecting for Secondary Usage

In the Supplementary Information to the proposed rule, the Commission indicated that the User-Agreement approach required that the data covered be the property of the Commission, and invited the public to comment especially on section A.3 (Rights in Data) of the User Agreement. In the view of various commenters, the proposed User Agreement and/or various of its provisions:

- Are not valid (TWRA).
- Are too restrictive (Dieterle).
- Are unenforceable (Transax).
- Should not apply to "mirror" data (TWRA).
- Involve a high level of Government "entanglement" (Transax, IIA, et al.).
- Violate the copyright act (Transax, IIA, et al.).
- Violate the First Amendment to the Constitution, because they prohibit the unauthorized reproduction of governmental information by reason of the Commission's alleged property interest in the expression of the data (Transax, IIA, et al.).
- Violate the Fifth Amendment to the Constitution by "appropriating" data belonging to others (TWRA).

TPFCJ/JAG state that the Commission has significant discretion in this area. While recognizing that the Commission is bound to implement section 502, the Joint Conferences, noting the constitutional, copyright and information law issues raised by the user fee, urge the Commission to interpret the law in a manner that minimizes conflicts with, and intrusion upon, rights in these areas. Section A.3 of the User-Agreement, which provides that the data will remain the exclusive property of the Commission, is not necessary to the enforcement scheme under the statute, according to the Joint Conferences, TPFCJ/JAG, TWRA and IIA, et al.

The Commission believes that the comments have merit and accordingly abandons the User-Agreement approach, including section A.3. The substance of some other provisions contained in the proposed rule's User-Agreement, however, will be retained as regulatory requirements in new paragraph (m) of § 514.21. These provisions and other comments on the User Agreement are addressed as follows.

1. Use Provisions (See Section A of Proposed User Agreement)

IADA, TWRA, PCTB and RIS ask whether table information on tape, such as the locations database under § 514.21(k), is subject to the User Agreement and secondary use charge. They urge that it not be. As we said above, the table information, other than actual tariff data in the full database tapes, is exempt from the secondary use fee.

To the extent that the proposed User-Agreement approach may prohibit access/dissemination by certain modes, as opposed to merely requiring the payment of a user fee, the Joint Conferences, IIA and other commenters request that the Commission change the appropriate provisions to free up access to actual Government sponsored data. Similarly, Tampa points out that section A.2 of the User Agreement does not allow copying by interactive retrievers. Tampa requests that marine-terminal-operator tariff data be exempted from this prohibition, which would interfere with the furnishing of hard copies of terminal tariffs to customers, free of charge, or at a nominal fee.

Copying of ATFI data accessed by modem is limited by the ATFI System to Print-Screen functions and also the ATFI mail file transfer for filers, but, once reduced to writing, the data no longer is subject to the secondary-usage fee of section 502, whether or not reconverted to electronic form. This would allow, for example, a marine terminal operator to furnish hard copies of terminal tariffs to customers.

The subscriber database tapes, on the other hand, remain the most practical vehicle for disseminating ATFI data and collecting secondary use fees, as further discussed below. Again, however, if any data on the magnetic tapes is reduced to writing, section 502's secondary user charges would not apply.

The User Agreement provisions require the vendor to finance the fees of defaulting secondary users by making monthly payments to the Commission and taking all risks, according to RIS, which warns that this could result in an embargo of other important services of the third-party vendor if any of its retrieval clients are delinquent. RIS counter-proposes to have the FMC collect the fees based on reports submitted by the third-party vendor. We continue to believe that the vendor of ATFI data to secondary users is in the best position, not only to monitor usage and collect the fees therefor, but also to take prompt action to collect past-due invoices and deny further access to customers who have been delinquent. Therefore, the final rule retains the requirement that each vendor pay to the Commission the user fee for all secondary usage, as well as for its own usage.

[9] The Commission's internal use of ATFI is also by individual USERIDs and passwords.

2. General Provisions (See Section B of Proposed User Agreement)

The Joint Conferences argue that the Commission is without the authority to enter into a user agreement with an indefinite term (section B.2, introductory text) because section 502 authorizes the Commission to collect user fees only through the end of fiscal year 1995. Additionally, the destruction of data for default under section B.2(b) of the User Agreement is inappropriate, according to Transax and IIA, et al. Whatever the merits of these arguments, they are mooted with the abandonment of the User-Agreement approach.

3. Charges and Collection (See Section C of Proposed User Agreement)

Section C of the earlier, proposed User Agreement provided for a user fee of 46 cents a minute for any access to tariff data derived from ATFI (C.1), Billing and Payment (C.3), Recordkeeping (C.4) and Accounting System (C.5). As discussed previously, the most appropriate and effective way for the Commission to enforce collection of the secondary access fee is through the primary user, i.e., anyone who obtains the data from ATFI and resells it to others. While the User-Agreement approach is abandoned, some of the User Agreement provisions are carried forward in new paragraph (m) of § 514.21, especially those in section C. Under this approach, the person most able to monitor the use of the data for user-fee purposes still would be required to do so. The final rule's amendments to paragraphs (g) and (j) of § 514.21 track subsection (d) of section 502 and section C.1 of the proposed User Agreement, except for the addition of the time limitation of "through September 30, 1995."

Paragraph (l) of § 514.21 is changed slightly to reflect the exceptions/exemptions for marine terminal tariff data, filers and Federal agencies. Paragraph (m) of § 514.21 is new and contains some of the proposed User Agreement provisions, primarily those from section C. As with the other rules which track those provisions of section 502 which will be sunsetted after September 30, 1995, the appropriate time limitation applies to the entire paragraph (m). As suggested by the commenters, the restrictions in paragraph (m), introductory text and elsewhere, are for the access, not for the use.[10]

Paragraph (m)(1) addresses direct computer access and allows downloading only through the Print-Screen and ATFI-mail-file-transfer (filers only) functions. It also provides that retrievers will be billed for each minute of access, including Print-Screen time.

Paragraph (m)(2) deals with the secondary access fee. New paragraph (m)(2)(i) deals with the charging system that each database-tape purchaser must submit for approval, similar to section C.5, Accounting System, of the proposed rule's User Agreement, while paragraph (m)(2)(ii) addresses the record retention requirement and audit provisions of section C.4. In addition to requiring an applicant to submit in its proposed charging system the methodology for monitoring, collecting, reporting and payment of the secondary access fee for all possible dissemination covered by section 502, the charging system must include features to protect the security of data and a description of how the applicant intends to categorize and handle mixed data, i.e., data which is, along with data which is not, subject to the user fee. The charging system provisions of § 514.21(m)(2)(i) will become effective upon publication in the **Federal Register**. This will permit firms to immediately develop and submit for approval their charging systems so that they may begin obtaining database tapes by the time all tariffs have been filed in the first implementation window, i.e., by June 4, 1993. The additional lead time should alleviate any burdensome schedule compression on the part of purchasers of ATFI tapes.

Additionally, the records required to be maintained for possible Commission audit must be described in the proposed charging system for Commission approval. The record retention and audit provisions will be limited to only those records involved in implementation of section 502, as suggested by the Joint Conferences. This should substantially limit the scope of Government involvement. The change also should reduce substantially the potential burdens of compliance.

As requested by RIS, paragraph (m)(2)(i)(B) accommodates applicants who wish to protect sensitive data. However, they must justify such non-disclosure and keep the data separate from other, non-sensitive data in their charging system. While not set forth as a regulatory requirement in paragraph (m)(2)(i), the Commission will, to the extent practicable, approve and announce the approval of pending charging systems at the same time. The record retention requirements are for a period ending on October 1, 1998, three years after the termination of the user fee requirements of section 502.

Paragraph (m)(2)(iii) of § 514.21 continues the proposed rule's requirement to keep track of and pay the user fee for internal computer access by anyone working for the primary vendor. This we believe is required by section 502. A new provision, paragraph (m)(2)(iii)(B), describes the non-coverage of section 502 for paper data, even if subsequently reconverted to database, electronic form.

A new provision in paragraph (m)(2)(iv) requires vendors to prohibit downloading of the ATFI data other than by the Print-Screen method. This tracks the functions of the ATFI system, itself, and inhibits circumvention of section 502's requirements. A description of this functionality ordinarily would be included in the application for approval of the charging system under paragraph (m)(2)(i). Paragraph (m)(2)(v) carries forward the billing and payment provisions of section C.3 of the earlier proposed User Agreement, except that it leaves out the beginning date, which will be controlled by the effective date of the final rule.

D. Penalties (See Section D of Proposed User Agreement)

ITT points out that the statutory penalties for not paying the user fee are too high. Section 502 does not authorize the Commission to assess or collect these penalties or to change them and reference to these penalties is, therefore, deleted in the final rule. ITT's concern would require legislative action.

Although the Commission, as an independent regulatory agency, is not subject to Executive Order 12291, dated February 17, 1981, it nonetheless has reviewed the rule in terms of this Order and has determined that this rule is not a "major rule" as defined in Executive Order 12291, because it will not result in:

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

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

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

[10] For direct access to ATFI, S.Rep. No. 346, 102d Cong., 2d Sess., 11 (1992) provides: "Fees imposed under this subsection are for computer access to the ATFI system operated by the FMC. The charges are not for the use of the information, but only for the capabilities of the system that allow computer availability of, and access to, the information in the system."

The Commission certifies, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(n), that this rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units and small government jurisdictions. This is because firms that have traditionally used third party vendors or directly contacted carriers for rate information will most likely continue to use the same sources. Furthermore, the Commission believes that these entities' use of third party vendors will not produce the same increased costs as use of ATFI because these vendors will be able to establish tariff databases independent of ATFI, thereby drawing users away from ATFI and into less expensive arrangements. Any residual ATFI usage on the part of small entities will be limited and will not involve a substantial number of small entities. However, even if third party vendors were not to establish databases independent of ATFI, the Commission believes that the rule will still not have a significant economic impact on a substantial number of small entities because the rule is the least impact alternative on small entities available to the Commission under section 502 of Public Law 102–582.

The collection of information requirements contained in this regulation were submitted for approval under the Paperwork Reduction Act (Pub. L. 96–511, as amended) on February 5, 1993, to the Office of Management and Budget ("OMB"), which has approved them in accordance with 44 U.S.C. chapter 35 and has assigned to them OMB Control Number 3072–0055. Public reporting burden for this collection of information is estimated to take 25 hours per month, or 300 hours per year, per respondent. This collection of information includes the time for reviewing the applicable rules, completing and reviewing the collection of information, and collecting and reporting receipts. Send further comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Norman W. Littlejohn, Director, Bureau of Administration, Federal Maritime Commission, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

List of Subjects in 46 CFR Part 514

Barges, Cargo, Cargo vessels, Exports, Fees and user charges, Freight, Harbors, Imports, Maritime carriers, Motor carriers, Ports, Rates and fares, Reporting and recordkeeping requirements, Surety bonds, Trucks, Water carriers, Waterfront facilities, Water transportation.

Therefore, pursuant to 5 U.S.C. 552 and 553; 31 U.S.C. 9701; 46 U.S.C. app. 804, 812, 814–817(a), 820, 833a, 841a, 843, 844, 845, 845a, 845b, 847, 1702–1712, 1714–1716, 1718, 1721 and 1722; section 2(b) of Public Law 101–92, and section 502 of Public Law 102–582; part 514 of title 46, Code of Federal Regulations, is amended as follows:

PART 514—TARIFFS AND SERVICE CONTRACTS

1. The authority citation for part 514 continues to read as follows:

Authority: 5 U.S.C. 552 and 553; 31 U.S.C. 9701; 46 U.S.C. app. 804, 812, 814–817(a), 820, 833a, 841a, 843, 844, 845, 845a, 845b, 847, 1702–1712, 1714–1716, 1718, 1721 and 1722; sec. 2(b) of Pub. L. 101–92, 103 Stat. 601.

2. Section 514.12(a)(1) introductory text is revised to read as follows:

§ 514.12 Governing and general reference tariffs.

* * * * *

(a) * * *

(1) *Types.* Due to ATFI's "linkage" design feature, whereby tariff items at rules level (location groups, inland rate tables and algorithms in rules), can be electronically referenced and made applicable from one tariff (governing) to another (governed), a filer may create and use only the following types of governing tariffs, or combinations thereof, which shall accompany governed tariffs in the ATFI electronic format:

* * * * *

3. Section 514.20(c)(2) is revised to read as follows:

§ 514.20 Retrieval.

* * * * *

(c) * * *

(1) * * *

(2) *Automatic logoff.* All retrievers will be automatically logged off after 10 minutes of inactivity.

* * * * *

4. In § 514.21, paragraphs (g) and (j) are revised, and new paragraphs (l) and (m) are added, to read as follows.

§ 514.21 User charges.

* * * * *

(g) *Remote electronic retrieval* (§ 514.20(c)(3)). The fees for remote electronic access to ATFI electronic data are:

(1) A fee of 46 cents for each minute of remote computer access directly to the ATFI database by any individual; and

(2) Through September 30, 1995, for a person operating or maintaining information in a database that has multiple tariff or service contract information, obtained directly or indirectly from the Commission, a fee of 46 cents for each minute that database is subsequently accessed by computer by any individual.

* * * * *

(j) *Database tapes* (§ 514.20(d)). The fees for subscriber tapes, similar to other fees in this section, reflect the cost of providing those copies, including the cost of duplication, distribution, and user-dedicated equipment, and are:

(1) *Initial set* of full database tapes: $300.

(2) *Daily updates:* $25 each.

(3) *Weekly updates:* $50 each.

(4) *Monthly updates:* $100 each.

* * * * *

(l) *Exceptions.*

(1) Marine terminal tariff data are not subject to a secondary user charge for access under paragraphs (g)(2) or (m)(2) of this section.

(2) Subject to the secondary access restrictions and user fees under paragraph (m)(2) of this section:

(i) Filers may, without the necessity of paying a user fee under this section, access only those tariffs or parts of tariffs for which they have an authorized filer USERID and password.

(ii) A Federal agency is exempt from paying a fee under paragraphs (g) and (j) of this section.

(m) *Enforcement of Section 502 of Public Law 102–582 (until September 30, 1995).* Through September 30, 1995, and in order to comply with section 502 of Public Law 102–582 (46 U.S.C. 1707a), official ATFI tariff data may be accessed by computer only as described in this paragraph:

(1) *Direct access.* (i) *Retrievers.* Any person may, with a proper retrieval USERID and password, enter the official ATFI database to obtain computer access of tariff matter, as provided in this part, but may download ATFI data only through the "Print Screen" function, which prints one screen at a time on paper. The user fee for this computer access is 46 cents a minute, for which the user will be billed at the end of each month.

(ii) *Filers.* Any person with a proper filer USERID and password may enter the official ATFI database to obtain computer access of tariff matter as provided in this part, but may download ATFI data only through the "Print Screen" function, which prints one screen at a time on paper, and the filer ATFI-mail-file-transfer function, which prints the contents of the filer's ATFI mail on paper.

(2) *Indirect access: purchase and use of database tapes.* (i)(A) Any person purchasing or subscribing to, or otherwise acquiring, ATFI database tapes under § 514.20(d) and this section shall first submit for approval to BTCL of the FMC a description and model of the accounting or charging system it intends to use to comply with this paragraph so that the FMC can determine whether such system is adequate. There shall be included in the application for approval detailed descriptions of:

(*1*) The methodology for, *inter alia*, monitoring, collecting, reporting and payment to the FMC of the secondary access fee for all indirect access of data, as prescribed by section 502 of Public Law 102–582 and this part;

(*2*) Features to protect the security of tariff data;

(*3*) How the applicant intends to categorize and handle "mixed" data, i.e., data which is, as well as data which is not, subject to the user fee.

(*4*) All the records which will be necessary to perform the functions set forth in paragraphs (m)(2)(i)(A)(*1*) through (m)(2)(i)(A)(*3*) of this section, to permit adequate evaluation of the reports submitted and computations used, and sufficient to reflect properly the charges to be collected and paid under this paragraph, including, specifically, all records of access granted, fees charged and collected for each secondary retriever, and remittances to FMC. These records, which must be retained for possible audit under paragraph (m)(2)(ii) of this section, shall include books, records, documents, and other evidence and accounting procedures and practices, regardless of form, e.g., machine readable media such as disk tape, or type, e.g., data bases, applications software, data base management software, utilities.

(B) Those parts of the charging system which the applicant wishes not to be disclosed to the public because they are considered business sensitive, e.g., "trade secrets," shall be kept completely separate from the balance of the application, along with a full justification of their non-disclosability. The Commission will consider any request for these records under the Freedom of Information Act.

(C) The FMC will evaluate the charging system within sixty (60) calendar days after submission and approval will be assumed unless the FMC otherwise formally notifies the applicant within the sixty-day period.

(D) The database tapes of ATFI may not be made available to any person until its charging system is approved by FMC.

(ii)(A) Every person who is authorized to purchase ATFI database tapes under paragraph (m)(2)(i) of this section shall maintain those records described in paragraph (m)(2)(i)(A)(*4*) of this section until October 1, 1998.

(B) The FMC or its representatives shall have the right to examine and audit all records described in paragraphs (m)(2)(i)(A)(*4*) and (m)(2)(ii)(A) of this section, for the purpose of evaluating the accuracy and completeness of the reports required by this paragraph. The right of examination shall extend to all documents and other data, regardless of form, necessary to permit adequate evaluation of the reports submitted, along with the computations used.

(iii)(A) Any person having an ATFI database tape may access by computer the data contained therein for its own use, and/or may permit others to access by computer the data, but only if it records all such access and pays to the FMC the 46-cents-a-minute user charges for all computer access to such data, as prescribed in paragraph (g)(1)(ii) of this section under the approved charging system described in paragraph (m)(2)(i) of this section.

(B) The access of data on paper, e.g., that which has been printed or written on the paper, is not subject to the indirect (secondary) user fee under this paragraph, even if subsequently converted into computer, e.g., database, format.

(iv) No person having an ATFI database tape may allow downloading of the data contained therein other than by an effectively-designed and functioning "Print-Screen" function, which allows printing of one screen at a time onto paper.

(v) Billing and Payment.

(A) Within ten (10) calendar days after the end of each month, each database-tape purchaser under paragraph (m)(2)(i) of this section shall transmit to the Office of Budget and Financial Management, Federal Maritime Commission, 800 North Capitol Street, NW. Washington, DC 20573–0001, a report of all computer access to ATFI data listed by user, date and minutes accessed. Each such purchaser shall simultaneously transmit payment to "the Federal Maritime Commission" for such usage at the rate of 46 cents per minute.

(B) If payment is not made when due, the database purchaser under paragraph (m)(2)(v)(A) of this section may be assessed interest, penalties and administrative costs associated with collection of late payments in accordance with the Federal Claims Collection Standards, 4 CFR 102.13. The FMC intends to utilize the provisions of the Debt Collection Act, 5 U.S.C. 5514, including disclosure to consumer reporting agencies, to ensure prompt payment.

(C) The FMC reserves the right to suspend or terminate furnishing ATFI data tapes to any person if payment is not timely made.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 93–12495 Filed 5–26–93; 8:45 am]

BILLING CODE 6730–01–W

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 1, and 97

[FCC 93–249]

Establishment or Amateur Station Call Sign Administrators for Club and Military Recreation Stations

AGENCY: Federal Communications Commission.

ACTION: Final rules.

SUMMARY: This action implements a recent statute that authorizes the Commission to use volunteer organizations for the purpose of providing amateur service club and military recreation station call signs. The rule changes are necessary so that organizations selected as club and military recreation station call sign administrators will be apprised of the eligibility criteria for such positions, and applicants will know how to submit applications for such call signs. The rule changes will benefit those members of the amateur community who want club and military recreation station call signs.

EFFECTIVE DATE: July 19, 1993.

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Federal Communications Commission, Private Radio Bureau, Washington, DC 20554, (202) 632–4964.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order, adopted May 11, 1993, and released May 19, 1993. The complete text of this Commission action, including the rule amendments, is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 239), 1919 M Street, NW., Washington, DC. The complete text of this Order, including the rule amendments, may also be purchased from the Commission's copy contractor,

International Transcription Services, Inc., (ITS, Inc.), 2100 M Street, NW., suite 140, Washington, DC 20037.

Summary of Report and Order

1. The Amateur Service Rules have been amended to implement a recent statute that authorizes the Commission to use volunteer organizations to provide amateur service club and military recreation station call signs. The services of the organizations must be voluntary, uncompensated, and unreimbursed. These rules set forth the eligibility criteria for call sign administrators. Any organization selected by the Commission as a club and military recreation station call sign administrator must have a membership, at the time it applies, that includes at least one percent of the total number of amateur operators licensed by the Commission. The Commission said that the amended rules would make club call signs widely available, yet keep the program from becoming administratively burdensome and unwieldy for the Commission's staff.

2. Each call sign administrator must enter into a written agreement with the Commission. Administrators must agree not to charge an application fee or accept reimbursement of any kind. A Public Notice will be issued apprising interested parties when an organization may apply to become an administrator. After administrators have been selected, applications for club or military recreation station licenses must be submitted to them in accordance with the amended rules.

3. The services provided by the call sign administrators are for the benefit of the amateur community and are not provided to assist the Commission in fulfilling its regulatory responsibilities.

4. The amended rules are set forth at the end of this document.

5. The amended rules are issued under the authority of 47 U.S.C. 154 (g) and (i) and 303(r).

List of Subjects

47 CFR Part 0

Organization and functions.

47 CFR Part 1

Radio.

47 CFR Part 97

Call signs, Club stations, Military recreation stations, Radio, Volunteers.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Amended Rules

Parts 0, 1, and 97 of chapter I of title 47 of the Code of Federal Regulations are amended as follows:

PART 0—COMMISSION ORGANIZATION

1. The authority citation for part 0 continues to read as follows:

Authority: Section 5, 48 Stat. 1068, as amended; 47 U.S.C. 155, 225, unless otherwise noted.

2. Section 0.131 is amended by adding new paragraph (k) to read as follows:

§ 0.131 Functions of the Bureau.

* * * * *

(k) Certifies organizations as amateur service club and military recreation station call sign administrators; considers requests for review of decisions of the administrators; oversees actions and practices of the administrators; and decertifies organizations that do not perform satisfactorily.

3. Section 0.331 is amended by adding new paragraph (d) to read as follows:

§ 0.331 Authority delegated.

* * * * *

(d) The Chief Private Radio Bureau, or designee, is delegated authority to execute, in the name of the Commission, agreements pertaining to certification and employment of services of organizations found qualified to be amateur service club and military recreation station call sign administrators.

4. Section 0.486 is added to part 0 to read as follows:

§ 0.486 Application for amateur service club or military recreation station license.

Each application for a new amateur service club or military recreation station license must be submitted to a club and military recreation station call sign administrator. Each application for a modified or renewed amateur service club or military recreation station license must be submitted to the club and military recreation station call sign administrator that provided it.

PART 1—PRACTICE AND PROCEDURE

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

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303; Implement, 5 U.S.C. 552, unless otherwise noted.

2. Section 1.912(a) is revised to read as follows:

§ 1.912 Where applications are to be filed.

(a) Each application for a new amateur service operator/primary station license and each application involving a change in operator class, except as noted below, must be submitted to the volunteer examiners (VEs) administering the qualifying examination. See § 97.17(c) of this chapter. The VEs are required to submit the applications of persons passing their respective examinations to the Commission for Novice Class operator licenses, or to the Volunteer-Examiner Coordinator (VEC) for all other amateur operator licenses, except as noted below. Each application for a new amateur service club or military recreation station license must be submitted to a club and military recreation station call sign administrator. Each application for a modified or renewed amateur service club or military recreation station license must be submitted to the club and military recreation station call sign administrator that provided it. New, modified, and renewed amateur service club or military recreation station license applications must be submitted by the administrator to: FCC, 1270 Fairfield Road, Gettysburg, PA 17325–7245. All other applications for amateur service licenses must be submitted to FCC, 1270 Fairfield Road, Gettysburg, PA 17325–7245.

* * * * *

PART 97—AMATEUR RADIO SERVICE

1. The authority citation for part 97 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609, unless otherwise noted.

2. Section 97.17 is amended by revising paragraphs (b) and (f) and by adding a new paragraph (g) to read as follows:

§ 97.17 Application for new license.

* * * * *

(b) Each application for a new operator/primary station license must be made on FCC Form 610. Each application for a reciprocal permit for alien amateur licensee must be made on FCC Form 610–A. Each application for a new amateur service club or military recreation station license must be made

on FCC Form 610–B. No new license for a RACES station will be issued.

* * * * *

(f) A call sign will be assigned systematically to each primary station. The FCC will issue public announcements detailing the policies and procedures of the primary station call sign assignment system. The FCC will not grant any request for a specific call sign.

(g) Each application for a new amateur service club or military recreation station license must be submitted to a club and military recreation station call sign administrator.

3. Paragraphs (a) and (b) of Section 97.19 are revised to read as follows:

§ 97.19 Application for a renewed or modified license.

(a) Each application for a renewed or modified operator/primary station license must be made on FCC Form 610. Each application for a renewed or modified RACES station license must be made on FCC Form 610–B. A reciprocal permit for alien amateur licensee is not renewable. A new reciprocal permit may be issued upon proper application.

(b) Each application for a renewed or modified amateur service license must be accompanied by a photocopy of the license document or the original document, unless it has been lost, mutilated or destroyed. Each application for a modified operator license involving a change in operator class must be submitted to the VEs administering the qualifying examination. Each application for a modified or renewed amateur service club or military recreation station license must be made on FCC Form 610–B and submitted to the club and military recreation station call sign administrator that provided it. All other applications must be submitted to: FCC, 1270 Fairfield Road, Gettysburg, PA 17325–7245.

* * * * *

4. Section 97.29 is added to read as follows:

§ 97.29 Club and military recreation station call sign administration.

No organization may serve as an amateur service club and military recreation station call sign administrator unless it has entered into a written agreement with the FCC. The FCC will issue public announcements listing the club and military recreation station call sign administrators. Each club and military recreation station call sign administrator must abide by the terms of the agreement. Each club and military recreation station call sign administrator must:

(a) Be an organization that has tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1986 and that exists for the purpose of furthering the amateur service;

(b) Be an organization whose membership includes at least one percent of the amateur operators licensed by the FCC;

(c) Be capable of serving as a club and military recreation station call sign administrator in all places where the amateur service is regulated by the FCC;

(d) Accept and process all properly-completed license application Forms 610–B received from qualified club and military recreation station license trustees or custodians and submit them to: FCC, 1270 Fairfield Road, Gettysburg, PA 17325–7245;

(e) Not charge the applicants any fee or accept any form of reimbursement for services provided as an amateur service club and military recreation station call sign administrator;

(f) Accept and process applications from applicants for club or military recreation station license, under §§ 97.5(d) (2) and (3), without regard to race, sex, religion, national origin or membership (or lack thereof) in any amateur service organization;

(g) Provide the FCC with a license document, including the unique station call sign, ready for endorsement and mailing within 10 days of receipt of a properly-completed application for a club or military recreation station license;

(h) Provide the FCC each month, in a format specified by the FCC, a data file of license documents processed during that month;

(i) Issue public announcements detailing the policies and procedures of the club and military recreation station call sign assignment system;

(j) Accept and respond to inquiries concerning club and military recreation station applications and license matters;

(k) Provide the FCC with a plan for processing applications for modified or renewed amateur service club or military recreation station licenses in the event that the organization ceases to function as a club and military recreation station call sign administrator.

[FR Doc. 93–12515 Filed 5–26–93; 8:45 am]

BILLING CODE 6712–01–M

Proposed Rules

Federal Register
Vol. 58, No. 101
Thursday, May 27, 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.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 704 and 741

Organization and Operations of Federal Credit Unions: Corporate Credit Unions; Requirements for Insurance

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: This proposed rule allows corporate credit unions more options in purchasing fidelity bond coverage. It allows higher deductibles and requires higher limits for some corporate credit unions. It gives corporate unions the opportunity to insure against catastrophic losses. Comment is also requested on fidelity bond coverage for natural person credit unions.

DATES: Comments must be postmarked by July 26, 1993.

ADDRESSES: Send comments to Becky Baker, Secretary of the National Credit Union Administration Board, National Credit Union Administration, 1776 G Street NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: D. Michael Riley, Director, or Ron Alf, Corporate Specialist, Office of Examination and Insurance (202) 682–9640, or Allan Meltzer, Associate General Counsel, Office of General Counsel (202) 682–9630, at the above address.

SUPPLEMENTARY INFORMATION:

Part 704

Background

Part 704 of the NCUA Rules and Regulations, Corporate Credit Unions, was promulgated in 1977 and revised in 1978, 1984, 1988, and 1992. Separate regulations for the corporate credit unions are necessary due to the fact that the operations of corporate credit unions are very different from those of natural person credit unions. Corporate credit unions offer different services and assume different risks.

The Corporate Forum, which most of the corporate credit unions belong to, formed a Bonding Task Force with the objections of increasing the corporate credit union fidelity bond coverage along with reducing its cost.

In the past, the corporate credit unions' insurer, CUMIS, included corporate credit unions with the natural person credit unions in determining underwriting risks and premiums. Due to the unique nature of the corporate credit unions, the corporate credit unions wanted to be placed in a separate pool with a structure rating plan separate from the natural person credit unions.

The Bonding Task Force has worked with CUMIS and the legal staff of NCUA to develop a bond that is acceptable to each of the three parties. The main focus of the changes is to create a bond that insures against balance sheet risk, not income statement risk. The result of insuring against balance sheet risk is that higher limits are needed for some of the corporate credit unions, but they can offset much of the cost of the higher limits with larger deductibles.

The Bonding Task Force presented a recommended schedule of minimum fidelity bond coverage: minimum bond of $5 million for corporate credit unions with net assets up to $1.5 billion, minimum bond of $7 million for corporate credit unions with net assets between $1.5 billion and $5 billion, and a minimum bond of $10 million for corporate credit unions that are over $5.0 billion in net assets.

The Bonding Task Force's recommendations would significantly increase minimum limits for smaller corporate credit unions, the minimum bond for the largest corporate credit unions would not be significantly increased in any meaningful sense.

Staff believes that the smaller corporate credit unions have adequate fidelity bond coverage now in relation to asset size and the types of transactions. The proposed regulation would actually reduce the minimum requirements for many of the smaller corporate credit unions.

The fidelity bond coverage for the larger corporate credit unions may be presently inadequate in relation to their asset size and the types of transactions in which they participate. Most banks of comparable asset size have much larger limits than those proposed by the Bonding Task Force.

The Bonding Task Force also recommended that the revised fidelity bond for the corporate credit unions be placed in § 701.20. This is the section that presently contains fidelity bond requirements for all federally insured credit unions. If included in that section, it would only apply to federally chartered corporate credit unions. Fidelity bond coverage should apply to all corporate credit unions, whether they are federally chartered or state-chartered, since they all serve natural person credit unions and operate in the same basic manner. In addition, other special requirements for corporate credit unions are found in part 704. Therefore, it is proposing to amend part 704. Part 704 applies to all federally insured corporate credit unions. State-chartered uninsured credit unions must also comply with part 704. This is due to the requirement in part 703 which states that a state-chartered corporate credit union must comply with part 704 in significant respects in order that federally insured natural person credit unions be allowed to invest in them.

The bond limits in this regulation are minimums. Each corporate credit union is expected to have a risk management program that will evaluate the adequacy of its fidelity bond coverage at least annually and increase it above the minimums, if necessary.

The fidelity bond issue for both corporate and natural person credit unions is evolving and has not undergone significant review for an extended period of time. Staff intends to review this issue for natural person credit unions and invites comments for not only this proposal, but also for any issues relating to natural person credit unions.

Part 741

A new paragraph (b) is proposed to be added to § 741.1 (Requirements for Insurance) to clarify that corporate credit unions must comply with the new corporate bond requirements (proposed § 704.17) rather than the bond requirements for natural person credit unions found in § 701.20.

Regulatory Procedures

Regulatory Flexibility Act

The NCUA Board certifies that this final rule will not have a significant impact on a substantial number of small credit unions (those under $1 million in

assets) because the rule only applies to all corporate credit unions, which number 45 nationally. All corporate credit unions have assets well in excess of $1 million. Accordingly, the NCUA Board has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

This proposed rule, if adopted, will impose no additional collection requirements since corporate credit unions are already subject to fidelity bond requirements. The proposed rule only changes the amount of coverage and deductibles required. Therefore, it need not be sent to the Office of Management and Budget for approval.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. It states that: "Federal action limiting the policy-making discretion of the states should be taken only where constitutional authority for the action is clear and certain, and the national activity is necessitated by the presence of a problem of national scope."

The issue of corporate credit unions and their risks to federally insured credit unions are concerns of national scope. This regulation has been proposed to increase the fidelity bond coverage of corporate credit unions. This action will afford greater protection for both federally and state-chartered corporate credit unions. Additionally, the NCUA Board believes that the protection of the NCUSIF warrants these new coverages in the final amendments. They will not unduly burden federally insured state-chartered corporate credit unions. This rule does not impose additional costs of burdens on the state, nor does it affect the states' ability to discharge traditional state government functions. The benefits provided and protection afforded by the NCUSIF are the same for federally insured state-chartered corporate credit unions as for federally chartered corporate credit unions. It is protection afforded through a federal system. The responsibility for administering that system lies with the NCUA Board. The NCUA Board believes that all federally insured corporate credit unions should continue to be subject to the same fidelity bond requirements. The NCUA Board, pursuant to Executive Order 12612, has determined that this rule may have an occasional direct effect 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. However, the potential risk to the NCUSIF without these changes justifies them.

List of Subjects

12 CFR Part 704

Credit unions, Reporting and recordkeeping requirements.

12 CFR Part 741

Bank deposit insurance, Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on May 19, 1993.

Becky Baker,

Secretary of the Board.

Accordingly, it is proposed that 12 CFR parts 704 and part 741 be amended as set forth below:

PART 704—CORPORATE CREDIT UNIONS

1. The authority citation for part 704 continues to read as follows:

Authority: 12 U.S.C. 1762, 1766(a), 1781 and 1789.

2. A new § 704.17 is added as follows:

§ 704.17 Fidelity bond coverage.

(a) *Scope.* This action provides the fidelity bond requirements for employees and officials in corporate credit unions.

(b) *Review of coverage.* The board of directors of each corporate credit union shall, at least annually, carefully review the bond coverage in force to determine its adequacy in relation to risk exposure and to the minimum requirements in this section.

(c) *Minimum coverage. Approved forms.* Every corporate credit union will maintain bond coverage with a company holding a certificate of authority from the Secretary of the Treasury and approved by NCUA. Any riders and endorsements which limit the coverage provided by approved bond forms, must receive the prior written approval of the NCUA Board. Fidelity bonds must provide coverage for the fraud and dishonesty of all employees, directors, officers, and supervisory and credit committee members. Notwithstanding the foregoing, all bonds must include a provision, in a form approved by the NCUA Board, requiring written notification by surety to the Board: (1) When the bond of a credit union is terminated in its entirety; or (2) when bond coverage is terminated, by issuance of a written notice, on an employee, director, officer, supervisory, or credit committee member. Said notification shall be sent to the Secretary of the NCUA Board or designee and shall include a brief statement of cause for termination.

(d) *Minimum coverage amounts.* The minimum amount of bond coverage will be computed based on the corporate credit union's net assets. The following table lists the minimum requirements.

Net assets	Minimum bond (million)
Less than $100 million	$2.0
$100–499 million	4.0
$500–999 million	6.0
$1.0–1.999 billion	8.0
$2.0–4.999 billion	10.0
$5.0–9.999 billion	15.0
$10.0–24.999 billion	20.0
$25 billion plus	25.0

It is the duty of the board of directors of each corporate credit union to provide adequate protection to meet its unique circumstances by obtaining, when necessary, bond coverage in excess of the above minimums.

(e) *Reduced coverage: NCUA approval.* Any proposal for reduced coverage must be approved in writing by the NCUA Board at least 20 days in advance of the proposed effective date of the reduction.

(f) *Deductibles.* (1) The maximum amount of deductibles allowed are based on the corporate credit union's primary capital to risk asset ratio as defined in § 704.11(j)(1). The following table sets out the maximum deductibles.

Primary capital to risk assets ratio	Maximum deductible
Less than 4.0 percent	7.5 percent of primary capital.
4.0–7.99 percent	10.0 percent of primary capital.
8.0–11.99 percent	12.0 percent of primary capital.
Greater than 12.0 percent.	15.0 percent of primary capital.

(2) A deductible may be applied separately to one or more insuring clauses in a blanket bond. Deductibles in excess of those showing in this section must have the written approval of the NCUA Board at least 20 days prior to the effective date of the deductibles.

(g) *Additional coverage.* The NCUA Board may require additional coverage for any corporate credit union when, in the opinion of the Board, current coverage is insufficient. The board of directors of the corporate credit union must obtain additional coverage within 30 days after the date of written notice from the NCUA Board.

(h) *Effective date.* This section is effective [90 days after publication of the final rule in the **Federal Register**].

PART 741—REQUIREMENTS FOR INSURANCE

1. The authority citation for part 741 continues to read as follows:

Authority: 12 U.S.C. 1757, 1766, 1781 through 1790. Section 741.11 is also authorized by 31 U.S.C. 3717.

§741.1 [Amended]

2. Section 741.1 is revised to read as follows:

741.1 Minimum fidelity bond requirements.

(a) Any credit union which makes application for insurance of its accounts pursuant to Title II of the Act must possess the minimum fidelity bond coverage stated in § 701.20 of this chapter in order for its application for such insurance to be approved and for such insurance coverage to continue. A federally insured credit union whose fidelity bond coverage is terminated shall mail notice of such termination to the regional director not less than 35 days prior to the effective date of such termination.

(b) Corporate credit unions must comply with § 704.17 of the NCUA rules and regulations in lieu of § 701.20.

[FR Doc. 93–12629 Filed 5–26–93; 8:45 am]

BILLING CODE 7535–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–NM–36–AD]

Airworthiness Directives; Airbus Model A320 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 Model A320 series airplanes. This proposal would require repetitive inspections to detect breakage of the rivet heads at a certain skin-to-frame junction of the fuselage and replacement of discrepant rivets. This proposal would also require eventual replacement of the currently installed rivets with high-strength bolts; when accomplished, this replacement would terminate the need for the proposed repetitive inspections. This proposal is prompted by test reports of fatigue-related damage found on the rivet heads at a certain skin-to-frame junction of the fuselage. The actions specified by the proposed AD are intended to prevent loss of fuselage skin and rapid decompression of the airplane.

DATES: Comments must be received by July 21, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–36–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: 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 93–NM–36–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–36–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 A320 series airplanes. The DGAC advises that during fatigue testing, after 56,145 simulated flights, fatigue-related damage was found on the forward fuselage on 13 rivet heads at the junction between the skin and frame 13, and on four rivet heads at the junction between the skin and frame 14, between stringers 1 and 7. Fatigue-related damage in this area, if not detected and corrected in a timely manner, could result in loss of fuselage skin and rapid decompression of the airplane.

Airbus Industrie has issued Service Bulletin A320–53–1036, dated October 5, 1989, that describes procedures for external detailed visual inspections to detect breakage of the rivet heads at the junction between frames 13 and 14, and at the skin on the left and right side, between stringers 1 and 7.

Airbus Industrie has also issued Service Bulletin A320–53–1010, Revision 3, dated July 30, 1992, that describes procedures for replacement of the currently installed rivets with high-strength titanium Hilite bolts. These titanium Hilite bolts are manufactured using a roll-hardening process, which results in greater strength under the head of the bolts than in the rivets. This modification (Modification 20925) was installed during production on airplanes having serial numbers 003, 004, and 031 and subsequent.

The DGAC classified these service bulletins as mandatory and issued French Airworthiness Directive 92–199–028(B), dated September 30, 1992, in order to assure the continued airworthiness of these airplanes in France.

This airplane model is manufactured in France 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 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 repetitive external detailed visual inspections to detect breakage of the rivet heads at the junction between frames 13 and 14, and at the skin on the left and right side, between stringers 1 and 7, and replacement of discrepant rivets. This proposal would also require eventual replacement of the currently installed rivets with high-strength titanium Hilite bolts; when accomplished, this replacement would terminate the need for the proposed repetitive inspections. The actions would be required to be accomplished in accordance with the service bulletins described previously.

Currently, there are no affected Model A320 series airplanes on the U.S. Register. However, should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 73 work hours to accomplish the required actions, at an average labor charge of $55 per work hour. The cost of required parts would be $3,626. Based on these figures, the total cost impact of this AD would be $7,641 per airplane.

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 93–NM–36–AD.

Applicability: Model A320 series airplanes; serial numbers 005 through 008, inclusive, and 010 through 030, inclusive; on which Modification 20925, as described in Airbus Industrie Service Bulletin A320–53–1010, Revision 3, dated July 30, 1992, has not been accomplished; certificated in any category.

Compliance: Required as indicated, unless accomplished previously. To prevent structural loss of fuselage skin and rapid decompression of the airplane, accomplish the following:

(a) Prior to the accumulation of 10,000 total landings, or within the next 60 days after the effective date of this AD, whichever occurs later; and thereafter at intervals not to exceed 6,000 landings; perform an external detailed visual inspection to detect breakage of the rivet heads at the junction between frames 13 and 14, and at the skin on the left and right side, between stringers 1 and 7, in accordance with Airbus Industrie Service Bulletin A320–53–1036, dated October 5, 1989.

(1) If breakage is detected on fewer than 8 rivet heads on each side: Within the next 100 landings after discovery of breakage, replace all of the currently installed rivets with new or serviceable high-strength titanium Hilite bolts in accordance with Airbus Industrie Service Bulletin A320–53–1010, Revision 3, dated July 30, 1992. No further action is required by this AD.

(2) If breakage is detected on 8 or more rivet heads on either side: Prior to further flight, replace all of the currently installed rivets with new or serviceable high-strength titanium Hilite bolts in accordance with Airbus Industrie Service Bulletin A320–53–1010, Revision 3, dated July 30, 1992. No further action is required by this AD.

(3) If no breakage is detected on any rivet head: Prior to the accumulation of 22,000 total landings, replace all of the currently installed rivets with new or serviceable high-strength titanium Hilite bolts in accordance with Airbus Industrie Service Bulletin A320–53–1010, Revision 3, dated July 30, 1992. Replacement of the rivets constitutes terminating action for the repetitive inspection requirements of this AD.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, 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 May 21, 1993.

David G. Hmiel,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–12568 Filed 5–26–93; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 39

[Docket No. 91–NM–23–AD]

Airworthiness Directives; Airbus Industrie Model A300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to Airbus Industrie Model A300 series airplanes, that would have required the implementation of a corrosion prevention and control program, either by revising the maintenance program or by accomplishing specific inspection procedures. That proposal was prompted by reports of recent incidents involving corrosion and fatigue cracking in transport category airplanes that are approaching or have exceeded their economic design goal; these incidents have jeopardized the airworthiness of the affected airplanes. This action revises the proposed rule by citing a new revision of the applicable service document. The actions specified by this proposed AD are intended to prevent degradation of the structural capabilities

of the affected airplanes due to the problems associated with corrosion.

DATES: Comments must be received by July 1, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 91–NM–23–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: 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 91–NM–23–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. 91–NM–23–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations to add an airworthiness directive (AD), applicable to all Airbus Model A300 series airplanes, was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on November 16, 1992 (57 FR 54014). That supplemental NPRM proposed to require that operators implement a corrosion prevention and control program as specified in Airbus Industrie Document, "A300 Corrosion Prevention and Control Program (CPCP)," dated August 1990. Such a program could be implemented either by revising the operator's FAA-approved maintenance program or by accomplishing specific inspection procedures. That proposal was prompted by reports of incidents involving fatigue cracking and corrosion in transport category airplanes that have jeopardized the airworthiness of the affected airplanes. That condition, if not corrected, could degrade the structural capabilities of the affected airplanes.

Since the issuance of that supplemental NPRM, Airbus Industrie has issued a revision to its document, "A300 Corrosion Prevention and Control Program (CPCP)," dated November 1992. This revision contains substantial changes in certain baseline program instructions and inspection task descriptions and procedures. The intent of these changes is to ensure a more effective program for the prevention and control of corrosion in the Model A300 fleet, and to facilitate the program administration.

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority of France, has mandated the introduction of an approved CPCP into the maintenance programs of operators under its jurisdiction. The DGAC considers the baseline program contained in the revised Airbus document to be an acceptable means of compliance.

This airplane model is manufactured in France 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.

The FAA has determined that, in order to prevent degradation of the structural capabilities of Model A300 series airplanes in the U.S. fleet due to the problems associated with corrosion, the proposed rule must be revised to require the implementation of a corrosion prevention and control program that is equivalent to that contained in the revised Airbus Industrie Document, "A300 Corrosion Prevention and Control Program (CPCP)," dated November 1992. The FAA considers that the revised Airbus document describes the most effective program for ensuring the prevention and control of corrosion in the Model A300 fleet. The proposed rule has been revised to cite this revised document as the appropriate source for service information.

Since this change expands the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

Paragraph (a)(1)(iv) of the proposed rule has been revised to clarify that it specifies a mandatory rate of task accomplishment only for those aircraft areas that have exceeded their implementation age.

It is estimated that 54 airplanes of U.S. registry would be affected by this AD. There are 50 corrosion inspection areas called out in the Airbus Industrie Document, and it would take approximately 16 work hours per area to accomplish the required actions. At an average labor cost of $55 per work hour, the total cost to inspect each airplane would be approximately $44,000. Based on these figures, the total cost impact of the AD on U.S. operators for the initial 6-year inspection cycle is $2,376,000. 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: Docket 91–NM–23–AD.

Applicability: All Model A300 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

Note 1: This AD references Airbus Industrie Document, "A300 Corrosion Prevention and Control Program," dated November 1992, for corrosion instructions, compliance times, and reporting requirements. In addition, this AD specifies inspection and reporting requirements beyond those included in that Document. Where there are differences between the AD and the Document, the AD prevails.

Note 2: As used throughout this AD, the term "the FAA" is defined differently for different operators, as follows: For those operators complying with paragraph (a) of this AD, "the FAA" is defined as "the Manager of the Standardization Branch, ANM–113, FAA, Transport Airplane Directorate." For those operators operating under Federal Aviation Regulation (FAR) part 121 or 129, and complying with paragraph (b) of this AD, "the FAA" is defined as "the cognizant Principal Maintenance Inspector (PMI)." For those operators operating under FAR part 91 or 125, and complying with paragraph (b) of this AD, "the FAA" is defined as "the cognizant Maintenance Inspector at the appropriate FAA Flight Standards office."

To prevent degradation of the structural capabilities of the airplane due to the problems associated with corrosion damage, accomplish the following:

(a) Except as provided in paragraph (b) of this AD, complete each of the corrosion instructions specified in Section 5 of Airbus Industrie Document, "A300 Corrosion Prevention and Control Program," dated November 1992 (hereinafter referred to as "the Document"), in accordance with the procedures of the Document, and the schedule specified in paragraphs (a)(1) and (a)(2) of this AD.

Note 3: A "corrosion instruction," as defined in Section 5 of the Document, includes inspections; procedures for a corrective action, including repairs, under identified circumstances; application of corrosion inhibitors; and other follow-on actions.

Note 4: Corrosion instructions completed in accordance with the Document before the effective date of this AD may be credited for compliance with the initial corrosion instruction requirements of paragraph (a)(1) of this AD.

Note: 5: Where non-destructive inspection (NDI) methods are employed, in accordance with Section 5 of the Document, the standards and procedures used must be acceptable to the Administrator in accordance with FAR § 43.13.

Note 6: Procedures identified in the Document as "informational only" are not required to be accomplished by this AD.

(1) Complete the initial corrosion instruction of each "corrosion inspection area" defined in Section 5 of the Document as follows:

(i) For aircraft areas that have not yet reached the "implementation age" (IA) as of one year after the effective date of this AD, initial compliance must occur no later than the IA plus the "repeat interval" (RI).

(ii) For aircraft areas that have exceeded the IA as of one year after the effective date of this AD, initial compliance must occur within the RI for the area, measured from a date one year after the effective date of this AD.

(iii) For airplanes that are 20 years old or older as of one year after the effective date of this AD, initial compliance must occur for all areas within one RI, or within six years, measured from a date one year after the effective date of this AD, whichever occurs first.

(iv) Notwithstanding paragraphs (a)(1)(i), (a)(1)(ii), and (a)(1)(iii) of this AD, accomplish the initial task, for each area that exceeds the IA for that area, at a minimum rate of one such area per year, beginning one year after the effective date of this AD.

Note 7: This paragraph does not require inspection of any area that has not exceeded the IA for that area.

Note 8: This minimum rate requirement may cause a hardship on some small operators. In those circumstances, requests for adjustments to the implementation rate will be evaluated on a case-by-case basis under the provisions of paragraph (h) of this AD.

(2) Repeat each corrosion instruction at a time interval not to exceed the RI specified in the Document for that task.

(b) As an alternative to the requirements of paragraph (a) of this AD: Prior to one year after the effective date of this AD, revise the FAA-approved maintenance/inspection program to include the corrosion prevention and control program specified in the Document; or to include an equivalent program that is approved by the FAA. In all cases, the initial corrosion instruction for each corrosion inspection area must be completed in accordance with the compliance schedule specified in paragraph (a)(1) of this AD.

(1) Any operator complying with paragraph (b) of this AD may use an alternative recordkeeping method to that otherwise required by FAR § 91.417 or § 121.380 for the actions required by this AD, provided it is approved by the FAA and is included in a revision to the FAA-approved maintenance/inspection program.

(2) Subsequent to the accomplishment of the initial corrosion instruction, extensions of RI's specified in the Document must be approved by the FAA.

(c) To accommodate unanticipated scheduling requirements, it is acceptable for an RI to be increased by up to 10%, but not to exceed 6 months. The FAA must be informed, in writing, of any such extension within 30 days after such adjustment of the schedule.

(d)(1) If, as a result of any inspection conducted in accordance with paragraph (a) or (b) of this AD, Level 3 corrosion is determined to exist in any area, accomplish either paragraph (d)(1)(i) or (d)(1)(ii) of this AD within 7 days after such determination:

(i) Submit a report of that determination to the FAA and complete the corrosion instruction in the affected areas on all Model A300 series airplanes in the operator's fleet; or

(ii) Submit to the FAA for approval one of the following:

(A) A proposed schedule for performing the corrosion instructions in the affected areas on the remaining Model A300 series airplanes in the operator's fleet, which is adequate to ensure that any other Level 3 corrosion is detected in a timely manner, along with substantiating data for that schedule; or

(B) Data substantiating that the Level 3 corrosion found is an isolated occurrence.

Note 9: Notwithstanding the provisions of section 2 of the Document, which would permit corrosion that otherwise meets the definition of Level 3 corrosion (i.e., which is determined to be a potentially urgent airworthiness concern requiring expeditious action) to be treated as Level 1 if the operator finds that it "can be attributed to an event not typical of the operator's usage of other airplanes in the same fleet," this paragraph requires that data substantiating any such finding be submitted to the FAA for approval.

(2) The FAA may impose schedules other than those proposed, upon finding that such changes are necessary to ensure that any other Level 3 corrosion is detected in a timely manner.

(3) Within the time schedule approved under paragraph (d)(1) or (d)(2) of this AD, accomplish the corrosion instructions in the affected areas of the remaining Model A300 series airplanes in the operator's fleet.

(e) If, as a result of any inspection, after the initial inspection, conducted in accordance

with paragraph (a) or (b) of this AD, it is determined that corrosion findings exceed Level 1 in any area, within 60 days after such determination a means approved by the FAA must be implemented to reduce future findings of corrosion in that area to Level 1 or better.

(f) Before any operator places into service any airplane subject to the requirements of this AD, a schedule for the accomplishment of corrosion instructions required by this AD must be established in accordance with paragraph (f)(1) or (f)(2) of this AD, as applicable:

(1) For airplanes previously maintained in accordance with this AD, the first corrosion instruction in each area to be performed by the new operator must be accomplished in accordance with the previous operator's schedule or with the new operator's schedule, whichever would result in the earlier accomplishment date for that task. After each corrosion instruction has been performed once, each subsequent task must be performed in accordance with the new operator's schedule.

(2) For airplanes that have not been previously maintained in accordance with this AD, the first corrosion instruction for each area to be performed by the new operator must be accomplished prior to further flight or in accordance with a schedule approved by the FAA.

(g) Reports of Level 2 and Level 3 corrosion must be submitted at least quarterly to Airbus in accordance with Section 6 of the Document.

Note 10: Reporting of Level 2 and Level 3 corrosion found as a result of any opportunity inspection is highly desirable.

(h) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through the cognizant Maintenance Inspector at the appropriate FAA Flight Standards office, who may concur or comment and then send it to the Manager, Los Angeles ACO.

Note 11: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

(j) Reports of corrosion inspection results required by this AD have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

Issued in Renton, Washington, on May 21, 1993.

David G. Hmiel,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–12570 Filed 5–26–93; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 93–NM–53–AD]

Airworthiness Directives; Fokker Model F28 Mark 0100 Series Airplanes, Equipped With Air Cruisers Company Escape Slides

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 Fokker Model F28 Mark 0100 series airplanes. This proposal would require modification of the decorative cover on the L1 passenger door escape slide. This proposal is prompted by reports that escape slides located at the L1 passenger door have failed to deploy properly because the decorative cover obstructed slide deployment. The actions specified by the proposed AD are intended to prevent failed deployment of escape slides, which could delay or impede the evacuation of passengers during an emergency.

DATES: Comments must be received by July 21, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–53–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 Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Timothy J. Dulin, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2141; 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–53–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–53–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands, recently notified the FAA that an unsafe condition may exist on certain Fokker Model F28 Mark 0100 series airplanes. The RLD advises that, during a routine maintenance check, one operator of these airplanes experienced difficulty in deploying an Air Cruisers Company escape slide located at the L1 passenger door. An additional push was required to get the slide to deploy properly. Subsequent testing by the same operator revealed that several more escape slides failed to deploy properly. Further investigation of these incidents revealed that the lower aft corner of the slide cover interfered with the proper deployment of the slide during opening of the door because the cover was too large. This condition, if not corrected, could result in failed deployment of the L1 passenger door escape slide, which could delay or impede the evacuation of passengers during an emergency.

Fokker has issued Service Bulletin SBF100–25–064, dated February 23, 1993, that describes procedures for modifying the decorative cover on the L1 passenger door escape slide. The

modification entails trimming part of the escape slide cover. (This service bulletin references Air Cruisers Company Service Bulletin S.B.351–25–4, dated February 23, 1993, for additional service information.) The RLD classified this service bulletin as mandatory and issued Netherlands Airworthiness Directive BLA 93–031 (A), dated March 5, 1993, in order to assure the continued airworthiness of these airplanes in the Netherlands.

This airplane model is manufactured in the Netherlands 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 RLD has kept the FAA informed of the situation described above. The FAA has examined the findings of the RLD, 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 decorative cover on the L1 passenger door escape slide. The actions would be required to be accomplished in accordance with the Fokker service bulletin described previously.

The FAA estimates that 73 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed 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 $4,015, or $55 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Fokker: Docket 93–NM–53–AD.

Applicability: Model F28 Mark 0100 series airplanes, equipped with Air Cruisers Company escape slide, part number D31840-(), with a cover having Air Cruisers Company part number 60750–101, 60750–103, or 61862–101; or with a cover having Fokker part number Y00294–401; certificated in any category.

Compliance: Required as indicated, unless accomplished previously. To prevent failed deployment of escape slides, which could delay or impede the evacuation of passengers during an emergency, accomplish the following:

(a) Within 30 days after the effective date of this AD, modify the decorative cover on the L1 passenger door escape slide, in accordance with Fokker Service Bulletin SBF100–25–064, dated February 23, 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, 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.

(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 May 21, 1993.

David G. Hmiel, Acting Manager,
Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–12569 Filed 5-26–93; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 175

Receipt of Domestic Interested Party Petition Concerning Classification of Down Comforters

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of receipt of domestic interested party petition; solicitation of comments.

SUMMARY: Customs has received a petition submitted on behalf of a domestic interested party concerning the tariff classification of certain down comforters. Customs has held in certain rulings regarding certain down comforters with an outer shell of cotton that the outer cotton shell determines the classification of the comforters at the subheading level of the Harmonized Tariff Schedule of the United States (HTSUS) and the textile category of the comforters. The petitioner claims that the down filling imparts the essential character to these comforters and thus believes the comforters should be classified at a different subheading level, resulting in a higher rate of duty and different textile category. This document invites comments regarding the correctness of Customs classification of these comforters.

DATES: Comments must be received on or before June 28, 1993.

ADDRESSES: Comments (preferably in triplicate) may be submitted to the U.S. Customs Service, Office of Regulations and Rulings, Regulations Branch, Franklin Court, 1301 Constitution Ave., NW., Washington, DC 20229. Comments may be viewed at the Office of Regulations and Rulings, Franklin Court, 1099 14th Street, NW., suite 4000, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Craig Clark, Commercial Rulings Division, U.S. Customs Service, (202) 482–7050.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), a petition has been filed by a domestic interested party concerning the classification of certain down comforters with an outer shell of cotton in subheading 9404.90.80, HTSUS, subject to a Column 1 rate of duty of 5 percent *ad valorem*.

Heading 9404, HTSUS, provides for articles of bedding and similar furnishing (for example, mattresses, quilts, eiderdowns, cushions, pouffes and pillows) fitted with springs or stuffed or internally fitted with any material or of cellular rubber or plastics, whether or not covered.

In HQ 084000 (June 16, 1989), Customs held that a down comforter was classified as an article of bedding and similar furnishing, other, of cotton, not containing any embroidery, lace, braid, edging, trimming, piping exceeding 6.35 millimeters or applique work in subheading 9404.90.80, HTSUS, subject to a Column 1 rate of duty of 5 percent *ad valorem* and textile category 362. This down comforter had a shell made of 100 percent cotton fabric, a filling of white goose down, and a piping of less than 6.35 millimeters on all four edges.

In HQ 086080 (February 9, 1990), Customs held that a down comforter was classified in subheading 9404.90.80, HTSUS, subject to a Column 1 rate of duty of 5 percent *ad valorem* and textile category 362. This down comforter had a 100 percent woven quilted shell and a filling of 100 percent goose down, but had no external decorative work.

In HQ 084000 and HQ 086080 Customs held determined, therefore, that it is the outer cotton shell that determines the classification of these down comforters at the subheading level, making them classifiable as "of cotton."

The petitioner contends that it is the down filling, and not the outer cotton shell, that imparts the essential character in application of General Rule of Interpretation (GRI) 3(b) to the down comforters and should determine the classification at the subheading level. Consequently, the petitioner submits that the proper classification of the down comforters with cotton covers is as "other, other, other, other," in subheading 9404.90.90.60, HTSUS, a residual provision within heading 9404, subject to a duty rate of 14.5 percent *ad valorem* and textile category 899.

Comments

Pursuant to § 175.21(a), Customs Regulations (19 CFR 175.21(a)), before making a determination on this matter, Customs invites written comments from interested parties on this issue. The petition of the domestic interested party, as well as all comments received in response to this notice, will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, U.S. Customs Service, Office of Regulations and Rulings, Franklin Court, 1099 14th St., NW., suite 4000, Washington, DC.

Authority

This notice is published in accordance with § 175.21(a), Customs Regulations (19 CFR 175.21(a)).

Michael H. Lane,

Acting Commissioner of Customs.

Approved: May 20, 1993.

Ronald K. Noble,

Assistant Secretary of the Treasury.

[FR Doc. 93–12593 Filed 5–26–93; 8:45 am]

BILLING CODE 4820–02–M

Internal Revenue Service

26 CFR Part 1

[FI–22–92]

RIN 1545–AR10

Dividends Received Deduction Holding Period Reduced for Periods Where Risk of Loss Diminished

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations determining when a taxpayer must reduce its holding period of stock for purposes of the dividends received deduction because it has diminished its risk of loss by holding a position in substantially similar or related property. The proposed regulations exercise the regulatory authority granted to the Secretary under section 246(c)(4)(C) of the Internal Revenue Code, and clarify the application of the holding period rules. In addition, this document contains proposed regulations relating to tax straddles involving stock and substantially similar or related property. Those proposed regulations exercise the regulatory authority granted to the Secretary under section 1092(d)(3)(B) of the Internal Revenue Code.

DATES: Written comments and requests for a public hearing must be received by July 26, 1993.

ADDRESSES: Send comments and requests for a public hearing to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attention: CC:CORP:T:R (FI–22–92), room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Robert N. Deitz or Richard G. Larkins, of the Office of Assistant Chief Counsel, Financial Institutions and Products, at 202–622–3940 (not a toll-free number).

SUPPLEMENTARY INFORMATION

Background

This document sets forth proposed amendments to the Income Tax Regulations (26 CFR part 1) under section 246(c)(4)(C) of the Internal Revenue Code (Code) reflecting amendments made by section 53(b) of the Tax Reform Act of 1984, Public Law 98–369, [1984–3 (Vol. 1) C.B. 75]. This document also sets forth proposed amendments to the Income Tax Regulations (26 CFR part 1) under section 1092(d)(3)(B) of the Code reflecting amendments made by section 101(b) of the Tax Reform Act of 1984, Public Law 98–369 [1984–3 (Vol. 1) C.B. 126].

Explanation of Provisions

The proposed regulations under section 246 of the Code are found in new § 1.246–5. Paragraph (a) provides the general rule that, under section 246(c)(4)(C) of the Code, the holding period of stock determined for purposes of the dividends received deduction is appropriately reduced where a taxpayer has diminished its risk of loss by holding one or more other positions in substantially similar or related property.

Paragraph (b)(1) provides a definition of "diminished risk of loss." Generally, a taxpayer has diminished its risk of loss on its stock by holding positions with respect to substantially similar or related property if, when the positions are entered into, changes in the fair market values of the stock and the positions are expected to vary inversely.

Paragraph (b)(2)(i) defines "substantially similar or related property." Generally, property is substantially similar or related to stock when the fair market values of the stock and the other property primarily reflect the performance of a single firm or enterprise, or a single economic factor, and changes in the fair market value of the stock are reasonably expected to

approximate changes in the fair market value (whether positive or negative) of the other property. Further, under paragraph (b)(2)(ii), property that consists of, or reflects the value of, a portfolio of stocks or securities is substantially similar or related to a portfolio of stocks held by the taxpayer if changes in the fair market value of the one portfolio are reasonably expected to approximate changes in the fair market value (whether positive or negative) of the other portfolio.

Pursuant to paragraph (b)(3), if property or an index is substantially similar or related to stock held by a taxpayer, an option on that property or index is also substantially similar or related. Whether a taxpayer has diminished its risk of loss by holding an option depends on the degree of risk protection that the option affords.

Paragraph (b)(4) provides that a taxpayer has diminished its risk of loss on stock by holding substantially similar or related property if the taxpayer is the beneficiary of a guarantee, surety agreement, or similar arrangement providing for payments that will substantially offset decreases in the fair market value of the stock.

Paragraph (c) provides that the regulations may not be avoided through the use of related parties, pass-through entities, or other intermediaries. Paragraph (d) contains examples that illustrate the application of the regulations.

The effective dates are contained in paragraph (e). Generally, these regulations are proposed to be effective for dividends received after the date final regulations are published in the **Federal Register** on stock acquired after July 18, 1984. Pursuant to the legislative history, however, in the case of certain specific transactions, the regulations are proposed to be effective for any dividends received on stock acquired after July 18, 1984.

The proposed regulations under section 1092 of the Code are found in new § 1.1092(d)-2. Paragraph (a) provides that the definition of the term "substantially similar or related property" in the section 246 regulations described above is applicable for purposes of section 1092(d)(3)(B). The effective dates are contained in paragraph (b). Generally, these regulations are proposed to be effective for positions established after the date final regulations are published in the **Federal Register**. Pursuant to the legislative history, however, in the case of certain specific transactions, the regulations are proposed to be effective for positions established after March 1, 1984.

Special Analysis

It has been determined that these proposed 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, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these proposed regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comment and Public Hearing

Before these proposed regulations are adopted, consideration will be given to any written comments that are timely submitted (preferably a signed original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying in their entirety.

A public hearing will be scheduled and held upon written request by any person submitting written comments on the proposed rules. Notice of the time and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal authors of these regulations are Robert N. Deitz and Richard G. Larkins, both of the Office of Assistant Chief Counsel (Financial Institutions and Products), Internal Revenue Service. However, other personnel from the Service and Treasury Department participated in their development.

List of Subjects

26 CFR 1.241–1 through 1.250–1

Income taxes, Reporting and recordkeeping requirements.

26 CFR 1.1091–1 through 1.1092(d)-2

Income taxes, Reporting and recordkeeping requirements, Securities.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

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

Paragraph 1. The authority citation for part 1 is amended by adding two entries in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * * Section 1.246–5 also issued under 26 U.S.C. 246(c). * * * Section 1.1092(d)-2 also issued under 26 U.S.C. 1092(d)(3)(B). * * *

Par. 2. Section 1.246–5 is added to read as follows:

§ 1.246–5 Reduction of holding periods in certain situations

(a) *In general.* Under section 246(c)(4)(C), the holding period of stock determined for purposes of the dividends received deduction shall be appropriately reduced where a taxpayer has diminished its risk of loss by holding one or more other positions in substantially similar or related property.

(b) *Definitions*—(1) *Diminished risk of loss.* Whether a taxpayer has diminished its risk of loss is determined according to the facts and circumstances of each case. Generally, a taxpayer has diminished its risk of loss on its stock by holding positions with respect to substantially similar or related property (within the meaning of paragraph (b)(2) of this section) if, when the positions are entered into, changes in the fair market values of the stock and the positions are expected to vary inversely.

(2) *Substantially similar or related property*—(i) *In general.* The term "substantially similar or related property" is to be applied according to the facts and circumstances in each case. Generally, property is substantially similar or related to stock held by the taxpayer when—

(A) The fair market values of the stock and the other property primarily reflect the performance of—

(*1*) A single firm or enterprise; or

(*2*) A single economic factor, such as (but not limited to) interest rates, commodity prices, or foreign currency exchange rates; and

(B) Changes in the fair market value of the stock are reasonably expected to approximate changes in the fair market value (whether positive or negative) of the other property.

(ii) *Portfolio of stocks.* Notwithstanding paragraph (b)(2)(i)(A) of this section, property that consists of, or reflects the value of, a portfolio of stocks or securities is substantially similar or related to a portfolio of stocks held by the taxpayer if changes in the fair market value of the one portfolio are reasonably expected to approximate changes in the fair market value (whether positive or negative) of the other portfolio.

(3) *Options.* For purposes of paragraph (b)(2) of this section, if property or an index is substantially similar or related to stock held by a taxpayer, an option to sell that property or index is also substantially similar or

related to such stock. For purposes of paragraph (b)(1) of this section, an option diminishes the taxpayer's risk of loss on its stock if decreases in the fair market value of the stock are expected to be offset substantially by increases in the fair market value of the option. For example, options to sell that are significantly out of the money will not diminish the taxpayer's risk of loss on its stock.

(4) *Guarantees, surety agreements and other similar arrangements.* For purposes of paragraph (b) of this section, a taxpayer has diminished its risk of loss on stock by holding substantially similar or related property if the taxpayer is the beneficiary of a guarantee, surety agreement, or similar arrangement providing for payments that will substantially offset decreases in the fair market value of the stock.

(5) *Hedges counted only once.* A position established to hedge one outstanding position, transaction, or obligation of the taxpayer is not treated as diminishing the risk of loss with respect to another position held by the taxpayer.

(c) *Use of related persons or pass-through entities.* The rules of this section may not be avoided through the use of related parties, pass-through entities, or other intermediaries.

(d) *Examples.* The provisions of this section are illustrated by the following examples:

Example 1. General application to common stock. Corporation A and Corporation B are both automobile manufacturers. The fair market values of Corporation A and Corporation B common stock are affected not only by the general level of growth in the economy and the industry, but also by individual corporate management decisions as well as corporate debt levels. The fair market values of Corporation A and Corporation B common stock do not primarily reflect the performance of a single firm or enterprise as provided in paragraph (b)(2)(i)(A)(*1*) of this section. The fair market values also do not primarily reflect a single economic factor within the meaning of paragraph (b)(2)(i)(A)(*2*) of this section, because the stock prices are affected by significant economic factors that are not the same. Thus, Corporation A common stock is not substantially similar or related to Corporation B common stock.

Example 2. Common stock value reflects commodity price. Corporation C and Corporation D both hold gold as their primary asset. Corporation M purchased Corporation C common stock and, around the same time period, sold short Corporation D common stock. The performance of Corporation C and Corporation D common stock closely track the movement of spot prices in gold. The Corporation C common stock is substantially similar or related to Corporation D common stock because their fair market values primarily reflect the performance of the same economic factor, the price of gold, and, changes in the fair market value of Corporation C common stock are reasonably expected to approximate changes in the fair market value of Corporation D common stock. At the time the positions (the Corporation C common stock and the short position in Corporation D common stock) were entered into, it was expected that changes in their fair market values would vary inversely. Thus, Corporation M has diminished its risk of loss on its Corporation C common stock by holding substantially similar or related property for purposes of section 246(c)(4)(C).

Example 3. Options. Assume the same facts as in *Example 2*, except that Corporation M, rather than selling short Corporation D common stock, purchases a put option on Corporation D common stock. Under paragraph (b)(3) of this section, an option to sell property or an index that is substantially similar or related to stock held by a taxpayer is also substantially similar or related to such stock. As determined in *Example 2*, the Corporation C common stock is substantially similar or related to the Corporation D common stock and, therefore, the option is substantially similar or related to the Corporation C common stock. Because the option is not significantly out of the money, decreases in the fair market value of the stock are expected to be offset substantially by increases in the fair market value of the option. Thus, Corporation M has diminished its risk of loss on its Corporation C common stock by holding substantially similar or related property for purposes of section 246(c)(4)(C).

Example 4. Baskets of stocks. Corporation Z buys a basket of common stocks, including some that are included in the S&P 500 index listing. Shortly thereafter, Corporation Z acquires a short position in a regulated futures contract ("RFC") on the S&P 500. Historically, the performance of the basket of stocks has mimicked the performance of the S&P 500. Thus, changes in the fair market value of the basket of common stocks are reasonably expected to approximate changes in the fair market value of the S&P 500. Thus, under paragraph (b)(2)(ii) of this section, the basket of stocks is substantially similar or related to the RFC. Further, because when the positions (the basket of common stocks and the short position in a RFC on the S&P 500) are entered into, changes in their fair market values are expected to vary inversely, Corporation Z has diminished its risk of loss on the basket of common stocks for purposes of section 246(c)(4)(C).

Example 5. Hedging general market risks. Corporation X's investment portfolio consists of common stocks of companies in the industrial sector, including some that are included in the S&P 500 index listing. Corporation X acquires a short RFC position on the S&P 500 to hedge general market risks. Because the position in the RFC is hedging general market risk and not specific portfolio risk (in this case, the industrial sector risk), changes in the fair market value of the investment portfolio of common stocks are not reasonably expected to approximate changes in the fair market value of the S&P 500. Therefore, the RFC is not substantially similar or related to the common stocks.

Example 6. Nonparticipating fixed-term preferred stock—U.S. Treasuries. Corporation S purchases Corporation F nonparticipating, fixed-term preferred stock in a corporation that consistently has paid dividends on its preferred stock and is economically strong. The performance of the preferred stock closely tracks movements in interest rates. Corporation S simultaneously sells short United States Treasury securities with a similar maturity as the preferred stock. The preferred stock is substantially similar or related to the Treasury securities because both primarily reflect the performance of the same economic factor, interest rates, and changes in the fair market value of the preferred stock are reasonably expected to approximate changes in the fair market value of the Treasury securities. Further, at the time the positions (the Corporation F preferred stock and the short position in United States Treasury securities) are entered into, changes in their fair market values are expected to vary inversely. Therefore, Corporation S has diminished its risk of loss on the preferred stock for purposes of section 246(c)(4)(C).

Example 7. Participating, fixed-term preferred stock—U.S. Treasuries. Assume the same facts as in *Example 6*, except that the Corporation F preferred stock is participating and fixed-term. Although the performance of the Corporation F preferred stock is affected by interest rates, the attendant rights of the preferred stock cause its performance to be substantially affected by more than a single economic factor for purposes of paragraph (b)(2)(i)(A)(*2*) of this section. Thus, the preferred stock and the Treasury securities are not substantially similar or related property for purposes of section 246(c)(4).

Example 8. Related parties. On January 1, 1993, L Corporation purchased for $100,000 a basket of preferred stocks of companies in the utility industry. Also on January 1, 1993, L causes R Corporation, a wholly-owned subsidiary of L Corporation, to sell short $100,000 worth of utility index RFCs. Changes in the fair market value of the basket of preferred stocks are reasonably expected to approximate changes in the utility index. For purposes of section 246(c)(4)(C), the basket of preferred stocks of the utility companies held by L Corporation is substantially similar or related to the RFCs on the utility index held by its subsidiary, R Corporation. In addition, changes in the fair market values of the positions (the basket of preferred stocks and the short position in a RFC on the utility index) vary inversely. Thus, L Corporation is treated as having diminished its risk of loss on the basket of preferred stocks for purposes of section 246(c)(4)(C).

(e) *Effective date*—(1) *In general.* The provisions of this section apply to dividends received after [date final regulations are published in the **Federal Register**] on stock acquired after July 18, 1984.

(2) *Special rule for dividends received on certain stock.* Notwithstanding paragraph (e)(1) of this section, the provisions of this section apply to any

dividends received by a taxpayer on stock acquired after July 18, 1984, if the taxpayer has diminished its risk of loss by holding substantially similar or related property involving the following types of transactions—

(i) The short sale of common stock when holding convertible preferred stock of the same issuer and the price changes of the two stocks are related, or the short sale of a convertible debenture while holding convertible preferred stock into which the debenture is convertible (or common stock), or a short sale of convertible preferred stock while holding common stock; or

(ii) The acquisition of a short position in a regulated futures contract on a stock index, or the acquisition of an option to sell the regulated futures contract or the stock index itself, or the grant of a deep-in-the-money option to buy the regulated futures contract or the stock index while holding the stock of an investment company whose principal holdings mimic the performance of the stocks included in the stock index, or alternatively, while holding a portfolio composed of stocks that mimic the performance of the stocks included in the stock index.

Par. 3. Section 1.1092(d)–2 is added to read as follows:

§ 1.1092(d)–2 Personal property

(a) *Special rules for stock.* Under section 1092(d)(3)(B), personal property includes any stock that is part of a straddle at least one of the offsetting positions of which is a position with respect to substantially similar or related property other than stock. For purposes of this rule, the term "substantially similar or related property" is defined in § 1.246–5(b).

(b) *Effective date*—(1) *In general.* This section shall apply to positions established after [date final regulations are published in the **Federal Register**].

(2) *Special rule for certain straddles.* This section applies to positions established after March 1, 1984, if the taxpayer substantially diminished its risk of loss by holding substantially similar or related property involving the following types of transactions—

(i) Holding offsetting positions consisting of stock and a convertible debenture of the same corporation where the price movements of the two positions are related; or

(ii) Holding a short position in a stock index regulated futures contract (or alternatively an option on such a regulated futures contract or an option on the stock index) and stock in an investment company whose principal holdings mimic the performance of the stocks included in the stock index (or alternatively a portfolio of stocks whose performance mimics the performance of the stocks included in the stock index).

Teddy R. Kern,

Acting Commissioner of Internal Revenue.

[FR Doc. 93–12385 Filed 5–26–93; 8:45 am]

BILLING CODE 4830–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OAQPS Number MO–13–1–5675; FRL–4659–6]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve revisions to the Missouri rules which apply to rotogravure and flexographic printing facilities in Kansas City, Missouri, and St. Louis, Missouri. These revisions are the result of a rule effectiveness study which concluded that changes in the language of the rules would facilitate better compliance and enforcement.

DATES: Comments must be received on or before June 28, 1993.

ADDRESSES: Comments should be sent to Lisa V. Haugen, Environmental Protection Agency, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101. The state submittal and the EPA-prepared technical support document (TSD) are available for public review at the above address and at the Missouri Department of Natural Resources, Air Pollution Control Program, Jefferson State Office Building, 205 Jefferson Street, Jefferson City, Missouri 65101.

FOR FURTHER INFORMATION CONTACT: Lisa V. Haugen at (913) 551–7877.

SUPPLEMENTARY INFORMATION: On September 16 and September 23, 1992, Missouri submitted amended rules entitled "Control of Emissions from Rotogravure and Flexographic Printing Facilities" (10 CSR 10–2.290 and 10 CSR 10–5.340), which apply to sources in Kansas City, Missouri, and St. Louis, Missouri, respectively. These rules were adopted by the Missouri Air Conservation Commission after proper notice and public hearing and became effective April 9, 1992.

These rule amendments were submitted as a result of an EPA rule effectiveness study which was conducted in March 1991 as part of a nationwide compliance study. The purpose of the study was to review the effectiveness of the rule's language and rule administration. It specifically examined the St. Louis City, St. Louis County, and state of Missouri air pollution control programs.

The study concluded that several improvements could be made to the administration of the rules, and that changes in the language of the rules and other revisions would aid in compliance and enforcement. As a result, Missouri decided to make the suggested changes in the rules and submitted the following amendments.

Recordkeeping Requirements

The rules included no specific recording frequency for data to determine compliance with the control percentage requirements for control devices. Section (4) of both rules now specify that exhaust temperature gas data and volatile organic compound (VOC) breakthrough data for carbon adsorption units be recorded daily.

Section (4)(A)(5) of both rules originally stated that recordkeeping was required for any parameter that the Director determined was necessary. The amendments narrowed the requirement so that it specifies recordkeeping for only those parameters required to determine compliance with the regulation.

Emission Test Reference Methods and Initial Performance Tests

EPA reference method 25, cited in 10 CSR 10–6.030 section (14)(A), is the current EPA test method used to determine control device capture and destruction efficiency. EPA reference method 24(A), cited in Missouri rule 10 CSR 10–6.030 section (14)(C), is the current EPA test method used to determine volatile matter content and density of printing inks. Both test methods were added to the rules.

According to the Missouri Department of Natural Resources (MDNR), the intent of the original rules was to require initial performance testing to determine compliance with the VOC limits contained in the rules. However, the language in section (5)(A) has been amended to explicitly require that testing to determine compliance with the rules be conducted within 180 days of the effective date of the rules.

Work Practice Requirements

Section (3)(C)(2) was added to both rules and contains new requirements for clean-up solvent usage and storage. These requirements are important in limiting fugitive emissions.

General Clarifications

MDNR made general clarifications such as replacing the word "operation" with the word "press" and modifying the organization of the rules so that the requirements are easier to understand.

Another important clarification was the deletion of Section 5(B), "Plantwide Compliance Plan." MDNR removed this provision because federal approval of such a plan requires a separate rulemaking and a source-specific State Implementation Plan (SIP) revision. Thus, federally approvable plantwide compliance plans cannot be issued under the authority of these rules.

EPA Action

EPA has reviewed the revisions in light of the requirements of the Clean Air Act (CAA), and believes the revisions meet those requirements. Therefore, EPA is proposing to approve revisions to rules entitled "Control of Emissions from Rotogravure and Flexographic Printing Facilities" (10 CSR 10–2.290 and 10 CSR 10–5.340), in the Missouri SIP. The rules apply to sources in Kansas City, Missouri, and St. Louis, Missouri, respectively.

The EPA is soliciting public comments on this notice and on issues relevant to EPA's proposed action. Comments will be considered before taking final action. Interested parties may participate in the federal rulemaking procedure by submitting written comments to the address above.

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.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA 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, EPA 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, EPA certifies 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 EPA to base its actions concerning SIPs on such grounds (*Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2)).

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and Table 3 SIP revisions from the requirements of section 3 of Executive Order 12292 for a period of two years (54 FR 2222). EPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions from the requirements of Section 3 of Executive Order 12291. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: May 7, 1993.

William W. Rice,

Acting Regional Administrator.

[FR Doc. 93–12645 Filed 5–26–93; 8:45 am]

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40 CFR Parts 80, 86, 88 and 600

[AMS–FRL 4659–5]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Refueling Emission Regulations for Light-Duty Vehicles and Trucks and Heavy-Duty Vehicles

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public hearing and reopening of comment period on proposed onboard vapor recovery regulations.

SUMMARY: On April 15, 1992, EPA published a **Federal Register** notice announcing its intent not to implement vehicle based (onboard) control of refueling emissions. Subsequent to this decision a petition for review was filed in the U.S. Court of Appeals for the District of Columbia Circuit. The court granted this petition, holding that section 202(a)(6) of the Clean Air Act established a mandatory duty for EPA to promulgate an onboard requirement (*NRDC* v. *EPA*, 983 F. 2d 259, (D.C. Circuit 1993)). This notice announces a forthcoming public hearing and reopens the comment period to seek comment on changed circumstances since EPA's previous proposal on August 19, 1987, and a previous notice reopening the comment period at September 3, 1991.

DATES: Comments will be accepted until 30 days after the hearing (July 21, 1993). The public hearing will be held on June 21, 1993. It will start at 9 a.m. and will continue throughout the day as long as necessary to complete oral testimony.

ADDRESSES: Interested parties may submit written comments (in duplicate if possible) to Public Docket No. A–87–11, at: Air Docket Section (LE–131), U.S. Environmental Protection Agency, Attention: Docket No. A–87–11, 401 M Street, SW., Washington DC 20460. The public hearing will be held at Domino's Farms Conference Facility, 24 Frank Lloyd Wright Dr., Ann Arbor, Michigan (313) 930–4258.

A court reporter will be present at the hearing to make a written transcript of the proceedings and a copy will be placed in the docket. Anyone desiring to purchase a copy of the transcript should make individual arrangements with the court reporter at the time of the hearing.

Materials relevant to this action are contained in public dockets A–87–11 and A–84–07, located in the Air Docket of the U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC and are available for review in room M–1500 between the hours of 8:30 a.m. to 12 p.m. and 1:30 p.m. to 3:30 p.m. on weekdays. As provided in 40 CFR part 2, a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. James G. Bryson, U.S. Environmental Protection Agency, Regulation Development and Support Division, 2565 Plymouth Rd., Ann Arbor, MI 48105–2425, telephone: 313/741–7828.

SUPPLEMENTARY INFORMATION:

I. Background

On August 19, 1987, EPA published in the **Federal Register** a notice of proposed rulemaking (NPRM) for the control of vehicle refueling emissions (52 FR 31162). This proposal was the culmination of an EPA study on gasoline marketing emissions, which assessed the need for control of refueling emissions and the relative merits of the two technologies available to achieve this control, namely, controls incorporated into the design of the

vehicle (known as onboard) and controls at the gasoline dispensing pump (known as Stage II) (see Public Docket A–84–07).

At the time the proposal was published, EPA also released several important regulatory support documents. These included a response to comments received on the above-mentioned gasoline marketing study, a draft Regulatory Impact Analysis, and two technical support documents. These and other related documents are available in Public Docket A–87–11.

Subsequent to the publication of the proposal, a public hearing was held in October 1987, followed by an extensive public comment period which closed in February 1988. EPA analyzed the key issues identified by commenters and determined that a final rule should be delayed pending resolution of the safety concerns raised by commenters. Further delay occurred when it became evident that Congress would include provisions regarding the control of refueling emissions in the amendments to the Clean Air Act (CAA). The legislative process resulted in the inclusion of an amendment to section 202(a)(6) regarding onboard vapor recovery in the 1990 Clean Air Act Amendments, which requires that within 1 year after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall, after consultation with the Secretary of Transportation regarding the safety of vehicle-based ('onboard') systems for the control vehicle refueling emissions, promulgate standards under this section requiring that new light-duty vehicles manufactured beginning in the fourth model year after the model year in which the standards are promulgated and thereafter shall be equipped with such systems.

Subsequent to the enactment of the 1990 Clean Air Act Amendments, EPA continued its consultation with the Department of Transportation (DOT) related to potential safety concerns regarding onboard vapor recovery systems. In July, 1991, the National Highway Traffic Safety Administration (NHTSA), which is part of DOT, completed an updated safety study entitled "An Assessment of the Safety of Onboard Refueling Vapor Recovery Systems". On September 3, 1991, EPA published an additional **Federal Register** notice (56 FR 43682) releasing the NHTSA report for public review and seeking comment on other circumstances which had changed since the NPRM was first published. The notice also included reference to a document entitled "Summary of Changed Circumstances", which discussed statutory changes, technology development, and potential modifications to the refueling test procedure. Comments were sought on the material in this document, which was released to the public and placed in the docket.

EPA held a public hearing on September 26 and 27, 1991, and comments were received for thirty days thereafter. Comments covered NHTSA's safety report and the safety concern in general, points raised in the September 1991 notice, and a number of other areas generally related to the control of refueling emissions. Subsequent to receipt of comments EPA continued the consultation with NHTSA. Based on the outcome of the consultation, EPA determined that onboard controls should not be required. A **Federal Register** notice explaining this decision and the supporting rationale was published on April 15, 1992 (57 FR 13220).

Subsequently, several parties filed petitions for review in the United States Court of Appeals for the District of Columbia Circuit. The primary argument presented to the court was that EPA lacked discretion under section 202(a)(6) of the Clean Air Act to decline to issue onboard controls, and the Agency's failure to promulgate onboard standards was therefore unlawful.

Oral argument was held on November 28, 1992 and on January 22, 1993, the court held that the statute creates a mandatory duty for EPA to promulgate onboard standards *NRDC* v. *EPA*, 983 F.2d 259. The court set aside the Final Agency Action, and ordered EPA to promulgate onboard standards in compliance with the Clean Air Act.

II. Request for Comments

Given the need to proceed with developing an onboard final rule, EPA has decided to provide an additional opportunity for public comment on circumstances that have changed since publication of the NPRM in August 1987 and the notice in September 1991. Given the developments mentioned above, EPA believes that further opportunity for public comment is desirable. Over the years in which this rulemaking has been underway, EPA has received comment on a number of issues related to refueling emissions and their control. Major issues such as fuel volatility and improved vehicle evaporative emissions control have now been decided by regulation and the control of refueling emissions using Stage II equipment was addressed by the 1990 Clean Air Act Amendments. And, while the safety of onboard systems is still important, it is now essential to focus attention on identifying the most effective means to address potential safety concerns for onboard systems seeking emission certification.

There are still a number of key issues to be decided with regard to onboard controls. Each of these has already been addressed in the previous notices and comments thereon, and EPA's current thinking on these issues stems from the previous public process. The purpose of this notice is to explain the Agency's current thinking on these issues and the options we are considering for the final rule. EPA has consulted with DOT/NHTSA in the development of this notice.

Further public comment on the ideas and options presented below will allow the Agency to develop a final rule that fully considers the latest views on these issues and others associated with onboard controls. EPA is seeking comment in five key areas discussed below.

A. Applicability of the Standard

1. Vehicle Classes

In the August 1987 NPRM, EPA proposed that onboard should apply to all three vehicle classes: light-duty vehicle (LDV), light-duty truck (LDT), and heavy-duty vehicles (HDVs). As was discussed in the September 1991 notice document, the CAA Amendments of 1990 explicitly included only LDVs, and while legislative history suggests that Congress may have intended to include LDTs within the scope of the requirement, there were no specific provisions covering or excluding either LDTs or HDVs. Thus, if EPA were to extend the onboard requirement beyond LDVs, it must rely on its authority under section 202(a)(1) of the Act.

EPA is inclined to extend the onboard requirement to include all three vehicle classes and seeks comment from the public on this issue. Given that the statute provides EPA some latitude in implementing the onboard requirement for LDTs and HDVs, the decision on what vehicles should be covered depends on factors such as technical feasibility, environmental benefits, cost, cost effectiveness and safety among others. EPA estimates that LDTs contribute about one-third of the annual refueling emissions and HDVs another five percent. As was discussed in the September 1991 notice and the supporting analyses in the docket, there are many similarities between LDV and LDT fuel systems and thus the onboard control technology, costs, and cost effectiveness all would be similar. Also, many of the HDVs between 8500 and 10,000 lbs GVWR (known as Class II

HDVs) are very similar to their somewhat lighter-weight LDT counterparts. In fact, under current EPA regulations manufacturers have the option to certify these Class II HDVs as LDTs. Also, these vehicles are considered to be LDTs for purposes of DOT FMVSS 301 covering fuel system integrity. Thus, technology, costs and cost effectiveness would be similar as well.

Furthermore, while the fuel system configurations for heavier-HDVs are often different than for lighter-weight HDVs, as was discussed in the NPRM, heavier-HDVs are, we believe, amenable to onboard controls as well and their costs and cost effectiveness are attractive. EPA is sensitive to some of the technical issues raised in previous proceedings in this rulemaking with regard to heavier-HDVs and vehicles such as recreational vehicles whose fuel/vapor control systems are modified by secondary manufacturers. EPA asks for comment on the technical feasibility of onboard control for these vehicles. Nonetheless, it should be noted that these vehicles will have to implement the recently promulgated improved evaporative emission regulations, so similar control system hardware will likely already be on these vehicles. However, in contrast to LDVs and LDTs, heavier-HDVs are subject to Federal Highway Administration fuel tank safety standards instead of FMVSS 301.

Finally, with regard to costs and cost effectiveness it should be noted that about 30 ozone non-attainment areas have already or will implement Stage II refueling controls before onboard controls begin. As was discussed in the previously mentioned April 15, 1992 **Federal Register** notice, EPA expects that these Stage II controls would cover about 33 percent of the nationwide fuel consumption. See 57 FR at 13229–30. In a cost effectiveness analysis, onboard-equipped vehicles would therefore not be credited with these reductions until Stage II controls are eliminated.

A December 22, 1989 analysis of onboard and evaporative emission control costs and cost effectiveness indicated that the incremental costs for a liquid seal, integrated onboard/improved evaporative system (costs of onboard controls over improved evaporative controls) would run only a few dollars a vehicle and that these costs would be more than offset by the refueling vapor recovery credit (see docket at IV–B–19). If 33 percent of the refueling emissions are credited to the Stage II controls, not onboard, the costs would rise but overall there would still be a net cost savings on a per vehicle basis Thus onboard controls are attractive for LDTs and HDVs from a cost and cost effectiveness perspective even if current Stage II implementation is considered. See also 57 FR at 13229.

2. Fuel Type Considerations

The Clean Air Act Amendments of 1990 do not preclude EPA from applying the onboard requirement to vehicles powered by fuels other than gasoline. EPA could institute refueling controls for other fuels under its section 202(a)(1) authority. In the September 1991 notice, EPA described this issue and posed options for vehicles using fuels whose refueling emissions are inherently below the refueling emission standard.

To expand on that proposal and the comments thereon, EPA is considering and requests comment on extending the onboard requirement and the refueling emission standard to all fuels/vehicles, whether the vehicle is powered by liquid, gaseous, or any other fuel and whether the vehicle is dedicated, flexible or bi-fueled. If the vehicle is flexible-fueled the standard would apply to all fuel combinations; if bi-fueled, the standard would apply to both fuels. However, if a manufacturer believes that a vehicle/fuel will pass the refueling emission standard inherently (without the use of a control system), the manufacturer would be permitted to request that the Administrator allow testing to be waived. During certification, the manufacturer would have to attest that the vehicle family inherently passes the refueling emission standard (without a control system). This, of course would be subject to EPA review and approval as part of the certification process. EPA would retain the option to conduct the refueling emissions test for any vehicle and fuel and the manufacturer would be liable in the event of a failure. For bi-fuel vehicles this provision would apply to each fuel individually. Such an approach has worked successfully for diesel carbon monoxide (CO) emissions certification.

3. California Coverage

As was indicated in the August 1987 NPRM, the onboard requirement, like other section 202 requirements, would apply to vehicles in all 50 states. If California has its own motor vehicle emissions control program in effect pursuant to a waiver of federal preemption issued by EPA under section 209 of the Act, however, compliance with the California program's standards is deemed to be compliance with the federal program standards. See section 209(b)(3). Thus, if the California program for which a waiver is in effect does not require onboard refueling vapor recovery equipment, vehicles certified to California's standards would not be required to have onboard systems. This is the same situation as is the case for any other federal standard for which California has no comparable standard or has a less stringent comparable standard (e.g., the cold temperature CO standards that go into effect beginning the 1994 model year on the federal side that have no California counterpart at this time). If, however, no waiver were in effect for California's motor vehicle standards due to a failure on California's part to meet the criteria set forth in section 209 for a waiver from federal preemption, than motor vehicles sold in California would have to comply with all federal requirements, including onboard requirements. The issue of whether California's standards satisfy the criteria of section 209 is a matter that EPA considers in section 209 waiver proceedings, and is not a part of this rulemaking.

B. Implementation

Section 202(a)(6) addresses the implementation of onboard controls for light-duty vehicles. Specifically, the Act states that "the standards * * * shall apply to a percentage of each manufacturer's fleet of new light-duty vehicles beginning with the fourth model year after the model year in which the standards are promulgated." The Act then goes on to specify an implementation schedule of 40 percent of each manufacturer's production in the fourth model year after the model year of promulgation, 80 percent in the fifth year, and 100 percent in the sixth and later years. EPA projects the promulgation of the final rule sometime in the 1994 model year, so the first model year of applicability would be 1998.

The CAAA do not specifically address leadtime or a phase-in schedule for LDT or HDV onboard requirements. However, section 202(a)(2) indicates that any standard promulgated under the 202(a)(1) authority shall take effect after such period as the Administrator finds necessary to permit the development and application of the requisite technology giving appropriate consideration to the cost of compliance within such period.

Based on the comments received on the NPRM, it would be reasonable to implement the onboard requirement for LDTs and HDVs in the same model year and under the same phase-in schedule as for LDVs; that is, a four model year leadtime with a three model year phase-in beginning in 1998. A common set of

technology is expected among the three vehicle classes, and EPA's previous cost analyses and other comments in the docket do not suggest that the costs of implementing an onboard requirement are sensitive to leadtime when such an implementation scheme is permitted. In the vast majority of cases, onboard controls could be incorporated directly into new vehicle designs instead of as a retrofit thus saving the costs tied up in mid-model vehicle modifications. Most comments on the proposed rule indicated that four model years leadtime with a phase-in was sufficient to implement an onboard requirement and deal with the retrofit issue.

To provide the manufacturers an even greater degree of flexibility while still achieving essentially the same level of in-use emission reductions, EPA is considering a compliance approach that would treat each manufacturer's combined LDV, LDT, and HDV production as a set for purposes of meeting the sales percentages prescribed above during the phase-in years. The prescribed percentages would be applied to a manufacturer's total sales, not each vehicle class individually. More specifically, this would mean that the prescribed percentages of a manufacturer's sales (40,80) would have to be onboard-equipped, but the manufacturer could use any combination of LDVs, LDTs, and HDVs to meet the requirement. This approach would not result in fewer complying vehicles and thus would be expected to be neutral from an emissions reduction perspective. Vehicles meeting the standard because they are inherently low in refueling vapor emissions (as discussed elsewhere in this notice) would not be counted in either the percentage complying or base sales calculations.

A program of this nature is potentially valuable from several perspectives. First, improved evaporative emission controls under section 202(k) of the CAA (see 58 FR 16004, March 24, 1993) are being phased-in over a time frame which overlaps that discussed above for onboard. Also, the DOT is considering changes to FMVSS 301 which, if implemented, could impact onboard-equipped vehicles (see 57 FR 59041, December 14, 1992). The manufacturers may find value in the flexibility of being able to tailor the implementation of their combined control strategies across the vehicle classes and model years as allowed. Among other potential benefits, this could reduce costs and facility concerns and allow even greater accommodation in vehicle model introduction and elimination than already accorded by the phase-in schedule. A similar program has been implemented successfully for the 1991 and 1994 heavy-duty engine oxides of nitrogen and particulate matter emission standards.

EPA asks for comment on the leadtime requirements for LDTs and HDVs and the overall need for and desirability of the approach to compliance laid out above.

C. Refueling Emissions Test Procedure

EPA has been assessing potential onboard system test procedures for several years. Because refueling emissions and evaporative emissions have a common source and are controlled with similar technologies, progress made in the control of evaporative emissions is relevant to the onboard test procedure discussion. On March 24, 1993, EPA published regulations for new evaporative emission standards and test procedures for all three vehicle classes (58 FR 16002). These requirements begin phasing-in during model year 1996 and become fully effective in model year 1999. As can be seen in the proposed approaches described below, it is EPA's goal to integrate the test procedures for refueling and evaporative emissions to the greatest degree possible, in order to reduce testing costs and burdens. This is especially important for vehicle designs in which the onboard systems share common vapor storage units with the evaporative emissions control systems, referred to as integrated systems.

EPA proposed two sets of onboard system test procedures in the 1987 NPRM. One set of procedures was proposed for integrated systems and a separate set of procedures was proposed for onboard systems that do not use shared vapor storage units, referred to as non-integrated systems.

In the notice of public hearing and report availability published on September 3, 1991 (56 FR 43682), EPA requested comment on some additional testing alternatives being considered for both types of systems. These alternatives are described in the "Summary of Changed Circumstances", dated August 1991 (Docket item IV–A–5).

The proposed test procedures for integrated and non-integrated systems involve the same basic steps: load the storage canister with hydrocarbon vapor, drive the vehicle to provide opportunity for canister purge, and refuel the vehicle while measuring emissions. The procedure proposed in the NPRM (52 FR 31248) for the refueling step is common to both sets of test procedures. It involves disconnecting the vapor line from the fuel tank to the canister, draining the fuel tank, refueling with test fuel to 10 percent of the nominal tank capacity, soaking the vehicle for 6 to 24 hours at 80 °F (±3 °F), reconnecting the vapor line, and fueling the vehicle with test fuel at 81–84 °F in a sealed enclosure (SHED) while measuring emissions. Fueling is terminated at the first automatic shutoff that occurs after a quantity of fuel has been pumped equal to 85 percent of the nominal tank capacity. EPA welcomes additional comment on this procedure and its specifications.

The following discussion describes the testing alternatives proposed in the past, as well as current considerations which might affect the final test procedures. These alternatives deal primarily with the methods of driving test vehicles for canister purge and with methods for loading the canisters prior to driving. Although these alternatives are primarily concerned with the sequencing of test procedure elements, rather than with the refueling test procedure per se, some potential alternatives to the above-described refueling test procedure are also discussed.

1. Integrated Systems

a. Background. In the NPRM, EPA proposed that integrated systems be tested by loading the storage canister with fuel vapors to breakthrough (the point at which a specified small quantity of hydrocarbon vapor is emitted), then providing opportunity to purge the canister via one of two driving sequences, and finally conducting the refueling test. The two driving sequence options were referred to as the cyclic drive and the continuous drive.

The cyclic drive simulates three days of typical driving and parking events. Each "day" consists of three drives on the EPA Urban Dynamometer Driving Cycle (UDDS) schedule (also referred to as the LA–4 cycle), each followed by a one-hour hot soak, and, following the third hot soak, a simulated diurnal heat build. Performing this sequence a total of three times, followed by one additional UDDS drive, completes the preconditioning drive for the cyclic drive option. The diurnal heat builds were proposed to be accomplished by heating the fuel from 60 to 84 °F, using a heat blanket. The three day simulation was deemed adequate to establish an equilibrium condition in the canister and therefore additional driving was considered unnecessary.

The continuous drive is an abbreviated schedule designed primarily to reduce testing time

compared to the full cyclic drive. It consists of repeated UDDS drives. The number of UDDS cycles driven corresponds to the amount of driving mileage needed to purge the canister to the state it would have been in had the same vehicle been operated over the cyclic drive schedule. Obviously, determining the number of UDDS cycles needed requires that the cyclic drive be performed on a vehicle in each refueling family to determine the appropriate canister state. Once this has been done, however, all further testing for a refueling family could rely on the continuous drive sequence.

In the September 1991 notice, EPA put forth two additional test procedure alternatives. Both alternatives were in response to manufacturers' comments concerning the complexity of the procedures proposed in the NPRM. These options would make use of a portion of the evaporative emissions test sequence, as then proposed, to load and purge the canister in preparation for the refueling test. In this way, the exhaust and refueling emission measurements, as well as some or all of the evaporative emission measurements (depending on refueling test placement), could be made in a single test.

The evaporative emissions test sequence under consideration at the time of the September 1991 notice consisted of a canister preconditioning step followed by test procedures conducted in the following order: the exhaust emissions test, three two-hour diurnal heat builds from 72 to 96 °F, the running loss test, and finally a hot soak and permeation loss test. One proposed onboard refueling test alternative would place the refueling emissions measurement at the end of this entire evaporative sequence. The other proposed alternative would place it after the exhaust test.

The second alternative would avoid the testing resources required under the first alternative in those cases for which only refueling measurements are needed. On the other hand, the second alternative would make it necessary to run through portions of the test twice if both refueling and evaporative measurements are needed. EPA expressed an interest in possible ways of alleviating these problems, such as allowing re-entry of the evaporative sequence after the refueling test (and some additional purge), or adopting the first alternative for normal certification testing and retaining the second alternative as a stand-alone, short test for use at EPA's discretion. Additional discussion of the advantages and disadvantages of these alternatives can be found in the September 1991 notice and related documents.

b. Current considerations. The most significant consideration affecting the testing of integrated systems is the impact of EPA's final evaporative emission test procedure (58 FR 16002, March 24, 1993). The September 1991 notice based its proposed alternatives for integrated system testing on the proposed evaporative emissions test procedure current at that time, but also indicated that the onboard testing alternatives may be modified if the final evaporative emissions test were to be substantially changed. The final evaporative emissions test procedure is, in fact, different from the proposal that existed in September 1991, largely as a result of discussion generated at a January 1992 public workshop and subsequent comment period (announced in a December 17, 1991 notice, 56 FR 65461). The final evaporative emissions test elements have been sequenced differently and a supplemental test has been adopted, involving two diurnal heat builds after the exhaust emission test.

The most important aspect by which the final and proposed evaporative emissions test procedures differ is the sequencing of test elements. The proposed procedure placed the running loss and hot soak tests after the diurnal test; the final rule places them before the diurnal test (see Figure 1). Placing the refueling test at the end of the full evaporative emissions test would therefore represent a substantial increase in stringency. The refueling vapor load would, in this case, need to be stored immediately after the large vapor load from a simulated three-day park in hot summertime conditions, with no intervening drive for purge. This clearly represents an extreme in-use scenario; it is expected that some driving would occur prior to refueling in virtually every situation.

Therefore, among other options (and as previously proposed), EPA is considering integrating the refueling emissions test with the evaporative emissions test by conducting the refueling test as a branch-out procedure directly after the running loss test. EPA believes that this approach, indicated as Option B on Figure 1, may be sufficient to verify that integrated systems will provide good in-use control, without imposing unreasonable performance requirements. Placing the refueling test after the running loss test in this way is a logical extension of the option considered under the September 1991 notice that would have placed the refueling test after the entire evaporative emissions sequence.

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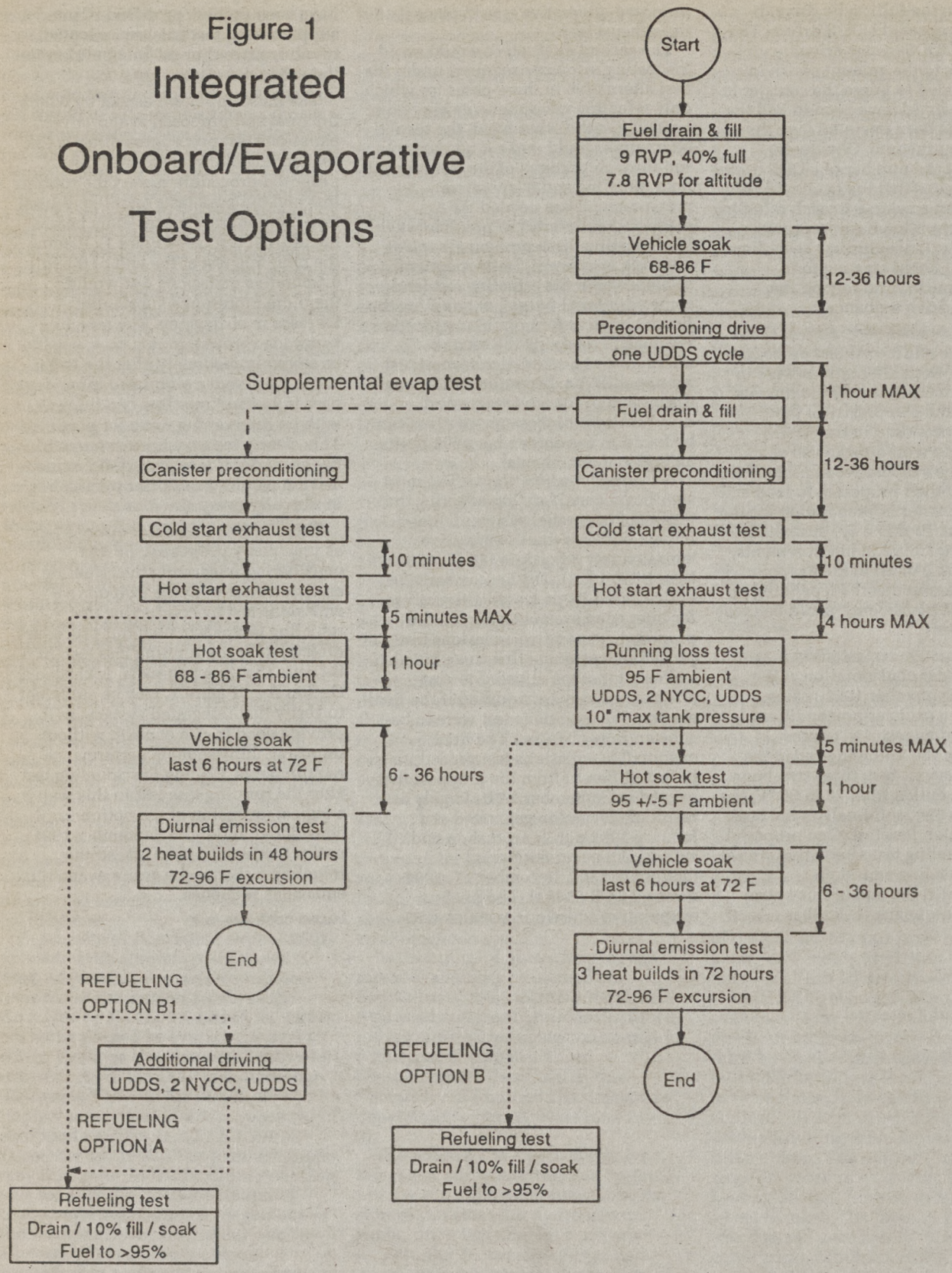
Figure 1

Integrated Onboard/Evaporative Test Options



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As a logical extension of the other option proposed in the September 1991 notice, EPA is considering placing the refueling test after the exhaust emissions test in the supplemental evaporative emissions test procedure. This is indicated as Option A on Figure 1. In effect, this option involves the same sequence of test elements as the corresponding option proposed in the September 1991 notice.

These options have corresponding advantages and disadvantages. Option A would require that storage canisters, starting in a loaded condition, be sufficiently purged during the exhaust test driving to accommodate the refueling test vapor load. This would ensure that onboard system designs have a relatively high rate of purge and would thereby help to ensure good in-use control. However, the higher purge rate could potentially make it difficult to design systems to meet stringent exhaust emission standards while the canister is being purged. By requiring that the running loss test procedure be conducted before the refueling test, option B would provide more opportunity for purging the canister, but would require the expenditure of significant resources in preparing for and conducting the running loss test procedure in order to test onboard systems. In addition, the canister loading methods available in option A are not available in option B, and vice versa. A detailed discussion of canister loading methods is provided in subsection C.3 below.

Another extension of these two options that EPA is considering would place the refueling test after the exhaust emissions test in the supplemental evaporative emissions test procedure, but with additional driving corresponding to the running loss test driving (UDDS/two New York City cycles/UDDS) before the refueling test. This approach, indicated as Option B1 on Figure 1, would combine the canister preconditioning methods of the supplemental evaporative emissions test with the driving available for canister purge under Option B, but would not necessarily involve the intricate controls on temperatures and other parameters required to conduct the running loss test.

In considering these integrated evaporative/onboard test procedure options, EPA is expecting that the requirements for refueling emissions control will result in similar integrated system canister sizes and purge designs as the requirements for evaporative emissions control. The refueling test is important, however, in verifying that onboard system seals and vapor flow paths are adequate and in verifying overall system performance.

Re-entry into the evaporative test sequence after the refueling test, although desirable in reducing the testing burden, is not essential and may not be feasible, due to the complexity this would add to the procedure. Therefore, none of the options currently under consideration allow a re-entry opportunity. However, EPA remains open to suggestions for how this might be accomplished. EPA is considering all of the above-described testing options equally and solicits any comments that would aid in deciding which approach to take in the final rule.

Comments and suggestions are also solicited regarding simpler means of preconditioning vehicles when only the refueling emissions measurement is desired. This is especially of concern in relation to the testing alternative that would place the refueling test after the running loss test, because the running loss test requires a rather complex configuring of thermocouples, fans, and other equipment. In the process of developing the evaporative emissions rule, manufacturers suggested that a simplified approach could be used in those EPA enforcement testing situations for which diurnal emission measurements are desired, but running loss emission measurements are not.[1] This approach, to be used at EPA's option, would have involved conducting the running loss driving at some nominal ambient temperature, perhaps 80 °F, without monitoring the fuel tank temperature or pressure. Comments are requested on the potential for using this as an optional approach in preconditioning vehicles for the refueling test and on the appropriate specifications for conducting this preconditioning. This approach could be applied to EPA confirmatory and in-use verification testing only, or could be extended to manufacturers' certification testing as well. It would not be used for evaporative emissions measurements. Other suggestions for ways to make the preconditioning process less resource-intensive are also requested.

2. Non-Integrated Systems

a. Background. Refueling canisters in non-integrated systems are subject to vapor loading only from refueling events. Therefore, preconditioning involving evaporative loads such as from hot soaks and simulated diurnal park events is unnecessary.

As a result, EPA proposed in the NPRM that these canisters be loaded to breakthrough as in the integrated system test, and then purged via driving through repeated UDDS cycles on a dynamometer, or repeated Durability Driving Schedule (DDS) cycles on a test track. The vehicles would be driven until an amount of fuel essentially equal to 85 percent of the nominal tank volume has been consumed (52 FR 31251). This amount corresponds to the minimum amount of fuel pumped into the tank during the refueling portion of the test. The refueling portion of the test would be identical to that used for integrated systems. EPA also requested comment on an optional abbreviated test involving refueling after a partial drivedown of the tank volume (30 to 40 percent) and an engineering analysis to verify that results from this test could be extrapolated to demonstrate successful performance under the full drivedown test procedure (52 FR 31197).

The September 1991 notice added for consideration an optional approach aimed at reducing the testing burden. The manufacturers could drive any number of UDDS cycles prior to the refueling test, provided that 85 percent or less of the fuel tank capacity is consumed. The refueling test, including the vehicle soak and fuel tank drain and fill to 10 percent, would then be conducted. EPA would be able to conduct confirmatory and in-use verification testing of a vehicle based on the number of UDDS cycles used by the manufacturers for the same vehicle design.

An additional optional procedure, to be performed at EPA's discretion, was included in the September 1991 notice. Under this option, a vehicle would be fueled to automatic nozzle shutoff, driven some integer number of UDDS cycles chosen by EPA, and then subjected to the refueling emissions measurement with no intervening drain and fill. Testing under this option would help to ensure that onboard systems have an adequate design margin to accommodate the partial refuelings common in use, and that purge strategies that inappropriately minimize purge during the exhaust emission test would not be adopted. EPA also suggested that it may be necessary to include a requirement for essentially constant purge during each UDDS of the test in order to preclude inappropriate purge strategies that would minimize purge impacts on exhaust emissions during testing but not during in use operation.

The loading of canisters in non-integrated systems would, under the approach taken in the September 1991

[1] Memorandum from Don Kopinski to Public Docket A-89-18, March 23, 1992 (docket item A-89-18, IV-E-19).

notice, make use of the loading procedure from the evaporative emissions test procedure proposed at that time, factoring in any changes made to this procedure in finalizing the evaporative emission rule. At that time, this proposed procedure involved an initial refueling, followed by one UDDS driving cycle, a canister loading step, and a cold soak. The loading could be accomplished using either a SHED procedure or a bench procedure. In the SHED procedure, fuel vapor is delivered to the canister by subjecting the vehicle's fuel tank to repeated 60 to 84 °F heat builds until 2 grams of hydrocarbon is detected in the SHED. In the bench procedure, the canister would be bench purged and then loaded with an amount of butane vapors equal to 1.5 times the canister working capacity, similar to the method used in the evaporative emissions test procedure adopted by the California Air Resources Board.

b. Current considerations. Because non-integrated systems are isolated from evaporative emissions control systems, the changed circumstances arising from finalization of the evaporative emissions rule do not have a major impact on the non-integrated system test procedure, except as discussed in subsection C.3 below. EPA still believes that preconditioning driving that involves the consumption of approximately 85 percent of the fuel in the fuel tank (or less at the manufacturer's option) is appropriate. EPA is considering using the UDDS instead of the DDS for onboard system track driving, in order to be consistent with the new evaporative emissions test procedure. EPA again solicits suggestions for other methods of preconditioning non-integrated canisters in a way that retains the performance-based nature of the test with less use of testing resources.

EPA is considering adopting one or both of the additional measures referred to in the September 1991 notice for non-integrated systems: An alternative partial fill test procedure and a requirement that the purge volume be essentially constant (or decreasing) over the series of UDDS preconditioning drives. The partial fill procedure would be used at EPA's discretion in confirmatory and in-use testing to verify system performance in partial refueling events. EPA again requests comment on these measures and on the issues concerning pump shutoff variability referred to in the September 1991 notice.

One issue of concern to EPA is the possibility that certain onboard canister purge strategies may result in inadequately purged canisters in use. A design which delays the purge of the onboard canister following a cold start may pass the non-integrated system test, because the proposed test allows a large amount of driving under warmed-up conditions. However, such systems may fail to adequately purge the canisters in those common in-use situations which involve a large number of cold starts between refuelings. Therefore, EPA desires to retain the flexibility in the non-integrated system test procedure to conduct some of the UDDS driving beginning in a cold start condition, as provided for in the NPRM. Comments are requested on this issue.

Comments received in response to the September 1991 notice indicated that clarification is needed regarding EPA's intended approach to loading and purging non-integrated refueling canisters for exhaust emissions testing. EPA believes that it is appropriate to load these canisters as well as evaporative system canisters prior to conducting exhaust emission testing, using the same loading procedure.

3. Additional Test Procedure Issues

a. Canister loading. One area in which the final evaporative emissions rule impacts the testing of onboard systems is the canister loading procedure. The options discussed under the September 1991 notice included using the evaporative test canister loading procedure in conducting both integrated and non-integrated onboard system testing. The final evaporative system test procedure includes three methods for conducting canister loading: (1) Loading with fuel vapors to the 2 gram breakthrough point by conducting repeated 72 to 96 °F heat builds, (2) bench purging the canister and then sending to it a total amount of butane equal to 1.5 times the canister working capacity, at 15 grams per hour of butane in a 50/50 butane/nitrogen mix, or (3) loading to the 2 gram breakthrough point by sending 40 grams per hour of butane (in a 50/50 butane/nitrogen mix) to the canister. The advantages and disadvantages of these methods are discussed in the Regulatory Impact Analysis for the evaporative emissions rulemaking.[2]

If EPA were to adopt one or more of the integrated onboard/evaporative testing options discussed above, the canister loading method would be determined accordingly, because these options involve already-established loading procedures. The first two loading methods are very similar to the methods under consideration at the time of the September 1991 notice. The first and third methods would be available for integrated system testing if the above-discussed options A or B1 were finalized, because options A and B1 are connected to the supplemental evaporative test sequence which uses these loading methods. Likewise, the second method would be available for integrated system testing if the above-discussed option B were finalized. For non-integrated system testing, EPA is considering adopting whatever canister loading procedure(s) are adopted for integrated system testing, based on the choice of integrated system testing options, described above. This would help to ensure maximum consistency between the two sets of procedures.

Comments are requested on these canister loading options, as well as on other suggestions for canister loading. The reader should review relevant portions of the evaporative emission test procedure (CFR section 86.132–96, published in 58 FR 16002) in considering this issue.

b. Spitback test. With regard to the spitback test recently adopted as part of the evaporative emissions rule, EPA is considering special provisions for onboard-equipped vehicles. In the refueling test, the fuel nozzle is inserted in the fillpipe, the nozzle latch is set to provide the appropriate dispensing rate, and the vehicle is refueled until automatic shut-off of the nozzle occurs. If the nozzle shuts off before 85 percent of the fuel tank capacity has been dispensed, the fuel dispensing must be restarted and allowed to run to automatic shut-off as many times as is necessary until at least the requisite volume of fuel has been dispensed. During the refueling event any fuel spitback at automatic nozzle shut-off would spill into the SHED and evaporate. The emissions related to the evaporation of the spilled fuel would then be counted as part of the emissions allowable under the refueling standard (52 FR 31251). Under this test procedure, due to the stringency of the refueling standard, almost any fuel spilled into the SHED would result in a failure of the refueling emission standard.

Given the design of the refueling emission test and the stringency of the refueling emission standard as called for in the CAA, it may be unnecessary to require an onboard-equipped vehicle to demonstrate the ability to pass both the refueling test and a separate fuel spitback test. Thus, EPA requests comment on a provision which would permit a manufacturer certifying an

[2] "Final Regulatory Impact Analysis and Summary and Analysis of Comments, Control of Vehicular Evaporative Emissions", U.S. EPA, February 1993, p.32.

onboard-equipped vehicles to seek a waiver from also having to perform the separate spitback test, if the manufacturer believes that the refueling test alone is sufficient. The separate spitback test would remain in place for all non-onboard equipped vehicles and EPA would retain the authority to use the separate spitback test during confirmatory and in-use testing for all vehicle models, including those covered under waivers.

c. Cap removal emissions. The test procedure proposed in the August 1987 NPRM did not include a provision for measuring the "puff loss" emissions from a pressurized fuel tank when the fuel cap is removed for refueling. EPA proposed such a cap-off test in the evaporative emissions NPRM (55 FR 1914, January 19, 1990). Although the final evaporative emissions rule did not finalize this test requirement, it did provide for a certain degree of control of these emissions by including a provision for limiting the fuel tank pressure during vehicle operation to 10 inches of water, unless manufacturers include design provisions for venting the tank pressure to the evaporative canister when the fuel cap is opened (58 FR 16002). However, this provision does not control puff loss emissions from vehicles designed to operate with fuel tanks at pressures less than 10 inches of water.

EPA estimates that puff loss emissions at pressures of 5 to 10 inches of water can be on the same order of magnitude as the controlled refueling emissions allowed under the standard. Therefore, EPA is considering finalizing the cap off procedure as part of the refueling test. This would require the removal of the fuel cap in the SHED, shortly after the preconditioning drive, with resulting emissions measured and combined with the other refueling emissions in determining compliance with the refueling standard. Comments are requested on this issue.

d. Miscellaneous issues. In the September 1991 notice, EPA referred to an abbreviated test, to be performed at EPA's discretion, aimed at verifying the integrity of fillpipe seals and vapor lines. In this procedure, the canister would be thoroughly bench purged, and then the vehicle would be subjected to the refueling emissions measurement test and standard. A variation of this test would be to vent the canister outlet port outside the SHED instead of, or in addition to, bench purging the canister. Also, EPA proposed revising the nominal 10 gallon per minute refueling rate specified for testing in the NPRM to a range of 4 to 10 gallons per minute, in order to allow verification of good system performance at low flow rates sometimes encountered in use. The seal verification test and the revised flow rate specification would be applicable to non-integrated and integrated systems alike. These issues are still under consideration and comments on them are requested.

Besides canister loading and test segment sequencing, other aspects of the final evaporative emissions test procedure affect the current considerations for the onboard test. EPA is interested in ensuring that the evaporative and refueling tests make use of the same equipment as much as possible, and in adopting common specifications for parameters such as soak temperatures and tolerances and air circulation rates, where appropriate. Comment is requested on specific items for which this might be achieved. Also, the spitback test contained in the final evaporative emissions rule includes a number of specifications on refueling procedures adopted in response to manufacturers' comments. Comments on the advisability of adopting all relevant specifications from the spitback test for the refueling test are requested as well.

D. Level of the Refueling Emission Standard, Useful Life, and Warranty Periods for Onboard-Equipped Vehicles

The 1990 CAA Amendments call for a refueling emission standard representing at least a 95 percent reduction over uncontrolled levels. Using the empirical relationship derived by EPA based on the results of uncontrolled gasoline-fueled vehicle testing, 9.0 psi RVP test fuel and the tank and dispensed fuel temperatures as presented in the NPRM, the uncontrolled emission level is about 5.43 grams per gallon (g/gal). A 95 percent reduction represents an emission standard of 0.25 g/gal.

In the August 1987 NPRM, EPA proposed a refueling emission standard of 0.10 g/gal based on the levels achieved in development prototype programs. These programs, which are discussed in the docket, included both bench hardware system evaluations and vehicle-based systems. This is equivalent to about a 98 percent reduction from uncontrolled refueling emission levels. The analysis supporting the proposed standard indicated that it was cost effective at that level and given the expected similarity in technology would be feasible for all three vehicle classes (light-duty vehicles (LDVs), light-duty trucks (LDTs), and heavy-duty vehicles (HDVs)). Even though EPA and others have configured only LDVs with onboard systems, the comments indicate that the manufacturers have installed onboard systems on several LDT models. Also, as was discussed above, the fuel systems are very similar and EPA believes that the onboard technology can easily be extrapolated to the other vehicle classes as was the case with evaporative emission control technology. Thus, EPA believes that onboard control technology can be applied equally effectively to LDTs and HDVs, an onboard refueling standard in the range of 0.10–0.25 g/gal is feasible for LDTs and HDVs.

Manufacturers' comments on the September 1991 notice expressed concerns about in-use compliance margins if the standard is set at 0.10 g/gal. To address these concerns, EPA is considering setting the onboard refueling emission standard somewhere in the range of 0.10 to 0.25 g/gal. EPA asks comment on the level at which the standard should be set including justifying data and analysis for any recommendations.

The onboard requirement would apply for the full useful life of the vehicles. As was discussed in the September 1991 notice, for LDVs and certain LDTs these are periods of 10 years/100,000 miles per section 202(d)(1) and 11 years/120,000 miles for other LDTs, whichever comes first. For HDVs the mileage periods in 40 CFR 86.085–2 would apply except that the time period would be extended to 10 years under section 202(d) of the CAA. Thus, for all Otto-cycle HDVs (such as gasoline) and light heavy-duty diesel cycle vehicles (HDDVs), the period would be 10 years/110,000 miles, whichever comes first. For the other HDDVs, the useful life would be 10 years/185,000 miles for medium HDDVs and 10 years/290,000 miles for heavy HDDVs, whichever comes first. Similarly, under section 202(d), the period for testing for purposes of in-use compliance under section 207 is a period of 7 years or 75,000 miles whichever occurs first.

Under section 207(i) of the CAA, beginning in the 1995 model year the warranty period for most LDV and LDT vehicle emission control system components was limited to 2 years/24,000 miles, whichever comes first except for major emission control components for which the warranty period is 8 years/80,000 miles, whichever comes first. These major components are limited to the catalytic converter, the electronic emissions control unit, and the onboard emissions diagnostic device except the Administrator may designate additional components or devices as specified

major emission control components if the device/component was not in general use prior to the 1990 model year and the Administrator determines that the retail cost exceeds $200 (1989 dollars).

As has been detailed in past cost estimates, EPA does not believe that the retail cost of onboard systems for LDVs and LDTs will exceed $200 per vehicle in 1989 dollars. In fact, the analysis in the public docket indicates that retail costs will be less than one-tenth of that value (see IV–B–19 and 57 FR at 13229). Thus, EPA is not proposing designation of the onboard system as a specified major emission control component, and the warranty period for LDVs and LDTs would be the same as for the evaporative control system, 2 years/24,000 miles, whichever comes first. However, should comments lead EPA to revise its retail cost estimates to values in excess of $200 per vehicle, then EPA would consider such a designation. For HDVs, as provided in section 207(i) of the CAA, EPA proposes to continue the period that is already specified in the regulations (40 CFR 86.096–2) i.e., 5 years/100,000 miles, whichever occurs first.

EPA asks for comment on the useful life, warranty, and recall issues discussed above.

E. Safety Reviews

Given the concerns raised about vehicle safety, it is important to address the potential safety concerns as part of the implementation of the onboard requirement. Sections 202(a)(4) and 206(a)(3)(A), (B) of the CAA give EPA broad authority to address the safety of emission control systems. Section 202(a)(4) says that effective with respect to vehicles and engines manufactured after model year 1978, no emission control device, system, or element of design shall be used in a new motor vehicle or new motor vehicle engine for purposes of complying with standards prescribed under this subsection if such device, system, or element of design will cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function.

Section 206(a)(3)(A), (B) says that a certificate of conformity may be issued under this section only if the Administrator determines that the manufacturer (or in the case of a vehicle or engine for import, any person) has established to the satisfaction of the Administrator that any emission control device, system, or element of design installed on, or incorporated in, such vehicle or engine conforms to applicable requirements of section 202(a)(4), and that the Administrator may conduct such tests and may require the manufacturer (or any such person) to conduct such tests and provide such information as are necessary to carry out subparagraph (A) of this paragraph.

This authority has been implemented for more than ten years. See 40 CFR 86.084–5 and 86.091–23. Section 86.084–5(b) requires that any system installed on a new motor vehicle to enable such a vehicle to conform to standards shall not in its operation, function, or malfunction result in any unsafe condition endangering the motor vehicle, its occupants, or persons or property in close proximity to the vehicle. Furthermore, section 86.091–23(d) requires that manufacturers certify that the vehicles for which certification is requested conform to the requirements of 86.084–5(b). The manufacturer must also agree to provide descriptions of the tests conducted, the results of such tests, and other information upon which that determination is based. Presently this safety certification is submitted in part II of the application for certification which manufacturers must submit for every vehicle model which they plan to produce for commerce in the United States. EPA intends to use this authority and the approach described above to implement the onboard requirement.

As a legal matter, EPA emphasizes that it has taken no action to date that forecloses the certification of canister-based onboard systems. See EPA's Response to Intervenors—Respondents' Petition for Rehearing *En Banc*, April 7, 1993, pp. 8–11 (available in the public docket). Although EPA initially declined to issue onboard standards based on safety concerns, EPA has not made a determination for purposes of certification under section 206 that any specific onboard system design (including onboard canisters) would present an unreasonable risk to public safety within the meaning of section 202(a)(4).*Id.* Those assessments and decisions must ultimately await the certification process when pre-production systems have been fully developed and tested. EPA does not know which types of systems will be submitted for certification or what design improvements and engineering solutions will be devised and incorporated during the next four years.

Thus, in developing onboard controls, EPA emphasizes that manufacturers have the option to use any system design capable of meeting the onboard performance standard; the existence of non-canister systems does not preclude the use of canister-based approaches. The Agency has, in fact, certified vehicles equipped with canisters used for control of evaporative emissions for over 20 years. Other than the need to comply with the applicable Federal Motor Vehicle Safety Standards (FMVSSs), manufacturers would have complete flexibility to design their onboard systems to assure their safety in-use.

As is present practice, EPA expects that manufacturers will conduct engineering risk assessments and component, system, and vehicle tests to assess the safety of various onboard system designs and on-vehicle configurations and make any modifications or devise and implement the engineering solutions needed to address potential problems.

As part of the application for certification, manufacturers would be required to make the declarations prescribed in section 86.091–23 (d). During review of the certification application, EPA would study the design of the vehicle's onboard system and its proposed on-vehicle configuration. Special consideration would be given to the potential concerns raised in the course of the rulemaking process such as component locations, materials used in the components, and connections between components. For canister-based systems, items of special interest would include canister location and shell construction, vapor hose routing and wall thickness, integrity of connections, and proximity of potential ignition sources. In addition, manufacturers would want to consider concerns raised in past DOT safety assessments. As was mentioned above, EPA could ask for any or all of the information supporting the manufacturer's safety assessment and EPA would consider all information presented by the manufacturer in this assessment whether it is based on testing, engineering analysis, or is of some other nature. Of course, EPA plans to consult with the DOT on the technical aspects of this safety review.

Onboard-equipped vehicles would have to meet the applicable FMVSSs, including FMVSS 301 related to Fuel System Integrity which, as noted above, NHTSA is considering amending to provide protection for onboard systems. EPA expects that this would address many of the potential concerns regarding crashworthiness. However, the statutory language of section 206(a)(3)(B) (quoted earlier in this section), provides EPA with broad latitude to require manufacturers to conduct tests or provide other information as may be needed to determine if an onboard system meets the vehicle safety requirements

prescribed in section 202(a)(4). EPA asks comment on whether any specific tests or other information should be required up front as part of the certification process and if so, what information and in what form would be most appropriate. This would not affect EPA's ability to ask for additional information based on review of the certification application, but could provide manufacturers more specific guidance in conducting their safety assessments and preparing their certification applications.

While responsibility for onboard system design and performance in use rests with the manufacturers, it may not be appropriate to defer all interactions on system design and safety issues to the certification process some four years from now. EPA asks comment from auto manufacturers and other interested parties on the desirability of developing a process, after promulgation of the final rule, through which there could be a dialogue with EPA and DOT on design questions related to the in-use safety of onboard systems. EPA asks for ideas on how to structure a process that assures adequate dialogue well in advance of certification and the appropriate approach, timing, goals and objectives of such an undertaking.

F. Other Issues

EPA invites comment on other issues raised either as a result of the CAA, the implementation of the improved evaporative emissions requirements, or other matters. As is documented in the public docket, in a response to a March 1993 EPA request for input, two auto industry commenters raised issues for EPA consideration. The key issues raised by these commenters were discussed above. EPA also requests comments on the onboard diagnostic (OBD) requirements (Final rule published February 19, 1993, 58 FR 9468) in light of onboard vapor recovery, particularly concerning non-integrated systems. It is EPA's expectation that these systems will need to meet the same OBD requirements as evaporative emission control systems.

In light of the recently promulgated evaporative emission requirements and the implementation of Stage II control hardware in some areas of the country, EPA also offers an opportunity for commenters to provide updated information on the costs and in-use effectiveness of onboard controls.

III. Public Participation

A. Comments and the Public Docket

As in past rulemaking actions, EPA strongly encourages full public participation in the development and assessment of information that will be used in the rulemaking. EPA also encourages those who are interested in the rule to thoroughly review the public docket for relevant materials. For those submitting comments, whenever applicable, full supporting rationale, data and detailed analyses should be submitted to allow EPA to make maximum use of the comments. All comments should be directed to the EPA Air Docket Section, Docket No. A-87-11 (see "ADDRESSES"). Comments will be accepted for 30 days after the public hearing.

B. Public Hearing

Any person desiring to present testimony at the public hearing (see "DATES") should notify the contact person listed above of such intent at least seven days prior to the day of the hearing. The contact person should also be provided an estimate of the time required for the presentation of the testimony and notification of any need for audio/visual equipment. A sign-up sheet will be available at the registration table the morning of the hearing for scheduling the order of testimony. Due to the anticipated high level of interest in this issue, EPA may limit the time of each testimony in order to allow all parties to testify.

It is suggested that sufficient copies of the statement or material to be presented be brought to the hearing for distribution to the audience. In addition, it will be helpful for EPA to receive an advance copy of any statement or material to be presented at the hearing prior to the scheduled hearing date, in order for EPA staff to give such material full consideration. Such advance copies should be submitted to the contact person listed above.

The official record of the hearing will be kept open for 30 days following the hearing to allow submission of rebuttal and supplementary testimony.

Mr. Richard D. Wilson, Director of the Office of Mobile Sources, is hereby designated presiding officer of the hearing. The hearing will be conducted informally, and technical rules of evidence will not apply.

Dated: May 20, 1993.

Michael H. Shapiro,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 93-12541 Filed 5-26-93; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 721

[OPPTS-50606; FRL-4081-7]

RIN 2070-AB27

Significant New Uses of Certain Chemical Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing significant new use rules (SNURs) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for six chemical substances which were the subject of premanufacture notices (PMNs) submitted to EPA, are subject to TSCA section 5(e) consent orders issued by EPA, and are subject to previously proposed SNURs under TSCA. This proposal would require certain persons who intend to manufacture, import, or process these substances for a significant new use to notify EPA at least 90 days before commencing the manufacturing or processing of the substance for a use designated by this SNUR as a significant new use. The required notice will provide EPA with the opportunity to evaluate the intended use, and if necessary, to prohibit or limit that activity before it occurs.

DATES: Written comments must be received by EPA on or before June 28, 1993.

ADDRESSES: Since some comments may contain confidential business information (CBI), all comments should be sent in triplicate (with additional sanitized copies if CBI is involved) to: TSCA Document Receipt Office (TS-790), Office of Pollution Prevention and Toxics, Environmental Protection Agency, rm. E-G99, 401 M St., SW., Washington, DC 20460. Comments should include the docket control number. The docket control number for each of the new chemical substances covered in this SNUR is OPPTS-50606, followed by the last four digits of the number of the proposed CFR section covering that chemical substance. Nonconfidential versions of comments on this proposed rule will be placed in the rulemaking record and will be available for public inspection. Unit VIII. of this preamble contains additional information on submitting comments containing CBI.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, rm. E-543B, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: This SNUR will require persons to notify EPA at least 90 days before commencing manufacturing or processing of a substance for any activity designated by this SNUR as a significant new use. The supporting rationale and background to this proposed rule are more fully set out in the preamble to EPA's first direct final SNURs at 55 FR 17376 on April 24, 1990. Consult that preamble for further information on the objectives, rationale, and procedures for the rules and on the basis for significant new use designations including provisions for developing test data. This document reproposes SNURs for substances for which EPA proposed SNURs prior to the adoption of the expedited process. Each original proposal also contained provisions for new chemical exposure limits (NCELs) in lieu of personal protective equipment. These original proposals are being revised and restructured in the new format established for regulation under 40 CFR part 721. In addition, the terms of these proposed SNURs reflect the modifications to the consent order for P–84–660 and P–84–704 and toxicity data received for P–84–660, P–84–704, and P–85–433 since the original proposals.

The following table lists the PMN numbers of the substances that are the subject of this proposed rule along with the references to the original **Federal Register** publication.

TABLE 1.—SUBSTANCES SUBJECT TO THIS SIGNIFICANT NEW USE RULE

Chemical Substance(s)	Proposed CFR Cite	Publication Date	Redesignated
P–84–105	40 CFR 721.1015	50 FR 11384, 3/21/85	40 CFR 721.3780
P–84–106	40 CFR 721.1015	50 FR 11384, 3/21/85	40 CFR 721.3780
P–84–107	40 CFR 721.1015	50 FR 11384, 3/21/85	40 CFR 721.3780
P–84–660	40 CFR 721.135	50 FR 9221, 3/18/86	40 CFR 721.9540
P–84–704	40 CFR 721.135	50 FR 9221, 3/18/86	40 CFR 721.1240
P–85–433	40 CFR 721.585	50 FR 32495, 9/12/86	40 CFR 721.8175

I. Authority

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule after considering all relevant factors, including those listed in section 5(a)(2). Once EPA determines that a use of a chemical substance is a significant new use, section 5(a)(1)(B) of TSCA requires persons to submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use. The mechanism for reporting under this requirement is established under 40 CFR 721.10.

II. Applicability of General Provisions

General provisions for SNURs appear under subpart A of 40 CFR part 721. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the final rule. Rules on user fees appear at 40 CFR part 700. Persons subject to this SNUR must comply with the same notice requirements and EPA regulatory procedures as submitters of PMNs under section 5(a)(1)(A) of TSCA. In particular, these requirements include the information submission requirements of section 5(b) and 5(d)(1), the exemptions authorized by section 5(h)(1), (2), (3), and (5), and the regulations at 40 CFR part 720. Once EPA receives a SNUR notice, EPA may take regulatory action under section 5(e), 5(f), 6, or 7 to control the activities for which it has received the SNUR notice. If EPA does not take action, EPA is required under section 5(g) to explain in the **Federal Register** its reasons for not taking action.

Persons who intend to export a substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret section 12(b) appear at 40 CFR part 707. Persons who intend to import a chemical substance identified in a final SNUR are subject to the TSCA section 13 import certification requirements, which are codified at 19 CFR 12.118 through 12.127 and 127.28. Such persons must certify that they are in compliance with the SNUR requirements. The EPA policy in support of the import certification appears at 40 CFR part 707.

III. Substances Subject to This Rule

EPA is proposing significant new use and recordkeeping requirements for the following chemical substances under 40 CFR part 721 subpart E. In this unit, EPA provides a brief description for each substance, including its PMN number, chemical name (generic name if the specific name is claimed as CBI), CAS number (if assigned), basis for the action taken by EPA (including the statutory citation and specific finding), toxicity concerns, and the CFR citation assigned in the regulatory text section of this proposed rule. EPA has previously proposed a SNUR for all the chemical substances subject to this proposed rule as referenced in the preamble for each substance. The specific uses which are designated as significant new uses are cited in the regulatory text section of the rule by reference to 40 CFR part 721 subpart B where the significant new uses are described in detail.

All of the original SNUR proposals, corresponding public comments, and subject 5(e) orders were created 6 to 8 years ago. Regulatory requirements and procedures in section 5(e) orders have significantly changed since that time. For P–84–660, P–84–703, and P–85–433 toxicity data has been received and evaluated by the Agency since the issuance of the original orders and SNURs. The original consent order for P–84–660 and P–84–704 has been modified since the issuance of the proposed SNUR. Rather than individually issue each of these SNURs, the most efficient and equitable method to promulgate these SNURs is to repropose and finalize them under the Expedited Follow-Up Rule.

Each section 5(e) order which is the basis of these proposed SNURs contains provisions that require wording changes in order to be converted into SNURs. In some cases the language in the SNUR is more detailed or worded differently than the language in the 5(e) consent order. In each case EPA considers the SNUR and section 5(e) provisions to be generally equivalent and consistent with those based on recent 5(e) orders and SNURs.

The original section 5(e) orders and SNUR proposals contain limited recordkeeping requirements. EPA is proposing more extensive recordkeeping requirements in these SNURs. Without a requirement to keep appropriate records, EPA cannot document if

manufacturers and processors are complying with SNUR regulations.

The section 5(e) order for each of these proposed SNURs contains NCELs provisions. In each case, the section 5(e) order allows the PMN submitter to protect workers by controlling and monitoring airborne concentrations of the substance present in the workplace as an alternative to certain respirator requirements.

No specific language has been added to the regulatory text of the corresponding SNURs. A company proposing to substitute NCELs or other alternative control measures for SNUR provisions may elect to submit a significant new use notice (SNUN) or may request a determination of equivalency under the procedures for "EPA Approval of Alternative Control Measures" in § 721.30.

Data on potential exposures or releases of the substances, testing other than that specified for the substances, or studies on analogous substances, which may demonstrate that the significant new uses being reported do not present an unreasonable risk, may be included with significant new use notification. In addition, this unit describes tests that are recommended by EPA to provide sufficient information to evaluate the substance. Descriptions of recommended tests are provided for informational purposes. As stated in 40 CFR 721.1(c) persons submitting a SNUN must comply with the same notice requirements as submitters of PMNs under 40 CFR part 720, including submission of test data on health and environmental effects as described in 40 CFR 720.50.

PMN Numbers P–84–105, P–84–106, and P–84–107

Chemical name: (generic) Substituted and disubstituted tetrafluoroalkenes.
CAS number: Not available.
Reference to previous SNUR proposal: Published at 50 FR 11384 on March 21, 1985.
Effective date of section 5(e) consent order: June 13, 1984.
Basis of section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Similar substances have been shown to cause kidney, liver, and lung effects in test animals. Substances similar to P–84–106 have been shown to cause birth defects in test animals.
Recommended testing: The Agency has determined that the results of a 90–day subchronic inhalation study would help characterize possible systemic effects of the PMN substance. The Agency has also determined that a developmental toxicity study would help characterize potential birth defects.
CFR citation: 40 CFR 721.3780.

PMN Number P–84–660

Chemical name: Benzene, ethenyl-, *ar*-bromo- derivatives.
CAS number: Not available.
Reference to previous SNUR proposal: Published at 51 FR 9221 on March 18, 1986.
Effective date of section 5(e) consent order: November 8, 1984.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Test data on the substance have shown it to cause toxicity to the liver, testes, urinary bladder, kidneys, and the blood. In addition, similar substances have been shown to cause nervous system toxicity, reproductive toxicity, developmental toxicity, and carcinogenicity in test animals.
Recommended testing: None.
CFR citation: 40 CFR 721.9540.

PMN Number P–84–704

Chemical name: Benzene, (2-bromoethyl)-, *ar*-bromo derivatives.
CAS number: Not available.
Reference to previous SNUR proposal: Published at 51 FR 9221 on March 18, 1986.
Effective date of section 5(e) consent order: November 8, 1984.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Similar substances have been shown to cause kidney and liver toxicity in test animals.
Recommended testing: None.
CFR citation: 40 CFR 721.1240.

PMN Number P–85–433

Chemical name: 1-Propanol, 3-mercapto-.
CAS number: 19721–22–3.
Reference to previous SNUR proposal: Published at 51 FR 32495 on September 12, 1986.
Effective date of section 5(e) consent order: June 25, 1986.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to human health.
Toxicity concern: Test data on the substance have shown it to cause developmental toxicity in test animals.
Recommended testing: None.
CFR citation: 40 CFR 721.8175.

IV. Objectives and Rationale of the Rule

During review of the PMNs submitted for the chemical substances that would be subject to this proposed SNUR, EPA concluded that regulation was warranted under section 5(e) of TSCA pending the development of information sufficient to make a reasoned evaluation of the health or environmental effects of the substance. The basis for such findings is outlined in Unit III. of this preamble. Based on these findings, section 5(e) consent orders requiring the use of appropriate controls were negotiated with the PMN submitters. These proposed SNURs for each substance are consistent with the provisions of the section 5(e) orders.

EPA is proposing this SNUR for specific chemical substances which have undergone premanufacture review to ensure the following objectives: That EPA will receive notice of any company's intent to manufacture, import, or process a listed chemical substance for a significant new use before that activity begins; that EPA will have an opportunity to review and evaluate data submitted in a SNUN before the notice submitter begins manufacturing, importing, or processing a listed chemical substance for a significant new use; that, when necessary to prevent unreasonable risks, EPA will be able to regulate prospective manufacturers, importers, or processors of a listed chemical substance before a significant new use of that substance occurs; and that all manufacturers, importers, and processors of the same chemical substance are subject to similar requirements. Proposal of a SNUR for a chemical substance does not signify that the substance is listed on the TSCA Inventory. Manufacturers, importers, and processors are responsible for insuring that a new chemical substance subject to a final SNUR is listed on the TSCA Inventory.

EPA is reproposing the SNUR for each substance in this proposed rule. However, since the time of the initial proposals, regulatory requirements and procedures in section 5(e) orders and SNURs have significantly changed. EPA has concluded that reproposing the SNURs and addressing comments, if any, on the new proposals is the best approach to promulgating the SNURs.

V. Test Data and Other Information

EPA recognizes that section 5 of TSCA does not require developing any

particular test data before submission of a SNUN. Persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them. Unit III. of this preamble lists those recommended tests for informational purposes. The recommended studies may not be the only means of addressing the potential risks of the substance.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs which provide detailed information on:

1. Human exposure and environmental release that may result from the significant new use of the chemical substances.
2. Potential benefits of the substances.
3. Information on risks posed by the substances compared to risks posed by potential substitutes.

VI. Applicability of Rule to Uses Occurring Before Effective Date of the Final Rule

To establish a significant "new" use, EPA must determine that the use is not ongoing. When the PMN submitter begins manufacture or import of the substances, the submitter must send EPA a Notice of Commencement of Manufacture/Import (NOC) and the substances will be added to the Inventory. Section 5(e) orders have been issued for each substance and notice submitters are prohibited by the section 5(e) orders from undertaking activities which EPA is designating as significant new uses. In cases where EPA has not received an NOC and the substance has not been added to the Inventory, no other person may commence such activities without first submitting a PMN. For substances for which an NOC has not been submitted at this time, EPA has concluded that the uses are not ongoing. However, EPA recognizes in cases when chemical substances identified in this SNUR are added to the Inventory prior to the effective date of the final rule, the substances may be manufactured, imported, or processed by other persons for a significant new use as defined in this proposed rule before the effective date of the rule. However, as three of the six substances contained in this proposed rule have CBI chemical identities, and EPA has received a limited number of post-PMN *bona fide* submissions, the Agency believes that it is highly unlikely that many, if any, of the significant new uses described in the following regulatory text are ongoing.

Each chemical substance which is the subject of a proposed SNUR in this document was the subject of a previously proposed SNUR as noted in the table in the Supplementary Information section and Unit III. of this preamble. These proposed rules were issued prior to the effective date of the Expedited Follow-up Rule (55 FR 17376, April 24, 1990). The original proposals have been revised and restructured in the new format established under 40 CFR part 721 with terms that are generally equivalent to those in the original proposal. EPA has decided that the intent of section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of the original proposal rather than as of the effective date of the rule. If uses which had commenced between the date of the original proposal and the effective date were considered ongoing, rather than new, any person could defeat the SNURs by initiating a significant new use before the effective date. This would make it difficult for EPA to establish SNUR notice requirements.

Thus, persons who begin commercial manufacture, import, or processing of the substances regulated through this SNUR will have to cease any such activity before the effective date of the rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires. EPA has promulgated provisions to allow persons to comply with this SNUR before the effective date. If a person were to meet the conditions of advance compliance in § 721.45(h), the person will be considered to have met the requirements of the final SNUR for those activities. If persons who begin commercial manufacture, import, or processing of the substance between publication and the effective date of the SNUR do not meet the conditions of advance compliance, they must cease that activity before the effective date of the rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

VII. Economic Analysis

EPA has evaluated the potential costs of establishing significant new use notice requirements for potential manufacturers, importers, and processors of the chemical substance contained in this proposed rule. EPA's complete economic analysis is available in the nonconfidential public record for this proposed rule (OPPTS–50606). Any party submitting comments claimed to be confidential must prepare and submit a public version of the comments that EPA can place in the public file.

VIII. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPPTS–50606). The record includes information considered by EPA in developing this proposed rule. EPA will supplement the record with additional information as it is received.

EPA will accept additional materials for inclusion in the record at any time between this proposal and designation of the complete record. EPA will identify the complete rulemaking record by the date of promulgation. A public version of the record without any CBI is available in the TSCA Public Docket Office from 8 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday, except legal holidays. The TSCA Public Docket Office is located at Rm. NE–G004, 401 M St., SW., Washington, DC.

Any person who submits comments claimed as CBI must mark the comments as "confidential," "trade secret," or other appropriate designation. Comments not claimed as confidential at the time of submission will be placed in the public file. Any comments marked as confidential will be treated in accordance with the procedures in 40 CFR part 2. Any person submitting comments claimed to be confidential must also prepare and submit a nonconfidential public version of the comments in triplicate that EPA can place in the public file.

IX. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this proposed rule would not be a "major" rule because it would not have an effect on the economy of $100 million or more, and it would not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the total annual cost of compliance with this proposed rule, EPA estimates that the cost for submitting a significant new use notice would be between $4,552 to $12,166, including a $2,500 user fee payable to EPA to offset EPA costs in processing the notice. EPA believes that, because of the nature of the proposed rule and the substances involved, there will be few SNUNs submitted.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), EPA has determined that this proposed rule would not have a significant impact on a substantial number of small businesses. EPA has not determined whether parties affected by this proposed rule would likely be small businesses. However, EPA expects to receive few SNUNs for the substances. Therefore, EPA believes that the number of small businesses affected by this rule will not be substantial, even if all of the SNUN submitters were small firms.

C. Paperwork Reduction Act.

The information collection requirements contained in this proposed rule have been approved by OMB under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), and have been assigned OMB control number 2070–0012.

Public reporting burden for this collection of information is estimated to vary from 30 to 170 hours per response, with an average of 100 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM–223, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to Office of Management and Budget, Paperwork Reduction Project (2070–0012), Washington, DC 20503

List of Subjects in 40 CFR Part 721

Chemicals, Environmental protection, Hazardous materials, Reporting and recordkeeping requirements, Significant new uses.

Dated: May 18, 1993.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, it is proposed that 40 CFR part 721 be amended as follows:

PART 721—[AMENDED]

1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

2. By adding new § 721.1240 to subpart E to read as follows:

§ 721.1240 Benzene, (2-bromoethyl)-, ar-bromo derivatives.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as benzene, (2-bromoethyl)-, *ar*-bromo derivatives (CAS number 19721–22–3, PMN P–84–704) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(i), (a)(5)(ii), (a)(5)(iii), (a)(6)(v), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(iv), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(iv), (g)(2)(v), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k).

(iv) *Disposal.* Disposal of wastes containing the substance and <2.0 percent sodium bromide and <0.1 percent organic substances other than by carbon absorption or deepwell injection. Disposal of wastes containing the substance and ≤2.0 percent sodium bromide and ≤0.1 percent organic substance other than by bromine extraction.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Recordkeeping requirements as specified in § 721.125(a) through (j) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

3. By adding new § 721.3780 to subpart E to read as follows:

§ 721.3780 Substituted and disubstituted tetrafluoro alkenes.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as substituted and disubstituted tetrafluoroalkene (P–84–105) is subject to reporting under this section for the significant new uses described in paragraph (a)(1)(i) of this section.

(i) The significant new uses are:

(A) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(i), (a)(6)(v), (a)(6)(vi), (b) (concentration set at 1 percent), and (c).

(B) *Hazard communication program.* Requirements as specified in § 721.72(a), (b)(2), (d), (e) (concentration set at 1 percent), (f), (g)(1)(i), (g)(1)(iv), (g)(2)(i), (g)(2)(ii), (g)(2)(iv), and (g)(2)(v). In addition, the precautionary statements described under § 721.72(g) shall include: This substance may cause eye irritation.

(C) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g).

(ii) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(A) *Recordkeeping requirements.* Recordkeeping requirements as specified in § 721.125(a) through (g) and (i) are applicable to manufacturers, importers, and processors of this substance.

(B) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(2) The chemical substance identified generically as disubstituted tetrafluoro alkane (P–84–106) is subject to reporting under this section for the significant new uses described in paragraph (a)(2)(i) of this section.

(i) The significant new uses are:

(A) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(i), (a)(6)(v), (a)(6)(vi), (b) (concentration set at 1 percent), and (c).

(B) *Hazard communication program.* Requirements as specified in § 721.72(a), (b)(2), (d), (e) (concentration set at 1 percent), (f), (g)(1)(i), (g)(1)(iv), (g)(1)(v), (g)(2)(i), (g)(2)(ii), (g)(2)(iv), and (g)(2)(v). In addition, the precautionary statements described under § 721.72(g) shall include: This substance may cause eye irritation.

(C) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g).

(ii) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(A) *Recordkeeping requirements.* Recordkeeping requirements as specified in § 721.125(a) through (g) and (i) are applicable to manufacturers, importers, and processors of this substance.

(B) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) The chemical substance identified as disubstituted tetrafluoroalkane (P–

84–107) is subject to reporting under this section for the significant new uses described in paragraph (a)(3)(i) of this section.

(i) The significant new uses are:

(A) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(i), (a)(6)(v), (a)(6)(vi), (b) (concentration set at 1 percent), and (c).

(B) *Hazard communication program.* Requirements as specified in § 721.72(a), (b)(2), (d), (e) (concentration set at 1 percent), (f), (g)(1)(iv), (g)(2)(i), (g)(2)(ii), (g)(2)(iv), and (g)(2)(v). In addition, the precautionary statements described under § 721.72(g) shall include: This substance may cause eye irritation.

(C) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g).

(ii) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(A) *Recordkeeping requirements.* Recordkeeping requirements as specified in § 721.125(a) through (g) and (i) are applicable to manufacturers, importers, and processors of this substance.

(B) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

4. By adding new § 721.8175 to subpart E to read as follows:

§ 721.8175 1-Propanol, 3-mercapto-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 1-propanol, 3-mercapto- (PMN P–85–433; CAS No. 19721–22–3) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(i), (a)(5)(ii), (a)(5)(iii), (a)(6)(v), (b) (concentration set at 1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 1 percent), (f), (g)(1)(ix), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(iv), (g)(2)(v), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g).

(iv) *Disposal.* Requirements as specified in § 721.85(a)(1), (a)(2), (a)(3), (b)(1), (b)(2), (b)(3), (c)(1), (c)(2), and (c)(3). In addition, a method of disposal described under paragraphs (a), (b), and (c) shall include: Release to an evaporation pond.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Recordkeeping requirements as specified in § 721.125(a) through (j) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

5. By adding new § 721.9540 to subpart E to read as follows:

§ 721.9540 Benzene, ethenyl-, ar-bromo derivatives.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as benzene, ethenyl-, *ar*-bromo derivatives (PMN P–84–660) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(i), (a)(5)(ii), (a)(5)(iii), (a)(6)(v), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(iii), (g)(1)(iv), (g)(1)(vi), (g)(1)(ix), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(iv), (g)(2)(v), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k).

(iv) *Disposal.* Disposal of wastes containing the substance and <2.0 percent sodium bromide and <0.1 percent organic substances other than by carbon absorption or deepwell injection. Disposal of wastes containing the substance and ≤2.0 percent sodium bromide and ≤0.1 percent organic substance other than by bromine extraction.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Recordkeeping requirements as specified in § 721.125(a) through (j) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

[FR Doc. 93–12651 Filed 5–26–93; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 93–06; Notice 2]
[Docket No. 93–07; Notice 2]

RIN 2127–AD07
RIN 2127–AE21

Federal Motor Vehicle Safety Standards; Air Brake and Hydraulic Brake Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); notice to extend comment periods.

SUMMARY: In response to petitions submitted by the American Automobile Manufacturers Association (AAMA), several motor vehicle manufacturers, and a brake manufacturer, this notice extends the comment periods for a proposal to reinstate stopping distance requirements for vehicles subject to Standard No. 121 *Air Brake Systems*, and for a proposal to establish similar stopping distance requirements for medium and heavy vehicles subject to Standard No. 105, *Hydraulic Brake Systems*. NHTSA has concluded that commenters need more time to formulate their responses given the complexity of the issues raised in the notices and the need to conduct vehicle testing. Accordingly, the agency has decided to extend the comment period an additional 120 days from May 24, 1993 to September 24, 1993.

DATES: Comments on the notice of proposed rulemaking, Docket 93–06, Notice 1 and Docket 93–07, Notice 1, must be received on or before September 24, 1993.

ADDRESSES: Comments should refer to Docket No. 93–06, Notice 1 and Docket No. 93–07, Notice 1 and be submitted to: Docket Section, NHTSA, 400 Seventh Street SW., Washington, DC 20590. Docket hours are 9:30 to 4 pm. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. George Soodoo, Office of Rulemaking, NHTSA, 400 Seventh Street, SW., Washington, DC 20590 (202–366–5892).

SUPPLEMENTARY INFORMATION: On February 23, 1993, NHTSA published two notices of proposed rulemaking (NPRMs) in the **Federal Register** (58 FR 11003). One notice proposed to reinstate stopping distance requirements for vehicles subject to Standard No. 121, *Air Brake Systems* (Docket 93–06, Notice 1), and a second notice proposed to establish similar stopping distance requirements for medium and heavy vehicles subject to Standard No. 105 *Hydraulic Brake Systems* (Docket 93–07, Notice 1). The notices requested comments on the proposals and on various issues related to the braking performance of medium and heavy vehicles. The notices specified that comments had to be submitted on or before May 24, 1993.

PACCAR, the American Automobile Manufacturers Association (AAMA), Navistar, Ford Motor Company (Ford), Allied-Signal, and Volvo GM Heavy Truck Corporation (Volvo-GM) submitted petitions requesting the agency to extend the comment period for the stopping distance notices. PACCAR petitioned the agency to extend the comment period for Docket 93–06 to October 1, 1993. The AAMA and Navistar petitioned the agency to extend the comment period for both dockets to November 1, 1993. Ford submitted a petition stating that it supported the position taken by AAMA. Allied-Signal submitted two petitions: The first requested an extension for Docket No. 93–07 of 90 to 120 days, and the second requested the same extension for Docket No. 93–06. Volvo-GM petitioned the agency for an extension for Docket No. 93–06 of 180 days.

These petitioners indicated their concern that the 90-day comment period provided insufficient time for them to respond adequately to the agency's proposals. The petitioners indicated that additional time is needed to complete testing being done to evaluate their vehicles, particularly with respect to the proposal to use an unbraked control trailer for the loaded truck tractor test condition. The petitioners also indicated that they needed additional test data to respond adequately to the agency's proposals about the new burnish procedure and its impact on the stopping distance performance of their vehicles. AAMA, Navistar, and Volvo-GM also mentioned that the stopping distance proposals need to be considered in conjunction with the lateral stability and control rulemaking (57 FR 24212. June 8, 1992).

After reviewing the petitions, NHTSA agrees with the petitioners that extending the comment closing date is desirable given that the proposal to issue stopping distance requirements for medium and heavy vehicles raises a variety of complex issues. In particular, the extension of the comment period should allow manufacturers adequate time to conduct vehicle testing, which was especially necessary for testing truck tractors with an unbraked control trailer. In additional, the extension should allow manufacturers to provide more informed comments on the stopping distance proposals in relation to the lateral stability and control proposal that the agency anticipates issuing in the near future. An extension of the comment period will therefore allow the petitioners and other commenters more time to better address the issues covered in the stopping distance NPRMs.

Based on the above considerations, the agency believes that there is good cause to extend the comment period an additional 120 days and that this decision is consistent with the public interest. However, the agency believes that the extension should be limited to 120 days, given the need to formulate a final rule as soon as practicable. Accordingly, the agency has decided to extend the comment period until September 24, 1993.

Issued on: May 21, 1993.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 93–12494 Filed 5–26–93; 8:45 am]

BILLING CODE 4910–59–M

Notices

Federal Register
Vol. 58, No. 101
Thursday, May 27, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

May 21, 1993.

The Department of Agriculture has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extension, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, room 404–W Admin. Bldg., Washington, DC 20250, (202) 690–2118.

Revision

- Food and Nutrition Service
- Operating Guidelines, Forms, and Waivers
- FNS–366A, FNS–366B
- On occasion; quarterly; annually
- State or local governments; 303 responses; 4,779 hours
- Erin McBride (703) 305–2517

Extension

- Agricultural Stabilization and Conservation Service
- 7 CFR Parts 1413 and 1414—Forms for Participation in Price Support and Production Adjustment Programs
- CCC–477, 477 Appendix, 477A, 477B, 505, 507A, 406, 406 Appendix, ASCS–503, 658–1, CCC–300, CCC–302
- Annually
- Farms; 1,732,000 responses; 429,500 hours
- Bruce Hiatt (202) 245–4798
- Agricultural Marketing Service
- Fruit and Vegetable Market News Reports
- FV–29, FV–100, FV–100–1, FV–498–1, FV–498–2
- Weekly, Monthly, Daily
- Farms; Businesses or other for-profit; 4,002,174 responses; 132,340 hours
- Terry Long (202) 720–2175
- Animal and Plant Health Inspection Service
- 9 CFR Part 11—Horse Protection Regulations
- APHIS Form 7077
- Recordkeeping; On occasion; Monthly; Quarterly
- Businesses or other for-profit; 92,453 responses; 15,044 hours
- Dr. M. H. Book (301) 436–6491

New Collection

- Agricultural Stabilization Conservation Service
- 7 CFR Part 792, Debt Settlement Policies and Procedures
- CC–279
- On occasion
- Individuals or households; Farms; Small businesses or organizations; 750 responses; 125 hours
- Paula Roney (703) 305–1424

Larry K. Roberson,

Deputy Department Clearance Officer.

[FR Doc. 93–12530 Filed 5–26–93; 8:45 am]

BILLING CODE 3410–01–M

Animal and Plant Health Inspection Service

[Docket No. 93–053–1]

Availability of List of U.S. Veterinary Biological Product and Establishment Licenses and U.S. Veterinary Biological Product Permits Issued, Suspended, Revoked, or Terminated

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice pertains to veterinary biological product and establishment licenses and veterinary biological product permits that were issued, suspended, revoked, or terminated by the Animal and Plant Health Inspection Service, during the month of March 1993. These actions have been taken in accordance with the regulations issued pursuant to the Virus-Serum-Toxin Act. The purpose of this notice is to inform interested persons of the availability of a list of these actions and advise interested persons that they may request to be placed on a mailing list to receive the list.

FOR FURTHER INFORMATION CONTACT: Ms. Maxine Kitto, Program Assistant, Veterinary Biologics, BBEP, APHIS, USDA, room 838, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8245. For a copy of this month's list, or to be placed on the mailing list, write to Ms. Kitto at the above address.

SUPPLEMENTARY INFORMATION: The regulations in 9 CFR part 102, "Licenses For Biological Products," require that every person who prepares certain biological products that are subject to the Virus-Serum-Toxin Act (21 U.S.C. 151 *et seq.*) shall hold an unexpired, unsuspended, and unrevoked U.S. Veterinary Biological Product License. The regulations set forth the procedures for applying for a license, the criteria for determining whether a license shall be issued, and the form of the license.

The regulations in 9 CFR part 102 also require that each person who prepares biological products that are subject to the Virus-Serum-Toxin Act (21 U.S.C. 151 *et seq.*) shall hold a U.S. Veterinary Biologics Establishment License. The regulations set forth the procedures for applying for a license, the criteria for determining whether a license shall be issued, and the form of the license.

The regulations in 9 CFR part 104, "Permits for Biological Products," require that each person importing biological products shall hold an unexpired, unsuspended, and unrevoked U.S. Veterinary Biological Product Permit. The regulations set forth the procedures for applying for a permit, the criteria for determining whether a permit shall be issued, and the form of the permit.

The regulations in 9 CFR parts 102 and 105 also contain provisions

concerning the suspension, revocation, and termination of U.S. Veterinary Biological Product Licenses, U.S. Veterinary Biologics Establishment Licenses, and U.S. Veterinary Biological Product Permits.

Each month, the Veterinary Biologics section of Biotechnology, Biologics, and Environmental Protection prepares a list of licenses and permits that have been issued, suspended, revoked, or terminated. This notice announces the availability of the list for the month of March 1993. The monthly list is also mailed on a regular basis to interested persons. To be placed on the mailing list you may call or write the person designated under "FOR FURTHER INFORMATION CONTACT."

Done in Washington, DC, this 21st day of May 1993.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 93–12532 Filed 5–26–93; 8:45 am]

BILLING CODE 3410–34–P

Forest Service

Exempt Decision for Boundary Salvage Timber Sale From Appeal, Colville National Forest, WA

AGENCY: Forest Service, USDA.

ACTION: Notice to exempt decision from administrative appeal.

SUMMARY: This is a notification that the decision to implement Boundary Salvage Timber Sale on the Newport Ranger District on the Colville National Forest is exempt from appeal. This is in conformance with provisions of 36 CFR 217.4(a)(11) as published in the **Federal Register** on January 23, 1989 (54 FR 3342).

EFFECTIVE DATE: May 27, 1993.

FOR FURTHER INFORMATION CONTACT: Edward L. Schultz, Forest Supervisor, Colville National Forest, 765 South Main, Colville, Washington 99114, or Margaret L. Kain, District Ranger, Newport District Ranger, 315 N. Warren Ave., Newport, Washington, ph. (509) 447–7300.

SUPPLEMENTARY INFORMATION: In the winter/spring of 1990 there was a severe wind storm that damaged approximately 10 acres of timber on the Newport Ranger District. The proposed timber sale is located within a suitable stand for timber management and is authorized for timber harvesting under the Colville National Forest Land and Resource Management Plan. The management direction for this area, Management Area 5—Scenic/Timber, is to provide visual resource along major travel routes while providing wood products.

An interdisciplinary team determined the need to salvage the wind-damaged and disease-infested timber in the summer of 1991. Merchantable timber is the area average 15 inches. Rapid drying of dead trees, which results in cracking or "checking", especially in the white woods and smaller diameter trees, will quickly reduce merchantability as sawlogs.

In the fall of 1991, the Newport District Ranger proposed to salvage 180,000 board feet on 10 acres of the wind-thrown and disease-infested timber (formerly Cabinet View Salvage). At the same time, an analysis was started with letters being sent to individuals, State and Federal agencies, and other interested parties discussing the proposed salvage sales for fiscal year 1992. Issues identified included impacts on visual quality and long term site productivity. No trees would be removed from riparian areas, no new road construction would be needed, and adequate down moody material would be left on site. Visual quality was affected by the wind storm thus regenerating the stand as quickly as possible would minimize the long term visual effects.

It is also desirable to replant the site with healthy larch seedlings which will maintain the intolerant stand component. In some areas, the scarification of the soils by logging operations and the site preparation will facilitate the natural regeneration of existing stand. This will help establish a new stand more quickly. Using natural regeneration and replanting of larch seedlings will result in a more diverse stand in the future.

The area has been surveyed for cultural resources, with no new sites located. A biological evaluation of the area determined that the proposed project would not likely to adversely affect gray wolf, and sensitive animal species (lynx, wolverine) and sensitive plant species (mountain moonwort, mingan moonwart, northern moonwort and northern twayblade). There will be "no effect" on grizzly bear, woodland caribou, bald eagle, and peregrine falcon.

The Boundary Salvage Timber Sale and accompanying work is designed to accomplish the objectives as quickly as possible and to minimize any further loss of volume and resource damage. Based upon the environmental analysis and the need to expedite this salvage, I have determined that good cause exist to exempt this decision from administrative appeal (36 CFR part 217). Under this Regulation the following is exempt from appeal:

> Decisions related to rehabilitation of National Forest Systems lands and recovery of forest resources resulting from natural disasters or other natural phenomena, such as * * * severe wind * * * when the Regional Forester * * * determines and gives notice in the **Federal Register** that good cause exists to exempt such decisions from review under this part.

After publication of this notice in the **Federal Register**, the Decision Memo for Boundary Salvage Timber Sale may be signed by the District Ranger. This project will not be subject to review under 36 CFR part 217.

Dated: May 19, 1993.

Richard A. Ferraro,

Deputy Regional Forester.

[FR Doc. 93–12565 Filed 5–26–93; 8:45 am]

BILLING CODE 3410–11–M

Exempt Decision for Whiskey Salvage Timber Sale From Appeal, Fremont National Forest, Bly, OR

AGENCY: Forest Service, USDA.

ACTION: Notice to exempt decisions from administrative appeal.

SUMMARY: This is a notification that the decision to implement the Whiskey Salvage Timber Sale on the Bly Ranger District of the Fremont National Forest is exempted from appeal. This is in conformance with provisions of 36 CFR 217.4(a)(11) as published in the **Federal Register** on January 23, 1989 (54 FR 3342).

DATES: May 27, 1993.

FOR FURTHER INFORMATION CONTACT: Charles R. Graham, Forest Supervisor, Fremont National Forest, 524 North G Street, Lakeview, Oregon 97630, ph. (503) 947–2151.

SUPPLEMENTARY INFORMATION: During recent years, southern Oregon has experienced a severe drought. Increased insect and disease activity coupled with increased stress brought about by the drought conditions has resulted in increasing mortality on the southern portion of the Fremont National Forest. Mortality is primarily concentrated in the white fir component of the stands. In the Whiskey Salvage Analysis area, it is estimated that 20 to 60 percent of the white fir is dead, the majority dying within the last year. Most of the area affected is commercial timber land designated as Management Area 5 (Timber and Range Production) by the Forest Plan. An analysis team was assigned to assess damage to the resources and to begin an analysis of possible management practices for

treating the area. From January to May 1993, the team surveyed the analysis area, initiated project scoping, and completed the analysis of alternative treatments. The analysis team identified the need to salvage the dead and dying trees as soon as possible to prevent loss of natural resource product value and volume.

Neither public nor internal scoping for this proposal identified any significant issues. Most responses received expressed a concern that the timber be harvested as soon as possible to maximize utilization of the timber. All issues raised would be adequately addressed through project design and by following Standards and Guidelines in the Fremont National Forest Land and Resource Management Plan (Forest Plan).

Based on the scoping and initial analysis done so far, an interdisciplinary team developed three alternatives to be considered in detail for the analysis area: (1) No-action; (2) salvage dead and dying trees; and (3) rehabilitation without salvage. The effects of the alternatives are disclosed in the analysis file and environmental assessment.

Under alternative 2, the salvage would produce about 4.0 million board feet from about 5,400 acres. Approximately 1.3 miles of roads would be reconstructed to facilitate harvest operations. No new road construction would be done. The proposed harvest alternative has been designed to meet applicable Forest Plan Standards and Guidelines. Harvesting the dead and dying timber would meet both the Forest Plan objectives and the purpose for salvage.

The Whiskey Salvage and accompanying work is designed to accomplish the objectives as quickly as possible and minimize the amount of salvage volume lost. Based upon the environmental assessment and Finding of No Significant Impact (FONSI) and the need to expedite this salvage, I have determine that good cause exist to exempt this decision from appeal (36 CFR part 217). Under this Regulation, the following is exempt from appeal:

> Decisions related to rehabilitation of National Forest System Lands and recovery of Forest resources resulting from natural disasters or other natural phenomena, * * * when the Regional Forester * * * determines and gives notice in the **Federal Register** that good cause exists to exempt such decisions from review under this part.

After publication of this notice in the **Federal Register**, the Decision Notice/FONSI for the Whiskey Salvage Sale may be signed by the District Ranger. The harvest of dead and dying trees and the road reconstruction contained in this project not be subject to review under 36 CFR part 217.

Dated: May 19, 1993

Richard A. Ferraro,

Deputy Regional Forester.

[FR Doc. 93–12567 Filed 5–26–93; 8:45 am]

BILLING CODE 3410–11–M

Exempt Decision for Thunder Salvage Timber Sale From Appeal, Okanogan National Forest, WA

AGENCY: Forest Service, USDA.

ACTION: Notice to exempt decision from administrative appeal.

SUMMARY: This is a notification that the decision to implement the Thunder Salvage Timber Sale in the area of Lightning Creek Ridge on the Okanogan National Forest is exempted from appeal. This is in conformance with provisions of 36 CFR 217.4(a)(11) as published in the **Federal Register** on January 23, 1989 (54 FR 3342).

EFFECTIVE DATE: May 22, 1993.

FOR FURTHER INFORMATION CONTACT: Allen N. Garr, District Ranger, Twisp Ranger District, P.O. Box 188, Twisp, Washington 98856, ph. (509) 997–2131.

SUPPLEMENTARY INFORMATION: In June of 1992, a wind storm blew down timber in the area of Lightning Creek Ridge on the Twisp Ranger District of the Okanogan National Forest. This blow-down is located on approximately 100 acres of land suitable for timber production. The area is located in Management Areas 14 and 25. The management goals for Management Area 14 is to provide a diversity of wildlife habitat, including deer winter range, while growing and producing merchantable wood fiber. The management goal for Management Area 25 is to intensively manage the timber and range resources.

In June 1992, the Twisp District Ranger proposed to salvage the blow-down timber. In the fall and winter of 1992–93 an interdisciplinary team (IDT) surveyed the affected area to assess the damage to the resources that had occurred. The IDT identified the need to salvage the blow-down in as short a time as possible so the logs would remain merchantable. Merchantable timber in the area averages 14 inches in diameter with relatively little defect.

The IDT began with an initial scoping session in November. After press releases and contacts with individuals, State and Federal agencies, and other interested parties, two major issues were identified: (1) Minimize loss of commercial value of blow-down timber by timely salvage, and (2) concern for impacts on soil conditions especially soil compaction.

The IDT developed two alternatives to analyze, including the No-Action alternative. The proposed salvage fits within category 4 of section 31.2 of Forest Service Handbook 1909.15. Therefore, this action may be categorically excluded from documentation in an environmental impact statement or an environmental assessment. This sale will produce about 330,000 board feet of timber from about 100 acres. No new road construction would be necessary to implement the project. All skidding would be done by tractor; designated skid trails will limit soil compaction to forest plan standards. Harvest prescription would be a "salvage cut" removing only those trees that have blown down or been severely damaged by wind.

The Thunder Salvage and accompanying work is designed to accomplish the objectives as quickly as possible and minimize the amount of salvage volume lost and resource damage. Based upon the environmental analysis and the need to expedite this salvage, I have determined that good cause exists to exempt this decision from administrative appeal (36 CFR part 217). Under this Regulation the following is exempt from appeal:

> Decisions related to rehabilitation of National Forest System lands and recovery of forest resources resulting from natural disasters or other natural phenomena, such as wildfires * * * when the Regional Forester * * * determines and gives notice in the **Federal Register** that good cause exists to exempt such decisions from review under this part.

After publication of this notice in the **Federal Register**, the Decision Memo for the Thunder Salvage Timber Sale may be signed by the District Ranger. This project will not be subject to review under 36 CFR part 217.

Dated: May 19, 1993.

Richard A. Ferraro,

Deputy Regional Forester.

[FR Doc. 93–12566 Filed 5–26–93; 8:45 am]

BILLING CODE 3410–11–M

Lincoln National Forest: Alamogordo, NM; Legal Notice of Appealable Decisions

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: Deciding Officers on the Lincoln National Forest will publish notice of decisions subject to administrative appeal under 36 CFR

part 217 in the legal notice section of the newspapers listed in the Supplementary Information section of this notice. As provided in 36 CFR 217.5, such notice shall constitute legal evidence that the agency has given timely and constructive notice of decisions that are subject to administrative appeal. Newspaper publication of notices of decisions is in addition to direct notice to those who have requested notice in writing and to those known to be interested in or affected by a specific decision.

DATES: Use of these newspapers for purposes of publishing legal notices of decision subject to appeal under 36 CFR part 217 shall begin May 15, 1993.

FOR FURTHER INFORMATION CONTACT: Ron Hannan, Land Management Planner, Lincoln National Forest, Federal Building, 1101 New York Avenue, Alamogordo, NM 88310, (505) 437–6030.

SUPPLEMENTARY INFORMATION: Deciding Officers on the Lincoln National Forest will give legal notice of decisions subject to appeal under 36 CFR part 217 in the following newspapers, which are listed by Forest Service Administrative Unit. The newspaper listed below shall constitute legal evidence that the agency has given timely and constructive notice of decisions that are subject to appeal. Further, timeframes for appeal will be based also on publication of notice of decision in the primary newspaper by agency as follows:

Decisions by the Forest Supervisor

Alamogordo Daily News, published in Alamogordo, Otero County, New Mexico, for decisions affecting National Forest System lands in the State of New Mexico for decisions of Forest-wide impact.

Decision by District Rangers

Cloudcroft Ranger District: Alamogordo Daily News, published in Alamogordo, Otero County, New Mexico, for decisions affecting National Forest System lands in the State of New Mexico for decisions of District-wide impact.

Guadalupe Ranger District: Carlsbad Current Argus, published in Carlsbad, Eddy County, New Mexico, for decisions affecting National Forest System lands in the State of New Mexico for decisions of District-wide impact.

Mayhill Ranger District: Alamogordo Daily News, published in Alamogordo, Otero County, New Mexico, for decisions affecting National Forest System lands in the State of New Mexico for decisions of District-wide impact.

Smokey Bear Ranger District: Ruidoso News, published in Ruidoso, Lincoln County, New Mexico, for decisions affecting National Forest System lands in the State of New Mexico for decisions of District-wide impact.

Dated: May 14, 1993.

Lee Poague,

Forest Supervisor.

[FR Doc. 93–12528 Filed 5–26–93; 8:45 am]

BILLING CODE 3410–11–M

Bass Lake Dam Reconstruction; Bitterroot National Forest, Ravalli County, MT

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare environmental impact statement.

SUMMARY: The USDA, Forest Service, will prepare an environmental impact statement (EIS) to disclose the environmental effects of the Bass Lake Dam reconstruction. The project is located approximately 8 miles west of the Bass Creek Trailhead, and about 5 miles within the Selway-Bitterroot Wilderness. The dam is located in the S.E. ¼, section 30, T. 10 N., R. 21 W. This is approximately 11 air miles northwest of Stevensville, Montana.

The purpose and need for the proposal is to reconstruct the dam to comply with required dam safety standards and provide irrigation water to affected farm lands. The proposal is a direct result of the Federal Dam Inspection Act of 1972 (Pub. L. 62–367) and the Federal Guidelines for Dam Safety of 1979.

The proposed action requests helicopter use and ground access for two pieces of heavy equipment. The Bass Creek Trail was previously a road constructed in 1952, to access the dam for reconstruction. The trail may need improvement to provide access for heavy equipment to the dam. Helicopter transport of equipment and supplies will be evaluated using lifting capacity, economics, and resource impacts as parameters.

The reconstruction will not change the dam's water storage capacity, lake surface level, or historic water flows. The purpose of the work is to meet current dam safety standards. Proposed reconstruction would utilize "on site" material sources which includes 2,300 cubic yards of rip-rap for erosion control on the face of the dam and in the spillway, and 53 cubic yards of fill material on the face of the dam. The rip-rap source is a loose rock slope approximately ¼-mile from the dam. The fill material will be removed from below the high water line and from an existing borrow site used in the previous dam construction. Other work consists of widening the spillway by 15 feet and inserting an outlet pipe liner (220 ft. × 2 ft.) through the existing pipe.

This project-level EIS will tier to the Bitterroot National Forest Plan and Final EIS (September 1987), the Region One Wilderness Dam Policy (June 1992), and the Selway-Bitterroot Wilderness General Management Direction (1992 Update) which provides overall guidance of all land management activities on the Bitterroot National Forest.

DATES: Written comments and suggestions should be received on or before July 12, 1993.

ADDRESSES: Submit written comments and suggestions on the proposed management activities or request to be placed on the project mailing list to Leslie Weldon, District Ranger, Stevensville Ranger District, Bitterroot National Forest, 88 Main Street, Stevensville, Montana, 59870.

FOR FURTHER INFORMATION CONTACT: Bruce Fahrni, EIS Team Leader, Phone (406) 777–5461.

SUPPLEMENTARY INFORMATION: The proposed reconstruction will not make any changes in water storage capacity, like surface level, or historic water flows. The Bass Lake Reservoir Company is proposing the following reconstruction, using "on site" material sources to make the dam safe for handling the "probable maximum flood." The major items are: (1) Modify the top of the dam and repair eroded areas on the upstream face of the dam, requiring the equivalent of 5 dump truck loads (53 cubic yards (cy)) of fill material; (2) Add 1,700 cy of rock rip-rap to the upstream face, providing a protective cover from erosion, and reinforce the spillway outlet with the equivalent of 60 dump truck loads (600 cy) of rip-rap; (3) Widen the existing spillway about 15 ft.; and (4) insert an outlet pipe liner (220 ft. × 2 ft.) through the existing pipe.

The major equipment requested includes: (1) a rubber tire loader or a CAT D6D tracked dozer, approximate length/width/weight = 20′ × 9′/37,000 lbs. (2) CAT 225B tracked excavator, length/width/weight = 32′3″ × 10′0″/60,000 lbs. (3) helicopter for supply and/or crew transport.

Access would be on a road constructed and last used in 1952–53. This road has been used and maintained as a trail since its inclusion into the Wilderness Preservation System in 1964.

Time estimated for the work is 10 days for the reconstruction, plus some

additional time for equipment transportation. The estimated starting date is August 15, 1994. This request is for a one-time authorization to permit the above reconstruction. It is a separate authorization from the existing permit which authorizes the dam and its routine operation and maintenance.

The primary purpose of the Bass Lake Dam renovation project is to bring this designated "high hazard" dam into compliance with current State and Federal Dam Safety Standards. The rehabilitation of the Bass Lake Dam will correct safety deficiencies identified by the Corps of Engineers (COE), the U.S. Forest Service (USFS) and the Montana Department of Natural Resources and Conservation (DNRC).

The National Dam Inspection Act of August 8, 1972, Public Law 92–367, authorizes the Secretary of the Army, through the COE, to conduct safety inspections of non-federal dams throughout the United States. Inspections were conducted using the "Recommended Guidelines for Safety Inspection of Dams."

Under the authority of the National Dam Inspection Act, the COE, USFS, and the DNRC have all classified Bass Lake Dam as a "High Hazard" dam. High hazard dams are required to pass the "Probable Maximum Flood" (PMF) without over topping the dam. PMF is defined as: "The flood that may be expected from the most severe combination of critical meteorological and hydrologic conditions that are reasonably possible in the region and is derived from probable maximum precipitation." The hazard potential is based on "the loss of life or property that could occur if the structure failed." The failure of Bass Lake Dam would affect a USFS campground, at least 2 residences, several private and County roads and bridges, and several hundred acres of agricultural and ranch lands.

The Forest Service requires all dam structures authorized by permit to be maintained to standards ensuring safe and satisfactory performance. Permitted dams are inspected for operation and maintenance deficiences at frequencies related to their size and storage capacity. High hazard dams are inspection annually.

According to Montana House Bill 382, passed in 1991, dams on Federal lands are exempt from the Montana Dam Safety Act of 1985. They are regulated by the Federal Guidelines for Dam Safety.

Bass Lake Dam Background

The original Bass Lake Dam was built in 1887. It provided irrigation water for farm lands in the Bitterroot Valley, and was reconstructed in 1918. The existing dam was built in 1952–53. It is an earth fill dam 43 feet high and 300 feet long, with a 27-feet wide spillway. The reservoir holds 3,600 acre-feet of water. The maximum irrigation flow required from this dam is 45 cubic feet per second (cfs).

A road built in 1952 for heavy equipment access to the dam has become overgrown, and some portions have sloughed in. It has not been used by motorized equipment since the passage of the Wilderness Act in 1964. If heavy equipment is permitted for the currently proposed dam repairs, and ground access approved, then the old road would require some localized heavy maintenance. The road access would include two crossings of Bass Creek, and the traversing of steep ground and erosive slopes in some sections.

Nature of Decision

The intent of the proposed projects is: (1) To prevent the dam from breaking or leaking, which could cause a catastrophic flood downstream; and (2) to ensure a continuous, adequate supply of irrigation water for affected farm land in the Bitterroot Valley. The decision to be made will respond to the following:

(1) How will reconstruction work be permitted to meet Federal dam safety requirements?

(2) What is the minimum equipment necessary to accomplish this work?

(3) How will access be provided for any essential equipment needs?

(4) What mitigation measures will be required to protect resources such as wilderness, watershed, fisheries, cultural sites, sensitive plants, and recreation?

This decision will be guided by the direction provided by the National Dam Inspection Act, Federal Guidelines for Dam Safety, the Wilderness Act, and Forest Service Policy.

The Forest Service will consider a range of alternatives. One of these will be the "no action" alternative, in which none of the proposed activities would be implemented. Additional alternatives will examine varying levels for the proposed activities to achieve the proposal's purposes, as well as to respond to the issues and other resource values.

The EIS will analyze the direct, indirect, and cumulative environmental effects of the alternatives. Past, present, and projected activities on both private and National Forest lands will be considered. The EIS will disclose the analysis of site-specific mitigation measures and their effectiveness.

Public participation is an important part of the analysis, commencing with the initial scoping process (40 CFR 1501.7), which was initiated in May 1992 and occurring again in January through February 1993. In addition, the public is encouraged to visit with Forest Service officials at any time during the analysis and prior to the decision. The Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. No public meetings are scheduled at this time.

Comments from the public and other agencies will be used in preparation of the Draft EIS. The scoping process will be used to:

1. Identify potential issues.
2. Identify major issues to be analyzed in depth.
3. Eliminate minor issues or those which have been covered by a relevant previous environmental analysis, such as the Bitterroot Forest Plan EIS.
4. Identify alternatives to the proposed action.
5. Identify potential environmental effects of the proposed action and alternatives (i.e., direct, indirect, and cumulative effects).
6. Determine potential cooperating agencies and task assignments.

Some public comments have already been received in conjunction with the development of the "Region 1 Wilderness Dam Policy" and a public meeting held in January of 1993 to solicit public comments on this proposal. These comments will be included into the DEIS.

Preliminary Issues

The following preliminary issues have been identified:

1. Dam Safety

Although there is no imminent danger of Bass Lake Dam breaching, reconstruction is necessary to repair existing damage, to prevent further deterioration, and to meet safety standards.

How will safety and engineering standards be provided for and monitored to assure compliance with national dam safety standards, and manage the physical impacts to the ground, vegetation, water, sound, and visual resources? What are the minimum tools needed to complete the project?

2. Wilderness Resource Protection and Recreation

A major challenge will be administering this special use

authorization while protecting the wilderness resource.

To what extent will wilderness resource impacts occur?

How will the permittee access the project site and what mitigation will be necessary?

What effect will the reconstruction activity have on recreation?

3. Watershed and Fisheries

What are the impacts on soil, vegetation and water resources associated with access and dam renovation?

Stream flow in Bass Creek, below the dam, may be temporarily affected by the proposed repair and maintenance. How will drawing down the reservoir or diverting flow to facilitate work effect stream channel morphology, sediment flushing, irrigation, riparian plants and fisheries downstream?

4. Sensitive Plants

A sensitive plant has been identified in the proximity of Bass Lake Dam. How will Lesquerella humilis (Few-Seeded Bladderpod) be protected?

5. Social and Economic Costs and Benefits

What are the local, Regional, and National public benefits and costs associated with the project?

How will the costs of reconstruction be considered in evaluating alternatives?

The Draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and available for public review in August of 1993. At that time, the EPA will publish a Notice of Availability of the Draft EIS in the **Federal Register.** The comment period on the Draft EIS will be 45 days from the date the EPA's notice of availability appears in the **Federal Register.** It is very important that those interested in management of the Bass Lake Dam reconstruction participate at that time. To be most helpful, comments on the Draft EIS should be as site-specific as possible. The Final EIS is scheduled to be completed by November 1993.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day scoping comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in developing issues and alternatives.

To assist the Forest Service in identifying and considering issues on the proposed action, comments should be as specific as possible. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

I am the responsible official for this environmental impact statement. My address is Bitterroot National Forest, 1801 N. First St., Hamilton, MT 59840.

Dated: May 20, 1993.

Stephen K. Kelly,

Forest Supervisor.

[FR Doc. 93–12636 Filed 5–26–93; 8:45 am]

BILLING CODE 3410–11–M

Checkerboard Land Exchange; Kootenai National Forest—Lincoln, Flathead and Sanders Counties, MT

AGENCY: Forest Service, USDA.

ACTION: Revised Notice; Intent to Prepare Environmental Impact Statement.

SUMMARY: The original Notice of Intent for the Checkerboard Land Exchange was published in the **Federal Register,** Volume 56, No. 80, April 25, 1991. The scope of the land exchange has expanded due to more non-federal lands to be acquired and a different set of federal lands to be conveyed.

The USDA Forest Service, Kootenai National Forest (KNF), with the assistance from Plum Creek Timber Company, Limited Partnership (PCTC), will prepare an environmental impact statement (EIS) for a proposal to exchange National Forest land for PCTC land. The project is located approximately mid-way between Libby and Kalispell, Montana. This exchange is proposed pursuant to the General Exchange Act of March 20, 1992, as amended, the Federal Land Policy Act of October 21, 1976 and the Act of January 30, 1929.

DATES: Comments concerning the scope of the analysis should be received in writing by July 1, 1993, so they may be considered in the Draft Environmental Impact Statement.

ADDRESSES: Send written comments to Robert L. Schrenk, Forest Supervisor, Kootenai National Forest, Supervisor's Office, 506 Hwy. 2 West, Libby, Montana 59923.

FOR FURTHER INFORMATION CONTACT: Ted Andersen, Project Coordinator, Kootenai National Forest, Supervisor's Office, telephone (406) 293–6211.

SUPPLEMENTARY INFORMATION: PCTC owns approximately 49 sections of land, each containing approximately 640 acres, within the Silver Butte, East Fisher, West Fisher and Vermillion drainages. These sections alternate with National Forest sections, and together they comprise what is referred to as the "Checkerboard" area on the KNF and Lolo National Forest. The majority of the area is unroaded, and is characterized by a variety of topographic land types from steep, rugged slopes to lush riparian creek and river bottoms. Some of the area that burned in the early part of the century is covered by dense, lodgepole pine stands, while the unburned area support virgin stands of cedar, white pine, western larch, and Douglas-fir.

The majority of the checkerboard area is in the Cabinet-Yaak ecosystem of the threatened grizzly bear. The checkerboard pattern is not conducive to fully providing for the needs of the grizzly bear. This land exchange proposal is designed to enhance the recovery of the grizzly bear by consolidating the federal lands, and providing a secure habitat for the grizzly bear.

The federal lands in the checkerboard area are primarily designated as management area 2, semi-primitive, non-motorized recreation. Roadless recreation management objectives identified in the Kootenai Forest Plan are in conflict with the land management objectives of PCTC, which entail logging and road construction on their checkerboard lands. Another purpose of this proposal is to consolidate the federal lands in the checkerboard area, so that the Forest Service can provide a roadless recreation that would not be affected by private activities.

The Notice of Intent (NOI) published in April of 1992, proposed to acquire approximately half of the checkerboard area primarily because PCTC did not have access to the mineral rights for

their lands. In December 1992, Meridian Minerals quit claim deeded unto PCTC all of their rights, title and interest to the reserved minerals on all of the lands associated with the Checkerboard area. This action removed a significant barrier to proposing to include all PCTC lands in an exchange. The oil and gas rights are still not owned by PCTC, therefore these rights at this time would be outstanding rights if the exchange were approved. The KNF continues to work with Meridian Oil and Gas to facilitate exchange of these rights at the same time a land exchange is approved.

In addition, the NOI of April 1992 described different federal lands that would be conveyed to PCTC. Based on extensive public involvement a different set of federal lands are proposed for conveyance. The lands proposed for conveyance are based on meeting the following criteria (1) tracts that would have minimal effects on big game; (2) lands primarily from the unsuitable timber base; (3) lands that would minimize the effects on public access; (4) lands that are free of cultural resources; and (5) lands which would minimize management conflicts with adjacent landowners.

The process of developing this final proposal evolved from effective implementation of the scoping process. Based on this process, many issues were raised and resolved through development of the final proposal. The issues that remain partially unresolved and which will be used to develop and evaluate alternatives are:

- Change in recreational access. Consolidation of private lands may result in restricted access to areas that have been available to the public in the past.
- Changes in wildlife habitat and security. Future harvest and roading on lands acquired or retained by PCTC may reduce the available security areas for big game.
- Economic changes, including county incomes, capital expenditures, timber commodity outputs, employment, property values, and land use priorities.

Property that the Forest Service will consider exchanging:

Federal lands	Acres by legal subdivision	Acres by section
Wolf Creek; T. 30 N., R. 26 W., P.M., Lincoln County		
Sec. 1:		
Lot 1	35.92	
Lot 2	35.28	
Lot 3	35.57	
Lot 4	35.22	
S½N½	160.00	
S½	320.00	
Kootenai N.F.	616.99	
Flathead N.F.	5.00	621.99
Sec. 8:		
Lot 1	39.89	
Lot 2	39.68	
Lot 3	39.68	
Lot 4	39.66	
Lot 5	39.70	
Lot 6	39.82	
Lot 7	37.16	
Lot 8	37.45	
Lot 9	37.79	
Lot 10	38.11	
S½NE¼	80.00	
SE¼NW¼	40.00	
NE¼SW¼	40.00	
N½SE¼	80.00	628.94
Sec. 20:		
N½		320.00
Sec. 35:		
SE¼		160.00
Wolf Creek; T. 29 N., R. 26 W., P.M., Lincoln County		
Sec. 2:		
Lot 1	39.27	
Lot 2	39.03	
Lot 3	38.77	
Lot 4	38.53	
S½N½	160.00	
S½	320.00	635.60
Sec. 14:		
All		640.00
Wolf Creek; T. 31 N., R. 26 W., P.M., Lincoln County		
Sec. 36:		
All		640.00

Federal lands	Acres by legal subdivision	Acres by section
Richards Mountain; T. 29 N., R. 28 W., P.M., Lincoln County		
Sec. 4:		
Lot 1	39.15	
Lot 2	39.05	
Lot 3	38.95	
Lot 4	38.85	
S½N½	160.00	
S½	320.00	636.00
Sec. 6:		
S½		320.00
Tony Peak; T. 30 N., R. 29 W., P.M., Lincoln County		
Sec. 10:		
All		640.00
Sec. 14:		
All		640.00
Sec. 19:		
Lot 4	26.41	
SE¼SW¼	40.00	
S½SE¼	80.00	146.41
Sec. 30:		
Lot 1	26.49	
Lot 2	26.46	
Lot 3	26.44	
Lot 4	26.41	
E½W½	160.00	
E½	320.00	585.80
Tony Peak; T. 30 N., R. 30 W., P.M. Lincoln County		
Sec. 21:		
SE¼SE¼		40.00
Sec. 22:		
Lot 3	40.75	
Lot 4	40.81	
S½NW¼	80.00	
S½	320.00	481.56
Sec. 24:		
Lot 1	40.06	
Lot 2	40.19	
Lot 3	40.31	
Lot 4	40.44	
S½N½	160.00	
S½	320.00	641.00
Sec. 26:		
E½NE¼	80.00	
E½W½NE¼	40.00	
E½SW¼SW¼NE¼	5.00	
N½NW¼	80.00	
SW¼NW¼	40.00	
N½SE¼NW¼	20.00	
SW¼SE¼NW¼	10.00	
W½SE¼SE¼NW¼	5.00	
W½NE¼SW¼	5.00	
W½NE¼SW¼	20.00	
SE¼NE¼SW¼	10.00	
SE¼SW¼	40.00	
NE¼SE¼	40.00	
NE¼NW¼SE¼	10.00	
E½NW¼NW¼SE¼	5.00	
S½NW¼SE¼	20.00	
S½SE¼	80.00	510.00
Sec. 34:		
SE¼		160.00
Sec. 36:		
S½N½, N½S½		320.00

Federal lands	Acres by legal subdivision	Acres by section
Fisher Mountain; T. 29 N., R. 30 W., P.M., Lincoln County		
Sec. 26:		
Lot 1	39.27	
Lot 2	39.47	
Lot 3	39.69	
Lot 4	39.89	
S½N½	160.00	
S½	320.00	638.32
Fisher Mountain; T. 29 N., R. 29 W., P.M., Lincoln County		
Sec. 30:		
Lot 1	32.80	
Lot 2	33.03	
Lot 3	33.27	
Lot 4	33.50	
E½W½	160.00	
E½	320.00	612.60
Sec. 32:		
SW¼NE¼	40.00	
NW¼NW¼	40.00	
S½NW¼	80.00	
SW¼	160.00	
N½SE¼	80.00	
SW¼SE¼	40.00	440.00
Fisher Mountain; T. 28 N., R. 29 W., P.M., Lincoln County		
Sec. 3:		
Lot 3	83.43	
NW¼SW¼	40.00	
S½SW¼	80.00	153.43
Sec. 4:		
Lot 1	33.62	
Lot 2	33.86	
Lot 3	34.10	
Lot 4	34.34	
S½N½	160.00	
S½	320.00	615.92
Sec. 6:		
Lot 1	33.62	
Lot 2	33.65	
Lot 3	33.68	
Lot 4	25.06	
Lot 5	30.00	
Lot 6	30.29	
Lot 7	30.58	
SE¼NW¼	40.00	
S½NE¼	80.00	
E½SW¼	80.00	
SE¼	160.00	576.88
Sec. 9:		
All	640.00	
Sec. 10:		
S½N½, S½	480.00	
Sec. 15:		
NW¼	160.00	
NE¼SW¼	40.00	200.00
Calx Mountain; T. 29 N., R. 28 W., P.M., Lincoln County		
Sec. 26:		
All		640.00
Sec. 28:		
All		640.00
Calx Mountain; T. 28 N., R. 27½ W., P.M., Lincoln County		
Sec. 14:		
All		460.00

Federal lands	Acres by legal subdivision	Acres by section
Sec. 26:		
N½		320.00
Calx Mountain; T. 28 N., R. 28 W., P.M., Lincoln County		
Sec. 4:		
Lot 1	31.43	
Lot 2	31.63	
Lot 3	31.81	
Lot 4	32.01	
S½N½	160.00	
S½	320.00	606.88
Sec. 9:		
E½		320.00
Snell Mountain; T. 28 N., R. 28 W., P.M., Lincoln County		
Sec. 21:		
E½		320.00
Sec. 22:		
All		640.00
Sec. 30:		
Lot 1	33.85	
Lot 2	33.74	
Lot 3	33.64	
Lot 4	33.53	
E½W½	160.00	
E½	320.00	614.76
Sec. 32:		
S½		320.00
Snell Mountain; T. 27 N., R. 28 W., P.M., Lincoln County		
Sec. 4:		
Lot 1	25.88	
Lot 2	25.99	
Lot 3	26.11	
Lot 4	26.22	
Lot 5	40.00	
Lot 6	40.00	
Lot 7	40.00	
Lot 8	40.00	
Lot 9	40.00	
Lot 10	40.00	
Lot 11	40.00	
Lot 12	40.00	
Lot 13	40.00	
Lot 14	40.00	
Lot 15	40.00	
Lot 16	40.00	
S½	320.00	904.20
Meadow Peak; T. 27 N., R. 26 W., Flathead County		
Sec, 18:		
Lot 1	30.47	
Lot 2	32.74	
Lot 3	33.86	
Lot 4	34.10	
E½W½	160.00	
E½	320.00	611.17
Sec. 28:		
N½	320.00	
W½SW¼	80.00	400.00
Meadow Peak; T. 27 N., R. 27 W., P.M., Lincoln County		
Sec. 14:		
All		640.00

Federal lands	Acres by legal subdivision	Acres by section
Kenelty Mountain; T. 27 N., R. 29 W. P.M., Lincoln County		
Sec. 3:		
Lot 1		37.40
Sec. 2:		
Lot 1	39.28	
Lot 2	39.23	
Lot 3	39.19	
Lot 4	36.89	
Lot 5	37.48	
Lot 6	37.28	
Lot 7	37.21	
S½NE¼	80.00	
SW¼NW¼	40.00	
E½SW¼	80.00	
SE¼	160.00	626.56
Sec. 13:		
All		640.00
Sec. 34:		
All		640.00
South McGregor; T. 26 N., R. 26 W., P.M., Flathead County		
Sec. 10:		
All		640.00
Sec. 22:		
All		
Kootenai N.F.	512.00	
Lolo N.F.	128.00	640.00
McGinnis Meadows; T. 26 N., R. 28 W., P.M., Lincoln County		
Sec. 14:		
SW¼NW¼	40.00	
SW¼	160.00	
NW¼SE¼	40.00	
S½SE¼	80.00	320.00
Sec. 20:		
W½E½NW¼	40.00	
W½W½	160.00	
W½NE¼SW¼	20.00	
SE¼NE¼SW¼	10.00	
SE¼SW¼	40.00	270.00
Sec. 32:		
W½W½NE¼NE¼	10.00	
NW¼NE¼	40.00	
N½NE¼SW¼NE¼	5.00	
W½SW¼NE¼	20.00	
SE¼SW¼NE¼	10.00	
S½SE¼NE¼	20.00	
W½	320.00	
SE¼	160.00	585.00
Sec. 34:		
All		640.00
McGinnis Meadows; T. 26 N., R. 29 W., P.M., Lincoln County		
Sec. 24:		
All		640.00
Sec. 36:		
E½		320.00
containing 25,620.42 acres, more or less.		

Property that Plum Creek Timber Company, L.P. will consider exchanging:

Barren Peak; T. 25 N., R. 30 W., P.M., Lincoln County		
Sec. 1:		
Lot 1	42.20	

Federal lands	Acres by legal subdivision	Acres by section
Lot 2	42.07	
Lot 3	41.95	
Lot 4	41.82	
S½N½	160.00	
SW¼	160.00	
S½SE¼	80.00	
NE¼SE¼	40.00	
N½NW¼SE¼	20.00	
SW¼NW¼SE¼	10.00	638.04
(NOTE: Less 10 acres to retain electronic site.)		
Sec. 3:		
Lot 1	41.27	
Lot 2	41.18	
Lot 3	41.08	
Lot 4	40.99	
S½N½	160.00	
S½	320.00	644.52
Sec. 7:		
Lot 1	14.26	
Lot 2	14.29	
Lot 3	14.37	
Lot 4	34.73	
Lot 5	14.33	
Lot 6	14.36	
Lot 7	49.81	
NE¼NE¼	160.00	
E½W½	160.00	476.15
Sec. 11:		
All Portion in Lincoln County		628.00
Barren Peak; T. 25 N., R. 30 W., P.M., Sanders County		
Sec. 11:		
All.		
Portion in Sanders County		12.00
Lyons; T. 25 N., R. 30 W., P.M., Sanders County		
Sec. 13:		
W½		320.00
Sec. 15:		
E½.		
Portion in Sanders County		3.00
Sec. 19:		
Lot 1	14.10	
Lot 2	14.13	
Lot 3	14.17	
Lot 4	14.20	
E½W½	160.00	
E1/2	320.00	
Portion in Sanders County		256.00
Lyons; T. 25 N., R. 30 W., P.M., Lincoln County		
Sec. 15:		
E½.		
Portion in Lincoln County		317.00
Sec. 17:		
Lot 2	20.59	
Lot 3	0.05	
Lot 4	39.90	
Lot 5	19.68	
SW¼	160.00	240.22
Sec. 19:		
Lot 1	14.10	
Lot 2	14.13	
Lot 3	14.17	
Lot 4	14.20	
E½W½	160.00	
E½	320.00	
Portion in Lincoln County		280.60

Federal lands	Acres by legal subdivision	Acres by section
Sec. 23:		
All.		
Portion in Lincoln County		68.00

Lyons; T. 25 N., R. 30 W., P.M., Sanders County

Sec. 23:		
All.		
Portion in Sanders County		572.00
Sec. 25:		
All		640.00
Sec. 27:		
Lot 1	39.26	
Lot 2	37.09	
Lot 3	38.94	
Lot 4	39.77	
E½NE¼	80.00	
W½NW¼	80.00	
S½	320.00	635.06
Sec. 29:		
All		640.00
Sec. 31:		
Lot 1	14.51	
Lot 2	14.51	
Lot 3	14.53	
Lot 4	14.53	
E½W½	160.00	
E½	320.00	538.08
Sec. 33:		
All		640.00
Sec. 35:		
All		640.00

Barren Peak; T. 26 N., R. 30 W., P.M., Lincoln County

Sec. 1:		
All		640.00
Sec. 3:		
All		640.00
Sec. 5:		
Lot 1	34.09	
Lot 2	1.90	
NW¼	160.00	
SW¼NE¼	40.00	
NE¼SW¼	40.00	
NW¼SE¼	40.00	315.99
Sec. 9:		
All		640.00
Sec. 11:		
All		640.00
Sec. 13:		
All		640.00
Sec. 15:		
All		640.00
Sec. 17:		
All		640.00
Sec. 21:		
All		640.00
Sec. 23:		
All		640.00
Sec. 25:		
All		640.00
Sec. 27:		
All		640.00
Sec. 29:		
All		640.00
Sec. 31:		
Lot 1	29.18	
Lot 2	28.75	
Lot 3	28.32	
Lot 4	40.00	

Federal lands	Acres by legal subdivision	Acres by section
Lot 5	40.00	
Lot 6	40.00	
Lot 7	40.00	
Lot 8	40.00	
Lot 9	40.00	
Lot 10	27.89	
Lot 11	27.46	
Lot 12	40.00	
Lot 13	40.00	
Lot 14	40.00	
Lot 15	28.11	
Lot 16	28.20	
Lot 17	28.29	
Lot 18	19.22	
NE¼	160.00	
E½NW¼	80.00	845.42
Sec. 33:		
Lot 1	40.00	
Lot 2	40.00	
Lot 3	40.00	
Lot 4	40.00	
Lot 5	40.00	
Lot 6	40.00	
Lot 7	40.00	
Lot 8	40.00	
Lot 9	40.00	
Lot 10	40.00	
Lot 11	40.00	
Lot 12	40.00	
Lot 13	27.08	
Lot 14	26.86	
Lot 15	26.62	
Lot 16	26.40	
N½	320.00	906.96
Sec. 34:		
Part of SE¼NW¼, as shown on COS 857		31.03
Sec. 35:		
Lot 1	40.00	
Lot 2	40.00	
Lot 3	40.00	
Lot 4	40.00	
Lot 5	40.00	
Lot 6	40.00	
Lot 7	40.00	
Lot 8	40.00	
Lot 9	40.00	
Lot 10	40.00	
Lot 11	40.00	
Lot 12	40.00	
Lot 13	26.03	
Lot 14	26.18	
Lot 15	26.32	
Lot 16	26.47	
N½	320.00	905.00

Jumbo Peak; T. 25 N., R. 29. W., P.M., Lincoln County

Sec. 3:		
Lot 1	40.94	
Lot 2	41.21	
Lot 3	41.49	
Lot 4	41.76	
S½N½	160.00	
S½	320.00	645.40
Sec. 11:		
S½	320.00	
NW¼	160.00	
W½NE¼	80.00	560.00
Sec. 5:		
Lot 1	42.84	
Lot 2	42.39	

Federal lands	Acres by legal subdivision	Acres by section
Lot 3	42.10	
Lot 4	41.94	
S½N½	160.00	
S½	320.00	649.27
Sec. 7:		
E½		320.00
Sec. 9:		
All		640.00

Jumbo Peak; T. 26 N., R. 29 W., P.M., Lincoln County

Sec. 29:		
All		640.00
Sec. 31:		
Lot 1	31.52	
Lot 2	31.60	
Lot 3	31.68	
Lot 4	31.76	
E½W½	160.00	
E½	320.00	606 56
Sec. 33:		
S½		320.00

Blacktail Peak; T. 25 N., R. 29 W., P.M., Lincoln County

Sec. 15:		
All	Portion in Lincoln County	536.00
Sec. 17:		
All		640.00
Sec. 19:		
Lot 1	41.11	
Lot 2	41.03	
Lot 3	40.93	
Lot 4	40.85	
E½W½	160.00	
E½	320.00	
Portion in Lincoln County		405.00
Sec. 21:		
All.		
Portion in Lincoln County		87.00
Sec. 23:		
All.		
Portion in Lincoln County		313.00

Blacktail Peak; T. 25 N., R. 29 W., P.M., Sanders County

Sec. 15:		
All.		
Portion in Sanders County		104.00
Sec. 19:		
Lot 1	41.11	
Lot 2	41.03	
Lot 3	40.93	
Lot 4	40.85	
E½W½	160.00	
E½	320.00	
Portion in Sanders County		238.92
Sec. 21:		
All Portion in Sanders County		553.00
Sec. 23:		
All Portion in Sanders County		327.00
Sec. 27:		
All		640.00
Sec. 29:		
All		640.00
Sec. 31:		
Lot 1	40.31	
Lot 2	40.23	
Lot 3	40.13	

Federal lands	Acres by legal subdivision	Acres by section
Lot 4	40.05	
E½W½	160.00	
E½	320.00	640.72
Sec. 33:		
All		640.00
Sec. 35:		
All		640.00
Containing 29, 658.94 acres, more or less.		

These lands were within the Northern Pacific Railroad grant of July 2, 1864.

There are more federal lands identified for conveyance than necessary to acquire the PCTC lands. Therefore the DEIS will display the environmental consequences on all lands involved, and identify tracts that may not be desirable to exchange in the final package. The DEIS will also describe the effects of a no action alternative, and an alternative which would grant PCTC access to their lands in the checkerboard area (no land exchange, grant access alternative).

The Final EIS will display alternatives which will vary in the number of acres to be exchanged, and the location of acres to be exchanged based on equal value. These alternatives are in addition to the no action alternative and grant access, no land exchange alternative. The formulation of number and location of parcels in each alternative will be developed based on the issues identified, and environmental consequences, as well as how the alternatives meet the purpose and need.

The Kootenai National Forest is seeking information, comments, and assistance from other agencies, organizations or individuals who may be interested in or affected by the proposed exchange. Input on the proposed action, as identified by the legal descriptions listed in this notice, will be accepted until July 1, 1993. The draft environmental impact statement is anticipated to be published in April 1994. The final environmental impact statement is expected to be available in December 1994. The Responsible Official for this land exchange proposal is the Regional Lands Staff Officer, Region One.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register.** The comments received during the 45 day comment period will be analyzed, and alternatives to the proposed action will be formulated. The analysis process will ultimately lead to one of the following possible decisions; (1) no action (do not make the exchange in the foreseeable future), (2) implement the exchange with some lands dropping out based on equal value, (3) implement an alternative with a different mix of lands dropping out based on equal value, or (4) do not implement the exchange, and grant PCTC access to their lands in the checkerboard area.

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.).

Dated: May 18, 1993.

Robert L. Schrenk,

Forest Supervisor, Kootenai National Forest.

[FR Doc. 93–12506 Filed 5–26–93; 8:45 am]

BILLING CODE 3410–11–M

ASARCO's Rock Creek Project, Copper/Silver Mine, Kootenai National Forest, Sanders County, MT

AGENCY: Forest Service, USDA.

ACTION: Revised notice; Intent to prepare environmental impact statement.

SUMMARY: The original Notice of Intent was published in the **Federal Register,** Volume 53, No. 9, January 14, 1988. A number of items including lead agency, mine water disposal, release date of the DEIS have changed since 1988. This revised notice describes the current situation.

The USDA Forest Service, Kootenai National Forest (KNF) in conjunction with Montana Department of State Lands (MDSL) will prepare an Environmental Impact Statement (EIS) for ASARCO's proposal to development of the Rock Creek copper/silver mine project approximately 5 miles northeast of Noxon, Montana.

The KNF and MDSL are joint lead agencies in this effort. Joint lead status will allow both agencies to fulfill their interrelated responsibilities in managing the process for preparation of the draft and final EIS documents under the guidelines of the National Environmental Policy Act and the Montana Environmental Policy Act respectively. The MDSL administers the 1971 Montana Metal Mine Reclamation Act. The purposes of the act are, first, to recognize and protect the usefulness, productivity, and scenic values of the lands and waters within the state and second, to reclaim to beneficial use the lands used for metal mines. The Forest Service has the responsibility for

managing the uses of the Federal surface land and resources.

The Rock Creek Project consists of a proposed underground copper/silver mine with associated adits, a mill to process ore, a tailings impoundment, water disposal, and access roads.

DATES: Comments concerning the scope of the analysis should be received in writing by June 30, 1993.

ADDRESSES: Send written comments to Robert Schrenk, Forest Supervisor, Kootenai National Forest, 506 U.S. Highway 2 West, Libby, MT 59923.

FOR FURTHER INFORMATION CONTACT: Paul Kaiser, Project Coordinator, (406) 293–6211.

SUPPLEMENTARY INFORMATION: ASARCO's proposal which was submitted in 1987, is to construct a 10,000 ton per day mine and mill complex to develop their stratiform copper/silver ore deposit which is located under the Cabinet Mountains Wilderness. The ore would be accessed via tunnels starting outside and downslope from the wilderness boundary. ASARCO estimates an ore reserve of 144 million tons and mine recovery rate of 75 percent. ASARCO projects the estimated mine life at full production to be 30 years. The mine will employ about 305–355 people. Parts of the project would be on National Forest System land with the remainder on private land. The proposed permit boundary would encompass 1972 acres of which about 504 acres are proposed to be disturbed. Facilities would include a tailings dam and impoundment (250′ high and 324 acres respectively), new access road, utility corridor, water lines, wells and mill site. An exploration adit is proposed to further define the ore body. Two parallel adits (horizontal access passages) would be drilled, one would be used for the ore conveyor and the other for mine access. Two ventilation adits are proposed, one to have its surface opening within the wilderness and the other would use the proposed exploration adit outside the wilderness. Excess mine water is proposed to be discharged to the Clark Fork River. Approximately 140 tons of concentrate will be shipped daily by truck to a rail siding in the area for transport to a smelter.

ASARCO's proposed plan of operations was submitted pursuant to Forest Service locatable minerals regulations 36 CFR part 228 subpart A, and State of Montana Metal Mine Reclamation Act title 82, chapter 4, part 3, MCA. The original Notice of Intent was published in the **Federal Register**, Volume 53, No. 9, January 14, 1988. A scoping meeting was held on January 27, 1988, and considerable analysis work had taken place before the EIS process was put on hold while ASARCO worked on an alternative mine water disposal system. ASARCO has recently submitted the additional information necessary to restart the analysis process.

Government agencies and the public who may be interested in or affected by the proposal are invited to participate in the scoping process. The Forest Service in conjunction with Montana Department of State Lands, will hold an open house for conducting public scoping on Wednesday, June 16, 1993, at the Noxon Public School multipurpose room in Noxon, Montana, from 5:30 p.m. to 9 p.m. A scoping document is available for public review by contacting the Kootenai National Forest.

The EIS will consider a range of alternatives based on the issues associated with the project. The alternatives that can be specified at present are the No Action alternative (deny the company proposal), the alternative to approve the project as proposed and an alternative which would modify ASARCO's plan with additional mitigation to protect the surface land and resources. Other alternatives may be developed to mitigate the issues raised. A preliminary list of issues has been developed from the first scoping process as follows:

1. Effects on Threatened and endangered species, the grizzly bear in particular;
2. Cumulative effects on big game species.
3. Effects on recreational and aesthetic qualities of the area.
4. Effect to the Cabinet Mountains Wilderness character;
5. Effects on surface and ground water resources, and aquatic life.
6. Concerns about the design safety of facilities and the tailing impoundment;
7. Socioeconomic effects of the project.

It is expected that the analysis process will take about 16 months. The draft environmental impact statement should be available in March 1994. The Final EIS is estimated to be completed by September, 1994. The responsible Forest Service official is the Forest Supervisor of the Kootenai National Forest.

The comment period of the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes it is important to give reviewers notice at this early stage because of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *Wisconsin Heritages, Inc.* v. *Harris*, 490 F Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement.

Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.).

Dated: May 21, 1993.

Robert L. Schrenk,

Forest Supervisor, Kootenai National Forest.

[FR Doc. 93–12637 Filed 5–27–93; 8:45 am]

BILLING CODE 3410–11–M

Proposed Jenkins Timber Sale within the French Creek/Patrick Butte Roadless Area, Payette National Forest, Idaho County, ID

AGENCY: Forest Service, USDA.

ACTION: Revised Notice of Intent to prepare an environmental impact statement.

SUMMARY: The USDA Forest Service published a notice of intent to prepare an environmental impact statement (EIS) for proposed timber sales in the French Creek roadless area in the **Federal Register** June 9, 1989 (Vol. 54,

No. 110, p. 24725–24726). That notice is hereby revised to show these changes: (1) Prepare separate EIS's for each proposed timber sale, (2) name of the EIS's and (3) the schedule of the EIS's.

1. This Notice of Intent is for the proposed Jenkins timber sale which is one of six proposed timber sales within the French Creek/Patrick Butte Roadless Area. All six proposed sales are being analyzed together by one Interdisciplinary Team.

2. This Notice Of Intent covers the proposed Jenkins timber sale. Separate NOI revisions have been prepared covering the other 5 proposed sales. They include the following proposed timber sales: Fourmile, Hazard Helicopter, French Creek, Freight Landing, and Lower Elkhorn.

3. Public scoping has included several meetings and written comments. The DEIS is scheduled to be released for public comments in July of 1993 and a FEIS released in September of 1993.

ADDRESSES: Send written comments to David Alexander, Forest Supervisor, Payette National Forest, P.O. Box 1026, McCall, Idaho 83638.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action should be directed to Mike Balboni, Team Leader, phone 208 634–0629 or David Spann, District Ranger, phone 208 634–0300.

SUPPLEMENTARY INFORMATION: The USDA Forest Service is proposing to construct roads, harvest and regenerate timber in the Jenkins timber sale area. This sale lies within the French Creek/Patrick Butte Roadless Area, Idaho County, Idaho. Within the proposed sale area, there are several small creeks draining into French Creek, a tributary of the Salmon River.

Preliminary Issues include: Roadless characteristics, water quality, biological diversity, and access management.

Preliminary alternatives being considered include: no action, intermediate harvest prescriptions, limited clearcutting, road construction, and no new road construction.

The Responsible Official is David F. Alexander, Forest Supervisor, Payette National Forest.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency's notice of availability appears in the **Federal Register**. It is very important that those interested in this proposed action participate at that time. To be the most helpful, comments on the draft environmental impact statement should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see The Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3).

In addition, Federal court decisions have established that reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, (1978). Environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement. *City of Angoon* v. *Hodel*, (9th Circuit, 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final.

Dated: May 19, 1993.

David F. Alexander,

Forest Supervisor.

[FR Doc. 93–12625 Filed 5–26–93; 8:45 am]

BILLING CODE 3410–11–M

Proposed Lower Elkhorn Timber Sale Within the French Creek/Patrick Butte Roadless Area, Payette National Forest, Idaho County, ID

AGENCY: Forest Service, USDA.

ACTION: Revised Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: The USDA Forest Service published a notice of intent to prepare an environmental impact statement (EIS) for proposed timber sales in the French Creek roadless area in the **Federal Register** June 9, 1989 (Vol. 54, No. 110, p. 24725–24726). That notice is hereby revised to show these changes: (1) Prepare separate EIS's for each proposed timber sale, (2) name of the EIS's, and (3) the schedule of the EIS's.

1. This Notice of Intent is for the proposed Lower Elkhorn timber sale which is one of six proposed timber sales within the French Creek/Patrick Butte Roadless Area. All six proposed sales are being analyzed together by one Interdisciplinary Team.

2. This Notice of Intent covers the proposed Lower Elkhorn timber sale. Separate NOI revisions have been prepared covering the other 5 proposed sales. They include the following proposed timber sales: Fourmile, Hazard Helicopter, Jenkins, Freight Landing, and French Creek.

3. Public scoping has included several meetings and written comments. The DEIS is scheduled to be released for public comments in July of 1993 and a FEIS released in September of 1993.

ADDRESSES: Send written comments to David Alexander, Forest Supervisor, Payette National Forest, P.O. Box 1026, McCall, Idaho 83638.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action should be directed to Mike Balboni, Team Leader, phone 208 634–0629 or David Spann, District Ranger, phone 208 634–0300.

SUPPLEMENTARY INFORMATION: The USDA Forest Service is proposing to construct roads, harvest and regenerate timber in the Lower Elkhorn timber sale area. This sale lies within the French Creek/Patrick Butte Roadless Area, Idaho County, Idaho. Elkhorn Creek is the only drainage within the proposed timber sale area, it is a tributary of the Salmon River

Preliminary Issues include: roadless characteristics, water quality, biological diversity, wilderness potential, fisheries, and access management.

Preliminary alternatives being considered include: no action, intermediate harvest prescriptions, helicopter logging, limited clearcutting, road construction, and no new road construction.

The Responsible Official is David F. Alexander, Forest Supervisor, Payette National Forest.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency's notice of availability appears in the **Federal Register**. It is very important that those interested in this proposed action participate at that time. To be the most helpful, comments on the draft environmental impact statement should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see The Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3).

In addition, Federal court decisions have established that reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement. *City of Angoon* v. *Hodel*, (9th Circuit, 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final.

Dated: May 19, 1993.

David F. Alexander,

Forest Supervisor.

[FR Doc. 93–12626 Filed 5–26–93; 8:45 am]

BILLING CODE 3410–11–M

Backsight Timber Sale and Cabin Timber Sale, Wallowa-Whitman National Forest, Baker County, OR

AGENCY: Forest Service, USDA.

ACTION: Cancellation of notice of intent to prepare an environmental impact statement.

SUMMARY: The Notices of Intent to prepare an environmental impact statement for two timber sales on the Pine Ranger District of the Wallowa-Whitman National Forest in Oregon are hereby rescinded. These timber sale projects were the following:

1. Cabin Timber Sale, published in the **Federal Register** on February 7, 1991, (56 FR 4968)

2. Backsight Timber Sale, published in the **Federal Register** on April 30, 1992, (57 FR 18465)

FOR FURTHER INFORMATION CONTACT: Chris Kelsey, Resource Analyst, Pine Ranger District, General Delivery, Halfway, Oregon 97834; phone (503) 742–7511.

Dated: May 17, 1993.

R.M. Richmond,

Forest Supervisor.

[FR Doc. 93–12563 Filed 5–26–93; 8:45 am]

BILLING CODE 3410–11–M

Delegation of Authority to Forest Supervisors, Pacific Northwest Region

AGENCY: Forest Service, USDA.

ACTION: Notice of adoption of final policy.

SUMMARY: The Pacific Northwest Region of the Forest Service hereby gives notice of the delegation of authority by the Regional Forester to all Forest Supervisors to perform certain transactions related to the granting and terminating of easements on National Forest System lands.

EFFECTIVE DATE: This policy is effective upon issuance of a Pacific Northwest Region Supplement to Forest Service Manual 2730 delegating the above referenced authority.

FOR FURTHER INFORMATION CONTACT: Questions about this policy should be directed to Richard Walker, Lands and Minerals, Forest Service, USDA, Robert Duncan Plaza, 333 SW. First Avenue, (PO Box 3623), Portland, OR 97208–3623.

SUPPLEMENTARY INFORMATION: Pursuant to 36 CFR 251.52 and the delegation of authority from the Chief of the Forest Service as set forth in Forest Service Manual 2731.04b, 2732.04, and 2733.04b, the Regional Forester for the Pacific Northwest Region has determined that all National Forests in the Pacific Northwest Region either have sufficient lands staff expertise, or have these skills available to them, to permit the delegations of authority to Forest Supervisors for the following:

1. (a) Approve all applicable environmental documents prepared for a project by either the Department of Transportation or the State, as well as the decision document relating to the consent of the issuance of the easement; (b) Develop any special clauses for stipulations to meet case-specific conditions not presently covered; (c) Prepare and execute the Letter of Consent to the Regional Federal Highway Administrator for Department of Transportation easements under authority of the Highway Act of August 27, 1958 (72 Stat. 916; 23 U.S.C. 317) and; (d) Report any violations of the terms and conditions of the deed or stipulations directly to the Regional Federal Highway Administrator.

2. Approve environmental assessment and decision documents; grant standard form easements to public road agencies under the authority of the Forest Roads and Trail Act of October 13, 1964 (78 Stat. 1089; 16 U.S.C. 532–538); and to terminate such easements with the consent of the grantee. Prior to execution by the Forest Supervisor, all easements and termination documents will be "certified" by one of the Right-of-Way Specialists to be listed in an amendment to Chapter 2730 of the Forest Service Manual.

3. Approve environmental assessment and decision documents; issue standard form easements and reservations for construction and use of roads; execute stipulations; and terminate such easements on the occurrence of a fixed or agreed upon condition, event, or time when the easement, by its terms provides for such termination, pursuant to the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2743; 43 U.S.C. 1715). Prior to execution by the Forest Supervisor, all easements, reservations, or termination documents will be "certified" by one of the Right-of-Way Specialists to be listed in an amendment to Chapter 2730 of the Forest Service Manual.

4. Grant easements to cooperators in the format provided in the Road Right-of-Way Construction and Use Agreement; and the standard form Forest Road and Trail Act easements to qualified landowners outside of cost share agreement areas, pursuant to the Forest Roads and Trail Act of October 13, 1964 (78 Stat. 1089; 16 U.S.C. 532–538); and to terminate such easements with the consent of the grantee. Prior to execution by the Forest Supervisor, all easements or terminations will be "certified" by one of the Journey-Level Cost-Share Specialists listed in Chapter 5460 of the Forest Service Manual.

This final policy will be implemented upon distribution to Forest Service employees of amendments to Chapter 2730 of the Forest Service Manual.

Dated: May 20, 1993.

Richard A. Ferraro,

Deputy Regional Forester.

[FR Doc. 93–12564 Filed 5–26–93; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–086]

Spun Acrylic Yarn From Japan; Determination Not To Revoke Antidumping Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Determination not to revoke antidumping duty order.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the antidumping duty order on spun acrylic yarn from Japan.

EFFECTIVE DATE: May 27, 1993.

FOR FURTHER INFORMATION CONTACT: Barbara Victor or Thomas F. Futtner, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–0090/3814.

SUPPLEMENTARY INFORMATION:

Background

On April 14, 1993, the Department of Commerce (the Department) published in the **Federal Register** (58 FR 19407) its intent to revoke the antidumping duty order on spun acrylic yarn from Japan (45 FR 24127, April 9, 1980). The Department may revoke an order if the Secretary concludes that the order is no longer of interest to interested parties. We did not receive a request for administrative review of the order for the last four consecutive annual

anniversary months and, therefore, published a notice of intent to revoke the order pursuant to 19 CFR 353.25(d)(4).

On April 30, 1993, American Yarn Spinners Association, the petitioner, objected to our intent to revoke the order. Therefore, we no longer intend to revoke the order.

Dated: May 20, 1993.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 93–12633 Filed 5–26–93; 8:45 am]

BILLING CODE 3510–DS–M

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders, findings and suspension agreements with April anniversary dates. In accordance with the Commerce Regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: May 27, 1993.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone (202) 482–2104.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce ("the Department") has received timely requests, in accordance with §§ 353.22(a) and 355.22(a) of the Department's regulations, from interested parties as defined in §§ 353.2(k) and 355.2(i) of the Department's regulations, for administrative reviews of various antidumping and countervailing duty orders, findings, and suspension agreements, with April anniversary dates.

Initiation of Reviews

In accordance with §§ 353.22(c) and 355.22(c) of the Department's regulations, we are initiating administrative reviews of the following antidumping and countervailing duty orders, findings, and suspension agreements. We intend to issue the final results of these reviews not later than April 30, 1994.

Antidumping duty proceedings and firms	Period to be reviewed
Japan:	
Electrolytic Manganese Dioxide, A–588–805:	
Tosoh Corporation	4/1/92–3/31/93
Mitsubishi Corporation	
Roller Chain, Other than Bicycle, A–588–028:	
Daido Kogyo/Daido Corp.	4/1/92–3/31/93
Enuma Chain/Daido Corp.	
Hitachi Metals	
Izumi	
Pulton Chain	
RK Excel (Takasago	
3.5 Inch Microdisks and Coated Media Thereof, A–588–802:	
Hitachi Maxell, Ltd	4/1/92–3/31/93
Korea:	
Color Television Receivers, A–580–008:	
Samsung Electronics	4/1/92–3/31/93
Goldstar Electronics	
Daewoo Electronics	
Cosmos Electronics	
Quantronics Manufacturing Ltd.	
Samwon Electronics Co., Ltd.	
Tongkook General Electronics	
Mexico:	
Certain Fresh Cut Flowers, A–201–601:	
Visaflor	4/1/92–3/31/93
Tzitzic Tareta	
Rancho Daisy	
Rancho Alisitos	
Rancho Mision el Descanso	
Rancho Las Dos Palmas	
Las Flores de Mexico	
Rancho del Pacifico	
Florex	
Rancho el Aguaje	
Rancho el Toro	
Rancho Guacatay	
Norway:	
Fresh and Chilled Atlantic Salmon, A–403–801:	
Adeco A/S	4/1/92–3/31/93
Arne Lund & Sonner A/S	
Aalesundfisk A/S	
Aqua Star A/S	

Antidumping duty proceedings and firms	Period to be reviewed
Austevoll Fiskeindustri A/S	
Atlantic Salmon A/S	
Atlantic Salmon & Partners A/S	
Brodrene Reme	
Brodrene Sirevag A/S	
Chr. Bjelland Seafoods A/S	
Edel Laks (or Lars) A/S	
Edda Seafood A/S	
Fjord Aqua Group A/S	
Flatanger Laks A.S. K.S.	
Fonn Rogaland A/S	
Fossen Senter-Valestrand A/S	
Fremco Fresh Marine A/S	
Fremstad Group A/S	
Fresh Marine Co., Ltd.	
Frionor Norsk Frossenfisk A/S	
Halco Norway AS	
Hallvard Leroy A/S	
Handels-Huset Nord A/S	
Heroyfisk A/S	
Iglo Aqua Group A/S	
Janas A/S	
Janas Rokeri A/S	
J.H. Fremstad A/S	
Johan J. Helland A/S	
Kaldfjord Handel & Fiskeforr	
Karl Abrahamsens Rokeri A/S	
Karsten J. Ellingsen A/S	
King of Norway A/S	
Konrad Sekkingstad A/S	
Knut Nero Exp.	
Kr. Kleiven & Co. A/S	
Kvalos Trading A/S	
Leica Fiskeprodukter	
Manger Seafood A/S	
Marinor Edelfisk A/S	
Marinus A/S	
Misundfisk A/S	
M. Loining & Sonner A/S	
More Seafood A/S	
Noa Gourmet Seafood A/S	
Nordic Group Inc.	
Norfood Group A/S	
Norfra A/S	
Norsk Akvakultur A/S	
Nor-Star Seafood A/S	
Northern Seafood A/S (Ltd.)	
Norwegian Salmon A/S	
Norwegian Seadeli A/S	
Norwegian Seafood A/S	
Nova Sea A/S	
Oddvin Bjorge A/S	
Prima Seafood	
R. Domstein & Co.	
Reinhertsen & Co. A/S	
Saga A/S	
Salmar A/S	
Salmonex A/S	
Salmonor A/S	
Seanor A/S	
Sea Star International A/S	
Scandinavian Seafood Ltd.	
Sandinavian Superior Seafood	
Scanfarm A/S	
Sea Eagle Group A/S	
Skaarfish—Mowi A/S	
Smefa A/S	
Sotra Smoked Fish A/S	
Stabburet A/S	
Stabburet Marine Produkter A/S	
Stavanger Rokeri & Fisk A/S	
Sunnmorsfisk A/S	
Terra Seafood A/S	

Antidumping duty proceedings and firms	Period to be reviewed
Torris Products Ltd. A/S	
Troll Salmon A/S	
Tromsfisk A/S	
Uniprawns A/S	
Vikenco A/S	
Vikin A/S	
West Fish Norwegian Salmon A/S	
Westfood A/S	
Taiwan:	
Color Television Receivers, A–583–009:	
Action Electronics Co., Ltd	4/1/92–3/31/93
Proton Electronic Industrial Co., Ltd.	
Tatung Co.	
Countervailing Duty Proceedings	
Argentina:	
Cold Rolled Carbon Steel Flat Rolled Products, C–357–005	1/1/92–12/31/92
Mexico:	
Leather Wearing Apparel, C–201–001	1/1/92–12/31/92

Interested parties must submit applications for administrative protective orders in accordance with §353.34(b) and 355.34(b) of the Department's regulations.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)), and 19 CFR 353.22(c)(1) and 355.22(c)(1) (1992).

Dated: May 18, 1993.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 93–12632 Filed 5–26–93; 8:45 am]

BILLING CODE 3510–DS–M

[A–583–028]

Roller Chain, Other Than Bicycle, From Japan; Final Results of Antidumping Finding Administrative Review and Determination Not To Revoke

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of administrative review and determination not to revoke in part.

SUMMARY: On September 10, 1992, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on roller chain, other than bicycle, from Japan. The review covers two manufacturers/exporters of this merchandise to the United States and the period April 1, 1990 through March 31, 1991.

We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of the comments received, we have revised the results for Daido Kogyo Co., Ltd., and Enuma Chain Manufacturing Co., Ltd., from those presented in the preliminary results.

EFFECTIVE DATE: May 27, 1993.

FOR FURTHER INFORMATION CONTACT: Tom Prosser or Zev Primor, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–5255.

SUPPLEMENTARY INFORMATION:

Background

On September 10, 1992, the Department of Commerce (the Department) published in the **Federal Register** (57 FR 41471) the preliminary results of its administrative review of the antidumping duty finding on roller chain, other than bicycle, from Japan, with respect to Daido Kogyo Co., Ltd. (Daido), and Enuma Chain Manufacturing Co., Ltd. (Enuma). The Department has now completed the administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of the Review

Imports covered by this review are shipments of roller chain, other than bicycle. The term "roller chain, other than bicycle," as used in this review, includes chain, with or without attachments, whether or not plated or coated, and whether or not manufactured to American or British standards, which is used for power transmission and/or conveyance. Such chain consists of a series of alternately-assembled roller links and pin links in which the pins articulate inside the bushings and the rollers are free to turn on the bushings. Pins and bushings are press fit in their respective link plates. Chain may be single strand, having one row of roller links, or multiple strand, having more than one row of roller links. The center plates are located between the strands of roller links. Such chain may be either single or double pitch and may be used as power transmission or conveyor chain.

This review also covers leaf chain, which consists of a series of link plates alternately assembled with pins in such a way that the joint is free to articulate between the adjoining pitches. This review further covers chain model numbers 25 and 35. Roller chain is currently classified under the Harmonized Tariff Schedule (HTS) item numbers 7315.11.00 through 7616.90.00. HTS numbers are provided for convenience and Customs purposes. The written description remains dispositive.

This review covers Daido and Enuma, both manufacturers/exporters of Japanese roller chain, other than bicycle, and the period April 1, 1990 through March 31, 1991.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. At the request of Daido and Enuma, we held a public hearing on October 7, 1992. We received comments and rebuttal comments from the American Chain Association (the ACA), the petitioner, and from Daido and Enuma. These comments and the Department's response to them are addressed below.

Petitioner Comments

Comment 1

The ACA contends that the Department must reject Enuma's home

market response in its entirety and assign Enuma a margin based on the best information available (BIA) because the home market sales data submitted by Enuma correspond to its June 1, 1990 through May 31, 1991 fiscal year, rather than the April 1, 1990 through March 31, 1991, administrative review period. The ACA argues that while Enuma's home market sales listing includes all sales within the review period, the deductions and charges are based on Enuma's fiscal year and, therefore, include data from sales outside the period of review (April and May 1991). The ACA maintains that the Department's questionnaire clearly states that all price and cost information should be supplied for the administrative review period. 1

Enuma argues that there is no statutory, regulatory, judicial or administrative support for the ACA's assertion that Enuma's response must be rejected and that a BIA margin should be assigned to Enuma. Citing the Department's authority to use sampling and averaging techniques in determining foreign market values (FMVs), the well-established practice of computing monthly weighted-average FMVs, and the contemporaneity, or 90–60 day, test, Enuma contends that the Department has a certain statutory latitude in selecting surrogate data to be used in calculating FMVs. Enuma further contends that the practice of selecting and using surrogate data extends to computing FMV adjustments. The respondent cites the common practice of calculating imputed credit expense deductions using average delay in payment periods rather than transaction-specific delays in payment periods. Citing Mechanical Transfer Presses from Japan, 57 FR 12798 (Comment 2) (April 13, 1992), and Coated Groundwood Paper from Finland, 56 FR 56363 (Comment 3) (November 4, 1991), Enuma also submits that where a new product line has been introduced and there is no warranty claim experience during the review period, the Department has accepted historical warranty claims experience for other product lines in calculating the warranty expense for the new product.

Department's Position

We disagree with the ACA. Enuma's home market sales listing included all home market sales made during the period of review (POR), a fact not disputed by the petitioner. In addition, Enuma's response contains explanations and background support for all of its claimed home market price adjustments. The ACA correctly observes that Enuma's home market price adjustments are derived from June 1, 1990–May 31, 1991, fiscal year data, rather than from April 1, 1990–March 31, 1991, review period data, but this does not justify rejection of Enuma's home market response. Enuma's fiscal year differs from the administrative review period by only two months, and all of Enuma's adjustments are calculated using fiscal data allocated to all sales. The adjustments are not specific to sales, models, or even months. The deductions in question are constant costs that generally vary little over time. Given our knowledge of the roller chain industry, we have no evidence from which to conclude that basing the price adjustments in question on fiscal year data rather than review period data would significantly affect the adjustments. In addition, the petitioner has provided no evidence, and we discovered no such evidence during verification, to invalidate this conclusion. In addition, we have followed this approach in the past (See Tapered Roller Bearings Four Inches or Less in Outside Diameter and Certain Components Thereof from Japan, 55 FR 38720 (Comment 3) (September 20, 1990)). We have used the fiscal year home market price adjustment data submitted by Enuma as reasonable home market price adjustments.

Comment 2

The ACA contends that the Department should treat Enuma as an "uncooperative" party and apply an adverse BIA margin for the final results.

The ACA asserts that the Department has found parties to be "uncooperative" in at least three different types of situations: (1) When they fail to provide any response at all to a Department questionnaire, (2) when their response is untimely, or (3), citing Antifriction Bearings from the Federal Republic of Germany, 56 FR 31695 (1991) (respondents Somecat and JAEC), and Television Receivers, Monochrome and Color, from Japan, 56 FR 5392 (1991) (respondent Victor), when the response provided is substantially inadequate. As discussed above (Comment 1), Enuma's response does not contain home market cost/expense data for the first two months of the review period (April and May 1990), and the data submitted includes charges and deductions associated with sales outside the period of review (May and June 1991). The ACA argues that these irregularities make Enuma's home market response substantially inadequate. The ACA contends that there is no principled basis for distinguishing the deficiencies in Enuma's response from those cited above. The ACA maintains that the Department should characterize Enuma as an uncooperative party and apply an adverse BIA rate.

Enuma claims the record demonstrates that it has not been uncooperative. Respondent asserts that it responded to the Department's questionnaire and all supplemental requests for information, and that it passed the Department's verification. Referring to the Department's discretion in selecting data used in FMV calculations, respondent argues that the Department may use verified information on the record for the home market adjustments in question. Enuma additionally asserts that even if the Department decides to resort to BIA for the home market adjustments, BIA is Enuma's June 1990 through May 1991 fiscal year home market adjustments.

Department's Position

We disagree with the ACA. Enuma has provided responses to the Department's questionnaire and all supplemental requests for information, none of which have been "substantially inadequate", as alleged by petitioner. Neither of the two reviews cited by petitioner is relevant. The first, Antifriction Bearings from the Federal Republic of Germany, 56 FR 31695 (1991) (respondents Somecat and JAEC), is a case where the Department concluded that questionnaire responses "significantly impeded" the review. Enuma's responses did not "significantly impede" the Department's review. In the second, Television Receivers, Monochrome and Color, from Japan, 56 FR 5392 (1991) (respondent Victor), a respondent refused to submit data. As explained in our response to Comment 1, we have determined that the information submitted by Enuma in this review is adequate to calculate FMVs.

Comment 3

The ACA submits that even if the Department decides to use Enuma's home market response for the final results, it should assign a value of zero as BIA to all adjustments to Enuma's home market transactions for the months of April and May 1990 because the costs and adjustments associated with such transactions were not included in Enuma's calculation of its claimed adjustments. Citing Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et al., 57 FR 28360 (1992), the ACA argues that when any deductions or charges to home market price or constructed value (CV) were missing from the sales listing, the Department

has denied claims for the adjustments and assigned such adjustments a value of zero, on the grounds that the respondent failed to satisfy its burden of proof to be entitled to the adjustments.

Enuma refers to the Department's latitude in selecting data for use in calculating FMVs and adjustments thereto (See Comments 1 and 2), and contends that the Department may justifiably compute home market adjustments using Enuma's fiscal year data, which differ from the period of review by only two months. Respondent argues that this approach would be no different than when the Department uses home market sales up to 90 days prior to or 60 days after the period of review to calculate FMVs for comparison with U.S. sales.

Department's Position

We disagree with the ACA. Although Enuma's home market price adjustments are derived from fiscal year data rather than POR data, Enuma has satisfied its burden of proof and is entitled to the adjustments. Enuma is entitled to the adjustments at issue based on our analysis and verification of the information submitted. In addition, petitioner's reliance on Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et al., 57 FR 28360 (1992) is misplaced since it refers to a sales listing where the deduction in question was completely missing rather than being based on allegedly inappropriate data.

Comment 4

The ACA observes that a number of Enuma's exporter's sales price (ESP) transactions could not be matched to either home market sales or an appropriate CV. The ACA argues that these unmatched sales constitute a basis for rejecting Enuma's response. Citing Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et al., 57 FR 28360 (1992), the ACA asserts that, if the Department uses Enuma's response for these final results, it should ascribe to all unmatched sales a BIA margin equal to the highest rate calculated for any party in the 1990–1991 review period.

Enuma contends that the petitioner's recommendation to reject the home market response and resort to BIA is inappropriate because the unmatched sales are a result of a computer error which inadvertently included some Daido sales on the Enuma sales listing.

Department's Position

We disagree with the ACA. All but a few of the unmatched Enuma ESP sales were a result of an inadvertent computer programming error, but not as Enuma suggests. In our preliminary results we used the wrong model variable in matching the CVs submitted by Enuma to the U.S. sales lacking contemporaneous home market sales. We have corrected this error for these final results and there are now only a few unmatched sales. For the unmatched sales we have used partial BIA, following the approach articulated in Antifriction Bearings, Other than Tapered Roller Bearings, and Parts Thereof from France, et al.; Final Results of Antidumping Duty Administrative Review, 57 FR 28360, 28379–80 (June 24, 1992). It is the Department's practice to apply partial BIA in cases where we are unable to use some portion of a response in calculating a dumping margin. As partial BIA for these sales we have used the 12.68 percent margin calculated for Hitachi Metals Techno, Ltd., for the same period of review. See Roller Chain, Other Than Bicycle, From Japan; Final Results of Antidumping Duty Administrative Review, 57 FR 56319 (November 27, 1992).

Comment 5

The ACA notes that the Department's preliminary computer programs indicate that Daido reported a number of ESP transactions with a quantity of zero. The ACA argues that the degree of importance of these transactions cannot be determined without quantity information, but adds that the number of zero-quantity transactions is too great to be ignored. The ACA submits that the Department should conclude that Daido has substantially impeded the review through the submission of faulty data, treat Daido as an uncooperative party, and consequently assign an adverse BIA margin to Daido. The ACA contends that if the Department nevertheless treats Daido as a cooperative party, the Department should assign the firm a BIA rate equal to the highest rate calculated for any party in the 1990–1991 review period.

Daido contends that the petitioner's recommendation to reject the home market response and resort to BIA is inappropriate because the unmatched sales, due to a computer error, inadvertently included some Enuma sales in the Daido sales listing.

Department's Position

We disagree with the ACA. All Daido and Enuma ESP sales are made through the same related U.S. selling arm, Daido Corporation. Daido Corporation submitted an ESP tape with all Daido and Enuma ESP sales in one sales listing. One column in the computer printout contains an "E" if the model was manufactured by Enuma, and another column contains a "D" if the model was manufactured by Daido. There are also manufacturer-specific quantity columns. Certain models are manufactured by both companies (common models), in which case both a "D" and an "E" appear on the listing. When we sorted these data into manufacturer-specific listings, the common models were listed in both the Daido and Enuma ESP sales listing, and the appropriate manufacturer-specific quantity columns were used in the analysis. The no-quantity sales are a result of certain models, identified by the respondents as common models, having been purchased by Daido Corporation only from Enuma during the POR. Thus when the Daido Corporation sales listing was sorted into manufacturer-specific listings, certain models that were purchased only from Enuma appeared on the Daido ESP sales listing with no Daido quantity values. This also occurred on the Enuma ESP tape, but on a much smaller scale. We have corrected this in these final results. We note that this error had no effect on the preliminary margins. Consequently, the ACA's suggestion that Daido has substantially impeded the review through the submission of faulty data, and that the Department should treat Daido as an uncooperative party and assign an adverse BIA margin, is misplaced.

Comment 6

The ACA argues that the Department's computer program incorrectly calculates the net price for Enuma's purchase price sales based on a variable representing price per pitch rather than price per foot. The ACA contends that this error should be corrected for the final results.

Department's Position

We agree with the ACA and have corrected this inadvertent error for these final results.

Comment 7

The ACA argues that the Department's computer program fails to deduct indirect expenses from Daido's and Enuma's ESP sales, and that this error should be corrected for the final results.

Department's Position

We agree with the ACA and have corrected this inadvertent error for these final results.

Comment 8

The ACA asserts that the Department should use BIA for Daido and Enuma's

packing labor costs because both companies failed to submit packing labor cost information despite repeated requests by the Department. The ACA submits that if packing materials and associated steps differ between the home market and the United States, then labor costs should differ as well.

Daido and Enuma argue that there are no grounds for resorting to BIA for their packing labor costs. Enuma contends that it omitted packing labor costs from its questionnaire response because all of its home market and export packing is performed by a subcontractor, and that the charges cannot be separated into market-specific figures. Daido argues that it reported only packing material costs because they were the only packing costs that differed. Daido contends that packing labor costs would have a neutral effect on the calculations, and claims that the Department verified that packing labor costs for export and for home market consumption do not differ.

Department's Position

We disagree with the ACA. We verified the statement in Daido's February 7, 1992 supplemental questionnaire response that Daido's packing labor costs for export and for home market consumption do not differ, and that the only additional packing charge for Daido's exported merchandise is material cost associated with palletization.

With respect to Enuma, it has certified that the only additional packing charge for exported merchandise is the cost of reels. Moreover, we have verified that all of Enuma's packing responsibilities are handled by a contractor, and that market-specific packing labor figures are not available. Given these facts, and in the absence of information to rebut them, the Department has accepted Enuma's assertion that the only additional charge for Enuma's exported merchandise is the cost of reels.

Comment 9

The ACA asserts that the home market inventory carrying costs reported by Daido and Enuma include costs associated with raw materials, work in progress, and supplies. The ACA argues that, for the 1986–1987 administrative review period, the Department revised the home market inventory carrying costs for both companies to reflect only the cost of holding finished inventory, and that the Department should follow that approach in this review.

Enuma argues that the ACA has provided no evidence that Enuma's calculations for inventory carrying costs include raw materials, work in progress, and supplies, and Enuma submits that the petitioner's argument should be disregarded.

Daido agrees that it included these additional costs in its calculation of inventory carrying costs, but Daido argues that these costs reflect part of Daido's cost of carrying inventory. Daido submitted an alternative inventory carrying cost calculation in the event that the Department accepts the petitioner's argument.

Department's Position

We agree with the ACA. Both companies calculated home market inventory carrying costs using expenses associated with raw materials, work in progress, supplies, and finished merchandise. We agree with the petitioner that the correct approach for calculating inventory carrying costs, the one we used in the 1986–1987 review of these companies, is to recalculate these costs using only those expenses associated with storing finished merchandise. Verification Exhibit E–14 includes a breakdown of the various costs used by Enuma to calculate this expense, and Daido included the same data in its questionnaire response. For these final results we have recalculated this expense for each company using only those costs associated with storing finished merchandise.

Comment 10

Daido Tsusho's (Tsusho) (a Japanese exporter related to both Daido and Enuma) response states that prices for its purchase price sales were based on the premise that the customer would pay on the invoice date. The response further states that where there was a delay in payment, the customer was separately charged an interest amount for the payment delay. The ACA argues that there is no evidence on record that the Department examined this matter to determine whether additional charges were collected for overdue payments and whether the charges fully offset the credit costs incurred by Tsusho. The ACA contends that these issues should be resolved prior to publication of the final results.

Daido and Enuma assert that the questions raised by the ACA are addressed in the verification exhibits associated with the verification of Tsusho, and that there is no need to delay publication of the final results.

Department's Position

We disagree with the ACA. As noted in our verification report, Tsusho officials stated during verification that no customers paid late during the period of review. We discovered no contrary evidence and petitioner has submitted no information to support its contention.

Comment 11

The ACA argues that in determining whether to make a final revocation determination, the Department is required to update its information from the end of the period reviewed for tentative revocation (April 1, 1982–March 31, 1983) up to the date of publication of the tentative revocation notice (August 11, 1988) (the gap period). The ACA cites *Freeport Minerals Co.* v. *United States*, 776 F.2d 1029 (Fed. Cir. 1985), *UST, Inc.* v. *United States*, 831 F.2d 1028, 1032 (Fed. Cir. 1987), and *Matsushita Electrical Industrial Co.* v. *United States*, 823 F.2d 505, 507 (Fed. Cir. 1987) in support of this argument.

The ACA additionally cites H.R. Rep. No. 1156, 98th Cong., 2d Sess. 181 (1984), and contends that when interested parties file timely requests for administrative review, the Department is required to complete the requested reviews. The ACA asserts that it has filed timely review requests concerning sales by Daido and Enuma for each review period within the gap period.

The ACA submits that without completing all requested reviews in the gap period, thereby maintaining relatively current information, the Department cannot meet its own regulatory requirement to determine whether sales of merchandise subject to an antidumping finding are no longer being made at less than fair value, and to satisfy itself that there is no likelihood of resumption of sales at less than fair value.

Respondents argue that the Department is not required under either its regulations or case law to conduct administrative reviews of the gap period. Daido and Enuma contend that Department regulations (19 CFR 353.54(f) (1988)) allow a date other than the date of the tentative revocation to be used as the effective date of revocation. Respondents further contend that where all requirements for revocation have been met the Department is justified in backdating the effective date of revocation, particularly where, as here, the Department failed to complete in a timely manner the reviews on which the tentative determination to revoke is based. Respondents cite two cases where the Department has either retroactively applied a final revocation determination (Certain Fasteners from India, 47 FR 44129 (October 26, 1982)), or backdated final revocation (Tuners (of the Type Used in Consumer

Electronic Products) from Japan, 49 FR 31316 (August 6, 1984)).

Daido and Enuma contend that of the three cases cited by the ACA in support of its claim, both *UST* and *Matsushita* deal with injunction of an administrative review and have nothing to do with updating information through the date of a tentative revocation. In addition, respondents assert that *Freeport* is inapplicable because the emphasis therein was on the impairment of Freeport Mineral Co.'s ability to demonstrate sales at less than fair value due to the Department's failure to collect sales data. Daido and Enuma submit that no enunciation of a general principle of law exists in *Freeport* that requires the Department to update its information through the gap period.

Department's Position

We disagree with the ACA's assertion that we must conduct an administrative review for every review period from the base period of no dumping through the gap period before we can publish a final determination to revoke. In cases with a significant backlog, it has long been our policy to perform an "update" review covering the most recent one-year period in lieu of all periods within the gap period. See, *e.g.*, Roller Chain, Other than Bicycle, from Japan, 56 FR 50093 (October 3, 1991), and Television Receivers, Monochrome and Color, from Japan, 55 FR 35916 (September 4, 1990).

A timely request for revocation of the antidumping finding was submitted by Daido and Enuma. On August 11, 1988, the Department published its tentative determination to revoke the antidumping finding with respect to Daido and Enuma (53 FR 30325) and, as a result, we contemplated the tentative revocation under the pre-1989 regulations. With a demonstration of sales at not less than fair value, it had been our intention to revoke the finding with respect to Daido and Enuma subsequent to completion of the administrative review of the 1986–1987 period, an "update" review period. However, in that review the ACA argued against revocation, citing *Freeport Minerals Co.* v. *United States*, 776 F.2d 1029 (Fed. Cir. 1985), in which the Court of Appeals for the Federal Circuit emphasized the need to base revocation determinations on "current data", and held that such determinations should not be based on information more than three years old. At the time the final results of the 1986–1987 review were published (October 3, 1991, 56 FR 50092), the data on which the tentative revocation would have been based were more than four years old. Accordingly, we concluded at that time that we would conduct a review of a more recent period before deciding whether to revoke the finding with respect to these two companies. This review serves that purpose.

Comment 12

Daido and Enuma argue that the Department's decision not to consider revocation at this time without disclosing the information on which that decision is based violates due process.

Department's Position

The opinion and order of the Court of International Trade (CIT) issued November 25, 1992, Slip Op. 92–208, ordering release of certain information under judicial protective order renders this issue moot.

Comment 13

Daido and Enuma contend that the confidential information submitted by the ACA should not serve as a bar to revocation. Daido and Enuma assert that the subject information was submitted in the context of both the 1986–1987 and 1990–1991 administrative reviews, yet the Department successfully verified the responses from Daido and Enuma for both periods, and the companies note that the Department had possession of the ACA's confidential information prior to conducting the 1990–1991 verifications. Daido and Enuma argue that there is no evidence suggesting that the Department did not understand the issues raised by the ACA's confidential information or that the Department did not attempt to resolve such issues during verification. Daido and Enuma submit that the successful verification of their 1990–1991 responses indicates that the confidential information submitted by the ACA is false. Daido and Enuma further submit that basing the decision not to consider revocation at this time on such information runs counter to the Department's well-established practice of choosing verified information over unverified allegations, citing Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany, 54 FR 18992 (Comments 3, 6, 8, 23 and 44) (May 3, 1989); Cellular Mobile Telephones and Subassemblies from Japan, 54 FR 48011 (Comment 7) (November 20, 1989); Nylon Impression Fabric from Japan, 51 FR 15816 (Comment 4) (April 28, 1986); Sweaters Wholly or in Chief Weight of Man-Made Fibers from Hong Kong, 55 FR 30733 (Comment 5) (July 27, 1990); and Certain Steel Valves and Certain Parts Thereof from Japan, 49 FR 25266 (Comment 1) (June 20, 1984).

In addition, Daido and Enuma argue that no explanation has been provided why the information that has prevented the Department from considering revocation has not undermined the Department's confidence in the questionnaire responses supporting the 1986–1987 final results or the 1990–1991 preliminary results.

The ACA contends that the information at issue is sufficiently credible so as to support the Department's decision not to consider revocation at this time. Petitioner further maintains that there is no evidence on record that the Department made any attempt during verification to address the charges submitted by the ACA; Daido and Enuma should, therefore, remain subject to the antidumping finding.

The ACA contends that neither the Tariff Act nor the Department's regulations establish revocation as a right. Petitioner argues, therefore, that the decision whether to revoke an antidumping finding is left to the "unfettered discretion of the Department of Commerce" (See *Sanyo Electric Co., Ltd.* v. *United States*, Slip Op. 91–110 at 4, 15 CIT _____ (December 6, 1991)), and that the Department is not compelled to grant revocation even when all requirements for revocation have been satisfied (See *Matsushita Electric Industrial Co.* v. *United States*, 688 F. Supp. 617, 623 (CIT 1988)).

Department's Position

As previously noted, the opinion and order of the CIT, issued November 25, 1992, Slip Op. 92–208, ordered the release of certain information under judicial protective order.

In addition to ordering the release of the privileged information, it also directed the Department to provide respondents with an opportunity to submit comments concerning the privileged information. The respondents submitted comments pertaining to the privileged information on March 9, 1993, and the petitioner submitted rebuttal comments on March 12, 1993. Because the information at issue is privileged, as are all of the comments thereon, we are unable to provide a meaningful public summary of either the comments submitted or the Department's position relative to them. These privileged documents, and an analysis memo summarizing the Department's position concerning the privileged comments, have been placed on the official case record. Based on our analysis of the comments received, and

because of certain privileged information in our possession, we are unable to make a determination at this time that sales at less than fair value will not occur in the future. As a result, we are not revoking the antidumping finding on roller chain, other than bicycle, from Japan with respect to Daido and Enuma.

Final Results of the Review

Based on our analysis of the comments received, we have revised the final results for both Daido and Enuma. The final margins are as follows:

Manufacturer/Exporter	Period	Margin (percent)
Daido Kogyo Co., Ltd.	4/1/90–3/31/91	0.07
Enuma Chain Mfg. Co., Ltd.	4/1/90–3/31/91	0.12

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between USP and FMV may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of roller chain, other than bicycle, from Japan entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of administrative review, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rates for the reviewed firms will be zero (0.0) percent because their margins are *de minimis*; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in previous reviews or the original less-than-fair-value investigation, the cash deposit rate will continue to be the rate published in the most recent final results or determination for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in this review, earlier reviews, or the original investigation, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in the final results of this review, earlier reviews, or the original investigation, whichever is the most recent; (4) the cash deposit rate for any future entries from all other manufacturers or exporters, who are not covered in this or prior administrative reviews and who are unrelated to the reviewed firms or any previously reviewed firm, will be the "All Others" rate. This rate represents the highest rate for any firm in this administrative review period (whose shipments to the United States were reviewed), other than those firms receiving a rate based entirely on BIA. The "All Others" rate for this review is 12.68 percent. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d) or 355.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with sections 751(a)(1) and 751(c) of the Tariff Act (19 U.S.C. 1675 (a)(1), (c)), 19 CFR 353.54(b) (1985) and 19 CFR 353.22 and 353.25 (1991).

Dated: May 5, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–12634 Filed 5–26–93; 8:45 am]

BILLING CODE 3510–DS–M

Minority Business Development Agency

Business Development Center Applications: Hampton Roads, VA

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625, the U.S. Department of Commerce's Minority Business Development Agency (MBDA) is soliciting competitive applications under its Minority Business Development Center (MBDC) program to operate an MBDC for approximately a 3-year period, subject to Agency priorities, recipient performance and the availability of funds. The cost of performance for the first budget period (12 months) is $188,867 in Federal funds and a minimum of $33,329 in non-Federal (cost-sharing) contributions. Cost-sharing contributions may be in the form of cash contributions, client fees, in-kind contributions or combinations thereof. The period of performance will be from October 1, 1993 to September 30, 1994. The MBDC will operate in the Hampton Roads, Virginia geographic service area.

The award number for this MBDC will be 03–10–93002–01.

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, State and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can identify and coordinate public and private sector resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated initially by regional staff on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive. The selection of an application for further processing by MBDA will be made by the Director based on a determination of the application most likely to further the purpose of the MBDC program. The application will then be forwarded to the Department for final processing and approval, if appropriate. The Director

will consider past performance of the applicant on previous Federal awards. Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

MBDCs shall be required to contribute at least 15% of the total project cost through non-Federal contributions. To assist them in this effort, MBDCs may charge client fees for management and technical assistance (M&TA) rendered. Based on a standard rate of $50 per hour, MBDCs will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less, and 35% of the total cost for firms with gross sales of over $500,000. False information on the application can be grounds for denying or terminating funding.

MBDCs performing satisfactorily may continue to operate after the initial competitive year for up to 2 additional budget periods. MBDCs with year-to-date "commendable" and "excellent" performance ratings may continue to be funded for up to 3 or 4 additional budget periods, respectively. Under no circumstances shall an MBDC be funded for more than 5 consecutive budget periods without competition. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's performance, the availability of funds and Agency priorities. If an application is selected for funding, DOC has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of DOC.

Awards under this program shall be subject to all Federal and Departmental regulations, policies, and procedures applicable to Federal assistance awards. If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Applicants also should be notified that notwithstanding any verbal assurance that they may have received, there is no obligation on the part of DOC to cover pre-award costs.

In accordance with OMB Circular A–129 "Managing Federal Credit Programs," no award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either: The delinquent account is paid in full, a negotiated repayment schedule is established and at least one payment is received, or other arrangements satisfactory to DOC are made.

Applicants are subject to Governmental Debarment and Suspension (Non-procurement) requirements as stated in 15 CFR part 26.

The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the MBDC has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements; unsatisfactory performance of MBDC work requirements; and reporting inaccurate or inflated claims of client assistance or client certification. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

Notification must be provided that all non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing, criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management honesty or financial integrity.

On November 18, 1988, Congress enacted the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, title V, subtitle D). The statute requires contractors and grantees of Federal agencies to certify that they will provide a drug-free workplace. Pursuant to these requirements, the applicable certification form must be completed by each applicant as a pre-condition for receiving Federal grant or cooperative agreement awards.

15 CFR part 28, is applicable and prohibits recipients of Federal contracts, grants, and cooperative agreements from using appropriated funds for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a specific contract, grant or cooperative agreement. Form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying" and, when applicable, the SF–LLL, "Disclosure of Lobbying Activities," are required. Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions Form CD–512, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient of subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

CLOSING DATE: The closing date for submitting an application is June 30, 1993. Applications must be postmarked on or before June 30, 1993. Proposals will be reviewed by the Washington Regional Office. The mailing address for submission of RFA responses is: Washington Regional Office, Minority Business Development Agency, 1255 22nd Street NW., Suite 701, Washington, DC 20037.

A pre-application conference to assist all interested applicants will be held on June 8, 1993, 1 p.m. at the following address: The Hampton Public Library, Phoebus Branch, One S. Mallory Street, Hampton, Virginia 23663.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372, "Intergovernmental Review of Federal Programs," is not applicable to this program. To order a Request for Application (RFA) and to receive additional information, contact: Gina A. Sanchez, Regional Director of the Washington Regional Office on (202) 377–1356 or U.S. Department of Commerce, Minority Business Development Agency, 1255 22nd Street, NW., suite 701, Washington, DC 20037.

(11.800 Minority Business Development (Catalog of Federal Domestic Assistance))

Dated: May 21, 1993.

Gina A. Sanchez,

Regional Director, Washington Regional Office.

[FR Doc. 93–12602 Filed 5–26–93; 8:45 am]

BILLING CODE 3510–21–M

National Oceanic and Atmospheric Administration

Endangered Species; Permits

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

ACTION: Notice of a modification to incidental take permit No. 832 (P503D).

Notice is hereby given that the Idaho Department of Fish and Game has requested a modification to Permit No. 832 (P503D) issued on April 13, 1993 under the authority of the Endangered Species Act (ESA) of 1973 (U.S.C. 1531–1543) and the NMFS regulations

governing listed fish and wildlife (50 CFR Parts 217–227).

Permit No. 832 authorized, among other releases, the release of 1,422,389 steelhead smolts into the upper Salmon River and upper Snake River in the spring of 1993.

The permittee requested that they be authorized to release 405,000 additional steelhead smolts into the lower Salmon River. Of this number, 222,611 smolts were part of IDFG's original application, whereas 182,389 smolts were smolts they had in excess of original production estimates. The change from releasing the smolts into the upper Salmon and Snake Rivers to the lower Salmon River should result in fewer impacts to listed Snake River salmon. However, release of the excess production would require further section 7 consultation and a 30-day comment period, since it is an increase in the original numbers in the application.

Notice is hereby given that on May 6, 1993, as authorized by the provisions of the ESA, NMFS issued a Modification for the release of the 222,611 steelhead smolts, but not for the additional 182,389 steelhead smolts, subject to certain conditions set forth therein.

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, NOAA, 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: May 12, 1993.

William W. Fox, Jr.,

Director, Office of Protected Resources.

[FR Doc. 93–12539 Filed 5–26–93; 8:45 am]

BILLING CODE 3510–22–M

CONSUMER PRODUCT SAFETY COMMISION

Technical Advisory Group for Cigarette Fire Safety; Notice of Meeting

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: The Technical Advisory Group for Cigarette Fire Safety will meet on June 11, 1993, in Washington, DC. The purpose of the meeting is to discuss drafts of final reports on development of a test method to measure cigarette ignition propensity and other activities implementing the Fire Safe Cigarette Act.

DATES: The meeting will be from 9:00 a.m. to 5:00 p.m. on June 11, 1993.

ADDRESSES: The meeting will be at the Federal Trade Commission, room 332, 6th and Pennsylvania Avenue NW, Washington, DC.

FOR A RECORDED MESSAGE CONTAINING THE LATEST INFORMATION ABOUT THE TIME AND LOCATION OF THE MEETING CALL: (301) 504-0709.

FOR FURTHER INFORMATION CONTACT: Beatrice M. Harwood, Directorate for Epidemiology, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 504-0470.

SUPPLEMENTARY INFORMATION: The Fire Safe Cigarette Act of 1990 (FSCA) (Pub. L. 101-352, 104 Stat. 405) directs the Commission, with assistance from the National Institute of Standards and Technology (NIST) and the Department of Health and Human Services, to conduct research concerning the feasibility of a performance standard to address the propensity of cigarettes to act as an ignition source. The FSCA also establishes an advisory committee, the Technical Advisory Group for Cigarette Fire Safety, to advise and work with the Commission and NIST in the implementation of that act.

The Technical Advisory Group for Cigarette Fire Safety will meet on June 11, 1993, to discuss drafts of final reports concerning development of a test method to measure cigarette ignition propensity; a cigarette fire incident study; the societal costs of of cigarette-ignited fires; and evaluation of the possible health effect of cigarettes with reduced ignition propensity.

In accordance with provisions of 5 U.S.C. 552b(c)(4), a portion of the meeting may be closed to permit discussion of confidential commercial information provided by cigarette manufacturers in accordance with section 5(a) of the FSCA. Provisions of section 5(a) of the FSCA prohibit the disclosure of such information to persons other than members of the Technical Advisory Group for Cigarette Fire Safety, and Federal employees assisting the Technical Advisory Group. The remainder of the meeting will be open to observation by members of the public, but only members of the Technical Advisory Group may participate in the discussion. Persons who desire to submit written statements or questions for consideration by the Technical Advisory Group, before or after the meeting, should address them to the Technical Advisory Group for Cigarette Fire Safety, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 93-12630 Filed 5-26-93; 8:45 am]

BILLING CODE 6355-01-F

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Management Service, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before June 28, 1993.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Cary Green, Department of Education, 400 Maryland Avenue SW., room 4682, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Cary Green (202) 401–3200. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with an agency's ability to perform its statutory obligations. The Director of the Information Resources Management Service publishes this notice containing proposed information collection

requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement, (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Cary Green at the address specified above.

Dated: May 21, 1993.

Cary Green

Director, Information Resources Management Service.

Office of Postsecondary Education

Type of Review: Extension
Title: Continuation Application For Grants Under the Strengthening Institutions Program
Frequency: Annually
Affected Public: Non-profit institutions
Reporting Burden:
Responses: 200
Recordkeeping Burden:
4*Burden Hours:* 3,000
Recordkeeping Burden:
Recordkeepers: 200
Burden Hours: 600
Abstract: Higher education financial management. Eligible higher education institutions that are current recipients of multi-year Strengthening Institutions Program (SIP) grants are required to submit annually a request for continued funding. The form requests information needed to assess grantees' compliance with SIP regulations and to determine annual funding.

[FR Doc. 93–12487 Filed 5–26–93; 8:45 am]

BILLING CODE 4000–01–M

Proposed Information Collection Request

AGENCY: Department of Education.

ACTION: Notice of proposed information collection request.

SUMMARY: The Director, Information Resources Management Service, invites comments on the proposed information collection request as required by the Paperwork Reduction Act of 1980.

DATES: An emergency review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of Management and Budget (OMB) has been requested by May 28, 1993.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection request should be addressed to Cary Green, Department of Education, 7th & D Streets SW., room 4682, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Cary Green (202) 401–3200.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Resources Management Service, publishes this notice with the attached proposed information collection request prior to submission of this request to OMB. This notice contains the following information: (1) Type of review requested, e.g., expedited; (2) Title; (3) Abstract; (4) Additional Information; (5) Frequency of collection; (6) Affected public; and (7) Reporting and/or Recordkeeping burden. Because an expedited review is requested, a description of the information to be collected is also included as an attachment to this notice.

Dated: May 21, 1993.

Cary Green,

Director, Information Resources Management Service.

Office of Postsecondary Education

Type of Review: Emergency
Title: Transcript Study of Newly Minted Teachers
Abstract: The purpose of this data collection is to collect the college transcripts on "newly minted" teachers from the 1990–91 Schools and Staffing Survey. The transcript data on these teachers will be coded and combined for analysis purposed with the transcript data on newly qualified teachers from the Recent College Graduates Study of 1990–91.
Additional Information: The U.S. Department of Education has requested an emergency review and approval from the Office of Management and Budget. The Department's requested approval date is May 28, 1993.
Frequency: On occasion
Affected Public: Individuals or households; businesses or other for-profit; non-profit institutions; small businesses or organization
Reporting Burden:
Responses: 850
Burden Hours: 71
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

[FR Doc. 93–12488 Filed 5–26–93; 8:45 am]

BILLING CODE 4000–01–M

Privacy Act of 1974; ED Financial Management Information System 18–11–0027

AGENCY: Department of Education.

ACTION: Notice of an altered system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Department proposes to revise the system of records for the Department of Education's Financial Management Information System (EDFMIS). This revision updates the Department's financial and management records system by: (1) Identifying the separate functions of the four subsystems that make up EDFMIS; (2) adding three new routine uses; (3) making a number of minor changes that update and clarify information in the current system notice; and (4) changing the system number from 18–40–0033 to 18–11–0027 to group it with other management systems of records. Because the routine uses have been revised or added, the Department seeks comments on all the proposed routine uses contained in this notice.

DATES: Comments on the proposed routine uses of this system of records must be submitted by June 28, 1993. The Department filed a report on the altered system of records with the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House of Representatives, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on May 20, 1993. This system of records will become effective after the 60 day period for OMB review of the system expires on July 19, 1993, unless OMB gives specific notice within the 60 days that the system is not approved for implementation or requests additional time for its review. The Department will publish any changes to the routine uses

that are required as a result of comments.

ADDRESSES: Comments on the proposed routine uses should be addressed to the Privacy Act Officer, Information Management and Compliance Division, Information Resources Management Service, U.S. Department of Education, 400 Maryland Avenue SW., (GSA Regional Office Building 3, room 5624), Washington, D.C. 20202–4651. All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in room 5624, GSA Regional Office Building 3, between the hours of 8:30 am. and 4 pm., Monday through Friday of each week except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ruth Ann Harrold, Acting Director, Division of Financial Systems and Reporting, Accounting and Financial Management Service, U.S. Department of Education, 400 Maryland Avenue SW., Room 1175, FOB–6, Washington, DC 20202–4102. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1–800–877–8339 between 8 am. and 8 pm., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Privacy Act of 1974 (see 5 U.S.C. 552a(e)(4)) requires the Department to publish in the **Federal Register** this notice of an altered system of records. The Department's regulations implementing the Privacy Act of 1974 are contained in the Code of Federal Regulations (CFR) at 34 CFR part 5b.

The Department of Education maintains financial and management records regarding the Department's employees, consultants, contractors, grantees, advisory committee members, and other individuals receiving funds from the Department for performing services for the Department. The collection of this data is necessary to account properly for funds that have been appropriated to the Department by Congress from the time the funds are received by Treasury warrant and apportioned by OMB until the funds have been obligated to a recipient and expended in accordance with Departmental requirements.

This altered system notice revises the 1981 EDFMIS system of records notice and identifies the separate functions served by four subsystems, i.e., the Central Registry System (CRS), the Primary Accounting System (PAS), the Education Payment Management System (EDPMS), and the Grants and Contracts Management System (GCMS). While the substance of these subsystems are included under the current notice, they have never been identified by name in the system notice. As a result of Department review, definitions and purposes of the core financial systems have been included.

The Department is also proposing to make a technical amendment to this system of records by adding a new routine use to clarify the current routine uses regarding litigation. Under the new routine use, the Department may disclose a record as appropriate in a court or adjudicative proceeding if the disclosure is necessary for litigation and is consistent with the purposes for which the information in the record was collected. New routine uses are also proposed to permit computer matching under this system of records, and contracting out for the operation of the system, if needed in the future. The Department will only engage in computer matching as permitted under the Computer Matching and Privacy Protection Act of 1990.

This revised notice of a system of records is necessary to meet requirements of the Privacy Act of 1974 (5 U.S.C. 552a) and the Department's Privacy Act regulations at 34 CFR part 5b which apply only to individuals. Although EDFMIS contains information about institutions associated with individuals, the purpose for which the Department collects and maintains information under this system of records, and its usage of this information, pertains only to individuals protected under the Privacy Act of 1974 (5 U.S.C. 552a) and the Department's Privacy Act regulations (34 CFR part 5b).

Other technical amendments that have been made to this system of records involve minor changes which simply update information in the existing notice.

Direct access is restricted to authorized agency staff in the performance of their official duties. Due to the restructuring of this system notice, it is being published in its entirety.

Dated: May 20, 1993.

Sally H. Christensen,

Acting Assistant Secretary/Chief Financial Officer, Office of Management and Budget/ Chief Financial Officer.

The Assistant Secretary/Chief Financial Officer revises this notice of a system of records to read as follows:

18–11–0027

SYSTEM NAME:

ED Financial Management Information System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION(S):

The Central Registry System (CRS) is managed by the Data Integrity and Standards Branch, Information Management and Compliance Division, Information Resources Management Service, U.S. Department of Education, GSA Regional Office Building 3, Seventh & D Streets, SW., room 5624, Washington, DC 20202–4651.

The Primary Accounting System (PAS) and the Education Payment Management System (EDPMS) are managed by the Accounting and Financial Management Service, Office of Management and Budget/Chief Financial Officer, U.S. Department of Education, 400 Maryland Avenue SW., FOB–6, room 3092, Washington, DC 20202–4246.

The Grants and Contracts Management System (GCMS) is managed by the Systems Branch, Management Support Division, Grants and Contracts Service, Office of Human Resources and Administration, U.S. Department of Education, GSA Regional Office Building 3, Seventh & D Streets SW., room 3616, Washington, DC 20202–4653.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Department, consultants, contractors, grantees, advisory committee members, and other individuals receiving funds from the Department for performing services for the Department. Although EDFMIS contains information about institutions associated with individuals, the purpose for which the Department collects and maintains information under this system of records, and its usage of this information, pertains only to individuals protected under the Privacy Act of 1974 (5 U.S.C. 552a).

CATEGORIES OF RECORDS IN THE SYSTEM:

The EDFMIS contains the following records: name, address, SSN, eligibility codes, detailed and summary obligation data, reports of expenditures, and grant management data, including application and close out information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 301.

PURPOSE:

The purpose of the EDFMIS is to maintain financial and management records associated with the normal operations of the Department. Records are used for managing grant and contract awards, making payments, accounting for goods and services

provided and received, enforcing eligibility requirements, conditions in awards and U.S. law relating to transactions covered by the system, and defending the Department in actions relating to those transactions. EDFMIS consists of four subsystems, as follows:

CRS (The Central Registry System): The purpose of CRS is to register entities with whom the Department conducts business through grants and contracts. These entities are required to be registered on CRS before any obligation data is entered into PAS, GCMS, or EDPMS. CRS will also provide a means for the Department to perform computer matching for the purpose of determining eligibility for federal programs and enforcing debarment, suspension, and other exclusionary actions consistent with the requirements of the Computer Matching and Privacy Protection Act of 1988.

PAS (The Primary Accounting System): The purpose of the PAS is to record all obligations of the Department for payment, either by the EDPMS or by a contractor of the Department. An obligation cannot be recorded in PAS until the entity receiving payment under the obligation is validated in the CRS. Once an obligation is recorded in PAS, PAS sends the obligation information to EDPMS or a contractor for payment (the contractor does not maintain individually identifiable information). PAS maintains detailed information about obligations paid by the contractor and maintains general balance information for obligations paid directly by the Department through EDPMS.

EDPMS (The Payment Management System): The purpose of the EDPMS is to disburse funds to grant recipients for certain Department programs based on obligations received from PAS. Summary payment data are returned to PAS for recording.

On a monthly or quarterly basis, recipients report each grant's expenditures to EDPMS. EDPMS shares information with PAS on a daily basis providing expenditure information for each grant. Payment information is provided to PAS monthly. Payment information is retrievable in EDPMS by Taxpayer Identification Number. The TIN for an individual is the social security number. The name, mailing address and other characteristic data related to federal procurements, grants or institutional loans are also maintained.

GCMS (The Grants and Contracts Management System): The purpose of GCMS is to administer the contracts and grants award process from planning through closeout. GCMS shares information with PAS in an on-line, real-time basis. The GCMS maintains a record of grant and contract awards by the Department, including management information collected during the award process.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of Education (ED) may disclose information contained in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected under the following routine uses:

(a) *Litigation disclosure*—(1) *Disclosure to the Department of Justice.* If ED determines that disclosure of certain records to the Department of Justice is relevant and necessary to litigation and is compatible with the purpose for which the records were collected, ED may disclose those records as a routine use to the Department of Justice. Such a disclosure may be made in the event that one of the parties listed below is involved in the litigation, or has an interest in such litigation:

(i) ED or any component of the Department; or

(ii) Any employee of ED in his or her official capacity; or

(iii) Any employee of ED in his or her individual capacity where the Department of Justice has agreed to represent the employee; or

(iv) Any employee of ED in his or her individual capacity where the agency has agreed to represent the employer; or

(v) The United States where ED determines that the litigation is likely to affect ED or any of its components.

(2) *Other litigation disclosures.* If ED determines that disclosure of certain records to a court, adjudicative body before which ED is authorized to appear, individual or entity designated by ED or otherwise empowered to resolve disputes, counsel or other representative, or potential witness is relevant and necessary to litigation and is compatible with the purpose for which the records were collected, ED may disclose those records as a routine use to the court, adjudicative body, individual or entity, counsel or other representative, or witness. Such a disclosure may be made in the event that one of the parties listed below is involved in the litigation, or has an interest in the litigation:

(i) ED or any component of the Department; or

(ii) Any employee of ED in his or her official capacity; or

(iii) Any employee of ED in his or her individual capacity where the Department has agreed to represent the employee; or

(iv) The United States where ED determines that litigation is likely to affect ED or any of its components.

(b) *FOIA advice disclosure.* In the event ED deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act or other authority permitting disclosure of records, disclosure may be made to the Department of Justice for the purpose of obtaining its advice.

(c) *Contract disclosure.* ED may disclose information from this system of records as a routine use to a private firm or contractor with which ED contemplates it will contract or with which it has contracted for the purpose of performing any functions or analyses that facilitate or are relevant to an investigation, audit, inspection, or other inquiry. Such contractor or private firm shall be required to maintain Privacy Act safeguards with respect to such information.

(d) *Congressional member disclosure.* ED may disclose information from this system of records as a routine use from the record of an individual in response to a written inquiry from the Member of Congress made at the written request of that individual; however, the Member's right to the information is no greater than the right of the individual who requested it.

(e) *Computer matching disclosure.* ED may disclose information from this system of records to a Federal, State, local, or foreign agency, or other public authority, for use in computer matching programs to prevent and detect fraud and abuse in programs and activities administered by the Department, to support civil and criminal law enforcement activities of any agency regarding those programs and activities, and to assist in collecting repayment of debts to the Department.

DISCLOSURE TO A CONSUMER REPORTING AGENCY:

Disclosures pursuant to 5 U.S.C. 552(a)(b)(12): ED may disclose to a consumer reporting agency information regarding a claim by the Department which is determined to be valid and overdue as follows: (1) The name, address, taxpayer identification number and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status, and history of the claim; and (3) the program under which the claim arose. ED may disclose the information specified in this paragraph under 5 U.S.C. 552a(e)(4) and the

procedures contained in subsection 31 U.S.C. 3711(f). A consumer reporting agency to which these disclosures may be made is defined at 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Records are maintained on microfilm, microfiche, disk packs and magnetic tapes and stored in a retrievable file system.

RETRIEVABILITY:

Records are indexed by name, or other individual identifier, and TIN. The records are retrieved by a manual or computer search by indices.

SAFEGUARDS:

Direct access is restricted to authorized Department staff performing official duties. Authorized staff are assigned passwords which must be used for access to computerized data. Also, an additional password is necessary to gain access to the system. The system-access password is changed frequently. The data is maintained in a secured-access area.

RETENTION AND DISPOSAL:

Files are regularly updated. Records are maintained for ten years. Inactive records are purged from the automated file every five years.

SYSTEM MANAGER(S) AND ADDRESSES:

Central Registry System: Chief, Data Integrity and Standards Branch, Information Management and Compliance Division, Office of Information Resources Management, Office of Human Resources and Administration, U.S. Department of Education, GSA Regional Office Building 3, Seventh & D Street, S.W., Room 5624, Washington, DC. 20202–4651.

Primary Accounting and Education Payment Management Systems: Director, Division of Financial Systems and Reporting, Accounting and Financial Management Service, Office of Management and Budget/Chief Financial Officer, U.S. Department of Education, 400 Maryland Avenue, S.W., room 1175, Washington, DC. 20202–4102.

Grants and Contracts Management System: Chief, Systems Branch, Management Support Division, Grants and Contracts Service, Office of Human Resources and Administration, U.S. Department of Education, GSA Regional Office Building 3, Seventh & D Streets, S.W., Room 3616, Washington, DC. 20202–4600.

NOTIFICATION PROCEDURE:

If an individual wishes to determine whether a record pertaining to himself or herself is the system of records, the individual should provide his or her name and Social Security Number to the appropriate system manager. Such requests must meet the requirements in the Department's Privacy Act regulations at 34 CFR 5b.5.

RECORD ACCESS PROCEDURES:

If an individual wishes to gain access to a record in this system, he or she should contact the appropriate system manager and provide information as described in the notification procedure. Requests by an individual for access to a record must meet the requirements in the Department's Privacy Act regulations at 34 CFR 5b.5.

CONTESTING RECORD PROCEDURES:

If an individual wishes to change the content of a record pertaining to himself or herself that is contained in the system of records, he or she should contact the appropriate system manager with the information described in the notification procedure, identify the specific items requested to be changed, and provide a justification for such change. A request to amend a record must meet the requirements in the Department's Privacy Act regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information in this system will be obtained from applicants applying for an ED contract, grant, or loan at the time of application. Information will also be obtained from ED program offices, employees, consultants, and others performing personnel services for ED.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 93–12489 Filed 5–26–93; 8:45 am]
BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Final Assistance Award; Intent to Award Cooperative Agreement to New Mexico Bureau of Mines & Mineral Resources

AGENCY: Department of Energy (DOE).

ACTION: Notice of intent to make a noncompetitive financial assistance cooperative agreement.

SUMMARY: DOE announces that pursuant to 10 CFR 600.6(a)(5), it is making a discretionary financial assistance award based on the criteria set forth at 10 CFR 600.7(b)(2)(i) (B), (C) and (D), to the New Mexico Bureau of Mines & Mineral Resources (NMBMMR) under Cooperative Agreement Number DE–FC01–93EI23974. The purpose of the proposed agreement is to revise the Energy Information Administration (EIA) demonstrated reserve base (DRB) of coal for major coalfields in the State of New Mexico, with new quantity/quality data. This agreement is necessary to achieve program objectives, conserve public funds and is essential to the public interest. This effort will have a total estimated cost of $50,000 to be provided by the DOE.

The NMBMMR is the state authority on New Mexico coal reserves. This agreement will assist New Mexico in its efforts to continually collect analyses on coal quality and perform geological mapping to determine the quantity and quality of coal reserves in the state.

SUPPLEMENTARY INFORMATION: The cooperative agreement will provide funding to the New Mexico Bureau of Mines & Mineral Resources to develop Phase I Coal Reserves Data Base (CRDB) coal resource data for updated estimates of the demonstrated reserve base (DRB) and recoverable reserves of coal in New Mexico, allocated to specified ranges of sulfur content and heat content. The DRB constitutes the foundation data for coal reserve analyses, and recoverable reserve data derived from the DRB comprise the pivotal data base for analyzing future coal supplies. The data development may include analyses of coal geology, resource quantities, coal quality characteristics, and other factors that affect resource accessibility and minability. Data output must include original and remaining identified resources, DRB, accessible resources, and recoverable reserves, allocated by coal rank, type of mining, and (excepting identified resources) heat and sulfur content.

DOE has determined that the proposed agreement meets the criteria set forth at 10 CFR 600.7(b)(2) (B), (C) and (D) in that (1) the activities are being conducted by the applicant using its own resources or those donated or provided by third parties; however, DOE support of that activity would enhance the public benefits to be derived and DOE knows of no other entity which is conducting or is planning to conduct such an activity, (2) the NMBMMR is a unit of state government and the activity to be supported is related to performance of a governmental function within the subject jurisdiction, thereby precluding DOE provision of support to another entity, and (3) the NMBMMR has exclusive domestic capability to perform the activity successfully, based

upon unique equipment, proprietary data and technical expertise, or other such unique qualifications.

The NMBMMR is charged with the responsibility of mapping and estimating the coal resources for the State of New Mexico, and possess over 1,300 agency-collected analyses including sulfur contents and heat values. This data, along with data from other sources, will enable them to revise the coal reserves by quality and mining method for New Mexico. No other private or government entity is known to have the data and mapping capability required to estimate the coal reserves by quality for the State of New Mexico.

TERM: The term of the proposed cooperative agreement is expected to be 12 months from the effective date of award.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Placement and Administration, Attn: Shirley A. Jones, PR-322.1, 1000 Independence Avenue SW., Washington, DC 20585.

Scott Sheffield,

Acting Director, Division "B", Office of Placement and Administration.

[FR Doc. 93-12620 Filed 5-26-93; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER93-645-000, et al.]

Southern California Edison Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

May 21,1993.

Take notice that the following filings have been made with the Commission:

1. Southern California Edison Co.

[Docket No. ER93-645-000]

Take notice that on May 14, 1993, Southern California Edison Company (Edison) tendered for filing, as an initial rate schedule, the following agreement, executed May 6, 1993 by the respective parties:

Interconnection Facilities Agreement (Agreement) Between The Metropolitan Water District of Southern California and Southern California Edison Company.

The Agreement contains the terms and conditions whereby Edison shall provide and maintain the Interconnection Facilities required for the interconnection of District's Etiwanda Power Plant with the Edison electric system. The Etiwanda Power Plant is a 28 MW hydroelectric power plant in the City of Rancho Cucamonga, California which is being built by the District with a scheduled operating date of December 1, 1993.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: June 4, 1993, in accordance with Standard Paragraph E at the end of this notice.

2. Tucson Electric Power Co.

[Docket No. ER93-642-000]

Take notice that on May 11, 1993 Tucson Electric Power Company (Tucson) tendered an Amendment No. 2 dated May 4, 1993, (the Amendment) to the Agreement entitled 1992 Short Term Power Sale Agreement dated March 15, 1992 (the Agreement) between Tucson and Citizens Utilities Company (Citizens). Under the Agreement Tucson has been selling to Citizens firm capacity and energy since May 1992 and will continue to do so through December 31, 1995.

Amendment No. 2 is being made to provide Citizens with an additional 10 mgawatts of capacity for the summer months at the current rate for a reduction in energy charges for energy taken during off-peak hours.

The Parties request waiver of the Commission's regulations regarding filing so as to permit the Amendment to become effective June 1, 1993.

Copies of this filing have been served upon all parties affected by this proceeding.

Comment date: June 4, 1993, in accordance with Standard Paragraph E at the end of this notice.

3. PSI Energy, Inc.

[Docket No. ER92-653-001]

Take notice that PSI Energy, Inc. (PSI) on May 11, 1993, tendered for filing amended Service Schedules to the FERC Filing in Docket No. ER92-653-000 to comply with a FERC Staff request.

Copies of the filing were served on Indianapolis Power and Light Company and the Indiana Utility Regulatory Commission.

Comment date: June 4, 1993, in accordance with Standard Paragraph E end of this notice.

4. PacifiCorp

Docket No. ER93-644-000

Take notice that PacifiCorp on May 14, 1993, tendered for filing in accordance with 18 CFR 35.13 of the Commission's Rules and Regulations, a Letter Agreement dated July 8, 1991 between PacifiCorp and Arizona Public Service Company (Arizona).

The Letter Agreement amends or supplements certain terms of the Long-Term Power Transactions Agreement the and Asset Purchase and Power Exchange Agreement between PacifiCorp and Arizona, PacifiCorp Rate Schedules FERC No. 306 and 307 respectively.

Copies of this filing were supplied to Arizona, the Arizona Corporate Commission and the Public Utility Commission of Oregon.

Comment date: June 4, 1993, in accordance with Standard Paragraph E at the end of this notice.

5. Wisconsin Electric Power Co.

Docket No. ER93-649-000

Take notice that Wisconsin Electric Power Company (Wisconsin Electric) on May 17, 1993, tendered for filing an Interconnection Agreement between itself and Wisconsin Public Service Corporation (Public Service). The Interconnection Agreement supersedes and replaces in its entirety the previous agreement between the parties, which the parties wish to cancel. The service schedules appended to the Agreement provide for the sale and purchase of Limited Term Power and Energy Emergency Energy, Economy Energy, Short Term Power and Energy, General Purpose Energy, and Negotiated Capacity.

The Agreement also updates the listing of interconnection points between the Parties, which are contained as appendices to the Agreement.

Wisconsin Electric and Public Service respectfully requests an effective date of 60 days after the filing date.

Copies of the filing have been served on the Public Service Commission of Wisconsin, and the Michigan Public Service Commission.

Comment date: June 4, 1993, in accordance with Standard Paragraph E at the end of this notice.

6. Pacific Gas and Electric Co.

Docket No. ER93-643-000

Take notice that on May 13, 1993, Pacific Gas and Electric Company (PG&E) tendered for filing a change in rate schedule for Rate Schedule FERC No. 108, a contract with the City of Santa Clara, California (City) entitled "System Bulk Power Sale and Purchase Agreement Between City of Santa Clara and Pacific Gas and Electric Company" (Agreement). The Agreement and its appendices were accepted for filing by the Commission on September 23, 1987 in Docket No. ER87-498-000, and contain capacity and energy rates for firm, baseload power sold to City by PG&E.

PG&E proposes to change the energy rate, pursuant to Appendix A of the

Agreement, from 27.3 mills to 27.9 mills based on the new 1993 Average Thermal Cost Index. Since the increase is under $1,000,000 and City has agreed to the proposed rate, PG&E is filing in accordance with § 35.13(a)(2) of the Commission's regulations (18 CFR 13(a)(2)). In addition, PG&E is requesting a waiver of the Commission's notice requirements in accordance with § 35.11 of the Commission's regulations (18 CFR 35.11) so that the energy rate change may become effective on April 1, 1993 pursuant to the Agreement.

Copies of this filing were served upon City and the California Public Utilities Commission.

Comment date: June 4, 1993, in accordance with Standard Paragraph E at the end of this notice.

7. Orange and Rockland Utilities, Inc.

Docket No. ER93–558–000

Take notice that on May 17, 1993, Orange and Rockland Utilities, Inc. (Orange and Rockland) tendered for filing an amendment to Orange and Rockland's previous filing of April 6, 1993, pursuant to the Federal Energy Regulatory Commission's order issued January 15, 1988, in Docket No. ER88–112–000, of an executed Service Agreement between Orange and Rockland and Mack Bros. Ltd.

Comment date: June 4, 1993, in accordance with Standard Paragraph E at the end of this notice.

8. Wisconsin Public Service Corp.

[Docket No. ER93–646–000]

Take notice that Wisconsin Public Service Corporation (WPSC) on May 14, 1993 tendered for filing Supplement No. 1 to Exhibit 1 to its Service Agreement No. 7 for service to Wisconsin Rapids, Wisconsin, pursuant to WPSC's Tariff Original Volume No. 2. The new Supplement No. 1 makes provision for the addition of a new delivery point for service to Wisconsin Rapids. WPSC states that the filing proposes no other changes to the terms and conditions under which WPSC provides service to Wisconsin Rapids.

WPSC asks that the 60-day notice requirement be waived and that Supplement No. 1 be allowed to become effective on July 1, 1993, since the new distribution circuit may be energized on or shortly after that date. WPSC states that Wisconsin Rapids consents to and supports this requested effective date. WPSC further states that copies of the filing have been served upon Wisconsin Rapids and the Wisconsin Public Service Commission.

Comment date: June 4, 1993, in accordance with Standard Paragraph E at the end of this notice.

9. Philadelphia Electric Co.

[Docket No. ER93–648–000]

Take notice that on May 17, 1993, Philadelphia Electric Company (PE) tendered for filing as an initial Rate Schedule an Agreement for Installed Capacity Credit Transactions between Pennsylvania Power & Light Company (PL) and PE dated May 12, 1993. This contract sets forth the terms under which PE will sell PJM installed capacity credits to PL. In order to maximize the economic advantages to both PE and PL, PE requests that the Commission waive its customary notice period and permit this Agreement to become effective on May 18, 1993.

PE states that a copy of this filing has been served by mail upon PL and the Pennsylvania Public Utility Commission.

Comment date: June 4, 1993, in accordance with Standard Paragraph E at the end of this notice.

10. PacifiCorp

[Docket No. ER93–516–000]

Take notice that PacifiCorp, on May 17, 1993, tendered for filing, in accordance with 18 CFR 35.13(a)(2) of the Commission's Rules and Regulations an amendment to its March 30, 1993 filing of PacifiCorp's FERC Electric Tariff, First Revised Volume No. 3 (Tariff) and cost-of-service information in support of PacifiCorp's proposed rate change.

Pacific respectfully requests pursuant to § 35.11 of the Commission's Rules and Regulations, that a waiver of prior notice be granted and that this filing be accepted for filing effective on June 1, 1993. This date being sixty (60) days from the filing date of PacifiCorp's March 30, 1993 letter.

Copies of this filing were supplied to the Public Utility Commission of Oregon.

Comment date: June 4, 1993, in accordance with Standard Paragraph E at the end of this notice.

11. Montaup Electric Co.

[Docket No. ER93–647–000]

Take notice that on May 14, 1993, Montaup Electric Company tendered for filing a report of refunds and revised rate schedules implementing a pass-through of a reduction in property taxes imposed on the Seabrook Nuclear Station by the State of New Hampshire. The filing is made pursuant to an adjustment clause for Seabrook Property Taxes contained in Montaup's rates.

Comment date: June 4, 1993, in accordance with Standard Paragraph E at the end of this notice.

12. Arizona Public Service Co.

Docket No. ER93–499–000]

Take notice that on May 17, 1993, Arizona Public Service Company (APS) tendered for filing an amendment in the above referenced docket. The Amendment updates that cost data used to support the proposed ceiling adder.

A copy of this filing has been served on Louis-Dreyfus Electric Power, Inc., and the Arizona Corporation Commission.

Comment date: June 4, 1993, in accordance with Standard Paragraph E at end of this notice.

13. Northeastern Utilities Service Co.

[Docket No. ER93–297–000]

Take notice that on May 17, 1993, Northeast Utilities Service Company (NUSCO), on behalf of The Connecticut Light and Power Company (CL&P), submitted a Second Amendment to the Capacity, Transmission and Energy Service Agreement between CL&P and Green Mountain Power Corporation (GMP) and a Service Agreement for Non-Firm Transmission Service under NUSCO's Tariff No. 2 and a Service Agreement for Firm Transmission Service under NUSCO's Tariff No. 1 covering transmission of sales by CL&P to GMP and Bozrah Light and Power Company (BL&P), respectively, pursuant to the Commission's April 16, 1993, Order in this Docket.

NUSCO states that copies of this rate schedule have been mailed or delivered to GMP, BL&P and The Vermont Department of Public Service.

NUSCO further states that the filing is in accordance with section 35 of the Commission's regulations.

Comment date: June 4, 1993, in accordance with Standard Paragraph E at the end of this notice.

14. PSI Energy, Inc.

[Docket No. ER93–351–000]

Take notice that PSI Energy, Inc. (PSI) on May 17, 1993, tendered for filing amended Service Schedules to the FERC Filing in Docket No. ER93–351–000 to comply with a FERC Staff request.

Copies of the filing were served on the Illinois Municipal Electric Agency, the Illinois Commerce Commission and the Indiana Utility Regulatory Commission.

Comment date: June 4, 1993, in accordance with Standard Paragraph E at the end of this notice.

15. Southern California Edison Co.

[Docket No. EL93–36–000]

Take notice that on April 27, 1993, Southern California Edison Company (Edison) tendered for filing a Petition for Waiver of Requirement for Filing Within

Three Years of General Rate Change Required for Recovery of Costs Associated with Post-Employment Benefits Other Than Pensions.

Comment date: June 11, 1993, in accordance with Standard Paragraph E at the end of this notice.

16. Portland General Electric Co.

[Docket No. ER93–462–000]

Take notice that on May 17, 1993, Portland General Electric Company (PGE) tendered for filing an amendment to its original filing under Docket No. ER93–462–000. The nature of the amendment is a request for a thirty (30) day delay of Commission action and a request for waiver of the Commission's notice requirements to allow two service agreements under FERC Electric Tariff, Original Volume No. 1 (PGE–1) to be effective May 17, 1993.

PGE is amending the filing to complete an updated cost support analysis and to allow FERC staff time to review that analysis.

Copies of this filing have been served on the parties included in the distribution list contained in the filing letter.

Comment date: June 4, 1993, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any persons desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–12525 Filed 5–26–93; 8:45 am]

BILLING CODE 6716–01–M

[Docket No. RP93–3–000]

Arkla Energy Resources, a Division of Arkla, Inc.; Informal Settlement Conference

May 21, 1993.

Take notice that an informal settlement conference will be convened in this proceeding on May 27, 1993, at 9:30 a.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC, for the purpose of exploring the possible settlement of the issues in this proceeding.

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 Arnold H. Meltz (202) 208–2161 or Russell B. Mamone at (202) 208–0744.

Lois D. Cashell,

Secretary.

[FR Doc. 93–12521 Filed 5–26–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EL93–38–000]

In the matter of the City of Burlington, VT; New Hampshire Electric Cooperative, Inc.; Washington Electric Cooperative, Inc.; the Electric Light Department of the City of Braintree, MA; the Danvers Electric Division of the Town of Danvers, MA; the Hingham Municipal Light Plant; the Gas & Electric Dept. of the City of Holyoke, MA; Littleton Electric Light Department; Marblehead Municipal Light Department; Peabody Municipal Light Plant; Shrewsbury's Electric Light Plant; the Taunton Municipal Lighting Plant; and the Wakefield Municipal Light Dept. v. Vermont Nuclear Power Corp. and Maine Yankee Atomic Power Co.

City of Burlington, et al. v. Vermont Nuclear Corp. et al.; Notice of Filing

May 21, 1993.

Take notice that on May 7, 1993, the City of Burlington, Vermont; New Hampshire Electric Cooperative, Inc.; Washington Electric Cooperative, Inc.; the Electric Light Department of the City of Braintree, Massachusetts, the Danvers Electric Division of the Town of Danvers, Massachusetts; the Hingham Municipal Light Plant; the Gas & Electric Department of the City of Holyoke, Massachusetts; Littleton Electric Light Department; Marblehead Municipal Light Department; Peabody Municipal Light Plant; Shrewsbury's Electric Light Plant; the Taunton Municipal Lighting Plant; and the Wakefield Municipal Light Department tendered for filing a complaint against Vermont Yankee Atomic Power Company and Maine Yankee Atomic Power Company and request for consolidation of this complaint proceeding with the proceeding initiated by the Commission in Docket Nos. EL93–21–000 and EL93–22–000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before June 21, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. Answers to the complaint shall be due on or before June 21, 1993.

Lois D. Cashell,

Secretary.

[FR Doc. 93–12520 Filed 5–26–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RS92–19–000, RP92–104–000, and RP92–131–000 (consolidated in part)]

K N Energy, Inc.; Conference

May 21, 1993.

Take notice that on May 27, 1993, beginning at 1:30 p.m., a technical conference will be convened in the above-referenced restructuring docket. The conference will be held in a hearing room at 810 First Street, NE., Washington, DC.

This conference has been called at the request of K N Energy, Inc. (K N) to discuss the Commission's May 6, 1993 order in this docket. 63 FERC ¶ 61, 163. Although K N noted several topic areas that it believes requires clarification, all parties are advised that the purpose of the conference is not to debate the merits of the order or to negotiate the requirements included therein. Those are matters that are more appropriately raised in a petition for rehearing or clarification. It is not expected that the conference will result in any change in the procedural schedule established by the Commission in the May 6th order.

All parties are invited to attend. Attendance at the conference, however, will not confer party status. For additional information, interested

persons may call Arnold H. Meltz at (202) 208–2161.

Lois D. Cashell,

Secretary.

[FR Doc. 93–12524 Filed 5–26–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER93–613–000]

Kansas Gas & Electric Co.; Filing

May 21, 1993.

Take notice that on April 30, 1993, Kansas Gas & Electric Company (KG&E) tendered for filing a supplement to the Participation Power Agreement between KG&E and the Oklahoma Municipal Power Authority. KG&E states the filing is to amend the Agreement to provide for its early termination on December 31, 1994. This filing is proposed to become effective June 1, 1993.

A copy of this filing was served upon the Oklahoma Municipal Power Authority and the Kansas Corporation Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before June 2, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–12522 Filed 5–26–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP93–350–000]

Northern Natural Gas Co. Request Under Blanket Authorization

May 21, 1993.

Take notice that on May 19, 1993, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in Docket No. CP93–350–000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to construct and operate a delivery point and related facilities under Northern's blanket certificate issued in Docket No. CP82–401–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northern proposes to install the Wykoff town border station to accommodate natural gas deliveries under Northern's currently effective service agreement(s) with Interstate Power Company (Interstate Power). Northern explains that Interstate Power has requested additional service due to its expansion into markets not previously supplied with natural gas. Northern states that the facilities would be located in Fillmore County, Minnesota. Northern advises that the estimated peak day and annual volumes are expected to be 275 Mcf per day and 20,000 Mcf, respectively. It is stated that Interstate Power's current firm entitlement is sufficient to serve this increased load.

Northern would also construct approximately ½ mile of 12-inch looping on the existing LaCrosse Branchline (16-inch), under § 157.208(a), to provide the transportation service requested by Interstate Power. Northern estimates that the cost of installing the delivery point and the looping would be $175,000.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant section 7 of the Natural Gas Act.

Lois D. Cashwell,

Secretary.

[FR Doc. 93–12523 Filed 5–26–93; 8:45 am]

BILLING CODE 6717–01–M

Office of Arms Control and Nonproliferation Policy

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of Japan concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following retransfer: RTD/JA(EU)–67, for the transfer from Belgium to Japan of 35.7 grams of uranium containing 1.8 grams of the isotope uranium-235 (5.05 percent enrichment) for use as reference material for calibration mass spectrometers.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Issued in Washington, DC, on May 21, 1993.

Edward T. Fei,

Acting Director, Office of Nonproliferation Policy.

[FR Doc. 93–12621 Filed 5–26–93; 8:45 am]

BILLING CODE 6430–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4659–2]

Proposed Settlement; Roof Removal Operations Under the Asbestos NESHAP

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement; Request for public comment.

SUMMARY: In accordance with the Clean Air Act, notice is hereby given of a proposed settlement agreement conditionally entered into by the United States Environmental Protection Agency ("EPA") on May 3, 1993, in litigation concerning the National Emission Standards for Hazardous Air Pollutants for Asbestos ("Asbestos NESHAP"). For a period of thirty days following the date of publication of this notice, the Agency will receive written comments relating to the settlement from persons who were not named as parties to the litigation in question. EPA or the

Department of Justice is authorized to withdraw its consent to the settlement agreement if appropriate in light of the public comments.

DATES: Written comments on the settlement agreement must be received by June 28, 1993.

ADDRESSES: Written comments should be sent, preferably in triplicate, to Michael Horowitz, Air and Radiation Division (LE–132A), Office of General Counsel, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260–8883. Copies of the settlement agreement are available from Samantha Hooks, Air and Radiation Division (LE–132A), Office of General Counsel, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260–7620. A copy of the settlement agreement, including an attached interpretive rule, has been lodged with the Clerk of the United States Court of Appeals for the District of Columbia Circuit.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Ripp (703) 308–8727 at U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Stationary Source Compliance Division.

SUPPLEMENTARY INFORMATION: In *National Roofing Contractors Association, et. al.*, v. *U.S. Environmental Protection Agency*, No. 91–1035 (D.C. Cir.), the petitioners seek review of the EPA's November 20, 1990 Final Rule amending the national emission standard for asbestos under section 112 of the Clean Air Act, 55 FR 48406 (Nov. 20, 1990), codified at 40 CFR part 61. EPA and the petitioners have entered into a conditional settlement agreement that includes an interpretive rule that will be published in the **Federal Register** if this settlement agreement is made final.

Section 113(g) of the Clean Air Act (42 U.S.C. 7413(g)) requires, with exceptions not pertinent here, that EPA publish notice of settlement agreements in the **Federal Register** and provide a reasonable opportunity for public comment. EPA or the Department of Justice may withhold consent to the proposed settlement if the comments disclose facts or circumstances that indicate that such consent is inappropriate, improper, inadequate or inconsistent with the requirements of the Clean Air Act.

Dated: May 12, 1993.

Gerald H. Yamada,

Acting General Counsel.

[FR Doc. 93–12641 Filed 5–26–93; 8:45 am]

BILLING CODE 6560–50–M

[OPP–00358; FRL–4626–8]

State FIFRA Issues Research and Evaluation Group (SFIREG) Working Committee on Ground Water Protection and Pesticide Disposal; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The State FIFRA Issues Research and Evaluation Group (SFIREG) Working Committee on Ground Water Protection and Pesticide Disposal will hold a 2–day meeting, beginning on June 7, 1993, and ending on June 8, 1993. This notice announces the location and times for the meeting and sets forth tentative agenda topics.

DATES: The SFIREG Working Committee on Ground Water Protection and Pesticide Disposal will meet on Monday, June 7, 1993, from 8:30 a.m. to 5 p.m. and on Tuesday, June 8, 1993, beginning at 8:30 a.m. and adjourning at approximately noon.

ADDRESSES: The meeting will be held at: DoubleTree Hotel National Airport - Crystal City, 300 Army-Navy Drive, Arlington, Virginia, (703) 892–4100.

FOR FURTHER INFORMATION CONTACT: By mail: Shirley M. Howard, Office of Pesticide Programs (H7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1109, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–7371.

SUPPLEMENTARY INFORMATION: The tentative agenda of the SFIREG Working Committee includes the following:

1. Reports from the SFIREG Working Committee Members on State Ground Water Protection and Pesticide Disposal projects.
2. State Management Plans - Status of Guidance and Discussion of Issues.
3. Ground Water Vulnerability Assessments and EPA's Technical Assistance Document.
4. Discussion of Amber.
5. Discussion of the "Headquarter/Regional Review Team" for State Management Plans.
6. Costal Zone Programs' Relation to State Management Plans.
7. Update on Bulk Pesticide Repackaging.
8. Discussion of EPA-ARA Workshop on Bioremedition of Pesticides in Cincinnati, Ohio.
9. Discussion of RCRA/FIFRA Interface.
10. Update on Legislative Initiatives from Committee Members.
11. Update on the Status of Part 165, Section 19(f), and Questions Answers.

Dated: May 21, 1993.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 93–12763 Filed 5–26–93; 8:45 am]

BILLING CODE 6560–50–F

[OPP–00336A; FRL–4587–7]

Proposed Residue Chemistry Guidelines; Notice of Availability and Request for Comment; Reopening of public comment period.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability and Request for Comment; Reopening of public comment period.

SUMMARY: In the **Federal Register** of January 21, 1993, (58 FR 5390) EPA published a notice of the availability of, and requested comments on two proposed guidelines: (1) Guidelines for the Collection of Residue Data for Acutely Toxic Pesticides, and (2) Guidelines for the Use of Anticipated Residues in Dietary Exposure Assessment. The period for accepting comments extended to March 22, 1993.

To assure that the public and other interested parties have sufficient time to review and comment on the proposed guidelines, the comment period has been reopened.

DATES: Comments must be received by July 26, 1993.

ADDRESSES: Comments should be addressed to the Pesticide Docket, Office of Pesticide Programs, Public Response and Program Resources Branch, Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. Telephone (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: For Guidelines for the Collection of Residue Data for Acutely Toxic Pesticides contact by mail: Joel Garbus, Health Effects Division [H7509C], Office of Pesticide Programs, Environmental Protection Agency, 401 M St., Washington, DC 20460. In person or by telephone: Rm 805B, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA (703) 305–5405.

For Guidelines for the Use of Anticipated Residues in Dietary Exposure Assessment, contact by mail: Michael S. Metzger, Health Effects Division [H7509C], Office of Pesticide Programs, Environmental Protection Agency, 401 M St., Washington, DC 20460. In person or by telephone: Rm 816G, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA (703) 305–5883.

Dated: May 20, 1993.

Daniel M. Barolo,

Acting Director, Office of Pesticide Programs.

[FR Doc. 93-12648 Filed 5-26-93; 8:45 am]

BILLING CODE 6560-50-F

[OPPTS-59965; FRL-4589-2]

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 4 such PMN(s) and provides a summary of each.

DATES: Close of review periods:

Y 93-95, 93-97, 93-98, 93-99, April 26, 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 notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Nonconfidential Information Center (NCIC) also known as TSCA Public Docket Office, ETG-102 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 93-95

Manufacturer. Confidential.

Chemical. (G) Crosslinked polyol.

Use/Production. (G) Dehydration agent. Prod. range: Confidential.

Y 93-97

Importer. Mitsubishi International Corporation.

Chemical. (S) Isoprene *N*-butyl lithium hydrogene.

Use/Import. (S) Polyolefin modifier and rubber additive. Import range: 2,000-5,000 kg/yr.

Y 93-98

Manufacturer. C.J. Osborn, Divison.

Chemical. (G) Polyester.

Use/Production. (S) Pigmented coatings. Prod. range: Confidential.

Y 93-99

Manufacturer. AKZO Resin.

Chemical. (G) Polyurethane polyol.

Use/Production. (S) Resin used to manufacture industrial coatings. Prod. range: Confidential.

Dated: May 21, 1993.

Frank V. Caesar,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 93-12649 Filed 5-26-93; 8:45 am]

BILLING CODE 6560-50-F

[OPPTS-59967; FRL-4589-5]

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 93-130, 93-131, 93-132, May 16, 1993.

Y 93-133, May 17, 1993.

Y 93-134, 93-135, May 19, 1993.

Y 93-136, May 20, 1993.

Y 93-137, 93-138, May 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 notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office, ETG-099 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 93-130

Importer. Goldschmidt Chemical Corporation.

Chemical. (G) Silicone wax.

Use/Import. (G) Open, nondispersive use. Import range: Confidential.

Toxicity Data. Acute oral: LD50 > 5,000 mg/kg (rat). Eye irritation: None (rabbit). Skin irritation: Slight (rabbit).

Y 93-131

Importer. King Industries, Inc.

Chemical. (G) Metacrylate polymer; polymethacrylate.

Use/Import. (G) Coating additive, open, nondispersive use. Import range: Confidential.

Toxicity Data. Eye irritation: None (rabbit). Skin irritation: Slight (rabbit).

Y 93-132

Manufacturer. Elf Atochem North America.

Chemical. (S) Hexahydro-2H-azepin-2-one(a/k/a lactam 6) poly (oxy) -1,4-butanedily), alpha-hydro-omega-hydroxy (a/k/a PTMG) 1,6-hexanedioic acid.

Use/Production. (S) Alloys for conveyor belts annd film. Prod. range: 30,000-300,000 kg/yr.

Toxicity Data. Acute oral: LD50 4.000 mg/kg (rat).

Y 93-133

Manufacturer. Lilly Industries, Inc.

Chemical. (G) Polymer of adiphatic acids, aromatic acids, and aliphatic diols.

Use/Production. (G) Industrial liquid paints. Prod. range: 3800,000-1,400-000 kg/yr.

Y 93-134

Manufacturer. Goldschmidt Chemical Corporation.

Chemical. (G) Polyether modified polysiloxane.

Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

Y 93–135

Manufacturer. Lyondell Polymer Corporation.

Chemical. (G) Polyolefinic copolymer.

Use/Production. (G) Modified polyolefinic fibers. Prod.range: Confidential

Y 93–136

Importer. Goldschmidt Chemical Corporation.

Chemical. (G) Polyethermodified polysiloxane.

Use/Import. (G) Open, nondispersive use. Import range: Confidential.

Y 93–137

Importer. Goldschmidt Chemical Corporation.

Chemical. (G) Organomodified polysiloxane.

Use/Import. (G) Open, nondispersive use. Import range: Confidential.

Toxicity Data. Skin sensitization: negative (guinea pig).

Y 93–138

Manufacturer. American Polymers Corporation.

Chemical. (G) Aliphatic polyurethane coating.

Use/Production. Waterproofing coating application. Prod. range: Confidential.

Dated: May 21, 1993.

Frank V. Caesar,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 93–12650 Filed 5–26–93; 8:45 am]

BILLING CODE 6560–50–F

[OPPTS–59966; FRL–4589–4]

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 29 such PMN(s) and provides a summary of each.

DATES: Close of review periods:

Y 93–100, April 26, 1993.

Y 93–101, May 4, 1993.

Y 93–102, 93–103, 93–104, 93–105, 93–106, 93–107, 93–108, 93–109, 93–110, 93–111, 93–112, 93–113, 93–114, 93–115, 93–116, 93–117, 93–118, 93–119, 93–120, 93–121, 93–122, 93–123, 93–124, 93–125, 93–126, 93–127, April 26, 1993.

Y 93–128, May 5, 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 notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office, ETG–102 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 93–100

Manufacturer. The P.D. George Company.

Chemical. (G) Aldehyde modified resin.

Use/Production. (S) Insulating varnish for the coating of electrical equipment. Prod. range: 64,000 kg/yr.

Y 93–101

Manufacturer. Confidential.

Chemical. (S) Soya oil; 1,3-trimethylol propane; pentaerythritol; methyl methacrylate; isophthalic acid; tall oil fatty acids; trimellitic anhydride.

Use/Production. (S) A polymer for industrial and architectural coatings. Prod. range; 100,000–250,000 kg/yr.

Y 93–102

Manufacturer. Confidential.

Chemical. (G) Acrylic copolymer.

Use/Production. (G) Paint. Prod. range: Confidential.

Y 93–103

Manufacturer. Confidential.

Chemical. (G) Acrylic copolymer.

Use/Production. (G) Paint. Prod. range: Confidential.

Y 93–104

Manufacturer. Confidential.

Chemical. (G) Acrylic copolymer.

Use/Production. (G) Paint. Prod. range: Confidential.

Y 93–105

Manufacturer. Confidential.

Chemical. (G) Acrylic copolymer.

Use/Production. (G) Paint. Prod. range: Confidential.

Y 93–106

Manufacturer. Confidential.

Chemical. (G) Acrylic copolymer.

Use/Production. (G) Paint. Prod. range: Confidential.

Y 93–107

Manufacturer. Confidential.

Chemical. (G) Acrylic copolymer.

Use/Production. (G) Paint. Prod. range: Confidential.

Y 93–108

Manufacturer. Confidential.

Chemical. (G) Acrylic copolymer.

Use/Production. (G) Paint. Prod. range: Confidential.

Y 93–109

Manufacturer. Confidential.

Chemical. (G) Acrylic copolymer.

Use/Production. (G) Paint. Prod. range: Confidential.

Y 93–110

Manufacturer. Confidential.

Chemical. (G) Acrylic copolymer.

Use/Production. (G) Paint. Prod. range: Confidential.

Y 93–111

Manufacturer. Confidential.

Chemical. (G) Acrylic copolymer.

Use/Production. (G) Paint. Prod. range: Confidential.

Y 93–112

Manufacturer. Confidential.

Chemical. (G) Acrylic copolymer.

Use/Production. (G) Paint. Prod. range: Confidential.

Y 93–113

Manufacturer. Confidential.

Chemical. (G) Acrylic copolymer.

Use/Production. (G) Paint. Prod. range: Confidential.

Y 93–114

Manufacturer. Confidential.

Chemical. (G) Acrylic copolymer.

Use/Production. (G) Paint. Prod. range: Confidential.

Y 93–115

Manufacturer. Confidential.

Chemical. (G) Acrylic copolymer.

Use/Production. (G) Paint. Prod. range: Confidential.

Y 93–116

Manufacturer. Confidential.

Chemical. (G) Acrylic copolymer.
Use/Production. (G) Paint. Prod. range: Confidential.

Y 93–117
Manufacturer. Confidential.
Chemical. (G) Acrylic copolymer.
Use/Production. (G) Paint. Prod. range: Confidential.

Y 93–118
Manufacturer. Confidential.
Chemical. (G) Acrylic copolymer.
Use/Production. (G) Paint. Prod. range: Confidential.

Y 93–119
Manufacturer. Confidential.
Chemical. (G) Acrylic copolymer.
Use/Production. (G) Paint. Prod. range: Confidential.

Y 93–120
Manufacturer. Confidential.
Chemical. (G) Acrylic copolymer.
Use/Production. (G) Paint. Prod. range: Confidential.

Y 93–121
Manufacturer. Confidential.
Chemical. (G) Acrylic copolymer.
Use/Production. (G) Paint. Prod. range: Confidential.

Y 93–122
Manufacturer. Confidential.
Chemical. (G) Acrylic copolymer.
Use/Production. (G) Paint. Prod. range: Confidential.

Y 93–123
Manufacturer. Confidential.
Chemical. (G) Acrylic copolymer.
Use/Production. (G) Paint. Prod. range: Confidential.

Y 93–124
Manufacturer. Confidential.
Chemical. (G) Acrylic copolymer.
Use/Production. (G) Paint. Prod. range: Confidential.

Y 93–125
Manufacturer. Confidential.
Chemical. (G) Acrylic copolymer.
Use/Production. (G) Paint. Prod. range: Confidential.

Y 93–126
Manufacturer. Confidential.
Chemical. (G) Acrylic copolymer.
Use/Production. (G) Paint. Prod. range: Confidential.

Y 93–127
Manufacturer. Confidential.
Chemical. (G) Acrylic copolymer.
Use/Production. (G) Paint. Prod. range: Confidential.

Y 93–128
Manufacturer. Confidential.
Chemical. (G) Carboxylic saturated polyester.
Use/Production. (G) Powder coating resin. Prod. range: Confidential.

Dated: May 21, 1993.

Frank V. Caesar,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 93–12646 Filed 5–26–93; 8:45 am]

BILLING CODE 6560–50–F

[OPPTS–59323; FRL–4588–5]

Certain Chemicals; Approval of a Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substance Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt are discussed in EPA's final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice, issued under section 5(h)(6) of TSCA, announces receipt of one application for exemption, provides a summary, and requests comments on the appropriateness of granting this exemption.

DATES:

Written comments by:

T 93–19, May 28, 1993.

ADDRESSES: Written comments, identified by the document control number [OPPTS–59323] and the specific TME number should be sent to: TSCA Document Processing Center (TS–790), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., rm. 201ET Washington, DC 20460 (202) 260–1532.

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 notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer of the TME received by EPA. The complete nonconfidential document is available in the TSCA Nonconfidential Information Center, (NCIC) also known as the TSCA Public Docket Office ETG–102 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

T 93–19
Close of Review Period. June 11, 1993.
Manufacturer. Westvaco Corporation.
Chemical. (G) Polymeric styrene/acrylic amidoamine.
Use/Production. (G) A entraining, bond strenght enchancing, and grinding aid for masonery/mortar cement. Prod. range: Confidential.

Dated: May 21, 1993.

Frank V. Caesar,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 93–12647 Filed 5–26–93; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL RESERVE SYSTEM

AmSouth Bancorporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than June 21, 1993.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104

Marietta Street, N.W., Atlanta, Georgia 30303:

1. AmSouth Bancorporation, Birmingham, Alabama; to merge with Charter Banking Corp., St. Petersburg, Florida, and thereby indirectly acquire First Gulf Bank, Gulfport, Florida.

1. Mitchellette Enterprises, Inc., Palm Beach, Florida, and Palm Beach Investment Enterprises, Inc., Palm Beach, Florida; to become bank holding companies by acquiring at least 25 percent of the voting shares of Governors Bank Corporation, West Palm Beach, Florida, and thereby indirectly acquire Governors Bank, West Palm Beach, Florida.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Mark Twain Bancshares, Inc., St. Louis, Missouri; to acquire at least 66.7 percent of the voting shares of Parkway Financial, Inc., Overland Park, Kansas, and thereby indirectly acquire Parkway Bank, Overland Park, Kansas.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Americana Bancorporation of Minnesota, Inc., Edina, Minnesota, and Americana Bank, Edina, Minnesota; to acquire 100 percent of the voting shares of State Bank of Conger, Conger, Minnesota. In connection with this application, Americana Bank, Edina, Minnesota, has applied to become a bank holding company.

1. Keewatin Bancorporation, Inc., Keewatin, Minnesota, and First National bank, Keewatin, Minnesota; to acquire 100 percent of the voting shares of State Bank of Conger, Conger, Minnesota. In connection with this application, First National Bank, Keewatin, Minnesota, has applied to become a bank holding company.

D. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. First National of Nebraska, Inc., Omaha, Nebraska; to acquire 100 percent of the voting shares of First National Bank, Norfolk, Norfolk, Nebraska, a *de novo* bank.

2. FirstBank Holding Company of Colorado Employee Stock Ownership Plan, Lakewood, Colorado, and FirstBank Holding Company of Colorado, Lakewood, Colorado; to acquire 100 percent of the voting shares of FirstBank Holding Company of California, Lakewood, Colorado, and thereby indirectly acquire FirstBank of Palm Desert, California.

Board of Governors of the Federal Reserve System, May 21, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-12543 Filed 5-26-93; 8:45 am]

BILLING CODE 6210-01-F

FBOP Corporation, Oak Park, Illinois; Application to Engage De Novo in the Purchase of Assets from the Federal Deposit Insurance Corporation and Resolution Trust Corporation, and from Financial Institutions

FBOP Corporation, Oak Park, Illinois ("Applicant"), has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (BHC Act) and § 225.23 of the Board's Regulation Y (12 CFR 225.23), to engage de novo through its wholly owned subsidiary Fairfield Financial Corporation, Oak Park, Illinois, in the purchase of assets from the Federal Deposit Insurance Corporation (FDIC) and Resolution Trust Corporation (RTC), and from financial institutions. These assets will consist exclusively of loans and other extensions of credit originated or held by financial institutions and their affiliates, and will include performing and non-performing loans. This activity will be conducted on a nationwide basis.

Section 4(c)(8) of the BHC Act provides that a bank holding company may with Board approval, engage in any activity "which the Board, after due notice and opportunity for hearing, has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." In this regard, the Board has previously determined by regulation that bank holding companies may engage in making, acquiring, and servicing loans. See 12 CFR 225.25(b)(1). However, the proposal also includes activities that have not been previously approved by the Board either by order or regulation.

Applicant contends that the proposed activity is similar to activities currently being conducted by banks and bank holding companies, and therefore closely related to banking. In addition, Applicant maintains that the proposal is a proper incident to banking because the activity can reasonably be expected to produce public benefits in the form of facilitating the disposal of assets of financial institutions in receivership as well as aiding financial institutions in the disposal of troubled assets. Applicant also has proposed a number of commitments to ensure that the public benefits are not otherwise outweighed by possible adverse effects such as unsound practices.

Any views or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than June 21, 1993. Any request for a hearing must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by 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, summarizing the evidence that would be presented at a hearing, and indicating how that party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Chicago.

Board of Governors of the Federal Reserve System, May 21, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-12544 Filed 5-26-93; 8:45 am]

BILLING CODE 6210-01-F

National Commerce Bancorporation; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

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 June 21, 1993.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *National Commerce Bancorporation*, Memphis, Tennessee; to acquire First Federal Savings Bank, Belzoni, Mississippi, and thereby engage in operating a savings association pursuant to § 225.25(b)(9); and sell credit insurance as principal, agent or broker (including home mortgage redemption insurance) that is (a) directly related to an extension of credit by First Federal Savings Bank and (b) is limited to ensuring the repayment of the outstanding balance due on the extension of credit in the event of the death, disability, or involuntary unemployment of the debtor pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, May 21, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-12545 Filed 5-26-93; 8:45 am]

BILLING CODE 6210-01-F

NationsBank Corporation; Formations of, Acquisitions by; and Mergers of Bank Holding Companies; and Acquisitions of Nonbanking Companies; Correction

This notice corrects a previous notice (FR Doc. 93-11601) published at page 28878 of the issue for Monday, May 17, 1993.

Under the Federal Reserve Bank of Richmond heading, the entry for NationsBank Corporation is revised to read as follows:

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *NationsBank Corporation*, Charlotte, North Carolina; to acquire and merge with MNC Financial, Inc., Baltimore, Maryland and thereby indirectly acquire Maryland National Bank, Baltimore, Maryland and American Security Corporation, Washington, DC, and its subsidiary bank American Security Bank, National Association, Washington, DC.

NationsBank also has applied to acquire American Security Insurance Corporation, Ellicott City, Maryland, and thereby engage in insurance agency activities pursuant to § 225.25(b)(8)(iv) of the Board's Regulation Y; ASB Capital Management, Inc., Washington, D.C., and thereby engage in furnishing investment advisory services pursuant to § 225.25(b)(4) of the Board's Regulation Y; Fayette Insurance Corporation, Baltimore, Maryland, and thereby engage in the sale as agent of credit-related insurance pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y; IFCO, Inc., Fayetteville, North Carolina, and thereby engage in the making and servicing of loans pursuant to § 225.25(b)(1) of the Board's Regulation Y; Maryland National Mortgage Corporation, Baltimore, Maryland, and thereby engage in the making and servicing of loans pursuant to § 225.25(b)(1) of the Board's Regulation Y; Maryland National Pennsylvania Corporation, Baltimore, Maryland, and thereby engage in the making and servicing of loans pursuant to § 225.25(b)(1) of the Board's Regulation Y; Mid-Atlantic Life Insurance Company, Phoenix, Arizona, and thereby engage in the sale as principal, agent or broker of credit-related insurance pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y; MN Credit Corporation, Baltimore, Maryland, and thereby engage in the making and servicing of loans pursuant to § 225.25(b)(1) of the Board's Regulation Y; MNC American Corporation, Towson, Maryland, and thereby engage in industrial banking activities pursuant to § 225.25(b)(2) of the Board's Regulation Y; MNC Credit Corp., Towson, Maryland, and thereby engage in the making and servicing of loans pursuant to § 225.25(b)(1) of Regulation Y, and the leasing of personal or real property pursuant to § 225.25(b)(5) of the Board's Regulation Y; Prime Rate Premium Finance Corporation, Florence, South Carolina, and thereby engage in the making and servicing of loans pursuant to § 225.25(b)(1) of the Board's Regulation Y; and Virginia Federal Savings Bank, Richmond, Virginia, and thereby engage in the operation of a savings association pursuant to § 225.25(b)(9) of the Board's Regulation Y.

NationsBank also seeks the Board's specific consent under section 4(c)(13) of the Bank Holding Company Act (12 U.S.C. 1843(c)(13)) and the Board's Regulation K to acquire Equitable Bancorporation Overseas Finance N.V., Curacao, Netherlands Antilles; to acquire MNC International Bank, Baltimore, Maryland, an Edge Act Corporation engaged in banking pursuant to section 25 and 25(A) of the Federal Reserve Act (12 U.S.C. 601 and 611-31) and § 211.4 of the Board's Regulation K; and to acquire MN World Trade Corporation, Baltimore, Maryland, an inactive export trading company, pursuant to section 4(c)(14) of the Bank Holding Company Act (12 U.S.C. 1843(c)(14)).

NationsBank also has applied to acquire Agency Technologies, Inc., Florence, South Carolina, pursuant to section 4(a)(2) of the Bank Holding Company (12 U.S.C. 1843(a)(2)); and American Security Capital Corporation, Baltimore, Maryland, pursuant to section 4(c)(5) of the Bank Holding Company Act (12 U.S.C. 1843(c)(5)).

Comments on this application must be received by June 10, 1993.

Board of Governors of the Federal Reserve System, May 21, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-12546 Filed 5-26-93; 8:45 am]

BILLING CODE 6210-01-F

Norman Dean Oswald, 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 June 16, 1993.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Norman Dean Oswald*, Duncanville, Texas; to acquire an additional 35 percent of the voting shares of Metroplex Bancshares, Inc., Dallas, Texas, for a total of 52 percent, and thereby indirectly acquire Bent Tree National Bank, Dallas, Texas.

B. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. *Dr. Albert J. Brauer*, Florence, Oregon; to acquire up to 10.10 percent of the voting shares of Oregon Pacific Banking Company, Florence, Oregon.

Board of Governors of the Federal Reserve System, May 21, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–12547 Filed 5–27–93; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee Meeting; Cancellation

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is cancelling the subcommittee meeting of the Generic Drugs Advisory Committee scheduled for June 2, 1993, to allow additional time for preparation and review of studies concerning albuterol dose/response relationships delivered by metered dose inhalers. The meeting was announced by a notice in the **Federal Register** of May 19, 1993 (58 FR 29231). It is anticipated that the meeting will be rescheduled in several months and will be announced in the **Federal Register** at a later date.

FOR FURTHER INFORMATION CONTACT: Ermona McGoodwin, Center for Drug Evaluation and Research (HFD–9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455.

Dated: May 21, 1993.

Jane E. Henney,

Deputy Commissioner for Operations.

[FR Doc. 93–12664 Filed 5–24–93; 4:50 pm]

BILLING CODE 4160–01–F

Indian Health Service

Nursing Recruitment Program for Indians

AGENCY: Indian Health Service, HHS.

ACTION: Notice of competitive grant applications for the nursing recruitment program for Indians.

SUMMARY: The Indian Health Service (IHS) announces that competitive grant applications are now being accepted for the Nursing Education Program for Indians authorized by section 112 of the Indian Health Care Improvement Act, Public Law 94–437, as amended. There will be only one funding cycle during fiscal year (FY) 1993. This program is described at 93.970 in the Catalog of Federal Domestic Assistance. Costs will be determined in accordance with applicable OMB Circulars and subpart Q of 45 CFR part 74 or 45 CFR 92.22 (as applicable). Executive Order 12372 requiring intergovernmental review does not apply to this program. This program is not subject to the Public Health System Reporting Requirements.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led activity for setting priority areas. This program announcement is related to the priority area of Educational and Community-based programs. Potential applicants may obtain a copy of Healthy People 2000 (Full Report Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone 202–783–3238).

DATES: An original and two copies of the completed grant application must be submitted, with all required documents, to the Grants Management Branch, Division of Acquisition and Grants Operations, Twinbrook Metro Plaza, Suite 300, 12300 Twinbrook Pkwy, Rockville, MD 20852, by c.o.b. May 21, 1993. C.o.b. means 5 p.m. Eastern Daylight Time.

Applications shall be considered as meeting the deadline if they are either: (1) Received on or before the deadline with hand carried applications received by c.o.b. 5 p.m.; or (2) postmarked on or before the deadline date and received in time to be reviewed along with all other timely applications. A legibly dated receipt from a commercial carrier or the U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks will not be accepted as proof of timely mailing.

Applications received after the announced closing date will be returned to the applicant and will not be considered for funding.

ADDITIONAL DATES: A. Application Deadline: July 2, 1993. B. Application Review: August 5, 1993. C. Applicants Notified of Results (approved, approved unfunded, or disapproved): August 20, 1993. D. Anticipated Start Date: September 1, 1993.

FOR FURTHER INFORMATION CONTACT: For program information, contact Ms. Carol Gowett, Acting Director, Division of Nursing, Office of Health Programs, Indian Health Service, Twinbrook Metro Plaza, Suite 100, 12300 Twinbrook Pkwy., Rockville, MD 20852, (301) 443–1840. For grants information, contact Mrs. M. Kay Carpentier, Grants Management Officer, Grants Management Branch, Division of Acquisition and Grants Operations, Indian Health Service, Twinbrook Metro Plaza, Suite 300, 12300 Twinbrook Pkwy., Rockville, MD 20852, (301) 443–5204. (The telephone numbers are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: This announcement provides information on the general program purpose and objectives, programmatic priorities, eligibility requirements, funding availability, and application procedures for the Nursing Program for FY 1993.

A. General Program Purpose

To increase the number of nurse midwives, nurse anesthetists, and nurse practitioners who deliver health care services to Indians.

B. Eligibility and Preference

The following organizations are eligible: (1) Public or private schools of nursing; (2) tribally controlled community colleges; and (3) nurse midwife, nurse anesthetist, and nurse practitioner programs that are provided by any public or private institution.

Preference will be given to programs which (1) provide a preference to Indians; (2) train nurse midwives, nurse anesthetists, or nurse practitioners; (3) are interdisciplinary, and (4) are conducted in cooperation with a center for gifted and talented Indian students established under section 5324(a) of the Indian Education Act of 1988.

If an eligible organization claims preference in order to be given priority, the organization must submit verifying documentation.

C. Programmatic Priorities

To carry out the provisions of section 112 of Public Law 100–713, as amended, priority will be given to the following programs:

1. At least one project to a public or private school of nursing, which provide BSN or MSN degrees, not to exceed $450,000 per year, up to a project period not to exceed 5 years.

2. At least one project to a tribally controlled community college, not to exceed $150,000 per year, up to a project period not to exceed 5 years.

3. At least one project to a School of Nursing which trains nurse midwives,

not to exceed $150,000 per year, up to a project period not to exceed 5 years.

D. Program Objectives

A grant awarded under this announcement shall support a program to: (1) Recruit individuals for programs which train individuals to be nurse midwives, nurse anesthetists, or nurse practitioners; (2) provide scholarships to individuals enrolled in such programs that may pay the tuition charged for such program and other expenses incurred in connection with such program, including books, fees, room and board, and stipends for living expenses; (3) provide a program that encourages nurse midwives, nurse anesthetists, and nurse practitioners to provide, or continue to provide, health care services to Indians; (4) to provide a program that increases the skills of and provides continuing education to nurse midwives, nurse anesthetists, and nurse practitioners; and (5) to provide any program that is designed to achieve the purpose of increasing the number of nurse midwives, nurse anesthetists, and nurse practitioners who deliver health care services to Indians.

Each proposal must respond to at least one of the above five objectives.

Although section 112 of the Indian Health Care Improvement Act, Public Law 94–437, as amended, provides that scholarships for individuals may be funded, only an organization that has been operating an IHS Nurse Recruitment Grant Program may apply for scholarship support in the first year of the project.

E. Program Activities Considered for Support

The grant program must be developed to locate and recruit students with potential for nursing; and to provide support services to students who are recruited. Support services may include providing career counseling and academic advice; assisting students to identify academic deficiencies and to develop plans to correct those deficiencies; assisting students to locate financial aid; monitoring students to identify possible problems; assisting with the determination of need for and location of tutorial services; and other related activities which will help to retain students in school.

F. Required Affiliation

The applicant must submit documentation showing that it is an accredited school of nursing, or a tribally controlled community college, or a nurse anesthetist program or nurse midwife program which has an affiliation with an accredited school of nursing, as defined at 42 CFR 36.302(o). The term "accredited" when applied to any program of nurse education means a program accredited or assured accreditation by a recognized body or bodies, or by a State agency, approved for such purpose by the Secretary of Education and when applied to a school, college or university (or a unit thereof) which is accredited by a recognized body or bodies, or by a State agency, approved for such purpose by the Secretary of Education.

The applicant must submit written documentation showing affiliation with a health care facility that primarily serves Indians.

When the target population of a proposed project includes a particular Indian tribe or tribes, an official document, i.e., a letter of support or tribal resolution, must be submitted indicating that the tribe or tribes will cooperate with the applicant.

G. Fund Availability and Period of Support

Approximately $1,200,000 is available during this cycle. The anticipated start date for selected projects will be September 1, 1993. Projects will be awarded for a term of up to 5 years, with funding for succeeding years based on the FY 1993 level; satisfactory level of performance; the availability of appropriation in future years; and the continuing need of IHS for the project.

H. Application Process

1. An IHS Recruitment Grant Application Kit may be obtained from the Grants Management Branch, Division of Acquisition and Grants Operations, Indian Health Service, Twinbrook Metro Plaza, Suite 300, 12300 Twinbrook Pkwy., Rockville, MD 20852, (301) 443–5204. This kit includes Standard Form PHS 5161–1 (Rev. 7/92) (OMB Approval No. 0937–0189); Standard Forms 424, 424A, and 424B (Rev. 4/88); Application Receipt Card—PHS 3038–1 (Rev. 4/90); instructions for preparing the program narrative; and IHS Application Check List.

2. The application must be signed and submitted by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award.

3. The available funding level is inclusive of both direct and indirect costs. Because this project is for a training grant, the Department of Health and Human Services' policy limiting reimbursement of indirect cost to the lesser of the applicant's actual indirect costs or 8 percent of total direct costs (exclusive of trainee costs and expenditures for equipment) is applicable. This limitation applies to all institutions of higher education other than agencies of State and local government.

4. Each application will be reviewed at the Grants Management Branch for eligibility, compliance with the announcement, and completeness. All acceptable applications will be subject to a competitive objective review and evaluation. An unacceptable application will be returned to the applicant without further consideration.

5. Applicants will be notified by August 20, 1993, of their status as approved, approved unfunded, or disapproved.

6. The project period may not exceed 5 years. Applications must include Narrative and Budget information for the entire anticipated project period.

I. Criteria for Review and Evaluation

Conforming applications will be evaluated against the following criteria:

- The potential effectiveness of the project in carrying out the purposes of section 112, with special emphasis on the objectives and methodology portion of the application. This includes relevance of project objectives to grant program objectives; appropriateness and soundness of the procedures for identifying, recruiting, and retaining target population(s); and feasibility of project within proposed resources and time frames.
- The demonstrated capability of the applicant to successfully conduct the project, including organizational and scholarly commitment to the recruitment, education, and retention of students.
- The submission of verifying documentation when an applicant claims preference in order to be given priority.

Preference is given for programs which (1) provide a preference to Indians; (2) train nurse midwives, nurse anesthetists, or nurse practitioners; (3) are interdisciplinary; and (4) are conducted in cooperation with a center for gifted and talented Indian students established under section 5324(a) of the Indian Education Act of 1988.

- The accessibility of the applicant to target Indian communities or tribes, including evidence of past or potential cooperation between the applicant and such communities or tribes. Evidence must be supported by official documentation from the tribe in the form of a letter of support or tribal resolution.
- The relationship of project objectives to Indian Health manpower's

deficiencies, indicating the number of potential Indian students to be contacted and recruited as well as potential cost per student recruited. Those projects that have the potential to serve a greater number of Indians will be given first consideration.

• The soundness of the fiscal plan for assuring effective utilization of grant funds.

• The completeness and responsiveness of the application.

Dated: April 7, 1993.

Michel E. Lincoln,

Acting Director.

[FR Doc. 93–12496 Filed 5–26–93; 8:45 am]

BILLING CODE 4160–16–M

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Meeting of the Board of Scientific Counselors

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute on Alcohol Abuse and Alcoholism, July 12–13, 1993, NIH Campus, Building 31, Conference Room 10, 9000 Rockville Pike, Bethesda, MD 20892.

This meeting will be open to the public from 8 a.m. to 8:30 a.m. on July 12 for a report on recent administrative developments. Attendance by the public will be limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Diana Widner, Office of Scientific Affairs, NIAAA, at (301) 443–4375.

In accordance with the provisions set forth in sec. 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Public Law 92–463, the meeting will be closed to the public from 8:30 a.m. on July 12 to adjournment on July 13 for the review, discussion, and evaluation of intramural research programs and projects conducted by the National Institute on Alcohol Abuse and Alcoholism, including consideration of personnel qualifications and performance, and the productivity of individual staff scientists, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Summaries of the meeting and the roster of committee members may be obtained from: Ms. Diana Widner, NIAAA Committee Management Officer, National Institute on Alcohol Abuse and Alcoholism, Parklawn Building, Room 16C–20, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301/443–4375.

Substantive program information may be obtained from: Theodore Colburn, Ph.D., room 1B58, Building 31, Telephone (301) 402–1226.

Dated: May 19, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–12557 Filed 5–26–93; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, Division of Cancer Etiology on June 10–11, 1993. The meeting will be held in Building 31, C Wing, Conference Room 6, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public from 1 p.m. to recess on June 10 and from 9 a.m. to adjournment on June 11 for discussion and review of the Division budget and review of concepts for grants and contracts. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public from 9 a.m. to approximately noon on June 10 for the review, discussion and evaluation of individual programs and projects conducted by the Division of Cancer Etiology. These programs, projects, and discussions will include consideration of personnel qualifications and performance, the competence of individual investigations, and similar matters, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Carole A. Frank, Committee Management Officer, National Cancer Institute, Executive Plaza North, room 630, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. David McB. Howell, Executive Secretary of the Board of Scientific Counselors, Division of Cancer Etiology, National Cancer Institute, Building 31, room 11A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–6927) will furnish substantive program information.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other special accommodations, should contact Dr. David McB. Howell, (301/496–6827 in advance of the meeting.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93,399, Cancer Control)

Dated: May 19, 1993.

Susan K. Feldman,

Committe Management Officer, NIH.

[FR Doc. 93–12558 Filed 5–26–93; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Notice of Meeting of the Developmental Therapeutics Contracts Review Subcommittee A

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Developmental Therapeutics Contracts Review Committee, National Cancer Institute, National Institutes of Health, on June 14, 1993, at the Executive Plaza North, Conference Room J, 6130 Executive Blvd., Rockville, Maryland 20892.

This meeting will be open to the public from 9 a.m. to 10 a.m. to discuss administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Public Law 92–463, the meeting will be closed to the public on June 14 from 10 a.m. to adjournment for the review, discussion, and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Committee Management Officer, National Cancer Institute, Executive Plaza North, Room 630, National Institutes of Health, Rockville, Maryland 20892, Tel. 301/496–5708, will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Susan E. Feinman, Scientific Review Administrator, Developmental Therapeutics Contracts Review Committee, 6130 Executive Boulevard, Room 609, Rockville, Maryland 20892, Tel. 301/402–0944, will furnish substantive program information.

Individuals who plan to attend and need special assistance such as sign language interpretation or other reasonable accommodations, should

contact Ms. Alma O. Carter, (301) 496–7523 in advance of the meeting.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: May 19, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–12559 Filed 5–26–93; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Drug Abuse; Notice of Meetings

Pursuant to Public Law 92–463, notice is hereby given of the meetings of the review committees of the National Institute on Drug Abuse for June 1993.

These meetings will be open to the public for approximately one-half hour at the beginning of the first day of each meeting for announcements and reports of administrative, legislative, and program developments. Attendance by the public will be limited to space available.

As indicated below, in accordance with provisions set forth in sections 552b(c)(4) and 552(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, these meetings will be closed to the public on the dates indicated below for the review, discussion and evaluation of individual research grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Summaries of the meetings and rosters of committee members may be obtained from: Ms. Camilla L. Holland, NIDA Committee Management Officer, National Institutes of Health, Parklawn Building, room 10–42, 5600 Fishers Lane, Rockville, MD 20857 (Telephone: 301/443–2755).

Substantive program information may be obtained from the contacts whose names, room numbers, and telephone numbers are listed below.

Committee Name: Biochemistry Research Subcommittee, Drug Abuse Biomedical Research Review Committee.

Meeting Date: June 7–9, 1993.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, Maryland 20814.

Open: June 7, 8:30 a.m. to 9 a.m.

Closed: 9 a.m., June 7, to adjournment on June 9.

Contact: Rita Liu, Ph.D., Room 10–42, Parklawn Building, Telephone (301) 443–2620.

Committee Name: Pharmacology I Research Subcommittee, Drug Abuse Biomedical Research Review Committee.

Meeting Date: June 7–10, 1993.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, Maryland 20814.

Open: June 7, 9 a.m. to 9:30 a.m.

Closed: 9:30 a.m., June 7, to adjournment on June 10.

Contact: Syed Husain, Ph.D., Room 10–42, Parklawn Building, Telephone (301) 443–2620.

Committee Name: Pharmacology II Research Subcommittee, Drug Abuse Biomedical Research Review Committee.

Meeting Date: June 7–10, 1993.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, Maryland 20814.

Open: June 7, 9 a.m. to 9:30 a.m.

Closed: 9:30 a.m., June 7, to adjournment on June 10.

Contact: Gamil Debbas, Ph.D., Room 10–42, Parklawn Building, Telephone (301) 443–2620.

Committee Name: Drug Abuse Epidemiology and Prevention Research Review Committee.

Meeting Date: June 15–18, 1993.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, Maryland 20814.

Open: June 15, 9 a.m. to 9:30 a.m.

Closed: 9:30 a.m., June 15, to adjournment on June 18.

Contact: Raquel Crider, Ph.D., room 10–22, Parklawn Building, Telephone (301) 443–9042.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the contact persons named above in advance of the meeting.

This notice is being published less than 15 days prior to three of the meetings due to the difficulty of coordinating the attendance of members because of conflicting schedules.

(Catalog of Federal Domestic Assistance Program Numbers: 93.277, Drug Abuse Research Scientist Development and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Program)

Dated: May 19, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–12560 Filed 5–27–93; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

National Toxicology Program (NTP) Board of Scientific Counselors' Meeting; Review of Draft NTP Technical Reports

Pursuant to Public Law 92–463, notice is hereby given of the next meeting of the NTP Board of Scientific Counselors' Technical Reports Review Subcommittee on June 22, 1993, in the Conference Center, Building 101, South Campus, National Institute of Environmental Health Sciences (NIEHS), 111 Alexander Drive, Research Triangle Park, North Carolina. The meeting will begin at 9 a.m. and is open to the public. The primary agenda topic is the peer review of draft Technical Reports of long-term toxicology and carcinogenesis studies and short-term toxicity studies from the National Toxicology Program.

Tentatively scheduled to be peer reviewed on June 22 are draft Technical Reports of six long-term studies, listed alphabetically, along with supporting information in the attached table. All studies were done using Fischer 344 rats and B6C3F1 mice. Also scheduled to be peer reviewed is the draft Technical Report of the short-term toxicity study on isoprene, listed along with supporting information in the table. The order of review is given in the far right column of the table.

Persons wanting to make a formal presentation regarding a particular Technical Report must notify the Executive Secretary by telephone, by FAX, or by mail no later than June 15, 1993, and provide a written copy in advance of the meeting so copies can be made and distributed to all Subcommittee members and staff and made available at the meeting for attendees. Oral presentations should supplement and not just repeat the written statement. Presentations should be limited to no more than five minutes.

The Program would welcome receiving toxicology and carcinogenesis information from completed, ongoing, or planned studies by others, as well as current production data, human exposure information, and use patterns on any of the chemicals listed in this announcement. Please contact the study scientist as early as possible by telephone or by mail to: NIEHS, P.O.

Box 12233, Research Triangle Park (RTP), North Carolina 27709.

The Executive Secretary, Dr. Larry G. Hart, P.O. Box 12233, Research Triangle Park, North Carolina 27709 (telephone 919/541-3971; FAX 919/541-2260) will furnish final agenda, a roster of Subcommittee members, and other program information prior to the meeting. Summary minutes subsequent to the meeting will be available upon request. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary in advance of the meeting.

Kenneth Olden,

Director, National Toxicology Program.

SUMMARY DATA FOR NTP SHORT TERM TOXICITY STUDIES AND LONG TERM TOXIOLOGY AND CARCINOGENESIS TECHNICAL REPORTS SCHEDULED FOR REVIEW AT THE BOARD OF SCIENTIFIC COUNSELORS' MEETING OF THE REPORTS REVIEW SUBCOMMITTEE

[June 22, 1993]

Chemical and CAS No.	Staff scientist and technical report no.	Primary uses	Route and exposure levels	Study laboratory	Review order
Long-term studies:					
Barium Chloride Dihydrate, 10326-27-9.	Dr. K. Abdo, 919-541-7819, TR-432.	Chemical Reagent, Boiler Compounds, Pigments and Textile Dyeing.	Oral with Water (Distilled Water): R&M: 0, 500, 1200, 2500 ppm.	Mason	1
Hexachlorocyclopentadiene, 77-47-4.	Dr. K. Abdo, 919-541-7819, TR-437.	Chemical Intermediate for Insecticides, Flame Retardant.	Inhalation: R:0, .01, .05, .2ppm m: 0, .01, .05, .2, .5ppm/50 per group.	Battelle-NW	2
Methylphenidate hydrochloride, 298-59-9.	Dr. J. Dunnick, 919-541-4811, TR-439.	Central Stimulant	Oral in Feed (Feed): R: 0, 100, 500, 1000 ppm. M: 0, 50, 250, 500 ppm/50 per group.	Mason	5
P-Nitrobenzoic Acid, 62-23-7.	Dr. J. Dunnick, 919-541-4811, TR-442.	Intermediate for Dye Manufacture.	Oral in Feed (NIH-07): R&M: 0, 1250, 2500, or 5000 ppm/60 per group.	Southern	3
4,4-Thiobis(6-Tertbutyl-M-Cresol), 96-69-5.	Mr. J. Cirvello, 919-541-1408, TR-435.	Antioxidant for Synthetic and Natural Rubber and Latexes, Stabilizer for Polyethylene Food Packaging.	Oral in Feed (NIH-07): R: 0, .05, .1, .25, M: 0, .025, .05, .1%.	Battelle-CO	4
Tricresyl Phosphate, 1330-78-5.	Dr. R. Irwin, 919-541-3340, TR-433.	Plasticizier, Fire Retardant for Plastics, Heat Exchange and Air Filter Medium, Waterproofing, Hydrualic Fluid, Lead Scavenger in Gasoline.	Oral in Feed (NIH-07): R: 0, 75, 150, 300, 600, M: 0, 60, 125, 250 ppm/50 per Group.	Battelle-CO	6
Short-Term Toxicity Study:					
Isoprene, 78-79-5.	Dr. R. Melnick, 919-541-4142, TOX-31.	Monomer and Comonomer for Elastomers, Prepared From Turpentine, Petroleum Products.	Inhalation: R&M: 0, 70, 220, 700, 220, 7000 ppm.	Battelle-NW	7

[FR Doc. 93-12561 Filed 5-26-93; 8:45 am]
BILLING CODE 4140-01-M

Substance Abuse and Mental Health Services Administration

Cooperative Agreements for Addiction Training Centers

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of availability of funds.

INTRODUCTION: The Center for Substance Abuse Treatment (CSAT) is soliciting cooperative agreement applications for the creation and/or enhancement of Addiction Training Centers (ATCs) designed to: (1) Increase the number of health and allied health care practitioners who pursue careers in non-profit substance abuse treatment and recovery programs;[1] (2) link publicly-funded addiction treatment and recovery programs with institutions that train health and allied health care practitioners, with the specific goal of improving the competency of practitioners who presently practice in publicly-funded addiction treatment programs; and (3) strengthen addiction treatment curricula within institutions and programs that train health and allied health care practitioners.

Under this announcement, CSAT is making funds available to develop ATCs which involve formally coordinated efforts of several academic departments, universities, State and local government training programs, and the non-profit addiction treatment field. Through this program, funds will be made available to support faculty, training needs assessments, curricula refinement, internships, preceptorships and other activities related to the development of clinical training programs that focus on alcohol and other drug abuse.

ATCs, which are to be multidisciplinary in scope, are intended to provide training and financial support for health and allied health care practitioners who are presently working in non-profit addiction treatment and recovery programs, as well as to students presently pursuing a course of study in a health or allied health discipline who are willing to practice full-time in publicly-funded addiction treatment and recovery settings.

Disciplines for which training must be provided include: Addiction counseling (may include for a criminal justice setting), and a minimum of three of the following substance abuse related disciplines including but not limited to

[1] Allied health care practitioners, as used in this context, include professionals and paraprofessionals in the social work, psychology, and addiction counseling disciplines.

the following: social work, marriage and family therapy, clinical psychology, psychiatry, and primary medical specialties (including both allopathic and osteopathic medicine) and nursing. ATCs supported under this announcement will be expected to provide discipline-specific and multidisciplinary pre-employment training and continuing professional education opportunities for individuals in the above mentioned disciplines.

CSAT is utilizing a cooperative agreement mechanism to support ATC projects as a means to: (1) Ensure the coordination of a national network of geographically dispersed addiction training centers linked with exemplary public tier treatment programs; (2) effectively integrate existing training efforts at the Federal, State and local level, and; (3) ensure that the ATC system is flexible enough to meet over-evolving human resource requirements at the national, regional, state and local levels. ATC programs will recruit and prepare trainees in a manner that will enable them to utilize the most current, scientifically validated methods for the identification, diagnosis, treatment, and rehabilitation of the individuals experiencing alcohol and other drug problems. Through the cooperative agreement mechanism, CSAT staff will work closely with each ATC awardee to ensure that: (1) curricula incorporate the latest scientific findings with regard to treatment effectiveness; and, (2) the number and type of trainees supported in various disciplines objectively reflect human resource requirements in the ATC catchment area.

The Cooperative Agreement mechanism includes substantial post-award Federal programmatic participation in the conduct of the program. It is anticipated that the Center for Substance Abuse Treatment staff participation in this program will be substantial. Such involvement may include:

- Provision of technical assistance;
- Consultation on and participation in the redesign or modification of curricula;
- Provision of support services for training, evaluation, and mediation among consortium members;
- Arrangement of meetings and symposia designed to support activities of the individual cooperative agreement awardees;
- Membership on working groups established to facilitate accomplishment of the program goals;
- Adjustment of number of trainees in each discipline on the basis of needs assessment;
- Linkage with other awardees; and
- Approval to move from one phase to the next.

It is estimated that approximately $3.5 million will be available to support approximately 5–7 awards under this RFA in FY 1993. Support may be requested for a project period of up to five years. Annual awards will be made subject to the availability of funds and submission of a satisfactory non-competing renewal application that documents progress achieved.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. This RFA, Cooperative Agreements for Addiction Training Centers, is related to the following priority area set forth in Healthy People 2000: Clinical Preventive Services, Chapter 21; particularly Personnel Needs, Objectives 21.3–21.8. Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No. 017–001–00474–0; or Summary Report: Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402–9325 (Telephone: 202–783–3238).

RECEIPT DATE: The deadline for receipt of applications is July 26, 1993. Applications must be received at the address below on or before the deadline date.

Applications must be received by the published application receipt date. However, an application received after the deadline may be acceptable if it carries a legible proof-of-mailing date assigned by the carrier and the proof-of-mailing date is not later than one week prior to the deadline date. If the receipt date falls on a weekend, it will be extended to Monday; if the date falls on a holiday, it will be extended to the following work day.

CONSEQUENCES OF LATE SUBMISSION: Applications received after the specified receipt date will be returned to the applicant without review.

ADDRESSES: Grant application kits (including form PHS 6025–1 (OMB approval applied for), complete application procedures, and accompanying guidance materials for the narrative approved under OMB No. 0937–0189) may be obtained from United Information Systems, Inc., 3206 Tower Oaks Blvd., 4th Floor, Rockville, MD 20852 (301) 984–4222.

Completed applications should be sent to: United Information Systems, Inc., same address as above, Attn: CSAT—Cooperative Agreements for Addiction Training Centers.

FOR FURTHER INFORMATION CONTACT:

For program issues: Edward T. Morgan, Center for Substance Abuse Treatment, Office for Science and Evaluation, Rockwall II, 10th Floor, 5600 Fishers Lane Rockville, MD 20857, (301) 443–8923

For grants management issues: Christine Chen, Grants Management Officer, Center for Substance Abuse Treatment, see above address, (301) 443–9665.

SUPPLEMENTARY INFORMATION:

Program Requirements

ATCs will function as public or public/private partnerships, wherein academic institutions will work cooperatively with community-based non-profit addiction treatment programs and Single State Agencies for Alcohol and Drug Abuse (SSAs) to: (1) Identify training requirements for communities within the ATC's catchment area (which may be a single state or a multi-state region); and (2) devise and implement pipeline and continuing professional education programs ideally suited to meet the needs that exist within the ATC catchment area.

Training needs are expected to vary widely between and within ATC catchment areas. CSAT recognizes that continuing professional education for existing addiction treatment practitioners is a primary need in many communities, whereas active recruitment of students presently pursuing academic studies in health and allied health disciplines is a primary need in other jurisdictions.

Training priorities for any ATC catchment area must be established in concert with relevant SSAs and ATC training procedures, curricula and structure must be integrated with existing human resource development efforts sponsored by SSAs and sub-state governmental entities responsible for addiction treatment training.

ATC activities must focus on training needs most critical to the effectiveness of addiction treatment and recovery programs within the ATC catchment area. In particular, ATCs are expected to focus the bulk of their efforts toward developing practitioners who are qualified to work with one or more special population groups, including: Substance abusing women, their infants and children; adolescents; racial and ethnic minorities; culturally distinct residents of rural and remote communities, and/or criminal justice populations.

Applicants requesting support under this announcement may also propose to provide training for health and allied

health care practitioners who encounter individuals with alcohol and other drug problems in settings non-specific to addiction treatment. Training for individuals who practice in "generalist" settings should focus on competencies associated with identifying persons with drug and alcohol problems, initial assessment, provision of brief interventions, and appropriate referrals for specialized addiction services. However, training of health and allied health professionals who practice in generalist and/or other settings non-specific to addiction treatment is considered to be a secondary goal for ATC projects, and should be proposed only as a natural (and cost-effective) adjunct to training of practitioners who will work in specialized settings on a full-time basis.

The primary goal of this program is to develop and maintain a network of ATCs responsible for cultivating a cadre of health and allied health care practitioners devoted full-time to the practice of addiction treatment and recovery in publicly-funded programs. ATCs supported under this announcement are expected to build on prior efforts of NIDA, NIAAA, and CSAP as well as other curricula development efforts already underway in the academic and public arenas, to develop training protocols and procedures that will inculcate trainees with skills grounded in the latest scientifically validated knowledge regarding treatment practice.

ATC proposals must include pipeline and continuing professional education programs for addiction counselors (may include those in a criminal justice setting), and at least three of the following: social workers, marriage and family therapists, psychologists, psychiatrists, primary care physicians, and nurses. Applicants may also choose to include programs for other health care professionals, as appropriate given the human resource requirements identified for the ATC's catchment area. In structuring their proposals, applicants should address the following program-specific objectives:

- To promote and recruit racial and ethnic minority trainees for careers in addiction treatment and recovery;
- To improve and develop linkages between exemplary public-tier addiction treatment programs and academic institutions by providing student practica, clinical rotations, and field placements;
- To forge a partnership between State SSAs, publicly-funded addiction treatment and recovery programs, and academic institutions providing pre-employment and continuing professional education in addiction-related disciplines, in order to: (1) Refine training needs assessments, and (2) develop training programs that are responsive to those needs and recruit and place trainees in publicly funded programs;
- To promote the identification, adaptation and exchange of exemplary curricula, materials, and training procedures; and
- To encourage academic institutions to train students pursuing careers in generalist health and allied health settings to properly identify, assess, intervene and refer individuals who suffer from alcohol and drug problems.

Matching Funds

Matching funds are not required. However, since the award cannot be expected to cover all teaching and trainee costs, applicants that can demonstrate additional support such as faculty, no cost space, or cash matching funds from their own revenues, private sources, or public entities including local and State contributions for the proposed project will receive consideration in funding decisions (See *Award Criteria*). Documentation of the availability of non-Federal matching support for the proposed projects must be included in appendices to the application.

Eligibility Requirements

Applications may be submitted by SSAs or local governments, or public or private non-profit academic institutions of the United States, including territories and possessions. Academic institutions must have accredited and/or approved programs or departments in the included disciplines. Multidisciplinary applications are required, although the Program Director may be employed by a single discipline or department. Requests for support of trainees at multiple levels (e.g., baccalaureate, master's, post-master's, doctoral, postdoctoral, and continuing education) consistent with the disciplines' educational patterns, must be incorporated in a single application.

Examples of eligible disciplines, levels, and institutional units which might work together to develop an application meeting program requirements include:

- A SSA training division which offers continuing education courses as part of a certification requirement for addictions counselors and other health professions;
- A college or university-based undergraduate and/or graduate program in addictions counseling (including specialization in community-based or criminal justice treatment settings);
- A school or department of social work offering accredited master's/doctoral programs, or an accredited baccalaureate program in States which offer such programs;
- A college or university-based accredited graduate program in marriage and family therapy;
- A department of psychology or a school of professional psychology, each with appropriate accreditation for graduate training in clinical, counseling, rehabilitation or school psychology, or an accredited internship program in an accredited school or freestanding provider institution;
- A department of psychiatry with a curriculum for medical students or osteopathy students; an accredited training program for residents in an accredited medical or osteopathic school or in a freestanding provider institution;
- An accredited college or university school of nursing which offers undergraduate and/or graduate programs in psychiatric or public health nursing;
- An accredited continuing education organization, freestanding or university based, which offers continuing education courses that are accepted for CEU certification requirement for addictions counselors, physicians, and other health professionals; and/or
- A department of family medicine, general internal medicine, or pediatrics, or division of addiction medicine offering a curriculum for medical or osteopathy students and/or an accredited training program for residents in an accredited medical or osteopathic school or a freestanding provider institution.

Applicants that do not have a sufficient range of programs in a single institution may wish to form a consortium and submit a single application. Since there may be only one legal applicant and program director, applications from consortia or from institutions where the program director represents a single department should define the membership, governance, and span of control and responsibility and resources allocated to the various departments or consortium members. Agreements among the relevant members that define these relationships and resource distributions, signed by the appropriate officials, must be part of the application, and should be submitted in an appendix.

Applicants who are not SSAs must involve the SSA and supply a formal letter of agreement from each Single State Agency for Alcohol and Drug

Abuse for the area to be served (i.e., if the program defines the region to be covered as North and South Dakota, both SSAs must provide formal letters of agreement). The letter must set out the level of involvement of the SSA and how the agreement will be carried out (e.g., an advisory committee which includes the Director of the SSA and the Deans of the prospective schools). Similarly, if an SSA is the applicant, they must provide formal letters of agreement from each participating academic institution.

Review Criteria

Applications that are accepted for review will be assigned to an Initial Review Group (IRG) composed primarily of non-Federal experts. The five categories of criteria which will be used in assessing technical merit of applications submitted under this announcement, and the relative weight assigned to each criterion, are as follows:

1. Proof of Need.....15%

• Demonstrated need for additional substance abuse treatment professionals and training programs in the targeted geographic area.

• Extent of substance abuse related problems in the targeted area.

2. Relevance/Adequacy of Program Design.....35%

• Appropriateness of the proposed program in relation to the goals of this RFA.

• Adequacy, appropriateness, and feasibility of the proposed approach and activities to meet the stated program objectives.

• Demonstrated knowledge of state-of-the-art curricula and instruction techniques with respect to training for identification, diagnosis, and treatment of addictions.

• Identification of an appropriate range of public tier treatment agencies for field placements, practica, and internships.

• Demonstrated commitment to implementing a curriculum which is "culturally competent"—recognizing the unique needs of special populations in such areas as staffing, evaluation, instrumentation, and intervention strategies.

• Extent to which there is a balance of didactic and clinical training experiences including a wide range of alcohol and drug abuse treatment facilities as an integral component of training.

• Appropriateness of criteria for allocation of stipends and selections of individuals to receive stipends.

3. Resources and Management.....25%

• Extent of involvement of Single State Agency(s), either as applicant, or as evidenced in their formal letter(s) of commitment.

• Evidence of academic institutional support and commitment to implement the program through curricula offerings and provision of suitable and adequate clinical placements.

• Evidence of specific commitments from all proposed collaborators, consortia members, particularly public-tier addiction treatment agencies that will serve as field placement sites.

• Qualifications and experience of applicant organization(s), program director, and other key faculty personnel.

• Evidence that the Program Director has status/authority and access to resources to implement programs across departments/disciplines/components.

• Evidence of faculty status adequate to provide leadership in integrating substance abuse into ongoing didactic and clinical instruction.

• Suitability of faculty as evidenced by quality of academic, clinical and/or research background and experience, and appropriateness as role model for a career in addictions treatment.

• Suitability and adequacy of clinical and academic facilities/resources to meet faculty and trainee needs.

• Adequacy of procedures to identify, recruit, and retain the faculty and trainees in various disciplines, particularly ethnic and racial minorities and women, who will seek careers in public tier addictions treatment.

4. Budget..... 15%

• Reasonableness and appropriateness of proposed budget and other resources identified to carry out the proposed activities for each year.

• Projected or anticipated cost effectiveness (cost per student in each level).

5. Evaluation..... 10%

• Appropriateness and completeness of evaluation plan.

• Potential significance of the proposed program as a demonstration of a comprehensive, multidisciplinary, cooperative effort.

Applications submitted in response to this RFA will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures for grants.

Award Criteria and Process

Applications recommended for approval by the Initial Review Group and appropriate advisory council, if in place, will be considered for funding on the basis of their overall technical merit as determined through the review process. Other award criteria will include:

• Availability of funds;

• Geographical distribution throughout the United States;

• Appropriate balance between centers likely to train professionals to work in urban, inner-city, and rural settings (at least one center will emphasize training to serve rural areas);

• Availability of additional financial support such as non-Federal matching funds, faculty, no cost space, etc., from local and State sources.

Intergovernmental Review (E.O. 12372)

This program is not subject to the intergovernmental review requirements of E.O. 12372, as implemented through DHHS regulations at 45 CFR part 100.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Authority and Regulations

Grants awarded under this announcement are authorized under Section 512 (a) of the Public Health Service Act as amended (42 USC 290bb–5).

Federal regulations at title 45 CFR parts 74 and 92, generic requirements concerning the administration of grants, are applicable to these awards.

Grants must be administered in accordance with the *PHS Grants Policy Statement* (Updated September 1, 1991).

The Catalog of Federal Domestic Assistance (CFDA) number for this program is 93.131.

Dated: May 21, 1993.

Joseph R. Leone

Acting Deputy Administrator, Substance Abuse and Mental Health Services Administration.

[FR Doc. 93–12595 Filed 5–26–93; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–060–03–4740–01–CDLE]

Temporary Closure of Public Lands in San Bernardino County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of temporary closure of Public Lands in San Bernardino County, CA.

SUMMARY: Notice is hereby given that certain Public Lands in California that

were previously used as courses and starting, pitting, and spectator areas for the Barstow to Las Vegas Motorcycle Race, will be closed from November 24, 1993 through November 30, 1993 to all motorized vehicles. This closure begins on Public Lands north of I–15 in the Alvord Road area.

From this location the closure covers the various routes and pit areas of previous Barstow to Las Vegas races, traveling in a generally northeasterly direction to the Nevada State border.

Order: Effective at 0001 hours (12:01 am, PST) Wednesday, November 24, 1993 through 2400 hours (Midnight, PST) Sunday November 28, 1993, all Public Lands in California used for course routes, starting, pitting, and spectator areas for the Barstow to Las Vegas motorcycle race will be closed to motorized vehicles. The legal land descriptions for the start, spectator, and pit areas affected by this closure are as follows:

All Public Lands within:

San Bernardino Baseline and Meridian:

T. 10 N, R. 3 E,
Sec. 1, 3, 11, 12, 14.
T. 10 N, R. 4 E,
Sec. 6, 7.
T. 11 N, R. 3 E,
Sec. 1, 2, 10, 11, 12, 14, 15, 22, 23, 24, 26, 27, 34, 35.
T. 11 N, R. 4 E,
Sec. 6, 8, 18, 19, 20, 30, 31, 32.
T. 12 N, R. 3 E,
Sec. 22, 23, 24, 26, 27, 34.
T. 12 N, R. 4 E,
Sec. 19, 20, 30, 32.
T. 12 N, R. 7 E,
Sec. 11, 12, 13, 14.
T. 15 N, R. 8 E,
Sec. 19, 20, 29, 30.
T. 15 N, R. 10 E,
Sec. 2, 3, 10, 11.
T. 17 N, R. 15 E,
Sec. 7.

The closure does not affect vehicles traveling on the following roads:

1. California State Highway 127.
2. Basin Road.
3. Rasor Road.
4. Kingston Road (also known as Excelsior Mine Road).

A map showing vehicle routes of travel affected by this closure is available from any of the offices listed below.

No person may use, drive, move, transport, let stand, park, or have charge or control over any type of motorized vehicle within this closure area or on closed routes.

Exemptions to this order are granted to the following:

Employees of valid right-of-way holders in the course of duties associated with the right-of-way.

Holders of valid lease(s) and/or permit(s) and their employees in the course of duties associated with the lease and/or permit.

Employees of Bond Gold Colosseum in the course of duties associated with the Colosseum Mine. This includes suppliers making deliveries to the Colosseum Mine with proof of impending delivery.

All other exemptions to this order are by written authorization of the California Desert District Manager. Person(s) seeking an exemption must submit their requests individually in writing (no group requests will be considered) to the California Desert District Manager (6221 Box Springs Blvd., Riverside, CA 92507–0714). The requests must include a detailed description outlining the purpose or need for the exemption, specific areas to be used, and the date of the exemption. To be considered, *Exemption Requests Must be Postmarked by Friday, July 23, 1993.* Requests postmarked after that day will not be considered.

Background

The purpose of this temporary closure is to protect all Public Land resources on or adjacent to Barstow to Las Vegas race courses and associated areas from the impacts of large scale unmanaged vehicle use. A temporary closure order prohibiting vehicle use on previously used routes and start, pit and spectator areas, was enacted in 1990, 1991, and 1992 to prevent unauthorized use on the B–V corridor and the associated adverse environmental impacts. Four individuals were convicted in Federal Court of violating the 1990 closure and were fined $850 each. To others pled guilty before a local Magistrate and both were fined $250 each. One individual was arrested for violating the closure in 1992, charges are pending in U.S. District Court.

Resources most critical to the areas affected by this closure are the Desert Tortoise and its habitat. The Desert Tortoise is listed as a threatened species under the Federal Endangered Species Act and is afforded increased protection under the terms of the Act. The environmental assessment prepared for this action has shown there will be no significant impacts to recreational use or the natural environment as a result of this closure.

EFFECTIVE DATE: This closure will be in effect from 0001 hours (12:01 am, PST) Wednesday, November 24, 1993 through 2400 hours (Midnight, PST) Sunday November 28, 1993.

FOR FURTHER INFORMATION CONTACT: District Manager, California Desert District, 6221 Box Springs Blvd., Riverside, CA 92507–0714, (909) 697–5200.

Area Manager, Barstow Resource Area, 150 Coolwater Lane, Barstow, CA 92311, (619) 256–3591.

Area Manager, Needles Resource Area, 101 W. Spikes Road, Needles, CA 92363, (619) 326–3896.

SUPPLEMENTARY INFORMATION: The environmental assessment and maps showing the areas and routes affected by this closure are available by contacting the aforementioned offices.

Authority for this temporary closure is found in 43 CFR 8364.1. Violation of this closure is punishable by a fine not to exceed $100,000 and/or imprisonment not to exceed 12 months.

Dated: May 19, 1993.

Henri Bisson,

District Manager, California Desert.

[FR Doc. 93–12623 Filed 5–26–93; 8:45 am]

BILLING CODE 4310–40–M

[NV–010–93–4350–09–RPRN]

Elko District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice; Elko District Advisory Council Meeting.

SUMMARY: Notice is hereby given that the District Advisory Council for the Elko District, Nevada, will meet on June 10, 1993, in accordance with 43 CFR 1784.6–4. The meeting will begin at 8 a.m. in the District Conference Room at 3900 E. Idaho in Elko. Following the meeting, a field trip to the lower Marys River will be conducted.

The meeting agenda will include:

1. An overview of the Draft Environmental Impact Statement on Newmont Gold Company's South Operation Area Project;
2. An overview of the Environmental Assessment for the Meikle Mine Development;
3. A summary of the proposed Back Country Byway;
4. A briefing on the Dann trespass case and associated issues;
5. An overview of the Elk Amendment to the Wells RMP;
6. Discussion of the proposed Lahontan Cutthroat Trout Recovery Plan;
7. A field trip to the South Cross Field and Cabin Field of the lower Marys River to observe irrigation practices.

SUPPLEMENTARY INFORMATION: The meeting is open to the public and members of the public may make statements before the Council from 8:30

a.m.–9 a.m. Persons wanting to make a statement to the Council should contact Lauren Mermejo at the District Office at (702) 753–0200 no later than June 7. Those interested publics wishing to accompany the Advisory Council to the Marys River will be required to provide their own transportation and lunches.

Dated: May 18, 1993.

Rodney Harris,

Elko District Manager.

[FR Doc. 93–12639 Filed 5–26–93; 8:45 am]

BILLING CODE 4310–HC–M

[AK–932–4210–06–P; AA–39417]

Order Providing for Opening of Lands Subject to Section 24 of the Federal Power Act; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this order is to open for selection by the State of Alaska approximately 27 acres of National Forest System lands withdrawn for the Federal Energy Regulatory Commission (FERC) Power Project No. 2170.

EFFECTIVE DATE: May 27, 1993.

FOR FURTHER INFORMATION CONTACT: Sandra C. Thomas, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513–7599, 907–271–5477.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 24 of the Federal Power Act of June 10, 1920, as amended, 16 U.S.C. 818 (1988), and pursuant to the determination by FERC in DVAK–146–Alaska, it is ordered as follows:

Subject to valid existing rights, at 8 a.m. on May 27, 1993, the following described lands are hereby opened for selection by the State of Alaska under the Alaska Statehood Act of July 7, 1958, 48 U.S.C. note prec. 21 (1988), subject to the provisions of Section 24 of the Federal Power Act:

The FERC Power Project No. 2170 (Cooper Lake Hydroelectric Water Power Project) located within the Chugach National Forest on Cooper Lake and Kenai Lake on the Kenai Peninsula, Alaska, within sec. 32, T. 4 N., R. 2 W., sec. 16, T. 5 N., R. 2 W., and sec. 36, T. 4 N., R. 3 W., Seward Meridian.

The areas affected by this order aggregate approximately 27 acres.

The State of Alaska applications for selection made under Section 6(a) of the Alaska Statehood Act and Section 906(e) of the Alaska National Interest Lands Conservation Act, 43 U.S.C. 1635(e) (1988), become effective without further action by the State upon publication of this order in the **Federal Register**, if such lands are otherwise available. If the lands described herein are not selected by the State, the lands will continue to be subject to the terms and conditions of the Chugach National Forest reservation. All of the lands described herein will continue to be subject to the terms and conditions of the FERC Power Project No. 2170, pursuant to the authority set forth in Section 24 of the Federal Power Act, as amended, 16 U.S.C. 818 (1988).

Dated: May 17, 1993.

Sue A. Wolf,

Chief, Branch of Land Resources.

[FR Doc. 93–12622 Filed 5–26–93; 8:45 am]

BILLING CODE 4310–JA–P

[ES–030–3–4210–05]

Realty Action; Sale of Public Land in Swift County, Minnesota

AGENCY: Bureau of Land Management, Interior.

ACTION: Realty action noncompetitive sale.

SUMMARY: The following land has been found suitable for direct sale under section 205 of the Minnesota Public Lands Improvement Act of 1990 (104 Stat. 1019) at the estimated fair market value less equities presented by the applicant. The land will not be offered for sale until at least 60 days after the date of this notice.

Fifth Principal Meridian

T.121N., R.38W.

Sec. 11, Tract #37

Containing approximately 0.37 acres

The land described is hereby segregated from appropriation under the public land laws, including the mining laws, pending disposition of this action or 270 days from the date of publication of this notice, whichever occurs first.

This land is being offered by direct sale to James Mathews. It has been determined that the subject parcel contains no known mineral values; therefore, mineral interest may be conveyed simultaneously. Acceptance of the direct sale offer will qualify the purchaser to make application for conveyance of those mineral interests under Sec. 209 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713).

The patent, when issued, will contain certain reservations to the United States. Detailed information concerning these reservations as well as specific conditions of the sale are available for review at the Milwaukee District Office, Bureau of Land Management, 310 West Wisconsin Avenue, suite 225, Milwaukee, Wisconsin 53203.

DATES: On or before July 12, 1993, interested parties may submit comments to the District Manager, Milwaukee District, at the above address. In the absence of timely objections, this proposal shall become the final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning this sale is available at the Milwaukee District Office, Bureau of Land Management, 310 West Wisconsin Avenue, suite 225, Milwaukee, Wisconsin 53203 or by calling Larry Johnson at 414–297–4413.

Gary D. Bauer,

District Manager.

[FR Doc. 93–11902 Filed 5–26–93; 8:45 am]

BILLING CODE 4310–GJ–M

(NV–930–03–4210–05; N–54328)

Realty Action; NV

AGENCY: Notice of realty action.

SUMMARY: Notice is hereby given that pursuant to section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701, 1713), the BLM will offer for sale under modified sale procedures, at no less than fair market value, the following described contiguous parcel of public land. The land will not be offered for sale until at least sixty days after the date of publication of this notice in the Federal **Register.**

Mount Diablo Meridian

T. 31 N., R. 56 E.,

Sec. 26, SE¼SW¼, S½SE¼.

Comprising 120.00 acres, more or less.

The appraised fair market value for the above described parcel is $9000.00 or $75.00 per acre.

DATES: The sale offering will be on Friday, August 13, 1993, at 10 a.m. at the Bureau of Land Management, Elko District Office, 3900 E. Idaho St., P.O. Box 831, Elko, NV 89803.

SUPPLEMENTARY INFORMATION: The lands are being offered for public sale by the BLM in order to facilitate and enhance land use capability with an adjoining private landowner. The lands have been specifically identified as suitable for disposal by the Elko Resource Management Plan. The lands are not needed for any resource program and are not suitable for management by the

Bureau or any other federal department or agency. Legal access to the parcels is available via cross county travel. Physical legal access may be acquired from the BLM by right-of-way grant issued under the authority of the Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).

The locatable and salable mineral estates have been determined to have no known value. The land is prospectively valuable for oil and gas. Therefore, the mineral estate, excluding oil and gas, will be conveyed simultaneously with the surface estate in accordance with section 209(b)(1) of FLPMA. Acceptance of a sale offer will constitute an application for conveyance of the mineral interests. The high bidder will be required to submit a $50.00 nonrefundable filing fee with the remainder of the purchase price for conveyance of the mineral interests specified above. Failure to submit the nonrefundable fee for the mineral estate within the time frame specified by the authorized officer will result in cancellation of the sale.

The grazing preference on the affected grazing allotment would be reduced by 10 AUMs as a result of this action. The grazing permittee has waived the two-year notification in regard to his grazing privileges on the subject lands.

Sale Procedures

The land will be sold by modified competitive sale procedures with a preference right given to Lee Wilson and Company. The sale procedures will require the bidder to submit a written bid for no less than the fair market value. Each bid submitted will be accompanied by a certified check, postal money order, bank draft, or cashiers check for no less than 20% or ⅕ of the total amount bid for the parcels. Under modified competitive sale procedures, an apparent high bid will be declared by the BLM. The apparent high bidder and Lee Wilson and Company (designated bidder) will be notified. The designated bidder will have 15 days from the date of notification to exercise the preference consideration to meet the high bid. Should the designated bidder fail to submit a bid that matches the apparent high bid within the specified time period, the apparent high bidder shall be declared high bidder and awarded the sale. The apparent high bidder must submit the remainder of the full bid price prior to expiration of 180 days from the date of the sale. The amount will be paid by certified check, postal money order, bank draft, or cashiers check payable to the Department of the Interior—BLM. Failure to meet the conditions established for this sale will void the sale and any money received for the sale will be forfeited as proceeds of the sale to the BLM.

Sealed bids for no less than the appraised fair market value as determined by government appraisal will be received until August 12, 1993, 4:30 p.m. The bid envelope must be marked on the lower left hand corner with BLM Land Sale—Do Not Open and Sale Date. It is recommended that all mailed bids be sent via certified mail. The bid must not be for less than the appraised fair market value as specified in this notice. Bids will only be accepted for the entire parcel. Do Not submit a bid for only a portion of the parcel. Each bid submitted will contain 20% or ⅕ of the total amount bid for the parcel. Any bids not conforming to the sale conditions or received after the above date and time will be returned to the bidders. In the event that two or more written high bids have been submitted in the same amount, the determination of which is to be considered the highest bid shall be by submission of new sealed bids by those bidders.

In the event that no bids are received on the parcels, the public lands in this sale proposal would remain for sale, over the counter, for a period of 30 days from date of sale. Interested parties may inquire about the parcel at the Bureau of Land Management, 3900 E. Idaho St., Elko, Nevada 89801, during the office hours of 7:30 a.m. to 4:30 p.m., Monday through Friday. The parcel would be available for sale through sealed bid procedures with all conditions of the sale applying. The BLM may accept or reject any or all offers or withdraw any land or interest in land for sale, if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with the Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).

The patent, when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States; Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. Oil and gas.

And will be subject to: Those rights for powerline purposes which have been granted to Wells Rural Electric Co., its successors or assignees, by right-of-way grant N–43322 under the authority of the Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).

Publication of this notice in the **Federal Register** will segregate the subject lands from all appropriations under the public land laws, including the mining laws, mineral leasing laws, and the Geothermal Steam Act. The segregation will terminate upon issuance of the patent or other document of conveyance, or upon publication in the **Federal Register** of a termination of segregation, or 270 days from date of publication, whichever occurs first.

Federal law requires that all bidders must be U.S. citizens, 18 years of age or older, or in the case of corporations, by subject to the laws of any state of the United States. Proof of these requirements must accompany the bid.

For a period of 45 days from the date of this Notice, interested parties may submit comments to the District Manager, Bureau of Land Management, P.O. Box 831, Elko, Nevada 89803. Any adverse comments will be reviewed by the Nevada State Director, who may sustain, vacate, or modify this realty action and issue a final determination. In the absence of timely filed objections this realty action will become the final determination of the Department of the Interior.

Dated: May 17, 1993.

Rodney Harris,

District Manager.

[FR Doc. 93–12638 Filed 5–26–93; 8:45 am]

BILLING CODE 4310–HC–M

[NM–010–4210–05/G–910–G3–0038; NMNM 90104]

A Direct Sale of Public Land to Melvin Medina and Diane Griego of Alcalde, NM

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of realty action.

SUMMARY: The following public land has been found suitable for direct sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713) and at no less than the estimated fair market value. The land will not be offered for sale until at least 60 days after the date of this notice.

New Mexico Principal Meridian

Tract C, within the Sebastian Martin Land Grant.

The subject public land containing 16.90 acres, more or less will be sold to Melvin Medina and Diana Griego of Alcalde, New Mexico. The sale is to resolve an unauthorized occupancy which could not be accomplished under the color-of-title act since the land was acquired land. The disposal is consistent with State and local government programs, plans, and applicable regulations.

EFFECTIVE DATE: Interested parties may submit comments on the direct sale on or before July 12, 1993.

ADDRESS: Comments should be sent to the District Manager, BLM, Albuquerque District Office, 435 Montaño NE., Albuquerque, New Mexico 87107.

FOR FURTHER INFORMATION CONTACT: Lora Yonemoto, BLM, Taos Resource Area Office, 224 Cruz Alta Road, Taos, New Mexico 87571, or at (505) 758–8851.

SUPPLEMENTARY INFORMATION: The direct sale will be subject to:

1. A reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States in accordance with the Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals. A more detailed description of this reservation, which will be incorporated in the patent document or other document of conveyance is available for review at this BLM office.

Publication of this notice in the **Federal Register** will segregate the public land from appropriations under the public land laws including the mining laws but not mineral leasing laws. This segregation will terminate upon the issuance of a patent or other document of conveyance, 270 days from date of publication of this notice in the **Federal Register** or upon publication of Notice of Termination, whichever occurs first.

Any adverse comments will be evaluated by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: May 19, 1993.

Michael R. Ford,

District Manager.

[FR Doc. 93–12596 Filed 5–26–93; 8:45 am]

BILLING CODE 4310–FB–M

[UT–060–03–4333–04; UTU–65546]

Notice of Realty Action; Exchange of Public Land in Emery, Grand, San Juan, and Wayne Counties, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, UTU–65546, exchange of public land in Emery, Grand, San Juan, and Wayne Counties, Utah.

SUMMARY: The BLM proposes to exchange land with the State of Utah in order to achieve more efficient management of public and State lands. The following public land is being considered for exchange pursuant to Section 206 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1716:

	Acres
T. 22 S., R. 14 E., SLM, UT (Emery County)	
Section 4, SE¼	160.00
Section 10, S½NW¼, SW¼	240.00
	400.00
T. 23 S., R. 6 E., SLM, UT (Emery County)	
Section 14, NE¼, N½N½SE¼	200.00
T. 24 S., R. 22 E., SLM UT (Grand County)	
Section 36, Lots 1, 2	71.49
T. 24 S., R. 23 E., SLM, UT (Grand County)	
Section 19, Lot 3	2.01
Section 20, Lot 13	23.36
Section 29, W½NW¼	80.00
Section 30, Lots 1, 2, 9, SE¼NE¼	130.12
	235.49
T. 26 S., R. 22 E., SLM, UT (Grand County)	
Section 5, Lot 11, W½SE¼	118.66
Section 8, Lots 1–3, 5, SW¼NE¼, SE¼NW¼	178.21
Section 9, Lots 1–3, E½NE¼, NE¼SE¼, N½SE¼SE¼, E½SW¼SE¼, SE¼SE¼SE¼SE¼	270.96
Section 27, W½SW¼	80.00
	647.83
T. 26 S., R. 23 E., SLM, UT (Grand County)	
Section 19, Lots 1, 2, E½W½, E½	549.97
Section 29, All	640.00
T. 27 S., R. 23 E., SLM, UT (San Juan County)	
Section 5, Lots 1, 3–7, S¼NE¼, S½NW¼, SW¼, W½SE¼	603.76
Section 6, SE¼, E½SW¼	240.00
	843.76
T. 38 S., R. 12 E., SLM, UT (San Juan County)	
Section 35, Lots 1–9, E½NE¼, SE¼	448.46
Section 36, All	640.00
	1088.46
T. 29 S., R. 4 E., SLM, UT (Wayne County)	
Section 9, S½N½	160.00
Section 10, SW¼NW¼	40.00
	200.00
T. 29 S., R. 5 E., SLM, UT (Wayne County)	
Section 3, Lots 3, 4, S½NW¼, SW¼	320.00
Section 4, Lots 1–4	56.46
Total	5,253.46

Final determination on the exchange will await completion of an environmental analysis. In accordance with the regulations of 43 CFR 2201.1(b), publication of this notice will segregate the public lands, as described in this notice, from appropriation under the public land laws, including the mineral laws, but not the mineral leasing laws.

The segregation of the above described lands shall terminate upon issuance of a document conveying such lands or upon publication in the **Federal Register** of a Notice of Termination of the segregation, or the expiration of two years from the date of publication, whichever occurs first.

This notice will cancel and replace the segregative effects of all previously published notices on the public lands described herein.

FOR FURTHER INFORMATION CONTACT: Mary von Koch, Area Realty Specialist, Grand Resource Area, 885 South Sand Flats Road, Moab, Utah 84532, (801) 259–8193, or Brad Groesbeck, District Realty Specialist, Moab District Office, 82 East Dogwood Drive, P.O. Box 970, Moab, Utah 84532, (801) 259–6111.

Dated: May 21, 1993.

William C. Stringer,

Associate District Manager, Moab District.

Dated: May 14, 1993.

Samuel R. Rowley,

Associate District Manager, Richfield District.

[FR Doc. 93–12587 Filed 5–26–93; 8:45 am]

BILLING CODE 4310–DQ–M

[ID–942–03–4730–12]

Idaho: Filing of Plats of Survey; Idaho

The plat of the following described land will be officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9 a.m., July 2, 1993.

The plat, representing the dependent resurvey of portions of the west boundary, subdivisional lines, and meanders of the right bank of the Payette River, and the subdivision of section 19, T. 9 N., R. 4 E., Boise Meridian Idaho, Group No. 841, was accepted, May 17, 1993.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

All inquiries concerning the survey of the above described land must be sent to the Chief, Branch of Cadastral Survey,

Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise Idaho, 83706.

Dated: May 17, 1993.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 93–12529 Filed 5–26–93; 8:45 am]

BILLING CODE 4310–66–M

Bureau of Reclamation

Yellowtail Afterbay Dam Water Quality Study, Yellowtail Unit, Lower Bighorn Division, Pick-Sloan Missouri Basin Program, Montana

AGENCY: Bureau of Reclamation (Interior).

ACTION: Notice of intent to prepare a draft environmental impact statement.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended, the Bureau of Reclamation (Reclamation) proposes to prepare a draft environmental impact statement (DEIS) on alternatives to correct supersaturated levels of dissolved gases, primarily nitrogen, in the Bighorn River below Yellowtail Afterbay Dam, Montana. The purpose of this study is to determine the most implementable alternative(s) to correct the supersaturation problem that is caused by the entraining of air as water flows through the sluiceway and over the spillway of the Afterbay Dam. Gas supersaturation in the Bighorn River can induce gas bubble trauma which may kill or injure fish up to 20 miles downstream of the Afterbay Dam. The Montana Department of Health and Environmental Sciences requested Reclamation comply with § 16.20.632 of the Administrative Rules of Montana for Owners and Operators of Water Impoundments.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Whittington, Regional Planning Officer, Bureau of Reclamation (Code: GP–700), PO Box 36900, 316 North 26th Street, Billings, MT 569107–6900; telephone: (406) 657–6517.

SUPPLEMENTARY INFORMATION: Before completion of Yellowtail Dam and Afterbay, the Bighorn River was a turbid, warm water fishery, supporting less than 500 angler days of fishing per year on the entire river. Because subsurface releases from the main dam are basically free of sediment and provide lowered water temperature downstream, a river ideally suited for trout was created. Rainbow trout planted in the river grew rapidly, and the few brown trout already there flourished. The Bighorn gained a wide reputation for producing trophy fish. Minor outbreaks of gas bubble trauma were first recorded in 1973 and 1974, with a documented fishkill occurring in 1979. In June 1984, the Montana Department of Health and Environmental Sciences requested Reclamation comply with § 16.20.632 of the Administrative Rules of Montana for Owners and Operators of Water Impoundments, which states:

16.20.632 Operation Standards (1) Owners and operators of water impoundments operating prior to July 1971 that cause conditions harmful to prescribed beneficial uses of state water shall demonstrate to the satisfaction of the department that continued operations will be done in the best practicable manner to minimize harmful effects.* * *

Reclamation made immediate changes in the operation of the dam and promised to search for more effective ways to lower dissolved gas levels in the river. Studies subsequently performed by Reclamation demonstrate that there are viable alternative plans with the potential for reducing gas supersaturation in the Bighorn River, thereby satisfying the State of Montana's request. The purpose of these studies is to identify possible solutions and to determine the viability of further planning on the project.

The present phase of the study began in late 1991. A draft work plan including a public involvement plan has been developed, and informal meetings with numerous Federal, State, and local agencies have been conducted. Various other Federal, State, and local agencies are being consulted in the conduct of this study.

The goals and objectives of this study are to:

- Analyze alternatives to correct the gas supersaturation problem in the Bighorn River below Yellowtail Afterbay Dam.
- Recommend an alternative(s) which would reduce total dissolved gases in the river that have caused unacceptable hazards to fish and wildlife.
- Demonstrate compliance with the Administrative Rules of Montana for Owners and Operators of Water Impoundments.

A preliminary list of potential alternatives has been developed for presentation to the public during the scoping process. The general types of options identified to date include institutional changes, construction of a powerplant as the Afterbay Dam, various other structural changes to the Afterbay Dam, and a no action alternative (required by NEPA).

A public scoping process will be used to elicit information for use in determining the scope of the environmental impacts and issues related to the proposal and to determine alternative methods to accomplish the goals of the project. The results of the scoping process will help reclamation determine the scope and extent of the impact analysis. The scoping process may consist of public meetings, private consultation, written comments, or combinations of these. A subsequent notice will be published in the **Federal Register** at least 30 days prior to the first scoping meeting.

A DEIS will be available for review and comment in early 1994.

Dated: May 14, 1993.

Joe D. Hall,

Deputy Commissioner.

[FR Doc. 93–12627 Filed 5–26–93; 8:45 am]

BILLING CODE 4310–09–M

Fish and Wildlife Service

Notice of Receipt of Application for Permit

The public is invited to comment on the following application for a permit to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

Applicant: Virginia Dept of Game & Inland Fisheries PRT–776441 Richmond, VA.

Type of Permit: Public Display—Education.

Name and Number of Animals: Polar Bear (*Ursus maritimus*) One polar bear pelt.

Summary of Activity to be Authorized: The applicant requests a permit to import one polar bear pelt to be used in their public educational program on North American bears developed for school audiences. The polar bear was taken by the Chief of Game and Fur, Department of Natural Resources, in Manitoba, Canada. The polar bear was determined to be a nuisance bear by the Department of Natural Resources.

Source of Marine Mammals for Public Display: Department of Natural Resources, Manitoba, Canada.

Concurrent with the publication of this notice in the **Federal Register**, the Office of Management Authority is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Written data or comments, requests for copies of the complete application, or requests for a public hearing on this application should be submitted to the

Director, Office of Management Authority (OMA), 4401 N. Fairfax Dr., Room 432, Arlington, VA 22203 and must be received by the Director within 30 days of the date of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such hearing is at the discretion of the Director.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, OMA, 4401 North Fairfax Drive, room 432, Arlington, VA 22203. Phone: (1–800–358–2104); Fax: (703–358–2281).

Dated: May 21, 1993.

Susan Jacobsen,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 93–12542 Filed 5–26–93; 8:45 am]

BILLING CODE 4310–55–M

Meetings: Klamath River Basin Fisheries Task Force

AGENCY: Department of the Interior, U.S. Fish and Wildlife Service.

ACTION: Notice.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Klamath River Basin Fisheries Task Force, established under the authority of the Klamath River Basin Fishery Resources Restoration Act (16 U.S.C. 460ss *et seq.*). The meeting is open to the public.

DATES: The Klamath River Basin Fisheries Task Force will meet from 8 a.m. to 5 p.m. on Tuesday, June 15, and from 8 a.m. to 12 noon, Wednesday, June 16, 1993.

PLACE: The meeting will be held at the Miner's Inn Convention Center, 122 East Miner Street, Yreka, California.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald A. Iverson, Project Leader, U.S. Fish and Wildlife Service, P.O. Box 1006, Yreka, California 96097–1006, telephone (916) 842–5763.

SUPPLEMENTARY INFORMATION: For background information on the Task Force, please refer to the notice of their initial meeting that appeared in the **Federal Register** on July 8, 1987 (52 FR 25639). The Task Force will meet to discuss development of the Federal Fiscal Year 1994 work plan for the Klamath River Fishery Restoration Program. The Task Force will also discuss the proposed amendment of the long-range plan for the Klamath River Basin Conservation Area Fishery Restoration Plan, which is to incorporate the area of the Klamath Basin above Iron Gate Dam into the Fishery Restoration Program planning area. In addition, the Task Force will discuss development of the Federal Fiscal Year 1995 Request For Proposals; will hear reports from the U.S.D.A. Task Force representative on the Forest Service's Klamath and Six Rivers National Forests land management plans and on the Forest Service's Pacific Salmon Work Group known as "PacFish"; will hear reports from the California representative on the status of Shasta River fall chinook with reference to including the species on the State of California's threatened and endangered species list, on the Shasta River 1993 unimpaired flow experiment, and on the Klamath Basin hatchery review; and will discuss development of a long-term fish restoration "needs" list.

Dated: May 19, 1993.

William E. Martin,

Acting Regional Director, U.S. Fish and Wildlife Service.

[FR Doc. 93–12628 Filed 5–26–93; 8:45 am]

BILLING CODE 4310–55–M

Geological Survey

Privacy Act of 1974—Deletion of System of Records

Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), notice is hereby given that the Department of the Interior is deleting from its inventory of Privacy Act systems of records two notices describing records maintained by the U.S. Geological Survey. The systems of records notices being abolished are entitled "Accounts Receivable—Interior, USGS–3," which was previously published in the **Federal Register** on September 7, 1990 (55 FR 36904) and "Travel Files—Interior, GS–14," which was previously published in the **Federal Register** on June 4, 1985 (50 FR 23523). These systems of records are no longer being maintained in the Department of the Interior.

Prior to October 14, 1992, the U.S. Geological Survey maintained a separate record of persons and corporate entities who owed money to the U.S. Geological Survey for the purpose of billing debtors and accounting for payments received (USGS–3), and a record of employee travel for the purpose of processing travel authorizations and claims (GS–14). With the establishment of the Departmentwide system of records "Federal Financial System—Interior, OS–90" (57 FR 47118), these systems became obsolete. On December 14, 1992, the records maintained in these systems were incorporated into the Federal Financial System.

These changes shall be effective on publication in the **Federal Register** (May 27, 1993). Additional information regarding this action may be obtained from the Departmental Privacy Act Officer, Office of the Secretary, Office of Administrative Services, PMO, 1849 "C" Street NW., Mail Stop 5412 MIB, Washington, DC 20240, telephone (202) 208–6045.

Dated: May 17, 1993.

Albert C. Camacho,

Director, Office of Administrative Services.

[FR Doc. 93–12624 Filed 5–26–93; 8:45 am]

BILLING CODE 4310–31–M

Minerals Management Service

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Gulf of Mexico Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the availability of environmental documents prepared for OCS mineral proposals on the Gulf of Mexico OCS.

SUMMARY: The Minerals Management Service (MMS), in accordance with Federal Regulations (40 CFR 1501.4 and 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related Environmental Assessments (EA's) and Findings of No Significant Impact (FONSI's), prepared by the MMS for the following oil and gas activities proposed on the Gulf of Mexico OCS. This listing includes all proposals for which the FONSI's were prepared by the Gulf of Mexico OCS Region in the period subsequent to publication of the preceding notice.

Activity/operator	Location	Date
Amoco Production Company, four exploratory wells, SEA No. N–4242.	Desoto Canyon Area, Block 133, Lease OCS–G 10444, 72 miles southeast of Plaquemines Parish, LA.	4/01/92
Mobil Exploration & Producing U.S. Inc., one exploratory well, SEA No. S–2692.	Pensacola Area, Block 889, Lease OCS–G 10406, 13.5 miles due south of Santa Rosa Island, Florida.	12/13/91
Anadarko Petroleum Company, six exploratory wells, SEA No. S–2741.	High Island Area, East Addition, Block A–376, Lease OCS–G 2754, 114 miles southeast of the nearest coastline in Texas.	6/26/92
Texaco Pipeline, Inc., Pipeline Activity, SEA No. OCS–G 13219.	High Island Area, East Addition, South Extension; Blocks A–393, A–390, A–377, A–374, A–373, A–367, A–366, A–365, and A–364; Garden Banks Area, Blocks 189, 188, 187, 186, 142, 141, and 97; Lease OCS–G 13219; 130 miles southeast of the nearest coastline point in Texas.	1/10/92
Santa Fe International Corporation, Pipeline Activity, SEA No. OCS–G 13244.	High Island Area, East Addition, South Extension, Blocks A–368 and A–373, Lease OCS–G 13244.	12/16/91
Exxon Company, U.S.A., structure removal operations, SEA No. ES/SR 91–008A.	West Cameron Area, South Addition, Block 616, Lease OCS–G 2558, 115 miles south of Cameron Parish, LA.	8/18/92
Exxon Company, U.S.A., structure removal operations, SEA No. ES/SR 91–107.	West Delta Area, Block 31, Lease OCS–0016, 6 miles southwest of Plaquemines Parish, LA.	4/23/92
Chevron U.S.A., Inc., structure removal operations, SEA No. ES/SR 92–07/S.	East Cameron Area, Block 280, Lease OCS–G 2049, 96 miles south of Cameron Parish, LA.	5/11/92
Chevron U.S.A. Inc., structure removal operations, SEA No. ES/SR 92–08/S.	South Pass Area, Block 56, Lease OCS–G 2181, 14 miles south of Plaquemines Parish, LA.	8/13/92
Freeport-McMoRan Oil & Gas, structure removal operations, SEA No. ES/SR 92–09/S.	Vermilion Area, Block 161, Lease OCS–G 1127, 32 miles south of Vermilion Parish, LA.	9/15/92
UNOCAL Corporation, structure removal operations, SEA No. ES/SR 92–011B.	West Cameron Area, Block 552, Lease OCS–G 2556, 95 miles south of Cameron Parish, LA.	7/01/92
CNG Producing Company, structure removal operations, SEA No. ES/SR 92–016.	South Timbalier Area, Block 75, Lease OCS–G 8443, 27 miles south of Terrebonne Parish, LA.	3/13/92
Amerada Hess Corporation, structure removal operations, SEA No. ES/SR 92–017.	High Island Area, South Addition, Block A–487, Lease OCS–G 4743, 80 miles southeast of Galveston, TX.	5/04/92
Chevron U.S.A. Inc., structure removal operation, SEA Nos. ES/SR 92–018 and 92–019.	Ship Shoal Area, Blocks 176 and 198, Leases OCS 0589 and OCS–G 12355, 40 miles south of Terrebonne Parish, LA.	4/24/92
Forest Oil Corporation, structure removal operations, SEA No. ES/SR 92–020.	Eugene Island Area, Block 366, Lease OCS–G 8700, 76 miles southwest of Terrebonne Parish, LA.	6/26/92
Chevron U.S.A. Inc., structure removal operations, SEA Nos. ES/SR 92–022(A), 92–043(A), and 92–044(A).	Main Pass Area, Blocks 41 and 42, Leases OCS 0374, OCS–G 1373 and 1367; 30 miles east of Plaquemines Parish, LA.	4/20/92
Kerr-McGee Corporation, structure removal operations, SEA No. ES/SR 92–023.	Ship Shoal Area, Block 230, Lease OCS 0831, 39 miles southwest of the Isles Dernieres, Terrebonne Parish, LA.	4/23/92
ODECO Oil and Gas Company, structure removal operations, SEA Nos. ES/SR 92–028, 92–029, 92–032, 92–033, 92–036, 92–037, and 02–038.	Ship Shoal Area, Block 119 and 120, Leases OCS 0069 and 0038, 30 miles south of Terrebonne Parish, LA.	4/10/92
ODECO Oil and Gas Company, structure removal operations, SEA Nos. ES/SR 92–030, 92–031, 92–0324 92–035, 92–039, and 92–40.	Ship Shoal Area, Blocks 114, 113, 93, and 94; Leases OCS 064, 067, 063, and 042; 10 miles south of Terrebonne Parish, LA.	4/24/92
Chevron U.S.A. Inc., structure removal operations, SEA No. ES/SR 92–042.	Main Pass Area, Block 42, Lease OCS 0375, 8 miles east of Plaquemines Parish, LA.	3/25/92
Exxon Company, U.S.A., structure removal operations, SEA No. ES/SR 92–045.	West Delta Area, Block 30, Lease OCS 026, 6 miles southwest of Plaquemines Parish, LA.	4/23/92
Exxon Company, U.S.A., structure removal operations, SEA No. ES/SR 92–046.	Grand Isle Area, Block 21, Lease OCS–G 1445, 8 miles south of Jefferson Parish, LA.	4/28/92
Chevron U.S.A. Inc., structure removal operations, SEA No. ES/SR 92–049.	West Cameron Area, Block 597, Leases OCS–G 3972 112 miles south of Cameron Parish, LA.	7/30/92
Chevron U.S.A. Inc., structure removal operations, SEA Nos. ES/SR 92–050, 92–051, and 92–052.	South Marsh Island Area, Blocks 48 and 274; West Cameron Area, Block 541, Leases OCS–G 2554, 4822, and OCS 0786; various distances offshore the Louisiana coast.	4/30/92
Samedan Oil Corporation, structure removal operations, SEA No. ES/SR 92–053.	Main Pass Area, Block 101, Lease OCS–G 6808, 30 miles northeast of Plaquemines Parish, LA.	6/19/92
ODECO Oil and Gas Company, structure removal operations, SEA No. ES/SR 92–054.	South Pelto Area, Block 19, Leases OCS 073, 15 miles south of Terrebonne Parish, LA.	4/23/92
Chevron U.S.A. Inc., structure removal operations, SEA Nos. ES/SR 92–055, 92–056, and 92–057.	East Cameron Area, East Addition, South Extension, Block 280; High Island Area, East Addition, South Extension, Block A–281; High Island Area, Block 140; , Leases OCS–G 3377 2049, and OCS 0518.	5/15/92
Alliance Operating Corporation, structure removal operations, SEA No. ES/SR 92–058.	Eugene Island Area, Block 95, Lease OCS 0046, 25 miles south of Saint Mary Parish, LA.	3/24/92
Alliance Operating Corporation, structure removal operations, SEA No. ES/SR 92–059.	West Cameron Area, Block 22, Lease OCS–G 2818, 4 miles south of Cameron Parish, LA.	4/15/92
Gulfstream Resources, Inc., structure removal operations, SEA No. ES/SR 92–059A.	West Cameron Area, Block 22, Lease OCS–G 2818, 4 miles south of Cameron Parish, LA.	10/26/92
Amoco Production Company, structure removal operations, SEA Nos. ES/SR 92–060, 92–061, 92–062, and 92–063.	West Delta Area, Block 35, Lease OCS–G 1069, 18 miles southeast of Lafourche Parish, LA.	6/17/92
Forest Oil Corporation, structure removal operations, SEA No. ES/SR 92–064.	Eugene Island Area, Block 286, Lease OCS–G 0993, 62 miles southwest of Terrebonne Parish, LA.	5/21/92

Activity/operator	Location	Date
Alliance Operating Corporation, structure removal operations, SEA Nos. ES/SR 92–065, 92–066, and 92–067.	Egene Island Area; Blocks 89, 93, and 90, Leases OCS 044, 0228, and 0229; 40 miles southwest of Saint Mary Parish, LA.	4/17/92
ARCO Oil and Gas Company, structure removal operations, SEA No. ES/SR 92–068.	Brazos Area, Block A–132, Lease OCS–G 2664, 50 miles east of Mustang Island in Nueces County, TX.	5/06/92
ARCO Oil and Gas Company, structure removal operations, SEA No. ES/SR 92–068A.	Brazos Area, Block A–132, Lease OCS–G 2664, 50 miles east of Mustang Island in Nueces County, TX.	9/17/92
Chevron U.S.A. Inc., structure removal operations, SEA Nos. ES/SR 92–069, 92–070, and 92–071.	Ship Shoal Area, Blocks 154 and 150, Leases OCS 0420 and 0419, 34 miles south of Terrebonne Parish, LA.	6/23/92
Anadarko Petroleum Corporation, structure removal operations, SEA No. ES/SR 92–072.	East Cameron Area, Block 104, Lease OCS–G 3975, 29 miles south of Cameron Parish, LA.	6/04/92
ARCO Oil and Gas Company, structure removal operations, SEA Nos. ES/SR 92–073 and 92–074.	West Delta Area, Blocks 36 and 38, Leases OCS–G 5671 and 5672, 9–11 miles southeast of Jefferson Parish, LA.	5/06/92
Transco Exploration and Production Company/Elf Aquitaine Operating, Inc., structure removal operations, SEA No. ES/SR 92–075.	High Island Area, Block 206, Lease OCS–G 1831, 23 miles southeast of Galveston Island in Galveston County, TX.	5/15/92
Transco Exploration and Production Company/Elf Aquitaine Operating, Inc., structure removal operations, SEA No. ES/SR 92–075A.	High Island Area, Block 206, Lease OCS–G 1831, 23 miles southeast of Galveston Island in Galveston County, TX.	7/20/92
Mobil Exploration & Producing U.S. Inc., structure removal operations, SEA No. ES/SR 92–076.	Vermilion Area, South Addition, Block 326, Lease OCS–G 4428, 87 miles south of Vermilion Parish, LA.	5/27/92
Taylor Energy Company, structure removal operations, SEA No. ES/SR 92–077.	Vermilion Area, Block 54, Lease OCS–G 7678, 14 miles south of Vermilion Parish, LA.	9/09/92
Hall-Houston Oil Company, structure removal operations, SEA No. ES/SR 92–078.	High Island Area, South Addition, Block A–542, Lease OCS–G 2702, 92 miles southeast of Galveston, TX.	10/02/92
Amoco Production Company, structure removal operations, SEA No. ES/SR 92–079.	High Island Area, Block A–22, Lease OCS–G 6180, 36 miles south of Jefferson County, TX.	7/08/92
Amoco Production Company, structure removal operations, SEA No. ES/SR 92–079A.	High Island Area, Block A–22, Lease OCS–G 6180, 36 miles south of Jefferson County, TX.	9/02/92
Conoco Inc., structure removal operations, SEA No. ES/SR 92–80/101.	East Cameron Area, Block 88, Lease OCS–G 0934, 27 miles south of Cameron Parish, LA.	7/14/92
Conoco Inc., structure removal operations, SEA No. ES/SR 92–081.	Eugene Island Area, Block 221, Lease OCS–G 7733, 63 miles south of Saint Mary Parish, LA.	10/14/92
CNG Producing Company, structure removal operations, SEA No. ES/SR 92–082.	West Cameron Area, Block 329, Lease OCS–G 6583, 34 miles south of Cameron Parish, LA.	7/09/92
Hall-Houston Oil Company, structure removal operations, SEA No. ES/SR 92–083.	Mustang Island Area, Block 781, Lease OCS–G 5993, 22 miles east of Mustang Island, Nueces County, TX.	6/26/92
Hall-Houston Oil Company, structure removal operations, SEA No. ES/SR 92–083A.	Mustang Island Area, Block 781, Lease OCS–G 5993, 22 miles east of Mustang Island, Nueces County, TX.	8/19/92
Hall-Houston Oil Company, structure removal operations, SEA Nos. ES/SR 92–084, 92–085, 92–086, and 92–087.	Galveston Area, Blocks A–96, A–101, and A–127; Leases OCS–G 8139, 8140, and 4727; 70 miles south of Galveston County, TX.	7/08/92
Hall-Houston Oil Company, structure removal operations, SEA Nos. ES/SR 92–088 and 92–089.	West Cameron Area, Block 57, Lease 10541, 7 miles south of Cameron Parish, LA.	7/06/92
Hall-Houston Oil Company, structure removal operations, SEA No. ES/SR 92–090.	West Cameron Area, Block 311, Lease OCS–G 4765, 30 miles south of Cameron Parish, LA.	7/02/92
Hall-Houston Oil Company, structure removal operations, SEA Nos. ES/SR 92–091, 92–092, and 92–093.	High Island Area, East Addition; Blocks A–172, A–173 and A–178; Leases OCS–G 6202, 6203, and 6206; 40 miles south of Sabine, TX.	8/21/92
Hall-Houston Oil Company, structure removal operations, SEA Nos. ES/SR 92–094 and 92–095.	Main Pass Area, Block 89, Lease OCS–G 6804, 7 miles east of the Breton NWR and Wilderness Area, LA.	7/01/92
Hall-Houston Oil Company, structure removal operations, SEA Nos. ES/SR 92–096, 92–097, and 92–098.	East Cameron Area, Blocks 121 and 122, Leases OCS–G 7647 and 5365, 34 miles southwest of Cameron Parish, LA.	7/13/92
Houston Oil & Minerals Corporation, structure removal operations, SEA No. ES/SR 92–099.	High Island Area, Block A–414, Lease OCS–G 2685, 75 miles south of Jefferson County, TX.	7/08/92
Houston Oil & Minerals Corporation, structure removal operations, SEA No. ES/SR 92–099A.	High Island Area, Block A–414, Lease OCS–G 2685, 75 miles south of Jefferson County, TX.	9/15/92
UNOCAL Corporation, structure removal operations, SEA No. ES/SR 92–100.	Ship Shoal Area, Block 215, Lease OCS–G 1230, 31 miles south of Terrebonne Parish, LA.	7/06/92
Brooklyn Union Exploration Company, structure removal operations, SEA No. ES/SR 92–102.	South Marsh Island Area, North Addition, Block 280, Lease OCS–G 5197, 20 miles south of Shell Keys National Wildlife Refuge, Iberia Parish, LA.	7/24/92
Elf Aquitaine Operation, Inc., structure removal operations, SEA No. ES/SR 92–105.	Eugene Island Area, Block 260, Lease OCS–G 1891, 45 miles south of Saint Mary Parish, LA.	8/03/92
Ashland Exploration, Inc., structure removal operations, SEA No. ES/SR 92–106.	Vermilion Area, Block 116, Lease OCS–G 5414, 30 miles south of Vermilion Parish, LA.	7/16/92
ODECO Oil and Gas Company, structure removal operations, SEA Nos. ES/SR 92–107 through 92–112.	South Pelto Area, Block 12, Lease OCS 072, 7 miles south of the Isles Dernieres, Terrebonne Parish, LA.	8/13/92
ODECO Oil and Gas Company, structure removal operations, SEA Nos. ES/SR 92–113, 92–114, 92–115, 92–116 and 92–117.	South Pelto Area, Block 19 and 20, Leases OCS 073 and 074, 18 miles south of Terrebonne Parish, LA.	8/21/92

Activity/operator	Location	Date
OXY USA, Inc., structure removal operations, SEA No. ES/SR 92–118.	Main Pass Area, Block 91, Lease OCS–G 1365, 3 miles east of the Breton National Wildlife Refuge and Wilderness Area, St. Bernard Parish, LA.	7/29/92
Hall-Houston Company, structure removal operations, SEA No. ES/SR 92–119.	Vermilion Area, Block 69, Lease OCS–G 4103, 12 miles south of Vermilion Parish, LA.	8/07/92
Hall-Houston Company, structure removal operations, SEA No. ES/SR 92–119A.	Vermilion Area, Block 69, Lease OCS–G 4103, 12 miles south of Vermilion Parish, LA.	9/04/92
Chevron U.S.A. Inc., structure removal operations, SEA No. ES/SR 92–120.	Mobile Area, Block 906, Lease OCS–G 5070, 20 miles south of Pascagoula, MS.	/10/13/92
Mobil Exploration & Producing U.S. Inc., structure removal operations, SEA No. 92–121.	Vermilion Area, Block 271, Lease OCS–G 4800, 78 miles south of Vermilion Parish, LA.	9/09/92
Texaco Exploration and Production Inc., structure removal operations, SEA Nos. 92–122 through 92–124.	South Marsh Island Area; North Addition, Blocks 212, 217, and 218; Lease OCS 0310; 4 miles south of the Marsh Island Wildlife Refuge, Iberia Parish, LA.	9/11/92
General Atlantic Resources, Inc., structure removal operations, SEA Nos. ES/SR 92–125 and 92–126.	West Cameron Area, Blocks 265 and 266, Leases OCS–G 2537 and 2538, 57 miles southwest of Freshwater City, LA.	9/03/92
Union Pacific Resources, structure removal operations, SEA No. ES/SR 92–127.	High Island Area, East Addition, Block A–183, Lease OCS–G 8170, 44 miles south of Sabine Pass, TX.	9/16/92
Union Pacific Resources, structure removal operations, SEA No. ES/SR 92–128.	West Cameron Area, Block 420, Lease OCS–G 5321, 55 miles south of Cameron Parish, LA.	9/11/92
Union Pacific Resources, structure removal operations, SEA No. ES/SR 92–129.	Ship Shoal Area, Block 165, Lease OCS–G 5548, 30 miles south of Terrebonne Parish, LA.	9/09/92
Union Pacific Resources, structure removal operations, SEA No. ES/SR 92–130.	East Cameron Area, Block 106, Lease OCS–G 8644, 32 miles south of Cameron Parish, LA.	11/03/92
Shell Offshore Inc., structure removal operations, SEA No. ES/SR 92–131.	Vermilion Area, Block 223, Lease OCS–G 5426, 44 miles south of Terrebonne Parish, LA.	9/25/92
Trunkline Gas Company, structure removal operations, SEA No. ES/SR 92–132.	South Timbalier Area, Block 72, Lease OCS–G 1244, 20 miles south of Terrebonne Parish, LA.	9/02/92
Tennessee Gas Pipeline Company, structure removal operations, SEA No. ES/SR 92–133.	South Timbalier Area, Block 24, Lease OCS 0595, 6 miles south of Lafourche Parish, LA.	9/02/92
Koch Exploration Company, structure removal operations, SEA No. ES/SR 92–134.	East Cameron Area, Block 44, Lease OCS–G 5022, 11 miles south of Cameron Parish, LA.	9/10/92
Hall-Houston Oil Company, structure removal operations, SEA No. ES/SR 92–135.	South Timbalier Area, Block 144, Lease OCS–G 12965, 37 miles south of Cocodrie, LA.	9/11/92
Mobil Exploration & Producing U.S. Inc., structure removal operations, SEA No. ES/SR 92–137.	Ship Shoal Area, Block 72, Lease OCS 0060, 5 miles south of the Isles Dernieres in Terrebonne Parish, LA.	9/17/92
Freeport-McMoRan Oil & Gas, structure removal operations, SEA Nos. ES/SR 92–138 and 92–139.	Vermilion Area, Block 161, Lease OCS–G 1127, 45 miles south of Vermilion Parish, LA.	9/30/92
Freeport-McMoRan Oil & Gas, structure removal operations, SEA Nos. ES/SR 92–140.	Vermilion Area, Block 28, Lease OCS–G 4784, 4 miles south of Vermilion Parish, LA.	11/02/92
Samedan Oil Corporation, structure removal operations, SEA No. ES/SR 92–141.	South Timbalier Area, Block 172, Lease OCS–G 1256, 45 miles south of Cocodrie, LA.	9/29/92
Kerr-McGee Corporation, structure removal operations, SEA No. ES/SR 92–142.	South Timbalier Area, Block 34, Lease OCS–G 4842, 15 miles south of Terrebonne Parish, LA.	9/23/92
Kerr-McGee Corporation, structure removal operations, SEA No. ES/SR 92–142A.	South Timbalier Area, Block 34, Lease OCS–G 4842, 10 miles south of Terrebonne Parish, LA.	11/10/92
Chevron U.S.A. Inc., structure removal operations, SEA No. ES/SR 92–143.	Ship Shoal Area, Block 99, Lease OCS–G 1007, 24 miles south of Terrebonne Parish, LA.	9/18/92
Shell Offshore, Inc, structure removal operations, SEA No. ES/SR 92–144.	Eugene Island Area, Block 189, Lease OCS 0423, 32 miles southwest of Terrebonne Parish, LA.	10/14/92
NERCO Oil and Gas, Inc., structure removal operations, SEA No. ES/SR 92–145.	East Cameron Area, South Addition, Block 237, Lease OCS–G 2869, 51 miles south of Vermilion Parish, LA.	10/21/92
NERCO Oil and Gas, Inc., structure removal operations, SEA No. ES/SR 92–146.	East Cameron Area, Block 246, Lease OCS–G 7653, 84 miles south of Cameron Parish, LA.	10/06/92
NERCO Oil and Gas, Inc., structure removal operations, SEA No. ES/SR 93–001.	Vermilion Area, Block 171, Lease OCS–G 1130, 32 miles south of Cameron Parish, LA.	10/28/92
Mobil Exploration & Producing U.S. Inc., structure removal operations, SEA No. ES/SR 93–002.	South Pelto Area, Block 9, Lease OCS–G 2924, 10 miles south of Terrebonne Parish, LA.	10/28/92
Chevron U.S.A. Inc., structure removal operations, SEA No. ES/SR 93–003.	South Timbalier Area, Block 52, Lease OCS–G 1241, 31 miles south of Leeville, LA.	10/16/92
Zilkha Energy Company, structure removal operations, SEA No. ES/SR 93–004.	South Timbalier Area, Block 106, Lease OCS–G 9643, 26 miles south of Lafourche Parish, LA.	10/29/92
PG&E Resources Offshore Company, structure removal operations, SEA No. ES/SR 93–005.	West Cameron Area, Block 318, Lease OCS–G 9412, 37 miles south of Cameron Parish, LA.	10/29/92
Challenger Minerals, Inc., structure removal operations, SEA No. ES/SR 93–006.	High Island Area, South Addition, Block A–567, Lease OCS–G 2715, 108 miles south of Sabine Pass, TX.	11/09/92
Chevron U.S.A. Inc., structure removal Operations, SEA No. ES/SR 93–007.	South Timbalier Area, Block 130, Lease OCS 0456, 26 miles south of Lafourche Parish, LA.	11/17/92
Chevron U.S.A. Inc., structure removal Operations, SEA No. ES/SR 93–008.	South Timbalier Area, Block 151, Lease OCS 0463, 30 miles south of Lafourche Parish, LA.	11/17/92
Taylor Energy Company, NORM Disposal Operations, SEA No. NORM–001.	Vermilion Area, Block 191, Lease OCS–G 1134, 38 miles south of Vermilion Parish, LA.	11/22/92

Activity/operator	Location	Date
Shell Offshore, Inc., NORM Disposal Operations, SEA No. NORM–002.	High Island Area, Block 179, Lease OCS–G 3236, 15 miles south of Chambers County, TX.	11/29/92
Shell Offshore, Inc., NORM Disposal Operations, SEA No. NORM–003.	South Pelto Area, Block 20, Lease OCS 074, 8 miles south of Terrebonne Parish, LA.	12/06/91
Shell Offshore, Inc., NORM Disposal Operations, SEA No. NORM–004.	Vermilion Area, Block 221, Lease OCS–G 4424, 45 miles south of Vermilion Parish, LA.	2/20/91
ODECO Oil and Gas Company, NORM Disposal Operations, SEA No. NORM–005.	South Pelto Area, Block 20, Lease OCS 074, 8 miles south of Terrebonne Parish, LA.	12/17/91
SONAT Exploration Company, NORM Disposal Operations, SEA No. NORM–006.	Various blocks in East Cameron, Ship Shoal and Mustang Island Areas, Leases OCS–G 2853, 3288, 2038, 1525, 1984, and 4064; various distances offshore the Louisiana and Texas coasts.	2/19/92
ODECO Oil and Gas Company, NORM Disposal Operations, SEA No. NORM–007.	Main Pass Area, Block 106, Lease OCS–G 8749, 45 miles east of Plaquemines Parish, LA.	2/14/92
ODECO Oil and Gas Company, NORM Disposal Operations, SEA No. NORM–009.	Ship Shoal Area, Block 134, Lease OCS–G 5201, 15 miles south of Terrebonne Parish, LA.	2/14/92
Anadarko Petroleum Corporation, NORM Disposal Operations, SEA No. NORM–010.	East Cameron Area, Block 359, Lease OCS–G 2567, 79 miles south of Cameron Parish, LA.	2/28/92
Enron Oil & Gas Company, NORM Disposal Operations, SEA No. NORM–011.	Matagorda Island Area, Block 620, Lease OCS–G 3087, 20 miles south of Matagorda County, TX.	3/22/93
Shell Offshore, Inc., NORM Disposal Operations, SEA No. NORM–012.	South Pass Area, Block 70, Lease OCS–G 1614, 10 miles southeast of Plaquemines, Parish, LA.	2/25/92
Mobil Exploration & Producing U.S. Inc., NORM Disposal Operations, SEA No. NORM–013.	West Cameron Area, Block 617, Lease OCS–G 2559, 89 miles south of Cameron Parish, LA.	2/21/92
ODECO Oil and Gas Company, NORM Disposal Operations, SEA No. NORM–014.	West Cameron Area, Block 187, Lease OCS–G 5290, 22 miles south of Cameron Parish, LA.	3/23/92
Chevron U.S.A. Inc., NORM Disposal Operations, SEA No. NORM–015.	Main Pass Area, Block 42, Lease OCS 0375, 25 miles east of Plaquemines Parish, LA.	7/02/92
W&T Offshore, Inc., NORM Disposal Operations, SEA No. NORM–016.	Ship Shoal Area, block 219, Lease OCS 0829, 37 miles south of Terrebonne Parish, LA.	4/02/92
Shell Offshore Inc., NORM Disposal Operations, SEA No. NORM–017.	Various blocks in Eugene Island, High Island, South Marsh Island, and South Timbalier Areas; Leases OCS–G 1220, 2116, 3236, 2280, and 4240; various distances offshore the Louisiana and Texas coasts.	4/24/92
NERCO Oil and Gas, Inc., NORM Disposal Operations, SEA No. NORM–018.	Eugene Island Area, Block 43, Lease OCS–G 3561, 6 miles southwest of St. Mary Parish, LA.	3/27/92
Diamond Shamrock Offshore Partners Limited Partnership, NORM Disposal Operations, SEA No. NORM–019.	Vermilion Area, Block 226, Lease OCS–G 1144, 46 miles south of Vermilion Parish, LA.	4/30/92
Texaco Exploration and Production Inc., NORM Disposal Operations, SEA No. NORM–020.	West Delta Area, Block 109, Lease OCS–G 2937, 13 miles south of Plaquemines Parish, LA.	5/15/92
Conoco Inc., NORM Disposal Operations, SEA No. NORM–021.	Grand Isle Area, Blocks 47 and 43, and Ewing Bank Area, Block 305, Leases OCS 0133, 0175, and OCS–G 4254, various locations offshore the Louisiana coast.	5/15/92
UNOCAL Exploration Corporation, NORM Disposal Operations, SEA No. NORM–022.	Ship Shoal Area, Block 215, Lease OCS–G 1230, 28 miles south of Terrebonne Parish, LA.	5/12/92
Amoco Production Company, NORM Disposal Operations, SEA No. NORM–023.	West Delta Area, Block 35, Lease OCS–G 1069, 9 miles south of Plaquemines Parish, LA.	5/22/92
Chevron U.S.A. Inc., NORM Disposal Operations, SEA No. NORM–026.	South Timbalier Area, Block 177, Lease OCS–G 1260, 27 miles south of Lafourche Parish, LA.	5/28/92
Alliance Operating Corporation, NORM Disposal Operations, SEA No. NORM–027.	Eugene Island Area; Blocks 219, 90, and 95; Leases OCS 0808, 0228, and 046; various distances offshore the Louisiana Coast.	5/29/92
W&T Offshore, Inc., NORM Disposal Operations, SEA No. NORM–028.	South Marsh Island Area, Blocks 6 and 11, Leases OCS–G 1177 and 1182, various distances offshore the Louisiana Coast.	6/15/92
Anadarko Operating Corporation, NORM Disposal Operations, SEA No. NORM–029.	East Cameron Area, block 104, Lease OCS–G 3975, 25 miles south of Cameron Parish, LA.	6/02/92
Texaco Exploration and Production Inc., NORM Disposal Operations, SEA No. NORM–030.	West Delta Area, Block 109, Lease OCS–G 2937, 18 miles south of Plaquemines Parish, LA.	6/15/92
Shell Offshore Inc., NORM Disposal Operations, SEA No. NORM–031.	Brazos, East Cameron, Eugene Island, Green Canyon, High Island, Mississippi Canyon, North Padre Island, Sabine Pass, Ship Shoal, South Marsh Island, South Padre Island, South Timbalier, Vermilion, West Cameron, and West Delta Areas; Leases OCS 0367 and 0423, and OCS–G 3936, 3938, 4101, 0985, 2116, 4131, 5889, 3236, 4734, 2428, 2638, 2968, 8958, 5961, 3958, 4232, 1039, 2279, 2280, 2282, 2592, 1614, 1870, 4888, 5646, 4240, 3594, 3125, 4424, 2088, 2091, 2275, 4085, and 2015; various distances offshore the Texas, Mississippi, and Louisiana coasts.	7/10/92
Enron Oil & Gas Company, NORM Disposal Operations, SEA No. NORM–036.	Matagorda Island Area; Blocks 638, 555, 700, and 713; Leases OCS–G 6044, 3079, 3108, and 3466; Mustang Island Area; Blocks 758 and 784; Leases OCS–G 3020 and 5996; various distances offshore the Texas coast.	8/05/92
Forest Oil Corporation, NORM Disposal Operations, SEA No. NORM–038.	Eugene Island Area, Blocks 307, 309, and 325; Vermilion Area, Blocks 267 and 256; Leases OCS–G 1980, 0997, 5517, 1977, and 1153; various locations offshore the Louisiana coast.	7/30/92
NERCO Oil and Gas, Inc., NORM Disposal Operations, SEA No. NORM–039.	Matagorda Island Area, Block 639, Lease OCS–G 4542, 23 miles south of Matagorda County, TX.	7/31/92

Activity/operator	Location	Date
BT Operating Company, NORM Disposal Operations, SEA No. NORM–040.	Vermilion Area, Block 124, Lease OCS 0495, 24 miles south of Vermilion Parish, LA.	8/10/92
NERCO Oil & Gas, Inc., NORM Disposal Operations, SEA No. NORM–043.	Ship Shoal Area, Block 202, Lease OCS–G 5558, 36 miles south of Terrebonne Parish, LA.	8/14/92
ODECO Oil and Gas Company, NORM Disposal Operations, SEA No. NORM–044.	Main Pass Area, Block 163, Lease OCS–G 7809, 17 miles east of St. Bernard Parish, LA.	8/14/92
Diamond Shamrock Offshore Partners Limited Partnership, NORM Disposal Operations, SEA No. NORM–045.	West Cameron Area, Block 178, Lease OCS–G 5286, 19 miles south of Cameron Parish, LA.	8/17/92
OXY USA Inc., NORM Disposal Operations, SEA No. NORM–046.	Matagorda Island Area, Block 669, Lease OCS–G 4065, 25 miles east of Aransas County, TX.	8/17/92
Nerco Oil and Gas, Inc., NORM Disposal Operations, SEA No. NORM–047.	East Cameron Area, Block 246, Lease OCS–G 7653, 60 miles south of Cameron Parish, LA.	9/09/92
Chevron U.S.A. Inc., NORM Disposal Operations, SEA No. NORM–048.	South Timbalier Area, Block 151, Lease OCS 0463, 25 miles south of Lafourche Parish, LA.	10/26/92
Total Minatome Corporation, NORM Disposal Operations, SEA No. NORM–049.	Vermilion Area, Block 267, Lease OCS–G 3135, 55 miles south of Vermilion Parish, LA.	10/2/92
Kerr-McGee Corporation, NORM Disposal Operations, SEA No. NORM–050.	Ship Shoal Area, Block 33, Lease OCS 0336, 8 miles south of Terrebonne Parish, LA.	9/24/92
Chevron USA Production Company, NORM Disposal Operations, SEA No. NORM–051.	South Timbalier Area, Block 130, Lease OCS 0456, 23 miles south of Lafourche Parish, LA.	10/15/92
Amerada Hess Corporation, NORM Disposal Operations, SEA No. NORM–052.	High Island Area, Block A–530, Lease OCS–G 13339, 75 miles south of Galveston, TX.	10/19/92
Chevron U.S.A. Inc., NORM Disposal Operations, SEA No. NORM–053.	Grand Isle Area, Block 26, Lease OCS 0390, 4 miles south of Lafourche Parish, LA.	10/29/92
UNOCAL Corporation, NORM Disposal Operations, SEA No. NORM–054.	Ship Shoal, Eugene Island, and South Timbalier Areas; Blocks 209, 385, and 276; Leases OCS 0827 and 0989, and OCS–G 3786, and 1241; various distances offshore the Louisiana coast.	10/27/92
General Atlantic Resources, Inc., NORM Disposal Operations, SEA No. NORM–055.	West Cameron Area, Block 266, Lease OCS–G 2538, 43 miles south of Cameron Parish, LA.	11/02/92
UNOCAL Corporation Inc., NORM Disposal Operations, SEA No. NORM–057.	East Cameron Area, Block 58, Lease OCS–G 3530, 11 miles south of Cameron Parish, LA.	12/03/92
Challenger Minerals Inc., NORM Disposal Operations, SEA No. NORM–058.	High Island Area, Block A–567, Lease OCS–G 2715, 86 miles south of Jefferson County, TX.	11/25/92
Mobil Exploration & Producing U.S. Inc., NORM Disposal Operations, SEA No. NORM–059.	Ship Shoal Area, Blocks 63 and 72, Leases OCS 057 and OCS–G 12348, 9 miles south of Terrebonne Parish, LA.	12/07/92

Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about EA's and FONSI's prepared for activities on the Gulf of Mexico OCS are encouraged to contact the MMS office in the Gulf of Mexico OCS Region.

FOR FURTHER INFORMATION CONTACT: Public Information Unit, Information Services Section, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, Telephone (504) 736–2519.

SUPPLEMENTARY INFORMATION: The MMS prepares EA's and FONSI's for proposals which relate to exploration for and the development/production of oil and gas resources on the Gulf of Mexico OCS. The EA's examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. Environmental Assessments are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA section 102(2)(C). A FONSI is prepared in those instances where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This notice constitutes the public notice of availability of environmental documents required under the NEPA Regulations.

Dated: May 19, 1993.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 93–12603 Filed 5–26–93; 8:45 am]

BILLING CODE 4310–MR–M

INTERNATIONAL TRADE COMMISSION

Agency Form Submitted for OMB Review

AGENCY: United States International Trade Commission.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), as amended, the Commission has submitted a proposal for the collection of information to the Office of Management and Budget for review.

PURPOSE OF INFORMATION COLLECTION: The proposed information collection is a "generic clearance" under which the Commission can issue questionnaires for the following types of investigations: countervailing duty, antidumping, escape clause, escape clause review, market disruption, and "interference with programs of the USDA."

SUMMARY OF PROPOSAL:

(1) Number of forms submitted: Three.

(2) Title of forms: *Sample Producers', Sample Importers', and Sample Purchasers' questionnaires* (i.e., the "samples" are an aggregate of the information that is likely to be collected in a series of questionnaires issued under the generic clearance.)

(3) Type of request: Extension.

(4) Description of respondents: Businesses or farms that produce, import, or purchase products under investigation

(5) Estimated reporting burden:

	Producers	Importers	Purchasers
Estimated average burden (hours per response	48.1	56.4	21.2
Proposed frequency of response	1	1	1
Estimated number of respondents	652	813	464
Estimated total annual burden (hours) ...	31,341	45,824	9,835

Information obtained from the forms that qualifies as business proprietary information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

ADDITIONAL INFORMATION OR COMMENT: Copies of the proposed from and supporting documents may be obtained from Bonnie Noreen, (USITC, tel. no. 202–205–3167). Comments about the proposal should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Attention: Mr. Jeff Hill, Desk Officer for U.S. International Trade Commission. Any comments should be specific, indicating which part of the questionnaires or study plan are objectionable, describing the problem in detail, and including specific revisions or language changes.

SUBMISSION OF COMMENTS: Comments should be submitted to OMB within two weeks of the date this notice appears in the **Federal Register**. If you are unable to submit them promptly you should advise OMB within the two week period of your intent to comment on the proposal. Mr. Hill's telephone number is 202–395–7340. Copies of any comments should be provided to Robert Rogowsky (United States International Trade Commission, 500 E Street SW., Washington, DC 20436).

Hearing impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on 202–205–1810.

Issued: May 21, 1993.

By order of the Commission.

Paul Bardos,

Acting Secretary.

[FR Doc. 93–12549 Filed 5–26–93; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–343]

Certain Mechanical Gear Couplings and Components Thereof; Commission Determination Not To Review an Initial Determination Designating the Investigation "More Complicated"

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (ALJ) initial determination (ID) designating the above-captioned investigation "more complicated." The statutory deadline for completion of the investigation is extended by 6 months, from November 18, 1993, to May 18, 1994.

FOR FURTHER INFORMATION CONTACT: Katherine M. Jones, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3097.

SUPPLEMENTARY INFORMATION: On April 15, 1993, Complainant Kop-Flex, Inc. filed a motion to designate the subject investigation "more complicated." Respondents K-Power Products, Inc. and A.B. Hutchings opposed the motion. The Commission investigative attorney supported the motion.

On April 23, 1993, the presiding administrative law judge issued an ID (Order No. 16) granting the motion to designate the investigation more complicated due to the complex nature of the subject matter at issue, discovery problems, a number of outstanding motions, and the expected submission of a settlement agreement.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and Commission interim rule 210.53, 19 CFR 210.53.

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–2648.

By order of the Commission.

Issued: May 19, 1993.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–12548 Filed 5–26–93; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–351]

Certain Removable Hard Disk Cartridges and Products Containing Same; Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 16, 1993, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of SyQuest Technology, Inc.,47071 Bayside Parkway, Fremont California 94538. As amended complaint was filed on May 12, 1993 and a supplement to the complaint was filed on May 13, 1993. The complaint, as amended and supplemented, alleges violations of section 337 in the importation into the United States of certain removable hard disk cartridges and products containing same by reason of alleged (1) misappropriation of trade secrets; (2) infringement of U.S. Registered Trademark Nos. 1,339,056, 1,701, 586, and 1,342, 356; (3) misappropriation of trade dress; (4) false designation of origin; and (5) passing off. The complaint further alleges that there exists an industry in the United States as required by subsections (a)(1)(A) and (a)(2) of section 337, and that the threat or effect of the unfair methods of competition and unfair acts is to destroy or substantially injure the domestic industry.

The complaint requests that the Commission institute an investigation and, after a full investigation, issue a permanent exclusion order and permanent cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., room 112, Washington, DC 20436, telephone 202–205–1802. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

FOR FURTHER INFORMATION CONTACT:

Sarah C. Middleton, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2576.

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in § 210.12 of the Commission's Interim Rules of Practice and Procedure, 19 CFR § 210.12.

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on May 20, 1993, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine:

(a) whether there is a violation of subsection (a)(1)(A) of section 337 in the importation into the United States or in the sale of certain removable hard disk cartridges and products containing same by reason of (1) misappropriation of trade secrets; (2) misappropriation of trade dress; (3) false representation of source; (4) false advertising; and (5) passing off; the threat or effect of which is to destroy or substantially injure an industry in the United States; and

(b) whether there is a violation of subsection (a)(1)(C) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain removable hard disk cartridges and products containing same by reason of infringement of U.S. Registered Trademark Nos. 1,339,056, 1,701,586, and 1,342,356; and whether there exists an industry in the United States as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—SyQuest Technology, Inc., 47041 Bayside Parkway, Fremont, California 94538.

(b) The respondents are the following individuals and companies alleged to be in violation of section 337, and are the parties upon which the compliant is to be served:

Srinivasan V. Chari, a.k.a. Ravi Chari, 304 Casitas Bulevar, Los Gatos, California 95030.
Nomaï S. A., 188 Rue de la Liberté, B.P. 141, 50301 Avranches cedex, France.
Marc Frouin, 188 Rue, de la Liberté, B.P. 141, 50301 Avranches cedex, France.
Hervé Frouin, 188 Rue de la Liberté, B.P. 141, 50301 Avranches cedex, France.
Kevin Scheier, 4541 Fairbrook Drive, Mountain View, California 94040.

(c) Sarah C. Middleton, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., room 401M, Washington, DC 20436, shall be the Commission investigative attorney, party to this investigation; and

(4) For the investigation and so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with § 210.21 of the Commission's Interim Rules of Practice and Procedure, 19 CFR 210.21. Pursuant to § § 210.16(d) and 210.21(a) of the Commission's Rules, 19 CFR 201.16(d) and 210.21(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in this issuance of an exclusion order or a cease and desist order or both directed against such respondent.

Issued: May 21, 1993.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–12550 Filed 5–26–93; 8:45 am]

BILLING CODE 7020–02–M

[Inv. No. 337–TA–333 Ancillary Proceeding]

Certain Woodworking Accessories; Commission Decision to Certify to an Administrative Law Judge the Issue of Possible Abuse of Commission Process by Complainant and/or Complainant's Counsel

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has decided to certify to an administrative law judge (ALJ) the issue of possible abuse of commission process by complainant Cantlin, Inc. and/or complainant's counsel in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Elizabeth C. Rose, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone (202) 205–3113. Copies of the Commission's Order and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436; telephone (202) 205–2000. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at (202) 205–2648.

SUPPLEMENTARY INFORMATION: On November 25, 1991, Cantlin, Inc. ("Cantlin") filed a complaint and motion for temporary relief with the Commission pursuant to section 337 of the Tariff Act of 1930. The Commission voted to institute an investigation of Cantlin's complaint on December 30, 1991. Unknown to the Commission, Cantlin had entered into a settlement agreement with one of the alleged infringers, Trend-Lines, Inc. ("Trendlines"), on December 18, 1991, after Cantlin's complaint and motion for temporary relief were filed but before the Commission voted to institute an investigation. Cantlin's counsel, certain members of the law firm of Cesari and McKenna, of Boston, Massachusetts, did not provide the Commission with copies of the settlement agreement until January 2, 1992.

On February 6, 1992, complainant Cantlin and respondent Trendlines jointly filed Motion No. 333–11 requesting the withdrawal of Cantlin's motion for temporary relief as to Trendlines on the basis of the aforementioned settlement agreement with Trendlines. On February 7, 1992, the ALJ issued Order No. 15 directing Cantlin's counsel to show cause, and the Commission investigative attorney and the remaining parties to state their position on, why Cantlin and its counsel should not be found to have abused Commission process by failing to disclose the settlement agreement to the Commission prior to the vote on institution on December 30, 1991. The parties responded and on February 20, 1992, the ALJ issued Order No. 16 in which he found that the terms of the settlement agreement were material to the issue of whether Trendlines should

have been named a respondent and that there was an intent by Cantlin's counsel, but not by Cantlin itself, to mislead the Commission in naming Trendlines a respondent. On the basis of these findings, the ALJ ruled that there had been an abuse of Commission process and sanctioned that abuse by dismissing with prejudice Cantlin's motion for temporary relief and recommending that Cantlin's counsel be publicly reprimanded.

Because Order 16 dismissing Cantlin's original motion was not in the form of an initial determination ("ID"), as required by interim rule 210.24(e)(13), the Commission issued an order waiving that requirement pursuant to rule 201.4(b). However, due to statutory time constraints, the Commission's order did not address the issue of whether Cantlin or its counsel had abused Commission process.

The ALJ issued his final ID (Order No. 34) on September 30, 1992, terminating the investigation and terminating respondent Trendlines on the basis that it was not a proper party to the investigation due to the December 18 agreement. Although the ALJ had stated in Order No. 16 that he would specifically request in his final ID that the Commission find that an abuse of process had occurred, he did not do so. Nor did he reexamine the issue and rule upon it in his final ID. Thus, the abuse of process issue remains outstanding.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and § 210.5 of the Commission's Interim Rules of Practice and Procedure (19 CFR 210.5).

Issued: May 18, 1993.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–12551 Filed 5–26–93; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

Availability of Environmental Assessments

Pursuant to 42 U.S.C. 4332, the Commission has prepared and made available environmental assessments for the proceedings listed below. Dates environmental assessments are available are listed below for each individual proceeding.

To obtain copies of these environmental assessments contact Ms.Johnnie Davis or Ms. Tawanna Glover-Sanders, Interstate Commerce Commission, Section of Energy and Environment, room 3219, Washington, DC 20423, (202) 927–5750 or (202) 927–6245.

Comments on the following assessment are due 15 days after the date of availability:

Comments on the following assessment are due 30 days after the date of availability:

AB–384, Delta Southern Railroad Co.—Abandonment in Union Parish, LA, and Union County, AR. EA available 5/19/93.

AB–1 (Sub-No. 238), Chicago and North Western Transportation Co.—Abandonment—Between Duck Creek and Kelly, Wisconsin. EA available 5/19/93.

AB–55 (Sub-No. 459X), CSX Transportation, Inc.—Abandonment Exemption—In Montgomery County, AL. EA available 5/21/93.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–12586 Filed 5–26–93; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Under the Clean Air Act

In accordance with the policy of the Department of Justice, 28 CFR 50.7, notice is hereby given that on May 13, 1993, a proposed Consent Decree in *United States* v. *El Paso Natural Gas Company*, Civil Action No. CIV 93–0920–PHX–CAM, was lodged with the United States District Court for the District of Arizona. That action was brought pursuant to the Clean Air Act for El Paso Natural Gas's failure to obtain a permit prior to construction of a modification to its Navajo compressor station, in violation of the requirements regarding the prevention of significant deterioration. Pursuant to the Consent Decree, El Paso Natural Gas must obtain a permit for its modification of the compressor station, must remove certain equipment from operation and must operate its new equipment in accordance with the applicable new source performance standards. El Paso Natural Gas will pay a civil penalty of $10,000 for its violations of the Clean Air Act.

As provided in 28 CFR 50.7, the Department of Justice will receive comments from persons who are not named as parties to this action relating to the proposed Consent Decree for a period of thirty days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530. All comments should refer to *United States* v. *El Paso Natural Gas Company*, D.J. Ref. 90–5–2–1–1759.

The proposed Consent Decree may be examined at the Office of the United States Attorney, 230 North First Avenue, room 4000, Phoenix, Arizona 85025; the Region IX office of the U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, California 94105, and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please enclose a check in the amount of $3.75 for a copy of the consent decree (25 cents per page reproduction costs) payable to "Consent Decree Library."

Myles E. Flint,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 93–12537 Filed 5–26–93; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, notice is hereby given that a proposed consent decree in *United States* v. *Group Eight Technology, Inc. and Grand Machining Co.*, Civil Action No. 91–60338 AA, was lodged on May 14, 1993 with the United States District Court for the Eastern District of Michigan. The Complaint and amended Complaint previously filed by the United States assert claims under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9607, for costs incurred and to be incurred by the United States in responding to the release or threat of release of hazardous substances at the Group Eight Technology, Inc. Site ("Site"), 2246 Third Street, Wyandotte, Michigan. The proposed decree would require one defendant, Grand Machining Company, to pay $124,000 to reimburse the United States Environmental Protection Agency for unrecovered past response costs at the Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addresses to the Assistant Attorney

General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Group Eight Technology, Inc. and Grand Machining Co.*, DOJ Ref. #90–11–3–695.

The proposed consent decree may be examined at the Office of the United States Attorney for the Eastern District of Michigan, United States Courthouse, 231 W. Lafayette St., Detroit, MI 48226 (contact Assistant United States Attorney Elizabeth Larin); the Region 5 Office of the Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, IL 60604–3590 (contact Assistant Regional Counsel Brett Warning); and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $3.50 (25 cents per page reproduction costs), payable to the consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment & Natural Resources Division.

[FR Doc. 93–12533 Filed 5–26–93; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree

Notice is hereby given that a proposed Consent Decree in *United States* v. *Group Dekko, Inc.*, was lodged on May 13, 1993, with the United States District Court for the Northern District of Indiana, Fort Wayne Division. In this action, the United States, on behalf of the United States Environmental Protection Agency, sought injunctive relief, civil penalties, and oversight costs for violations of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6928, by Group Dekko International, Inc. (Group Dekko) in the operation of a copper recovery facility near Kendallville, Indiana.

The proposed Consent Decree provides for injunctive relief and civil penalties under RCRA section 3008(a) and (g), 42 U.S.C. 6928, for Group Dekko's violations of the Land Disposal Regulations, (LDRs) promulgated at 40 CFR part 268 pursuant to RCRA section 3004, 42 U.S.C. 6924. These violations primarily consist of past disposal of tens of millions of pounds of lead-bearing waste on land, a significant part of which occurred after the effective date of the LDRs. The decree requires current compliance with the LDRS, treatment of the lead-bearing waste and closure of the waste pile, and payment of $550,000 in civil penalties and up to $19,000 in oversight costs.

The Department of Justice will receive comments relating to the proposed Consent Decree for 30 days following the publication of this Notice. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Group Dekko, Inc.*, D.J. Ref. No. 90–7–1–638. The proposed Consent Decree may be examined at the Office of the United States Attorney for the Northern District of Indiana, Fort Wayne Division, 3128 Federal Building, 1300 South Harrison Street, Fort Wayne, Indiana 46802; the Region V Office of the United States Environmental Protection Agency, 77 West Jackson Street, Chicago, Illinois 60604; and the Consent Decree Library, 601 Pennsylvania Avenue NW., Box 1097, Washington, DC 20004 (202–347–2072). A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library. In requesting a copy, please enclose a check in the amount of $57.25 (25 cents per page for reproduction costs), payable to the Consent Decree Library.

Myles E. Flint,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 93–12601 Filed 5–26–93; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Resource Conservation and Recovery Act of 1976

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Grumman St. Augustine Corporation*, Civil Action No. 91–141–Civ–J–16, was lodged on May 13, 1993, with the United States District Court for the Middle District of Florida. Grumman St. Augustine Corporation (Grumman) owns and operates an aircraft repair and refurbishing facility located in St. Augustine, Florida. This action for civil penalties under section 3008(a) and (g) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6928(a) and (g), was filed against Grumman as part of the Environmental Protection Agency's Land Ban Initiative on February 21, 1991. The complaint alleged violations of RCRA Section 3004(e) and (m), 42 U.S.C. 6924(e) and (m), and violations of Land Disposal Restrictions promulgated by EPA at 40 CFR part 268 pursuant to RCRA sections 2002, 3003, and 3004, 42 U.S.C. 6912, 6923 and 6924. The complaint was amended twice to allege additional violations of RCRA. The company has agreed to a settlement of $2.5 million in this action. Of that amount, $1.5 million will be initially paid as a civil penalty. The remaining $1 million will be used by Grumman, subject to EPA approval, to undertake a series of innovative pollution abatement projects, which will involve the elimination of a number of hazardous wastes that historically have been generated by the company.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Grumman St. Augustine Corporation*, DOJ Ref. #90–7–1–612.

The proposed consent decree may be examined at the Office of the United States Attorney, Middle District of Florida, Room 409, 311 West Monroe Street, Jacksonville, Florida 32201; Office of the U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365; and at the Consent Decree Library, 1120 G Street, NW., Washington, DC 20005, 202–624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street NW., 4th floor, Washington, DC 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $21.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Myles E. Flint,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 93–12535 Filed 5–26–93; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Sanders Lead Company, et al.*, Civil Action No. 89–T–1123–N, was lodged on May 13, 1993, with the United States District Court for

the Middle District of Alabama. That action was brought against defendants pursuant to sections 3008(g) and (h) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6928(g) and (h), for civil penalties and injunctive relief in connection with defendants' operation of a secondary lead smelter and plastics recycling facility. The decree requires the defendants to pay a civil penalty of $2 million for alleged past violations of RCRA, including the United States' allegation that defendants operated several land disposal units for approximately three years after losing interim status pursuant to section 3005(e) of RCRA, 42 U.S.C. 6925(e).

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Sanders Lead Company, et al.*, DOJ Ref. #90–7–1–294.

The proposed consent decree may be examined at the Office of the United States Attorney, 500 Federal Building and Courthouse, 15 Lee Street, Montgomery, Alabama 27402; at the Region IV Office of the Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, 202–624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $2.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 93–12534 Filed 5–26–93; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984—Bell Communications Research, Inc.

Notice is hereby given that, on April 20, 1993, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Bell Communications Research, Inc. ("Bellcore") filed a written notification on behalf of Bellcore and Amati Communications Corporation ("Amati") simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are Bellcore, Livingston, NJ; and Amati, Palo Alto, CA. Bellcore and Amati entered into an agreement effective as of March 25, 1993 to engage in cooperative research of high-speed data transmission over copper twisted pairs through advanced asymmetric digital subscriber lines to better understand the feasibility and application of these technologies for exchange and exchange access services, including experimental prototype fabrication for the demonstration of such technologies.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93–12501 Filed 5–26–93; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research Act of 1984; Bell Communications Research, Inc.

Notice is hereby given that, on March 19, 1993, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Bell Communications Research, Inc. ("Bellcore") has filed written notifications on behalf of Bellcore and Sprint/United Management Company ("SUMC") simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are Bellcore, Livingston, NJ; and SUMC, Westwood, KS. Bellcore and SUMC entered into an agreement effective as of January 1, 1993, under which SUMC will participate in various Bellcore projects which Bellcore is currently undertaking for its owner companies and will cooperate with Bellcore on research within the scope of Bellcore's research and development activities for which notice under the Act was published in the January 30, 1985 **Federal Register** (50 FR 4280), all directed to understanding telecommunications network architecture, concepts and service capabilities in support of exchange and exchange access telecommunications services.

This will include exploration of such technologies as the Advanced Intelligent Network and Fiber in the Loop.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93–12599 Filed 5–26–93; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research Act of 1984; Ohio Aerospace Institute

Notice is hereby given that, on April 19, 1993, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the Ohio Aerospace Institute ("OAI") has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the consortium. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are The University of Akron, Akron, OH; Case Western Reserve University, Cleveland, OH; The University of Cincinnati, Cincinnati, OH; Cleveland State University, Cleveland, OH; The University of Dayton, Dayton, OH; The Ohio State University, Columbus, OH; Ohio University, Athens, OH; The University of Toledo, Toledo, OH; Wright State University, Dayton, OH; BFGoodrich Aerospace, Brecksville, OH; GE Aircraft Engines, Cincinnati, OH; Parker Hannifin Corporation, Irvine, CA; Rockwell Int'l, Rocketdyne Division, Canoga Park, CA; TRW Inc., Space & Tech. Group, Redondo Beach, OH; and Pratt & Whitney, Division of United Technology Group, West Palm Beach, FL. The OAI is a not-for-profit organization formed under the laws of the State of Ohio as a consortium to facilitate the collaboration of research and education in the aerospace related fields. The OAI collaborative research programs work towards advancing the state of the art in key aerospace technical areas, including, but not limited to, advanced materials; dynamic systems and controls; tribology; and advanced sensors, transducers, and electronics. Membership in the consortium remains open, and the parties intend to file additional written

notification disclosing all changes in membership to the consortium.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93–12536 Filed 5–26–93; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research Act of 1984; Open Software Foundation, Inc.

Notice is hereby given that, on May 3, 1993, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Open Software Foundation, Inc. ("OSF") 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 identities of the new, non-voting members of OSF are as follows: Elf, Paris, France; University of Stellen Bosch, South Africa; Universitat Autonoma De Barcelona, Barcelona, Spain; OpenVision, Inc., Pleasanton, CA; Bull User Society, Telford, Shropshire, England; World Bank, Washington, DC; Duke University, Durham, NC; University Catholique de Louvain, Louvain La Neuve, Belgium; Dunn & Bradstreet Software, Framingham, MA; Bear Stearns & Co., Inc., Whippany, NJ; Lockheed Corporation, Calabasas, CA; Rabobank Nederland, Zeist, Netherlands; DSTC Party Limited, Old, Australia; Object Management Group, Framingham, MA; Hitachi Data Systems Corporation, Buckinghamshire, England; Information Exchange Steering Committee, Canberra, Australia; and Electricite de France/Gaz de France, Issy-les-moulinea, France. No new voting members have been added as of this filing.

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 OSF intends to file additional written notifications disclosing all changes in membership.

On August 8, 1988, OSF and the Open Software Foundation Institute, Inc. (the "Institute") 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 September 7, 1988, (53 FR 34594).

The last notification was filed with the Department on February 1, 1993. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on March 18, 1993, (58 FR 14591).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93–12600 Filed 5–26–93; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research Act of 1984—Petroleum Environmental Research Forum

Notice is hereby given that, on April 30, 1993, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301, *et seq.* ("the Act"), the participants in the Petroleum Environmental Research Forum ("PERF") Project No. 92–01 have filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties participating in PERF Project No. 92–01 and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties participating in PERF Project No. 92–01 are Amoco Production Co., Tulsa, OK; Exxon Production Research Co., Houston, TX; and Texaco, Inc., Bellaire, TX.

The nature and objective of the research program to be carried out in accordance with PERF Project No. 92–01 is to investigate the feasibility of a reliable RF process for cleaning oily drill cuttings and recovering the removed oil. The work will comprise determining the electromagnetic properties of oil samples, developing a practical set of RF stimulation parameters based on properties of the samples, and exposing the samples of RF energy having the developed parameters.

Participation in this project will remain open to interested persons and organizations until termination of the Agreement for Project 92–01. The participants intend to file additional written notifications disclosing all changes in membership of parties involved in this project.

Information regarding participation in the project may be obtained from Charles A. Christopher, Amoco Production Co., P.O. Box 3385, Tulsa, OK 74102.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93–12500 Filed 5–26–93; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment And Training Administration

Wagner-Peyser Act Final Planning Allotments for Program Year (PY) 1993

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice announces the final planning allotments for Program Year (PY) 1993 (July 1, 1993, through June 30, 1994) for basic labor exchange activities provided under the Wagner-Peyser Act.

FOR FURTHER INFORMATION CONTACT: Robert A. Schaerfl, Director, U.S. Employment Service, 200 Constitution Avenue, NW., room N–4470, Washington, DC 20210. Telephone: (202) 219–5257 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: In accordance with section 6(b)(5) of the Wagner-Peyser Act, the Employment and Training Administration is publishing final planning allotments for each State for Program Year (PY) 1993 (July 1, 1993, through June 30, 1994). Preliminary planning estimates were provided to each State on February 11, 1993. Funds are distributed in accordance with formula criteria established in section 6 (a) and (b) of the Wagner-Peyser Act. Civilian labor force (CLF) and unemployment data for Calendar Year 1992 are used in making the formula calculations.

The total amount of funds currently available for distribution is $810,960,000. The Secretary of Labor set aside 3 percent of the total available funds to assure that each State will have sufficient resources to maintain statewide employment services, as required by section 6(b)(4) of the Act. In accordance with this provision, $23,754,639 is set aside for administrative formula allocation. These funds are included in the total planning allotment. The funds that are set aside are distributed in two steps to States which have lost in relative share of resources from the prior year. In Step 1, States which have a CLF below one million and are below the median CLF density are maintained at 100 percent of their relative share of prior year resources. The remainder is distributed in Step 2 to all other States losing in relative share from the prior year but which do not meet the size and density criteria for Step 1.

Postage cost incurred by States during the conduct of employment service (ES) activities are billed directly to the

Department of Labor by the U.S. Postal Service. The total final planning allotment reflects $19,138,700, or 2.36 percent of the total amount available, withheld from distribution to finance postage costs associated with the conduct of ES business.

Differences between preliminary planning estimates and final planning allotments are caused by the use of a Calandar Year data base as opposed to the earlier data used for preliminary planning estimates. Ten percent of the total sums allotted to each State shall be reserved for use by the Governor to provide performance incentives for public ES offices; services for groups with special needs; and for the extra costs of exemplary models for delivering job services.

Signed at Washington, DC, this 20th day of May, 1993.

Carolyn M. Golding,

Acting Assistant Secretary.

BILLING CODE 4510-30-M

U.S. DEPARTMENT OF LABOR
EMPLOYMENT AND TRAINING ADMINISTRATION
FINAL PY 1993 WAGNER–PEYSER ALLOTMENTS TO STATES

State	Basic Formula	3% Distribution			Total Allotment***
		Step 1*	Step 2**	Total	
Alabama	10,924,220	0	449,555	449,555	11,373,775
Alaska	7,513,758	1,093,717	0	1,093,717	8,607,475
Arizona	9,826,600	0	0	0	9,826,600
Arkansas	6,449,143	0	373,095	373,095	6,822,238
California	92,396,983	0	0	0	92,396,983
Colorado	9,282,423	0	293,015	293,015	9,575,438
Connecticut	10,193,801	0	84,617	84,617	10,278,418
Delaware	2,145,182	0	66,513	66,513	2,211,695
District of Columbia	4,271,128	0	420,565	420,565	4,691,693
Florida	38,353,603	0	0	0	38,353,603
Georgia	17,902,901	0	0	0	17,902,901
Hawaii	2,825,867	0	0	0	2,825,867
Idaho	6,260,298	911,261	0	911,261	7,171,559
Illinois	34,825,393	0	623,043	623,043	35,448,436
Indiana	15,493,715	0	225,730	225,730	15,719,445
Iowa	7,700,112	0	468,255	468,255	8,168,367
Kansas	6,458,780	0	245,833	245,833	6,704,613
Kentucky	9,638,598	0	625,773	625,773	10,264,371
Louisiana	11,264,365	0	903,444	903,444	12,167,809
Maine	3,722,940	541,919	0	541,919	4,264,859
Maryland	14,308,719	0	0	0	14,308,719
Massachusetts	18,529,728	0	912,444	912,444	19,442,172
Michigan	27,682,801	0	1,202,559	1,202,559	28,885,360
Minnesota	12,374,031	0	465,257	465,257	12,839,288
Mississippi	6,900,941	0	538,745	538,745	7,439,686
Missouri	14,083,839	0	829,391	829,391	14,913,230
Montana	5,115,948	744,687	0	744,687	5,860,635
Nebraska	6,148,363	894,968	0	894,968	7,043,331
Nevada	4,973,240	723,914	0	723,914	5,697,154
New Hampshire	3,584,917	0	96,851	96,851	3,681,768
New Jersey	23,611,526	0	0	0	23,611,526
New Mexico	5,740,993	835,670	0	835,670	6,576,663
New York	50,554,457	0	981,537	981,537	51,535,994
North Carolina	18,444,762	0	239,833	239,833	18,684,595
North Dakota	5,209,564	758,315	0	758,315	5,967,879
Ohio	30,796,092	0	311,222	311,222	31,107,314
Oklahoma	10,062,417	0	990,816	990,816	11,053,233
Oregon	8,726,663	0	0	0	8,726,663
Pennsylvania	34,108,503	0	119,394	119,394	34,227,897
Puerto Rico	8,925,320	0	308,449	308,449	9,233,769
Rhode Island	3,182,227	0	16,661	16,661	3,198,888
South Carolina	9,518,977	0	146,068	146,068	9,665,045
South Dakota	4,814,835	700,857	0	700,857	5,515,692
Tennessee	13,161,527	0	416,660	416,660	13,578,187
Texas	49,719,244	0	633,024	633,024	50,352,268
Utah	10,530,630	1,532,859	0	1,532,859	12,063,489
Vermont	2,255,545	328,321	0	328,321	2,583,866
Virginia	18,109,157	0	10,498	10,498	18,119,655
Washington	14,766,168	0	0	0	14,766,168
West Virginia	5,511,055	802,200	0	802,200	6,313,255
Wisconsin	13,498,893	0	343,345	343,345	13,842,238
Wyoming	3,735,583	543,759	0	543,759	4,279,342
FORMULA TOTAL	766,136,475	10,412,447	13,342,192	23,754,639	789,891,114
Guam	370,511	0	0	0	370,511
Virgin Islands	1,559,675	0	0	0	1,559,675
Indicia Postage	19,138,700	0	0	0	19,138,700
NATIONAL TOTAL	787,205,361	10,412,447	13,342,192	23,754,639	810,960,000

* Funds are allocated to the 13 States whose relative share decreased from PY 1992 to the PY 1993 basic formula amount and which have a Civilian Labor Force (CLF) below one million and are below the median CLF density. These States are held harmless at 100% of their PY 1992 relative share.

** The balance of the 3% funds are distributed to the remaining 30 States losing in relative share from PY 1992 to their PY 1993 total allotment amount.

*** Hold harmless provisions required under Section 6(B) of the Wagner–Peyser Act, as amended, are maintained at the revised allotment level.

[FR Doc. 93–12618 Filed 5–26–93; 8:45 am]
BILLING CODE 4510–30–C

LIBRARY OF CONGRESS

National Film Preservation Board; Meeting

AGENCY: National Film Preservation Board, Library of Congress.

ACTION: Notice of meeting.

This notice is issued pursuant to Public Law 102–307, The National Film Preservation Act of 1992, 2 U.S.C. 179, by Dr. James H. Billington, the Librarian of Congress, to inform the public that the next meeting of the National Film Preservation Board will be held in Washington, DC in the office of the Librarian of Congress on June 7 and 8, 1993. At the request of the National Film Preservation Board, this meeting will be closed to the public.

FOR FURTHER INFORMATION CONTACT: Eric Schwartz, Counsel, The National Film Preservation Board, Library of Congress, Washington, DC 20540. Telephone: (202) 707–8350.

Dated: May 14, 1993.

James H. Billington,

The Librarian of Congress.

[FR Doc. 93–12553 Filed 5–26–93; 8:45 am]

BILLING CODE 1410–18–M

NATIONAL ADVISORY COUNCIL ON THE PUBLIC SERVICE

Meeting

Date and Time: Monday, June 21, 1993, 9 a.m. to 4 p.m.

Place: Offices of the National Capital Planning Commission, 801 Pennsylvania Avenue, NW., suite 301, Washington, DC

Status: Open

Summary:

Agenda

9 a.m.-12 a.m.—Member Working Session

12 NOON–1:30 p.m.—Lunch Break

1:30 p.m.-3:30 p.m.—Member Working Session Continued

3:30 p.m.-4:00 p.m.—Public Comment

4 p.m.—Adjournment

For Further Information Contact: Jane Riddleberger, NACPS, Suite 420, National Press Building, 529 14th Street, N.W., Washington, D. C. 20045 (202–724–0796).

Dated: May 24, 1993.

Jean M. Curtis,

Executive Director.

[FR Doc. 93–12552 Filed 5–26–93; 8:45 am]

BILLING CODE 7525–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Expansion Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel (Overview Section) will be held on June 17, 1993 from 9 a.m.–3:30 p.m. in room 730 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC. 20506.

This meeting will be open to the public on a space available basis. The topic will be program overview, policy discussion and guidelines review.

Any interested person may observe meetings, or portions thereof, which are open to the public, and may be permitted to participate in the discussions at the discretion of the meeting chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5439.

Dated: May 20, 1993.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 93–12499 Filed 5–26–93; 8:45 am]

BILLING CODE 7537–01–M

International Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act Pub. L. 92–463), as amended, notice is hereby given that a meeting of the International Advisory Panel (Overview Section) will be held on June 25, 1993 from 9 a.m.–5 p.m. in room 527 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting will be open to the public on a space available basis. The topic will be program overview and policy discussion.

Any interested person may observe meetings, or portions thereof, which are open to the public, and may be permitted to participate in the discussions at the discretion of the meeting chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5439.

Dated: May 20, 1993.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 92–12498 Filed 5–26–93; 8:45 am]

BILLING CODE 7537–01–M

Office of Public Partnership Advisory Panel

Amended Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Office of Public Partnership Advisory Panel (State and Regional Section) to the National Council on the Arts will be held on June 4, 1993 from 9:15 a.m.–5:30 p.m., not 8:30 a.m.–5 p.m. as previously published. The meeting will be held in the Whitman Room, Sheraton Bal Harbour Hotel, 9701 Collins Avenue, Miami, FL, 33154.

This meeting will be open to the public on a space available basis. The topics will be overview of the State and Regional Program and application review.

Any interested person may observe meetings, or portions thereof, which are open to the public, and may be permitted to participate in the discussions at the discretion of the meeting chairman and with the approval of the full-time Federal employee in attendance.

Further information in reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5439.

Dated: May 21, 1993.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 93–12562 Filed 5–26–93; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL MEDIATION BOARD

Notice of Appointment of Members to the Performance Review Board

Notice is hereby given in accordance with 5 USC § 4314 of the membership of the National Mediation Board's Performance Review Board. The members are as follows:

Mr. Patrick J. Cleary, Member, National Mediation Board, Washington, DC.
Ms. Linda A. Lafferty, Executive Director, Federal Service Impasses Panel, Washington, DC.
Mr. John C. Truesdale, Executive Secretary, National Labor Relations Board, Washington, DC.

EFFECTIVE DATE: June 22, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. William A. Gill, Jr., Executive Director, 1301 K Street, NW., Washington, DC 20572, (202) 523–5950.

By direction of the National Mediation Board.

William A. Gill,

Executive Director.

[FR Doc. 93–12502 Filed 5–26–93; 8:45 am]

BILLING CODE 7550–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Education and Human Resources; Committee of Visitors; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following Committee of Visitors meetings.

Name: Committee of Visitors Review of the Teacher Enhancement Program.

Date and Time: June 14–15, 1993, 8:30 a.m. to 5 p.m. each day.

Place: Room 635, 1800 G Street, NW., Washington, DC.

Type of Meeting: Closed.

Contact Person: Dr. Joseph Stewart, rm. 635, National Science Foundation, Washington, DC 20550. Telephone: (202) 357–7539.

Purpose of Meeting: To provide oversight review of the Teacher Enhancement Program.

Agenda: To carry out Committee of Visitors (COV) review including examination of decisions on proposals, reviewer comments, and other privileged materials.

Reason for Closing: These meetings are closed to the public because the Committee will be reviewing proposal actions that will include privileged intellectual property and personal information that could harm individuals if they were disclosed. If discussions were open to the public, these matters that are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act would be improperly disclosed.

Dated: May 24, 1993.

M. Rebecca Winkler

Committee Management Officer.

[FR Doc. 93–12617 Filed 5–26–93; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Electrical and Communications Systems; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Electrical and Communications Systems.

Date and Time: June 17–18, 1993; 8:30 a.m. to 5 p.m.

Place: Room 1133, 1800 G Street, NW., Washington, DC.

Type of Meeting: Closed.

Contact Person: Dr. Brian J. Clifton, Program Director, Solid State and Microstructures Program, Division of Electrical and Communications Systems, National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone: (202) 357–9618.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate ETDL Fort Monmouth proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matter are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 24, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93-12615 Filed 5–26–93; 8:45 am]

BILLING CODE 7555–01–M

Statement of Organization; Amendment

AGENCY: National Science Foundation.

ACTION: Notice of amendment to the NSF statement of organization, functions, and delegations of authority.

SUMMARY: Two new Divisions were established to replace the former Division of Grants and Contracts (DGC): The Division of Grants and Agreements; and the Division of Contracts, Policy, and Oversight. The purpose of the reorganization is to strengthen and improve the focus and management control of various grant and contract operational, policy and oversight functions previously centralized in DGC. In particular, it splits organizationally the grants and contracts operational functions, in line with recommendations of recent reviews and reports. The result will be to increase organizational and staff specialization, expertise and service in the Office of Budget, Finance, and Award Management's award-related functions.

EFFECTIVE DATE: May 2, 1993.

FOR FURTHER INFORMATION CONTACT: Modestine Rogers, National Science Foundation, Division of Human Resource Management, 1800 G Street, NW., room 208, Washington, DC 20550, telephone 202–357–9441.

SUPPLEMENTARY INFORMATION: The Division of Grants and Agreements (DGA). DGA is responsible for the business, policy and financial review, issuance and administration of all NSF grants and cooperative agreements and for any other related transactions involving the award of NSF funds for assistance. This includes providing business and award management liaison and support to NSF programs, assisting in the development of program announcements and solicitations and other proposal generation documents for NSF assistance, and providing advice and guidance to the performer research administration community on the business and administrative aspects of NSF proposal generation and award systems.

The Division of Contracts, Policy, and Oversight (CPO). CPO is responsible for providing contract management functions, including the solicitation, negotiation, award and administration of NSF contracts, and for overseeing NSF procurement systems, processes, and guidance. The Division also has responsibility for monitoring proposal and award (i.e., grants, contracts, and other agreements) policy development, coordination and issuance; performing cost analysis and establishing indirect cost rates for NSF grants, contracts and agreements; and resolving audit findings pertaining to the allowability, allocability, and appropriateness of costs and other issues arising under or in the oversight of NSF awards.

(58 FR 7587–7595, February 8, 1993)

Dated: May 24, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–12616 Filed 5–26–93; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Nuclear Safety Research Review Committee; Meeting

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

The Nuclear Safety Research Review Committee (NSRRC) will hold its next meeting on July 7–8, 1993. The location of the meeting will be the Delaware Room at the Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD. The meeting will be held in accordance with the requirements of the Federal Advisory Committee Act (FACA) and will be open to public attendance. The NSRRC provides advice to the Director of the Office of Nuclear Regulatory Research (RES) on matters of overall management importance in the direction of the NRC's program of nuclear safety research. The purpose of this meeting is to conduct a general review of the NRC's nuclear safety research programs.

The planned schedule is as follows:

Wednesday, July 7, 1993

8:30 a.m.–8:45 a.m.: Opening remarks: NSRRC Chairman, RES Director
8:45 a.m.–11:00 a.m.: General overview of NRC nuclear safety research
11:00 a.m.–11:30 a.m.: Update on seismic research issues
12:45 p.m.–5:30 p.m.: Review of particular research program areas
12:45 p.m.–2:15 p.m.: Research on aging of nuclear power plant structures, systems, and components
2:30 p.m.–4:00 p.m.: Advanced reactor research
4:00 p.m.–5:30 p.m.: Advanced instrumentation and control and human factors research

Thursday, July 8, 1993

8:30 a.m.–11:45 a.m.: Review of particular research program areas (continued)
8:30 a.m.–10:00 a.m.: Severe accident research
10:15 a.m.–11:45 a.m.: High-level waste research
1:00 p.m.–5:00 p.m.: Committee discussion, for the principal purpose of leading to formulation of Committee advice relating to the NRC's nuclear research programs.

Participants in the presentation to and discussions with the Committee will include representatives of the NRC staff, and may include other invited participants from research organizations.

Members of the public may file written statements regarding any matter to be discussed at the meeting. Members of the public may also make requests to speak at the meeting, but permission to speak will be determined by the Committee chairperson in accordance with procedures established by the Committee. A verbatim transcription will be made of the NSRRC meeting and a copy of the transcript will be placed in the NRC's Public Document Room in Washington, DC.

Any inquiries regarding this notice, any subsequent changes in the status and schedule of the meeting, the filing of written statements, requests to speak at the meeting, or for the transcript, may be made to the Designated Federal Officer, Mr. George Sege (telephone: 301/492–3904), between 8:15 a.m. and 5 p.m.

Dated at Rockville, Maryland, this 21st day of May, 1993.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 93–12511 Filed 5–26–93; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Meeting of the Subcommittee on Thermal Hydraulic Phenomena

The ACRS Subcommittee on Thermal Hydraulic Phenomena will hold a meeting on June 22, and June 23 (as necessary), 1993, in room P–110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed to discuss information deemed proprietary to the Westinghouse Electric Corporation (*W*) pursuant to 5 U.S.C. 552b(c)(4).

The agenda for the subject meeting shall be as follows:

Tuesday, June 22, 1993–8:30 a.m. Until the Conclusion of Business

Wednesday, June 23 (as necessary, 1993–8:30 a.m. Until the Conclusion of Business

The Subcommittee will review selected aspects of the NRC-RES-sponsored ROSA-V confirmatory test program being conducted in support of the Westinghouse AP600 passive plant design certification effort. Specific review topics will include: Facility design modifications and additions, the test matrix, and instrumentation and controls. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, its contractors, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff engineer, Mr. Paul Boehnert (telephone 301/492–8558) between 7:30 a.m. and 4:15 p.m. (e.d.t.). Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: May 20, 1993.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 93–12508 Filed 5–26–93; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Advanced Boiling Water Reactors; Meeting

The ACRS Subcommittee on Advanced Boiling Water Reactors will hold a meeting on June 17, 1993, Park Room, at the Holiday Inn Park Center Plaza, 282 Almaden Boulevard, San Jose, CA.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Thursday, June 17, 1993—8:30 a.m. Until the Conclusion of Business

The Subcommittee will review matters related to the General Electric Nuclear Energy (GE) Standard Safety

Analysis Report for the Advanced Boiling Water Reactor design. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will hear presentations by and hold discussions with representatives of GE and its consultants, and other interested persons regarding this review. Representatives of the NRC staff will participate, as appropriate.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff engineer, Dr. Medhat El-Zeftawy (telephone 301/492–9901) between 7:30 a.m. and 4:15 p.m. (e.d.t). Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: May 20, 1993.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 93–12509 Filed 5–26–93; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Planning and Procedures; Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on June 9, 1993, room P–422, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c) (2) and (6) to discuss organizational and personnel matters that relate solely to the personnel rules and practices of ACRS and matters the release of which would represent a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Wednesday, June 9, 1993—2 p.m. until 4:30 p.m.

The Subcommittee will discuss proposed ACRS activities, practices and procedures for conduct of Committee business, and organizational and personnel matters relating to ACRS and its staff. The purpose of this meeting will be to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff engineer, Dr. John T. Larkins (telephone 301/492–4516) between 7:30 a.m. and 4:15 p.m., e.d.t. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised on any changes in schedule, etc., that may have occurred.

Dated: May 20, 1993.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 93–12510 Filed 5–26–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 03019223; License No. 20–19778–01]

ABC Testing, Bridgewater, MA; Order Modifying License (Effective Immediately)

I

ABC Testing (Licensee) is the holder of Byproduct Material License No. 20–19778–01 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR part 34, which was due to expire on April 30, 1992, and is under timely renewal. The license authorizes use of RTS Technology, Inc. (RTS) Model 702 radiography source assemblies for radiography operations.

II

RTS has reported to the Commission that several connector sleeves have broken. The cause is attributed by RTS to the hardness specification on the Model 702 radiography source assembly connector. A break in the connector sleeve could lead to an unintentional, and possibly undetected, disconnection of the drive cable from the source assembly. This disconnection could lead to the licensee invoking emergency procedures to retrieve an unshielded, high activity radiography source. In the past, source disconnections have led at times to serious overexposures of workers and members of the public. RTS has reduced the hardness requirement for future connector sleeves. However, source assemblies manufactured prior to May 11, 1993, could have connector sleeves which are too hard.

III

Consequently, I lack the requisite reasonable assurance that Licensee's radiography operations using RTS Model 702 source assemblies with serial numbers lower than 1867 can be conducted in compliance with the Commission's requirements and that the health and safety of the public, including the Licensee's employees, will be protected. Therefore, the public health, safety, and interest require that use of RTS Model 702 source assemblies with serial numbers lower than 1867 in radiography operations be prohibited. Furthermore, pursuant to 10 CFR 2.202, I find that the public health, safety, and interest require that this Order be effective immediately.

IV

Accordingly, pursuant to sections 81, 161b, 161c, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's

regulations in 10 CFR 2.202 and 10 CFR part 34, *it is hereby ordered*, effectively immediately, that License No. 20–19778–01 is modified as follows:

A. Radiography operations involving RTS Model 702 source assemblies with serial numbers lower than 1867 are prohibited.

B. The licensee shall, within 20 days of the date of this order, file with the Director, Office of Nuclear Material Safety and Safeguards, at the address indicated below, a statement, in writing and under oath or affirmation, that radiography operations using RTS Model 702 source assemblies with serial numbers lower than 1867 ceased upon receipt of this order and shall state the date on which this order was received.

The Regional Administrator, Region I, may, in writing, relax or rescind the above condition upon demonstration by the Licensee of good cause.

V

In accordance with 10 CFR 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this order and set forth the matters of fact and law on which the Licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Services Section, Washington, DC 20555. Copies also shall be sent to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, Region I, U.S. Nuclear Regulatory Commission, 475 Allendale Road, King of Prussia, PA 19406, and to the License if the answer or hearing request is by a person other than the Licensee. If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by the Licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), the Licensee, or any other person adversely affected by this Order, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated at Rockville, Maryland this 20th day of May, 1993.

For the Nuclear Regulatory Commission.

Guy A. Arlotto,

Acting Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 93–12576 Filed 5–26–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 03009172; License No. 37–15476–01]

Anchor/Darling Valve Co., Williamsport, PA; Order Modifying License (Effective Immediately)

I

Anchor/Darling Valve Company (Licensee) is the holder of Byproduct Material License No. 37–15476–01 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR part 34, which is currently due to expire on November 30, 1995. The license authorizes use of RTS Technology, Inc. (RTS) Model 702 radiography source assemblies for radiography operations.

II

RTS has reported to the Commission that several connector sleeves have broken. The cause is attributed by RTS to the hardness specification on the Model 702 radiography source assembly connector. A break in the connector sleeve could lead to an unintentional, and possibly undetected, disconnection of the drive cable from the source assembly. This disconnection could lead to the Licensee invoking emergency procedures to retrieve an unshielded, high activity radiography source. In the past, source disconnections have led at times to serious overexposures of workers and members of the public. RTS has reduced the hardness requirement for future connector sleeves. However, source assemblies manufactured prior to May 11, 1993, could have connector sleeves which are too hard.

III

Consequently, I lack the requisite reasonable assurance that Licensee's radiography operations using RTS Model 702 source assemblies with serial numbers lower than 1867 can be conducted in compliance with the Commission's requirements and that the health and safety of the public, including the Licensee's employees, will be protected. Therefore, the public health, safety, and interest require that use of RTS Model 702 source assemblies with serial numbers lower than 1867 in radiography operations be prohibited. Furthermore, pursuant to 10 CFR 2.202, I find that the public health, safety, and interest require that this Order be effective immediately.

IV

Accordingly, pursuant to sections 81, 161b, 161c, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 34, *It is hereby ordered*, effective immediately, that license no. 37–15476–01 is modified as follows:

A. Radiography operations involving RTS Model 702 source assemblies with serial numbers lower than 1867 are prohibited.

B. The licensee shall, within 20 days of the date of this order, file with the Director, Office of Nuclear Material Safety and Safeguards, at the address indicated below, a statement, in writing and under oath or affirmation, that radiography operations using RTS Model 702 source assemblies with serial numbers lower than 1867 ceased upon receipt of this order and shall state the date on which this order was received.

The Regional Administrator, Region I, may, in writing, relax or rescind the above condition upon demonstration by the Licensee of good cause.

V

In accordance with 10 CFR 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge

made in this order and set forth the matters of fact and law on which the Licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Services Section, Washington, DC 20555. Copies also shall be sent to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, Region I, U.S. Nuclear Regulatory Commission, 475 Allendale Road, King of Prussia, PA 19406, and to the Licensee if the answer or hearing request is by a person other than the Licensee. If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by the Licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), the Licensee, or any other person adversely affected by this Order, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated at Rockville, Maryland this 20th day of May, 1993.

For the Nuclear Regulatory Commission.

Guy A. Arlotto,

Acting Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 93–12578 Filed 5–26–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 03016008; License No. 20–19067–01]

Baker Testing Services, Inc. Rockland, MA; Order Modifying License (Effective Immediately)

I

Baker Testing Services, Inc. (Licensee) is the holder of Byproduct Material License No. 20–19067–01 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR part 34, which is currently due to expire on December 31, 1997. The license authorizes use of RTS Technology, Inc. (RTS) Model 702 radiography source assemblies for radiography operations.

II

RTS has reported to the Commission that several connector sleeves have broken. The cause is attributed by RTS to the hardness specification on the Model 702 radiography source assembly connector. A break in the connector sleeve could lead to an unintentional, and possibly undetected, disconnection of the drive cable from the source assembly. This disconnection could lead to the Licensee invoking emergency procedures to retrieve an unshielded, high activity radiography source. In the past, source disconnections have led to serious overexposures of workers and members of the public. RTS has reduced the hardness requirement for future connector sleeves. However, source assemblies manufactured prior to May 11, 1993, could have connector sleeves which are too hard.

III

Consequently, I lack the requisite reasonable assurance that Licensee's radiography operations using RTS Model 702 source assemblies with serial numbers lower than 1867 can be conducted in compliance with the Commission's requirements and that the health and safety of the public, including the Licensee's employees, will be protected. Therefore, the public health, safety, and interest require that the use of RTS Model 702 source assemblies with serial numbers lower than 1867 in radiography operations be prohibited. Furthermore, pursuant to 10 CFR 2.202, I find that the public health, safety, and interest require that this Order be effective immediately.

IV

Accordingly, pursuant to sections 81, 161b, 161c, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 34, *it is hereby ordered*, Effective immediately, that License No. 20–19067–01 is modified as follows:

A. Radiography operations involving RTS Model 702 source assemblies with serial numbers lower than 1867 are prohibited.

B. The licensee shall, within 20 days of the date of this order, file with the Director, Office of Nuclear Material Safety and Safeguards, at the address indicated below, a statement, in writing and under oath or affirmation, that radiography operations using RTS Model 702 source assemblies with serial numbers lower than 1867 ceased upon receipt of this order and shall state the date on which this order was received.

The Regional Administrator, Region I, may, in writing, relax or rescind the above condition upon demonstration by the Licensee of good cause.

V

In accordance with 10 CFR 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this order and set forth the matters of fact and law on which the Licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Services Section, Washington, DC 20555. Copies also shall be sent to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, Region I, U.S. Nuclear Regulatory Commission, 475 Allendale Road, King of Prussia, PA 19406, and to the Licensee if the answer or hearing request is by a person other than the Licensee. If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by the Licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such

hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), the Licensee, or any other person adversely affected by this Order, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. An answer or a request for hearing shall not stay the immediate effectiveness of this Order.

Dated at Rockville, Maryland this 20th day of May, 1993.

For the Nuclear Regulatory Commission.

Guy A. Arlotto,

Acting Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 93–12577 Filed 5–26–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 03022082; License No. 06–20794–01]

Cramer & Lindell Engineering, Inc., Niantic, CT; Order Modifying License (Effective Immediately)

I

Cramer & Lindell Engineering, Inc. (Licensee) is the holder of Byproduct Material License No. 06–20794–01 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR part 34, which is currently due to expire on September 30, 1995. The license authorizes use of RTS Technology, Inc. (RTS) Model 702 radiography source assemblies for radiography operations.

II

RTS has reported to the Commission that several connector sleeves have broken. The cause is attributed by RTS to the hardness specification on the Model 702 radiography source assembly connector. A break in the connector sleeve could lead to an unintentional, and possibly undetected, disconnection of the drive cable from the source assembly. This disconnection could lead to the Licensee invoking emergency procedures to retrieve an unshielded, high activity radiography source. In the past, source disconnections have led at times to serious overexposures of workers and members of the public. RTS has reduced the hardness requirement for future connector sleeves. However, source assemblies manufactured prior to May 11, 1993, could have connector sleeves which are too hard.

III

Consequently, I lack the requisite reasonable assurance that Licensee's radiography operations using RTS Model 702 source assemblies with serial numbers lower than 1867 can be conducted in compliance with the Commission's requirements and that the health and safety of the public, including the Licensee's employees, will be protected. Therefore, the public health, safety, and interest require that use of RTS Model 702 source assemblies with serial numbers lower than 1867 in radiography operations be prohibited. Furthermore, pursuant to 10 CFR 2.202, I find that the public health, safety, and interest require that this Order be effective immediately.

IV

Accordingly, pursuant to sections 81, 161b, 161c, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 34, it is hereby ordered, effective immediately, that license no. 06–20794–01 is modified as follows:

A. Radiography operations involving RTS Model 702 source assemblies with serial numbers lower than 1867 are prohibited.

B. The licensee shall, within 20 days of the date of this order, file with the Director, Office of Nuclear Material Safety and Safeguards, at the address indicated below, a statement, in writing and under oath or affirmation, that radiography operations using RTS Model 702 source assemblies with serial numbers lower than 1867 ceased upon receipt of this order and shall state the date on which this order was received.

The Regional Administrator, Region I, may, in writing, relax or rescind the above condition upon demonstration by the Licensee of good cause.

V

In accordance with 10 CFR 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this order and set forth the matters of fact and law on which the Licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Services Section, Washington, DC 20555. Copies also shall be sent to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, Region I, U.S. Nuclear Regulatory Commission, 475 Allendale Road, King of Prussia, PA 19406, and to the Licensee if the answer or hearing request is by a person other than the Licensee. If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by the Licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), the Licensee, or any other person adversely affected by this Order, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. An answer or a request for hearing shall not stay the immediate effectiveness of this Order.

Dated at Rockville, Maryland this 20th day of May, 1993.

For the Nuclear Regulatory Commission.

Guy A. Arlotto,

Acting Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 93–12584 Filed 5–26–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 03018576; License No. 22–24393–01]

Minnesota Valley Engineering, New Prague, NM, Order Modifying License (Effective Immediately)

I

Minnesota Valley Engineering (Licensee) is the holder of Byproduct Material License No. 22–24393–01 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR part 34, which is currently due to expire on March 31, 1995. The license authorizes use of RTS Technology, Inc. (RTS) Model 702 radiography source assemblies for radiography operations.

II

RTS has report to the Commission that several connector sleeves have broken. The cause is attributed by RTS to the hardness specification on the Model 702 radiography source assembly connector. A break in the connectors sleeve could lead to an unintentional, and possibly undetected, disconnection of the drive cable from the source assembly. This disconnection could lead to the Licensee invoking emergency procedures to retrieve and unshielded, high activity radiography source. In the past, source disconnections have led at times to serious overexposures for workers and members of the public. RTS has reduced the hardness requirement for future connector sleeves. However, source assemblies manufactured prior to May 11, 1993, could have connector sleeves which are too hard.

III

Consequently, I lack the requisite reasonable assurance that Licensee's radiography operations using RTS Model 702 source assemblies with serial numbers lower than 1867 can be conducted in compliance with the Commission's requirements and that the health and safety of the public, including the Licensee's employees, will be protected. Therefore, the public health, safety, and interest require that use of RTS Model 702 source assemblies with serial numbers loser than 1867 in radiography operations be prohibited. Furthermore, pursuant to 10 CFR 2.202, I find that the public health, safety, and interest require that this Order be effective immediately.

IV

Accordingly, pursuant to section 81, 161b, 161c, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 34, *It is Hereby Ordered*, effective immediately, that license no. 22–24393–01 is modified as follows:

A. Radiography operations involving RTS Model 702 source assemblies with serial numbers lower than 1867 are prohibited.

B. The licensee shall, within 20 days of the date of this order, file with the Director, Office of Nuclear Material Safety and Safeguards, at the address indicated below, a statement, in writing and under oath or affirmation, that radiography operations, using RTS Model 702 source assemblies with serial numbers lower than 1867 ceased upon receipt of this order and shall state the date on which this was received.

The Regional Administrator, Region III, may, in writing, relax or rescind the above condition upon demonstration by the Licensee of good cause.

V

In accordance with 10 CFR 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this order and set forth the matters of fact and law on which the Licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Services Section, Washington, DC 20555. Copies also shall be sent to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, Region III, U.S. Nuclear Regulatory Commission, 799 Roosevelt Road, Glen Ellyn, IL 60137, and to the Licensee if the answer or hearing request is by a person other than the Licensee. If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by the Licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), the Licensee, or any other person adversely affected by this Order, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. An answer or a request for hearing shall not stay the immediate effectiveness of this Order.

Dated at Rockville, Maryland this 20th day of May, 1993.

For the Nuclear Regulatory Commission.

Guy A. Arlotto,

Acting Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 93–12579 Filed 5–26–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 03030500 License No. 34–25898–01]

Sam-Son Inspection & Tech. Services, Inc., Canton, OH; Order Modifying License (Effective Immediately)

I

Sam-Son Inspection & Tech. Services, Inc. (Licensee) is the holder of Byproduct Material License No. 34–25898–01 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR part 34, which is currently due to expire on June 30, 1993. The license authorizes use of RTS Technology, Inc. (RTS) Model 702 radiography source assemblies for radiography operations.

II

RTS has reported to the Commission that several connector sleeves have broken. The cause is attributed by RTS to the hardness specification on the Model 702 radiography source assembly connector. A break in the connector sleeve could lead to an unintentional, and possibly undetected, disconnection of the drive cable from the source assembly. This disconnection could lead to the Licensee invoking emergency procedures to retrieve an unshielded, high activity radiography source. In the past, source disconnections have led at times to serious overexposures of

workers and members of the public. RTS has reduced the hardness requirement for future connector sleeves. However, source assemblies manufactured prior to May 11, 1993, could have connector sleeves which are too hard.

III

Consequently, I lack the requisite reasonable assurance that Licensee's radiography operations using RTS Model 702 source assemblies with serial numbers lower than 1867 can be conducted in compliance with the Commission's requirements and that the health and safety of the public health, including the Licensee's employees, will be protected. Therefore, the public health, safety, and interest require that use of RTS Model 702 source assemblies with serial numbers lower than 1867 in radiography operations be prohibited. Furthermore, pursuant to 10 CFR 2.202, I find that the public health, safety, and interest require that this Order be effective immediately.

IV

Accordingly, pursuant to sections 81, 161b, 161c,161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 34, *it is hereby ordered*, effective immediately, that license no. 34–25898–01 is modified as follows:

A. Radiography operations involving RTS Model 702 source assemblies with serial numbers lower than 1867 are prohibited.

B. The licensee shall, within 20 days of the date of this order, file with the Director, Office of Nuclear Material Safety and Safeguards, at the address indicated below, a statement, in writing and under oath or affirmation, that radiography operations using RTS Model 702 source assemblies with serial numbers lower than 1867 ceased upon receipt of this order and shall state the date on which this order was received.

The Regional Administrator, Region III, may, in writing, relax or rescind the above condition upon demonstration by the Licensee of good cause.

V

In accordance with 10 CFR 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and set forth the matters of fact and law on which the Licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Services Section, Washington, DC 20555. Copies also shall be sent to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, Region III, U.S. Nuclear Regulatory Commission, 799 Roosevelt Road, Glen Ellyn, IL 60137, and to the Licensee if the answer or hearing request is by a person other than the Licensee. If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by the Licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), the Licensee, or any other person adversely affected by this Order, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated at Rockville, Maryland this 20th day of May, 1993.

For the Nuclear Regulatory Commission.

Guy A. Arlotto,

Acting Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 93–12583 Filed 5–26–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 03031850; License No. 31–28562–01]

Trutom LTD., Latham, NY; Order Modifying License (Effective Immediately)

I

Trutom LTD. (Licensee) is the holder of Byproduct Material License No. 31–28562–01 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR part 34, which is currently due to expire on July 31, 1995. The license authorizes use of RTS Technology, Inc. (RTS) Model 702 radiography source assemblies for radiography operations.

II

RTS has reported to the Commission that several connector sleeves have broken. The cause is attributed by RTS to the hardness specification on the Model 702 radiography source assembly connector. A break in the connector sleeve could lead to an unintentional, and possibly undetected, disconnection of the drive cable from the source assembly. This disconnection could lead to the Licensee invoking emergency procedures to retrieve an unshielded, high activity radiography source. In the past, source disconnections have led at times to serious overexposures of workers and members of the public. RTS has reduced the hardness requirement for future connector sleeves. However, source assemblies manufactured prior to May 11, 1993, could have connector sleeves which are too hard.

III

Consequently, I lack the requisite reasonable assurance that Licensee's radiography operations using RTS Model 702 source assemblies with serial numbers lower than 1867 can be conducted in compliance with the Commission's requirements and that the health and safety of the public, including the Licensee's employees, will be protected. Therefore, the public health, safety, and interest require that use of RTS Model 702 source assemblies with serial numbers lower than 1867 in radiography operations be prohibited. Furthermore, pursuant to 10 CFR 2.202, I find that the public health, safety, and interest require that this Order be effective immediately.

IV

Accordingly, pursuant to sections 81, 161b, 161c, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR

part 34, *It is hereby ordered*, effective immediately, that license no. 31–28562–01 is modified as follows:

A. Radiography operations involving RTS Model 702 source assemblies with serial numbers lower than 1867 are prohibited.

B. The licensee shall, within 30 days of the date of this order, file with the Director, Office of Nuclear Material Safety and Safeguards, at the address indicated below, a statement, in writing and under oath or affirmation, that radiography operations using RTS Model 702 source assemblies with serial numbers lower than 1867 ceased upon receipt of this order and shall state the date on which this order was received.

The Regional Administrator, Region I, may, in writing, relax or rescind the above condition upon demonstration by the Licensee of good cause.

V

In accordance with 10 CFR 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this order and set forth the matters of fact and law on which the Licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Services Section, Washington, DC 20555. Copies also shall be sent to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearing and Enforcement at the same address, to the Regional Administrator, Region I, U.S. Nuclear Regulatory Commission, 475 Allendale Road, King of Prussia, PA 19406, and to the Licensee if the answer or hearing request is by a person other than the Licensee. If a person other than the Licensee requests a hearing, the person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If hearing is requested by the Licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), the Licensee, or any other person adversely affected by this Order, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. An answer or a request for hearing shall not stay the immediate effectiveness of this Order.

Dated at Rockville, Maryland this 20th day of May, 1993.

For the Nuclear Regulatory Commission.

Guy A. Arlotto,

Acting Director, Office of Nuclear Material Safety and Safeguard.

[FR Doc. 93–12580 Filed 5–26–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–445 and 50–446]

TU Electric Company; Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF–87 and NPF–89 issued to TU Electric Company (the licensee) for operation of the Comanche Peak Steam Electric Station, Units 1 and 2, located in Somervell County, Texas.

The proposed amendment would revise the Unit 1 and Unit 2 Technical Specifications (TSs) to extend the temporary removal of operability requirements for the Boron Dilution Mitigation System (BDMS). The TSs currently require the BDMS to be operable on June 25, 1993, for Unit 1 and on September 24, 1993, for Unit 2. Under the proposed amendment the BDMS would not be required to be operable for both units until criticality for cycle 4 on Unit 1, currently scheduled for December 1993.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

This change is an extension of the temporary requirements presently authorized by the existing Technical Specifications. As such, this extension cannot increase the consequences of an accident previously evaluated. Likewise, the extension will not increase the probability of an accident because the BDMS is a mitigation system and does not contribute to events that initiate any accidents previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any other previously evaluated.

Since there are no hardware or operational changes resulting from this extension, the changes do not create the possibility of a new or different kind of accident.

3. The proposed changes do not involve a significant reduction in a margin of safety.

The margin of safety will be changed based on the fact that under the present Technical Specifications the BDMS would be operable sooner. In lieu of the BDMS, the licensee has established compensatory measures that rely upon isolating the potential boron dilution paths when in modes 3, 4, or 5, or increase operator awareness and monitoring. On the basis of these compensatory measures, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the

amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room P–223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC 20555.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By June 28, 1993, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the University of Texas at Arlington Library, Government Publications/Maps, 701 South Cooper, P.O. Box 19497, Arlington, Texas 76019. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Suzanne C. Black: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General

Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to George L. Edgar, Esq., Newman and Holtzinger, 1615 L Street, NW., Suite 1000, Washington, DC 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated May 14, 1993, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the University of Texas at Arlington Library, Government Publications/Maps, 701 South Cooper, P.O. Box 19497, Arlington, Texas 76019.

Dated at Rockville, Maryland, this 21st day of May 1993.

For the Nuclear Regulatory Commission.

Thomas A. Bergman,

Project Manager, Project Directorate IV-2, Division of Reactor Projects III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 93-12575 Filed 5-26-93; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 03004983; License No. 22-01376-02]

Twin City Testing Corp., St. Paul, MN; Order Modifying License (Effective Immediately)

I

Twin City Testing Corporation (Licensee) is the holder of Byproduct Material License No. 22-01376-02 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR part 34, which is currently due to expire on October 31. 1995. The license authorizes use of RTS Technology, Inc. (RTS) Model 702 radiography source assemblies for radiography operations.

II

RTS has reported to the Commission that several connector sleeves have broken. The cause is attributed by RTS to the hardness specification on the Model 702 radiography source assembly connector. A break in the connector sleeve could lead to an unintentional, and possibly undetected, disconnection of the drive cable from the source assembly. This disconnection could lead to the Licensee invoking emergency procedures to retrieve an unshielded, high activity radiography source. In the past, source disconnections have led at times to serious overexposures of workers and members of the public. RTS has reduced the hardness requirement for further connector sleeves. However, source assemblies manufactured prior to May 11, 1993, could have connector sleeves which are too hard.

Consequently, I lack the requisite reasonable assurance that Licensee's radiography operations using RTS Model 702 source assemblies with serial numbers lower than 1867 can be conducted in compliance with the Commission's requirements and that the health and safety of the public, including the Licensee's employees, will be protected. Therefore, the public health, safety, and interest require that use of RTS Model 702 source assemblies with serial numbers lower than 1867 in radiography operations be prohibited. Furthermore, pursuant to 10 CFR 2.202, I find that the public health, safety, and interest require that this Order be effective immediately.

IV

Accordingly, pursuant to sections 81, 161b, 161c, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 34, *it is hereby ordered*, effective immediately that license no. 22-01376-02 is modified as follows:

A. Radiography operations involving RTS Model 702 source assemblies with serial numbers lower than 1867 are prohibited.

B. The Licensee shall, within 20 days of the date of this order, file with the Director, Office of Nuclear Material Safety and Safeguards, at the address indicated below, a statement, in writing and under oath or affirmation, that radiography operations using RTS Model 702 source assemblies with serial numbers lower than 1867 ceased upon receipt of this order and shall state the date on which this order was received.

The Regional Administrator, Region III, may, in writing, relax or rescind the above condition upon demonstration by the Licensee of food cause.

V

In accordance with 10 CFR 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this order and set forth the matters of fact and law on which the Licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Services Section, Washington, DC 20555. Copies also shall be sent to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, Region III, U.S. Nuclear Regulatory Commission, 799 Roosevelt Road, Glen Ellyn, IL 60137, and to the Licensee if the answer or hearing request is by a person other than the Licensee. If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by the Licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), the Licensee, or any other person adversely affected by this Order, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. An answer for a request for hearing shall not stay the immediate effectiveness of this order.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland this 20th day of May, 1993.

Guy A. Arlotto,

Acting Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 93–12582 Filed 5–26–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 03011420; License No. 28.14847–02]

Venegas Industrial Testing Laboratory, Nashua, NH; Order Modifying License (Effective Immediately)

I

Venegas Industrial Testing Laboratory (Licensee) is the holder of Byproduct Material License No. 28–14847–02 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR part 34, which was due to expire on July 31, 1992, and is under timely renewal. The license authorizes use of RTS Technology, Inc. (RTS) Model 702 radiography source assemblies for radiography operations.

II

RTS has reported to the Commission that several connector sleeves have broken. The cause is attributed by RTS to the hardness specification on the Model 702 radiography source assembly connector. A break in the connector sleeve could lead to an unintentional, and possibly undetected, disconnection of the drive cable from the source assembly. This disconnection could lead to the Licensee invoking emergency procedures to retrieve an unshielded, high activity radiography source. In the past, source disconnections have led at ties to serious overexposures of workers and members of the public. RTS has reduced the hardness requirement for future connector sleeves. However, source assemblies manufactured prior to May 11, 1993, could have connector sleeves which are too hard.

III

Consequently, I lack the requisite reasonable assurance that Licensee's radiography operations using RTS Model 702 source assemblies with serial numbers lower than 1867 can be conducted in compliance with the Commission's requirements and that the health and safety of the public, including the Licensee's employees, will be protected. Therefore, the public health, safety, and interest require that use of RTS Model 702 source assemblies with serial numbers lower than 1867 in radiography operations be prohibited. Furthermore, pursuant to 10 CFR 2.202, I find that the public health, safety, and interest require that this Order be effective immediately.

IV

Accordingly, pursuant to sections 81, 161b, 161c, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 34, *It is hereby ordered*, effective immediately, that license no. 28–14847–02 is modified as follows:

A. Radiography operations involving RTS Model 702 source assemblies with serial numbers lower than 1867 are prohibited.

B. The Licensee shall, within 20 days of the date of this order, file with the Director, Office of Nuclear Material Safety and Safeguards, at the address indicated below, a statement, in writing and under oath or affirmation, that Radiography Operations using RTS Model 702 source assemblies with serial numbers lower than 1867 ceased upon receipt of this order and shall state the date on which this order was received.

The Regional Administrator, Region I, may, in writing, relax or rescind the above condition upon demonstration by the Licensee of good cause.

V

In accordance with 10 CFR 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this order and set forth the matters of fact and law on which the Licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Services Section, Washington, DC 20555. Copies also shall be sent to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, Region I, U.S. Nuclear Regulatory Commission, 475 Allendale Road, King of Prussia, PA 19406, and to the Licensee if the answer or hearing request is by a person other than the Licensee. If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by the Licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), the Licensee, or any other person adversely affected by this Order, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated at Rockville, Maryland this 20th day of May, 1993.

For the Nuclear Regulatory Commission.

Guy A. Arlotto,

Acting Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 93–12581 Filed 5–26–93; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Financial Accounting Principles and Standards

AGENCY: Office of Management and Budget.

ACTION: Final New OMB Circular A–134.

SUMMARY: New Office of Management and Budget (OMB) Circular A–134, "Financial Accounting Principles and Standards," establishes the policies and procedures for approving and publishing financial accounting principles and standards.

FOR FURTHER INFORMATION CONTACT: Ronald Longo, Financial Standards and Reporting Branch, Office of Federal Financial Management, Office of Management and Budget, room 10235, New Executive Office Building, Washington, DC 20503 (telephone 202–395–3993).

SUPPLEMENTARY INFORMATION: On January 21, 1993, OMB published (58

FR 5440) a proposed new circular for public and agency comments. OMB proposed to issue Statements of Federal Financial Accounting Standards (SFFAS), that would be considered generally accepted accounting principles for Federal agencies, and described the process OMB would follow. Only two comments were received; both were from Federal agencies. OMB made three changes in response to these comments. A discussion of the comments and changes made follows.

Regarding Section 4, Definitions, one commenter recommended that a definition of "accounting principles" be added for clarity. Instead, OMB changed definition 4b, "Accounting standards," to read "Accounting standards or principles." A second commenter believes that accounting standards should provide broad guidelines of general application, not detailed practices and procedures. In response, OMB changed the last sentence in definition 4b to read "Accounting standards include broad guidelines of general application and may also include detailed practices and procedures."

Regarding definition 4c, "Interpretation of Federal Financial Accounting Standards," one commenter suggested that OMB may wish to create a separate series of guidance for OMB interpretations prior to the adoption of standards recommended by the Federal Accounting Standards Advisory Board (FASAB). OMB will not be creating a separate series but will continue to use existing vehicles to communicate OMB guidance. One commenter questioned if FASAB or other Principals were to be involved in OMB's issuance of interpretations. OMB plans to consult, as needed, with others before issuing an interpretation.

Regarding Section 5, Policy, one commenter, concerned about due process, recommended that SFFAS be issued only for FASAB recommended standards. In response, in paragraph 5a, OMB agrees and deleted "or any other statement" after "recommended statement" in the second sentence. Also, for clarity, OMB further revised the opening clause in that sentence to read "If a recommended statement of accounting principles or standards." This commenter also was concerned about the form of any interim OMB guidance prior to the adoption of FASAB recommended standards. OMB will continue to use existing vehicles to communicate OMB guidance, such as OMB bulletins on form and content of annual financial statements.

One commenter questioned if technical assistance responses would be published. OMB intends from time to time to publish those of general applicability but not those limited to a particular case or circumstance. This commenter, concerned about due process, also questioned the standing of such technical assistance. In the hierarchy of authoritative guidance, technical assistance guidance does not have the same standing as standards.

One commenter posed various questions about FASAB, including the process for initiating areas for its development of standards, its procedures, and the approval process for its standards. These questions are addressed in the October 1990 Memorandum of Understanding that established FASAB, FASAB's Mission Statement, and FASAB's Rules of Procedure. This commenter suggested the inclusion of some of this information and other information, such as a listing of FASAB members, in the OMB circular. OMB will not be adding any of this information but it is available from FASAB. FASAB also lists members involved in each of its recommended standards.

One commenter questioned if OMB will forward to the other Principals FASAB recommended standards with which it disagrees. Consistent with the October 1990 Memorandum of Understanding that established FASAB, OMB will not.

One commenter questioned the applicability of SFFAS to federally-owned corporations. This commenter also questioned if financial statements from federally-owned corporations will be consolidated into the statements of executive agencies. OMB is unable to answer either question at this time. At present, OMB is focusing on standards for executive agencies and FASAB is studying the consolidation question.

Lastly, one commenter asked if there were established timeframes for approval or disapproval of FASAB recommended standards or OMB issuance of interpretations. There are none.

Jack Arthur,

Assistant Director for Administration.

To the Heads of Executive Departments and Agencies:

Subject: Financial Accounting Principles and Standards:

1. *Purpose.* This Circular establishes the policies and procedures for approving and publishing financial accounting principles and standards. It also establishes the policies to be followed by Executive Branch agencies and OMB in seeking and providing interpretations and other advice related to the standards.

2. *Background.* The Secretary of the Treasury, the Director of the Office of Management and Budget (OMB), and the Comptroller General of the United States ("the Principals") established the Federal Accounting Standards Advisory Board (FASAB) in October 1990 by a memorandum of understanding (MOU). The role of FASAB is to deliberate upon and make recommendations to the Principals on accounting principles and standards for the Federal Government and its agencies. The MOU states that if the Principals agree with the recommendations, the Comptroller General and the Director of OMB will publish the accounting principles and standards.

3. *Coverage.* The provisions of this Circular apply to all Executive Branch departments and agencies.

4. *Definitions.* As used in this Circular:

a. *Executive agency* ("agency") means any executive branch department, independent commission, board, bureau, office, agency, or other establishment of the Federal Government, including independent regulatory commissions and boards. It does not include federally-owned or controlled corporations that are preparing financial statements in accordance with generally accepted accounting principles promulgated by the Financial Accounting Standards Board, or the legislative or judicial branches of the Federal Government.

b. *Accounting standards or principles* are those conventions, rules, and procedures necessary to define acceptable accounting practice at a particular time. Accounting standards include broad guidelines of general application and may also include detailed practices and procedures.

c. *Interpretation of Federal Financial Accounting Standards* is a document of narrow scope that provides clarifications of original meaning, additional definitions, or other guidance pertaining to an existing Statement of Federal Financial Accounting Standards (SFFAS).

5. *Policy*—a. *FASAB Recommendations.* The Director of OMB will review each statement of accounting principles, standards, or concepts recommended by FASAB and decide upon the appropriateness of the statement and its desirability for the Federal Government. If a recommended statement of accounting principles or standards is agreed to by the Director, the Secretary of the Treasury, and the Comptroller General, the Director will issue a SFFAS, signed by the Director.

Each SFFAS, or a notice of its availability, will be published in the **Federal Register** and distributed throughout the Federal Government.

b. *Status of the SFFASs.* SFFASs shall be considered generally accepted accounting principles (GAAP) for Federal agencies. Agencies shall apply the SFFASs in preparing financial statements in accordance with the requirements of the Chief Financial Officers Act of 1990. Auditors shall consider SFFASs as authoritative references when auditing financial statements.

c. *Interpretations of the SFFASs.* Agencies and individuals desiring guidance relative to the standards shall request such guidance from OMB, to the attention of the Office of Federal Financial Management. OMB will respond to the request by providing technical assistance, unless it decides that the response should be an Interpretation of Federal Financial Accounting Standards. In that event, OMB will provide written copies of the request to the Comptroller General and the Secretary of the Treasury; examine, as appropriate, applicable literature and consult with knowledgeable persons; draft an Interpretation of Federal Financial Accounting Standards; consistent with the intent of the MOU, obtain the consensus of Treasury and GAO on the interpretation; and publish the Interpretation of Federal Financial Accounting Standards.

Interpretations of Federal Financial Accounting Standards will be signed by the Director or Deputy Director for Management, acting in the capacity of chief official responsible for financial management in the United States Government. Also, the Comptroller General and Secretary of the Treasury may publish a response.

d. *Applicability to Budget Execution.* The SFFASs shall have no effect on the manner in which agencies budget for, monitor and control the expenditure of budgetary resources. Those requirements are defined in OMB Circulars A–11 and A–34 and other OMB documents.

e. *Other Directives.* OMB may, from time to time, issue other instructions to the agencies regarding accounting and/or financial reporting.

6. *Inquiries.* For information concerning this Circular, contact the Financial Standards and Reporting Branch, OFFM, telephone 202–395–3993.

Leon E. Panetta,

Director.

[FR Doc. 93–12527 Filed 5–26–93; 8:45 am]

BILLING CODE 3110–01–M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Columbia River Basin Fish and Wildlife Program (Measures for Resident Fish and Wildlife); Proposed Amendments

May 21, 1993.

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of proposed amendments to the Columbia River Basin Fish and Wildlife Program (measures for resident fish and wildlife).

SUMMARY: Pursuant to the Pacific Electric Power Planning and Conservation Act (the Northwest Power Act, 16 U.S.C. 839, et seq.) the Pacific Northwest Electric Power and Conservation Planning Council (Council) has proposed amendments to the Columbia River Basin Fish and Wildlife Program (program). The amendments propose major changes to the resident fish and wildlife provisions of the program. Copies of the proposed amendments are now available, and comments are solicited.

BACKGROUND: The Council is in the fourth phase of a process to amend the Columbia River Basin Fish and Wildlife Program (program). In phases one through three, the Council adopted amendments regarding anadromous fish. The Council is now initiating phase four, by proposing a series of further amendments to the program's resident fish and wildlife provisions, to be circulated for public comment.

OPPORTUNITY FOR COMMENT: The Council will receive written comment on the proposed amendments through 5 p.m. Pacific time, August 13, 1993. Comments should be clearly marked "Salmon Amendment Comments," and submitted to the Council's Public Affairs Division, 851 SW. Sixth Avenue, suite 1100, Portland, Oregon 97204. After the close of comment, the Council may initiate further consultations, or reopen the record for further written comments.

HEARINGS: Hearings will be held on the proposed amendments as follows:

June 9—Red Lion Inn, Bellevue, WA, 3 p.m. and 6:30 p.m.
June 17—Red Lion-Village Inn, Missoula, MT 3 p.m.
June 23—Hampton Inn, Spokane, WA, 3 p.m. and 6:30 p.m.
June 28—Owyhee Plaza Hotel, Boise, ID, 3 p.m. and 7 p.m.
July 8—Schoolhouse, Jackson, MT, 3 p.m.
July 13—Ramada Inn, Lewiston, ID, 7 p.m.
July 14—Shilo Inn, Idaho Falls, ID, 7 p.m.
July 27—Red Lion Inn, Kelso/Longview, WA, 3 p.m.
July 28—Council central offices, Portland, OR, 3 p.m.
August 9—Red Lion Inn, Yakima, WA, 2 p.m.
August 11—Hood River Inn, Hood River, OR, 3 p.m.

Please contact the Council's Public Affairs Division to reserve a time to testify. Witnesses should be prepared to summarize briefly, rather than read, any written statement they wish to enter into the record.

FOR FURTHER INFORMATION: For copies of the proposed amendments (request document no. 93–5), contact the Council's Public Affairs Division, 851 SW Sixth Avenue, suite 1100, Portland, Oregon 97204 or (503) 222–5161, toll free 1–800–222–3355.

Edward W. Sheets,

Executive Director.

[FR Doc. 93–12635 Filed 5–26–93; 8:45 am]

BILLING CODE 0000–00–M

RESOLUTION TRUST CORPORATION

Coastal Barrier Improvement Act; Property Availability; South Dade Agro Property, Dade County, FL

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as the South Dade Agro property, located in Dade County, Florida, is affected by section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer of the property may be mailed or faxed to the RTC until August 25, 1993.

ADDRESSES: Copies of detailed descriptions of the property, including maps, can be obtained from or are available for inspection by contacting the following person: Mr. Daniel H. Hummer, Resolution Trust Corporation, Atlanta Field Office, 245 Peachtree Center Avenue, NE., Marquis 1 Tower, Suite, 1100, Atlanta, GA 30303, (404) 230–6594; Fax (404) 230–6696.

SUPPLEMENTARY INFORMATION: The South Dade Agro property is located on SW. 216th Street at about SW. 237th Avenue, Dade County, Florida. The property contains wetlands, habitat for federally listed endangered species, and is adjacent to Everglades National Park.

The property is covered property within the meaning of section 10 of the Coastal Barrier Improvement Act of 1990, P.L. 101–591 (12 U.S.C. 1441a–3).

Characteristics of the property include: The South Dade Agro property consists of approximately 247 acres of undeveloped land located in the East Everglades portion of Dade County on the south side of SW. 216th Street (Hainlin Mill Drive). The property is within the expansion boundaries of Everglades National Park and contains designated Critical Habitat for the federally endangered Cape Sable seaside sparrow. Approximately 20 percent of the property is wetland, primarily the western portion, with the remainder of the property consisting of sawgrass vegetation.

Property size: Approximately 247 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before August 25, 1993 by the Resolution Trust Corporation at the address stated above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;
2. Agencies or entities of State or local government; and
3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest to purchase or effect other transfer of the property must be submitted by August 25, 1993 to Mr. Daniel H. Hummer at the above **ADDRESSES** and in the following form:

NOTICE OF SERIOUS INTEREST

RE: South Dade Agro Property

Federal Register Publication Date: May 27, 1993.

1. Entity name.
2. Declaration of eligibility to submit Notice under criteria set forth in Coastal Barrier Improvement Act of 1990, Public Law 101–591, Section 10(b)(2), (12 U.S.C. 1441a–3(b)(2)).
3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).
4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.
5. Authorized Representative (Name/Address/Telephone/Fax).

Dated: May 21, 1993.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Secretary.

[FR Doc. 93–12574 Filed 5–26–93; 8:45 am]

BILLING CODE 6714–01–M

Coastal Barrier Improvement Act; Property Availability; Sunset Hammock, Monroe County, FL

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as Sunset Hammock, located on Key Largo, Monroe County, Florida, is affected by Section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer of the property may be mailed or faxed to the RTC until August 25, 1993.

ADDRESSES: Copies of detailed descriptions of the property, including maps, can be obtained from or are available for inspection by contacting the following person: Mr. Daniel H. Hummer, Resolution Trust Corporation, Atlanta Field Office, 245 Peachtree Center Avenue, NE., Marquis 1 Tower, suite 1100, Atlanta, GA. 30303, (404) 230–6594; Fax (404) 230–6696.

SUPPLEMENTARY INFORMATION: The Sunset Hammock property is located at 94200 Overseas Highway (U.S. 1), Key Largo, Florida. The property contains wetlands, habitat for federally listed endangered species, and is located within the Tavernier Key and Snake Creek unit (FL–39) of the Coastal Barrier Resources System. The property is covered property within the meaning of Section 10 of the Coastal Barrier Improvement Act of 1990, Public Law 101–591 (12 U.S.C. 1441a–3).

Characteristics of the property include: The Sunset Hammock property consists of approximately 4.3 acres, about 1 acre of which is submerged on the Florida Bay side of Key Largo. The site is partially wooded with natural vegetation and trees along with mangroves at the shoreline. The property is irregular in shape, generally level with a downward slope towards the shoreline, and located within a Flood Hazard Zone.

Property size: Approximately 4.3 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before August 25, 1993 by the Resolution Trust Corporation at the address stated above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal Government;
2. Agencies or entities of State or local government; and
3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest to purchase or effect other transfer of the property must be submitted by August 25, 1993 to Mr. Daniel H. Hummer at the above **ADDRESSES** and in the following form:

NOTICE OF SERIOUS INTEREST

RE: Sunset Hammock

Federal Register Publication Date: May 27, 1993

1. Entity name.
2. Declaration of eligibility to submit Notice under criteria set forth in Coastal Barrier Improvement Act of 1990, Public Law 101–591, Section 10(b)(2), (12 U.S.C. 1441a–3(b)(2)).
3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).
4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.
5. Authorized Representative (Name/Address/Telephone/Fax).

Dated: May 21, 1993.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Secretary.

[FR Doc. 93–12573 Filed 5–26–93; 8:45 am]

BILLING CODE 6714–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–32343; File No. SR–AMEX–92–42]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Filing of Amendment No. 1 to and Order Granting Accelerated Approval of a Proposed Rule Change Relating to the Listing and Trading of Equity Linked Securities

May 20, 1993.

On November 25, 1992, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade Equity Linked Term Notes ("ELNs"), hybrid instruments whose value will be linked to the performance of a highly capitalized, actively traded common stock. On April 7, 1993, the Amex filed Amendment No. 1 to the

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1991).

proposal.[3] This order approves the proposal.

Notice of the proposed rule change was published for comment and appeared in the **Federal Register** on December 30, 1992.[4] No comments were received on the proposal.

Under Section 107 (Other Securities) of the Amex Company Guide, the Exchange may approve for listing securities which can not be readily categorized under the listing criteria for common and preferred stocks, bonds, debentures, and warrants.[5] The Amex is now proposing to amend Section 107 to provide additional criteria governing the listing of ELNs, which are intermediate-term (i.e., 2–7 years) non-convertible hybrid instruments whose value will be linked to the performance of a highly-capitalized, actively traded common stock.

An issuer of ELNs may provide for periodic interest payments to holders, whether based on a fixed or floating rate.[6] Furthermore, a particular issuance of ELNs may also be subject to a "cap" on the maximum principal amount to be repaid to holders upon maturity of the ELN, and, additionally, may feature a "floor" on the minimum principal amount to be repaid to holders upon maturity of the ELN. For example, a specific issue of ELNs may provide for fixed semi-annual interest payments to holders while capping the maximum amount to be repaid upon maturity at 135% of the issuance price, with no minimum floor guarantee on the principal to be repaid. On the other hand, an issue of ELNs may offer somewhat lower annual payments based upon a floating rate, with a minimum floor principal repayment guarantee of 75% of the issuance price. According to the Amex, the listing flexibility available to an issuer of ELNs will permit the creation of securities which will offer investors the opportunity to more precisely focus on a specific investment strategy.

ELNs will conform to the listing guidelines under Section 107, which provide that (1) issues must have a minimum public distribution of one million trading units with a minimum of 400 holders, an aggregate market value of $20 million, and, where applicable, cash settlement in U.S. dollars and a redemption price of at least $3; and (2) the issuers of such securities must have assets of $100 million, stockholders' equity of $10 million, and pre-tax income of at least $750,000 in the last fiscal year or in two of the three prior fiscal years.[7]

Although the Exchange does not believe that ELNs will have any discernible impact on the trading market for the underlying linked stock, it nevertheless proposes that: (1) Each issuer have a minimum tangible net worth of $150 million; (2) each underlying linked stock must have a minimum market capitalization of $3 billion; (3) the trading volume of the linked stock (in all markets in which the underlying security is traded) must have been at least 2.5 million shares in the 12-month period preceding the listing of the ELNs; and (4) the issuance of ELNs relating to an underlying (linked) stock may not exceed 5% of the total outstanding shares of such stock.

Because ELNs are linked to another security, the Exchange has proposed safeguards that are designed to meet the investor protection concerns raised by the trading of ELNs. First, pursuant to Amex Rule 411, the Exchange will impose a duty of due diligence on its members and member firms to learn the essential facts relating to every customer prior to trading ELNs.[8] Second, consistent with Amex Rule 411, the Exchange will further require that a member or member firm specifically approve a customer's account for trading ELNs prior to, or promptly after, the completion of the transaction. Third, in accordance with the Hybrid Products Approval Order, the Exchange will prior to trading ELNs, distribute a circular to its membership providing guidance regarding member firm compliance responsibilities (including suitability recommendations) when handling transactions in ELNs.[9]

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5). Specifically, the Commission believes that providing for the exchange-trading of ELNs will offer a new and innovative means of participating in the securities markets. In particular, the Commission believes that the availability of ELNs will permit investors to more closely approximate their desired investment objectives through, for example, shifting some of the opportunity for upside gain in return for additional income.[10] Accordingly, the Commission has concluded that the Amex listing standards applicable to ELNs are consistent with the Act.

Although ELNs are not leveraged instruments, and, therefore, do not possess any of the attributes of equity options, their price will still be derived and based upon the underlying linked stock. In essence, the Commission believes that ELNs are hybrid securities whose rates of return are priced off of an underlying linked stock. Accordingly, the level of risk involved in the purchase or sale of an ELN is similar to the risk involved in the purchase or sale of traditional common stock. Nonetheless, the Commission has several specific concerns regarding the trading of these securities.

The Commission notes that the Exchange's rules and procedures that address the special concerns attendant to the trading of hybrid securities will be applicable to ELNs. In particular, by imposing the hybrid listing standards, suitability, disclosure, and compliance requirements noted above, the Exchange

[3] In Amendment No. 1, the Amex proposes to require: (1) The application of the listing guidelines under Section 107 of the Company Guide to both ELNs issues and issuers; (2) that issuers of ELNs have a minimum tangible net worth of $150 million; (3) that the total original issue price of the particular ELN combined with all of the issuer's other ELNs listed on a national securities exchange or traded through the National Association of Securities Dealers, Inc. ("NASD") Automated Quotation ("NASDAQ") system not be greater than 25% of the issuer's tangible net worth at the time of issurance; (4) that the issuer of the underlying stock is a U.S. reporting company under the Act which is listed on a national securities exchange or traded through the facilities of a national securities system, and subject to last sale reporting; and (5) that ELNs will be treated as equity instruments for, among other purposes, margin treatment. See letter from Benjamin D. Krause, Senior Vice President, Capital Markets Group, Amex, to Sharon Lawson, Assistant Director, Division of Market Regulation ("Division"), SEC, dated April 7, 1993.

[4] See Securities Exchange Act Release No. 31628 (December 21, 1992), 57 FR 62398.

[5] See Securities Exchange Act Release No. 27753 (March 1, 1990), 55 FR 8626 ("Hybrid Products Approval Order").

[6] The Exchange agrees to notify the Commission if an issuer of ELNs provides for periodic interest payments to holders based on a floating rate. Telephone conversation between Benjamin D. Krause, Senior Vice President, Capital Markets Group, Amex, and Richard Zack, Branch Chief, Division, SEC, May 19, 1993.

[7] Issuers not meeting these financial criteria must have assets in excess of $200 million and stockholders' equity of $10 million, or, alternatively, assets in excess of $100 million and stockholders' equity of $20 million.

[8] Amex Rule 411 requires that every member, member firm or member corporation use due diligence to learn the essential facts relative to every customer and to every order or amount accepted.

[9] The Commission notes that ELNs are subject to the equity margin rules of the Exchange.

[10] Pursuant to section 6(b)(5) of the Act the Commission must predicate approval of exchange trading for new products upon a finding that the introduction of the product is in the public interest. Such a finding would be difficult with respect to a product that served no investment, hedging or other economic function, because any benefits that might be derived by market participants would likely be outweighted by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns.

has addressed adequately the potential public customer problems that could arise from the hybrid nature of ELNs. Moreover, the exchange plans to distribute a circular to its membership calling attention to the specific risks associated with ELNs and, pursuant to the Exchange's listing guidelines, only substantial companies capable of meeting their obligations will be eligible to issue ELNs. In addition, the listing requirements ensure that ELNs can only be linked to highly capitalized, actively traded common stocks.

The Commission realizes that ELNs do not contain a clearinghouse guarantee (as in the case of a standardized option) but are instead dependent upon the individual credit of the issuer. This heightens the possibility that a purchaser of ELNs may not be able to receive full principal cash payment upon maturity. To some extent this risk is minimized by the ELN listing standards that require issuers to have a tangible net worth of $150 million, in conjunction with the hybrid listing standards, which require issuers to possess at least $100 million in assets and stockholders' equity of at least $10 million. In any event, financial information regarding the issuer of the linked security will be publicly available.[11]

There is a systemic concern, however, that broker-dealers or broker-dealer subsidiaries issuing ELNs or providing a hedge for the issuer will incur position exposure. This position exposure, if left partially hedged or dynamically hedged, could not only create a risk of non-performance but add a systemic risk in that the broker-dealer will have to hedge the position to minimize losses should the market turn against it. However, the ELN issuances are expected to be small in relation to the broker-dealer issuer's (or underwriter's) total net worth as not to raise significant concerns.[12]

Nevertheless, the Exchange should continue to monitor this area.

The Commission believes that the listing and trading of ELNs should not adversely impact the market for the underlying linked stock. First, as described above, the underlying linked common stock must have a minimum capitalization of $3 billion, and, during the twelve months preceding listing, must have traded at least 2.5 million shares. Second, the issuer of the linked common stock must be a U.S. corporation, subject to reporting requirements under the Act, and the linked common stock be traded on a national securities exchange (or traded through the facilities of a national securities system) subject to last-sale reporting.[13] Third, a particular ELNs issuance may not exceed 5% of the total number of outstanding common shares of the linked stock. Finally, although ELNs are linked to the price of common stock, they are not convertible into the linked security at any time. Accordingly, the Commission believes that ELNs do not contain features that will make them likely to impact adversely the market for the linked common stock. The Commission is satisfied that these requirements should adequately ensure liquidity in the market for ELNs, while not reducing the liquidity of the underlying linked common stock.

The Commission finds good cause for approving Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. First, the Amendment provides for additional listing standards that are specifically tailored to ELNs focusing on minimum financial guidelines for the issuer of an ELN and the underlying linked stock, i.e., issuer net worth standards, and, capitalization and trading volume requirements for the underlying linked stock. The Commission believes that these additional listing standards for ELNs strengthen the integrity of the security and will promote stability in the marketplace. Moreover, the Commission finds that these additional listing standards are designed to reduce the likelihood and susceptibility of ELNs to manipulation. Second, the amendment limits the percentage of an issuer's capital that can be at risk in connection with the listing of ELNs. The Commission believes that this amendment serves to promote market integrity and financial stability by restricting the amount of a particular issuer's capital that may be at risk in connection with ELNs, and does not raise any new or unique regulatory issues. Third, the amendment requires the issuer of the underlying linked stock be a reporting company under the Act and either be listed on a national securities exchange or traded through the facilities of a national securities system subject to last sale reporting. The Commission believes that these requirements which ensure that there is publicly available information on both the issuer of the underlying linked stock and the trading market for the underlying linked stock are essential for the protection of investors and the public interest. Finally, the Commission did not receive any comments on the original proposal which was noticed for the full statutory comment period. Based on the above, the Commission believes it is consistent with sections 6(b)(5) and 19(b)(2) of the Act to approve Amendment No. 1 to the Amex's proposal on an accelerated basis.

Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 1 to the exchange's proposal. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–92–42 and should be submitted by June 17, 1993.

[11] In addition, the issuer of the underlying linked stock is required to be a reporting company under the Act. The Commission believes this requirement coupled with the prospectus disclosure rules in the Securities Act of 1933 will provide adequate disclosure to investors concerning the financial condition of both the issuers of ELNs and the issuers of the underlying linked stocks.

The Commission expects, and the Exchange has agreed, to provide a draft of the ELNs information circular for the Commission's review prior to its dissemination to members. Telephone conversation between Benjamin D. Krause, Senior Vice President, Capital Markets Group, Amex, and Richard Zack, Branch Chief, Division, SEC, May 19, 1993.

[12] We also note that because ELNs cannot be linked to more than 5% of the total outstanding shares of the underlying stock, and the listing criteria requires that the underlying stock linked to an ELN be highly capitalized ($3 billion) and actively traded, we would not expect that such hedging activity should have a substantial impact on the market for the underlying security. See discussion *infra*.

[13] This precludes the issuance of ELNs overlying American Depositary Receipts ("ADRs"), whether sponsored or unsponsored, and the need for surveillance sharing agreements between the relevant foreign and domestic exchange. The Commission, however, would be willing to reexamine this issue at a later date if justified by the subsequent trading experience in ELNs and if sufficient safeguards were in place to ensure pricing integrity in both the ELN and underlying linked ADR.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[14] that the proposed rule change (SR–AMEX–92–42) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–12516 Filed 5–26–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–32349; File No. SR–NASD–93–31]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to Commission Review of NASD Determinations to Nullify Clearly Erroneous Trades

May 21, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on May 11, 1993, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I and II below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing an amendment to section 70 of the Uniform Practice Code ("UPC"), entitled "Authority to Declare Transactions Void," to eliminate the language stating that decisions pursuant to section 70 are reviewable by the Commission under section 19(d)(2) of the Act.[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In April 1990, the SEC approved an NASD proposal to add section 70 to the UPC to permit the Association to declare clearly erroneous transactions null and void if they arise out of the use or operation of any automated quotation, execution, or communication system owned or operated by the NASD.[3] Previously, the NASD had no authority to cancel a transaction, even if one or more terms of the transaction clearly was in error. For example, one of the catalysts for adopting section 70 was that a member had complained that a trade executed over the NASD's Order Conformation Transaction System was ten points away from the inside quotation, clearly an error, but the contra party refused to cancel the trade. With the adoption of section 70, the NASD now has the ability to resolve disputes involving obvious errors in an expeditious manner, akin to an exchange floor governor ruling.

Briefly, the procedures for canceling a clearly erroneous trade require one party to contact the NASD on trade day and, in writing, state the basis for the requested action. Thereafter, an officer of the NASD reviews the trade information, advises the contra party that the transaction is in dispute, and then makes a determination as to whether the trade should stand or be broken. If either party wishes to appeal the staff determination, it may seek review by the Market Operations Review Committee ("MORC").[4]

Currently, section 70(b)(3) of the UPC provides that a person aggrieved by a decision of the MORC may make application for review of that decision to the Commission in accordance with the Act.[5] The NASD proposes to delete the language in section 70(b)(3) that provides these decisions are reviewable by the Commission.[6] Of course, disputes, claims, and controversies arising out of determinations made pursuant to section 70 will remain eligible for arbitration pursuant to section 8 of the NASD's Code of Arbitration Procedure.

The NASD believes the proposed rule change is consistent with sections 15A(b)(6) and 19(d)(2) of the Act. Section 15A(b)(6) provides, among other things, that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and to protect investors and the public interest. As described above, section 19(d)(2) provides for Commission review of certain SRO actions enumerated in section 19(d)(1).[7] The NASD believes that the proposal is consistent with section 19(d)(2) because it amends the NASD's rules to be in accord with the provisions governing Commission review of SRO actions contained in section 19(d).

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments were neither solicited nor received.

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[14] 15 U.S.C. 78s(b)(2) (1982).

[15] 17 CFR 200.30–3(a)(12) (1992).

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] *See also,* letter from Jonathan G. Katz, Secretary, SEC, to Simon S. Kogan, Esq., Counsel for Datek Securities Corp., dated April 22, 1993.

[3] *See* Securities Exchange Act Release No. 27867 (April 2, 1990), 55 FR 12978 (April 6, 1990) (order approving file SR–NASD–90–6).

[4] The MORC is a standing committee of the NASD which is comprised of members of the NASD's Market Surveillance and Trading Committees. The MORC's hearings generally are conducted over the telephone, where the panel reviews written documentation of all the relevant information and renders its opinion to affirm, modify, reverse, dismiss, or remand the staff's determination.

[5] Specifically, Section 19(d)(2) of the Act provides, among other things, that certain actions of a self-regulatory organization ("SRO"), such as the NASD, are subject to Commission review, either on its own motion or upon application of the person aggrieved by such action. Section 19(d)(1) enumerates three types of SRO determinations are reviewable under section 19(d)(2): (1) Any final disciplinary sanction; (2) a denial of membership or participation imposed on a member or a participant; or (3) a prohibition or limitation of any person in respect to access to services offered by the SRO.

[6] On May 4, 1992, the NASD filed with the Commission proposed rule change SR–NASD–92–17. If adopted, SR–NASD–92–17 would have, among other things, deleted that portion of Section 70 which provides for review by the Commission of determinations by the NASD made pursuant to section 70. Concurrent with the submission of this filing, the NASD issued a letter withdrawing SR–NASD–92–17. *See* Letter to Selwyn Notelovitz, Branch Chief, SEC, from Robert E. Aber, Vice President and General Counsel, Corporate Subsidiaries, NASD, dated May 10, 1993.

[7] *See supra* note 3.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The NASD requests that the Commission find good cause to accelerate the effectiveness of the proposed rule change pursuant to section 19(b) of the Act in view of the fact that section 70(b)(3) presently is inconsistent with section 19(d)(2) of the Act.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association, and, in particular, the requirements of sections 15A(b)(6) and 19(d)(2) of the Act. The Commission believes that the proposal is consistent with section 19(d)(2) because it amends the NASD's rules to be in accord with the provisions governing Commission review of SRO actions contained in section 19(d).

Pursuant to section 19(b)(2) of the Act[8], the Commission finds that good cause exists to accelerate the effectiveness of the proposed rule change prior to the 30th day after publication in the **Federal Register**. First, as noted above, section 70(b)(3) presently is inconsistent with section 19(d)(2) of the Act. Second, by approving the proposal on an accelerated basis, the Commission will avoid the possibility that members and persons associated with members will file unwarranted applications for review of section 70 determinations pursuant to section 19(d) and eliminate the potential for investor confusion concerning Commission review of section 70 determinations.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR–NASD–93–31 and should be submitted by June 17, 1993.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed amendment to section 70 of the UPC be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–12572 Filed 5–26–93; 8:45 am]

BILLING CODE 8010–01–M

[8] 15 U.S.C. § 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Inc.

May 21, 1993.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Arcadian Partners LP
  Preference Units, No Par Value (File No. 7–10691)
Coastal Corp.
  $2.125 Cum. Pfd. Stock, Ser. H $.33⅓ Par Value (File No. 7–10692)
Detroit Edison Co.
  Depositary Shares (rep. ¼ sh. of Cum. Pfd. Stock, 7.74% Ser., $100.00 Par Value (File No. 7–10693)
Royal Caribbean Cruises, Ltd.
  Common Stock, $.01 Par Value (File No. 7–10694)
Teppco Partners LP
  Common Stock, No Par Value (File No. 7–10695)
Value Health, Inc.
  Common Stock, No Par Value (File No. 7–10696)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 11, 1993, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–12518 Filed 5–26–93; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Pacific Stock Exchange, Inc.

May 21, 1993.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities and Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following securities:

General Growth Properties, Inc.
  Common Stock, $.10 Par Value (File No. 7–10697)
Health Professionals, Inc.
  Common Stock, $.02 Par Value (File No. 7–10698)
Hemlo Gold Mines, Inc.
  Common Stock, No Par Value (File No. 7–10699)
Home Oil Co. Ltd.
  Common Stock, No Par Value (File No. 7–10700)
Starter Corp.
  Common Stock, $.01 Par Value (File No. 7–10701)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 11, 1993, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of

fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–12517 Filed 5–26–93; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

May 21, 1993.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Salomon Brothers High Income Fund, Inc.
- Common Stock, $.01 Par Value (File No. 7–10702)

Resorts International, Inc.
- Common Stock, $.01 Par Value (File No. 7–10703)

Gull Laboratories, Inc.
- Common Stock, $.01 Par Value (File No. 7–10704)

Zeneca Group Plc
- American Depositary Shares, Each Representing 3 Ordinary Shares (File No. 7–10705)

Battle Mountain Gold Company
- Conv. Pfd. Stock, $3.25 (File No. 7–10706)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 11, 1993, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–12519 Filed 5–26–93; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2648]

Oklahoma; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on May 12, 1993, and an amendment dated May 14, 1993, I find that the Counties of Bryan, Canadian, Carter, Cleveland, Grady, Kay, Kingfisher, Logan, Oklahoma, Payne, Pottawatomie, Tulsa, and Washington in the State of Oklahoma constitute a disaster area as a result of damages caused by severe storms, tornadoes, and flooding which began on May 8, 1993. Applications for loans for physical damage may be filed until the close of business on July 12, 1993, and for loans for economic injury until the close of business on February 14, 1994, at the address listed below: U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Boulevard, Suite 102, Fort Worth, Texas 76155 or other locally announced locations. In addition, applications for economic injury loans from small businesses located in the contiguous counties of Atoka, Blaine, Caddo, Chocktaw, Comanche, Creek, Garfield, Garvin, Grant, Jefferson, Johnston, Lincoln, Love, Major, Marshall, McClain, Murray, Noble, Nowata, Okfuskee, Okmulgee, Osage, Pawnee, Pontotoc, Rogers, Seminole, Stephens, and Wagoner, in Oklahoma; Chautauqua, Cowley, Montgomery, and Sumner Counties, Kansas; and Fannin and Grayson Counties, Texas, may be filed until the specified date at the above location.

The interest rates are:

	Percent
For physical damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.625
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 264806 and for economic injury the numbers are 790700 for Oklahoma, 791100 for Kansas, and 791200 for Texas.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 20, 1993.

Bernard Kulik,

Assistant Administrator for Disaster Assistance.

[FR Doc. 93–12619 Filed 5–26–93; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[Public Notice 1811]

United States Organization for the International Telegraph and Telephone Consultative Committee; Study Group B Notice of Meeting

The U.S. Department of State announces that the US Organization for the International Telegraph and Telephone Consultative Committee Study Group B will meet on June 16, 1993 at the U.S. Department of Commerce, Herbert C. Hoover Building, 14th & Constitution Avenue, NW., Washington, DC in room 4830. The meeting will begin at 9:30 a.m. and end at 4:30 p.m.

The agenda for the meeting will consist of approving the agenda, approval of the April 6, 1993 meeting minutes, reviewing the results and activities of TSS Study Group 11 Meeting (May 3–19, 1993), the consideration of contributions for TSS Study Group 13 Meeting (July 5–16, 1993), announcement of the members of the U.S. Delegation, and other business.

Please bring 50 copies of documents to be considered at this meeting. If the document has been mailed, bring only 10 copies.

If you wish to be a part of the U.S. Delegation to this meeting, please inform Gary Fereno at the Department of State (202–647–2592) and complete required documentation 30 days prior to the start of the meeting.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chair. Admittance of public members will be limited to the seating available. In that regard, persons intending to attend the above meeting must announce this not later than 5

days before the meeting to William Utlaut's office (303–497–5993). Enter the building from 14th Street through the main lobby. A picture ID will be required for admittance.

Dated: May 17, 1993.

Earl S. Barbely,

Director, Telecommunications and Information Standards, Chairman, U.S. CCITT National Committee.

[FR Doc. 93–12504 Filed 5–26–93; 8:45 am]

BILLING CODE 4710–45–M

[Public Notice 1812]

United States Organization for the International Telegraph and Telephone Consultative Committee; Study Group C Notice of Meeting

The U.S. Department of State announces that the US Organization for the International Telegraph and Telephone Consultative Committee Study Group C will meet on July 1, 1993 at the U.S. Department of State, 2201 C Street NW., in room 3519. The meeting will begin at 9:30 a.m. and end at 4:30 p.m.

The agenda for the meeting will include consideration of proposed contributions to the TS for Study Groups 4, 5, 6, 12, and 15. This meeting date will permit normal "white" contributions to SG 15 if approved at the meeting. Contributions to other Study Groups will be discussed as submitted. Please submit proposed contributions to the Chairman of SG C on or before June 10, 1993 to allow time for mailing and the review prior to the meeting. Contributions should be mailed to: Dennis Thovson, AT&T room 5A256, P.O. Box 752, 900 Routes 202/206, Bedminster, NJ 07921–0752. No contributions will be approved for submission to the TS without review prior to the meeting. For agenda planning purposes, please notify Madeline Mendez on (908) 234–8624 if you plan to attend the meeting and which TS Study Groups you are interested in.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chair. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. Persons who plan to attend should so advise the Office of Earl Barbely, Department of State, (202) 647–0201, FAX (202) 647–7407. Public visitors will be asked to provide their date of birth and Social Security number at the time they register their intention to attend and must carry a photo ID with them to the meeting in order to be admitted. All attendees must use the C Street entrance.

Dated: May 12, 1993.

Earl S. Barbely,

Director, Telecommunications and Information Standards, Chairman, U.S. CCITT National Committee.

[FR Doc. 93–12503 Filed 5–26–93; 8:45 am]

BILLING CODE 4710–45–M

STATE DEPARTMENT

[Public Notice 1813]

Overseas Security Advisory Council; Closed Meeting

The Department of State announces a meeting of the U.S. State Department—Overseas Security Advisory Council on Monday and Tuesday, June 21–22, 1993 at 8:30 a.m. at the Bostonian Hotel, Boston, Massachusetts. Pursuant to section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b(c) (1) and (4), it has been determined the meeting will be closed to the public. Matters relative to classified national security information as well as privileged commercial information will be discussed. The agenda calls for the discussion of classified and corporate proprietary/security information as well as private sector physical and procedural security policies and protective programs at sensitive U.S. Government and private sector locations overseas.

For more information contact Marsha Thurman, Overseas Security Advisory Council, Department of State, Washington, DC 20522–1003, phone: 703/204–6185.

Dated: May 14, 1993.

Mark Mulvey,

Director of the Diplomatic Security Service.

[FR Doc. 93–12526 Filed 5–26–93; 8:45 am]

BILLING CODE 4710–24–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Environmental Impact Statement; Proposed New Northwest Arkansas Regional Airport, Benton County, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent.

SUMMARY: The FAA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared and considered for a proposed air carrier airport in Northwest Arkansas.

FOR FURTHER INFORMATION CONTACT: Bradley C. Kutchins, Project Manager, ASW–630J, Federal Aviation Administration, Southwest Regional Office, 4400 Blue Mound Road, Fort Worth, Texas 76193–0630. Telephone (817) 624–5376.

SUPPLEMENTARY INFORMATION: The FAA will prepare an EIS for a proposed air carrier airport in the Northwest Arkansas Region which would replace commercial service at Drake Field. The primary components of the proposed action would consist of the following items: (1) Land acquisition; (2) 8,800-feet by 150-feet runway with high intensity runway lights, medium intensity approach lighting system and approach light system with sequence flasher; (3) 8,800-feet by 75-feet parallel taxiway with high intensity taxiway lights; (4) instrument landing system for both ends of the runway (to include localizer, glide slope, and middle and outer markers); (5) terminal building with associated motor vehicle parking and support facilities; (6) terminal area ramp paving; (7) air traffic control tower; and (8) airport access road.

The Northwest Arkansas Airport Authority intends to request Federal Airport Improvement Program (AIP) funds for development of all AIP eligible proposed airport improvements.

Known alternatives to the proposed action include no action, construction of a new facility at another location, and expansion of existing airports.

The FAA intends to consult and coordinate with Federal, state, and local agencies which have jurisdiction by law or have special expertise with respect to any environmental impacts associated with the proposed project. Scoping for the EIS will include both an agency scoping meeting and a public scoping meeting concerning the range of actions, alternatives and impacts to be considered. The agency and public scoping meetings will be held on or about August 3, 1993. The specific locations of these meetings will be announced by means of letters and public notices. In addition to this notice, a notice will be placed in local newspapers of general circulation announcing the intent to prepare an EIS and the scoping meetings, and soliciting comments on the scope of the study. Those unable to attend the scoping meetings or who prefer not to make oral statements are encouraged to submit written scoping comments to the agency contact listed above.

Issued on: May 13, 1993.

John M. Dempsey,

Manager, Airports Division.

[FR Doc. 93–12614 Filed 5–27–93; 8:45 am]

BILLING CODE 4910–13–M

[Summary Notice No. PE–92–32]

Petition for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions; correction.

SUMMARY: This action makes a correction to the summary described for Docket No. 27161 in a notice of petitions for exemption published on May 5, 1993, (58 FR 26890). This action corrects that error.

DATES: Comments on petitions received must identify the petition docket number involved, and must be received on or before June 16, 1993.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of Chief Counsel, Attn: Rules Docket (AGC–10), Petition Docket No. 27161, 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Mr. Frederick M. Haynes, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–3939.

SUPPLEMENTARY INFORMATION: Denial of Southern Air Transport's petition for exemption from 14 CFR 121.358(b) and (c), printed in the May 5, 1993 **Federal Register**, was listed under Docket No. 27161. This Docket No. is incorrect. The correct Docket No., associated with this denial of Southern Air Transport's Petition, is 26980.

Issued in Washington, DC on May 20, 1993.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

[FR Doc. 93–12612 Filed 5–26–93; 8:45 am]

BILLING CODE 4910–13–M

Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge at Blue Grass Airport, Lexington, KY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Blue Grass Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before June 28, 1993.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Memphis Airports District Office, 2851 Directors Cove, suite #3, Memphis, TN 38131–0301.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Michael Flack, Executive Director of the Blue Grass Airport at the following address: Lexington-Fayette Urban County Airport Board, 4000 Versailles Road, Lexington, KY 40511.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Blue Grass Airport under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Cynthia K. Wills, Planner; Federal Aviation Administration, Memphis Airports District Office, 2851 Directors Cove, suite #3, Memphis, TN 38131–0301; (901) 544–3495. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Blue Grass Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On May 20, 1993, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Lexington-Fayette Urban County Airport Board was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than August 31, 1993.

The following is a brief overview of the application.

Level of the Proposed PFC: $3.00.

Proposed charge effective date: November 1, 1993.

Proposed charge expiration date: August 18, 2003.

Total estimated PFC revenue: $12,898,555.

Brief description of the proposed project(s):

Impose and Use:

1. Design Air Carrier Apron Expansion
2. Purchase Replacement ARFF Vehicle
3. Construct Runway Monitor System
4. Purchase Emergency Command Vehicle
5. Replace Runway Sweeper #1
6. Construct Firehouse Addition
7. Construct/Reconstruct Emergency Access Roads
8. Modify Terminal Building—Phase 1 (Americans with Disabilities Compliance)
9. Purchase ARFF Proximity Suits
10. Install Gate 40 Secure Access System
11. Update Airport Master Plan
12. Construct Air Carrier Apron Expansion
13. Construct Detention Basin(s)
14. Recover Allowable Local Share Incurred in AIP Projects Since November 5, 1990
15. Recover PFC Administration Cost
16. Purchase Terminal Area Land
17. Erect New Airport Beacon Tower
18. Purchase Runway Sweeper #2
19. Rehabilitate/Reconstruct RWY 4/22
20. Modify Terminal Building—Phase II (Americans with Disability Compliance)

Impose Only:

1. Assess Environmental Impacts—Parallel Runway
2. Implement Noise Abatement Program—Phase I
3. Construct Deicing Agent Detention System
4. Implement Noise Abatement Program—Phase II
5. Phase I—New Parallel Runway Design

Class or classes of air carriers which the public agency has requested not be required to collect PFC's:

Part 135 or part 298 (Air Taxi) Operators

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Lexington-Fayette Urban County Airport Board.

Issued in Atlanta, Georgia on May 20, 1993.

Dell T. Jernigan,

Manager, Planning and Development Branch, Southern Region.

[FR Doc. 93–12610 Filed 5–26–93; 8:45 am]

BILLING CODE 4910–13–M

Correction to Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Columbia Metropolitan Airport, Columbia, SC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to notice of intent to rule on application.

SUMMARY: This corrects the date on which the FAA determined that the application to impose and use the revenue from a PFC submitted by the Richland-Lexington Airport District was substantially complete within the requirements of § 158.25 of part 158.

In notice document 93–11489 on page 28648 in the issue of Friday, May 14, 1993, make the following correction:

In the second column, "May 4, 1994" should read "May 4, 1993".

Issued in Atlanta, Georgia, on May 18, 1993.

Dell T. Jernigan,

Manager, Planning and Development Branch, Southern Region.

[FR Doc. 93–12611 Filed 5–26–93; 8:45 am]

BILLING CODE 4910–13–M

Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly notice of PFC approvals and disapprovals. In April 1993, there were eight applications approved.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158). This notice is published pursuant to paragraph (d) of § 158.29.

PFC Applications Approved

Public Agency: Fort Wayne-Allen County Airport Authority, Fort Wayne, Indiana.
Application Type: Impose and Use PFC Revenue.
PFC Level: $3.00.
Total Approved Net PFC Revenue: $26,563,457.
Earliest Permissible Charge Effective Date: July 1, 1993.
Duration of Authority to Impose: March 1, 2015.
Class of Air Carriers Not Required To Collect PFC's. Air taxi/commercial operators that (1) by federal regulation are not required to report passenger statistics to the federal government using FAA Form 1800–31 and (2) enplane fewer than 1,000 passengers annually.
Determination: Approved. The FAA has determined that the proposed class accounts for less than 1 percent of the airport's total annual enplanements.
Brief Description of Projects Approved: Loop access road and parking improvements, Terminal expansion and renovation, Bond issuance costs, debt service reserve costs, and payment of principal and interest on the bonds.
Decision Date: April 5, 1993.

FOR FURTHER INFORMATION CONTACT: Louis H. Yates, Chicago Airports District Office, (312) 694–7335.

Public Agency: Volusia County, Daytona Beach, Florida.
Application Type: Impose and Use PFC Revenue.
PFC Level: $3.00.
Total Approved Net PFC Revenue: $7,967,835.
Earliest Permissible Charge Effective Date: July 1, 1993.
Duration of Authority to Impose: November 1, 1999.
Class of Air Carriers Not Required to Collect PFC'S: None.
Brief Description of Projects Approved: Terminal renovation for federal inspection services facility, Land acquisition for aviation development and approach protection, Extension of runway 7L/25R and taxiway N.
Decision Date: April 20, 1993.

FOR FURTHER INFORMATION CONTACT: Pablo G. Auffant, Orlando Airports District Office, (407) 648–6583.

Public Agency: Medford-Jackson County Airport, Medford, Oregon.
Application Type: Impose and Use PFC Revenue.
PFC Level: $3.00.
Total Approved Net PFC Revenue: $1,066,142.
Earliest Permissible Charge Effective Date: July 1, 1993.
Duration of Authority To Impose: November 1, 1995.
Class of Air Carriers Not Required to Collect PFC'S: Air taxi/commercial operators when enplaning revenue passengers in limited, irregular, special service air taxi/commercial operations such as air ambulance services, student instruction, non-stop sightseeing flights that begin and end at the airport and are concluded (conducted) within a 25 mile radius of the airport, and other similar limited, irregular, special service operations by such air taxi/commercial operators.
Determination: Approved. The FAA has determined that the proposed class accounts for less than 1 percent of the airport's total annual enplanements.
Brief Description of Projects Approved: Overlay taxiways A–2, B–1, and B–4, Update master plan, Install airfield signage, Install security access control equipment, Cover drainage ditch adjacent to T-hangar taxilane, Reconstruct, widen and extend taxilane in the T-hangar area and construct access taxilane to taxiway C, Replace porous friction course on runway 14/32, Relocate/widen Bullock Road to establish obstacle free area for runway 32 and relocate existing fencing, Purchase of 8.8 acres of land to construct recirculation roadway for the terminal area, Cover drainage ditch, end of runway 14 for runway protection zone, Install runway 14/32 centerline lights, Construct runway 14 holding apron, Financing interest, Application and administrative costs, Environmental assessment/planning for extension of runway 14/32, Pave perimeter roadway inside airport operations area, Pavement evaluation and management plan, Acquisition of land for expansion of general aviation T-hangar area, Relocated runway 9/27 runway lights.
Brief Description of Project Disapproved: Adjustment allowance.
Determination: These are unknown, speculative costs that have been determined premature and are therefore, ineligible under § 158.13 for PFC collection at this time.
Decision Date: April 21, 1993.

FOR FURTHER INFORMATION CONTACT: Suzanne Lee-Pang, Seattle Airports District Office, (206) 227–2654.

Public Agency: Parish of East Baton Rouge and City of Baton Rouge, Baton Rouge, Louisiana.
Application Type: Use PFC Revenue.
PFC Level: $3.00.
Total Approved Net PFC Revenue: $8,532,260.
Earliest Permissible Charge Effective Date: July 1, 1993.
Duration of Authority To Impose: December 1, 1998.
Class of Air Carriers Not Required To Collect PFC'S: Previously approved in September 28, 1992 decision.
Brief Description of Project Approved to Use PFC Revenue: Noise mitigation.
Decision Date: April 23, 1993.

FOR FURTHER INFORMATION CONTACT: Ben Guttery, Southwest Region Airports Division, (817) 624–5979.

Public Agency: County of Houghton, Hancock, Michigan.
Application Type: Impose and Use PFC Revenue.

PFC Level: $3.00.
Total Approved Net PFC Revenue: $162,986.
Earliest Permissible Charge Effective Date: July 1, 1993.
Duration of Authority To Impose: January 1, 1996.
Class of Air Carriers Not Required to Collect PFC'S: None.
Brief Description of Projects Approved To Impose and Use: Acquire snow removal equipment (snowblower and truck with blower, plow, and spreader attachments), Install airfield signs, Airport layout plan update.
Brief Description of Projects Approved To Impose Only: Relocate very high frequency omnirange (TVOR), Relocate glide slope facility (runway 13/31 instrument landing system), Construct partial parallel taxiway "C".
Decision Date: April 29, 1993.

FOR FURTHER INFORMATION CONTACT: Dean Nitz, Detroit Airports District Office, (313) 487–7300.

Public Agency: Springfield Airport Authority (SAA), Springfield, Illinois.
Application Type: Use PFC Revenue.
PFC Level: $3.00.
Total Approved Net PFC Revenue: $531,513.
Earliest Permissible Charge Effective Date: June 1, 1992.
Duration of Authority To Impose: February 1, 1994.
Class of Air Carriers Not Required To Collect PFC's: Previously approved in March 27, 1992 decision.
Brief Description of Projects Approved To Use PFC Revenue: Aircraft rescue and firefighting vehicle, Overlay runway 18–36, Edge lighting improvements, Taxiway CA overlay, Snow removal equipment building, including site work, phase I, and phase II, Acquisition of Boucher property, Acquisition of Niehaur property, Acquisition of Richardson property, Acquisition of Bramblett property (2 parcels), Acquisition of Harris property, Snow removal equipment, Environmental assessment for runway 12/30 extension, Newly required FAA signage.
Brief Description of Project Approved-in-Part To Use PFC: Security/access modifications to meet § 107.14 requirements and replace airport perimeter fencing.
Determination: Approval for use of PFC revenue is limited to the replacement of fencing. That portion of the project will enhance safety and security and is eligible under AIP criteria. The remainder of the project, installation of a security access control system requires the approval of an FAA Civil Aviation Security Field Office before it is AIP eligible.
Brief Description of Projects Disapproved: Rehabilitate taxiway A, Acquisition of Miller property.
Determination: These projects were approved as "impose-only" projects in the FAA's March 27, 1993, Record of Decision. The viability of the financing plans for these projects are dependent upon the SAA receiving AIP discretionary funding. The AIP discretionary funds are not available at this time. Airfield signage.
Determination: The work proposed in this project is included in the project entitled "Newly Required FAA Signage" approved above. Therefore, this project is redundant.
Decision Date: April 28, 1993.

FOR FURTHER INFORMATION CONTACT: Louis Yates, Chicago Airports District Office, (312) 694–7335.

Public Agency: County of Clinton, Plattsburgh, New York.
Application Type: Impose and Use PFC Revenue.
PFC Level: $3.00.
Total Approved PFC Revenue: $227,830.
Earliest Permissible Charge Effective Date: July 1, 1993.
Duration of Authority To Impose: January 1, 1998.
Class of Air Carriers Not Required To Collect PFC's: Air Taxi and charter carriers filing FAA Form 1800–31.
Determination: Approved. The FAA has determined that the proposed class accounts for less than 1 percent of the airport's total annual enplanements.
Brief Description of Projects Approved To Impose and Use: PFC application preparation, Runway crack repair and obstruction removal (Phase I), Reconstruct taxiway A (Design), Reconstruct taxiway A (Construct), Refurbish airport signage (Design), Refurbish airport signage (Construct), Rehabilitate taxiways B, C, D, and F, and install wind indicator, Land/easement acquisition (runways 1–19 and 14–32), Airport layout plan and terminal area update, Airport access road improvements and passenger parking improvements, Expand maintenance/airport rescue and firefighting garage, Airline terminal building renovation/rehabilitation, Expand aircraft parking apron, Land/easement acquisition for runway 21, Obstruction removal (phase 2), Airport security/fencing plan.
Brief Description of Project Withdrawn: PFC application preparation.
Determination: The County of Clinton withdrew this project from its application by letter to the FAA dated April 28, 1993.
Decision Date: April 30, 1993.

FOR FURTHER INFORMATION CONTACT: Philip Britton, New York Airports District Office, (718) 553–1882.

Public Agency: Port of Bellingham, Bellingham, Washington.
Application Type: Impose and Use PFC Revenue.
PFC Level: $3.00.
Total Approved PFC Revenue: $366,000.
Earliest Permissible Charge Effective Date: July 1, 1993.
Duration of Authority To Impose: July 1, 1994.
Class of Air Carriers Not Required To Collect PFC's: (1) Scheduled air carriers operating aircraft with less than 10 seats, and (2) non-scheduled air carriers and charter flights using aircraft with less than 10 seats.
Determination: Approved. The FAA has determined that the proposed class accounts for less than 1 percent of the airport's total annual enplanements.
Brief Description of Projects Approved To Impose and Use: Terminal area planning, Property acquisition.
Decision Date: April 29, 1993.

FOR FURTHER INFORMATION CONTACT: Paul Johnson, Seattle Airports District Office, (206) 227–2655.

Issued in Washington, DC on May 21, 1993.

Lowell Johnson,
Manager, Airports Financial Assistance Division.

CUMULATIVE LIST OF PFC APPLICATIONS PREVIOUSLY APPROVED

State, airport and city	Date approved	Level of PFC	Total approved net PFC revenue	Earliest charge effective date	Estimated charge expiration date [1]
Alabama:					
Huntsville Intl-Carl T Jones Field, Huntsville	03/06/1992	$3	$20,831,051	06/01/1992	11/01/2008
Muscle Shoals Regional, Muscle Shoals	02/18/1992	3	104,100	06/01/1992	02/01/1995

CUMULATIVE LIST OF PFC APPLICATIONS PREVIOUSLY APPROVED—Continued

State, airport and city	Date approved	Level of PFC	Total approved net PFC revenue	Earliest charge effective date	Estimated charge expiration date [1]
Arizona:					
Flagstaff Pulliam, Flagstaff	09/29/1992	3	2,463,581	12/01/1992	01/01/2015
California:					
Arcata, Arcata	11/24/1992	3	188,500	02/01/1993	05/01/1994
Inyokern, Inyokern	12/10/1992	3	127,500	03/01/1993	09/01/1995
Los Angeles International, Los Angeles	03/26/1993	3	360,000,000	06/01/1993	07/01/1998
Metropolitan Oakland International, Oakland	06/26/1992	3	8,736,000	09/01/1992	09/01/1993
Georgia:					
Valdosta Regional, Valdosta	12/23/1992	3	260,526	03/01/1993	10/01/1997
Idaho:					
Idaho Falls Municipal, Idaho Falls	10/30/1992	3	1,500,000	01/01/1993	01/01/1998
Twin Falls-Sun Valley Regional, Twin Falls	08/12/1992	3	270,000	11/01/1992	05/01/1998
Illinois:					
Greater Rockford, Rockford	07/24/1992	3	1,177,348	10/01/1992	10/01/1996
Capital, Springfield	03/27/1992	3	572,263	06/01/1992	02/01/1994
Iowa:					
Dubuque Regional, Dubuque	10/06/1992	3	108,500	01/01/1993	05/01/1994
Sioux Gateway, Sioux City	03/12/1993	3	204,465	06/01/1993	06/01/1994
Florida:					
Key West International, Key West	12/17/1992	3	945,937	03/01/1993	12/01/1995
Marathon, Marathon	12/17/1992	3	153,556	03/01/1993	06/01/1995
Orlando International, Orlando	11/27/1992	3	167,574,527	02/01/1993	02/01/1998
Pensacola Regional, Pensacola	11/23/1992	3	4,715,000	02/01/1993	04/01/1996
Sarasota-Bradenton International, Sarasota	06/29/1992	3	38,715,000	09/01/1992	09/01/2005
Tallahasse Regional, Tallahassee	11/13/1992	3	8,617,154	02/01/1993	12/01/1998
Georgia:					
Savannah International, Savannah	01/23/1992	3	39,501,502	07/01/1992	03/01/2004
California:					
Ontario International, Ontario	03/26/1993	3	49,000,000	06/01/1993	07/01/1998
Palm Springs Regional, Palm Springs	06/25/1992	3	44,612,350	10/01/1992	06/01/2019
Sacramento Metropolitan, Sacramento	01/26/1993	3	24,045,000	04/01/1993	03/01/1996
San Jose International, San Jose	06/11/1992	3	29,228,826	09/01/1992	08/01/1995
San Jose International, San Jose	02/22/1993	3	29,228,826	05/01/1993	08/01/1995
San Luis Obispo County-McChesney Field, San Luis Obispo	11/24/1992	3	502,437	02/01/1993	02/01/1995
Sonoma County, Santa Rosa	02/19/1993	3	110,500	05/01/1993	04/01/1995
Lake Tahoe, South Lake Tahoe	05/01/1992	3	928,747	08/01/1992	03/011997
Colorado:					
Colorado Springs Municipal, Colorado Springs	12/22/1992	3	5,622,000	03/01/1993	02/01/1996
Denver International (New), Denver	04/28/1992	3	2,330,734,321	07/01/1992	01/01/2026
Walker Field, Grand Junction	01/15/1993	3	1,812,000	04/01/1993	03/01/1998
Steamboat Springs/Bob Adams Field, Steamboat Springs	01/15/1993	3	1,887,337	04/01/1993	04/01/2012
Telluride Regional, Telluride	11/23/1992	3	200,000	03/01/1993	11/01/1997
Florida:					
Southwest Florida Regional, Fort Myers	08/31/1992	3	252,548,262	11/01/1992	06/01/2014
Louisiana:					
Baton Rouge Metropolitan, Ryan Field, Baton Rouge	09/28/1992	3	9,823,159	12/01/1992	12/01/1998
New Orleans International/Moisant Field, New Orleans	03/19/1993	3	77,800,372	06/01/1993	04/01/2000
Maryland:					
Baltimore-Washington International, Baltimore	07/27/1992	3	141,866,000	10/01/1992	09/01/2002
Massachusetts:					
Worcester Municipal, Worcester	07/28/1992	3	2,301,382	10/01/1992	10/01/1997
Michigan:					
Detroit Metropolitan-Wayne County, Detroit	09/21/1992	3	640,707,000	12/01/1992	06/01/2009
Delta County, Escanaba	11/17/1992	3	158,325	02/01/1993	08/01/1996
Kent County International, Grand Rapids	09/09/1992	3	12,450,000	12/01/1992	05/01/1998
Marquette County, Marquette	10/01/1992	3	459,700	12/01/1992	04/01/1996
Pellston Regional Airport of Emmet County, Pellston	12/22/1993	3	440,875	03/01/1993	06/01/1995
Minnesota:					
Minneapolis-St Paul International, Minneapolis	03/31/1992	3	66,355,682	06/01/1992	08/01/1994
Mississippi:					
Golden Triangle Regional, Columbus	05/08/1992	3	1,693,211	08/01/1992	09/01/2006
Gulfport-Biloxi Regional, Gulfport-Biloxi	04/03/1992	3	384,028	07/01/1992	12/01/1993
Hattiesburg-Laurel Regional, Hattiesburg-Laurel	04/15/1992	3	119,153	07/01/1992	01/01/1998
Jackson International, Jackson	02/10/1993	3	1,918,855	05/01/1993	04/01/1995
Key Field, Meridian	08/21/1992	3	122,500	11/01/1992	06/01/1994
Missouri:					
Lambert-St Louis International, St. Louis	09/30/1992	3	84,607,850	12/01/1992	03/01/1996

CUMULATIVE LIST OF PFC APPLICATIONS PREVIOUSLY APPROVED—Continued

State, airport and city	Date approved	Level of PFC	Total approved net PFC revenue	Earliest charge effective date	Estimated charge expiration date [1]
Montana:					
Great Falls International, Great Falls	08/28/1992	3	3,010,900	11/01/1992	07/01/2002
Helena Regional, Helena	01/15/1993	3	1,056,190	04/01/1993	12/01/1999
Missoula International, Missoula	06/12/1992	3	1,900,000	09/01/1992	08/01/1997
Nevada:					
McCarran International, Las Vegas	02/24/1992	3	944,028,500	06/01/1992	02/01/2014
New Hampshire:					
Manchester, Manchester	10/13/1992	3	5,461,000	01/01/1993	03/01/1997
North Dakota:					
Grand Forks International, Grand Forks	11/16/1992	3	1,016,509	02/01/1993	02/01/1997
Ohio:					
Akron-Canton Regional, Akron	06/30/1992	3	3,594,000	09/01/1992	08/01/1996
Cleveland-Hopkins International, Cleveland	09/01/1992	3	34,000,000	11/01/1992	11/01/1995
Fort Columbus International, Columbus	07/14/1992	3	7,341,707	10/01/1992	03/01/1994
Oklahoma:					
Lawton Municipal, Lawton	05/08/1992	2	334,078	08/01/1992	01/01/1996
Tulsa International, Tulsa	05/11/1992	3	8,450,000	08/01/1992	08/01/1994
Oregon:					
Portland International, Portland	04/08/1992	3	17,961,850	07/01/1992	07/01/1994
New Jersey:					
Newark International, Newark	07/23/1992	3	84,600,000	10/01/1992	08/01/1995
New York:					
Greater Buffalo International, Buffalo	05/29/1992	3	189,873,000	08/01/1992	03/01/2026
Tompkins County, Ithaca	09/28/1992	3	1,900,000	01/01/1993	01/01/1999
Chautauqua County/Jamestown, Jamestown	03/19/1993	3	434,822	06/01/1993	06/01/1993
John F. Kennedy International, New York	07/23/1992	3	109,980,000	10/01/1992	08/01/1995
LaGuardia, New York	07/23/1992	3	87,420,000	10/01/1992	08/01/1995
Westchester County, White Plains	11/09/1992	3	27,883,000	02/01/1993	06/01/2022
Pennsylvania:					
Allentown-Bethlehem-Easton, Allentown	08/28/1992	3	3,778,111	11/01/1992	04/01/1995
Altoona-Blair County, Altoona	02/03/1993	3	198,000	05/01/1993	02/01/1996
Erie International, Erie	07/21/1992	3	1,997,885	10/01/1992	06/01/1997
Philadelphia International, Philadelphia	06/29/1992	3	76,169,000	09/01/1992	07/01/1995
University Park, State College	08/28/1992	3	1,495,974	11/01/1992	07/01/1997
Tennessee:					
Memphis International, Memphis	05/28/1992	3	26,000,000	08/01/1992	12/01/1994
Nashville International, Nashville	10/09/1992	3	143,358,000	01/01/1993	02/01/2004
Texas:					
Killeen Municipal, Killeen	10/20/1992	3	243,339	01/01/1993	11/01/1994
Midland International, Midland	10/16/1992	3	35,529,521	01/01/1993	01/01/2013
Mathis Field, San Diego	02/24/1993	3	873,716	05/01/1993	11/01/1998
Virginia:					
Charlottesville-Albemarle, Charlottesville	06/11/1992	2	255,559	09/01/1992	11/01/1993
Charlottesville-Albemarle, Charlottesville	12/21/1992	2	255,559	09/01/1992	11/01/1993
Washington:					
Seattle-Tacoma International, Seattle	08/13/1992	3	28,847,488	11/01/1992	01/01/1994
Spokane International, Spokane	03/13/1992	3	15,272,000	06/01/1993	12/01/1999
Yakima Air Terminal, Yakima	11/10/1992	3	416,256	02–01–1993	04–01–1995
West Virginia:					
Morgantown Muni-Walter L. Bill Hart, Morgantown	09–03–1992	3	55,500	12–01–1992	01–01–1994
Wisconsin:					
Austin Straubel International, Green Bay	12–28–1992	3	8,140,000	03–01–1993	03–01–2003
Guam:					
Guam International Air Terminal, Agana	11–10–1992	3	5,632,000	02–01–1993	06–01–1994
Puerto Rico:					
Rafael Hernandez, Aguadilla	12–29–1992	3	1,053,000	03–01–1993	01–01–1999
Mercedita, Ponce	12–29–1992	3	866,000	03–01–1993	01–01–1999
Luis Munoz Marin International, San Juan	12–29–1992	3	49,768,000	03–01–1993	02–01–1997
Virgin Island:					
Cyril E King, Charlotte Amalie	12–08–1992	3	3,871,005	03–01–1993	02–01–1995
Alexander Hamilton, Christiansted St Croix	12–08–1992	3	2,280,465	03–01–1993	05–01–1995

[1] The estimated charge expiration date is subject to change due to the rate of collection and actual allowable project costs.

[FR Doc. 93–12613 Filed 5–27–93; 8:45 am]
BILLING CODE 4910–13–M

Intent to Rule on Application to Impose and Use a Passenger Facility Charge (PFC) at Mahlon Sweet Field, Eugene, OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Mahlon Sweet Field under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before June 28, 1993.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: J. Wade Bryant, Manager, Seattle Airports District Office, SEA–ADO, Federal Aviation Administration, 1601 Lind Avenue, SW., suite 250, Renton, WA 98055–4056.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to the Mr. Mike Boggs, Airport Manager, Eugene, Oregon, at the following address: 28855 Lockheed Drive, Eugene, Oregon 97402.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Eugene, under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Suzanne Lee-Pang, (206) 227–2654; Seattle Airports District Office, SEA–ADO; Federal Aviation Administration; 1601 Lind Avenue, SW.; suite 250, Renton, Washington 98055–4656. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Mahlon Sweet Field, under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 159).

On May 20, 1993, the FAA determined that the application to impose and use a PFC submitted by the City of Eugene was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than August 28, 1993.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00

Proposed charge effective date: November 1, 1993

Proposed charge expiration date: October 31, 1998

Total estimated PFC revenue: $3,729,699.00

Brief description of proposed projects (Impose and Use): Runway 16/34 extension; category II ILS upgrade phase I (touchdown and centerline lights); land acquisition (phase I); and land acquisition (phase II).

Brief description of proposed projects (Impose Only): Parallel runway (phase I), and Taxiway Delta upgrade.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: On Demand or special service Air Taxi/Commercial operators utilizing aircraft having a maximum seating capacity of less than 20 passengers; and, Air Taxi/Commercial operators operating as student instruction, sightseeing flights, air ambulance/medicine flights, and aerial photography or survey flights.

Any person may inspect the application in person at the FAA office listed above under "FOR FURTHER INFORMATION CONTACT" and at the FAA regional Airports office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue, SW., suite 540, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at Mahlon Sweet Field.

Issued in Renton, Washington on May 20, 1993.

Matthew J. Cavanaugh,

Assistant Manager, Airports Division, Northwest Mountain Region.

[FR Doc. 93–12609 Filed 5–26–93; 8:45 am]
BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement: Cabell County, WV

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Cabell County, West Virginia.

FOR FURTHER INFORMATION CONTACT:

Billy R. Higginbotham, Division Administrator, Federal Highway Administration, 550 Eagan Street, suite 300, Charleston, West Virginia, 25301. Telephone: (304)–558–3093.

Ben L. Hark, Environmental Section Chief, Roadway Design Division, West Virginia Department of Transportation, 1900 Kanawha Boulevard East, Building 5, room A830, Charleston, West Virginia 25305–0430. Telephone: (304) 558–3236.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the West Virginia Division of Highways, will prepare an environmental impact statement (EIS) on a proposed Merrick Creek Connector linking US 60 and WV 2 in Cabell County, West Virginia. The proposed improvement would involve the construction of a four-lane, divided roadway with partial control of access for a distance of about four miles.

Improvements in the area are considered necessary in order to provide convenient access from U.S. 60 to WV 2 and to enhance traffic flow around the City of Huntington, an ozone nonattainment area. Alternates under consideration include (1) taking no action; (2) where possible, widening the existing two-lane highway to four lanes; and (3) constructing a four-lane, partial access highway on new location. Design variations of grade and alignment will be incorporated into the study.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed, or are known to have, interest in this proposal. A scoping meeting will be scheduled for this project. Public meetings and public hearings will be held. Public notice will be given of the times and places for the meetings and hearings. The draft EIS will be available for public and agency review and comments prior to the hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations

implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Billy R. Higginbotham,

Division Administrator.

[FR Doc. 93–12653 Filed 5–26–93; 8:45 am]

BILLING CODE 4910–22–M

Federal Railroad Administration

[FRA Docket No. H–93–1]

Petition for Exemption or Waiver for Test Program and Demonstration Program; National Railroad Passenger Corp.

In accordance with 49 CFR 211.51, notice is hereby given that the National Railroad Passenger Corporation (Amtrak) has submitted petitions, dated March 4, and amended March 23, 1993, respectively, for a temporary waiver of compliance with specific requirements of certain parts of title 49 of the Code of Federal Regulations in order to conduct a test, a national demonstration tour, and limited revenue service of a passenger trainset imported from abroad.

The purpose of this notice is to identify those parts of title 49 with which the trainset cannot comply without extensive equipment modification and to describe in some detail those features of the equipment that do not comply.

This program will have two purposes: (1) To evaluate the system performance of the trainset under certain conditions (test phase) and (2) to assess the market response to the availability of advanced rail passenger transport of this nature (demonstration phase). The results of the test phase will provide guidance to FRA in the formulation of conditions to be applied to the revenue service demonstration phase.

The track safety standards in § 213.57(b) prescribe a speed limit, not distinguishing between freight and passenger rolling stock, at which trains may operate over curved track as a function of curve radius (curvature) and the installed superelevation. In the general case, for any combination of curvature and superelevation there is a specific ("balanced") speed at which the effect of centrifugal force is cancelled and in the case of passenger cars the result is passenger insensitivity to actual curve negotiation. This is an ideal outcome for passenger trains which usually operate considerably faster than freight trains and, as a consequence, would demand greater superelevation to produce the balanced effect. The track standards permit the operation of trains on curves at speeds producing a conservative underbalance (or, put another way, "cant deficiency") in line with historic industry practice. On the other hand, successful passenger train operation in many places overseas is predicated on curve negotiation at train speeds developing significantly higher cant deficiencies than permitted by the U.S. track regulations. This practice has been followed abroad without incident for many years. Authorities in Germany and other countries approved curving speeds for specifically designed rolling stock that produce cant deficiencies at the upper end of the acceptable range without passengers incurring centrifugal force-induced discomfort. The way in which this result is achieved is described below (for a detailed discussion of cant deficiency, see 52 FR 38035, October 13, 1987).

Should this petition be approved, Amtrak expects to schedule the test/demonstration programs starting in June 1993.

The equipment to be evaluated will consist of a so-called Intercity Express (ICE) trainset composed of a locomotive at each end and six intermediate coaches. This equipment is representative of the fleet of similar trainsets operated by Deutsche Bundesbahn (DB), the German National Railway, on a daily basis over trunk lines of that country. There are presently 58 trainsets of this type operating in revenue service in Germany at current maximum speeds of 155 mph. At these speeds, trains operate over a portion of the DB system totally dedicated to ICE service. A unique feature of these new lines are curves having radii much longer than curves in conventional track. These long radii curves will permit the realization of train speeds approaching 200 mph when it is convenient for DB to make this decision. The ICE trainsets have been designed for optimal, high speed performance on this dedicated-track network. To estimate how the ICE trainset to be delivered to Amtrak would perform in the Northeast Corridor, track geometry data recently collected between Washington and New York was provided to the rolling stock developer, Siemens AG, for use in a simulation exercise that would predict future vehicle response in this country. Differences were disclosed resulting in a modification of the power car trucks by reducing the primary spring suspension stiffness by one third.

In the test phase, Amtrak proposes to investigate the response of the ICE trainset at curving speeds producing up to nine inches of cant deficiency if this can be accomplished safely. An Amtrak diesel-electric locomotive will be used to supply propulsion in non-electrified territory.

The overall test phase could be divided into four support activities each one of which is considered an integral part of the phase:

1. Equipment Evaluation—to confirm operational readiness.

2. Cant Deficiency—to establish safe curving speed limits.

3. High Speed Stability—to identify, if possible, the speed at which truck hunting sets in.

4. Pre-Revenue Test—trials to assure that the assigned train operating parameters provide a safe environment for passengers.

Equipment evaluation will include braking tests, functioning of the cab signals, propulsion system, lights, horns, etc.

At the conclusion of the test period, Amtrak proposes to start Phase 1 of the demonstration program which would be a diesel-electric locomotive-propelled tour of the country in much the same fashion as that proposed for the X2000 Swedish tiltbody train (see 58 FR 25696, April 27, 1993). Amtrak may invite certain non-fare-paying guests to ride the train over some segments of the route. This tour would occur towards the end of summer and would conclude about mid-September. Movement of the equipment would be strictly in accordance with the requirements of the Federal track safety standards with respect to cant deficient curve negotiation and the maximum train speed would not exceed 79 mph. In short, the ICE trainset would function during the national tour simply as a conventional train. The measures to be taken to accommodate vehicle safety appliances that are not present are outlined in Request 5, below.

When the national tour is finished, Phase 2 of the demonstration program, revenue service operation between Washington, DC and New York City, could start, based on a target maximum speed of 135 mph and cant deficiency limit of seven inches. Authorization by FRA of these target operational parameters would be based entirely on the outcome of the test program outlined, below. At this time, if Amtrak's petition is granted, it is estimated that Amtrak could conclude its investigation of the ICE trainset in early December 1993.

Amtrak submitted the following specific requests for waiver of compliance with individual regulations.

Request 1—High Cant Deficiency and Train Speeds for Test Purposes

This request seeks temporary relief from the requirements of § 213.9(c), "Classes of Track Operating Speed Limits" and § 213.57(b), "Curves; elevation and speed limitations" in order to establish the safe cant deficiency limits for the revenue service demonstrations.

Cant deficiency testing is proposed to be conducted between Philadelphia and Newark, New Jersey and Philadelphia to Lancaster, Pennsylvania on the Harrisburg Line.

FRA's role in these proceedings is to prescribe the conditions under which the test series will be carried out so that the risk of accident to the test equipment and hazard to the abutting community and test staff is minimal. To this end, the FRA must review and approve any test plans, that would be prepared by Amtrak, prior to the test, and would monitor all tests. Amtrak proposes to have sufficient instrumentation installed on the trainset to enable comparison of equipment behavior during test to predetermined derailment criteria and, also, to previously tested equipment of similar types known to be safe. FRA could require that attainment of maximum target curving speeds be in increments permitting a step-by-step analysis of applied forces and dynamic responses during and at the conclusion of each test run. The decision to proceed to the next level of cant deficiency or speed would be based on this analysis process and could be subject to the approval of the on-board FRA test monitor.

It is generally agreed there are three scenarios in which rolling stock can derail during curve negotiation. A wheel can climb over the rail, the equipment can overturn or excessive wheel/rail forces can cause the track to fail. This last, track failure, subdivides into rail rollover or sudden lateral track shift (buckling). Fortunately, there are measurement techniques and mathematical processes that allow calculation of wheel-rail forces while a vehicle is moving and the amount of force required to cause track failure can be predicted. Similarly, the buildup of forces leading to vehicle overturning can be observed during a test for comparison with a predetermined safe test cutoff criterion.

Should the request for a waiver be granted, the FRA would require the cessation of testing at elevated cant deficiencies and speeds while traffic passes on adjacent tracks.

Request 2—High Cant Deficiency in Revenue Service Testing/Demonstration

A major part of the entire exercise would be Amtrak's operation of the ICE trainset in revenue service for a period of some months between Washington and New York City. In order to provide commercially attractive trip times, the railroad will want to run the equipment, in certain curving situations yet to be explicitly defined, at or approaching a maximum value of cant deficiency that will have been determined to be safe during the tests concluded under Request 1. FRA will carefully review the High Cant Deficiency test data and, if it is reasonable to do so, will issue a conditional approval for the revenue service testing/demonstration. In the absence today of these test data FRA can only surmise the form of probable conditions. It seems likely, however, that FRA typically would be concerned about periodic measurement of passenger ride quality within the coaches of the ICE trainset, would require the operation of automated track geometry measuring equipment at not less frequently than bi-monthly intervals and certainly would require immediate notification of any incidents of passenger, equipment or track distress, including clearance envelope intrusion, attributable to train operation at speeds producing high cant deficiency values. In this contest it is helpful to recall that Amtrak is authorized now to operate certain types of passenger rolling stock in revenue service between New Haven and Boston at five inches of cant deficiency and has done so for a number of years without incident. (See Request 4, below, for related discussion.)

Request 3—160 mph for Test Purposes Only

If warranted by the results of the High Cant Deficiency test progressed under Request 1, above, Amtrak proposes to conduct further tests on the Northeast Corridor between Trenton and New Brunswick in New Jersey at speeds up to 160 mph. Amtrak is requesting temporary relief from compliance with 49 CFR 213.9(c) in order to operate at train speeds of up to 160 mph. Tracks 2 and 3 of the proposed test zone have been used for conducting similar tests in the past and, although the actual 20-mile test zone in the Corridor includes four long-radii curves, it is mainly tangent track. This is the area used in 1969–71 for acceptance testing of newly-delivered Metroliners which had to demonstrate a capability of attaining 150 mph speed.

It is proposed that the test will commence at 130 mph, proceed in 10-mile an hour increments to 160 mph if analysis of the on-board instrumentation data output supports these speed increases.

Request 4—135 mph for Revenue Operation

This request complements Request 2 in that both would be simultaneously operative in staging the several-month test/demonstration between New York and Washington. Amtrak now has approval to operate AEM–7 locomotives and Amfleet cars in revenue service between Washington and New York over certain curves of the railroad's own selection at train speeds developing four inches of cant deficiency and at a maximum speed of 125 mph, overall. (See 54 FR 27790, June 30, 1989 for discussion.) In considering whether to approve this request or not, FRA will review ICE trainset test data accumulated up to this point and, as noted in the discussion of Request 2, above, if justified by trainset performance, will issue conditional approval.

Request 5—Side and End Handholds and Uncoupling Levers

Amtrak requests relief from 49 CFR 231.12, which specifies the number and manner of application of side and end handholds and uncoupling levers. The waiver would permit Amtrak to operate and move the ICE throughout the period in which it is in the country. The ICE was built to a set of specifications provided by DB, and the requirements do not meet those set forth in FRA regulations or Amtrak's specifications. Amtrak states that it is neither practical nor economically feasible to modify the carbodies drastically for a short test and evaluation program.

The petitioner states that the ICE is a trainset and the cars are semi-permanently coupled and there is no practical means of uncoupling them by a road crew; this is performed by shop personnel. For the tests/demonstration operations in this country, Amtrak intends to have an adapter coupler carried on-board to couple the ICE trainset to a conventional locomotive in an emergency. This would be a very special circumstance, and the adapter coupler will be installed and removed by Siemans personnel. Also, a special adaptor coupler is being designed for use between the conventional locomotive and the ICE trainset when it is moved around the country for demonstration purposes. Therefore, uncoupling levers would serve no

useful purpose and side and end handholds would not be essential.

Request 6—Side and End Glazing, and Emergency Exits

Amtrak is petitioning for a waiver of 49 CFR part 223, Safety Glazing Standards, for the ICE front facing glazing of the power units, the side facing glazing of the cars, and the emergency windows in the coaches.

Amtrak indicates that the strength requirements for the ICE power unit windshields do not directly correlate with the requirements of § 223.11(a). The ICE requirement is for the windshield to remain in its frame after being struck at 98 mph by a .22 pound cylinder with a hemispherical head. In addition, the projectile must not penetrate the face of the pane. There is no ICE ballistic requirement. Amtrak points out that it is not possible to determine if a windshield that passes an ICE test will meet the FRA requirements for Type I glazing for windshields. The ICE glazing material is 0.94" thick compared to Amtrak glazing material, which is 0.56" thick, and it is entirely possible that the glazing material has more than the required strength to comply with the FRA requirement.

There are no ICE requirements for side facing windows as required in § 223.15(b). The side windows are composed of two separate panes of double safety glass bonded into an aluminum frame to form a complete window unit with an air space in between. Each window unit is screwed into the side of the coach body to form a flush aero-dynamic surface. Further, Amtrak states that certain double glazed safety glass has been shown, in past tests, to meet the requirements of FRA Type II glazing. The petitioner states that it would not be possible to have new window material designed and mounted into the demonstration train before shipment from Germany.

The ICE coaches have four emergency windows located in the vestibule side doors. Since the restaurant care has one vestibule, it has only two emergency windows. Amtrak states that it is not practical to equip this care with two more emergency windows since the side windows are part of a continuous window strip system and cannot be readily redesigned and changed. Therefore, Amtrak is seeking a waiver of § 223.15(c).

Request 7—Body Structure

The ICE power cars were designed to withstand a maximum static end load of 330,000 pounds; static end loads in this range are common in much of Europe. The trainset weighs in excess of 600,000 pounds and falls under the requirements of § 229.141(a). Similarly, the ICE does not comply with the other requirements of this section, 229.141 (a)(2), (a)(3), (a)(4), and (a)(5), all dealing with some facet of the strength requirements of the power unit. Amtrak is seeking a temporary waiver of all parts of § 229.141(a), in order to operate the ICE in the Northeast Corridor as well as various off-Corridor locations.

Request 8—Wheel Slip/Slide Alarms

Amtrak is seeking a waiver of § 229.115 which states in part that each locomotive used in road service shall be equipped with a device that provides an audible or visual alarm in the cab of either slipping or sliding wheels. The ICE traction system is an alternating current (AC) system and is not capable of rapidly spinning the powered wheels, as is the case with a conventional direct current (DC) system. In addition, Amtrak states that the ICE power cars have a sophisticated, active propulsion control system that controls any tendency of the powered axle to loose adhesion. Because of this state-of-the-art propulsion and control system, no slip/slide system was installed on the ICE power car, and Amtrak says that it effectively meets the intent of the law.

Request 9—Instrumented Wheel Sets

Amtrak is seeking a temporary waiver of 49 CFR 232.12, Railroad Power Brakes Regulations and section 1 of the Safety Appliance Act, (45 U.S.C. 1) for the initial engineering test portion of the ICE total test program. The ICE trainset will arrive in the United States with two instrumented wheel sets installed in one of the intermediate coaches. The instrumented wheels sets will be used for the high cant deficiency and high speed stability tests. In addition, the instrumented wheel sets will allow both Amtrak and the FRA to make certain track force comparisons between the X2000 and the ICE. The waiver is necessary because the brakes will be inoperative on the instrumented wheel sets to prevent heat build-up from destroying the instrumentation. Before the start of these tests, Amtrak will perform a full series of stop distance tests with the brake cut-out on the instrumented wheel sets, to ensure itself that all minimum stop distance requirements are met. The instrumented wheel sets will be removed at the conclusion of the test period.

Interested parties are invited to participate in these proceedings by submitting written views, data or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Number H–93–1) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, DC 20590. Communications received before June 28, 1993 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m. to 5 p.m.) in room 8201, 400 Seventh Street, SW., Washington, DC 20590.

Issued in Washington, DC on May 21, 1993.

Phil Olekszyk,

Deputy Associate Administrator for Safety.

[FR Doc. 93–12555 Filed 5–26–93; 8:45 am]

BILLING CODE 4910–06–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

May 21, 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.

U.S. Customs Service

OMB Number: 1515–0128
Form Number: None
Type of Review: Extension
Title: Request for Temporary Identification Card
Description: Cartmen, lightermen and airport employees may request a temporary identification card to be issued to their employees if they can show that a hardship to their business

would result pending the issues to a permanent identification card.

Respondents: Businesses or other for-profit

Estimated Number of Respondents: 150

Estimated Burden Hours Per Respondent: 30 minutes

Frequency of Response: On occasion

Estimated Total Reporting Burden: 300 hours

Clearance Officer: Ralph Meyer, (202) 927–1552, U.S. Customs Service, Paperwork Management Branch, room 6316, 1301 Constitution Avenue, NW., Washington, DC 20229.

OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 93–12608 Filed 5–26–93; 8:45 am]

BILLING CODE 4820–02–M

Departmental Offices

Debt Management Advisory Committee; Meeting

Notice is hereby given, pursuant to section 10 of Public Law 92–463, that a meeting will be held at the Federal Reserve Bank of New York on June 24, 1993, of the following debt management advisory committee:

Public Securities Association Treasury Borrowing Advisory Committee

The agenda for the Public Securities Association Treasury Borrowing Advisory Committee meeting provides for a working session on June 24. A written report will be submitted to the Secretary of the Treasury following the meeting.

Pursuant to the authority placed in Heads of Departments by section 10(d) of Public Law 92–463, and vested in me by Treasury Department Order 101–05, I hereby determine that this meeting is concerned with information exempt from disclosure under section 552b(c)(9)(A) of title 5 of the United States Code, and that the public interest requires that such meetings be closed to the public.

My reasons for this determination are as follows. The Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community, which committees have been utilized by the Department at meetings called by representatives of the Secretary. When so utilized, such a committee is recognized to be an advisory committee under Public Law 02–463.

Although the Treasury's final decisions may not reflect the recommendations provided in reports of an advisory committee, the nature content of the discussion and recommendations are such that their premature disclosure would lead to significant speculation in the securities market. Thus, this meeting falls within the exemption covered by section 552b(c)(9)(A) of title 5 of the United States Code.

The Office of the Under Secretary for Domestic Finance shall be responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of committee activities and such other matters as may be informative to the public consistent with the policy of section 552b of title 5 of the United States Code.

Dated: May 24, 1993.

Frank N. Newman,

Under Secretary for Domestic Finance.

[FR Doc. 93–12604 Filed 5–26–93; 8:45 am]

BILLING CODE 4810–25–M

UNITED STATES INFORMATION AGENCY

International Educational and Cultural Activities Discretionary Grant Program

AGENCY: United States Information Agency.

ACTION: Notice—Request for proposals.

SUMMARY: The Office of Citizen Exchanges (E/P) announces a discretionary grants program for private, non-profit organizations in support of projects that link their international exchange interests with counterpart institutions/groups in ways supportive of the aims of the Bureau of Educational and Cultural Affairs. Interested applicants are urged to read the complete **Federal Register** announcement before addressing inquiries to the Office or submitting their proposals. After the deadline for submitting proposals, USIA officers may not discuss this competition in any way with applicants until final decisions are made.

ANNOUNCEMENT NUMBER: All communications concerning this announcement should refer to the Fall Discretionary Grant Program. The announcement number is E/P–94–2. Please refer to title and number in all correspondence or telephone calls to USIA.

DATES: Deadline for Proposals: All copies must be received at the U.S. Information Agency by 5 p.m. Washington, DC time on Friday, August 27, 1993. Faxed documents will not be accepted, nor will documents postmarked on August 27, 1993, but received at a later date. It is the responsibility of each grant applicant to ensure that proposals are received by the above deadline. This action is effective from the publication date of this notice through August 27, 1993, for projects whose activities will begin between January 1, 1994, and June 30, 1994.

ADDRESSES: The original and 14 copies of the completed application, including required forms, should be submitted by the deadline to: U.S. Information Agency, REF: E/P Discretionary Grant Competition, Office of Grants Management (E/XE), 301 4th Street, SW., room 336, Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: Interested organizations/institutions must contact the Office of Affairs, United States Information Agency, 301 4th Street, SW., Washington, DC 20547, (202) 619–5348, to request detailed application packets, which include award criteria, all necessary forms, and guidelines for preparing proposals, including specific budget preparation information.

SUPPLEMENTARY INFORMATION: The Office of Citizen Exchanges of the United States Information Agency announces a program to encourage, through limited awards to non-profit institutions, increased private sector commitment to and involvement in international exchanges. Awarding of any and all grants is contingent upon the availability of funds.

The Office of Citizen Exchanges works with U.S. private sector non-profit organizations on cooperative international group projects that introduce American and foreign participants to each others' social, economic, and political structures; and international interests. The Office supports international projects in the United States or overseas involving leaders or potential leaders in the following fields and professions: Urban planners, jurists, specialized journalists (specialists in economics, business, political analysis, international affairs), business professionals, environmental specialists, parliamentarians, educators, economic planning and other government officials.

Applicants should carefully note the following restrictions/recommendations for proposals in specific geographical areas:

The Newly Independent States

USIA and other agencies of the U.S. government have numerous programs in the countries of the NIS (Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan). As such, the amount of funds for that part of the world in this competition will be extremely limited. Proposals which would normally be considered for other USIA grant competitions will not be accepted. E/P encourages organizations to seek clarification on these points before presenting a proposal.

Europe, Eastern Europe, and the Baltics (EU)

Projects are encouraged involving Western Europe. Due to the fact that the office has or is in the process of conducting specific competitions in Eastern Europe and the Baltics, we will not accept proposals for youth exchange programs or for programs in the following thematic areas: Public administration, business management, independent media development, journalism training, and local government administration and municipal management.

East Asia and the Pacific (EA)

Except where noted elsewhere in this announcement, there are no country or thematic restrictions for this geographic region. Priority will be given, however, to projects in the following areas: strengthening of democracy, economic reform/free markets, rule of law, educational reform, environmental policy, and the development and roles of NGOs. The Agency encourages proposals involving Laos, Cambodia, and Mongolia.

American Republics (AR)

Except where noted elsewhere in this announcement, there are no country or thematic restrictions for this geographic region. However, priority will be given to projects in the following areas: Strengthening of democracy, economic reform, free markets, journalism, administration of justice, civil/military relations, and good governance.

Africa (AF)

Except where noted elsewhere in this announcement, there are no country or thematic restrictions for this geographic region.

North Africa, Near East and South Asia (NEA)

Except where noted elsewhere in this announcement, there are no country or thematic restrictions for this geographic region. However, priority will be given to projects which promote democratization, free markets, tolerance and pluralism, and conflict resolution.

The Office of Citizen Exchanges strongly encourages the coordination of activities with respected universities, professional associations, and major cultural institutions in the U.S. and abroad, but particularly in the U.S. Projects should be intellectual and cultural, not technical. Vocational training (an occupation other than one requiring a baccalaureate or higher academic degree; i.e., clerical work, auto maintenance, etc. and other occupations requiring less than two years of higher education) and technical training (special and practical knowledge of a mechanical or a scientific subject which enhances mechanical, narrowly scientific, or semi-skilled capabilities) are ineligible for support. In addition, scholarship programs are ineligible for support. Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character, should be balanced and representative of the diversity of American political, social and cultural life.

The Office does not support proposals limited to conferences or seminars (i.e., one to fourteen-day programs with plenary sessions, main speakers, panels, and a passive audience). It will support conferences only insofar as they are part of a larger project in duration and scope which is receiving USIA funding from this competition. USIA-supported projects may include internships; study tours; short-term, non-technical training; and extended, intensive workshops taking place in the United States or overseas.

The themes addressed in exchange programs must be of long-term importance rather than focused exclusively on current events or short-term issues. In every case, a substantial rationale must be presented as part of the proposal, one that clearly indicates the distinctive and important contribution of the overall project, including where applicable the expected yield of any associated conference.

No funding is available exclusively to send U.S. citizens to conferences or conference-type seminars overseas; neither is funding available for bringing foreign nationals to conferences or to routine professional association meetings in the United States.

Projects that duplicate what is routinely carried out by private sector and/or public sector operations will not be considered. USIS post consultation by applicants, *prior* to submission of proposals, is strongly recommended for all programs.

Additional Guidelines and Restrictions

Office of Citizen Exchanges grants are not given to support projects whose focus is limited to technical or vocational subjects, or for research projects, for publications funding, for student and/or teacher/faculty exchanges, for sports and/or sports related programs. Nor does this office provide scholarships or support for long-term (a semester or more) academic studies. Competitions sponsored by other Bureau offices are also announced in the **Federal Register**.

For projects that would begin after June 30, 1994, competition details will be announced in the **Federal Register** on or about December 1, 1993. Inquiries concerning technical requirements are welcome prior to submission of applications.

Selection of Participants

All grant proposals should clearly describe the type of persons who will participate in the program as well as the process by which participants will be selected. It is recommended that programs in support of U.S. internships include letters tentatively committing host institutions to support the internships.

In the selection of foreign participants, USIA and USIS posts retain the right to nominate all participants and to accept or deny participants recommended by grantee institutions. However, grantee institutions will often provide support, as requested by USIA, in the nomination of participants. The grantee institution will also provide the names of American participants and brief biographical data to the Office of Citizen Exchanges for information purposes. Priority will be given to foreign participants who have not previously travelled to the United States.

Funding

Although no set funding limit exists, proposals for less than $150,000 will receive preference. Organizations with less than four years of successful experience in managing international exchange programs are limited to $60,000.

Applicants are invited to provide both an all-inclusive budget as well as separate sub-budgets for each program component, phase, location, or activity

in order to facilitate USIA decisions on funding. While an all-inclusive budget must be provided with each proposal, separate component budgets are optional. Competition for USIA funding support is keen.

The selection of grantee institutions will depend on program substance, cross-cultural sensitivity, and ability to carry out the program successfully. Since USIA grant assistance constitutes only a portion of total project funding, proposals should list and provide evidence of other anticipated sources of financial and in-kind support. Proposals with cost sharing of less than 33 percent of the total project cost will be considered ineligible.

The following project costs are eligible for consideration for funding:

1. International and domestic air fares; visas; transit costs; ground transportation costs.

2. Per Diem. For the U.S. program, organizations have the option of using a flat $140/day for program participants or the published U.S. Federal per diem rates for individual American cities. For activities outside the U.S., the published Federal per diem rates must be used. NOTE: U.S. escorting staff must use the published Federal per diem rates, not the flat rate.

3. Interpreters: If needed, interpreters for the U.S. program are provided by the U.S. State Department Language Services Division. Typically, a pair of simultaneous interpreters is provided for every four visitors who need interpretation. USIA grants do not pay for foreign interpreters to accompany delegations from their home country. Grant proposal budgets should contain a flat $140/day per diem for each Department of State interpreter, as well as home-program-home air transportation of $400 per interpreter plus any U.S. travel expenses during the program. Salary expenses are covered centrally and should not be part of an applicant's proposed budget.

4. Book and cultural allowance: Participants are entitled to and escorts are reimbursed a one-time cultural allowance of $150 per person, plus a book allowance of $50. U.S. staff do not get these benefits.

5. Consultants. May be used to provide specialized expertise or to make presentations. Daily honoraria generally do not exceed $250 per day. Subcontracting organizations may also be used, in which case the written agreement between the prospective grantee and subcontractor should be included in the proposal.

6. Room rental, which generally should not exceed $250 per day.

7. Materials development. Proposals may contain costs to purchase, develop, and translate materials for participants.

8. One working meal per project. Per capita costs may not exceed $5–8 for a lunch and $14–20 for a dinner; excluding room rental. The number of invited guests may not exceed participants by more than a factor of two to one.

9. A return travel allowance of $70 for each participant which is to be used for incidental expenditures incurred during international travel.

10. All USIA-funded delegates will be covered under the terms of a USIA-sponsored health insurance policy. The premium is paid by USIA directly to the insurance company.

11. Other costs necessary for the effective administration of the program, including salaries for grant organization employees, benefits, and other direct and indirect costs per detailed instructions in the application package. Note: the 20 percent limitation of "administrative costs" included in previous announcements does not apply to this RFP.

Application Requirements

Proposals must be structured as outlined in the application package. Confirmation letters from American and foreign co-sponsors noting their intention to participate in the program will enhance an institution's submission.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines established herein and in the application packet. Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will also be reviewed by the appropriate geographic area office, and the budget and contract offices. Proposals may also be reviewed by the USIA's Office of General Counsel.

Funding decisions are at the discretion of the Associate Director for Educational and Cultural Affairs. Final technical authority for grant awards resides with USIA's contracting officer. The award of any grant is subject to the availability of funds.

The U.S. Government reserves the right to reject any or all applications received. USIA will not pay for design and development costs associated with submitting a proposal. Applications are submitted at the risk of the applicant; should circumstances prevent award of a grant, all preparation and submission costs are at the applicant's expense. USIA will not award funds for activities conducted prior to the actual grant award.

Review Criteria

USIA will consider proposals based on their conformance with the objectives and considerations already stated in this RFP, as well as the following criteria:

1. Quality of Program Idea

Proposals should exhibit originality and substance. Their rationale should persuade the reader that the U.S. taxpayer's dollar is being well-spent for a clearly defined need.

2. Institution Reputation/Ability

Institutions should demonstrate their potential for program excellence and/or provide documentation of successful programs. If an organization is a previous USIA grant recipient, responsible fiscal management and full compliance with all reporting requirements for past USIA grants as determined by USIA's Office of Contracts (M/KG) will be considered. Relevant program evaluation of previous projects may also be considered in this assessment.

3. Project Personnel

Personnel's professional and logistical expertise should be relevant to the proposed program. Resumes should be relevant to the specific proposal.

4. Program Planning

Detailed agenda and work plan should demonstrate substance and logistical capacity.

5. Thematic Expertise

Proposal should demonstrate the organization's expertise in the subject area.

6. Cross-Cultural Sensitivity/Area Expertise

Evidence of sensitivity to historical, linguistic, and other cross-cultural factors; relevant knowledge of geographic area.

7. Ability to Achieve Program Objectives

Objectives should be realistic and attainable. Proposal should clearly demonstrate how the grantee institution will meet the program objectives.

8. Multiplier Effect

Proposed programs should strengthen long-term mutual understanding, to include maximum sharing of information and establishment of long-term institutional ties.

9. Cost-Effectiveness

Overhead and administrative costs should be kept as low as possible. All other items proposed for USIA funding should be necessary and appropriate to achieve the program's objectives.

10. Cost-Sharing

Proposals should maximize cost-sharing through other private sector support as well as direct funding contributions and/or in-kind support from the prospective grantee institution.

11. Follow-On Activities

Proposals should provide a plan for continued exchange activity (without USIA support) which ensures that USIA-funded programs are not one-time events.

12. Project Evaluation

Proposals should include a plan to evaluate the activity's success. In this respect the applicant should include a draft survey questionnaire or other technique and a methodology to use to link outcomes to original project objectives. Applicants will be expected to submit intermediate reports after each project component is concluded or quarterly, whichever is less frequent.

Additional Guidance

The Office of Citizen Exchanges offers the following additional guidance to prospective applicants:

1. The Office of Citizen Exchanges encourages project proposals involving more than one country. Pertinent rational which links countries in multi-country projects should be included in the submission. Single-country projects that are clearly defined and possess the potential for creating and strengthening continuing linkages between foreign and U.S. institutions are also welcome.

2. Proposals for bilateral programs are subject to review and comment by the USIS post in the relevant country, and pre-selected participants will also be subject to USIS post review.

3. Bilateral programs should clearly identify the counterpart organization and provide evidence of the organization's participation.

4. The Office of Citizen Exchanges will consider proposals for activities which take place exclusively in other countries when USIS posts are consulted in the design of the proposed program and in the choice of the most suitable venues for such programs.

Notice: The terms and conditions published in the RFP are binding and may not be modified by any USIA representative. Explanatory information provided by USIA that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the U.S. Government. Awards cannot be made until funds have been fully appropriated by the U.S. Congress and allocated and committed through internal USIA procedures.

Notification

All applicants will be notified of the results of the review process on or about December 1, 1993. Awarded grants will be subject to periodic reporting and evaluation requirements.

Dated: May 18, 1993.

Barry Fulton,

Acting Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 93–12242 Filed 5–26–93; 8:45 am]

BILLING CODE 8230–01–M

International Creative Arts Exchanges for Public and Private Non-Profit Organizations

AGENCY: United States Information Agency.

ACTION: Request for proposals.

SUMMARY: The Creative Arts Exchanges Division (E/DE), Office of Arts America, Bureau of Educational and Cultural Affairs, announces a discretionary grants program for private, non-profit organizations in support of projects that link their international exchange interests with counterpart institutions/groups in other countries in ways supportive of the aims of the Bureau of Educational and Cultural Affairs. Interested applicants are urged to read the complete **Federal Register** announcement before addressing inquiries to the Office or submitting their proposals.

DATES: Deadline for proposals: All copies must be received at the U.S. Information Agency by 5 p.m. Washington, DC time on Monday, August 16, 1993. Faxed documents will not be accepted, nor will documents postmarked on August 16, 1993, but received at a later date. It is the responsibility of each grant applicant to ensure that proposals are received by the above deadline. This action is effective from the publication date of this notice through August 16, 1993, for projects whose activities will begin between January 1, 1994, and June 30, 1994.

For projects that would begin after June 30, 1994, competition details will be announced in the **Federal Register** on or about December 1, 1993. Inquiries concerning technical requirements are welcome prior to submission of applications.

ADDRESSES: The original and 14 copies of the completed application, including required forms, should be submitted by the deadline to: U.S. Information Agency, REF: E/DE Discretionary Grant Competition, Office of Grants Management (E/XE), room 336, 301 4th Street, SW., Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: Interested organizations and institutions must contact the Creative Arts Exchanges Division [E/DE], Office of Arts America, Bureau of Educational and Cultural Affairs, United States Information Agency, 301 4th Street, SW., Washington, DC 20547, (202) 619–5319, to request detailed application packets, which include award criteria additional to this announcement, all necessary forms, and guidelines for preparing proposals, including specific budget preparation information.

SUPPLEMENTARY INFORMATION: The Creative Arts Exchanges Division [E/DE], Office of Arts America of the United States Information Agency announces a program to encourage, through limited awards to non-profit institutions of the United States, increased private sector commitment to and involvement in international exchanges. Awarding of any and all grants is contingent upon the availability of funds.

E/DE works with U.S. private sector non-profit organizations on cooperative international group projects that introduce American and foreign participants to each others' cultural and artistic life and traditions. The Office supports international projects in the United States or overseas involving artistic creators in the following fields and professions: composers, choreographers, filmmakers [see Additional Guidance below], playwrights/dramaturgs/theatrical set, costume, lighting designers, writers/poets, visual artists, folk artists, craftpersons and folklorists, museum professionals [see Additional Guidance below], managers/administrators of arts institutions/organizations [see Additional Guidance below].

E/DE particularly seeks cooperative projects with organizations having disciplinary expertise as well as broad outreach and networking capabilities into American arts activities nationwide. These projects should work through U.S. Information Service [USIS] posts worldwide to carry out activities supportive of the USIA mission, goals and objectives. USIS posts' role in such projects should be substantive and integral and not purely facilitative. In this regard, E/DE projects support USIS posts by providing: (a) Vehicles for

professional interaction between arts/museum communities in the United States and other countries; (b) vehicles for creating ongoing institutional linkages between American arts/museum organizations and their counterparts in other countries; and (c) vehicles for USIS officers to use for substantive contacts with key members/groups in their arts constituencies.

Projects supported under the terms of E/DE grants share the following features:

1. Projects must include an international exchange of persons component involving cultural leaders and commentators, critics, administrators and professionals in the professional fields in which the division operates (see above).

2. The office accords high priority consideration to projects potentially leading to institutional linkages between American organizations and their counterparts in other countries.

3. Projects may operate either to or from the United States, preferably in both directions.

4. E/DE projects taking place in the United States operate as competitions in which participating USIS posts retain exclusive nomination prerogative of candidates for awards, while the American arts organizations retain selection prerogative of award-winners. Awards consist of travel and per diem expenses to attend the event or participate in the activity partially funded under the terms of the E/DE grant.

5. Projects to send American professionals to other countries must describe the recruitment and selection process of these professionals and include assurances of quality, fairness and balance in the selection of participants. Such proposed projects must demonstrate their support of USIS posts' goals and objectives in the countries in which they are to operate. E/DE will consider proposals for activities in other countries when USIS posts are consulted in the design of the proposed program and in the choice of the most suitable venues for such programs.

6. Pursuant to the Bureau of Cultural and Educational Affairs' authorizing legislation, "Programs must maintain a non-political character, should be balanced and representative of the diversity of American political, social and cultural life."

7. The Creative Arts Exchanges Division [E/DE], Office of Arts America requires a minimum of 33% co-funding with grantee organizations in all projects.

8. Funding assistance is limited to participant travel and per diem requirements with modest contributions to defray administrative costs which cannot exceed 20% of the total amount requested from USIA.

9. Organizations with less than four years' experience in conducting international exchange programs are limited to $60,000.

10. Grant proposals cannot exceed $150,000 in the amount requested from the USIA.

Additional Guidance

The Creative Arts Division, Office of Arts America offers the following additional guidance to prospective applicants:

1. The Office of Arts America encourages project proposals involving more than one country. However, single-country projects that have strong USIS-post support and are clearly defined so as to demonstrate the potential for creating and strengthening continuing linkages between foreign and U.S. institutions are also welcome.

2. Proposals are subject to review and comment by the USIS posts in the relevant countries.

3. Proposed projects should clearly identify foreign counterpart organizations and define the organizations' participation and role.

4. Proposals centering on films or videos must deal with the creative aspects of film or video making. Such projects should be written to attract professional partners, and should not be planned for amateur or students groups. Such projects may include subjects such as story development, any other aspects of the creative processes, or management issues like funding and distribution. It may not include any film or video festivals, installations, seminars, competitions, full scale film production or distribution, or any other type of project prohibited elsewhere in this announcement.

5. Proposals centering on arts presenters, administrators, and managers should consist of exchanges involving these professionals exclusively. E/DE cannot under its guidelines fund performing arts productions or tours, film or video production and/or festivals, independently-operating international competitions, community-level arts presentations or festivals for general audiences, the production or presentation of visual arts exhibits, or projects in the fields of historical/cultural conservation/preservation [see Program Exclusions, point 5, below].

6. The Bureau is the major supporter of the American Association of Museums [AAM] International Partnerships Among Museums [IPAM] program. Museums interested in international projects should address queries to the Office of International Programs, American Association of Museums, 1225 Eye Street, NW., Washington, DC 20005; telephone: [202] 289–1818; FAX: [202] 289–6578. The Office will not accept direct applications from museums for international projects [see Program Exclusions, point 5, below].

Program Exclusions

1. Projects should be artistic, intellectual, and cultural, not technical. Vocational training (an occupation other than one requiring a baccalaureate or higher academic degree; e.g., clerical work, mechanical/electronic maintenance, etc., and other occupations requiring less than two years of higher education) and technical training (special and practical knowledge of a mechanical or a technical subject which enhances mechanical, narrowly technical, or semi-skilled capabilities) are ineligible for support.

2. Scholarship programs or proposals for long-term (a semester or more) academic studies or training are ineligible for support.

3. E/DE does not support speaking tours, conferences or seminars (i.e., one to fourteen-day programs with plenary sessions, main speakers, panels, and a passive audience).

4. Office of Arts America grants are not given to support research projects, research for project development purposes, youth or youth-related activities (participants' age under 25), publications funding, or student and/or teacher/faculty exchanges, or projects for the exchange of amateurs or semi-professionals.

5. The Office does not accept proposals for the support of performing arts productions or tours, film or video festivals, film/video installations, seminars, or competitions, full-scale film production or distribution, independently-operating international arts competitions, community-level arts presentations or festivals for general audiences, the production or presentation of visual arts exhibits, museum projects except for those under the AAM/IPAM program [see *Additional Guidance*, point 5 above], or projects in the fields of historical/cultural conservation/preservation.

6. The Bureau of Educational and Cultural Affairs is a major yearly supporter of Sister Cities International [SCI]. The Bureau has agreed to fund administrative expenses of the SCI national office but will not fund projects

arising from sister city relationships once they are established.

Funding and Budget Requirements for All Submissions

Cost-Sharing

The Creative Arts Exchanges Division [E/DE], Office of Arts America requires co-funding with grantees in all projects. Proposals with cost sharing of less than 33 percent of the total project cost will be considered ineligible. Since USIA grant assistance constitutes only a portion of total project funding, proposals should list and provide evidence of other anticipated sources of support. Grant applications should demonstrate substantial financial as well as in-kind support using a three-column format that clearly displays cost-sharing support of proposed projects.

Administrative Costs Limitation

Funding assistance is limited to participant travel and per diem requirements with modest contributions to defray administrative costs, which may not exceed 20 percent of the total funds requested from USIA. Proposals exceeding these limits will be considered ineligible. The grantee institution may wish to cost-share any of these expenses. Administrative costs are defined as salaries, benefits and other direct and indirect costs incurred. Important note for universities: The U.S. Information Agency's Bureau of Educational and Cultural Affairs defines American faculty salaries as an administrative expense, regardless of how the faculty time is to be used.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines established herein and in the application packet. Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will also be reviewed by the appropriate USIA geographic area offices, and the Bureau budget and contract offices. Proposals may also be reviewed by the Agency's Office of General Counsel. Funding decisions are at the discretion of the Associate Director for Educational and Cultural Affairs. Final technical authority for grant awards resides with USIA's contracting officer.

Review Criteria

USIA will consider proposals based on the following criteria:

1. *Quality of Program Idea:* Proposals should exhibit originality, substance, rigor, and relevance to Agency mission.

2. *Institution Reputation/Ability/Evaluations:* Institutional grant recipients should demonstrate potential for program excellence and/or track record of successful programs, including responsible fiscal management and full compliance with all reporting requirements for past Agency grants as determined by USIA's Office of Contracts (M/KG). The Agency will consider past performance of prior grantees and the demonstrated potential of new applicants.

3. *Project Personnel:* Personnel's thematic and logistical expertise should be relevant to the proposed program.

4. *Program Planning:* Detailed agenda and relevant work plan/project timeline should demonstrate substantive rigor and logistical capacity.

5. *Thematic Expertise:* Proposals should demonstrate expertise in the subject area which guarantees an effective sharing of information.

6. *Cross-Cultural Sensitivity/Area Expertise:* Evidence of sensitivity to historical, linguistic, and other cross-cultural factors; relevant knowledge of geographic area should be evident.

7. *Ability to Achieve Program Objectives:* Objectives should be reasonable, feasible, and flexible. Proposal should clearly demonstrate how the grantee institution will meet the program's objectives.

8. *Multiplier Effect:* Proposed programs should strengthen long-term mutual understanding, to include maximum sharing of information and establishment of long-term institutional ties.

9. *Cost-Effectiveness:* The overhead and administrative components should be as low as possible and shall not exceed 20% of the total funds requested. All other items should be necessary and appropriate to achieve the program's objectives.

10. *Cost-Sharing:* Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions. Proposals with cost sharing of less than 33 percent of the total project cost will be considered ineligible.

11. *Follow-on Activities:* Proposals should provide a plan for continued exchange activity (without USIA support) which insures that USIA supported programs are not isolated events. USIA will seek evidence of plans for activities supportive of long-term institutional ties.

12. *Project Evaluation:* Proposals should include a plan to evaluate the activity's success.

Technical Requirements

Proposals can only be accepted for review when they are fully in accord with the terms of this RFP, as well as with requirements stipulated in the application package.

Notice

The terms and conditions published in the RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of RFP does not constitute an award commitment on the part of the Government. Final awards cannot be made until funds have been fully appropriated by Congress, allocated and committed through internal USIA procedures.

Notification

All applicants will be notified of the results of the review process on or about December 1, 1993. Awarded grants will be subject to periodic reporting and evaluation requirements.

Dated: May 24, 1993.

Barry Fulton,

Acting Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 93–12589 Filed 5–26–93; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 101
Thursday, May 27, 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).

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: May 24, 1993, 58 FR 29855.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: May 26, 1993, 10:00 a.m.

CHANGE IN THE MEETING: The Commission Meeting scheduled for May 26, 1993, at 10:00 a.m., has been cancelled.

Lois D. Cashell,

Secretary.

[FR Doc. 93–12786 Filed 5–25–93; 3:45 pm]

BILLING CODE 6712–02–M

federal register

Thursday
May 27, 1993

Part II

Department of Housing and Urban Development

Office of the Assistant Secretary

24 CFR Part 905 et al.
Family Self-Sufficiency Program; Interim Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Parts 905, 962, 984

[Docket No. R-93-1633; FR-2961-I-02]

RIN 2577-AB15

Family Self-Sufficiency Program—Interim Rule

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

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule implements the requirements and procedures that will govern local Family Self-Sufficiency (FSS) programs beginning or continuing in Federal fiscal year (FY) 1993 (October 1, 1992 through September 30, 1993). The FSS regulations contained in this interim rule are based on the notice of FSS program guidelines which was published in the **Federal Register** on September 30, 1991 (56 FR 49592), take into consideration the public comments received on those guidelines, and incorporate the changes made to the FSS program by the Housing and Community Development Act of 1992.

Elsewhere in today's edition of the **Federal Register**, the Department is publishing a notice of final rulemaking which adopts the regulations contained in this interim rule as the FSS final regulations. Because section 554 of the National Affordable Housing Act, which created the FSS program, provides that the FSS final regulations will not be effective until one year after the date of publication of the FSS final rule, the Department has found it necessary to issue this interim rule pending the FSS final rule becoming effective. The reasons for the one-year delay in the effective date of the FSS final rule, and for issuance of this interim rule are further discussed in the supplementary information section of this document.

DATES: Effective Date: June 28, 1993.

Comment Due Date: July 26, 1993.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Office of General Counsel, Rules Docket Clerk, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying on weekdays between 7:30 a.m. and 5:30 p.m. at the above address.

FOR FURTHER INFORMATION CONTACT: For section 8 issues: Madeline Hastings, Director, Rental Assistance Division, room 4226. Telephone number (202) 708-2841.

For public housing issues: Edward Whipple, Director, Occupancy, Division, room 4206. Telephone number (202) 708-0744.

For Indian Housing issues: Dominic Nessi, Director, Office of Indian Housing, room 4140. Telephone number (202) 708-1015.

For supportive service issues: Paula Blunt, Supportive Services Coordinator, Office of Resident Initiatives, room 4112. Telephone number (202) 708-4214.

The address for each of these contacts is the Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. The telephone numbers listed are not toll-free numbers. Hearing-impaired persons may contact these offices via TDD by calling (202) 708-9300 or 1-(800) 877-8339.

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act Statement

The information collection requirements contained in the interim rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980. The interim rule does not add new information collection requirements to those contained in the Notice of FSS Program Guidelines published on September 30, 1991 at 56 FR 49592, and for which the estimated reporting burden was published at 56 FR 49601. No person may be subjected to a penalty for failure to comply with the information collection requirements contained in the interim rule until they have been approved and assigned an OMB control number. The OMB control number when assigned will be announced by separate notice in the **Federal Register**.

II. Procedural Matters

Section 554 of the National Affordable Housing Act (NAHA) (Pub. L. 101-625, approved November 28, 1990) amended the U.S. Housing Act of 1937 (the 1937 Act) by adding new section 23 (42 U.S.C. 1437u) (the FSS statute) which creates the FSS program. The purpose of the FSS program is to promote the development of local strategies that coordinate the use of public housing assistance and housing assistance under the section 8 rental certificate and voucher programs with public and private resources, to enable eligible families to achieve economic independence and self-sufficiency.

As originally enacted, the FSS statute provided that for FY 1991 and FY 1992 participation in the FSS program was voluntary for public housing agencies (PHAs) and Indian housing authorities (IHAs), but that commencing in FY 1993, PHAs and IHAs which receive new public or Indian housing units or new section 8 rental certificates or rental vouchers must implement and administer a local FSS program. (The mandatory participation requirement for IHAs was removed by a 1992 statutory amendment to section 23, and is discussed later in this preamble.) For those PHAs and IHAs that received an FSS incentive award or that voluntarily participated in the FSS program in FY 1992, their local FSS programs were administered in accordance with program guidelines published by the Department on September 30, 1991 (56 FR 49588) (the FSS Guidelines or Guidelines).

The Guidelines were issued in accordance with the FSS statute, which directs the Department to issue a notice of the requirements necessary to carry out the FSS program not later than the expiration of the 180-day period beginning on the date of enactment of the NAHA (November 28, 1990). The FSS statute also directs the Department to issue final regulations based on the notice not later than the expiration of the eight-month period beginning on the date of the notice, and provides that the final regulations "shall become effective upon the expiration of the 1-year period beginning on the date of the publication of the final regulations."

Although the reason behind the one-year delayed effective date of the FSS final regulation was not explained in the Conference Report accompanying the NAHA, it is the Department's understanding that the intent was to synchronize the effective date of the FSS final regulations with the mandatory implementation and operation of local FSS programs. That is, the Guidelines would govern the FSS program in FY 1991 and FY 1992, when participating in program was optional for PHAs and IHAs, and the rule would replace the Guidelines when the program became mandatory in FY 1993. Had the Department been able to meet the publication dates set forth in the FSS statute for the notice of Guidelines and the FSS final regulations, the FSS final regulations would be effective in early 1993—the approximate time the Department would be issuing notices of funding availability for new public/Indian housing units and new section 8

rental certificates and vouchers. However, because the NAHA constitutes significant housing legislation, creating several new housing programs (including the HOME Investments Partnerships Program, the Homeownership and Opportunity for People Everywhere (HOPE) programs, the HOPE for Elderly Independence program), all of which require regulatory guidance, the Department's limited resources were hard pressed to meet the statutory deadlines established for issuance of regulations for all these new programs.

In order that the mandatory implementation and operation of local FSS program, which continues to be required of PHAs, not be without regulatory guidance, the Department is issuing this interim rule which sets forth the regulations in 24 CFR parts 905 (subpart R), 962 and 984, that will govern, respectively, commencing in FY 1993 operation of: HUD's Indian housing FSS program (for those IHAs that opt to participate in this program); HUD's public housing FSS program; and HUD's section 8 rental certificate and voucher FSS programs.

The Department believes that further justification for issuance of this interim rule is found in Title I of the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992) (the 1992 Act). Section 106 of Title I amends the FSS statute to provide PHAs with increased flexibility in the implementation and administration of FSS programs. (The changes made to the FSS program by section 106 are discussed in Section III.B. of this preamble.) Section 191 of title I is the "implementation" section of Title I, and provides that HUD shall issue any final regulations necessary to implement the provisions of, and amendments made by, Title I not later than the expiration of the 180 day period beginning on the date of enactment of the 1992 Act. This implementation section indicates that the Congress intended PHAs to be able to take advantage of the changes made to the FSS program by section 106 earlier than the one year effective date provided by the NAHA.

Accordingly, this interim rule is based on the notice of the FSS Guidelines that was published on September 30, 1991 (56 FR 49592); takes into consideration the public comments received on the Guidelines; and also incorporates the changes made to the FSS program by the 1992 Act. The Department solicits additional comments on this interim rule. Comments received on the interim rule will be taken into consideration in connection with possible amendments to the FSS final regulations, once those regulations become effective.

By separate notice of final rulemaking published elsewhere in today's **Federal Register**, the Department is adopting as its FSS final regulations the regulations contained in this interim rule. In accordance with the FSS statute, these final regulations will be effective one year from today's date.

Since the regulations in this interim rule are being adopted in their entirety, without change, by the FSS final rule, the terms—"FSS rule," or simply the "rule" are used in the remainder of this preamble.

III. Background

A. Implementation of FSS Program by FSS Program Guidelines

On September 30, 1991 (56 FR 49592), the Department published a notice of FSS Program Guidelines. As required by the FSS statute, the Guidelines established the requirements for (1) those PHAs and IHAs implementing and administering an FSS program funded pursuant to notices of funding availability issued for the incentive award competitions for FY 1991 and FY 1992, and (2) those PHAs and IHAs that voluntarily implemented and administered an FSS program. Although the FSS Guidelines were effective upon publication (as authorized by the statute), the Department invited public comment on the Guidelines to assist in the development of FSS final regulations. One hundred seventy (170) comments were received on the Guidelines. These comments, and the changes made to the FSS program requirements and procedures in response to these comments, are discussed in Section V of the preamble.

B. Changes Made to the FSS Program by the 1992 Act

Several changes were made to the FSS program requirements and procedures by amendment to the FSS statute made by the Housing and Community Development Act of 1992 (Pub. L. 102–550), approved October 28, 1992) (the 1992 Act). (See section 106 of the 1992 Act.) These changes include the following:

Exception to Required Establishment of Program. The 1992 Act amendment clarifies that a lack of supportive services, which may affect a PHA's ability to implement and carry out an FSS program, includes insufficient job opportunities, specifically an insufficient availability of resources for programs under the Job Training Partnerships Act (JTPA) or the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act (JOBS).

No refusal or Reduction of Funding if PHA Certifies to Inability to Implement Program. The 1992 Act amendment provides that the Department, in allocating assistance made available for the FSS program, may not refuse to provide assistance or reduce the amount of assistance that would otherwise be provided to any PHA because the PHA has submitted a certification that establishment and operation of an FSS program is not feasible because of local circumstances.

No Delay in Assistance to Section 8 Families Who Elect Not to Participate in a Section 8 FSS Program. The 1992 Act amendment provides that with respect to the section 8 certificate and voucher programs, the Department shall not delay assistance to an applicant for section 8 assistance on the basis that the applicant has elected not to participate in the FSS program.

Inclusion of Interim Goals in Contract of Participation. The 1992 Act amendment provides that the contract of participation shall establish specific interim and final goals by which compliance with and performance of the contract obligations may be measured.

Termination and Withholding of Section 8 Assistance in Accordance with Established Grievance Procedures. The 1992 Act amendment provides that the contract of participation shall provide that the PHA may terminate or withhold section 8 assistance and services if the PHA determines through an administrative grievance procedure, established in accordance with section 6(k) of the 1937 Act (42 U.S.C. 1437d(k)), that the section 8 family has failed to comply with the contract obligations without good cause (which may include a loss or reduction in access to supportive services, or a change in circumstances that makes the family unsuitable for participation).

Conditions under which FSS Account Funds May Be Withdrawn. Before its amendment by the 1992 Act, the FSS statute provided that: "Amounts in the escrow account may be withdrawn by the participating family only after the family is no longer a recipient of any Federal, State, or other public assistance for housing." The amendment made by the 1992 Act replaced this language with the following:

> Amounts in the escrow account may be withdrawn by the participating family after the family ceases to receive income assistance under Federal or State welfare programs, upon successful performance of the obligations of the family under the contract of participation entered into by the family under subsection (c) [42 U.S.C

1437u(c)], as determined according to the specific goals and terms included in the contract, and under other circumstances in which the Secretary determines an exception for good cause is warranted. A public housing agency establishing such escrow accounts may make certain amounts in the accounts available to the participating families before full performance of the contract obligations based on compliance with, and completion of, specific interim goals included in the contract; except that any such amounts shall be used by the participating families for purposes consistent with the contracts of participation as determined by the public housing agency.

Incentives for FSS Family Participation. The 1992 Act amendment added a new component to the FSS program. This new component provides that each public housing agency carrying out a local FSS program shall establish a plan to offer incentives to families to encourage families to participate in the program. The plan shall require the "establishment of escrow savings accounts and may include any other incentives designed by public housing agency."

Additional Items for Inclusion in Action Plan. The 1992 Act amendment provides that the Action Plan shall include the following additional items:

(1) A description of the incentives offered by the public housing agency to families to encourage participation in the FSS program; and

(2) Assurances satisfactory to HUD that nonparticipating families will retain their rights to public housing or section 8 assistance.

New Definition for "Eligible Family". The 1992 Act amendment provides that the term "eligible family" shall be defined to mean a family whose head of household is not elderly, disabled, pregnant, a primary caregiver for children under the age of 3, or for whom the family self-sufficiency program would otherwise be unsuitable. The 1992 Act amendment, however, also provides that notwithstanding this definition, a public housing agency may enroll families whose head of household is elderly, disabled, pregnant, a primary caregiver for children under the age of 3, if these families choose to participate in the program.

Optional Participation for IHAs. The 1992 Act amendment also made operation of an FSS program optional for IHAs.

Regulatory Adoption of 1992 Act Changes. With the exception of the definition of "eligible family," all of the above statutory changes to the FSS program have been incorporated in the FSS rule. Although the FSS rule contains a definition of "eligible family," the regulatory definition is not the same as the statutory definition. The Department has not incorporated the statutory definition of "eligible family" because the 1992 Act permits families not meeting the statutory definition to participate in the FSS program if they so choose. Participation in the FSS program is voluntary, and, under the FSS rule, if the titular head of the household is an individual who is unable to seek employment because of age, disability or other family responsibilities, the family may designate another family individual as the head of the household for FSS purposes. Accordingly, this provision is in conformance with the intended effect of the statutory definition of "eligible family." In the FSS rule, "eligible family" is defined to mean, depending upon the FSS program (i.e., section 8, public housing, or Indian housing), current section 8 participants, current public housing residents or current Indian housing residents. The basis for this definition is addressed in Section V of the preamble under the discussion family selection procedures.

IV. Overview of the FSS Rule

A. Organization

The FSS rule, as codified in part 962 (public housing FSS program) and part 984 (section 8 FSS program), is organized into four subparts.

Subpart A, "General," sets forth the purpose, application, and objectives of the FSS program. This subpart also defines the principal terms used in the FSS program, lists the other regulations applicable to the FSS program, and sets forth the method for determining minimum program size.

Subpart B, "Program Development and Approval Procedures" contains the regulations governing the Action Plan, the Program Coordinating Committee, the FSS family selection process, and the utilization of on-site facilities.

Subpart C, "Program Operation," addresses the implementation deadline for the FSS program, and the applicable administrative fees, and establishes the regulations governing the contract of participation, the FSS account, and tenant rent and increases in family income. Subpart C of part 984 (the section 8 FSS program) also contains the regulations governing section 8 residency and portability in the section 8 FSS program.

Subpart D, "Reporting," contains the reporting requirements applicable to the FSS program.

The FSS rule for the Indian housing FSS program, as codified in subpart R of part 905, organizes subpart R into four undesignated headings. These four undesignated headings and the regulations organized under each heading parallel the four subparts contained in parts 962 and 984.

B. Differences Between FSS Guidelines and FSS Rule

The FSS rule follows substantially the organization and content of the FSS Guidelines. However, the FSS rule makes a number of changes to the Guidelines. These changes include: (1) The statutory changes made to the FSS program by section 106 of the 1992 Act, and which were discussed above; (2) the changes prompted by the public comments received on the Guidelines (and which are further discussed in section V of the preamble); (3) those changes initiated by the Department following further consideration of how the FSS program should be administered; and (4) those changes initiated by the Department because of the recent statutory changes made to the FSS program—that is, a statutory change to a certain component of the FSS may require an administrative change to another program component for purposes of consistency and fairness in the operation of the program.

In the remaining sections of this preamble: PHAs and IHAs are sometimes collectively referred to, as "housing agencies or HAs," or in the singular, "housing agency or HA"; a family participating in the FSS program is referred to as an "FSS family"; the "escrow savings account," provided by the FSS statute, is referred to as the "FSS account"; "FSS slots" refer to the total number of units or the total number of section 8 rental certificates or vouchers that determine the minimum size of an FSS program; and "FY" refers to a Federal fiscal year (starting with October 1, and ending September 30, and designated by the calendar year in which it ends). (Several of these terms are also used in the FSS rule, and are defined in the definition section of the rule.)

When discussing the regulations applicable to an Indian housing FSS program, the Department notes that these regulations are applicable only to those IHAs that elect to operate and administer an FSS program.

The changes made to the FSS Guidelines by the FSS rule include the following:

Action Plan. HAs operating a section 8 FSS program are required to submit an administrative plan by the section 8 program, and an Action Plan by the FSS program. The FSS rule provides that certain information that was required by the FSS Guidelines to be included in the Action Plan, is to be included instead in

the HAs section 8 administrative plan. This change will eliminate duplication of information for HAs operating section 8 FSS programs.

Program Coordinating Committee. The sections of the FSS rule concerning the Action Plan and the Program Coordinating Committee (PCC) are revised to require that membership on the PCC include an HA representative, and also include a resident representative. Although the section of the FSS statute governing the PCC (42 U.S.C. 1437u(f)) recommends, and does not require, that certain individuals, or representatives of certain entities or organizations serve on the PCC, the Department believes that it is important that the HA operating the FSS program, and the residents of housing participating in the FSS program have representation on the PCC. These are the two parties—the HA and the residents—because of their existing involvement in assisted housing (whether it is public/Indian or section 8 assisted housing) that share the highest interest in and expend the greatest effort toward making the FSS program a success. Thus, HA and resident input in the planning and implementation of the FSS program is vital to the success of the FSS program. The requirement that HA and resident representatives serve on the PCC is imposed under the authority provided to the Department by the FSS statute to establish any requirements necessary to carry out the provisions of the FSS statute.

Where an HA utilizes an existing entity as its PCC, the existing entity will be required under the FSS rule to increase or modify its membership to include the HA and resident representatives. The FSS rule also provides that where a city-wide resident council exists, the resident representation should be from that organization.

Minimum Program Size. The FSS rule has been revised to clarify which units count, and which units do not count, in determining the minimum size of an FSS program. Additionally, the FSS rule makes certain changes to the listed exceptions to operating an FSS program and meeting the minimum program size. In accordance with the amendment made by the 1992 Act, the FSS rule provides that a lack of supportive services, and specifically, an insufficient availability of resources for job training programs, constitutes good cause for not operating an FSS program, or for meeting the minimum program size. Because eligible FSS participants are limited by the FSS rule to current section 8 certificate or voucher holders and current public or Indian housing residents (as discussed later in this preamble), the FSS rule includes a lack of interest in participating in the FSS program, on the part of eligible families, as a good cause reason for permitting a smaller FSS program, or exempting an HA from implementing an FSS program.

Full Enrollment and Delivery of Services. The FSS rule establishes a time frame within which (1) enrollment of the total number of FSS families required to be served, based on the minimum program size, must be completed, and (2) delivery of supportive services must begin. The rule provides, as did the FSS Guidelines, that outreach activity and participant selection must begin within 12 months from the date of notification of approval of the first application for new units, which includes applications approved under the FSS incentive award competitions. The rule further provides that enrollment must be completed, and delivery of supportive services for all FSS families begun, no later than two years from the date of notification of approval of the application for new units. The FSS rule provides that the delivery of services deadline may be extended by the HUD Field Office after considering the efforts of the HA to deliver these services, as well as the availability of services resources, and other local circumstances which may affect the ability of the HA to meet the delivery of services deadline.

FSS Family Selection Procedures.

The FSS rule makes three significant changes to the procedures governing selection of families for participation in the FSS program. These changes are as follows:

Selecting FSS Participants from Current Section 8, Public Housing/Indian Housing Families. As discussed under Section III of this preamble, the 1992 Act amendment to the FSS statute provided that the Department shall not delay assistance to a family on the section 8 waiting list solely on the basis that the family elects not to participate in the FSS Program. Although the 1992 Act amendment addressed the issue of delayed assistance solely in the context of the section 8 program, the Department believes that it would be inappropriate to apply a different standard to families on the public housing or Indian housing waiting list than that applied to families on the section 8 waiting list—that is, it would be inappropriate to prohibit delayed assistance to section 8 waiting list families, but permit delayed assistance to public or Indian housing waiting list families. The Department believes that this position is supported by the fact that the 1992 Act amendment to the Action Plan includes a requirement that HAs will provide assurances to HUD that families not participating in the FSS program will retain their rights to public housing or section 8 assistance.

Accordingly, the FSS rule requires that: (1) For the section 8 FSS program, selection of FSS participants from current section 8 certificate or voucher holders; (2) for the public housing FSS program, selection of FSS participants from current public housing residents; and (3) for the Indian housing FSS program, selection of FSS participants from current Indian housing residents. This requirement is different from that set forth in the FSS Guidelines which permitted FSS participants to be selected from the section 8, public housing and Indian housing waiting lists. The FSS Guidelines permitted an HA to skip over (1) families on the waiting list who opted not to participate in the FSS program, and (2) families who needed services which were unavailable under the program—which provided for the possibility of delayed assistance to these two categories of families. The Department believes that this requirement to select from current section 8 participants and public/Indian housing residents will ensure that assistance to a waiting list family under any of three programs (section 8, public housing, or Indian housing) will not be delayed, or deprived, solely because the family elects not to participate in the FSS program.

Selection Preference. The FSS rule provides an HA implementing an FSS program with the option of giving a selection preference for up to 50 percent of the total number of FSS slots. The selection preference is limited to families, who are currently section 8 participants and public/Indian housing residents (depending upon the FSS program being carried out) and who have one or more family members currently enrolled in an FSS related service program (as defined in the FSS rule), or on the waiting list for an FSS related service program. The rule provides that an HA that decides to exercise this option must specify in its Action Plan or section 8 administrative plan, the service programs to which it will give a preference in the FSS selection process. If the HA elects to exercise this selection preference, then the remaining 50 percent of the FSS slots (or the entire number of FSS slots if the HA does not exercise this option) must be filled from current section 8 participants, or current public or Indian housing residents through the objective processes described in the FSS

Guidelines, and which are incorporated in the FSS rule.

Motivational Screening. The rule permits, to a limited degree, the use of motivational screening in the selection process. The motivational screening factors that are permitted in the selection process are those which solely measure the family's interest and motivation to participate in the FSS program.

Contract of Participation

The FSS rule makes several changes to the Guidelines' provision concerning the contract of participation.

Completion of contract. The rule uses the term "completion" (as opposed to "termination") to refer to the status of the contract of participation when the family's obligations are determined to be fulfilled. Fulfillment of the family's obligations occurs when the participating family members have complied with all requirements under the contract, and completed all activities as set forth in the contract, within the term of the contract, and any extension thereof. Fulfillment of the family's obligations also occurs when 30 percent of the family's monthly adjusted income equals or exceeds the published existing housing fair market rent for which the family qualifies based on the HA's occupancy standards. When the family's income reaches this level, the family is released from its obligations under the contract.

Inclusion of Interim Goals. In accordance with the amendment made by the 1992 Act, the FSS rule provides that the contract of participation must establish specific interim goals as well as final goals in order to measure the participating family's progress toward fulfilling the contract of participation and moving toward economic independence. The FSS rule provides that if a family is receiving welfare assistance (as this term is defined in the FSS rule) at the time the family enters into, or after entering into, the contract of participation, the HA must establish as an interim goal that the family become independent of welfare assistance, and remain independent of welfare assistance for a period of at least one year before expiration of the term of the contract of participation, including any extension thereof.

Unavailable supportive services. The rule also prescribes the procedures to be followed by the HA in the event there is a failure on the part of a social service provider to deliver the supportive services that it agreed to deliver under the FSS program.

Head of the FSS Family

The FSS rule clarifies who is the head of the family under the FSS program. The FSS statute requires the HA carrying out a local FSS program to enter into a contract of participation with each leaseholder receiving assistance under either HUD's section 8, or public/Indian housing programs that elects to participate in this FSS program. The FSS statute further provides that the contract of participation shall require the head of the FSS participating family to seek suitable employment. To eliminate ambiguity concerning which family member is the "head of the family" as designed in the contract of participation, and which family member is the leaseholder, and to eliminate problems that may arise if the leaseholder is unable to work, the FSS rule provides the head of the family is the adult member of the FSS family who is the head of the household for purposes of determining income eligibility and rent. Thus, if the leaseholder is a member of the family who is unable to work, the leaseholder's inability to work will not preclude the family from participation in the FSS, provided that another adult member of the family is able and willing to work. This adult member will be considered the head of the family for the FSS program.

The FSS rule retains the language of the FSS Guidelines which requires the head of the family to seek and maintain suitable employment. The inclusion of the term "maintain" in the Guidelines and in the rule is to ensure that the head of the family is sincere in his or her efforts to achieve self-sufficiency, and is not simply going through the motions of job seeking, without any sincere intent of obtaining and maintaining employment.

FSS Account

The FSS rule makes several changes to the Guidelines' provision governing the establishment and administration of the FSS account.

Combined Account. The FSS rule provides that HAs must combine the funds being held for all families into a single depository account. As will be discussed in more detail later in this preamble, this change was made in response to a ruling by the Internal Revenue Service, which indicated that FSS funds may be subject to Federal income tax if the HA establishes a separate account for each FSS family.

Cap on FSS Account Contribution. The rule provides that an HA will cease making credits to a family's FSS account when 30 percent of the family's monthly adjusted income equals or exceeds the published existing housing fair market rent for the unit size for which the family qualifies based on the HA's occupancy standards.

Conditions for Withdrawal of FSS Account Funds. Consistent with the 1992 Act amendment to the FSS statute, the FSS program no longer requires that the family be independent of Federal, State, or other public assistance for housing as a condition for receipt of the family's FSS account funds. The FSS statute, as amended by the 1992 Act, now requires, in lieu of this condition, that the family no longer be a recipient of welfare assistance (income assistance under Federal or State welfare programs). Welfare assistance is defined in the FSS rule to include assistance for general living expenses, such as food, health care, child care, but does not include assistance solely directed to meeting housing expenses (e.g., rent, mortgage or utilities payments). The Department believes that independence from welfare assistance is a condition easier to meet than independence from housing assistance, and, therefore, has not included in the FSS rule, the provision contained in the Guidelines which allowed participating families 10 years, from the date of entering into the contract of participation, to become independent of public assistance for housing.

Although the 1992 Act amendment removed economic independence from public assistance for housing as a condition for receipt of the FSS account funds, economic independence from such assistance, although not a condition for receipt of the FSS account funds, remains an objective of the FSS program, and HAs should make every effort to assist participating families gain economic independence from public assistance for housing, particularly section 8, public or Indian housing rental assistance.

The 1992 Act amendment also revised the statutory account provisions to permit the HA to make certain amounts of the FSS account funds available to the participating family before the family has fulfilled all obligations imposed by the contract of participation, provided that (1) the family has met certain interim goals established in the contract of participation, and (2) the use of these amounts (withdrawn before completion of the contract) is for purposes consistent with the contract of participation. The FSS rule provides for use of FSS account funds for purposes consistent with the contract of participation including expenditure for

such items as: higher education (e.g., college or graduate school), job training, and small business start-up expenses.

Use of FSS Account Funds for Homeownership. As discussed in the preceding paragraph, the 1992 Act amendment removed the requirement that withdrawal of FSS account funds is conditioned upon the family no longer receiving any Federal, State or other public assistance for housing. This former statutory language made it difficult for FSS families to use their FSS account funds for the purchase of a home under a Federal, State or local homeownership program because many of these programs involve a post-sale public subsidy for housing (as for example, a mortgage interest rate subsidy). Under the FSS Guidelines, a post-sale subsidy for housing would make the family ineligible to receive its FSS account funds because the family would not be independent of public assistance for housing as originally required by the FSS statute. Again, however, the removal of the former statutory language concerning "other public assistance for housing" allows the FSS family to use its FSS account funds for the purchase of a home under a homeownership program, even if the program involves a post-sale public subsidy for housing, unless the statute or regulations governing the particular homeownership program prohibit use of such a funding source.

With respect to the section 8 FSS program, the Department notes that section 185 of the 1992 Act authorizes the implementation of a homeownership component for the section 8 rental certificate and rental voucher programs. Section 185 provides that FSS families may use up to 50 percent of the amount in their FSS account funds for a downpayment under this program. This section further provides that, after purchasing a unit, the FSS family may use any remaining FSS account funds for the costs of major repair and replacement needs. The regulations for the section 8 homeownership program, which will be part of a separate rulemaking process, will provide further guidance in this area.

Section 8 Residency and Portability Requirements

The FSS rule makes a number of changes to this section to clarify the responsibilities of the FSS family who is relocating to the jurisdiction of another HA, and the responsibilities of the initial HA and receiving HA in this situation.

Additional Changes

In addition to the above changes, the FSS rule adds several new definitions, including definitions for the following terms and phrases: "FSS related service program"; "individual training and services plans"; "self-sufficiency" and "welfare assistance." "Welfare assistance" is the abbreviated term used in the FSS rule to refer to the new statutory phase—"income assistance under Federal or State welfare programs."

The rule also makes a number of editorial revisions to several sections of the Guidelines to clarify the requirements or procedures addressed by these sections. The discussion of public comments, which follows, further describes the changes made to the FSS Guidelines by this rule.

V. Discussion of Public Comments

The public comment period for the FSS Guidelines expired on November 30, 1991. During the comment period, the Department received 170 comments. The 170 commenters included 119 PHAs; 8 IHAs; 33 social service agencies; 4 housing consultants; 3 legal organizations; and 3 associations representing housing agencies.

The majority of the commenters stated that they "supported," "commended" or "applauded" the objectives of the FSS program. This statement, however, generally was followed by a summary of the problems which the commenter found with the Department's implementation of the FSS program. The sections of the Guidelines most frequently criticized by the commenters were those which addressed the following program components: the mandatory nature of the program; determination of minimum program size; establishment and management of the FSS account; participant selection; portability; and the possibility of termination of section 8 assistance for failure by a participating family to fulfill the terms of the FSS contract of participation.

The following presents a discussion of the substantive issues raised by the commenters, and the Department's response to each issue. The discussion begins with the comments that are applicable to the entire program (i.e., General Comments), and is followed by a discussion of the comments received on specific sections of the Guidelines. The FSS guidelines contain 16 sections. The section-by-section discussion follows the order in which these sections were presented in the Guidelines.

The discussion of comments concludes with the discussion of the comments submitted on a proposal by the Department to include a provision in the contract of participation permitting the HA, under certain circumstances to require an FSS family, or a non-FSS family, to move to another unit to make room for another FSS family. The provision was not part of the FSS Guidelines, but simply a proposal on which the Department requested public comment.

General Comments

Comment. Six commenters stated that the lead Federal agency for the FSS program should not be HUD, but rather the Department of Health and Human Services (HHS), a Federal agency already charged with responsibility for administering social service programs that may lead to economic independence. These commenters stated that the responsibility of HUD and of HAs is to provide decent, safe and sanitary housing, and these agencies should not have the added responsibility of providing social services. One commenter stated that the Department should permit the FSS program to be operated by private, non-profit organizations.

Fourteen commenters stated that the success of the FSS program requires substantial coordination among Federal, State and local agencies, and that unless HUD secured the cooperation of these other agencies in assisting HAs with the operation of their local FSS programs, the FSS program would fail.

Response. The Congress vested the Secretary of HUD with the responsibility to implement the FSS program. Accordingly, the Congress made the decision that HUD was the appropriate agency to carry out the FSS program. The Department believes that at the basis of this decision was the fact that the availability of affordable housing is critical to the success of the FSS program. A stable housing environment frees FSS families from worrying about one of the basic essentials in life—adequate shelter—and thus, allows them to focus better on education, job training and job search. Additionally, the Department reminds the commenters that HUD was the lead agency in the Project Self-Sufficiency and Operation Bootstrap programs. These two successful demonstration programs confirmed HUD's ability and that of housing agencies to administer and operate a program which combines housing assistance with local social services resources.

With respect to private, non-profit organizations operating FSS programs, the FSS statute authorizes PHAs and IHAs to carry out the FSS program.

Although the Department strongly encourages private, non-profit organizations to participate in local FSS programs by offering job training, employment opportunities, supportive services, and administrative expertise, or by offering to serve on the FSS program coordinating committee, the overall responsibility for administration and operation of the program remains with PHAs and IHAs.

The Department points out that under the FSS program, housing agencies are not required to be the direct providers of supportive services to FSS participants. Although the FSS statute requires "each local FSS program" to provide comprehensive supportive services to families electing to participate in the program, the delivery of these services is not the responsibility of the individual housing agency, but rather of the local service agencies that have committed their support to the program.

The FSS statute requires the Secretary of HUD to coordinate with the heads of other appropriate Federal agencies, and to provide for cooperative actions and funding agreements. The Secretary of HUD has numerous efforts underway with other Federal agencies to coordinate self-sufficiency programs and initiatives at the Federal, State and local levels. A Memorandum of Understanding exists between HUD and each of the following agencies: The Department of Health and Human Services (HHS), the Department of Labor (DOL), and the Department of Transportation (DOT). HUD is also working with the Departments of Agriculture, Education and Justice to secure their cooperation in assisting HUD and HAs with implementation of local FSS programs. Additionally, HUD has initiated contact with other public and private agencies and organizations to encourage their participation in the FSS program and to solicit their suggestions on ways to coordinate and integrate with the FSS program those programs operated by these agencies and organizations that are similar or complementary to the FSS program. Many interagency agreements exist between HAs and other organizations on the local level throughout the country to more effectively help low income families move toward economic independence.

Comments. One IHA commenter expressed concern about the implementation of FSS programs on Indian reservations. The commenter recommended that HUD coordinate FSS efforts with the Bureau of Indian Affairs to determine what resources are available on reservations to make the FSS program a viable program on reservations.

Response. The 1992 Act addressed this concern by amending the FSS statute to make participation in the FSS program optional for IHAs. The FSS rule clarifies that the requirements governing the Indian housing FSS program, codified in part 905, subpart R, apply only to those IHAs that elect to operate FSS programs. Implementation of a section 8 FSS program is also optional on the part of IHAs.

Comment. Twenty-two commenters stated that the FSS Guidelines are too stringent, and allow little flexibility for HAs to appropriately respond to the needs of their local communities. Many of these commenters complained of the restrictions placed on selection preference, and on the use of motivational criteria in the selection process.

Response. In response to the overwhelming request from the commenters that the Department reconsider use of selection preferences and motivational screening in the FSS selection process, the Department has reevaluated these issues and decided that the FSS rule should permit selection preference and motivational screening, subject to certain restrictions, as described below.

Selection Preference

As discussed earlier in this preamble, HAs operating an FSS program must select FSS participants from families who are currently section 8, public or Indian housing program participants ("eligible families"). From this group, the FSS rule provides HAs with the option of giving a selection preference for up to 50 percent of its FSS slots to eligible families who have one or more members currently enrolled in an FSS related service program or on the waiting list for such a program. For example, if a PHA has 50 FSS slots, and 100 public housing residents have expressed an interest in participating in the FSS program, then the PHA may give a preference for up to 25 of the FSS slots to any of the 100 interested residents who have one or more family members currently enrolled in or on the waiting list for an FSS related service program.

An FSS related service program is defined in the FSS rule to mean any publicly or privately sponsored program which offers any of the kinds of supportive services set forth in the definition of "supportive services." FSS related service programs include, but are not limited to educational programs, employment and job-training programs, and child-care programs.

The Department limited the selection preference to a maximum of 50 percent of a housing agency's FSS slots because the Department wanted to ensure that families who are not already participants in, or who are not already on the waiting lists for, FSS related service programs also have an opportunity to participate in the FSS program, and to obtain the benefits and assistance offered by FSS related service programs, and of the FSS program, generally.

The HA may limit its selection preference to one or more eligible FSS related service programs. An HA that chooses to exercise the selection preference option must identify in its Action Plan (if operating a public or Indian housing FSS program), or its section 8 administrative plan (if operating a section 8 FSS program): (1) The percentage of FSS slots for which it will give a selection preference, (2) the services programs to which the HA will give a preference to the programs' participants or applicants, and (3) the method of outreach to, and selection of, families who qualify for the selection preference.

Revised Selection Process

With the inclusion of a selection preference option in the selection process, the FSS rule revises the section in the FSS Guidelines pertaining to the selection of families for participation in the FSS program to accommodate this option. The revisions include the following:

Selection without preference. The FSS slots which are not filled using the selection preference option (the number of which must not be less than 50 percent of the total number of FSS slots) must be filled from current section 8 participants or current public/Indian housing residents (depending upon the type of FSS program), and those individuals must be selected based on an objective system, such as a lottery, length of time living in subsidized housing, or date the family expressed an interest in participating in the FSS program. The method of selection of current public or Indian housing residents must be described in the HA's Action Plan. For HAs operating a section 8 FSS program, the method of selection must be described in the HA's section 8 administrative plan.

Motivational Screening

With respect to motivational screening, the FSS rule permits the use of criteria that solely measure the family's interest in, and motivation to participate in the FSS program. For example, before enrolling a family in the

FSS program, an HA may require the family to respond to certain questions from the HA concerning the family's interest in the FSS program, or require the family to attend one or more FSS orientation sessions at which the HA describes the FSS program, and explains the family responsibilities under the program. The HA also may assign families interested in participating in the FSS program certain tasks such as attending an FSS preselection interview or counseling appointment, contacting child care referrals, or determining bus schedules between designated locations (for example, between the family's home and an educational or job training center). The above questions and tasks constitute the type of factors that assist the HA in determining the family's interest in and motivation to participate in the FSS program.

The following constitute acceptable reasons, based on motivational screening, for refusing to offer an FSS slot to a family: (1) Nonattendance or tardy attendance at scheduled activities, or (2) failure or unwillingness to undertake any tasks assigned by the HA (such as contacting child care referrals or determining bus schedules), provided that the activities and tasks assigned to the prospective FSS family are those that may be readily accomplishable by the family based on the family members' educational level, and disabilities, if any. In no case, however, shall an HA refuse to offer an FSS slot to a family based on such factors as the family's educational level, educational or standardized motivational tests results, previous job history or job performance, credit rating, marital status, the number of children, or similar factors. The FSS rule requires that the HA must describe in its Action Plan or section 8 administrative plan the motivational screening procedures, if any, that it intends to use in the selection process.

Comment. Of the 22 commenters referred to in the preceding comment, many criticized other components of the FSS Guidelines. These commenters criticized the FSS contract term as being too short, the FSS account requirement as being too burdensome, the employment requirement as being unreasonable, and the minimum size of the program as being discriminatory of families unable or unwilling to participate in the FSS program. The commenters stated that it is extremely important that HAs be given the broadest discretion and flexibility possible for designing and changing the program, as needed, around resources locally available and the FSS families' needs.

Response. The "five year" contract term is a statutory requirement. The FSS statute provides that the family participating in the FSS program shall fulfill its obligations under the contract of participation not later than 5 years after entering into the contract. The employment obligation imposed on the head of the family is also a statutory requirement, as are the establishment of the FSS account, and the method for determining minimum program size. The 1992 amendment to the FSS statute did not change any of these aspects of the FSS programs.

Where the FSS statute provides the Department with discretion in implementing the FSS statutory requirements, the Department has strived to the maximum extent possible, without jeopardizing basic standards of uniformity in operating the FSS program, to provide HAs with flexibility in implementing their local FSS programs. This flexibility includes extending the term of the contract of participation from five years to seven years for good cause. Additionally, the FSS Guidelines and the FSS rule provide housing agencies with considerable flexibility in implementing their Action Plans, and in developing the individual training and services plans for FSS families.

Comment. Fifty-four commenters stated that the FSS program creates significant added responsibilities and duties for HAs without providing needed funds to meet these additional duties and responsibilities.

Response. The Department recognizes that the anticipated funding for the FSS program administrative costs for FY 1991 and FY 1992 was not forthcoming. Although the FSS statute authorized funding for FY 1991 and FY 1992 for administrative costs associated with implementation of the FSS program, the Congress did not appropriate the funds. Despite the absence of funding for FY 1991 and FY 1992, the Department believes that some of the administrative costs associated with the FSS program will be alleviated by public and private organizations that will commit resources, financial and non-financial, to the program, as was the case with the Project Self-Sufficiency and Operation Bootstrap programs.

In the matter of administrative fees for the section 8 FSS program, the FSS statute specifies that the administrative fee shall be that which is in effect under section 8(q) of the U.S. Housing Act of 1937 on June 1, 1990, with the exception that the applicable dollar amount for preliminary expenses under section 8(q)(2)(A)(i) shall, subject to approval in appropriations acts, be $300. Accordingly, the administrative fee structure, provided by the FSS statute, is as follows: (1) An ongoing administrative fee of 8.2 percent of the fair market rent for a two bedroom unit; (2) a hard-to-house fee of $45; and (3) subject to approval in appropriations, a preliminary fee of $300 ($25 higher than the current $275 maximum preliminary fee allowed for new, non-FSS units). The Congress did not provide appropriations approval for the $300 preliminary fee for the FY 1991 and FY 1992 section 8 incentive award units. Therefore, the $275 maximum preliminary fee will apply to HAs receiving incentive award units, and will continue to apply until the Congress provides appropriations for the $300 preliminary fee, or another fee structure is adopted by HUD after analysis of actual FSS administrative costs.

With respect to funding for administrative costs in the public/Indian housing FSS programs, the FSS statute requires the Department to include under the performance funding system (PFS) "reasonable and eligible administrative costs, including the costs of employing a full-time service coordinator," if the Congress appropriates funds for this purpose. As noted above, the Congress did not provide any appropriations for FSS administrative costs for FY 1991 or FY 1992 for the public/Indian housing FSS incentive award units. However, the Congress has included $25.9 million in its appropriation for operating subsidy funding for FY 1993.

Comment. One commenter stated that contrary to the statement in the FSS Guidelines, the FSS program requirements and procedures will have a significant economic impact on a substantial number of small entities.

Response. The Department maintains that its statement in the FSS Guidelines is correct. The obligation imposed on PHAs to implement an FSS program is a statutory obligation, not a regulatory one. (The 1992 Act amendment to the FSS statute made implementation of an FSS program optional for IHAs.) The obligation only arises if the PHA receives new units or new certificates or vouchers, and is not otherwise excepted from the program. The FSS program requirements imposed on HAs (PHAs and those IHAs that elect to operate an FSS program) by the FSS statute do not distinguish between small HAs and large HAs, or between urban HAs and rural HAs.

The Department notes that the size of an FSS program which an HA will be required to operate depends upon the number of units (or certificates or

vouchers) awarded to the HA under the FY 1991 and FY 1992 incentive award competitions, plus the number of any additional new units (or additional certificates or vouchers) received by the HA beginning in FY 1993. Any HA, regardless of its size, may apply to HUD to operate a smaller FSS program, or may request an exception from implementing an FSS program, as provided by the FSS statute, the FSS Guidelines, and the FSS rule, if local circumstances make operation of a minimum size FSS program or any FSS program infeasible.

Where the FSS statute provides HUD with discretion in implementing the FSS statutory requirements, the Department has strived to the maximum extent possible, without jeopardizing basic standards of uniformity in operating the FSS program, to provide HAs with flexibility in implementing their local FSS programs. For the foregoing reasons, the Department believes that neither the FSS Guidelines nor the FSS rule will have a *significant* economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Comment. One commenter asked that the FSS rule clarify whether section 957 of the NAHA (Maximum Annual Limitation on Rent Increases Resulting from Employment) is applicable to the FSS program, specifically the FSS account. Section 957 provides in relevant part as follows:

"Notwithstanding any other law, and subject to approval in appropriations Acts, the rent charged for any dwelling unit assisted under any housing assistance program administered by the Secretary * * * to a family whose monthly adjusted income increases as a result of the employment of a member of the family who was previously unemployed, may not be increased as a result of the increased monthly adjusted income due to such employment by more than 10 percent in each 12-month period during the 36-month period beginning such employment."

Response. Section 957 specifically provides that it is subject to approval in appropriations acts. No approval was provided in the FY 1992 or FY 1993 appropriations acts. Additionally, and as further discussed in the section of this preamble pertaining to FSS accounts, under the FSS program, an increase in rent is not treated the same as increases in rent under other programs. Under the FSS program, a portion of any increase in rent, which under other programs would be credited solely as rent, is credited to the FSS family's FSS account.

Comment. One commenter asked that the FSS rule clarify whether section 515 of NAHA (Family Investment Centers) is applicable to the FSS program. This statutory section, as noted by the commenter, includes an 18-month restriction on increasing rent contributions based on income or benefits that the family receives under the Family Investment Centers program or through programs provided under comparable Federal, State or local law.

Response. The Department's position is that the FSS statute is not a "comparable Federal law" within the meaning of section 515. To consider the FSS statute comparable to section 515 would defeat the purpose of the statutorily required escrow account (or FSS account), a central component of the FSS program. The Department does not believe that this was the intent of the Congress.

Comment. One commenter suggested that in order to serve housing clients with less confusion and greater efficiency, HUD should consolidate certificates and vouchers into one mode of housing assistance.

Response. Consolidation of HUD's section 8 rental certificate and rental voucher programs is beyond the purview of the FSS rule. However, on February 24, 1993 (58 FR 11292), the Department published a proposed rule, which would conform the section 8 certificate and voucher programs to the extent possible under the current statute.

Section I. Definition

Comment. Two commenters requested that the FSS rule include a definition of "adult." One commenter stated that the FSS Guidelines were unclear on whether "adult" refers only to a person of 18 years or older, or includes an emancipated minor.

Response. The Department declines to adopt a definition of "adult" in the FSS rule. In determining who is an "adult" for FSS program purposes, HAs should apply the same standards or criteria for making this determination as provided under existing public/Indian housing program policies and guidelines, and existing section 8 program policies and guidelines.

Comment. One commenter asked if the definition of "certification" applies only to the situation in which an HA provides a certification to HUD of its inability to carry out an FSS program, or if the definition also applies to the situation in which the head of the FSS family, in order to receive the family's FSS account funds, certifies, to his or her knowledge, that no family members are receiving Federal, State, local, or other public assistance for housing.

Response. The definition of "certification" applies to both kinds of situations, and this has been clarified in the FSS rule.

Comment. One commenter requested that the FSS rule define or clarify what is meant by "Federal, State, local or other public assistance for housing."

Response. A definition for this phrase is no longer necessary because the 1992 Act amendment to the FSS statute removed this phrase from the FSS statute, and substituted the following: "income assistance under Federal or State welfare programs," which the FSS rule refers to more succinctly as "welfare assistance." This term is defined in the rule to mean "assistance provided under the Aid to Families with Dependent Children (AFDC) Program, certain Supplemental Security Income (SSI funds); Medicaid, food stamps, or other assistance provided under a Federal or State program directed to meeting general living expenses, such as food, health care, child care, but does not include assistance solely directed to meeting housing expenses (e.g., rent, mortgage or utilities payments), and does not include transitional welfare assistance (such as medicaid) provided to JOBS participants.

Comment. One commenter requested that the definition of "head of family" in the FSS rule clarify that the "head of the family" for FSS purposes is the same individual who signs the FSS contract of participation and who signs the lease.

Response. As discussed earlier in this preamble, the FSS rule defines head of the FSS family as the adult member of the family who is the head of the household for purposes of determining income eligibility and rent. Under this definition, the head of the FSS family may be the leaseholder, but is not required to be. The FSS rule does not require the head of the FSS family to be the leaseholder because there may be situations in which the leaseholder is unable to work. If the leaseholder is unable to work, the leaseholder's inability to work will not preclude the family from participating in the FSS program provided that another adult member of the family is able and willing to work. In addition, leases will not have to be amended if they do not designate which signatory to the lease is the leaseholder.

Comment. One commenter stated that it was not clear from the Guidelines which family members constitute the "participating family."

Response. The term "participating family" is defined in the FSS statute.

The statute provides that: "The term 'participating family' means a family that resides in public housing or housing assisted under section 8 and elects to participate in a local self-sufficiency program." The election to participate is made by the head of the FSS family (the meaning of which term was discussed earlier) who enters into a contract of participation on behalf of the participating family (or "FSS family," as referred to in this preamble and in the FSS rule). Thus, the entire family of this individual (the head of the FSS family) is the "participating family" or "FSS family." However, this does not mean that all members of the FSS family must participate in educational or job training programs, or seek employment. As noted in the preceding response, under the FSS program, only the head of the family must seek and maintain employment.

The contract of participation includes as "participating family members" those members of the FSS family age 18 years and older who have executed individual training and services plans. Again, no one other than the head of the family is required to be an active participant in the FSS program. However, if other family members execute individual training and services plans, these family members are obligated to fulfill the terms of their plans.

Comment. Eight commenters requested that the FSS rule define "self-sufficiency". The commenters stated that a definition is needed in order to provide a standard against which program success can be evaluated and performance of the FSS families' obligations consistently measured.

Response. The Department agrees with the commenters that a definition of "self-sufficiency" would help evaluate the success of individual participating families and the success of an individual FSS program. The Department emphasizes, however, that achievement of "self-sufficiency," as this term is defined in the FSS rule, is not a condition for the family's entitlement to its FSS account funds. The FSS rule defines "self-sufficiency" to mean that an FSS family is no longer receiving section 8, public or Indian housing, or any Federal, State, or local rent or homeownership subsidies or welfare assistance. If an FSS family is able to become independent of these types of public assistance, then the program has worked optimally in the case of this family. However, as discussed below, the Department takes other factors into consideration in evaluating the success of an individual FSS program, and does not base its evaluation solely on the number of families who have achieved "self-sufficiency." With respect to entitlement to its FSS account funds, the FSS family must have completed all obligations under its contract of participation, which includes becoming independent of "welfare assistance," as this term is defined in the rule.

Returning to the subject of program success, the Department recognizes that the success of a local FSS program is not measured simply by the success of the number of families who achieve self-sufficiency, as defined in the FSS rule, but by a number of factors, which include the following: One or more family members obtaining a job for the first time, or obtaining higher paying jobs; families becoming independent of welfare benefits, either completely or partially; family members obtaining a high school diploma, or higher educational degree; families whose income increases to a level where 30 percent of monthly adjusted income equals or exceeds the published existing housing fair market rent for the units for which they qualify based on the HAs' occupancy standards; and families becoming independent of any welfare assistance or housing subsidies. If an FSS program assists a substantial percentage of families achieve one or more of these important milestones, the local FSS program will be considered to be operating successfully.

Comment. One commenter requested that the FSS rule include a definition of "suitable employment" to provide important safeguards for families, and to make local administration of the FSS program easier.

Response. The Department declines to adopt the commenter's suggestion. A determination of "suitable employment" will vary from family to family, and thus, is a decision which properly rests with the HA following consideration and evaluation of the head of the family's skills, education, and job training, and an assessment of the available job opportunities in the area in which the FSS family resides. The HA may delegate the responsibility for determining suitable employment to the FSS coordinator, the Program Coordinating Committee or another administrator or administrative entity.

Comment. One commenter stated that "case management" should be added to the list of services provided in the definition of supportive services.

Response. The Department agrees with the commenter and has included "case management" in the list of supportive services.

Section II. Purpose

No comments were received on this section.

Section III. Applicability of Program Regulations

No comments were received on this section.

Section IV. Elements of the FSS Program and Minimum Program Size

Comment. Five commenters objected to language in the preamble to the FSS Guidelines, which stated that HAs could continue to operate Project Self-Sufficiency or Operation Bootstrap programs only until all current participants in these programs have transferred to the FSS program or completed the Project Self-Sufficiency or Operation Bootstrap programs. The five commenters requested that HUD permit HAs to have the option to continue to operate Project Self-Sufficiency and Operation Bootstrap programs.

Response. The Department declines to adopt the commenters' suggestion. The FSS program is based on the same concept and has the same objective as the Project Self-Sufficiency and Operation Bootstrap program—coordinating housing assistance with supportive services to help low-income families obtain economic independence. The FSS program builds upon these two successful demonstration programs, but includes modifications, and introduces new components to reflect the current progress of welfare reform and the lessons learned from these two programs. Because the FSS program has the same goal as the Project Self-Sufficiency and Operation Bootstrap and operates in a very similar fashion, the Department finds no need to permit operation of these programs once the current participants in these programs have transferred to an FSS program or have completed the demonstration programs. The Department already has instructed HAs operating these demonstration programs to not enroll any new families, and to discontinue any implementation plans for these programs.

The Department notes that families participating in either the Project Self-Sufficiency or Operation Bootstrap programs or other local self-sufficiency programs do not count towards meeting the FSS minimum program size, unless the families transfer to the FSS program. Families actively participating in these demonstration programs (i.e., receiving supportive services) who execute an FSS contract of participation are counted toward satisfying the minimum

FSS program size. Such a transfer is voluntary, at the sole option of the family.

Comment. Twelve commenters objected to the fact that beginning in FY 1993, each HA must operate an FSS program of the minimum program size specified under the FSS guidelines, unless the HA receives an exception from operating an FSS program, as provided in the guidelines.

Response. The requirement to carry out a local FSS program beginning in FY 1993 is a statutory requirement. The FSS statute provides: "Effective on October 1, 1992, the Secretary shall require each such agency to carry out a local Family Self-Sufficiency Program under this section." Although the 1992 Act amendment to the FSS statute removed this requirement for IHAs (and made participation optional for IHAs), the mandatory participation requirement remains in effect for PHAs. However, this requirement is applicable to a PHA only if the PHA applies for and receives additional section 8 rental certificates or vouchers, or additional public housing units, and does not otherwise receive an exception from operation of an FSS program. If a PHA does not receive new section 8 rental certificates or vouchers, or new public housing units, then the PHA is not required to implement an FSS program. (This requirement also applies if the PHA received FY 1991 or FY 1992 FSS incentive award units.)

Comment. Several commenters requested that the FSS program be optional for HAs under certain circumstances, the description of which varied among the commenters. Three commenters suggested that the FSS rule provide for the FSS program to be optional for HAs in high cost areas. One of the commenters stated that if the FSS program could not be optional in high cost areas, the program for these areas should allow more than five years to become self-sufficient. Eight commenters stated that the FSS program should be optional for HAs serving rural areas. These commenters stated that rural HAs have massive service areas, and no access to educational, employment or child care resources for tenants. Another commenter stated that because of the difficulty of implementing and administering a successful FSS program on reservations, the FSS program should be optional for IHAs.

Response. With respect to the last comment, the 1992 Act amendment to the FSS statute, as previously discussed, provides that implementation and operation of an FSS program is optional for IHAs. However, implementation of an FSS program remains mandatory for a PHA that receives new section 8 certificates or vouchers or new public housing units.

With respect to the other comments, the FSS statute provides a list of local circumstances under which an HA may receive an exception from implementing an FSS program. These circumstances include: Lack of supportive services accessible to eligible families, including job training opportunities; lack of funding for reasonable administrative costs; lack of cooperation by other units of State or local government; and any other circumstances that the Secretary of HUD may consider appropriate. As discussed earlier in this preamble, HUD has included lack of interest in participating in the FSS program, on the part of eligible families, as a circumstance under which HUD may grant an exception from implementing an FSS program, or authorize implementation of a smaller program. Thus, if an HA serving a high cost area or rural area lacks supportive services accessible to eligible families, funding for reasonable administrative costs, cooperation by other units of State or local government, or interest on the part of eligible families, then the HA may receive an exception from establishment and operation of a local FSS program, or the HA may be permitted to operate a smaller FSS program. However, the fact that the HA serves a high cost area or a rural area is not reason in and of itself for granting an exception from the FSS program.

With respect to the commenter's suggestion that FSS families in high cost areas require more than five years to become self-sufficient, the FSS rule takes into consideration (as did the FSS Guidelines) the fact that an FSS family may need more than five years to become self-sufficient. The FSS rule provides (as did the Guidelines) that the HA may extend the term of contract of participation for a period not to exceed two years for any FSS family who requests, in writing, an extension of the contract, provided that the HA finds that good cause exists for granting the extension.

Comment. Several commenters had questions concerning which units count in determining the FSS minimum program size. One commenter stated that although the minimum program size is explained in the preamble, the FSS regulations need to provide equal detail because most administrators of FSS programs in future years will not have access to the preamble. One commenter noted that the preamble provided that in determining the size of the housing authority's FSS program, all additional rental units except those used to replace expiring rental certificates or vouchers will be counted. The commenter requested that the FSS rule clarify that additional units do not include those reserved in order to replace expiring subsidies. Another commenter stated that the FSS rule should clarify that formerly vacant public housing units that are returned to occupancy as a result of comprehensive modernization will not count for FSS purposes. Two commenters stated that to eliminate confusion, the FSS rule should clarify what constitutes "additional units reserved". Another commenter stated that the FSS Guidelines were unclear about whether an Indian housing FSS program involved only additional low rent units received in FY 1993, or also included mutual help units received in FY 1993. Three commenters indicated no confusion in determining minimum program size, but requested a different method in determining minimum program size. Two of the commenters believed that the FSS minimum program size should equal 25 percent of additional units reserved. The third commenter stated that HAs should determine minimum program size based on clientele interest, and community resources and financial support needed.

Response. Addressing first the comment of the final three commenters, which suggested an alternative approach to determining minimum program size, the Department notes that the FSS statute establishes the method for determination of minimum program size. The FSS statute provides that for the section 8 FSS program, the minimum program size shall be "an amount equivalent to the increase for such year in the number of families so assisted by the agency (as compared to the preceding year)." For the public and Indian housing FSS program, the FSS statute provides that the minimum program size shall be "the number equal to the increase for such year in units made available by the agency (as compared to the preceding year)." The FSS statute does not provide for the minimum program size to be equal to a percentage of the above-specified increases.

For example, a PHA receiving 50 public housing units under the FY 1991 and FY 1992 incentive award competition, and 50 public housing units in FY 1993, must operate a 100 family public housing FSS program. As the contracts of participation for these initial 100 FSS families are terminated or expire, replacement FSS families must be selected so that there are always at least 100 families participating in the

FSS program. Alternatively, if a PHA did not receive any public housing units under the FY 1991 and FY 1992 incentive award competition, but receives 50 public housing units in FY 1993 and another 50 public housing units in FY 1994, then, again, the PHA must operate a 100 family public housing FSS program.

If the HA needs new certificates or vouchers, or new public or Indian housing units, in excess of the number of families who are willing and able to participate in the FSS program, the HA may request approval from HUD to operate a smaller FSS program. If the HA's assessment of its local situation indicates that operation of an FSS program, no matter how small, is simply not feasible, the HA may request that HUD grant an exception from operation of an FSS program.

Although the FSS statute speaks in terms of "an increase in the number of families" assisted under the section 8 certificates and voucher programs, and "an increase in the number of units" under the public and Indian housing programs, the Department believed, at the time of development of the FSS Guidelines, that for clarity and consistency the computation of minimum program size of all FSS programs should be addressed in terms of "units reserved" or "additional units reserved" for a given fiscal year. The Department believed that "units reserved" was a well-defined concept, and would therefore minimize any ambiguity in determining minimum program size. However, the commenters have raised valid issues concerning which types of units may constitute "units reserved" for purposes of the FSS program. Accordingly, the Department has incorporated in the FSS rule the preamble language concerning minimum program size, and has further revised the minimum program size provision of the rule to clarify which units count, and which units do not count in determining minimum program size.

In response to the question of whether mutual help units are counted toward minimum program size, the answer is that they are not. Mutual help units are excluded in determining the minimum size of an Indian housing FSS program because the FSS program only applies to rental units, not homeownership units.

Comment. One commenter stated that the minimum size of the FSS program should be limited to new units reserved in a given fiscal year, and the HA should not be required to continue to replace units reserved for the FSS program in previous years with FSS participants.

Response. As noted in a response to an earlier comment, the FSS statute provides for the FSS minimum program size to be: (1) For the section 8 FSS program, an amount equivalent to the increase for such year in the number of families so assisted by the housing authority, as compared to the number of families assisted in the preceding year; and (2) for the public and Indian housing FSS program, the number equal to the increase for such year in units made available by the housing authority, as compared to number made available the preceding year. Thus, the provision in the FSS rule (and which was also in the FSS Guidelines) that provides for determination of minimum program size by adding units reserved for the FSS program in subsequent years to units reserved for the FSS program in previous years is consistent with the FSS statute.

Comment. One commenter requested that the FSS rule permit HAs to count all FSS families, both section 8 and public housing FSS families, in meeting the minimum program size requirements. The commenter stated that a PHA should not be penalized if more public housing tenants wish to participate in the FSS program than section 8 rental certificate or voucher holders, or vice versa.

Response. The Department declines to adopt the commenter's suggestion. Participants in each FSS program—the section 8 FSS program, the public housing FSS program, and the Indian housing FSS program—must come from current participants or residents of that program.

Comment. One commenter stated that the FSS program conflicts with the fair share allocation whereby funding was given based on local need.

Response. For FY 1991 and FY 1992, the FSS statute specifically exempted the FSS program from the fair-share and metropolitan/non-metropolitan requirements of section 213(d) of the Housing and Community Development Act of 1974 (the 1974 Act). Whether the FSS program will be exempted from section 213(d) of the 1974 Act in subsequent years will depend upon language in the appropriations acts for succeeding FY years. Notwithstanding the exemption from section 213(d), the Department chose to administratively allocate the available funds in a manner consistent with the "fair share" requirements at 24 CFR part 791. The Department expects to continue this policy in future Federal fiscal years.

Comment. Thirty commenters expressed concern that targeting future allocations of units to the FSS program discriminates against the elderly and the disabled by drastically reducing the number of units available to these groups.

Response. The 1992 Act amendment to the FSS statute indicates that the Congress was concerned that as a local FSS program increases in size, one result may be a decrease or delay in assistance to families who are unable or unwilling to participate in the FSS program. (A local FSS program will continue to grow in size as long as the HA continues to receive new units.) In response to this concern, the 1992 Act amendment to the FSS statute provides that families who elect not to participate in the FSS Program shall not have their assistance delayed solely on the basis of this election, and the HA shall assure that nonparticipating families will retain their tights to public housing or section 8 assistance. To ensure that these statutory requirements are met, the Department has revised the FSS participant selection procedures to limit selection to families who are currently participants in the section 8 certificate or voucher programs or who are currently public or Indian housing residents.

The number of new units or new certificates or vouchers reserved for the FSS program in FY 1991 and FY 1992 and in subsequent years merely determines the size of the local FSS program (i.e., the number of FSS slots). New units or new certificates or vouchers are not required to be earmarked for the FSS participants. There is no requirement that FSS families receive certain certificates or vouchers or live in specific units, or that specific units must be designated as FSS units.

For example, assume a PHA operating a section 8 FSS program, for the first time, receives 30 new efficiency rental certificates in FY 1993. The PHA's minimum program size is 30 FSS slots. Upon receipt of the new rental certificates, the PHA would issue these new certificates to the 30 families at the top of the efficiency waiting list, without regard to whether these families are interested in participating in the FSS program. Thus, if families at the top of the waiting list included a substantial number of elderly individuals or others who simply were not interested in participating in the FSS program, assistance to these families would not be delayed or refused because of their election to not participate in the FSS program.

The Department notes that HAs should not assume that all elderly or disabled individuals will be unable or unwilling to participate in the FSS program. Additionally, if a family

consists of elderly and non-elderly members, or of disabled and non-disabled members, there is no requirement that the elderly or disabled individual be designated the head of the FSS family, and be required to assume the obligation to seek and maintain employment. A non-elderly or non-disabled member of the family may be designated the head of the family.

If an HA, in any given Federal fiscal year, finds that the population it serves (its current section 8 participants or current public/Indian housing residents) contains a high percentage of individuals who are unable or unwilling to participate in the FSS program, such that it cannot fill all FSS slots, the HA may request authorization from HUD to operate a smaller program than operated in previous years. If an HA finds that local circumstances make it infeasible to operate an FSS program of any size, then the HA may request that the Department grant it an exception from operation of an FSS program.

Comment. One commenter requested that the FSS rule identify the HUD office which will decide whether an HA should receive an exception from implementation of an FSS program.

Response. The HUD Field Office will make the exception decision in accordance with instructions from HUD Headquarters. The FSS rule incorporates this information.

Comment. Five commenters requested that the FSS rule incorporate a mechanism by which an HA could administratively challenge HUD's refusal to grant the HA an exemption.

Response. The Department declines to adopt a special administrative procedure for the FSS program. However, the HUD Regional Offices will consider any request by an HA to reconsider the Field Office's decision denying the HA's request for an exception from operating an FSS program.

Comment. Several commenters requested that the FSS rule expand the statute's list of circumstances that would justify granting an exception from operating an FSS program. One of the commenters suggested that other acceptable circumstances would include the following: the clientele lacks interest in the program; and the clientele lacks the capacity to participate in the program.

Response. As discussed earlier in this preamble, the Department has expanded the list of local circumstances under which an HA may be excepted from operation of an FSS program to include lack of interest in the FSS program on the part of eligible families. Beyond the inclusion of this circumstance, the Department declines to specify additional circumstances other than those set forth in the FSS statute. In addition to the circumstances set forth in the FSS statute, the statute provides a "catch-all" provision which permits consideration of additional local circumstances which may render operation of an FSS program infeasible. The FSS rule is consistent with the FSS statute by providing that the circumstances under which an exception may be granted include, but are not limited to, those enumerated in the FSS statute. Any further expansion of the list in the rule would not make the list inclusive or exhaustive of all local circumstances that may result in the inability of a HA to operate an FSS program. The Department believes that additional local circumstances that may preclude operation of an FSS program are appropriately addressed on a case-by-case basis.

Comment. Two commenters stated that although the statute and conference language clearly provide for exceptions to operation of an FSS program, HUD, at the FSS workshops, has stated that exceptions would rarely be granted. Two other commenters stated that the FSS guidelines contained a "threatening" implication that if an HA was excepted from operation of an FSS program, the HA would be treated adversely by HUD.

Response. The Department did not intend through the FSS Guidelines, or through the FSS workshops held throughout the country, to imply that it would ignore the statutory provision concerning exceptions, or that it would treat adversely an HA that is excepted from operating an FSS program. The Department, however, is fully supportive of the FSS program, and is committed to making it a successful program. The Department believes that the FSS statute, which provides for mandatory implementation of the FSS program by PHAs in FY 1993, reflects the Congress's belief that the majority of PHAs would be able to operate an FSS program. The Department also believes that the majority of PHAs can operate an FSS program, even if the program initially, or, at times, consists of a small number of families. The Department believes that it will be the exception, and not the rule, that a PHA is unable to operate an FSS program. The Department certainly will explore with those PHAs, which may have limited resources and limited clientele interest, the possibility of operating a smaller program, or of combining its FSS program with the program of another PHA for the purpose of consolidating available supportive services and administrative resources. However, where it is determined that it is not feasible for a PHA to operate an FSS program because of local circumstances, the Department will grant an exception in accordance with the FSS statute, and the PHA will not be treated adversely by the Department.

As further assurances that the Department has no intention of treating adversely any PHA who is unable, because of local circumstances, to implement an FSS program, the FSS rule incorporates the new statutory language, added by the 1992 Act amendment to the FSS statute. This language provides that the Secretary may not refuse to provide assistance or decrease the amount of assistance that would otherwise be provided to a PHA because the PHA has submitted a certification that it is unable to carry out an FSS program because of local circumstances.

Comment. Seven commenters stated that employment of a full-time service coordinator was critical to the success of the local FSS program, and HUD should provide funding for this position.

Response. The Department agrees with the commenters that, in all likelihood, a full-time service coordinator will better serve the program than a part-time coordinator. However, no funds were appropriated by the Congress in FY 1991, FY 1992 or FY 1993 for the employment of a service coordinator. Unless the Congress appropriates funds, the administrative costs of the program, including the employment of an additional staff, must come from the existing administrative fees in the section 8 program. Section 8 HAs can use section 8 operating reserves (i.e., excess administrative fees) to fund the service coordinator's salary if it is considered a "housing purpose" under State, local or tribal laws. Alternatively, the HA or the PCC may be able to secure funding from non-Federal sources to assist with the costs of program administration and operation.

The HUD Appropriations Act for FY 1993 for public housing operating subsidy includes funding for reasonable and eligible administrative costs related to the operation of an FSS program in low rent public housing.

Section V. Program Coordinating Committee (PCC)

Comment. One commenter stated that the FSS rule should require HAs to ascertain whether or not there are existing councils within a community, such as councils established to support JOBS activities or private industry councils, which are available to serve as the PCC for the FSS program. The

commenter stated that only where such a committee is not in existence and available to serve as the PCC should a separate committee be established. Another commenter stated that HUD should permit a local HA consortium to have one coordinating committee composed of representatives from the HAs and social service leaders.

Response. The Department declines the first commenter's suggestion to require HAs to determine whether there are existing councils within a community that are available to serve as the PCC for an FSS program. However, both commenters' suggestions are options available to HAs. An HA, in consultation with the chief executive officer of the unit of local government, may decide to use an existing entity as the coordinating committee if (1) the membership of that entity is drawn from one or more of the same or similar organizations listed in the applicable section of the FSS rule concerning the PCC, and (2) the existing entity includes or will include HA and resident representatives, as discussed earlier in this preamble. Additionally, more than one HA may share the same PCC.

Comment. One commenter asked what the role of the PCC will be once a local FSS program is in operation.

Response. The PCC helps the HA with development of the Action Plan, establishment of FSS program policies, and obtaining administrative and supportive services funding and service commitments. The PCC also assists the HA with overseeing the overall implementation of the FSS program. Once the FSS program is underway, the role of the PCC depends upon the progress of the FSS program and the continuing service needs of the FSS program. The PCC may continue to generate private-sector support, including obtaining job commitments, and to generate additional funding and supportive services commitments.

Comment. One commenter asked whether there are certain individuals who are required to be part of the PCC, and whether the PCC must be composed of a minimum number of members.

Response. As discussed earlier, under Section IV of this preamble, the FSS rule provides that the PCC must include an HA representative and also a section 8 participant or public/Indian housing resident representative. Apart from requiring that these two groups be represented on the PCC, no other membership requirements are imposed on the PCC. However, the FSS rule recommends, as did the FSS Guidelines, other individuals who the Department believes would be valuable members of the PCC. These individuals, generally, are those from organizations that are in a position to offer specific kinds of assistance or services that will be needed, especially jobs, in the operation of an FSS program. Experience with the Project Self-Sufficiency and Operation Bootstraps programs demonstrated the value of having a representative from the chief executive's office who has direct personal access to the chief executive officer.

Comment. One commenter stated the FSS rule should explicitly provide that the proposed Action Plan be made available to the PCC for a reasonable period of time for review and comment before submission to HUD.

Response. The Department declines to incorporate the commenter's suggestion as part of the FSS rule's requirements. However, an HA may certainly request its PCC to review the Action Plan before submission to HUD.

Section VI. Contract of Participation

(A) General

Comment. Two commenters requested that the FSS rule provide HAs with the discretion to include additional terms in the contract of participation, as the HA may determine is necessary to meet local needs, subject to the condition that these additional terms remain consistent with the FSS program.

Response. The Department declines to adopt the commenters' suggestion. To assure basic uniformity and consistency in operation of local FSS programs, all participating HAs and all FSS families must adhere to certain program requirements and policies, regardless of location of the FSS program. These requirements and policies are set forth in the FSS regulations and in the contract of participation. It is important that the contract of participation remain a standardized document, because all FSS families are required by the FSS statute to enter into a contract of participation. It will be this document that will serve as the family's guide to its basic obligations under the program. The Department notes, however, that each HA has considerable discretion in addressing the needs and circumstances of its clientele through the individual training and services plans, which the HA, or its designee, prepares for the participating family members.

Comment. Three commenters recommended that the social service agency be required to execute the FSS contract of participation, or at the least, be a party to the contract.

Response. The FSS statute requires the HA to enter into a contract of participation with the participating family. The statute provides no authority for the Department to require the social service agency to enter into the contract in lieu of the HA or in addition to the HA. However, the HA may delegate to the social service agency the responsibility to prepare and execute the individual training and services plan.

Comment. Four commenters complained that the FSS contract was not clearly written. The commenters stated that it is essential that the families entering into the contract of participation fully understand their rights and responsibilities under the contract. Another commenter stated that HUD should prepare an official Spanish version of the contract to avoid variations in the contract that may arise if each individual HA is allowed to translate the contract of participation into Spanish.

Response. The Department agrees that it is important that FSS families fully understand their rights and responsibilities under the contract of participation. The Department is in the process of revising the contract of participation and will make every effort to explain its provisions simply and clearly. The Department also will prepare an official Spanish version of the contract.

Comment. One commenter requested that the FSS rule draw a distinction between the FSS contract of participation and the individual training and services plan.

Response. Although the contract of participation incorporates the individual training and services plans, the Department agrees with the commenter that this term should be explained in the FSS rule. As noted earlier in this preamble, the FSS rule includes a definition of "individual training and services plans."

Comment. Several commenters expressed concern about the FSS family's responsibilities under the program if the head of the family is a different individual than the leaseholder. The commenters requested that the FSS rule require the head of the family to be the same person as the leaseholder. Twelve commenters expressed concern about the responsibilities of members of the FSS family, other than the head of family.

Response. As discussed earlier in this preamble, the FSS rule clarifies that the head of the FSS family is the adult member of the FSS family who is the head of household for purposes of determining income eligibility and rent. For reasons addressed earlier in this preamble, the Department believes that this definition best serves the interest of families desiring the participate in the

FSS program, and prevents unnecessary lease modifications, because it does not require the head of the FSS family to be the leaseholder.

With respect to the responsibilities of the various members of the FSS family, the Department emphasizes that the FSS rule, consistent with the FSS statute, requires only the head of the family to seek and maintain suitable employment during the term of the contract of participation. Although the contract of participation, through incorporation of the individual training and services plans, may require other family members to attend job training and counseling sessions, and to interview for jobs, the contract cannot be considered breached, on the basis of employment, if these family members fulfill their individual training and services plans, but never become employed or lose jobs obtained during their participation in the FSS program. For the contract to be considered breached on the basis of employment, the head of the FSS family must fail to seek and maintain suitable employment.

(B) Obligations

Comment. Two commenters stated that the FSS rule should mandate specific educational and employment obligations for the FSS family so that all HAs operate in conformity with the regulations.

Response. The Department declines to adopt the commenters' suggestion. Because the educational background, skills and working experience of FSS families may vary considerably, there are no specific educational and employment obligations that may be applicable to all FSS family members, and thus, appropriate for codification in a rule, or incorporation in the contract of participation. A family's educational and employment obligations under the FSS program only can be determined after the HA or its representative has assessed the educational background, skills and working experience of the individual members and determined which activities or services are appropriate for those members to become economically independent (e.g., further education or job training, or job application).

Comment. Twelve commenters stated that the requirement that self-sufficiency be obtained in five years is unreasonable. The commenters stated that in the current depressed economy, it is unrealistic to expect that at the end of the five year period, the FSS family will no longer require any housing assistance. One commenter stated that the FSS rule should address the situation of a family that becomes self-sufficient in less than five years.

Response. This issue was addressed in an earlier comment concerning the possible difficulty of FSS families living in high cost areas to become self-sufficient in five years. As noted in that response, the five year term is established by the FSS statute, but the statute also provides for an extension of the contract upon a finding of good cause. The FSS rule permits, as did the FSS Guidelines, the contract of participation to be extended up to an additional two years.

Comment. One commenter stated that the FSS rule or the FSS contract should provide a grievance process for FSS families who believe that they have fulfilled their obligations under the FSS program but the HA disagrees.

Response. The Department declines to adopt a special grievance procedure for the FSS program. FSS families may utilize the grievance and hearing procedures currently provided under the regulations for the section 8 rental certificate and voucher programs, and regulations for the public and Indian housing programs. (*See* 24 CFR 882.216, 887.405, 905.340, and part 966.)

Comment. One commenter stated that while the FSS Guidelines provide for succession in the matter of distribution of the FSS account funds, there is no similar provision with respect to the FSS family's obligations under the contract if the head of the family leaves the family, dies or suffers a severe disability.

Response. The FSS rule provides that the HA and the FSS family may mutually agree to modify the contract of participation to designate a new head of the family.

(C) Extension

Comment. Several commenters stated that the FSS rule should not limit the term of the contract extension to two years. The commenters stated that the extension should be determined by each HA after reviewing the individual situation of the family requesting the extension.

Response. For uniformity in the operation of FSS programs, and to establish a maximum time frame during which FSS account funds may be accumulated, the Department believes that it is important that there be a limitation on the period to which the contract may be extended. The Department believes that an extension up to an additional two years constitutes a reasonable extension period.

Comment. Three commenters requested that the FSS rule address in further detail "good cause" reasons for extending the FSS contract. The commenters stated that the examples of good cause for extension, as set forth in the FSS guidelines, is excessively limited.

Response. The FSS Guidelines and the FSS rule define "good cause" to mean "circumstances beyond the control of the FSS family, such as serious illness or involuntary loss of employment." The Department believes that this definition provides HAs with adequate guidance and flexibility in determining when the contract of participation should be extended, and thus, additional examples of "good cause" circumstances are unnecessary.

Comment. One commenter stated that in the event of short-term occurrences, which interfere with a family's completion of its contract, the family should be allowed to interrupt compliance with the contract for an agreed upon period.

Response. The Department declines to include a provision in the FSS rule which addresses "short-term" occurrences that interfere with a family's ability to complete its contract of participation. In the event a situation occurs that prevents the FSS family from compliance with its contract, the family should contact the HA to inquire about renegotiation of the contract of participation, including the individual training and services plans.

D. Employment

Comment. Thirteen commenters objected to the mandatory work requirement imposed on the head of the FSS family on the basis that employment may be feasible only after the head of the family has received further education or job training. The commenters requested that the HA be given the flexibility and discretion to determine whether employment is an appropriate contract requirement.

Response. The employment obligation imposed on the head of the family is a statutory obligation. However, the Department has not interpreted this obligation to mean that the head of the family must be employed at the commencement of the contract term and remain employed throughout the contract period. The FSS rule provides (as did the FSS Guidelines) that the head of the FSS family shall be required under the contract of participation to seek and maintain suitable employment during the term of contract and any extension thereof. Although this provision does not give HAs the discretion to determine whether obtaining employment is an appropriate contract requirement, this provision

does provide the HA with considerable discretion in determining when (during the term of the contract) imposition of the employment requirement is appropriate. For example, an HA could approve an arrangement where the head of the FSS family attends school full time for four years, and seeks and obtains employment in the fifth year of the contract term.

Comment. One commenter stated that the FSS rule should establish a definite time frame in which the head of the FSS family must obtain employment. Another commenter requested that the FSS rule specify the minimum time period that the head of the family must remain employed to be in compliance with the contract of participation.

Response. As noted in the response to the preceding comment, the Department expects the head of the family to obtain and maintain employment at some point during the contract term. However, the decision concerning when it is appropriate for the head of the family to obtain employment is a decision left to the HA. The Department declines to specify a minimum period of time in which the head of the family must be employed to be considered in compliance with the contract of participation. Whether the head of the family has "maintained" employment in accordance with the terms of the contract is to be determined by the HA.

Comment. One commenter stated that the FSS Guidelines were unclear concerning which members of the FSS family have an employment obligation under the FSS program, and requested that the FSS rule clarify this issue. Another commenter stated that the FSS guidelines were unclear concerning whether a person other than the head of the family may be designated as the person to seek and maintain employment.

Response. As discussed in a response to an earlier comment, only the head of the family is obligated to seek and maintain suitable employment under the FSS program. Other members of the FSS family may enter into individual training and service plans which require them to enter educational programs, attend job training sessions and interview for jobs. However, the contract of participation cannot be considered breached on the basis of employment if the family members other than the designated head of the family fulfill their individual training and services plans, but never become employed.

With respect to the issue raised by the second commenter, under the FSS program, the head of the participating family must seek and maintain employment. However, if the titular head of the family is unable to work, the FSS family should designate another adult member as the head of the family.

(E) Counseling

Comment. One commenter stated that counseling provided under the FSS program should include overall family guidance, and not be limited to counseling for rental and homeownership opportunities or money management.

Response. The counseling provision of the FSS guidelines incorporates the language of the FSS statute. The statute provides that the public housing agency may provide counseling for the family with respect to affordable rental and homeownership opportunities in the private housing market and money management counseling. However, the FSS rule has been revised to clarify that the HA may provide counseling in any area the HA determines to be appropriate for the FSS family and the objectives of the FSS program.

(F) Transitional Assistance

Comment. One commenter stated that the FSS rule should incorporate a transition component, a component which provides assistance to families who have fulfilled the terms of their contract, but continue to need some form of assistance, such as rent reductions, food stamps, medical or other assistance.

Response. The FSS rule incorporates the "transitional assistance" provision that was contained in the FSS Guidelines. This provision permits an HA to continue to offer a former FSS family that is employed and that has completed its contract, appropriate FSS supportive services that may assist the family in remaining self-sufficient. The transitional assistance contemplated by the FSS program is continuation of FSS-related services, not continuation of welfare or public subsidy assistance.

The transitional assistance component is intended to be applied prudently so that scarce resources are not diverted from current FSS families. Alternatively, the HA may design the individual training and services plans so that the FSS family will receive "transitional assistance" while still participating in the FSS program. Under this approach, the HA would allow the family a pre-determined time, within the term of the contract, to receive transitional assistance after employment has been obtained.

G. Modification

Comment. One commenter requested that the FSS rule provide a procedure by which the FSS family and the HA may resolve a dispute concerning whether a contract modification is necessary.

Response. As noted in a response to an earlier comment, the FSS family may utilize the procedures for addressing grievances currently available under the regulations for the section 8 rental certificate and voucher programs, and the regulations for the public and Indian housing programs. (See 24 CFR 882.216, 887.405, 905.340, and part 966.)

(H) Termination

Comment. One commenter requested that the FSS rule specify the conditions under which an HA and the participating family may agree to terminate the contract. Another commenter requested that the FSS rule clarify what happens to the FSS account if the contract of participation is terminated by mutual consent.

Response. The circumstances under which an HA and an FSS family may agree to terminate the contract of participation may vary greatly. To specify the conditions that qualify for termination of the contract by mutual consent of the parties may exclude many valid situations, and would deprive the HA of the discretion of determining whether specific circumstances make termination of the contract by mutual consent appropriate. The Department believes that it is important that this determination be left to the HA, and therefore, declines to adopt the commenter's suggestion.

With respect to the FSS account issue, the FSS account funds will be forfeited if the FSS contract is terminated by mutual consent.

Comment. Three commenters stated that all family members participating in a section 8 FSS program should not be penalized because one family member fails to comply with the contract terms. Twenty-seven commenters stated that the termination of section 8 assistance is arbitrary and unfair; that the failure to achieve self-sufficiency should not be a basis for taking away housing assistance. The commenters stated that if termination of housing assistance remains available to HAs operating a section 8 FSS program, then this option also should be available to HAs operating public and Indian housing FSS programs.

Response. The FSS statute states that the contract of participation shall provide that the HA may terminate or withhold assistance under section 8 if the section 8 FSS family fails to comply with the requirements under the contract.

With respect to the public/Indian housing FSS programs, the Department

may not extend this option to these programs because the FSS statute restricts the option to terminate housing assistance for failure to comply with the terms of the FSS contract to the section 8 program.

Comment. One commenter stated that the FSS rule should clarify that the termination of the FSS contract is, in and of itself, insufficient grounds for termination of housing assistance. The commenter recommended that the FSS rule provide that failure to comply with the requirements of the FSS contract will be grounds for termination of housing assistance unless "the failure to perform is for reasons that are beyond the tenant's control, or the family was a participant in the voucher program before signing a contract of participation in the FSS program."

Response. The Department declines to adopt the commenters suggestion. First, a family's participation in the section 8 program before becoming a participant in the section 8 FSS program has no bearing on the HA's ability to terminate section 8 assistance on the basis of the family's failure to comply with the terms of the FSS contract. Second, as has been stated earlier in this preamble, termination of section 8 housing assistance is not mandated by the FSS statute or by the FSS rule. The HA has the discretion to determine whether termination of housing assistance is appropriate for an FSS family who fails to comply with the terms of the FSS contract. The HA may decide that terminating the family's participation in the FSS program and the family's inability to receive its FSS account funds will be appropriate remedy for breach of the FSS contract, without terminating section 8 assistance. Additionally, depending upon the specific contract terms violated, the HA may determine the appropriate resolution is renegotiating the contract of participation with the family.

Comment. Four commenters stated that FSS rule should clarify that termination of the FSS contract because the FSS family has completed or fulfilled the FSS contract terms is not grounds for termination of housing assistance.

Response. The FSS rule clarifies that termination of the contract for purposes other than failure to comply with the requirements of the contract is not grounds for termination of section 8 assistance.

Comment. Three IHA commenters stated that the FSS program should provide a mechanism to allow participants on reservations to either transfer or convert their existing units to the Mutual Help program or to access other assisted housing that may be available on the reservation with no loss of their FSS account.

Response. Because of the change in the FSS statute concerning the conditions under which the FSS family may withdraw its FSS account funds at the conclusion of the contract term, as discussed earlier in this preamble, FSS families may use their FSS account funds to obtain homeownership under one of HUD's homeownership programs, including the HOPE programs, unless prohibited by the statute or regulations governing the particular homeownership program.

Comment. One commenter asked whether a family participating in a section 8 FSS program would revert to regular section 8 assistance if the family's housing assistance was terminated under the section 8 FSS program. Another commenter asked whether a family is still considered to hold an FSS certificate or voucher if the participating family is unable to achieve economic self-sufficiency at the end of the contract term, and any extension thereof, but retains section 8 assistance. Another commenter suggested that in lieu of terminating housing assistance, the FSS rule permit the HA to charge market rent for the FSS unit if the family fails to fulfill its terms under the contract.

Response. In response to the first comment, a section 8 FSS family would *not* revert to "regular" section 8 assistance in the event that the family fails to comply with the terms of the FSS contract and the family's section 8 assistance is terminated. In response to the second comment, if the FSS family is unable to become self-sufficient at the end of the term of the contract of participation, including any extension thereof, the family will retain its current section 8 rental certificate or rental voucher, and will be reclassified as a non-FSS family. With respect to the third comment, in the public/Indian housing program, there is no statutory authority to adopt the commenter's suggestion. however, in the section 8 program, termination of the family's housing assistance will require the family to pay the market rent to the owner.

Comment. Two commenters stated that the FSS rule should provide section 8 FSS families with a procedure to grieve or appeal an HA's decision to terminate housing assistance.

Response. As noted earlier in this preamble, section 8 FSS families are entitled to request a hearing in accordance with the procedures set forth in the section 8 regulations, which provide for informal review and hearings in the section 8 programs. (See 24 CFR 882.216, 887.405) This is consistent with the 1992 Act amendment to the FSS statute which requires that the HA may terminate or withhold assistance under section 8 if the HA determines, through the procedures established in accordance with section 6(k) of the 1937 Act, that such action is necessary.

Comment. Several commenters expressed concern that an HA may be subject to legal liability if there is a failure to deliver to the family the supportive services described in the individual training and services plans.

Response. The contract of participation does not provide for the HA to be held responsible for any failure on the part of the social service agencies to deliver services agreed to be delivered under the contract. The contract of participation states that the resources and supportive services to be provided are "subject to availability." In the event there is a failure on the part of a social service agency to deliver the services agreed to be provided, the HA must adhere to the following course of action:

First, the HA must make a good faith effort to obtain these services from another agency. The PCC should assist the HA in this effort.

Second, if these services are unavailable from another agency, the HA must reassess the family member's needs and determine whether other available services would achieve the same purpose.

Third, if other available services would not achieve the same purpose, the HA must determine whether the unavailable services are integral to the FSS family's advancement or progress toward self-sufficiency. If the unavailable services are determined not to be integral to the FSS family's advancement toward self-sufficiency, the HA shall revise the individual training and services plan to delete these services, and modify the contract of participation to remove any obligation on the part of the FSS family to accept the unavailable services. If the unavailable services are determined to be integral to the family's advancement toward self-sufficiency (which may be the case if the affected member is the head of the FSS family), the HA shall declare the contract of participation null and void.

The third course of action recognizes that not all services to be provided to all family members participating in the FSS program are as important as some services to be provided to certain family members. For example, because the head of the FSS family bears the greatest

responsibility under the FSS program (the responsibility to participate in the FSS program and to seek and maintain employment), the educational or job training needs of this individual and the services to be provided to meet these needs, will be considered more important than the services to be provided to meet other family members' needs. However, regardless of whether the lost services affect the head of the family or another family member, the first course of action to be followed by the HA is to make a good faith effort to obtain the same or comparable services from another agency.

In the event that the contract of participation is declared null and void, and the FSS family is a participant in a section 8 FSS program, the family's release from participation in the FSS program because of an absence of necessary supportive services is not grounds for termination of section 8 housing assistance. If a family's participation in an FSS program is brought to a close because of an absence of necessary services, the family would be reclassified as a non-FSS family. This reclassification occurs regardless of the FSS program in which the family was selected to participate, i.e., section 8 or public/Indian housing FSS program.

Section VII. Selection of FSS Participants

Comment. A majority of commenters submitted comments on the selection of FSS participants. Thirty-five commenters stated that the selection process should permit the use of motivational criteria. The commenters stated that although motivation should not be the sole basis of selection, elimination of any consideration of this factor would increase the program's failure rate. Another 67 commenters requested that the FSS rule permit selection preference for individuals already participating in employment and training programs. An additional 10 commenters suggested that the Department permit a selection preference for at least a percentage of its FSS slots.

Response. As a result of these comments, the Department reassessed its approach to the selection process, and agreed with the commenters that some degree of motivational screening and selection preference should be permitted. The type of selection preference permitted and the motivational screening factors allowed were discussed earlier in this preamble under section IV, and again, under the "General Comments" section of this section V.

Comment. Ten commenters stated that the FSS rule should permit HAs to develop the selection criteria for the FSS program, and that if this were permitted, the selection criteria would more appropriately reflect local needs, economic conditions, and available resources in the community.

Response. The FSS rule establishes, as did the FSS Guidelines, basic policies and requirements to be applied to the selection process—policies and requirements which the Department believes are important to maintain uniformity in the operation of the FSS program, and to assure that the selection process is not discriminatory of certain groups. However, the FSS rule provides, as did the FSS Guidelines, in the provision governing the Action Plan, considerable discretion for the HA to establish its selection system within the boundaries established by this rule.

Section VIII. Action Plan

Comment. One commenter noted that the preamble to the FSS Guidelines requires a PHA, which operates a public housing FSS program, to submit its Action Plan to representatives of public housing residents, but where the PHA operates a section 8 FSS program, no similar requirement is imposed. The commenter stated that many section 8 residents are represented by organizations, and where such organizations exist, PHAs should be required to consult with these groups.

Response. The Department agrees with the commenter, and the FSS rule requires that the PCC must include a section 8 participant or public housing or Indian housing resident. Under the FSS statute, an HA is required to consult with the PCC in developing the Action Plan. Accordingly, by requiring resident representation on the PCC, the Department ensures resident involvement in the development of the Action Plan.

Comment. One commenter, requested that the FSS rule clarify the meaning of "consultation with the chief executive officer of the unit of local government." The commenter asked whether the chief executive officer could veto suggested members of the PCC or reject the Action Plan.

Response. The term "consultation" is used in its standard dictionary sense. The HA has the final decision-making authority with respect to the Action Plan and the membership of the PCC.

Comment. One commenter asked that the period of time within which Action Plans must be submitted to HUD for approval be extended from 90 days to 180 days. A second commenter stated that the FSS rule should establish a time limit within which HUD must approve an Action Plan. A third commenter stated that the Department's approval of the Action Plan is excessive and unnecessary.

Response. The Department declines to adopt the first two commenters' suggestions. The Department believes that 90 days presents a reasonable time period within which an HA may have an Action Plan ready for submission to HUD. The FSS rule provides that the HUD Field Office may extend this deadline for good cause.

With respect to HUD's review of Action Plans, the FSS rule provides, as did the FSS Guidelines, for HAs to submit their initial Action Plans within 90 days of notification of approval by HUD of the HA's first application for units under the FSS FY 1991 and 1992 incentive award competition, or of notification of approval by HUD of the HA's award of new units starting in FY 1993. Because notification of all award recipients will occur at approximately the same date, in accordance with HUD Reform Act requirements, this means that the Action Plans will be submitted to HUD for review at approximately the same time (as opposed to a staggered submission). Thus, it is difficult for the Department to commit itself to a specific time period within which the Action Plan will be approved. The Department, however, will make every effort to review and approve these plans within 60 days.

With respect to the issue raised by the third commenter, the Department disagrees with the commenter. The Department believes that the Department's review of the Action Plan is necessary to assure that an HA's proposal for implementation of a local FSS program is in conformance with the policies and regulations governing the FSS program.

Comment. Five commenters noted that the provisions governing the Action Plan encourage HAs to coordinate supportive services and activities with JTPA programs, the JOBS program, and other public and private programs. The commenters complained that their inability to give selection preference to specific groups and establish local selection criteria would make coordination with these programs difficult, if not impossible. One commenter requested that the FSS rule provide more information on how the coordination effort would work.

Response. As discussed under the "General Comments" section of this preamble, the FSS rule provides HAs with the option of giving a selection preference for up to 50 percent of their FSS slots. The Department believes that

the selection preference option provided by the FSS rule should alleviate the commenters concern about their ability to successfully coordinate supportive services with other public and private programs.

With respect to the issue of how the coordination effort would work, in the fall of 1991, the Department held a series of workshops nationwide which provided additional information on how HAs may obtain the cooperation of local service agencies in delivering supportive services to the program. Future workshops, and the FSS guidebook, which HUD is preparing for the FSS program, also will address this issue in further detail. Information concerning the coordination effort is more appropriate for a guidebook than a rule. (For further information on this issue, please see the contact person for supportive service issues, provided at the beginning of this document.)

Comment. One commenter stated that the twelve months allotted by the FSS Guidelines to start-up the local FSS program (with the twelve-month count beginning from the date of notification of approval of the incentive award application) is extremely restrictive.

Response. The Department does not believe that twelve months is an unreasonable start-up time. As the FSS Guidelines and the FSS rule explain, implementation of a local FSS program within 12 months of HUD's notification of approval of an application for new units means that activity such as outreach, participant selection and enrollment must have begun. Full enrollment and full service delivery to the total number of families required to be served need not occur within 12 months, but the FSS rule requires that full enrollment and full service delivery to the total number of families to be served must occur no later than two years from the date of notification of approval of the application for new units. The FSS rule also provides that this period may be extended by the HUD Field Office after considering the efforts of the HA to deliver these services, the availability of service resources, and other local circumstances which may affect the ability of the HA to meet the delivery of services deadline.

Comment. One commenter asked how HUD will determine if a housing authority's FSS program is successful, and what action, if any, HUD will take if the HAs program is unsuccessful.

Response. The Department will measure the success of a local FSS program in multiple ways, including, among other things, one or more FSS family members obtaining a job for the first time or obtaining better paying jobs, families becoming independent of welfare benefits, family members obtaining a high school diploma or higher education degree, and families becoming independent of welfare assistance or HUD housing assistance (section 8, public or Indian housing assistance). An unsuccessful program may be found to be a program that includes a high percentage of FSS families withdrawing from the program, or a high percentage of FSS families who do not obtain jobs, do not obtain better paying jobs, or remain on welfare and HUD housing assistance.

Section IX. Use of Available Housing Assistance

No comments were received on this section.

Section X. Section 8 Residency Requirement

Comment. Twenty-four commenters objected to portability in the FSS program on the basis that it would increase what the commenters described as the already significant administrative burdens imposed by the FSS program. Three commenters stated that portability would adversely affect funding for small non-metropolitan HAs, because FSS families would relocate to a metropolitan area where job opportunities may be more readily available. One commenter stated that portability should not be required for joint jurisdictions. Four commenters stated that portability should be permitted only upon approval by the HA. Two commenters stated that portability should be permitted only if required by the head of family's employment, e.g. the employer moves to another location, or the employer requires the head of the family to transfer to a division in another location. Another commenter stated that the FSS rule, at a minimum, should restrict the number of moves a family can make during the term of the family's FSS contract.

Response. The Department declines to eliminate portability in the section 8 FSS program. Although the Department is sympathetic to the commenters' concern that portability in the section 8 FSS program may increase the HA's administrative burden, portability is a basic component of the section 8 rental certificate and voucher programs.

Comment. Several commenters raised a number of questions concerning how portability will work under the FSS program, and the specific responsibilities of the initial HA and the receiving HA to the FSS family and to the FSS account. The commenters asked the following questions: Whether the FSS family must reside within the jurisdiction of the initial HA before portability may be exercised, and if so, if there is any minimum residency requirement; which agency is responsible for monitoring the contract of participation of the FSS family their relocates to another jurisdiction; will the contract of the relocating FSS family continue to count against the initial HA's minimum program size; and which agency is responsible for maintaining the FSS account? One commenter stated that the requirement under the FSS program that the applicant reside, at least initially, in the jurisdiction of the HA administering a local section 8 FSS program represents a change from the current section 8 certificate and voucher programs, and the commenter questioned the basis for this change. Three commenters stated that the initial HA should have no obligation for maintaining the FSS account of the FSS family who has moved. Another commenter stated that the final rule should clarify whether the relocating FSS family enters into a new contract with the receiving housing authority.

Response. In response to these comments, the FSS rule revises the section 8 residency requirement provision of the FSS guidelines, and the Department believes that the revised language clarifies the responsibilities and obligations of the initial HA, and the receiving HA under the FSS program. However, the following also responds to the questions raised by the commenters.

Minimum period of residency. A family who wishes to participate in a section 8 FSS program must live in the jurisdiction of the initial HA for one year.

Obligations of the initial and receiving HA. There will be only one FSS account for an FSS family that has exercised portability. The FSS account will be maintained by the initial HA until the family is "absorbed" by the receiving HA, i.e., until the receiving HA stops billing the initial HA for assistance and instead uses funds available under the receiving HA's ACC. There could be one or two contract of participation for families exercising portability as explained below.

Where the relocating family becomes a participant in the FSS program of the receiving HA. Of the FSS family who relocates to another jurisdiction (relocating family) wishes to participate in the FSS program of the receiving HA, an the receiving HA allows the family to participate in its FSS program, the receiving HA will enter into a new

contract of participation with the family for the term remaining on the contract with the initial HA (e.g., if the family participated in the initial HA's FSS program for 3 years, the receiving HA's contract will be for 2 years).

Where the relocating family remains in the FSS program of the initial HA. If the relocating family remains a participant in the initial HA's FSS program, there will be only one contract of participation—the contract of participation with the initial HA.

Disposition of forfeited FSS account funds. If the term of the contract of participation, including any extension thereof, expires and the family is still receiving welfare assistance, or if the family is terminated from the receiving HA's FSS program because the family did not fulfill its obligations under the contract of participation, the account will revert to the ACC project reserve account of the HA who is using funds under its ACC to provide section 8 assistance.

Monitoring the family's progress. The HA, which is responsible for monitoring the family's progress under the contract, is the agency that operates the FSS program in which the family is participating, and that has entered into a contract of participation with the family. If the relocating family remains in the FSS program of the initial HA then that agency continues to be responsible for interacting with and monitoring the progress of the family.

Comment. One commenter stated that the FSS rule should provide that a section 8 FSS family relocating to another HA's jurisdiction, which does not operate an FSS program, or whose FSS program does not offer the services needed by the family, does not necessarily forfeit section 8 housing assistance. The commenter stated that there may be circumstances when an FSS family must move into a new jurisdiction in order to be closer to a hospital providing particular treatment for a family member, and the new jurisdiction may not provide the FSS services needed by the family. Two commenter stated that the FSS rule should permit the initial HA to terminate not only the family's FSS participation under the initial HA's FSS program, but section 8 housing assistance.

Response. The statute and these implementing regulations provide that families not meeting their obligations under the FSS contract of participation may, at the sole option of the HA, be terminated from the FSS program and the section 8 program. The Department intends that FSS families are not to be penalized in exercising their right to portability, solely because they cannot participate in the FSS program in their new location. A family's housing assistance should not be terminated in this situation. However, if a family is subject to termination in the FSS program because of failure to meet a contract obligation, the family should not be allowed to use a portability move to avoid the consequences of such failure; in this instance, the PHA may exercise its authority to terminate rental assistance.

Comment. Four commenters stated that the FSS rule should provide that section 8 owners may incorporate additional provisions in the lease of section 8 families participating in the FSS program upon their enrollment in the program. The commenters recommended that one of the provisions would be that in the case of conflict between the lease and the FSS contract, the lease prevails. Another commenter stated that the lease should clarify that the lease and grievance provisions that currently apply, may not be waived or suspended for FSS participants.

Response. The FSS contract of participation contains a provision that in the case of conflict between the provisions of the contract of participation and the applicable lease, the provisions of the lease prevail. The Department declines to include this provision in the FSS rule. This is a contract provision, and therefore, is appropriately contained in the contract of participation. With respect to the last comment, as noted earlier in this preamble, the grievance and informal hearing procedures that are applicable to section 8 program participants and public/Indian housing program participants automatically apply to FSS participants.

Section XI. PHA/IHA Incentive Award Allocation

Comment. One commenter stated that the NAHA directed that at least 10 percent of all new units in FY 1991 and FY 1992 be set aside for the FSS program. The commenter stated that HUD exceeded the 10 percent requirement, and provided for 50 percent of new units in FY 1991 and FY 1992 to be reserved for the FSS program.

Response. The 10 percent requirement set forth in the NAHA was the minimum percentage of units that could be reserved for the FSS program. The Department had the option to increase this percentage at its discretion. Considering the response from HAs to the FY 1991 and FY 1992 FSS incentive award completions, the Department believes that it made the correct decision to increase the percentage of units reserved for the FSS program.

Comment. Two commenters asked what the consequences would be if they were awarded 50 units for the FSS program, but could only recruit 25 families.

Response. In accordance with instructions from Headquarters, each HUD Field Office may authorize an HA to operate a smaller size program if the Field Office determines that the HA is unable to operate an FSS program equal to the number of new units awarded. However, the Department expects the HA to make a good faith effort to encourage family participation in the program.

Section XII. Allowable PHA/IHA Fees and Costs

Comment. The majority of the commenters complained that the allowable section 8 administrative fees would not cover the costs of administering the FSS program. Several of the commenters stated that units received under the FSS program should not be subject to the blended rate calculations. Nineteen commenters offered suggestions on how additional fees could be raised to assist HAs with covering the administrative costs of the program. These comments included deducting a percentage of the family's FSS account, retaining a percentage of the interest on FSS accounts, and retaining forfeited FSS account amounts.

Response. The Department understands the commenter's concern about the costs of implementation and operation of the program. However, the FSS statute and appropriations acts establish the allowable FSS administrative costs and fees. Similarly, the FSS statute provides for the establishment of an FSS account, and provides for funds (the amount of which is determined as discussed in following Section XIII of this preamble) to be placed in an interest-bearing account by the HA on behalf of the FSS family. The Department expects that its own coordinative efforts with other Federal agencies, and the coordinative efforts of HAs will result in financial support from other sources that will help HAs meet the administrative costs of the FSS program.

Comment. One commenter stated that the FSS rule should clarify that the amount allocated for preliminary expenses (preliminary fee) applies to each new FSS participant. Another commenter stated that the time frame allowed to use preliminary fees should be increased from 90 days to a one year period, at least for the first five-year FSS

program that is implemented by each HA. Another commenter stated that to further assist HAs, preliminary fees should be available for all FSS participants whether they are selected from the waiting list or are current tenants.

Response. The preliminary fee applies to each new unit, not to each FSS participant. HAs receive the preliminary fees for all new units. They receive these fees whether or not they are using the new units for the FSS program, or are using existing units for the FSS program. (Again, the new units only determine the minimum size of an HA's FSS program.) There is no 90 day limitation on the use of preliminary fees.

Section XIII. Family Self-Sufficiency Accounts

(A) Establishment of Account

Comment. One commenter asked whether the amounts placed in the FSS account constituted a double subsidy to the family.

Response. The FSS amount is not funded from appropriations by the Congress. As provided by the FSS statute, the amount placed in the FSS account represents a portion of the family's rent.

In the public and Indian housing FSS programs, FSS families are charged rent by the HA in accordance with the procedures utilized by the HA in its non-FSS programs, and the HA credits the applicable portion of the tenant's rent to the FSS account. For purposes of reporting the total monthly rent roll in the calculation of operating subsidy eligibility under the PFS, an HA will be allowed to exclude the amount credited to the FSS account. While the FSS accounts are funded through appropriation, the exclusion of increases in family income will have an impact on operating subsidy requirements.

In the section 8 programs, FSS families will pay rent to the owners in accordance with the procedures utilized by the HA in its non-FSS section 8 programs, and the HA's housing assistance payment to the owner will be calculated in accordance with these normal procedures. The HA will use housing assistance funds paid by HUD for the FSS deposits.

Comment. Five commenters stated that HAs should not be involved in the escrowing money for tenants. Other commenters expressed concern that the FSS account would present a significant accounting burden.

Response. The FSS statute directs the HA to establish an "escrow savings" account on behalf of each participating family. The Department notes that the escrowing of funds by an HA is not unique to the FSS program. HAs hold a variety of funds in trust, such as security deposits, homeownership reserve accounts, and homeownership equity accounts. The HA's accounting system include procedures for keeping track of such funds (e.g., establishing individual family sub-accounts in the accounting records, investment of funds in HUD-approved investments, crediting of interest earned to participating families, and the terms of withdrawal). HAs may contract with another organization to undertake this work; however, the overall responsibility for establishment and administration of the FSS accounts remains with the HA.

Comment. Fifteen commenters requested that the Department reexamine this component of the FSS program, which they stated was not an incentive to self-sufficiency. An additional three commenters stated that the FSS account would not teach participants how to save money. Other commenters proposed alternative mechanisms to the FSS account, which they believed create an incentive to obtain self-sufficiency. Four commenters stated that the FSS rule should provide for the option of establishing a separate FSS account for each participating family or a community account for all participating families. Twenty-two commenters stated that the FSS account provisions in the FSS Guidelines were unclear, did not address the tax consequences of the FSS account, and failed to provide adequate guidance concerning disposition of the FSS account funds in the event of death of the head of the family, or in the event of separation or divorce. Six commenters stated that the confusion surrounding the FSS account results in part from the use of certain terms, which require clarification.

Response. The FSS account is a statutorily required component of the FSS program. The FSS statute provides for the establishment of an "escrow savings" account, and provides the basis for determining the escrow amount. Accordingly, the Department has no authority to eliminate this component of the FSS program. However, the 1992 Act amendment to the FSS program requires that HAs shall establish a plan to offer incentives to families to participate in the FSS program. The plan must include the establishment of an escrow savings account, as provided in the FSS statute, and may include other incentives designed by the HA.

At the time of publication of the FSS Guidelines, the Department had not received a ruling from the IRS of the tax consequences, if any, on the FSS account. The IRS recently issued an opinion to the Department on this subject, and the content of this opinion is incorporated in this response.

With respect to the other concerns expressed by the commenters on the FSS account, the Department has reviewed the escrow account provision of the FSS Guidelines, and has made certain revisions to this section in the FSS rule. The Department believes that the revised language clarifies the issues raised by the commenters. The following, however, also responds to the questions raised by the commenters.

Type of FSS account. There was no requirement under the FSS Guidelines that the HA maintain a separate FSS account for each FSS family. Under the FSS Guidelines, HAs were given the option to combine the funds being held for all FSS families into a single depository account in a financial institution, or maintain a separate depository account in a financial institution for each family. The FSS rule removes this option and requires HAs to combine the funds being held for all FSS families into a single depository account. This change was made in response to the ruling by the IRS, as discussed later in this response (see discussion under "Tax Consequences of FSS account"), which indicates that FSS funds may be subject to Federal income tax if the HA establishes a separate account for each participant.

Investment of FSS account funds. The FSS rule provides that the HA must deposit the FSS account funds in one or more of the HUD approved investments listed in Handbook 7475.1 REV. This handbook can be obtained from the HUD Field Office. The total of the FSS account funds will be supported in the HA accounting records by a subsidiary ledger showing the account balance applicable to each FSS family. Investment income shall be credited periodically, but no less than annually, to each participating family's FSS account.

The investment income for the combined FSS funds for the period will be prorated and credited to each family's FSS account based on the balance in each account at the end of the period for which the investment income is prorated. In cases where the tenant has a public housing account receivable balance representing one or more unpaid monthly payments, or the section 8 family does not pay the rent to the owner or other amounts due under the lease, the balance in the family's FSS account shall be reduced by that amount prior to prorating the

income. (This is the same basis outlined in Low-Rent Housing Accounting Handbook HM 7510.1, Chapter 16, Section 6, Appendix 1 and Chapter 18, Section 6, Appendix 1, for proration of investment income earned on homebuyer reserve funds held by the HA).

Calculation of the FSS account credit. During the term of the contract of participation, HAs calculate the FSS account contribution amounts for each FSS family using HUD's FSS account credit worksheet, which was distributed to HAs by Notice PIH 91–47, issued on November 12, 1991. The worksheet will be reissued to reflect the changes to the FSS account contained in the final rule. The amount of the FSS account credit varies depending on the income of the family, and is based only on increases of earned income since the date of execution of the contract of participation.

Whenever the HA conducts an annual reexamination or an interim redetermination of income for an FSS family during the term of the contract of participation, the HA must compute the monthly FSS account credit using the credit worksheet. (The annual reexamination or interim redetermination of income will be conducted in accordance with the regulations governing the section 8 programs and public/Indian housing programs. See 24 CFR 882.212, 887.355, 887.357, 905.315, 960.209.) If the family had one or more interim redeterminations of income in the twelve months since the last annual reexamination, then the monthly amount shown on line 12 or 13 of the credit worksheet will vary during the year. Otherwise, the monthly amount will be the same for the entire 12 month period.

Tax consequences of FSS account. The Department requested an opinion from the IRS on the possible tax consequences of FSS accounts established under the FSS program. In an opinion issued May 8, 1992, the Office of Chief Counsel of the IRS responded to the Department's inquiry on the tax consequences of FSS account.

The IRS stated that the FSS account arrangement provided by the FSS guidelines is not considered a trust under the Internal Revenue Code, and that HAs are not required to report the interest earned on the accounts. On this issue, the May 8, 1992 opinion letter specifically provided as follows:

[A]n escrow arrangement of the kind described in the [FSS] program guidelines will not be considered a trust under section 641(a) of the [Internal Revenue] Code and section 301.7701–4(a) of the regulations [on procedure and administration], and the PHAs/IHAs are not required to report the interest earned in the FSS Accounts as income subject to taxation under section 641(a) of the Code. Because the FSS Accounts are not trusts, the accounts are not grantor trusts.

However, section 468B(g) of the Code states that '[n]othing in any provision of law shall be construed as providing that an escrow account, settlement fund, or similar fund is not subject to current income tax. The Secretary shall prescribe regulations providing for the taxation of any such account or fund whether as a grantor trust or otherwise.' Section 468B(g) applies to funds established on or after August 16, 1986.

On February 14, 1992, the [Internal Revenue] Service issued proposed regulations under section 468B(g) of the Code. These proposed regulations, however, do not address escrow accounts of a type similar to the FSS Accounts. Therefore, we cannot provide a definitive answer at this time as to whether the FSS Accounts may be subject to potential liability under section 468B(b) of the Code.

The IRS also stated that the funds in the FSS account fund are not included in the gross income of the FSS families because these funds qualify as welfare benefits. Therefore, FSS families will not have to pay taxes on the FSS account balances, even when families receive a cash payment. On this issue, the May 8, 1992 opinion letter stated, in relevant part, as follows:

Welfare benefits are not included in a taxpayer's gross income. * * * When considering whether a program's disbursements fall within the welfare benefits exclusion, four factors must be examined: (1) the source of the funds for the program; (2) the circumstances of the beneficiaries of the program; (3) whether the payments are compensation for services; and (4) the intent of Congress in establishing the program.

* * * * *

If the PHAs and IHAs do not establish a separate account for each participant (i.e., assuming the participants have no present interest in the funds held in escrow), and if the benefits are needs based, the disbursements (including the interest) are welfare benefits and are not includible in the gross income of the recipients.

Finally, the IRS advised that a filing of Form 1099 was not required for the FSS account funds. The May 8, 1992 opinion letter stated as follows:

Under section 6041 of the Code, payors of fixed or determinable gains, profits, and income aggregating $600 or more are required to file Forms 1099 with the Internal Revenue Service.

Distributions that are not includible in the gross income of the FSS program participants, as discussed above, are not required to be reported on Forms 1099. This conclusion also applies to the accumulated interest in the FSS Accounts unless a portion of the distribution is specifically allocated to interest.

In view of the language of the IRS opinion—"if the PHAs and IHAs do not establish a separate account for each participant"—the FSS rule, as noted above, requires the HA to deposit the FSS funds for each participating family into a single depository account. The information provided by the IRS on the tax status of the FSS account is not part of the FSS rule, but is being incorporated in the FSS handbooks and guidebooks.

Disposition of FSS account funds upon termination from FSS program. In the event a family is terminated from the FSS program or is still receiving welfare assistance by the date of expiration of the term of the contract or participation, including any extension thereof, the disposition of the FSS account would be as follows.

In the section 8 FSS program, the FSS account funds will be treated as additional program receipts for payment of program expenses under the HA budget and will be credited to the HA's ACC project reserve account.

In the public and Indian housing program, the FSS accounts funds will be credited to the HA's operating reserves and counted as other income in the calculation of PFS operating subsidy eligibility for the next budget year.

Disposition of FSS account in the event of break-up of the family. It is impossible within the context of the rule to address all the various circumstances which may arise, and which may bring into issue ownership of the FSS account. The FSS Guidelines addressed FSS account succession rights if the head of the FSS family ceased living in the assisted housing unit, and the FSS rule incorporates this provision. However, the rule cannot address every circumstance that may trigger succession rights. The Department's program handbooks will provide further guidance on specific circumstances involving this issue, and the HA may contact the HUD Field Offices for additional guidance on this matter.

Comment. One commenter expressed concern that creditors may make claims on the FSS accounts which would result in HAs incurring legal costs to determine entitlement to the funds. The commenter asked whether in such situations the HA could deduct legal fees from funds in the FSS account.

Response. The HA may not deduct legal fees from funds in the FSS account to cover any administrative costs, including legal costs, involved in the operation of the FSS program. The FSS

statute provides for the FSS account to be established for the FSS family, and use of the FSS account funds is limited by the FSS statute for the benefit of the FSS family, as such time as the family fulfills its obligations under the contract of participation, and is no longer a recipient of welfare assistance.

Comment. Five commenters asked whether the FSS account would be counted as income or an asset affecting the family's eligibility for other assistance or programs.

Response. The answer to this question depends upon the specific benefit program at issue, and the laws governing that program.

With respect to the AFDC and Medicaid programs, which are administered by HHS, the Department requested that HHS issue guidance to State officials clarifying how FSS accounts would affect benefits under these two programs. In a letter dated April 27, 1992, the Secretary of HHS replied in relevant part as follows:

> In the spirit of our Memorandum of Understanding, we are issuing written clarification to both State welfare and Medicaid agencies advising that the money in an FSS family's escrow account would not be considered to be available income or resources under AFDC and Medicaid regulations so long as the family lacks the legal ability to use the money for its support and maintenance.

For programs other than AFDC and Medicaid , the laws governing the specific benefit program at issue must be examined to determine whether the FSS account is classified as income for purposes of this program. Where HUD determines the effect of the FSS account funds on other benefit programs, HUD Headquarters will advise its Field Offices, and these offices, in turn, will advise participating HAs.

Comment. A few commenters expressed concern about possible conflict with State laws with respect to the establishment and administration of the FSS accounts.

Response. The FSS account under the FSS program is not the type of "escrow account" for which States generally impose rigid requirements with respect to the structure of the account and the disbursement of funds. However, each HA should consult its legal counsel for further guidance on the this issue.

(B) Amount of FSS Credit

Comment. Two commenters stated that the FSS statute does not require the family to be a contributor to the FSS account. The commenters stated that, under the FSS Guidelines, the family appears to pay into the FSS account 30 percent of their newly increased income. The commenters stated that this is contrary to the FSS statute which prohibits consideration of increases in earned income in calculating what a tenant is supposed to pay for rent. The commenters stated that the statute simply establishes the FSS account, it does not say that the tenant must be the contributor.

Response. The FSS statute provides:

> For each participating family whose monthly adjusted income is less than 50 percent of the area median income, the difference between 30 percent of the adjusted income of the participating family shall be placed in an interest-bearing escrow account established by the public housing agency on behalf of the participating family. For families with incomes between 50 and 80 percent of the area median income, the Secretary shall provide for escrow of the difference between 30 percent of the family income and the amount paid by the family for rent as determined by the Secretary under paragraph (1) [paragraph (d)(1) of Section 554].

The method for determination of the FSS account credit as set forth in the FSS Guidelines and the FFS rule is consistent with the language of the FSS statute. The amount of the FSS family's increased earned income that is going to the HA is not rental income; it is the FSS account credit. The FSS account is similar to a savings account, and, as such, is a central component of the FSS program. Having a portion of the FSS family's increased earned income placed in the FSS account is an incentive to the family for becoming self-sufficient. Under the FSS program, the family gains a reward (the FSS account funds) for fulfilling the obligations under the contract of participation, and becoming independent of welfare assistance. Holding the FSS family's rent at its pre-employment level, while funding the FSS account from elsewhere, would not demonstrate the value of work and saving for the future. In addition, the Congress did not provide, nor did it indicate in the FSS authorizing statute that it would provide, an additional source of funds for the FSS accounts.

Comment. Several commenters criticized the computation of the FSS account as set forth in the FSS Guidelines, and requested that this method be simplified in the rule. The commenters stated that the Guidelines provide a much more cumbersome method for computing the FSS account credit amount than the statute requires.

Response. In the FSS rule, the Department has revised and clarified the method of computation of the FSS account credit amount.

Comment. One commenter stated that while the FSS Guidelines address the calculation of escrow credit, they do not address the calculation of tenant rent.

Response. Contributions toward the rents for FSS participants are calculated in the same way as contributions toward rents for non-FSS participants. As family income increases, family contributions toward rents will increase in accordance with the applicable provisions of 24 CFR parts 813, 887, 905, and 913.

Comment. One commenter stated that the Department needs to provide a mechanism for HAs to collect the monies to be placed in the section 8 families' FSS accounts. Six commenters expressed concern about what action to take if the FSS family refuses to pay the FSS account credit amount.

Response. The HA does not collect the FSS account funds from the tenant. In the public/Indian housing FSS programs, the HA collects the rent and credits a portion of the rent to the FSS account. In the section 8 FSS program, the PHA will use the housing assistance funds paid by HUD for the FSS account credit. If the FSS family does not pay the full tenant rent or other amounts due under the lease, and the HA decides not to terminate the family from the FSS program, the FSS account balance would be reduced by the amount of any unpaid tenant rents or other amounts due under the lease.

(C) Investment of Funds in FSS Accounts

No comments were received on this subsection.

(D) Disposition of FSS Accounts

(1) (Withdrawal)

Comment. One commenter stated that the FSS rule should clarify that if a family fulfills its obligations under the contract of participation, the disbursement of FSS funds to the family is not discretionary on the part of the HA. The commenter expressed concern about the language in the FSS Guidelines which provides that the FSS account "may be paid" to the head of the participating family. Another commenter stated that the rule should clarify that FSS account funds may be disbursed before expiration of the five-year contract if all obligations under the contract have been met. Two commenters stated that the rule should permit tenants and HAs to draw on funds in the FSS accounts in emergency situations. Seven commenters stated that the rule should provide for the FSS account funds to be made available to families who fulfill the terms of the FSS contract, but still require some form of housing assistance.

Response. The FSS rule clarifies that the HA must pay the FSS account funds to the FSS family, minus any accounts owed to the HA (e.g., for any unpaid rent, tenant damage or section 8 vacancy loss) when (1) the family has fulfilled its obligations under the contract of participation, and (2) the family is no longer a recipient of welfare.

With respect to the issues of withdrawal of FSS account funds in emergency situation and disbursement of the funds of families who fulfilled the terms of the contract but still require housing assistance, the FSS statute, as amended by the 1992 Act, permits the HA to make certain amounts in the FSS account available to the participating family before full performance of the family's obligations under the contract if (1) the family has complied with and completed interim goals set forth in the contract, and (2) the need for early withdrawal of a portion of the FSS account funds is for purposes consistent with the contract. Expenditure of a portion of the FSS account funds for purposes consistent with the contract would include expenditures for higher education (e.g., college, graduate school), job training or business development.

Comment. One commenter stated that the FSS rule should clarify that no escrow credit will be given for any period in which the FSS family has failed to comply with the obligations under the FSS contract, the lease or the certificate/voucher. The commenter stated that no retroactive rent charges stemming from failure to report or inaccurate reporting of income should be paid to the FSS account.

Response. Under HUD's section 8 and public/Indian housing programs, failure to report all income constitutes fraud. The commission of fraud is grounds for termination from the section 8 programs, the public and Indian housing programs, and the FSS program. If the HA does not wish to terminate the section 8 subsidy, or evict the family from public or Indian housing, the HA may terminate the family from the FSS program. An HA's policies with respect to these issues should be included in the FSS Action Plan or in the section 8 administrative plan. In any event, the HA must not credit the family's FSS account with any portion of the back rent.

Comment. Eight commenters stated that the FSS rule should establish stipulations on the use of FSS account funds. The commenters stated that the FSS account funds should be targeted for education, homeownership downpayments or home improvement projects.

Response. The FSS statute does not provide the Department with the discretion to impose stipulations on the family's use of its FSS account funds, except with the respect to the section 8 homeownership program referenced earlier in this preamble.

(2) (Succession)

Comment. One commenter stated that the succession provision in the FSS Guidelines assigns too liberal a right to the FSS family by allowing remaining family members to continue occupancy in the unit, and to assume entitlement to the FSS account if the head of the family leaves. The commenter recommended that this provision be strengthened to require that the remaining family members must meet the criteria established by the HA for remaining family members under its admission and occupancy policy.

Response. The Department disagrees with the commenter that the succession provision is too liberal. This section provides that the members of the family who remain in the assisted unit after the initial head of the family has departed, and after consultation with the HA, shall have the right to designate another family member to receive the FSS account funds. If the HA determines that the other members of the family who executed individual training and services plans did not meet their obligations under these plans (which are part of the contract of participation), or that the newly designated head of the family is unwilling to become employed or otherwise meet its obligations under the contract, the HA may terminate the family's participation in the FSS program, and under the section 8 FSS program, the HA may terminate the family's section 8 housing assistance. In such cases, the FSS account would be forfeited upon termination from the FSS program.

(3) (Forfeiture)

Comment. Two commenters asked that the FSS rule provide additional guidance on the utilization and disposition of forfeited FSS account funds. One commenter expressed concern about legal challenges to complete forfeiture of the funds. Another commenter suggested that a mechanism should be established to have the forfeited FSS account funds go directly to HUD, rather than the HA, to avoid any appearance of conflict of interest on the part of the HA.

Response. The disposition of forfeited FSS account funds was addressed in an earlier response concerning disposition of FSS account funds upon termination from the FSS program. The Department does not believe that it is necessary for the FSS account funds to go directly to HUD upon forfeiture. Although some families may challenge the forfeiture of the FSS account funds, the Department points out that the FSS statute provides for the conditions under which the FSS account funds may be disbursed to the family, and conversely, forfeited, if the family fails to meet these conditions.

(E) Waiting Period

Comment. One commenter objected to the two year waiting period which may be imposed upon a former participating family who wishes to reapply for housing assistance. Another commenter questioned HUD's authority for permitting imposition of a waiting period. Another commenter suggested that the waiting period be extended from two to five years to stimulate more prudent use of the FSS account funds.

Response. The FSS Guidelines provided the two year waiting period as an option, not a requirement, available to HAs under the FSS program. The Department's authority to incorporate this provision in the FSS Guidelines arises from the rulemaking authority provided by the FSS statue, and the general rulemaking authority provided HUD under section 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)). Notwithstanding the fact that the two year waiting period was established as an option available to PHAs and the Department has authority to provide for this option, the Department has decided to remove this option from the FSS program since receipt of the FSS accounts funds is no longer triggered by the FSS family leaving assisted housing.

Section XIV. Effect of Increases in Family Income

Comment. One commenter expressed concern that the increase in earned income of the family during its participation in the FSS program may count against the family in other benefit or service programs, and result in the participant's ineligibility for these programs.

Response. The Department recognizes that this, unfortunately, may be the case in certain programs. However, whether the increase in earned income affects the FSS family's eligibility for other benefit or service programs depends upon the statutes and regulations governing the particular program at issue. As discussed earlier in the preamble, the Secretary of HHS has advised the FSS account will not be considered to be available income or resources under the AFDC and Medicaid programs so long as the FSS

family lacks the legal ability to use the money for its support and maintenance. Additional information brought to the attention of HUD concerning other Federal, State or local benefit programs, will be made available to participating HAs.

Section XV. On-Site Facilities

Comment. One commenter stated that the FSS rule should mandate that certain FSS program related activities be conducted on-site, such as education, job training and child-care activities.

Response. To require FSS supportive services to be conducted on-site would exceed the Department's authority provided under the FSS statute.

Section XVI. Reports

Comment. Four commenters stated that the reporting requirements imposed by the FSS Guidelines are excessively burdensome. Another commenter stated that the reporting requirements should include a description of the effectiveness of the program. One commenter stated that the reporting requirement needs to describe more precisely the information that is required. Another commenter stated that HUD should encourage HAs to keep track of actual costs associated with the program. One commenter stated that HUD should provide a simple report form for HAs to submit.

Response. The FSS statute requires each HA to submit the report on the FSS program. The report imposed by Section XVI of the Guidelines, and also imposed by a comparable section in FSS rule, requires a description of the effectiveness of the program. The Department is developing forms for annual FSS reporting. These forms with accompanying instructions will be distributed to HAs after they are finalized.

Comments on HUD Proposal

Proposal. In the preamble to the FSS Guidelines, under the discussion of the contract of participation (56 FR 49594), the Department advised that it was considering including a provision in the FSS contract of participation, which would provide the relocation of families from one unit to another under certain circumstances. The proposal provided that if a FSS family is living in a public/Indian housing unit or a project-based certificate unit reserved for the FSS program, the HA or the owner of the project-based certificate unit, may require the FSS family to move to another assisted unit to make the unit available for another FSS family. The Department stated that such a move may be appropriate if the FSS family who is required to relocate to another unit is no longer in need of on-site FSS supportive services, or has failed to fulfill its obligations under the FSS contract. The proposal also would provide for the relocation of non-FSS families for the purpose of making the unit available for an FSS family. The Department specifically requested comments on this proposal, and advised that implementation of the proposal would require an amendment to the section 8 and the public/Indian housing regulations.

Comments. Nine commenters submitted comments on the proposal. Two commenters stated that they supported the proposal. The remaining commenters, however, were concerned that the proposal, if implemented, would trigger lawsuits, or at a minimum, would appear punitive to those families who chose not to participate in the FSS Program. Their comments include the following:

"This proposal appears to override the rights to which residents are entitled through their leases, in both section 8 and public housing units. The guidelines appear to suggest that PHAs/IHAs and private owners may ignore residents' leasehold interests in a particular unit in order to pursue programmatic goals adopted after agreement to the current resident's lease. Also the guidelines make no mention of appropriate actions through lease and grievance proceedings already in place for some of these residents, or to the requirements of state and/or local landlord-tenant law."

"While we understand the desire to build in as many incentives as possible for those families participating in FSS, it is not an acceptable practice to move already established families from their housing in order to make room for others. This would be extremely disruptive and punitive to those families, who for whatever reasons, choose not to participate, resulting in bad feelings toward the program and those participating in it."

Response. Although very few commenters submitted comments on this proposal, the Department has decided not to adopt this proposal as part of the FSS program, at this time.

V. Other Matters

Impact on the Economy

This rule does not constitute a major rule as that term is defined in section 1(b) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. An analysis of the rule indicates that it would not have (1) an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of the United States-based enterprises in domestic or export markets.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that the rule will not have a significant impact on a substantial number of small entities. The rule governs the procedures under which PHAs (an IHAs that elect to participate in the FSS program) use public housing development assistance and section 8 rental assistance, together with public and private resources, to provide an assistance package of housing and supportive services, designed to enable participating families to achieve self-sufficiency. While this rule requires that, commencing in FY 1993, all PHAs receiving new rental units, or new rental certificates and vouchers, must operate a FSS program, this requirement is not based in regulation, but in statute. The rule provides, in accordance with statutory authority, that PHAs may be excepted from operating an FSS program, or may be permitted to operate a small FSS program, if local circumstances make it infeasible for the PHA operate an FSS program, if local circumstances make it infeasible for the PHA operate an FSS program of minimum size, or any size FSS program. The FSS statute, however, provides no exemption from operation of an FSS program solely on the basis that a PHA is a small PHA. The FSS statutory requirements, as implemented by this rule, apply to all PHAs regardless of size.

Environmental Impact

With respect to this rule, a Finding of No Significant Impact has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA). The rule does not concern the development of public or Indian housing projects or units to be assisted under the section 8 rental certificate or voucher programs or other activities with the potential for significant physical impacts. The rule concerns requirements for the provision of supportive services, which, under 24 CFR 50.20(o) and 50.19, have been categorically excluded from NEPA

review or compliance under the environmental laws listed in 24 CFR 50.4 due to lack of physical impact. This Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, room 10276, 451 Seventh Street SW., Washington, DC 20410.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that the rule may have a significant impact on the maintenance and general well-being of some families. The objective of the Family Self-Sufficiency program is assist low-income families move from economic dependency to economic independence. The objective of this rule is to provide the regulatory guidance that PHAs may require to successfully achieve the objectives of this program. Since the impact on the family is considered beneficial, no further review under the order is necessary.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that this rule would not have substantial, direct effects on States, on their political subdivisions, or on their relationship with the Federal government, or on the distribution of power and responsibilities among the various levels of government. The rule is limited to implementing the procedures under which PHAs and IHAs will operate local Family Self-Sufficiency programs. The Family Self-Sufficiency program is an assistance program, the objective of which is to aid families in obtaining economic independence by providing these families with affordable housing and supportive services which will help them reach this goal.

Regulatory Agenda

This rule was listed as sequence number 1569 in the Department's Semiannual Agenda of Regulations, published on April 26, 1993 (58 FR 24382, 24435) under Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects

24 CFR Part 905

Grant programs—Indians, Low and moderate income housing, Aged, Grant programs—housing and community development, Handicapped, Indians, Loan programs—housing and community development, Loan programs—Indians, Public housing, Reporting and recordkeeping requirements.

24 CFR Part 962

Grant programs—housing and community development, Public housing, Reporting and recordkeeping requirements.

24 CFR Part 984

Grant programs—housing and community development, Rent subsidies, reporting and recordkeeping requirements.

Accordingly, title 24 of the code of Federal regulations is amended by adding a new subpart R to part 905, and by adding new parts 962 and 984 to read as follows:

PART 905—INDIAN HOUSING PROGRAMS

1. The authority citation for 24 CFR part 905 is revised to read as follows:

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

2. A new subpart R is added to part 905 to read as follows:

Subpart R—Indian Housing Family Self-Sufficiency Program

General

905.3001 Purpose and applicability.
905.3002 Program objectives.
905.3003 Definitions.
905.3004 Basic requirements of the FSS program.

Program Development and Approval Procedures

905.3011 Action Plan.
905.3012 Program Coordinating Committee.
905.3013 FSS family selection procedures.
905.3014 On-site facilities.

Program Operation

905.3020 Program implementation.
905.3021 Administrative fees.
905.3022 Contract of participation.
905.3024 Total tenant payment and increases in family income.
905.3025 FSS account.

Reporting

905.3030 Reporting.

Subpart R—Indian Housing Family Self-Sufficiency Program

General

§ 905.3001 Purpose, scope, and applicability.

(a) *Purpose.* (1) The purpose of the Family Self-Sufficiency (FSS) program is to promote the development of local strategies to coordinate the use of public and Indian housing assistance and housing assistance under the section 8 rental certificate and rental voucher programs with public and private resources, to enable families eligible to receive assistance under these programs to achieve economic independence and self-sufficiency.

(2) The purpose of this subpart is to implement the policies and procedures applicable to operation of a local FSS program under HUD's Indian housing program.

(b) *Applicability.* This subpart applies to Indian housing authorities that elect to operate a local FSS program, and where such an election is made, to Indian housing assisted under the U.S. Housing Act of 1937, and developed or operated by an IHA in an Indian area, as defined in 24 CFR 905.102. This subpart does not apply to the Mutual Help Homeownership Program or the Turnkey III Program. Indian housing authorities that elect to participate in the FSS program are not subject to minimum program size requirements. Additionally, Indian housing authorities that received Indian housing units under the FSS incentive award competitions are not subject to the minimum program size requirements.

§ 905.3002 Program objectives.

The objective of the FSS program is to reduce the dependency of low-income families on welfare assistance and on section 8, public or Indian housing assistance or any Federal, State, or local rent or homeownership subsidies. Under the FSS program, low-income families are provided opportunities for education, job training, counseling, and other forms of social service assistance, while living in assisted housing, so that they may obtain the education, employment, and business and social skills necessary to achieve self-sufficiency, as this term is defined in § 905.3003 of this subpart. The Department will measure the success of a local FSS program not only by the number of families who achieve self-sufficiency, but also by the number of FSS families who, as a result of participation in the program, have family members who obtain their first job, or who obtain higher paying jobs; no longer need benefits received under one or more welfare programs; obtain a high school diploma or higher education degree; or accomplish similar goals that will assist the family in obtaining economic independence.

§ 905.3003 Definitions.

As used in this subpart:

Act means the United States Housing Act of 1937 (42 U.S.C. 1437–1440).

Action Plan. See § 905.3011 of this subpart.

Certification means a written assertion based on supporting evidence, provided by the FSS family or the IHA, as may be required under this subpart, and which:

(1) Shall be maintained by the IHA in the case of the family's certification, or by HUD in the case of the IHA's certification;

(2) Shall be made available for inspection by HUD, the IHA, and the public, as appropriate; and

(3) Shall be deemed to be accurate for purposes of this subpart, unless the Secretary or the IHA, as applicable, determines otherwise after inspecting the evidence and providing due notice and opportunity for comment.

Chief executive officer (CEO). The CEO of a unit of general local government means the elected official or the legally designated official, who has the primary responsibility for the conduct of that entity's governmental affairs. Examples of the CEO of a unit of general local government are: the elected mayor of a municipality; the elected county executive of a county; the chairperson of a county commission or board in a county that has no elected county executive; or the official designated pursuant to law by the governing body of a unit of general local government (e.g., city manager). The CEO for an Indian tribe is the tribal governing official.

Contract of participation means a contract in a form approved by HUD, entered into between a participating family and an IHA operating an FSS program that sets forth the terms and conditions governing participation in the FSS program. The contract of participation includes all individual training and services plans entered into between the IHA and all members of the family who will participate in the FSS program, and which plans are attached to the contract as exhibits. For additional detail, see § 905.3022 of this subpart.

Earned income means income or earnings included in annual income from wages, tips, salaries, other employee compensation, and self-employment. (See 24 CFR 905.320(b).) Earned income does not include any pension or annuity, transfer payments, any cash or in-kind benefits, or funds deposited in or accrued interest on the FSS escrow account established by an IHA on behalf of a participating family.

Effective date of contract of participation means the first day of the month following the month in which the FSS family and the IHA entered into the contract of participation.

Eligible families mean current residents of Indian housing.

Enrollment means the date that the FSS family entered into the contract of participation with the IHA.

Family Self-Sufficiency program or *FSS program* means the program established by an IHA within its jurisdiction to promote self-sufficiency among participating families, including the provision of supportive services to these families, as authorized by section 23 of the U.S. Housing Act of 1937.

FSS account means the FSS escrow account authorized by section 23 of the Act, and as provided by § 905.3025 of this subpart.

FSS credit means the amount credited by the IHA to the participating family's FSS account.

FSS family or *participating family* means a family that resides in Indian housing, and that elects to participate in the FSS program, and whose designated head of the family has signed the contract of participation.

FSS related service program means any program, publicly or privately sponsored, that offers the kinds of supportive services described in the definition of "supportive services" set forth in this § 905.3003.

FSS slots refer to the total number of Indian housing units that comprise the minimum size of an IHA's Indian housing FSS program.

FY means Federal Fiscal Year (starting with October 1, and ending September 30, and designated by the calendar year in which it ends).

Head of FSS family means the adult member of the FSS family who is the head of the household for purposes of determining income eligibility and rent.

Housing subsidies means assistance to meet the costs and expenses of temporary shelter, rental housing or homeownership, including rent, mortgage or utility payments.

HUD or *Department* means the Department of Housing and Urban Development Field Offices, unless HUD Headquarters is specified.

Indian housing authority or *IHA.* See definition in 24 CFR 905.102.

Individual training and services plan means a written plan that is prepared for the head of the FSS family, and each adult member of the FSS family who elects to participate in the FSS program, by the IHA in consultation with the family member, and which sets forth:

(1) The supportive services to be provided to the family member;

(2) The activities to be completed by that family member; and

(3) The agreed upon completion dates for the services and activities.

Each individual training and service plan must be signed by the IHA and the participating family member, and is attached to, and incorporated as part of the contract of participation. An individual training and services plan must be prepared for the head of the FSS family.

JOBS Program means the Job Opportunities and Basic Skills Training Program authorized under part F of title IV of the Social Security Act (42 U.S.C. 402(a)(19)).

JTPA means the Job Training Partnership Act (29 U.S.C. 1579(a)).

Low-income family. See definition in 24 CFR 905.102.

Participating family. See definition for "FSS family" in this section.

Program Coordinating Committee or *PCC* is the committee described in § 905.3012 of this subpart.

Public housing agency or *PHA.* See definition in 24 CFR 913.102.

Secretary means the Secretary of Housing and Urban Development.

Self-sufficiency means that an FSS family is no longer receiving section 8, public or Indian housing assistance, or any Federal, State, or local rent or homeownership subsidies or welfare assistance. Achievement of self-sufficiency, although an FSS program objective, is not a condition for receipt of the FSS account funds. (See § 905.3025 of this subpart.)

Supportive services means those appropriate services that an IHA will make available, or cause to be made available to an FSS family under a contract of participation, and may include:

(1) *Child care*—child care of a type that provides sufficient hours of operation and serves an appropriate range of ages;

(2) *Transportation*—Transportation necessary to enable participating family members to receive available services, or to commute to their places of employment;

(3) *Education*—remedial education; education for completion of secondary or post secondary schooling;

(4) *Employment*—job training, preparation, and counseling; job development and placement; and follow-up assistance after job placement and completion of the contract of participation;

(5) *Personal welfare*—substance/alcohol abuse treatment and counseling;

(6) *Household skills and management*—training in homemaking and parenting skills; household management; and money management;

(7) *Counseling*—counseling in the areas of:

(i) The responsibilities of homeownership;

(ii) Opportunities available for affordable rental and homeownership in the private housing market; and

(iii) Money management; and

(8) *Other services*—any other services and resources, including case management, reasonable accommodations for individuals with disabilities, that the IHA may determine to be appropriate in assisting FSS families to achieve economic independence and self-sufficiency.

Unit size or *size of unit* refers to the number of bedrooms in a dwelling unit.

Very low-income family. See definition in 24 CFR 905.102.

Welfare assistance means income assistance from Federal or State welfare programs, and includes assistance provided under the Aid to Families with Dependent Children (AFDC) Program, Supplemental Security Income (SSI) that is subject to an income eligibility test; Medicaid, food stamps, general assistance, or other assistance provided under a Federal or State program directed to meeting general living expenses, such as food, health care, child care, but does not include assistance solely directed to meeting housing expenses (e.g., rent, mortgage or utilities payments), and does not include transitional welfare assistance (e.g. medicaid) provided to JOBS participants.

§ 905.3004 Basic requirements of the FSS program.

(a) *Compliance with program regulations.* An FSS program established under this subpart shall be operated in conformity with the regulations of 24 CFR part 905.

(b) *Compliance with Action Plan.* An FSS program established under this subpart shall be operated in compliance with an Action Plan, as described in § 905.3011, and provide comprehensive supportive services as defined in § 905.3003.

(c) *Compliance with equal opportunity requirements.* An FSS program established under this subpart shall be operated in compliance with all applicable Indian housing regulations and all applicable civil rights authorities including: the Indian Civil Rights Act of 1968 (25 U.S.C. 1301–1303); Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d–2000d–4), the Fair Housing Act (42 U.S.C. 3601–3619); section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); the Age Discrimination Act of 1975 (42 U.S.C. 6101–6107); Executive Order 11063 on Equal Opportunity in Housing, 27 FR 11527 (1962), as amended, 46 FR 1253 (1980); section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450(e)(B)); section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u); and the regulations implementing these authorities. (The Indian Civil Rights Act applies to IHAs organized pursuant to tribal laws; and Title VI of the Civil Rights Act of 1964 and the Fair Housing Act applies to state authorized IHAs).

Program Development and Approval Procedures

§ 905.3011 Action plan.

(a) *General.* To participate in the FSS program, an IHA must have a HUD-approved Action Plan that complies with the requirements of this section.

(b) *Development of Action Plan.* The Action Plan shall be developed by the IHA in consultation with the chief executive officer of the applicable unit of general local government, and the Program Coordinating Committee.

(c) *Initial submission and revisions*—(1) *Initial submission.* Unless the dates set forth in this paragraph are extended by HUD for good cause, an IHA that is establishing its first FSS program must submit an Action Plan to HUD for approval within:

(i) 90 days of notification by HUD of approval of the IHA's application for FY 1991 or FY 1992 incentive award units; or

(ii) If the IHA did not apply for FSS incentive award units, within 90 days of notification by HUD of approval of the IHA's first application, commencing in FY 1993, for new Indian housing units.

(2) *Revision.* Following initial approval of the Action Plan by HUD, no further approval of the Action Plan is required unless the IHA proposes to make policy changes to the Action Plan, or changes are required by HUD. Any changes to the Action Plan must be submitted to, and approved by HUD.

(d) *Contents of Plan.* The Action Plan shall describe the policies and procedures of the IHA for operation of a local FSS program, and shall contain, at a minimum, the following information:

(1) *Family demographics*—a description of the number, size, characteristics, and other demographics (including racial and ethnic data), and the supportive service needs of the families expected to participate in the FSS program;

(2) *Estimate of participating families*—an estimate of the number of eligible FSS families who can reasonably be expected to receive supportive services under the FSS program, based on available and anticipated Federal, tribal, State, local, and private resources;

(3) *Eligible families from other self-sufficiency program*—if applicable, the number of eligible families, by program type, who are participating in Operation Bootstrap, Project Self-Sufficiency, or any other local self-sufficiency program who are expected to agree to execute an FSS contract of participation.

(4) *FSS family selection procedures*—a statement indicating the procedures to be utilized to select families for participation in the FSS program, subject to the requirements governing the selection of FSS families, set forth in § 905.3013.

(5) *Incentives to encourage participation*—a description of the incentives that the IHA intends to offer eligible families to encourage their participation in the FSS program (incentives plan). The incentives plan shall provide for the establishment of the FSS account in accordance with the requirements set forth in § 905.3025, and other incentives, if any, designed by the IHA. The incentives plan shall be part of the Action Plan.

(6) *Outreach efforts*—a description of:

(i) The IHA's efforts, including notification and outreach efforts, to recruit FSS participants from among eligible families; and

(ii) The IHA's actions to be taken to assure that both minority and non-minority groups are informed about the FSS program, and how the IHA will make this information known (e.g., through door-to-door flyers, posters in any common rooms, advertisements in newspapers of general circulation, as well as any media targeted to minority groups).

(7) *FSS activities and supportive services*—a description of the activities and supportive services to be provided by both public and private resources to FSS families, and identification of the public and private resources, which are expected to provide the supportive services.

(8) *Method for identification of family support needs*—a description of how the FSS program will identify the needs and deliver the services and activities according to the needs of the FSS families;

(9) *Program termination; withholding of services; and grievance procedures*—a description of the IHA's policies concerning: termination of participation in the FSS program, or withholding of supportive services on the basis of a family's failure to comply with the requirements of the contract of participation; and the grievance and hearing procedures available to FSS families.

(10) *Assurances of non-interference with rights of non-participating*

families—an assurance that a family's election to not participate in the FSS program will not affect the family's admission to Indian housing or the family's right to occupancy in accordance with its lease.

(11) *Timetable for program implementation*—a timetable for implementation of the FSS program, as provided in § 905.3020(a)(1), including the schedule for filling FSS slots with eligible FSS families, as provided in § 905.3013;

(12) *Certification of coordination*—a certification that development of the services and activities under the FSS program has been coordinated with the JOBS Program; the programs provided under the JTPA; and any other relevant employment, child care, transportation, training, and education programs (e.g., Job Training for the Homeless Demonstration program) in the applicable area, and that implementation will continue to be coordinated, in order to avoid duplication of services and activities; and

(13) *Optional additional information*—such other information that would help HUD determine the soundness of the IHA's proposed FSS program.

(e) *Eligibility of a combined program.* An IHA that wishes to operate a joint FSS program with other IHAs may combine its resources with one or more IHAs to deliver supportive services under a joint Action Plan that will provide for the establishment and operation of a combined FSS program that meets the requirements of this subpart.

(f) *Single action plan.* IHAs implementing both a section 8 FSS program and an Indian housing FSS program may submit one Action Plan.

§ 905.3012 Program Coordinating Committee (PCC).

(a) *General.* Each participating IHA must establish a PCC whose functions will be to assist the IHA in securing commitments of public and private resources for the operation of the FSS program within the IHA's jurisdiction, including assistance in developing the Action Plan and in implementing the program.

(b) *Membership*—(1) *Required membership.* The PCC must consist of representatives of the IHA and of residents of Indian housing.

(2) *Recommended membership.* Membership on the PCC also should include representatives of the unit of general local government served by the IHA, local agencies (if any) responsible for carrying out JOBS training programs, or programs under the JTPA, and other organizations, such as other State, local or tribal welfare and employment agencies, public and private education or training institutions, child care providers, nonprofit service providers, private business, and any other public and private service providers with resources to assist the FSS program.

(c) *Alternative committee.* The IHA may, in consultation with the chief executive officer of the unit of general local government served by the IHA, utilize an existing entity as the PCC if the membership of the existing entity consists or will consist of the individuals identified in paragraph (b)(1) of this section, and also includes individuals from the same or similar organizations identified in paragraph (b)(2) of this section.

§ 905.3013 FSS family selection procedures.

(a) *Preference in the FSS selection process.* An IHA has the option of giving a selection preference for up to 50 percent of its FSS slots to eligible families, as defined in § 905.3003, who have one or more family members currently enrolled in an FSS related service program or on the waiting list for such a program. The IHA may limit the selection preference given to participants in and applicants for FSS related service programs to one or more eligible FSS related service programs. An IHA that chooses to exercise the selection preference option must include the following information in its Action Plan:

(1) The percentage of FSS slots, not to exceed 50 percent of the total number of FSS slots, for which it will give a selection preference;

(2) The FSS related service programs to which it will give a selection preference to the programs' participants and applicants; and

(3) The method of outreach to, and selection of, families with one or more members participating in the identified programs.

(b) *FSS selection without preference.* For those FSS slots for which the IHA chooses not to exercise the selection preference provided in paragraph (a) of this section, the FSS slots must be filled with eligible families in accordance with an objective selection system, such as a lottery, the length of time living in subsidized housing, or the date the family expressed an interest in participating in the FSS program. The objective system to be used by the IHA must be described in the IHA's Action Plan.

(c) *Motivation as a selection factor.* (1) *General.* An IHA may screen families for interest, and motivation to participate in the FSS program, provided that the factors utilized by the IHA are those which solely measure the family's interest, and motivation to participate in the FSS program.

(2) *Permissible motivational screening factors.* Permitted motivational factors include requiring attendance at FSS orientation sessions or preselection interviews, and assigning certain tasks which indicate the family's willingness to undertake the obligations which may be imposed by the FSS contract of participation (e.g., contacting job training or educational program referrals). However, any tasks assigned shall be those which may be readily accomplishable by the family, based on the family members' educational level, and disabilities, if any. Reasonable accommodations must be made for individuals with mobility, manual, sensory, speech impairments, mental or developmental disabilities.

(3) *Prohibited motivational screening factors.* Prohibited motivational screening factors include the family's educational level, educational or standardized motivational test results, previous job history or job performance, credit rating, marital status, number of children, or other factors, such as sensory or manual skills, and any factors which may result in discriminatory practices or treatment toward individuals with disabilities or minority or non-minority groups.

§ 905.3014 On-site facilities.

Each IHA may, subject to the approval of HUD, make available and utilize common areas or unoccupied units in Indian housing projects to provide supportive services under an FSS program.

Program Operation

§ 905.3020 Program implementation.

(a) *Program implementation deadline*—(1) *Program start-up.* Except as provided in paragraph (a)(3) of this section, operation of a local FSS program must begin within 12 months of notification to the IHA of HUD's approval of the earlier of the IHA's application for: FY 1991 incentive award units; FY 1992 incentive award units; or new Indian housing units commencing with FY 1993. Operation means that activities such as outreach, participant selection, and enrollment have begun. Full delivery of the supportive services to be provided to the total number of families required to be served under the program need not occur within 12 months, but must occur by the deadline set forth in paragraph (a)(2) of this section.

(2) *Full enrollment and delivery of services.* Except as provided in paragraph (a)(3) of this section, the IHA must have completed enrollment of the total number of families required to be served under the FSS program (based on the minimum program size), and must have begun delivery of the supportive services within two years from the date of notification of approval of the application for new Indian housing units.

(3) *Extension of program deadlines for good cause.* HUD may extend the deadline set forth in either paragraph (a)(1) or paragraph (a)(2) of this section if the IHA requests an extension, and the HUD Field Office determines that, despite best efforts on the part of the IHA, the development of new Indian housing units will not occur within the deadlines set forth in this paragraph (a), the commitment by public or private resources to deliver supportive services has been withdrawn, the delivery of such services has been delayed, or other local circumstances which the HUD Field Office determines warrants an extension of the deadlines set forth in this paragraph (a).

(b) *Program administration.* An IHA may employ appropriate staff, including a service coordinator or program coordinator to administer its FSS program, and may contract with an appropriate organization to establish and administer the FSS program, including the FSS account, as provided by § 905.3025.

§ 905.3021 Administrative fees.

The performance funding system (PFS), provided under section 9(a) of the Act, shall provide for the inclusion of reasonable and administrative costs incurred by IHAs in carrying out the minimum program size of the local FSS programs. These costs are subject to appropriations by the Congress.

§ 905.3022 Contract of participation.

(a) *General.* Each family that is selected to participate in an FSS program must enter into a contract of participation with the IHA that operates the FSS program in which the family will participate. The contract of participation shall be signed by the head of the FSS family.

(b) *Form and content of contract*—(1) *General.* The contract of participation, which incorporates the individual training and services plan, shall be in the form prescribed by HUD, and shall set forth the principal terms and conditions governing participation in the FSS program, including the rights and responsibilities of the FSS family and of the IHA, the services to be provided to, and the activities to be completed by, the head of the FSS family, and each adult member of the family who elects to participate in the program.

(2) *Interim goals.* The individual training and services plan, incorporated in the contract of participation, shall establish specific interim and final goals by which the IHA, and the family, may measure the family's progress toward fulfilling its obligations under the contract of participation, and becoming self-sufficient. For each participating FSS family that is a recipient of welfare assistance, the IHA must establish as an interim goal that the family become independent from welfare assistance and remain independent from welfare assistance for at least one year before expiration of the term of the contract of participation, including any extension thereof.

(3) *Compliance with lease terms.* The contract of participation shall provide that one of the obligations of the FSS family is to comply with the terms and conditions of the Indian housing lease.

(4) *Employment obligation.* (i) *Head of family's obligation.* The head of the FSS family shall be required under the contract of participation to seek and maintain suitable employment during the term of the contract and any extension thereof. Although other members of the FSS family may seek and maintain employment during the term of the contract, only the head of the FSS family is required to seek and maintain suitable employment.

(ii) *Seek employment.* The obligation to seek employment means that the head of the FSS family has applied for employment, attended job interviews, and has otherwise followed through on employment opportunities.

(iii) *Determination of suitable employment.* A determination of suitable employment shall be made by the IHA based on the skills, education, and job training of the individual that has been designated the head of the FSS family, and based on the available job opportunities within the jurisdiction served by the IHA.

(5) *Consequences of noncompliance with contract.* The contract of participation shall specify that if the FSS family fails to comply with the terms and conditions of the contract of participation, the IHA may:

(i) Withhold the supportive services; or

(ii) Terminate the family's participation in the FSS program.

(c) *Contract term.* The contract of participation shall provide that each FSS family will be required to fulfill those obligations to which the participating family has committed itself under the contract of participation no later than 5 years after the effective date of the contract.

(d) *Contract extension.* The IHA shall, in writing, extend the term of the contract of participation for a period not to exceed two years for any FSS family that requests, in writing, an extension of the contract, provided that the IHA finds that good cause exists for granting the extension. The family's written request for an extension must include a description of the need for the extension. As used in this paragraph (d), "good cause" means circumstances beyond the control of the FSS family, as determined by the IHA, such as a serious illness or involuntary loss of employment. Extension of the contract of participation will entitle the FSS family to continue to have amounts credited to the family's FSS account in accordance with § 905.3025.

(e) *Unavailability of supportive services—(1) Good faith effort to replace unavailable services.* If a social service agency fails to deliver the supportive services pledged under an FSS family member's individual training and services plan, the IHA shall make a good faith effort to obtain these services from another agency.

(2) *Assessment of necessity of services.* If the IHA is unable to obtain the services from another agency, the IHA shall reassess the family member's needs, and determine whether other available services would achieve the same purpose. If other available services would not achieve the same purpose, the IHA shall determine whether the unavailable services are integral to the FSS family's advancement or progress toward self-sufficiency. If the unavailable services are:

(i) Determined not to be integral to the FSS family's advancement toward self-sufficiency, the IHA shall revise the individual training and services plan to delete these services, and modify the contract of participation to remove any obligation on the part of the FSS family to accept the unavailable services, in accordance with paragraph (f) of this section; or

(ii) Determined to be integral to the FSS family's advancement toward self-sufficiency (which may be case if the affected family member is the head of the FSS family), the IHA shall declare the contract of participation null and void.

(f) *Modification.* The IHA and the FSS family may mutually agree to modify the contract of participation. The contract of participation may be modified in writing with respect to the individual training and services plan,

the contract term in accordance with paragraph (d) of this section, and designation of the head of the family.

(g) *Completion of the contract.* The contract of participation is considered to be completed, and a family's participation in the FSS program is considered to be concluded when one of the following occurs:

(1) The FSS family has fulfilled all of its obligations under the contract of participation on or before the expiration of the contract term, including any extension thereof; or

(2) 30 percent of the monthly adjusted income of the FSS family equals or exceeds the published existing housing fair market rent for the size of the unit for which the FSS family qualified based on the IHA's occupancy standards. The contract of participation will be considered completed and the family's participation in the FSS program concluded on this basis even though the contract term, including any extension thereof, has not expired, and the family members who have individual training and services plans, have not completed all the activities set forth in their plans.

(h) *Termination of the contract.* The contract of participation may be terminated before the expiration of the contract term, and any extension thereof, by:

(1) Mutual consent of the parties;

(2) The failure of the FSS family to meet its obligations under the contract of participation;

(3) The family's withdrawal from the FSS program;

(4) Such other act as is deemed inconsistent with the purpose of the FSS program; or

(5) By operation of law.

(i) *Transitional supportive service assistance.* An IHA may continue to offer to a former FSS family who has completed its contract of participation and whose head of the family is employed, appropriate FSS supportive services in becoming self-sufficient (if the family still resides in Indian housing), or in remaining self-sufficient (if the family no longer resides in Indian or other assisted housing).

§ 905.3024 Total tenant payment and increases in family income.

(a) *Calculation of total tenant payment.* Total tenant payment for a family participating in the FSS program is determined in accordance with the regulations set forth in §§ 905.315 through 905.325.

(b) *Increases in FSS family income.* Any increase in the earned income of an FSS family during its participation in an FSS program may not be considered as income or a resource of purposes of eligibility of the FSS family for other benefits, or amount of benefits payable to the FSS family, under any other program administered by HUD, unless the income for the FSS family equals or exceeds 80 percent of the median income of the area (as determined by HUD, with adjustments for smaller and larger families).

§ 905.3025 FSS account.

(a) *Establishment of FSS account*—(1) *General.* The IHA shall deposit the FSS account funds of all families participating in the IHA's FSS program into a single depository account. The IHA must deposit the FSS account funds in one or more of the HUD-approved investments.

(2) *Accounting for FSS account funds.* (i) *Accounting records.* The total of the FSS account funds will be supported in the IHA accounting records by a subsidiary ledger showing the balance applicable to each FSS family. During the term of the contract of participation, the IHA shall credit periodically, but not less than annually, to each family's FSS account, the amount of the FSS credit determined in accordance with paragraph (b) of this section.

(ii) *Proration of investment income.* The investment income for funds in the FSS account will be prorated and credited to each family's FSS account based on the balance in each family's FSS account at the end of the period for which the investment income is credited.

(iii) *Reduction of amounts due by FSS family.* If the FSS family has not paid the family contribution towards rent, or other amounts if any, due under the Indian housing lease, the balance in the family's FSS account shall be reduced by that amount before prorating the interest income. If the FSS family has fraudulently under-reported income, the amount credited to the FSS account will be based on the income amounts originally reported by the FSS family.

(3) *Reporting on FSS account.* Each IHA will be required to make a report, at least once annually, to each FSS family on the status of the family's FSS account. At a minimum, the report will include:

(i) The balance at the beginning of the reporting period;

(ii) The amount of the family's rent payment that was credited to the FSS account, during the reporting period;

(iii) Any deductions made from the account for amounts due the IHA before interest is distributed;

(iv) The amount of interest earned on the account during the year; and

(v) The total in the account at the end of the reporting period.

(b) *FSS credit*—(1) *Computation of amount.* For purposes of determining the FSS credit, "family rent" is the total tenant payment as defined in 24 CFR part 905. The FSS credit shall be computed as follows:

(i) For FSS families who are very low-income families, the FSS credit shall be the amount which is the lesser of:

(A) Thirty percent of the family's current monthly adjusted income less the family rent, which is obtained by disregarding any increase in earned income (as defined in § 905.3003) from the effective date of the contract of participation; or

(B) The current family rent less the family rent at the time of the effective date of the contract of participation.

(ii) For FSS families who are low-income families but not very low-income families, the FSS credit shall be the amount determined according to paragraph (b)(1)(i) of this section, but which shall not exceed the amount computed for 50 percent of median income.

(2) *Ineligibility for FSS credit.* FSS families who are not low-income families shall not be entitled to any FSS credit.

(3) *Cessation of FSS credit.* The IHA shall not make any additional credits to the FSS family's FSS account when the FSS family has completed the contract of participation, as defined in § 905.3022(g), or when the contract of participation is terminated or otherwise nullified.

(c) *Disbursement of FSS account funds.*—(1) *General.* The amount in an FSS account, in excess of any amount owed to the IHA by the FSS family, as provided in paragraph (a)(3)(iii) of this section, shall be paid to the head of the FSS family when the contract of participation has been completed as provided in § 905.3022(g), and if, at the time of contract completion, the head of FSS family submits to the IHA a certification, as defined in § 905.3003, that, to the best of his or her knowledge and belief, no member of the FSS family is a recipient of welfare assistance.

(2) *Disbursement before expiration of contract term.* (i) If the IHA determines that the FSS family has fulfilled its obligations under the contract of participation before the expiration of the contract term, and the head of the FSS family submits a certification that, to the best of his or her knowledge, no member of the FSS family is a recipient of welfare assistance, the amount in the family's FSS account, in excess of any amount owed to the IHA by the FSS family as provided in paragraph

(a)(3)(iii) of this section, shall be paid to the head of the FSS family.

(ii) If the IHA determines that the FSS family has fulfilled certain interim goals established in the contract of participation and needs a portion of the FSS account funds for purposes consistent with the contract of participation, such as completion of higher education (i.e., college, graduate school), or job training, or to meet start-up expenses involved in creation of a small business, the IHA may, at the IHA's sole option, disburse a portion of the funds from the family's FSS account to assist the family meet those expenses.

(3) *Verification of family certification.* Before disbursement of the FSS account funds to the family, the IHA may verify that the FSS family is no longer a recipient of welfare assistance by requesting copies of any documents which may indicate whether the family is receiving any welfare assistance, and contacting welfare agencies.

(d) *Succession to FSS account.* If the head of the FSS family ceases to reside with other family members in the Indian housing unit, the remaining members of the FSS family, after consultation with the IHA, shall have the right to designate another family member to receive the funds in accordance with paragraph (c)(1) or (2) of this section.

(e) *Use of FSS account funds for homeownership.* An FSS family may use its FSS account funds for the purchase of a home, including the purchase of a home under one of HUD's homeownership programs, or other Federal, State, or local homeownership programs, unless such use is prohibited by the statute or regulations governing the particular homeownership program.

(f) *Forfeiture of FSS account funds.*—(1) *Conditions for forfeiture.* Amounts in the FSS account shall be forfeited upon the occurrence of the following:

(i) The contract of participation is terminated, as provided in § 905.3022(e) or § 905.3022(h); or

(ii) The contract of participation is completed by the family, as provided in § 905.3022(g), but the FSS family is receiving welfare assistance at the time of expiration of the term of the contract of participation, including any extension thereof.

(2) *Treatment of forfeited FSS account funds.* FSS account funds forfeited by the FSS family will be credited to the IHA's operating reserves and counted as other income in the calculation of the PFS operating subsidy eligibility for the next budget year.

Reporting

§ 905.3030 Reporting.

Each IHA that carries out an FSS program under this subpart shall submit to HUD, in the form prescribed by HUD, a report regarding its FSS program. The report shall include the following information:

(1) A description of the activities carried out under the program;

(2) A description of the effectiveness of the program in assisting families to achieve economic independence and self-sufficiency;

(3) A description of the effectiveness of the program in coordinating resources of communities to assist families to achieve economic independence and self-sufficiency; and

(4) Any recommendations by the IHA or the appropriate local program coordinating committee for legislative or administrative action that would improve the FSS program and ensure the effectiveness of the program.

3. A new part 962 is added to 24 CFR to read as follows:

PART 962—PUBLIC HOUSING FAMILY SELF-SUFFICIENCY PROGRAM

Subpart A—General

962.101 Purpose, scope, and applicability.
962.102 Program objectives.
962.103 Definitions.
962.104 Basic requirements of the FSS program.
962.105 Minimum program size.

Subpart B—Program Development and Approval Procedures

962.201 Action Plan.
962.202 Program Coordinating Committee.
962.203 FSS family selection procedures.
962.204 On-site facilities.

Subpart C-Program Operation

962.301 Program implementation.
962.302 Administrative fees.
962.303 Contract of participation.
962.304 Total tenant payment and increases in family income.
962.305 FSS account.

Subpart D—Reporting

962.401 Reporting.

Authority: 42 U.S.C. 1473f, 1437u; 42 U.S.C. 3535(d).

Subpart A—General

§ 962.101 Purpose, scope, and applicability.

(a) *Purpose.* (1) The purpose of the Family Self-Sufficiency (FSS) program is to promote the development of local strategies to coordinate the use of public and Indian housing assistance and housing assistance under the section 8 rental certificate and rental voucher programs with public and private resources, to enable families eligible to receive assistance under these programs to achieve economic independence and self-sufficiency.

(2) The purpose of this part is to implement the policies and procedures applicable to operation of a local FSS program under HUD's public housing program.

(b) *Scope.* Beginning in FY 1993, each PHA that receives funding for additional public housing units must operate a public housing FSS program, unless the PHA receives an exception from the program as provided in § 962.105. Additionally, each PHA that received funding for public housing units under the FY 1991 and FY 1992 FSS incentive award competitions, must operate a public housing FSS program.

(c) *Applicability.* This part applies to public housing assisted under the U.S. Housing Act of 1937. This part does not apply to Indian housing. The regulations governing Indian housing FSS programs are set forth in 24 CFR part 905, subpart R.

§ 962.102 Program objectives.

The objective of the FSS program is to reduce the dependency of low-income families on welfare assistance and on section 8, public or Indian housing assistance, or any Federal, State, or local rent or homeownership subsidies. Under the FSS program, low-income families are provided opportunities for education, job training, counseling, and other forms of social service assistance, while living in assisted housing, so that they may obtain the education, employment, and business and social skills necessary to achieve self-sufficiency, as defined in § 962.103 of this subpart. The Department will measure the success of a local FSS program not only by the number of families who achieve self-sufficiency, but also by the number of FSS families who, as a result of participation in the program, have family members who obtain their first job, or who obtain higher paying jobs; no longer need benefits received under one or more welfare programs; obtain a high school diploma or higher education degree; or accomplish similar goals that will assist the family in obtaining economic independence.

§ 962.103 Definitions.

As used in this part:

Act means the United States Housing Act of 1937 (42 U.S.C. 1437–1440).

Action Plan. See § 962.201 of this subpart.

Certification means a written assertion based on supporting evidence, provided by the FSS family or the PHA,

as may be required under this subpart, and which:

(1) Shall be maintained by the PHA in the case of the family's certification, or by HUD in the case of the PHA's certification;

(2) Shall be made available for inspection by HUD, the PHA, and the public, as appropriate; and

(3) Shall be deemed to be accurate for purposes of this subpart, unless the Secretary or the PHA, as applicable, determines otherwise after inspecting the evidence and providing due notice and opportunity for comment.

Chief executive officer (CEO). The CEO of a unit of general local government means the elected official or the legally designated official, who has the primary responsibility for the conduct of that entity's governmental affairs. Examples of the CEO of a unit of general local government are: the elected mayor of a municipality; the elected county executive of a county; the chairperson of a county commission or board in a county that has no elected county executive; or the official designated pursuant to law by the governing body of a unit of general local government (e.g., city manager). The CEO for an Indian tribe is the tribal governing official.

Contract of participation means a contract in a form approved by HUD, entered into between a participating family and a PHA operating an FSS program that sets forth the terms and conditions governing participation in the FSS program. The contract of participation includes all individual training and services plans entered into between the PHA and all members of the family who will participate in the FSS program, and which plans are attached to the contract of participation as exhibits. For additional detail, see § 962.303 of this subpart.

Earned income means income or earnings included in annual income from wages, tips, salaries, other employee compensation, and self-employment. (See 24 CFR 913.106(b)(1), (2) and (8).) Earned income does not include any pension or annuity, transfer payments, any cash or in-kind benefits, or funds deposited in or accrued interest on the FSS escrow account established by a PHA on behalf of a participating family.

Effective date of contract of participation means the first day of the month following the month in which the FSS family and the PHA entered into the contract of participation.

Eligible families mean current residents of public housing. Eligible families also include current residents of public housing who are participants in local public housing self-sufficiency programs.

Enrollment means the date that the FSS family entered into the contract of participation with the PHA.

Family Self-Sufficiency program or *FSS program* means the program established by a PHA within its jurisdiction to promote self-sufficiency among participating families, including the provision of supportive services to these families, as authorized by section 23 of the U.S. Housing Act of 1937.

FSS account means the FSS escrow account authorized by section 23 of the U.S. Housing Act of 1937, and as provided by § 962.305 of this subpart.

FSS credit means the amount credited by the PHA to the participating family's FSS account.

FSS family or *participating family* means a family that resides in public housing, and that elects to participate in the FSS program, and whose designated head of the family has signed the contract of participation.

FSS related service program means any program, publicly or privately sponsored, that offers the kinds of supportive services described in the definition of "supportive services" set forth in this § 962.103.

FSS slots refer to the total number of public housing units that comprise the minimum size of a PHA's public housing FSS program.

FY means Federal Fiscal Year (starting with October 1, and ending September 30, and designated by the calendar year in which it ends).

Head of FSS family means the adult member of the FSS family who is the head of the household for purposes of determining income eligibility and rent.

Housing subsidies means assistance to meet the costs and expenses of temporary shelter, rental housing or homeownership, including rent, mortgage or utility payments.

HUD or *Department* means the Department of Housing and Urban Development Field Offices, unless HUD Headquarters is specified.

Individual training and services plan means a written plan that is prepared for the head of the FSS family, and each adult member of the FSS family who elects to participate in the FSS program, by the PHA in consultation with the family member, and which sets forth:

(1) The supportive services to be provided to the family member;

(2) The activities to be completed by that family member; and

(3) The agreed upon completion dates for the services and activities. Each individual training and services plan must be signed by the PHA and the participating family member, and is attached to, and incorporated as part of the contract of participation. An individual training and services plan must be prepared for the head of the FSS family.

JOBS Program means the Job Opportunities and Basic Skills Training Program authorized under part F of title IV of the Social Security Act (42 U.S.C. 402(a)(19)).

JTPA means the Job Training Partnership Act (29 U.S.C. 1579(a)).

Low-income family. See definition in 24 CFR 913.102.

Participating family. See definition for "FSS family" in this section.

Program Coordinating Committee or *PCC* is the committee described in § 962.202 of this subpart.

Public housing means housing assisted under the U.S. Housing Act of 1937, excluding housing assisted under section 8 of the Act.

Public housing agency or *PHA.* See definition in 24 CFR 913.102.

Secretary means the Secretary of Housing and Urban Development.

Self-sufficiency means that an FSS family is no longer receiving section 8, public or Indian housing assistance, or any Federal, State, or local rent or homeownership subsidies or welfare assistance. Achievement of self-sufficiency, although an FSS program objective, is not a condition for receipt of the FSS account funds. (See § 962.305 of this subpart.)

Supportive services means those appropriate services that a PHA will make available, or cause to be made available to an FSS family under a contract of participation, and may include:

(1) *Child care*—child care of a type that provides sufficient hours of operation and serves an appropriate range of ages;

(2) *Transportation*—transportation necessary to enable a participating family to receive available services, or to commute to their places of employment;

(e) *Education*—remedial education; education for completion of secondary or post secondary schooling;

(4) *Employment*—job training, preparation, and counseling; job development and placement; and follow-up assistance after job placement and completion of the contract of participation;

(5) *Personal welfare*—substance/alcohol abuse treatment and counseling;

(6) *Household skills and management*—training in homemaking and parenting skills; household management; and money management;

(7) *Counseling*—counseling in the areas of:

(i) The responsibilities of homeownership;

(ii) Opportunities available for affordable rental and homeownership in the private housing market, including information on an individual's rights under the Fair Housing Act; and

(iii) Money management; and

(8) *Other services*—any other services and resources, including case management, reasonable accommodations for individuals with disabilities, that the PHA may determine to be appropriate in assisting FSS families to achieve economic independence and self-sufficiency.

Unit size or *size of unit* refers to the number of bedrooms in a dwelling unit.

Very low-income family. See definition in 24 CFR 913.102.

Welfare assistance means income assistance from Federal or State welfare programs, and includes assistance provided under the Aid to Families with Dependent Children (AFDC) Program, Supplemental Security Income (SSI) that is subject to an income eligibility test; Medicaid, food stamps, general assistance, or other assistance provided under a Federal or State program directed to meeting general living expenses, such as food, health care, child care, but does not include assistance solely directed to meeting housing expenses (e.g., rent, mortgage or utilities payments), and does not include transitional welfare assistance (e.g., medicaid) provided to JOBS participants.

§ 962.104 Basic requirements of the FSS program.

(a) *Compliance with program regulations.* An FSS program established under this part shall be operated in conformity with the regulations of this part, and the applicable public housing regulations, including the regulations in 24 CFR parts 913, 960, and 966.

(b) *Compliance with Action Plan.* An FSS program established under this part shall be operated in compliance with an Action Plan, as described in § 962.201, and provide comprehensive supportive services as defined in § 962.103.

(c) *Compliance with equal opportunity requirements.* An FSS program established under this part shall be operated in compliance with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d); the Fair Housing Act (42 U.S.C. 3601–3619); section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); the Age Discrimination Act of 1975 (42 U.S.C. 6101–6107); Executive Order 11063 on Equal Opportunity in Housing, 27 FR 11527 (1962), as amended, 46 FR 1253 (1980); section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u); and the regulations implementing these authorities.

§ 962.105 Minimum program size.

(a) *General.* Unless otherwise excepted from operation of an FSS program as provided in paragraph (c) of this section, or from operation of an FSS program of the minimum size as provided in paragraph (d) of this section, a PHA shall operate an FSS program of the minimum size as determined in this section.

(1) *Determining minimum program size.* The minimum size of a public housing FSS program is equal to:

(i) The total number of public housing units reserved in FY 1993, and each subsequent FY; *plus* (if applicable)

(ii) The number of public housing units reserved in FY 1991 and FY 1992 under the FSS incentive award competitions.

(2) *Applicable units.* In determining minimum program size, all new public housing rental units reserved will be counted.

(b) *Maintaining minimum program size.* As the contracts of participation for public housing FSS families are completed or terminated, replacement FSS families must be selected to maintain the minimum program size. A replacement family must be selected in accordance with the FSS family selection procedures set forth in § 962.203.

(c) *Exception to program operation.* (1) Upon approval by HUD, a PHA will not be required to establish and carry out a public housing FSS program if the PHA provides to HUD a certification, as defined in § 962.103, that the establishment and operation of an FSS program is not feasible because of local circumstances, which may include, but are not limited to:

(i) Lack of accessible supportive services funding, including lack of the availability of programs under JTPA or JOBS;

(ii) Lack of funding for reasonable administrative costs;

(iii) Lack of cooperation by other units of State or local government; or

(iv) Lack of interest in participating in the FSS program on the part of eligible families.

(2) An exception will not be granted if HUD determines that local circumstances do not preclude the PHA from effectively operating an FSS program that is smaller than the minimum program size.

(d) *Reduction in program size.* Upon approval by HUD, a PHA may be permitted to operate a public housing FSS program that is smaller than the minimum program size if the PHA provides to HUD a certification, as defined in § 962.103, that the operation of an FSS program of the minimum program size is not feasible because of local circumstances, which may include, but are not limited to:

(1) Decrease in or lack of accessible supportive services, including decrease in the availability of programs under JTPA or JOBS;

(2) Decrease in or lack of funding for reasonable administrative costs;

(3) Decrease in or lack of cooperation by other units of State or local government;

(4) Decrease in or lack of interest in participating in the FSS program on the part of eligible families.

(e) *Review of certification records.* HUD reserves the right to examine, during its management review of the PHA, or at any time, the documentation and data that a PHA relied on in certifying to the infeasibility of its establishing and operating an FSS program, or of operating an FSS program of less than minimum program size.

Subpart B—Program Development and Approval Procedures

§ 962.201 Action Plan.

(a) *General.* To participate in the FSS program, a PHA must have a HUD-approved Action Plan that complies with the requirements of this section.

(b) *Development of Action Plan.* The Action Plan shall be developed by the PHA in consultation with the chief executive officer of the applicable unit of general local government, and the Program Coordinating Committee.

(c) *Initial submission and revisions*—(1) *Initial submission.* Unless the dates set forth in this paragraph are extended by HUD for good cause, a PHA that is establishing its first FSS program must submit an Action Plan to HUD for approval within:

(i) 90 days of notification by HUD of approval of the PHA's application for FY 1991 or FY 1992 incentive award units; or

(ii) If the PHA did not apply for FSS incentive award units, within 90 days of notification by HUD of approval of the PHA's first application, commencing in FY 1993, for new public housing units.

(2) *Revision.* Following initial approval of the Action Plan by HUD, no further approval of the Action Plan is required unless the PHA proposes to make policy changes to the Action Plan, or changes are required by HUD. Any changes to the Action Plan must be submitted to, and approved by, HUD.

(d) *Contents of Plan.* The Action Plan shall describe the policies and

procedures of the PHA for operation of a local FSS program, and shall contain, at a minimum, the following information:

(1) *Family demographics*—a description of the number, size, characteristics, and other demographics (including racial and ethnic data), and the supportive service needs of the families expected to participate in the FSS program;

(2) *Estimate of participating families*—a description of the number of eligible FSS families who can reasonably be expected to receive supportive services under the FSS program, based on available and anticipated Federal, tribal, State, local, and private resources;

(3) *Eligible families from other self-sufficiency program*—if applicable, the number of families, by program type, who are participating in Operation Bootstrap, Project Self-Sufficiency, or any other local self-sufficiency program who are expected to agree to execute an FSS contract of participation.

(4) *FSS family selection procedures*—a statement indicating the procedures to be utilized to select families for participation in the FSS program, subject to the requirements governing the selection of FSS families, set forth in § 962.203. This statement must include a description of how the PHA's selection procedures ensure that families will be selected without regard to race, color, religion, sex, handicap, familial status, or national origin.

(5) *Incentives to encourage participation*—a description of the incentives that the PHA's intends to offer eligible families to encourage their participation in the FSS program (incentives plan). The incentives plan shall provide for the establishment of the FSS account in accordance with the requirements set forth in § 962.305, and other incentives, if any, designed by the PHA. The incentives plan shall be part of the Action Plan.

(6) *Outreach efforts*—a description of:

(i) The PHA's efforts, including notification and outreach efforts, to recruit FSS participants from among eligible families; and

(ii) The PHA's actions to be taken to assure that both minority and non-minority groups are informed about the FSS program, and how the PHA will make this information known (e.g., through door-to-door flyers, posters in common rooms, advertisements in newspapers of general circulation, as well as any media targeted to minority groups.).

(7) *FSS activities and supportive services*—a description of the activities and supportive services to be provided by both public and private resources to FSS families, and identification of the public and private resources, which are expected to provide the supportive services.

(8) *Method for identification of family support needs*—a description of how the FSS program will identify the needs and deliver the services and activities according to the needs of the FSS families;

(9) *Program termination; withholding of services; and available grievance procedures*—a description of the PHA's policies concerning: termination of participation in the FSS program, or withholding of supportive services on the basis of a family's failure to comply with the requirements of the contract of participation; and the grievance and hearing procedures available for FSS families.

(10) *Assurances of non-interference with rights of non-participating families*—an assurance that a family's election to not participate in the FSS program will not affect the family's admission to public housing or the family's right to occupancy in accordance with its lease.

(11) *Timetable for program implementation*—a timetable for implementation of the FSS program, as provided in § 962.301(a)(1), including the schedule for filling FSS slots with eligible FSS families, as provided in § 962.301;

(12) *Certification of coordination*—a certification that development of the services and activities under the FSS program has been coordinated with the JOBS Program; the programs provided under the JTPA; and any other relevant employment, child care, transportation, training, and education programs (e.g., Job Training for the Homeless Demonstration program) in the applicable area, and that implementation will continue to be coordinated, in order to avoid duplication of services and activities; and

(13) *Optional additional information*—such other information that would help HUD determine the soundness of the PHA's proposed FSS program.

(e) *Eligibility of a combined program.* A PHA that wishes to operate a joint FSS program with other PHAs may combine its resources with one or more PHAs to deliver supportive services under a joint Action Plan that will provide for the establishment and operation of a combined FSS program that meets the requirements of this part.

(f) *Single action plan.* PHAs implementing both a section 8 FSS program and a public or Indian housing FSS program may submit one Action Plan.

§ 962.202 Program Coordinating Committee (PCC).

(a) *General.* Each participating PHA must establish a PCC whose functions will be to assist the PHA in securing commitments of public and private resources for the operation of the FSS program within the PHA's jurisdiction, including assistance in developing the Action Plan and in implementing the program.

(b) *Membership*—(1) *Required membership.* The PCC must consist of representatives of the PHA, and the residents of public housing. The public housing resident representatives shall be solicited from one or more of the following groups:

(i) An area-wide or city-wide resident council, if one exists;

(ii) If the PHA will be transferring FSS participants to vacant units in a specific public housing development, the resident council or resident management corporation, if one exists, of the public housing development where the FSS program is to be carried out;

(iii) Any other public housing resident group, which the PHA believes is interested in the FSS program, and would contribute to the development and implementation of the FSS program.

(2) *Recommended membership.* Membership on the PCC also should include representatives of the unit of general local government served by the PHA, local agencies (if any) responsible for carrying out JOBS training programs, or programs under the JTPA, and other organizations, such as other State, local or tribal welfare and employment agencies, public and private education or training institutions, child care providers, nonprofit service providers, private business, and any other public and private service providers with resources to assist the FSS program.

(c) *Alternative committee.* The PHA may, in consultation with the chief executive officer of the unit of general local government served by the PHA, utilize an existing entity as the PCC if the membership of the existing entity consists or will consist of the individuals identified in paragraph (b)(1) of this section, and also includes individuals from the same or similar organizations identified in paragraph (b)(2) of this section.

§ 962.203 FSS family selection procedures.

(a) *Preference in the FSS selection process.* A PHA has the option of giving

a selection preference for up to 50 percent of its FSS slots to eligible families, as defined in § 962.103, who have one or more family members currently enrolled in an FSS related service program on the waiting list for such a program. The PHA may limit the selection preference given to participants in and applicants for FSS related service programs to one or more eligible FSS related service programs. A PHA that chooses to exercise the selection preference option must include the following information in its Action Plan:

(1) The percentage of FSS slots, not to exceed 50 percent of the total number of FSS slots, for which it will give a selection preference;

(2) The FSS related service programs to which it will give a selection preference to the programs' participants and applicants; and

(3) The method of outreach to, and selection of, families with one or more members participating in the identified programs.

(b) *FSS selection without preference.* For those FSS slots for which the PHA chooses not to exercise the selection preference provided in paragraph (a) of this section, the FSS slots must be filled with eligible families in accordance with an objective selection system, such as a lottery, the length of time living in subsidized housing, or the date the family expressed an interest in participating in the FSS program. The objective system to be used by the PHA must be described in the PHA's Action Plan.

(c) *Motivation as a selection factor*—(1) *General.* A PHA may screen families for interest, and motivation to participate in the FSS program, provided that the factors utilized by the PHA are those which solely measure the family's interest, and motivation to participate in the FSS program.

(2) *Permissible motivational screening factors.* Permitted motivational factors include requiring attendance at FSS orientation sessions or preselection interviews, and assigning certain tasks which indicate the family's willingness to undertake the obligations which may be imposed by the FSS contract of participation (e.g., contacting job training or educational program referrals). However, any tasks assigned shall be those which may be readily accomplishable by the family, based on the family members' educational level, and disabilities, if any. Reasonable accommodations must be made for individuals with mobility, manual, sensory, speech impairments, mental or developmental disabilities.

(3) *Prohibited motivational screening factors.* Prohibited motivational screening factors include the family's educational level, educational or standardized motivational test results, previous job history or job performance, credit rating, marital status, number of children, or other factors, such as sensory or manual skills, and any factors which may result in discriminatory practices or treatment toward individuals with disabilities or minority or non-minority groups.

§ 962.204 On-site facilities.

Each PHA may, subject to the approval of HUD, make available and utilize common areas or unoccupied units in public housing projects to provide supportive services under an FSS program.

Subpart C—Program Operation

§ 962.301 Program implementation.

(a) *Program implementation deadline*—(1) *Program start-up.* Except as provided in paragraph (a)(3) of this section, operation of a local FSS program must begin within 12 months of notification to the PHA of HUD's approval of the earlier of the PHA's application for: FY 1991 incentive award units; FY 1992 incentive award units; or new public housing units, commencing with FY 1993. Operation means that activities such as outreach, participant selection, and enrollment have begun. Full delivery of the supportive services to be provided to the total number of families required to be served under the program need not occur within 12 months, but must occur by the deadline set forth in paragraph (a)(2) of this section.

(2) *Full enrollment and delivery of service.* Except as provided in paragraph (a)(3) of this section, the PHA must have completed enrollment of the total number of families required to be served under the FSS program (based on the minimum program size), and must have begun delivery of the supportive services within two years from the date of notification of approval of the application for new public housing units.

(3) *Extension of program deadlines for good cause.* HUD may extend this deadline set forth in either paragraph (a)(1) paragraph (a)(2) of this section if the PHA requests an extension, and the HUD Field Office determines that, despite best efforts on the part of the PHA, the development of new public housing units will not occur within the deadlines set forth in this paragraph (a), the commitment by public or private resources to deliver supportive services has been withdrawn, the delivery of such services has been delayed, or other local circumstances which the HUD Field Office determines warrants an extension of the deadlines set forth in this paragraph (a).

(b) *Program Administration.* A PHA may employ appropriate staff, including a service coordinator or program coordinator to administer its FSS program, and may contract with an appropriate organization to establish and administer the FSS program, including the FSS account, as provided by § 962.302

§ 962.302 Administrative fees.

The performance funding system (PFS), provided under section 9(a) of the Act, shall provide for the inclusion of reasonable and administrative costs incurred by PHAs in carrying out the minimum program size of the local FSS programs. These costs are subject to appropriations by the Congress. However, a PHA may use other resources for this purpose.

§ 962.303 Contract of participation.

(a) *General.* Each family that is selected to participate in an FSS program must enter into a contract of participation with the PHA that operates the FSS program in which the family will participate. The contract of participation shall be signed by the head of the FSS family.

(b) *Form and content of contract*—(1) *General.* The contract of participation, which incorporates the individual training and services plan(s), shall be in the form prescribed by HUD, and shall set forth the principal terms and conditions governing participation in the FSS program, including the rights and responsibilities of the FSS family and of the PHA, the services to be provided to, and the activities to be completed by, the head of the FSS family and each adult member of the family who elects to participate in the program.

(2) *Interim goals,* The individual training and services plan, incorporated in the contract of participation, shall establish specific interim and final goals by which the PHA, and the family, may measure the family's progress toward fulfilling its obligations under the contract of participation, and becoming self-sufficient. For each participating FSS family that is a recipient of welfare assistance, the PHA must establish as an interim goal that the family become independent from welfare assistance and remain independent from welfare assistance at least one year before the expiration of the term of the contract of

participation, including any extension thereof.

(3) *Compliance with lease terms.* The contract of participation shall provide that one of the obligations of the FSS family is to comply with the terms and conditions of the public housing lease.

(4) *Employment obligation.* (i) *Head of family's obligation.* The head of the FSS family shall be required under the contract of participation to seek and maintain suitable employment during the term of the contract and any extension thereof. Although other members of the FSS family may seek and maintain employment during the term of the contract, only the head of the FSS family is required to seek and maintain suitable employment.

(ii) *Seek employment.* The obligation to seek employment means that the head of the FSS family has applied for employment, attended job interviews, and has otherwise followed through on employment opportunities.

(iii) *Determination of suitable employment.* A determination of suitable employment shall be made by the PHA based on the skills, education, and job training of the individual that has been designated the head of the FSS family, and based on the available job opportunities within the jurisdiction served by the PHA.

(5) *Consequences of noncompliance with contract.* The contract of participation shall specify that if the FSS family fails to comply with the terms and conditions of the contract of participation, which includes compliance with the public housing lease, the PHA may:

(i) Withhold the supportive services; or

(ii) Terminate the family's participation in the FSS program.

(c) *Contract term.* The contract of participation shall provide that each FSS family will be required to fulfill those obligations to which the participating family has committed itself under the contract of participation no later than 5 years after the effective date of the contract.

(d) *Contract extension.* The PHA shall, in writing, extend the term of the contract of participation for a period not to exceed two years for any FSS family that requests, in writing, an extension of the contract, provided that the PHA finds that good cause exists for granting the extension. The family's written request for an extension must include a description of the need for the extension. As used in this paragraph (d), "good cause" means circumstances beyond the control of the FSS family, as determined by the PHA, such as a serious illness or involuntary loss of employment. Extension of the contract of participation will entitle the FSS family to continue to have amounts credited to the family's FSS account in accordance with § 962.304.

(e) *Unavailability of supportive services*—(1) *Good faith effort to replace unavailable services.* If a social service agency fails to deliver the supportive services pledged under an FSS family member's individual training and services plan, the PHA shall make a good faith effort to obtain these services from another agency.

(2) *Assessment of necessity of services.* If the PHA is unable to obtain the services from another agency, the PHA shall reassess the family member's needs, and determine whether other available services would achieve the same purpose. If other available services would not achieve the same purpose, the PHA shall determine whether the unavailable services are integral to the FSS family's advancement or progress toward self-sufficiency. If the unavailable services are:

(i) Determined not to be integral to the FSS family's advancement toward self-sufficiency, the PHA shall revise the individual training and services plan to delete these services, and modify the contract of participation to remove any obligation on the part of the FSS family to accept the unavailable services, in accordance with paragraph (f) of this section; or

(ii) Determined to be integral to the FSS family's advancement toward self-sufficiency (which may be the case if the affected family member is the head of the FSS family), the PHA shall declare the contract of participation null and void.

(f) *Modification.* The PHA and the FSS family may mutually agree to modify the contract of participation. The contract of participation may be modified in writing with respect to the individual training and services plans, the contract term in accordance with paragraph (d) of this section, and designation of the head of the family.

(g) *Completion of the contract.* The contract of participation is considered to be completed, and a family's participation in the FSS program is considered to be concluded when one of the following occurs:

(1) The FSS family has fulfilled all of its obligations under the contract of participation on or before the expiration of the contract term, including any extension thereof; or

(2) 30 percent of the monthly adjusted income of the FSS family equals or exceeds the published existing housing fair market rent for the size of the unit for which the FSS family qualifies based on the PHA's occupancy standards. The contract of participation will be considered completed and the family's participation in the FSS program concluded on this basis even though the contract term, including any extension thereof, has not expired, and the family members who have individual training and services plans, have not completed all the activities set forth in their plans.

(h) *Termination of the contract.* The contract of participation may be terminated before the expiration of the contract term, and any extension thereof, by:

(1) Mutual consent of the parties;

(2) The failure of the FSS family to meet its obligations under the contract of participation;

(3) The family's withdrawal from the FSS program;

(4) Such other act as is deemed inconsistent with the purpose of the FSS program; or

(5) By operation of law.

(i) *Transitional supportive service assistance.* A PHA may continue to offer to a former FSS family who has completed its contract of participation and whose head of family is employed, appropriate FSS supportive services in becoming self-sufficient (if the family still resides in public housing), or in remaining self-sufficient (if the family no longer resides in public or other assisted housing).

§ 962.304 Total tenant payment and increases in family income.

(a) *Calculation of total tenant payment.* Total tenant payment for a family participating in the FSS program is determined in accordance with the regulations set forth in 24 CFR part 913.

(b) *Increases in FSS family income.* Any increase in the earned income of an FSS family during its participation in an FSS program may not be considered as income or a resource for purposes of eligibility of the FSS family for other benefits, or amount of benefits payable to the FSS family, under any other program administered by HUD, unless the income of the FSS family equals or exceeds 80 percent of the median income of the area (as determined by HUD, with adjustments for smaller and larger families).

§ 962.305 FSS account.

(a) *Establishment of FSS account*—(1) *General.* The PHA shall deposit the FSS account funds of all families participating in the PHA's FSS program into a single depository account. The PHA must deposit the FSS account funds in one or more of the HUD-approved investments.

(2) *Accounting for FSS account funds.* (i) *Accounting records.* The total of the

combined FSS account funds will be supported in the PHA accounting records by a subsidiary ledger showing the balance applicable to each FSS family. During the term of the contract of participation, the PHA shall credit periodically, but not less than annually, to each family's FSS account, the amount of the FSS credit determined in accordance with paragraph (b) of this section.

(ii) *Proration of investment income.* The investment income for funds in the FSS account will be prorated and credited to each family's FSS account based on the balance in each family's FSS account at the end of the period for which the investment income is credited.

(iii) *Reduction of amounts due by FSS family.* If the FSS family has not paid the family contribution towards rent, or other amounts, if any, due under the public housing lease, the balance in the family's FSS account shall be reduced by that amount before prorating the interest income. If the FSS family has fraudulently under-reported income, the amount credited to the FSS account will be based on the income amounts originally reported by the FSS family.

(3) *Reporting on FSS account.* Each PHA will be required to make a report, at least once annually, to each FSS family on the status of the family's FSS account. At a minimum, the report will include:

(i) The balance at the beginning of the reporting period;

(ii) The amount of the family's rent payment that was credited to the FSS account, during the reporting period;

(iii) Any deductions made from the account for amounts due the PHA before interest is distributed;

(iv) The amount of interest earned on the account during the year; and

(v) The total in the account at the end of the reporting period.

(b) *FSS credit*—(1) *Computation of amount.* For purposes of determining the FSS credit, "family rent" is the total tenant payment as defined in 24 CFR part 913. The FSS credit shall be computed as follows:

(i) For FSS families who are very low-income families, the FSS shall be the amount which is the lesser of:

(A) Thirty percent of current monthly adjusted income less the family rent, which is obtained by disregarding any increases in earned income (as defined in § 962.103) from the effective date of the contract of participation; or

(B) The current family rent less the family rent at the time of the effective date of the contract of participation.

(ii) For FSS families who are low-income families but not very low-income families, the FSS credit shall be the amount determined according to paragraph (b)(1)(i) of this section, but which shall not exceed the amount computed for 50 percent of median income.

(2) *Ineligibility for FSS credit.* FSS families who are not low-income families shall not be entitled to any FSS credit.

(3) *Cessation of FSS credit.* The PHA shall not make any additional credits to the FSS family's FSS account when the FSS family has completed the contract of participation, as defined in § 962.303(g), or when the contract of participation is terminated or otherwise nullified.

(c) *Disbursement of FSS account funds*—(1) *General.* The amount in an FSS account, in excess of any amount owed to the PHA by the FSS family, as provided in paragraph (a)(3)(iii) of this section, shall be paid to the head of the FSS family when the contract of participation has been completed as provided in § 962.303(g), and if, at the time of contract completion, the head of FSS family submits to the PHA a certification, as defined in § 962.103, that, to the best of his or her knowledge and belief, no member of the FSS family is a recipient of welfare assistance.

(2) Disbursement before expiration of contract term. (i) If the PHA determines that the FSS family has fulfilled its obligations under the contract of participation before the expiration of the contract term, and the head of the FSS family submits a certification that, to the best of his or her knowledge, no member of the FSS family is a recipient of welfare assistance, the amount in the family's FSS account, in excess of any amount owed to the PHA by the FSS family as provided in paragraph (a)(3)(iii) of this section, shall be paid to the head of the FSS family.

(ii) If the PHA determines that the FSS family has fulfilled certain interim goals established in the contract of participation and needs a portion of the FSS account funds for purposes consistent with the contract of participation, such as completion of higher education (i.e., college, graduate school), or job training, or to meet start-up expenses involved in creation of a small business, the PHA may, at the PHA's sole option, disburse a portion of the funds from the family's FSS account to assist the family meet those expenses.

(3) *Verification of family certification.* Before disbursement of the FSS account funds to the family, the PHA may verify that the FSS family is no longer a recipient of welfare assistance by requesting copies of any documents which may indicate whether the family is receiving any welfare assistance, and contacting welfare agencies.

(d) *Succession to FSS account.* If the head of the FSS family ceases to reside with other family members in the public housing unit, the remaining members of the FSS family, after consultation with the PHA, shall have the right to designate another family member to receive the funds in accordance with paragraph (c) (1) or (2) of this section.

(e) *Use of FSS account funds for homeownership.* An FSS family may use its FSS account funds for the purchase of a home, including the purchase of a home under one of HUD's homeownership programs, or other Federal, State, or local homeownership programs.

(f) *Forfeiture of FSS account funds*—(1) *Conditions for forfeiture.* Amounts in the FSS account shall be forfeited upon the occurrence of the following:

(i) The contract of participation is terminated, as provided in § 962.303(e) or § 962.303(h); or

(ii) The contract of participation is completed by the family, as provided in § 962.303(g), but the FSS family is receiving welfare assistance at the time of expiration of the term of the contract of participation, including any extension thereof.

(2) *Treatment of forfeited FSS account funds.* FSS account funds forfeited by the FSS family will be credited to the PHA's operating reserves and counted as other income in the calculation of the PFS operating subsidy eligibility for the next budget year.

Subpart D—Reporting

§ 962.401 Reporting.

Each PHA that carries out an FSS program under this part shall submit to HUD, in the form prescribed by HUD, a report regarding its FSS program. The report shall include the following information:

(1) A description of the activities carried out under the program;

(2) A description of the effectiveness of the program in assisting families to achieve economic independence and self-sufficiency;

(3) A description of the effectiveness of the program in coordinating resources of communities to assist families to achieve economic independence and self-sufficiency; and

(4) Any recommendations by the PHA or the appropriate local program coordinating committee for legislative or administrative action that would improve the FSS program and ensure the effectiveness of the program.

4. A new part 984 is added to 24 CFR to read as follows:

PART 984—SECTION 8 FAMILY SELF-SUFFICIENCY PROGRAM

Subpart A—General

984.101 Purpose, scope, and applicability.
984.102 Program objectives.
984.103 Definitions.
984.104 Basic requirements of the FSS program.
984.105 Minimum program size.

Subpart B—Program Development and Approval Procedures

984.201 Action Plan.
984.202 Program Coordinating Committee.
984.203 FSS family selection procedures.
984.204 On-site facilities.

Subpart C—Program Operation

984.301 Program implementation.
984.302 Administrative fees.
984.303 Contract of participation.
984.304 Family rent and increases in family income.
984.305 FSS account.
984.306 Section 8 residency and portability requirements.

Subpart D—Reporting

984.401 Reporting.

Authority: 42 U.S.C. 1473f, 1437u; 42 U.S.C. 3535(d).

Subpart A—General

§ 984.101 Purpose, scope, and applicability.

(a) *Purpose.* (1) The purpose of the Family Self-Sufficiency (FSS) program is to promote the development of local strategies to coordinate the use of public and Indian housing assistance and housing assistance under the section 8 rental certificate and rental voucher programs with public and private resources, to enable families eligible to receive assistance under these programs to achieve economic independence and self-sufficiency.

(2) The purpose of this part is to implement the policies and procedures applicable to operation of a local FSS program under the rental voucher and rental certificate programs.

(b) *Scope.* Beginning in FY 1993, each PHA that receives funding for additional rental certificates or rental vouchers must operate a section 8 FSS program, unless the PHA receives an exception from the program as provided in § 984.105. Additionally, each PHA that received funding for section 8 rental certificates or rental vouchers under the combined FY 1991/1992 FSS incentive award competition, must operate a section 8 FSS program.

(c) *Applicability*—(1) *General.* This part applies to the section 8 rental certificate program and the section 8 rental voucher program authorized by section 8 of the U.S. Housing Act of 1937, and implemented at 24 CFR parts 882 and 887.

(2) *Indian Housing Authorities.* The operation of a section 8 FSS program is optional for Indian Housing Authorities (IHAs) that operate a certificate or voucher program. IHAs that elect to operate a section 8 FSS program are subject to the requirements of this part, except that § 984.105(c) of this subpart governing minimum program size shall not be applicable to IHAs. Additionally, IHAs that received section 8 units under the FSS incentive award competitions and are operating a section 8 FSS program are not subject to the minimum program size requirements.

§ 984.102 Program objectives.

The objective of the FSS program is to reduce the dependency of low-income families on welfare assistance and on section 8, public or Indian housing assistance or any Federal, State, or local rent or homeownership subsidies. Under the FSS program, low-income families are provided opportunities for education, job training, counseling, and other forms of social service assistance, while living in assisted housing, so that they may obtain the education, employment, and business and social skills necessary to achieve self-sufficiency, as defined in § 984.103 of this subpart. The Department will measure the success of a local FSS program not only by the number of families who achieve self-sufficiency, but also by the number of FSS families who, as a result of participation in the program, have family members who obtain their first job, or who obtain higher paying jobs; no longer need benefits received under one or more welfare programs; obtain a high school diploma or higher education degree; or accomplish similar goals that will assist the family in obtaining economic independence.

§ 984.103 Definitions.

As used in this part:

Act means the United States Housing Act of 1937 (42 U.S.C. 1437–1440).

Action Plan. See § 984.201 of this subpart.

Assisted lease has the same meaning as set forth in 24 CFR 882.102 and 887.7.

Certification means a written assertion based on supporting evidence, provided by the FSS family or the PHA, as may be required under this subpart, and which:

(1) Shall be maintained by the PHA in the case of the family's certification, or by HUD in the case of the PHA's certification;

(2) Shall be made available for inspection by HUD, the PHA, and the public, as appropriate; and

(3) Shall be deemed to be accurate for purposes of this subpart, unless the Secretary or the PHA, as applicable, determines otherwise after inspecting the evidence and providing due notice and opportunity for comment.

Chief executive officer (CEO). The CEO of a unit of general local government means the elected official or the legally designated official, who has the primary responsibility for the conduct of that entity's governmental affairs. Examples of the CEO of a unit of general local government are: the elected mayor of a municipality; the elected county executive of a county; the chairperson of a county commission or board in a county that has no elected county executive; or the official designated pursuant to law by the governing body of a unit of general local government (e.g., city manager). The CEO for an Indian tribe is the tribal governing official.

Contract of participation means a contract in a form approved by HUD, entered into between a participating family and a PHA operating an FSS program that sets forth the terms and conditions governing participation in the FSS program. The contract of participation includes all individual training and services plans entered into between the PHA and all members of the family who elect to participate in the FSS program, and which plans are attached to the contract of participation as exhibits. For additional detail, see § 984.303 of this subpart.

Earned income means income or earnings included in annual income from wages, tips, salaries, other employee compensation, and self-employment. (See 24 CFR 813.106(b)(1), (2) and (8).) Earned income does not include any pension or annuity, transfer payments, any cash or in-kind benefits, or funds deposited in or accrued interest on the FSS escrow account established by a PHA on behalf of a participating family.

Effective date of contract of participation means the first day of the month following the month in which the FSS family and the PHA entered into the contract of participation.

Eligible families means current section 8 rental certificate or rental voucher program participants, including participants in the Project Self-Sufficiency or Operation Bootstrap or other local self-sufficiency programs.

Enrollment means the date that the FSS family entered into the contract of participation with the PHA.

Family Self-Sufficiency program or *FSS program* means the program established by a PHA within its jurisdiction to promote self-sufficiency among participating families, including the provision of supportive services to these families, as authorized by section 23 of the U.S. Housing Act of 1937.

FSS account means the FSS escrow account authorized by section 23 of the U.S. Housing Act of 1937, and as provided by § 984.305 of this subpart.

FSS credit means the amount credited by the PHA to the participating family's FSS account.

FSS family or *participating family* means a family that receives assistance under the rental certificate or rental voucher programs, and that elects to participate in the FSS program, and whose designated head of the family has signed the contract of participation.

FSS related service program means any program, publicly or privately sponsored, that offers the kinds of supportive services described in the definition of "supportive services" set forth in this § 984.103 of this subpart.

FSS slots refer to the total number of rental certificates or rental vouchers that comprise the minimum size of a PHA's section 8 FSS program.

FY means Federal Fiscal Year (starting with October 1, and ending September 30, and designated by the calendar year in which it ends).

Head of FSS family means the adult member of the FSS family who is the head of the household for purposes of determining income eligibility and rent.

Housing subsidies means assistance to meet the costs and expenses of temporary shelter, rental housing or homeownership, including rent, mortgage or utility payments.

HUD or *Department* means the Department of Housing and Urban Development Field Offices, unless HUD Headquarters is specified.

Indian housing authority or *IHA*. See definition in 24 CFR 813.102.

Individual training and services plan means a written plan that is prepared for the head of the FSS family, and each adult member of the FSS family who elects to participate in the FSS program, by the PHA in consultation with the family member, and which sets forth:

(1) The supportive services to be provided to the family member;

(2) The activities to be completed by that family member; and

(3) The agreed upon completion dates for the services and activities. Each individual training and services plan must be signed by the PHA and the participating family member, and is attached to, and incorporated as part of the contract of participation. An individual training and services plan must be prepared for the head of the FSS family.

JOBS Program means the Job Opportunities and Basic Skills Training Program authorized under part F of title IV of the Social Security Act (42 U.S.C. 402(a)(19)).

JTPA means the Job Training Partnership Act (29 U.S.C. 1579(a)).

Low-income family. See definition in 24 CFR 813.102.

Participating family. See definition for "FSS family" in this section.

Program Coordinating Committee or *PCC* is the committee described in § 984.202 of this subpart.

Public housing agency or *PHA*. See definition in 24 CFR 882.102 and 887.7. As used in this part, PHA includes an Indian housing authority as defined in this section.

Secretary means the Secretary of Housing and Urban Development.

Self-sufficiency means that an FSS family is no longer receiving section 8, public or Indian housing assistance, or any Federal, State, or local rent or homeownership subsidies or welfare assistance. Achievement of self-sufficiency, although an FSS program objective, is not a condition for receipt of the FSS account funds. (See § 984.305 of this subpart.)

Supportive services means those appropriate services that a PHA will make available, or cause to be made available to an FSS family under a contract of participation, and may include:

(1) *Child care*—child care of a type that provides sufficient hours of operation and serves an appropriate range of ages;

(2) *Transportation*—transportation necessary to enable a participating family to receive available services, or to commute to their places of employment;

(3) *Education*—remedial education; education for completion of secondary or post secondary schooling;

(4) *Employment*—job training, preparation, and counseling; job development and placement; and follow-up assistance after job placement and completion of the contract of participation;

(5) *Personal welfare*—substance/alcohol abuse treatment and counseling;

(6) *Household skills and management*—training in homemaking and parenting skills; household management; and money management;

(7) *Counseling*—counseling in the areas of:

(i) The responsibilities of homeownership;

(ii) Opportunities available for affordable rental and homeownership in the private housing market, including information on an individual's rights under the Fair Housing Act; and

(iii) Money management; and

(8) *Other services*—any other services and resources, including case management, reasonable accommodations for individuals with disabilities, that the PHA may determine to be appropriate in assisting FSS families to achieve economic independence and self-sufficiency.

Unit size or *size of unit* refers to the number of bedrooms in a dwelling unit.

Very low-income family. See definition in 24 CFR 813.102.

Welfare assistance means income assistance from Federal or State welfare programs, and includes assistance provided under the Aid to Families with Dependent Children (AFDC) Program, Supplemental Security Income (SSI) that is subject to an income eligibility test; Medicaid, food stamps, general assistance, or other assistance provided under a Federal or State program directed to meeting general living expenses, such as food, health care, child care, but does not include assistance solely directed to meeting housing expenses (e.g., rent, mortgage or utilities payments), and does not include transitional welfare assistance (e.g. medicaid) for JOBS participants.

§ 984.104 Basic requirements of the FSS program.

(a) *Compliance with program regulations*. As FSS program established under this part shall be operated in conformity with the regulations of this part, and the rental certificate and rental voucher regulations, codified in 24 CFR parts 882 and 887, respectively.

(b) *Compliance with Action Plan*. An FSS program established under this part shall be operated in compliance with an Action Plan, as described in § 984.201, and provide comprehensive supportive services as defined in § 984.103.

(c) *Compliance with equal opportunity requirements*. An FSS program established under this part shall be operated in compliance with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d); the Fair Housing Act (42 U.S.C. 3601–3619); section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); the Age Discrimination Act of 1975 (42 U.S.C. 6101–6107); Executive Order 11063 on Equal Opportunity in Housing, 27 FR 11527 (1962), as amended, 46 FR 1253 (1980); section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and the regulations implementing these authorities.

§ 984.105 Minimum program size.

(a) *General.* Unless otherwise excepted from operation of an FSS program as provided in paragraph (c) of this section, or from operation of an FSS program of the minimum size as provided in paragraph (d) of this section, a PHA shall operate an FSS program of the minimum size, as determined in this section.

(1) *Determining minimum program size.* The minimum size of a section 8 FSS program is equal to:

(i) The total number of rental certificates and rental vouchers reserved in FY 1993, and each subsequent FY; *plus* (if applicable)

(ii) The number of rental certificates and rental vouchers reserved under the combined FY 1991/1992 FSS incentive award competition.

(2) *Applicable certificates and vouchers.* In determining minimum program size, all rental certificates and rental vouchers reserved will be counted, except those used to replace rental certificates or rental vouchers (renewals).

(b) *Maintaining minimum program size.* As the contracts of participation for section 8 FSS families are completed or terminated, replacement FSS families must be selected to maintain the minimum program size. A replacement family must be selected in accordance with the FSS family selection procedures set forth in § 984.203.

(c) *Exception to program operation.* (1) Upon approval by HUD, a PHA will not be required to establish and carry out a section 8 FSS program if the PHA provides to HUD a certification, as defined in § 984.103, that the establishment and operation of an FSS program is not feasible because of local circumstances, which may include, but are not limited to:

(i) Lack of accessible supportive services funding, including lack of the availability of programs under JTPA or JOBS;

(ii) Lack of funding for reasonable administrative costs;

(iii) Lack of cooperation by other units of State or local government;

or

(iv) Lack of interest in participating in the FSS program on the part of eligible families.

(2) An exception will not be granted if HUD determines that local circumstances do not preclude the PHA from effectively operating an FSS program that is smaller than the minimum program size.

(d) *Reduction in program size.* Upon approval by HUD, a PHA may be permitted to operate a section 8 FSS program that is smaller than the minimum program size if the PHA provides to HUD a certification, as defined in § 984.103, that the operation of an FSS program of the minimum program size is not feasible because of local circumstances, which may include, but are not limited to:

(1) Decrease in or lack of accessible supportive services, including decrease in the availability of programs under JTPA or JOBS;

(2) Decrease in or lack of funding for reasonable administrative costs;

(3) Decrease in or lack of cooperation by other units of State or local government;

(4) Decrease in or lack of interest in participating in the FSS program on the part of eligible families.

(e) *Review of certification records.* HUD reserves the right to examine, during its management review of the PHA, or at any time, the documentation and data that a PHA relied on in certifying to the infeasibility of its establishing and operating an FSS program, or of operating an FSS program of less than minimum program size.

Subpart B—Program Development and Approval Procedures

§ 984.201 Action plan.

(a) *General.* (1) To participate in the FSS program, a PHA must have a HUD-approved Action Plan that complies with the requirements of this section. The Action Plan does not replace the administrative plan required by 24 CFR 882.204 and 887.61. As provided, in paragraph (a)(2) of this section, certain policies and procedures applicable to the FSS program must be incorporated in the PHA's administrative plan.

(2) *Administrative plan.* FSS policies for which the PHA has discretion to establish local procedures must be included in the PHA's administrative plan. These policies include, but are not limited to:

(i) The PHA's policies and procedures concerning the selection of FSS families for the section 8 FSS program, as provided in, and subject to the requirements of § 984.203. These policies should include a description of how the PHA's selection procedures ensure that families will be selected without regard to race, color, religion, sex, handicap, familial status, or national origin;

(ii) The PHA's policies concerning termination from the FSS program, or the withholding of FSS supportive services, or termination or withholding of section 8 assistance for failure by an FSS family to comply with the terms and conditions of the contract of participation; and

(iii) The hearing procedures for FSS families.

(b) *Development of Action Plan.* The Action Plan shall be developed by the PHA in consultation with the chief executive officer of the applicable unit of general local government, and the Program Coordinating Committee.

(c) *Initial submission and revisions*—(1) *Initial submission.* Unless the dates set forth in this paragraph are extended by HUD for good cause, a PHA that is establishing its first FSS program must submit an Action Plan to HUD for approval within:

(i) 90 days of notification by HUD of approval of the PHA's application for units under the combined FY 1991/1992 FSS incentive award competition; or

(ii) If the PHA did not apply for FSS incentive award units, within 90 days of notification by HUD of approval of the PHA's first application, commencing in FY 1993, for rental certificates or rental vouchers.

(2) *Revision.* Following initial approval of the Action Plan by HUD, no further approval of the Action Plan is required unless the PHA proposes to make policy changes to the Action Plan, or changes are required by HUD. Any changes to the Action Plan must be submitted to, and approved by HUD.

(d) *Contents of Plan.* The Action Plan shall describe the policies and procedures of the PHA for operation of a local FSS program, and shall contain, at a minimum, the following information:

(1) *Family demographics*—a description of the number, size, characteristics, and other demographics (including racial and ethnic data), and the supportive service needs of the families expected to participate in the FSS program;

(2) *Estimate of participating families*—a description of the number of eligible FSS families who can reasonably be expected to receive supportive services under the FSS program, based on available and anticipated Federal, tribal, State, local, and private resources;

(3) *Eligible families from other self-sufficiency program*—if applicable, the number of families, by program type, who are participating in Operation Bootstrap, Project Self-Sufficiency, or any other local self-sufficiency program who are expected to agree to execute an FSS contract of participation.

(4) *Incentives to encourage participation*—a description of the incentives that the PHA's intends to offer eligible families to encourage their participation in the FSS program

(incentives plan). The incentives plan shall provide for the establishment of the FSS account in accordance with the requirements set forth in § 984.305, and other incentives, if any, designed by the PHA. The incentives plan shall be part of the Action Plan.

(5) *Outreach efforts*—a description of:

(i) The PHA's efforts, including notification and outreach efforts, to recruit FSS participants from among eligible families; and

(ii) The PHA's actions to be taken to assure that both minority and non-minority groups are informed about the FSS program, and how the PHA will make this information known (e.g., through door-to-door flyers, advertisements in newspapers of general circulation, as well as any media targeted to minority groups.).

(6) *FSS activities and supportive services*—a description of the activities and supportive services to be provided by both public and private resources to FSS families, and identification of the public and private resources, which are expected to provide the supportive services.

(7) *Method for identification of family support needs*—a description of how the FSS program will identify the needs and deliver the services and activities according to the needs of the FSS families;

(8) *Assurances of non-interference with rights of non-participating families*—an assurance that a family's election to not participate in the FSS program will not affect the family's admission to the section 8 program or the family's right to occupancy in accordance with its lease.

(9) *Timetable for program implementation*—a timetable for implementation of the FSS program, as provided in § 984.301(a)(1), including the schedule for filling FSS slots with eligible FSS families, as provided in § 984.301;

(10) *Certification of coordination*—a certification that development of the services and activities under the FSS program has been coordinated with the JOBS Program; the programs provided under the JTPA; and any other relevant employment, child care, transportation, training, and education programs (e.g., Job Training for the Homeless Demonstration program) in the applicable area, and that implementation will continue to be coordinated, in order to avoid duplication of services and activities; and

(11) *Optional additional information*—such other information that would help HUD determine the soundness of the PHA's proposed FSS program.

(e) *Eligibility of a combined program.* A PHA that wishes to operate a joint FSS program with other PHAs may combine its resources with one or more PHAs to deliver supportive services under a joint Action Plan that will provide for the establishment and operation of a combined FSS program that meets the requirements of this part.

(f) *Single action plan.* PHAs implementing both a section 8 FSS program and a public or Indian housing FSS program may submit one Action Plan.

§ 984.202 Program Coordinating Committee (PCC).

(a) *General.* Each participating PHA must establish a PCC whose functions will be to assist the PHA in securing commitments of public and private resources for the operation of the FSS program within the PHA's jurisdiction, including assistance in developing the Action Plan and in implementing the program.

(b) *Membership*—(1) *Required membership.* The PCC must consist of representatives of the PHA, and of residents assisted under the section 8 rental certificate or rental voucher program or under HUD's public or Indian housing programs.

(2) *Recommended membership.* Membership on the PCC also should include representatives of the unit of general local government served by the PHA, local agencies (if any) responsible for carrying out JOBS training programs, or programs under the JTPA, and other organizations, such as other State, local or tribal welfare and employment agencies, public and private education or training institutions, child care providers, nonprofit service providers, private business, and any other public and private service providers with resources to assist the FSS program.

(c) *Alternative committee.* The PHA may, in consultation with the chief executive officer of the unit of general local government served by the PHA, utilize an existing entity as the PCC if the membership of the existing entity consists or will consist of the individuals identified in paragraph (b)(1) of this section, and also includes individuals from the same or similar organizations identified in paragraph (b)(2) of this section.

§ 984.203 FSS family selection procedures.

(a) *Preference in the FSS selection process.* A PHA has the option of giving a selection preference for up to 50 percent of its FSS slots to eligible families, as defined in § 984.103, who have one or more family members currently enrolled in an FSS related service program or on the waiting list for such a program. The PHA may limit the selection preference given to participants in and applicants for FSS related service programs to one or more eligible FSS related service programs. A PHA that chooses to exercise the selection preference option must include the following information in its administrative plan:

(1) the percentage of FSS slots, not to exceed 50 percent of the total number of FSS slots, for which it will give a selection preference;

(2) the FSS related service programs to which it will give a selection preference to the programs' participants and applicants; and

(3) the method of outreach to, and selection of, families with one or more members participating in the identified programs.

(b) *FSS selection without preference.* For those FSS slots for which the PHA chooses not to exercise the selection preference provided in paragraph (a) of this section, the FSS slots must be filled with eligible families in accordance with an objective selection system, such as a lottery, the length of time living in subsidized housing, or the date the family expressed an interest in participating in the FSS program. The objective system to be used by the PHA must be described in the PHA's administrative plan.

(c) *Motivation as a selection factor*—(1) *General.* A PHA may screen families for interest, and motivation to participate in the FSS program, provided that the factors utilized by the PHA are those which solely measure the family's interest, and motivation to participate, in the FSS program.

(2) *Permissible motivational screening factors.* Permitted motivational factors include requiring attendance at FSS orientation sessions or preselection interviews, and assigning certain tasks which indicate the family's willingness to undertake the obligations which may be imposed by the FSS contract of participation (e.g., contacting job training or educational program referrals). However, any tasks assigned shall be those which may be readily accomplishable by the family, based on the family members' educational level, and disabilities, if any. Reasonable accommodations must be made for individuals with mobility, manual, sensory, speech impairments, mental or developmental disabilities.

(3) *Prohibited motivational screening factors.* Prohibited motivational screening factors include the family's

educational level, educational or standardized motivational test results, previous job history or job performance, credit rating, marital status, number of children, or other factors, such as sensory or manual skills, and any factors which may result in discriminatory practices or treatment toward individuals with disabilities or minority or non-minority groups.

§ 984.204 On-site facilities.

Each PHA may, subject to the approval of HUD, make available and utilize common areas or unoccupied dwelling units in public or Indian housing projects to provide supportive services under an FSS program, including a section 8 FSS program.

Subpart C—Program Operation

§ 984.301 Program implementation.

(a) *Program implementation deadline*—(1) *Program start-up.* Operation of a local FSS program must begin within 12 months of notification to the PHA of HUD's approval of the earlier of the PHA's application for rental certificates or rental vouchers under the combined FY 1991/1992 FSS incentive award competition, or under a subsequent FY competition. Operation means that activities such as outreach, participant selection, and enrollment have begun. Full delivery of the supportive services to be provided to the total number of families required to be served under the program need not occur within 12 months, but must occur by the deadline set forth in paragraph (a)(2) of this section.

(2) *Full enrollment and delivery of services.* The PHA must have completed enrollment of the total number of families required to be served under the FSS program (based on the minimum program size), and must have begun delivery of the supportive services within two years from the date of notification of approval of the application for new certificates and vouchers.

(3) *Extension of program deadlines for good cause.* HUD may extend the deadline set forth in either paragraph (a)(1) or paragraph (a)(2) of this section if the PHA requests an extension, and the HUD Field Office determines that, despite best efforts on the part of the PHA, the commitment by public or private resources to deliver supportive services had been withdrawn, the delivery of such services has been delayed, or other local circumstances which the HUD Field Office determines warrants an extension of the deadlines set forth in this paragraph (a).

(b) *Program administration.* A PHA may employ appropriate staff, including a service coordinator or program coordinator to administer its FSS program, and may contract with an appropriate organization to establish and administer the FSS program, including the FSS account, as provided by § 984.305.

§ 984.302 Administrative fees.

The administrative fees paid to PHAs for HUD-approved costs associated with operation of an FSS program are established by the Congress and subject to appropriations.

§ 984.303 Contract of participation.

(a) *General.* Each family that is selected to participate in an FSS program must enter into a contract of participation with the PHA that operates the FSS program in which the family will participate. The contract of participation shall be signed by the head of the FSS family.

(b) *Form and content of contract*—(1) *General.* The contract of participation, which incorporates the individual training and services plan(s), shall be in the form prescribed by HUD, and shall set forth the principal terms and conditions governing participation in the FSS program, including the rights and responsibilities of the FSS family and of the PHA, the services to be provided to, and the activities to be completed by, the head of the FSS family and each adult member of the family who elects to participate in the program.

(2) *Interim goals.* The individual training and services plan, incorporated in the contract of participation, shall establish specific interim and final goals by which the PHA, and the family, may measure the family's progress toward fulfilling its obligations under the contract of participation, and becoming self-sufficient. For each participating FSS family that is a recipient of welfare assistance, the PHA must establish as an interim goal that the family become independent from welfare assistance and remain independent from welfare assistance for at least one year before expiration of the term of the contract of participation, including any extension thereof.

(3) *Compliance with lease terms.* The contract of participation shall provide that one of the obligations of the FSS family is to comply with the terms and conditions of the assisted lease.

(4) *Employment obligation*—(i) *Head of family's obligation.* The head of the FSS family shall be required under the contract of participation to seek and maintain suitable employment during the term of the contract and any extension thereof. Although other members of the FSS family may seek and maintain employment during the term of the contract, only the head of the FSS family is required to seek and maintain suitable employment.

(ii) *Seek employment.* The obligation to seek employment means that the head of the FSS family has applied for employment, attended job interviews, and has otherwise followed through on employment opportunities.

(iii) *Determination of suitable employment.* A determination of suitable employment shall be made by the PHA based on the skills, education, and job training of the individual that has been designated the head of the FSS family, and based on the available job opportunities within the jurisdiction served by the PHA.

(5) *Consequences of noncompliance with contract.* The contract of participation shall specify that if the FSS family fails to comply with the terms and conditions of the contract of participation, which includes compliance with the assisted lease, the PHA may:

(i) Without the supportive services;

(ii) Terminate the family's participation in the FSS program; or

(iii) Terminate or withhold the family's section 8 assistance, except in the case where the only basis for noncompliance with the contract of participation is noncompliance with the lease, or failure to become independent from welfare assistance. However failure to become independent from welfare assistance because of failure of the head of household to meet the employment obligation described in paragraph (a)(4) of this section, or failure of the FSS family to meet any other obligation under the contract of participation, except the interim goal concerning welfare assistance, is grounds for the PHA to terminate or withhold section 8 assistance.

(c) *Contract term.* The contract of participation shall provide that each FSS family will be required to fulfill those obligations to which the participating family has committed itself under the contract of participation no later than 5 years after the effective date of the contract.

(d) *Contract extension.* The PHA shall, in writing, extend the term of the contract of participation for a period not to exceed two years for any FSS family that requests, in writing, an extension of the contract, provided that the PHA finds that good cause exists for granting the extension. The family's written request for an extension must include a description of the need for the

extension. As used in this paragraph (d), "good cause" means circumstances beyond the control of the FSS family, as determined by the PHA, such as a serious illness or involuntary loss of employment. Extension of the contract of participation will entitle the FSS family to continue to have FSS amounts credited to the family's FSS account in accordance with § 984.304.

(e) *Unavailability of supportive services*—(1) *Good faith effort to replace unavailable services.* If a social service agency fails to deliver the supportive services pledged delivered under an FSS family member's individual training and services plan, the PHA shall make a good faith effort to obtain these services from another agency.

(2) *Assessment of necessity of services.* If the PHA is unable to obtain the services from another agency, the PHA shall reassess the family member's needs, and determine whether other available services would achieve the same purpose. If other available services would not achieve the same purpose, the PHA shall determine whether the unavailable services are integral to the FSS family's advancement or progress toward self-sufficiency. If the unavailable services are:

(i) Determined not to be integral to the FSS family's advancement toward self-sufficiency, the PHA shall revise the individual training and services plan to delete these services, and modify the contract of participation to remove any obligation on the part of the FSS family to accept the unavailable services, in accordance with paragraph (f) of this section; or

(ii) Determined to be integral to the FSS family's advancement toward self-sufficiency (which may be the case if the affected family member is the head of the FSS family), the PHA shall declare the contract of participation null and void. Nullification of the contract of participation on the basis of unavailability of supportive services shall not be grounds for termination of section 8 assistance.

(f) *Modification.* The PHA and the FSS family may mutually agree to modify the contract of participation. The contract of participation may be modified in writing with respect to the individual training and services plans, the contract term in accordance with paragraph (d) of this section, and designation of the head of the family.

(g) *Completion of the contract.* The contract of participation is considered to be completed, and a family's participation in the FSS program is considered to be concluded when any one of the following occurs:

(1) the FSS family has fulfilled all of its obligations under the contract on or before the expiration of the contract term, including any extension thereof; or

(2) 30 percent of the monthly adjusted income of the FSS family equals or exceeds the published existing housing fair market rent for the size of the unit for which the FSS family qualifies based on the PHA's occupancy standards. The contract of participation will be considered completed and the family's participation in the FSS program concluded on this basis even though the contract term, including any extension thereof, has not expired, and the family members who have individual training and services plans, have not completed all the activities set forth in their plans.

(h) *Termination of the contract.* The contract of participation is automatically terminated if the family's section 8 assistance is terminated in accordance with HUD requirements. The contract of participation may be terminated before the expiration of the contract term, and any extension thereof, by:

(1) mutual consent of the parties;

(2) the failure of the FSS family to meet its obligations under the contract of participation, including the failure to comply with the contract requirements because the family has moved outside the jurisdiction of the PHA;

(3) the family's withdrawal from the FSS program;

(4) such other act as is deemed inconsistent with the purpose of the FSS program; or

(5) by operation of law.

(i) *Option to terminate section 8 housing and supportive services assistance.* The PHA may terminate or withhold section 8 housing assistance and supportive services if the PHA determines, in accordance with the hearing procedures provided in 24 CFR 882.216 and 887.405, that the FSS family has failed to comply with the requirements of the contract of participation as provided in paragraph (b)(5) of this section.

(j) *Transitional supportive service assistance.* A PHA may continue to offer to a former FSS family who has completed its contract of participation and whose head of the family is employed, appropriate FSS supportive services in becoming self-sufficient (if the family still resides in assisted housing), or in remaining self-sufficient (if the family no longer resides in assisted housing).

§ 984.304 Family rent and increases in family income.

(a) *Calculation of family rent.* For the rental certificate program, total tenant payment for a family participating in the FSS program and the amount of the housing assistance payment is determined in accordance with the regulations set forth in 24 CFR parts 813 and 882. For the rental voucher program, the housing assistance payment for a family participating in the FSS program is determined in accordance with the regulations set forth in 24 CFR part 887.

(b) *Increases in FSS family income.* Any increase in the earned income of an FSS family during its participation in an FSS program may not be considered as income or a resource for purposes of eligibility of the FSS family for other benefits, or amount of benefits payable to the FSS family, under any other program administered by HUD, unless the income of the FSS family equals or exceeds 80 percent of the median income of the area (as determined by HUD, with adjustments for smaller and larger families).

§ 984.305 FSS account.

(a) *Establishment of FSS account*—(1) *General.* The PHA shall deposit the FSS account funds of all families participating in the PHA's FSS program into a single depository account. The PHA must deposit the FSS account funds in one or more of the HUD-approved investments.

(2) *Accounting for FSS account funds*—(i) *Accounting records.* The total of the combined FSS account funds will be supported in the PHA accounting records by a subsidiary ledger showing the balance applicable to each FSS family. During the term of the contract of participation, the PHA shall credit periodically, but not less than annually, to each family's FSS account, the amount of the FSS credit determined in accordance with paragraph (b) of this section.

(ii) *Proration of investment income.* The investment income for funds in the FSS account will be prorated and credited to each family's FSS account based on the balance in each family's FSS account at the end of the period for which the investment income is credited.

(iii) *Reduction of amounts due by FSS family.* If the FSS family has not paid the family contribution toward rent, or other amounts, if any, due the owner under the assisted lease, as reported by the owner to the PHA, the balance in the family's FSS account shall be reduced by that amount before prorating the interest income. If the FSS family has

fraudulently under-reported income, the amount credited to the FSS account will be based on the income amounts originally reported by the FSS family.

(3) *Reporting on FSS account.* Each PHA will be required to make a report, at least once annually, to each FSS family on the status of the family's FSS account. At a minimum, the report will include:

(i) The balance at the beginning of the reporting period;

(ii) The amount of the family's rent payment that was credited to the FSS account, during the reporting period;

(iii) Any deductions made from the account for amounts due the PHA before interest is distributed;

(iv) The amount of interest earned on the account during the year; and

(v) The total in the account at the end of the reporting period.

(b) *FSS credit*—(1) *Computation of amount.* For purposes of determining the FSS credit, "family rent" for the rental certificate program is the total tenant payment as defined in 24 CFR part 813, and for the rental voucher program, "family rent" is 30 percent of adjusted monthly income. The FSS credit shall be computed as follows:

(i) For FSS families who are very low-income families, the FSS credit shall be the amount which is the lesser of:

(A) Thirty percent of the family's current monthly adjusted income less the family rent, which is obtained by disregarding any increase in earned income (as defined in § 984.103) from the effective date of the contract of participation; or

(B) The current family rent less the family rent at the time of the effective date of the contract of participation.

(ii) For FSS families who are low-income families but not very low-income families, the FSS credit shall be the amount determined according to paragraph (b)(1)(i) of this section, but which shall not exceed the amount computed for 50 percent of median income.

(2) *Ineligibility for FSS credit.* FSS families who are not low-income families shall not be entitled to any FSS credit.

(3) *Cessation of FSS credit.* The PHA shall not make any additional credits to the FSS family's FSS account when the FSS family has completed the contract of participation, as defined in § 984.303(g), or when the contract of participation is terminated or otherwise nullified.

(c) *Disbursement of FSS account funds*—(1) *General.* The amount in an FSS account, in excess of any amount owed to the PHA by the FSS family, shall be paid to the head of the FSS family when the contract of participation has been completed, as provided in § 984.303(g), and if, at the time of contract completion, the head of FSS family submits to the PHA a certification, as defined in § 984.103, that, to the best of his or her knowledge and belief, no member of the FSS family is a recipient of welfare assistance.

(2) *Disbursement before expiration of contract term.* (i) If the PHA determines that the FSS family has fulfilled its obligations under the contract of participation before the expiration of the contract term, and the head of the FSS family submits a certification that, to the best of his or her knowledge, no member of the FSS family is a recipient of welfare assistance, the amount in the family's FSS account, in excess of any amount owed to the PHA by the FSS family shall be paid to the head of the FSS family.

(ii) If the PHA determines that the FSS family has fulfilled certain interim goals established in the contract of participation and needs a portion of the FSS account funds for purposes consistent with the contract of participation, such as completion of higher education (i.e., college, graduate school), or job training, or to meet start-up expenses involved in creation of a small business, the PHA may, at the PHA's sole option, disburse a portion of the funds from the family's FSS account to assist the family to meet those expenses.

(3) *Verification of family certification.* Before disbursement of the FSS account funds to the family, the PHA may verify that the FSS family is no longer a recipient of welfare assistance by requesting copies of any documents which may indicate whether the family is receiving any welfare assistance, and contacting welfare agencies.

(d) *Succession to FSS account.* If the head of the FSS family ceases to reside with other family members in the assisted unit, the remaining members of the FSS family, after consultation with the PHA, shall have the right to designate another family member to receive the funds in accordance with paragraph (c)(1) or (2) of this section.

(e) *Forfeiture of FSS account funds*—(1) *Conditions for forfeiture.* Amounts in the FSS account shall be forfeited upon the occurrence of the following:

(i) The contract of participation is terminated, as provided in § 984.303(e) or § 984.303(h); or

(ii) The contract of participation is completed, as provided in § 984.303(g), but the FSS family is receiving welfare assistance at the time of expiration of the term of the contract of participation, including any extension thereof.

(2) *Treatment of forfeited FSS account funds.* FSS account funds forfeited by the FSS family will be treated as program receipts for payment of program expenses under the PHA budget for the applicable section 8 program, and shall be used in accordance with HUD requirements governing the use of program receipts.

§ 984.306 Section 8 residency and portability requirements.

(a) *Relocating FSS family.* For purposes of this section, the term "relocating FSS family" refers to an FSS family that moves from the jurisdiction of a PHA at least 12 months after signing its contract of participation.

(b) *Initial occupancy.* A family participating in section 8 FSS program must lease an assisted unit, for a minimum period of 12 months after the effective date of the contract of participation, in the jurisdiction of the PHA which selected the family for the FSS program. Thereafter, the FSS family may move outside the jurisdiction of the initial PHA consistent with the regulations of 24 CFR parts 882 and 887.

(c) *Portability: relocation but continued participation in the FSS program of the initial PHA*—(1) *General.* A relocating FSS family may continue in the FSS program of the initial PHA if the family demonstrates to the satisfaction of the initial PHA that, notwithstanding the move, the relocating FSS family will be able to fulfill its responsibilities under the initial or modified contract of participation at its new place of residence. (For example, the FSS family may be able to commute to the supportive services specified in the contract of participation, or the family may move to obtain employment as specified in the contract.)

(2) *Single contract of participation.* If the relocating family remains in the FSS program of the initial PHA, there will only be one contract of participation, which shall be the contract executed by the initial PHA.

(d) *Portability: relocation and participation in the FSS program of the receiving PHA*—(1) *General.* A relocating FSS family may participate in the FSS program of the receiving PHA, if the receiving PHA allows the family to participate in its program. A PHA is not obligated to enroll a relocating FSS family in its FSS program.

(2) *Two contracts of participation.* If the receiving PHA allows the relocating FSS family to participate in its FSS program, the receiving PHA will enter into a new contract of participation with the FSS family for the term on the remaining contract with the initial PHA.

The initial PHA will terminate its contract of participation with the family.

(e) *Single FSS account.* Regardless of whether the relocating FSS family remains in the FSS program of the initial PHA or is enrolled in the FSS program of the receiving PHA, there will be a single FSS account which will be maintained by the initial PHA. When an FSS family will be absorbed by the receiving PHA, the initial PHA will transfer the family's FSS account to the receiving PHA.

(f) *FSS program termination; loss of FSS account; and termination of section 8 assistance.* (1) If an FSS family that relocates to another jurisdiction, as provided under this section, is unable to fulfill its obligations under the contract of participation, or any modifications thereto, the PHA, which is party to the contract of participation, may:

(i) Terminate the FSS family from the FSS program and the family's FSS account will be forfeited; and

(ii) Terminate the FSS family's section 8 assistance on the ground that the family failed to meet its obligations under the contract of participation.

(2) In the event of forfeiture of the family's FSS account, the funds in the family's FSS account will revert to the PHA maintaining the FSS account for the family.

Subpart D—Reporting

§ 984.401 Reporting.

Each PHA that carries out an FSS program under this part shall submit to HUD, in the form prescribed by HUD, a report regarding its FSS program. The report shall include the following information:

(a) A description of the activities carried out under the program;

(b) A description of the effectiveness of the program in assisting families to achieve economic independence and self-sufficiency;

(c) A description of the effectiveness of the program in coordinating resources of communities to assist families to achieve economic independence and self-sufficiency; and

(d) Any recommendations by the PHA or the appropriate local program coordinating committee for legislative or administrative action that would improve the FSS program and ensure the effectiveness of the program.

Dated: March 12, 1993.

Michael B. Janis,

General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 93–12326 Filed 5–26–93; 8:45 am]

BILLING CODE 4210–33–M

federal register

Thursday
May 27, 1993

Part III

Department of Housing and Urban Development

Office of the Assistant Secretary

24 CFR Part 905 et al.
Family Self-Sufficiency Program; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Parts 905, 962, 984

[Docket No. R-93-1633; FR-2961-F-03]

RIN 2577-AB15

Family Self-Sufficiency Program

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

ACTION: Final rule.

SUMMARY: The Department adopts as a final rule its interim rule published elsewhere in today's **Federal Register**, which implements the requirements and procedures that will govern local Family Self-Sufficiency (FSS) programs beginning or continuing in Federal Fiscal Year (FY) 1993 (October 1, 1992 through September 30, 1993). The FSS regulations contained in the interim rule, and adopted by this final rule, are based on the notice of FSS program guidelines published in the **Federal Register** on September 30, 1991 (56 FR 49592), take into consideration the public comments received on the guidelines, and incorporate the changes made to the FSS program by the Housing and Community Development Act of 1992.

DATES: Effective Date: May 27, 1994.

FOR FURTHER INFORMATION CONTACT: For section 8 issues: Madeline Hastings, Director, Rental Assistance Division, room 4204. Telephone number (202) 708-2841.

For public housing management issues: Edward Whipple, Director, Occupancy Division, room 4206. Telephone number (202) 708-0744.

For Indian Housing issues: Dominic Nessi, Director, Office of Indian Housing, room 4140. Telephone number (202) 708-1015.

For supportive service issues: Paula Blunt, Supportive Services Coordinator, Office of Resident Initiatives, room 4112. Telephone number (202) 708-4214.

The address for each of these contacts is the Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. The telephone numbers listed are not toll-free numbers. Hearing-impaired persons may contact these offices via TDD by calling (202) 708-9300 or 1-(800) 877-8339.

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act Statement

The information collection requirements contained in this final rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980. The interim rule does not add new information collection requirements to those contained in the Notice of FSS Program Guidelines published on September 30, 1991 at 56 FR 49592, and for which the estimated reporting burden was published at 56 FR 49601. No person may be subjected to a penalty for failure to comply with the information collection requirements contained in this rule until they have been approved and assigned an OMB control number. The OMB control number when assigned will be announced by separate notice in the **Federal Register.**

II. Background

Section 554 of the National Affordable Housing Act (NAHA) (Pub.L. 101-625, approved November 28, 1990) amended the U.S. Housing Act of 1937 (the 1937 Act) by adding new section 23 (42 U.S.C. 1437u) (the FSS statute), which creates the FSS program. The purpose of the FSS program is to promote the development of local strategies that coordinate the use of public housing assistance and housing assistance under the section 8 rental certificate and voucher programs with public and private resources, to enable eligible families to achieve economic independence and self-sufficiency.

As originally enacted, the FSS statute provided that for FY 1991 and FY 1992 participation in the FSS program was voluntary for public housing agencies (PHAs) and Indian housing authorities (IHAs), but that commencing in FY 1993, PHAs and IHAs which receive new public or Indian housing units or new section 8 rental certificates or rental vouchers *must* implement and administer a local FSS program. (The mandatory participation requirement for IHAs was removed by an amendment to section 23 made by the Housing and Community Development Act of 1992 (Pub.L. 102-550, approved October 28, 1992 (1992 Act). The changes made to section 23 by the 1992 Act are discussed in detail in the preamble to the interim rule published elsewhere in today's **Federal Register.**) For those PHAs and IHAs that received an FSS incentive award or that voluntarily participated in the FSS program in FY 1992, their local FSS programs were administered in accordance with program guidelines published by the Department on September 30, 1991 (56 FR 49588) (the FSS Guidelines or Guidelines).

The Guidelines were issued in accordance with the FSS statute, which directs the Department to issue a notice of the requirements necessary to carry out the FSS program not later than the expiration of the 180-day period beginning on the date of enactment of the NAHA (November 28, 1990). The FSS statute also directs the Department to issue final regulations based on the notice not later than the expiration of the eight-month period beginning on the date of the notice, and provides that the final regulations "shall become effective upon the expiration of the 1-year period beginning on the date of the publication of the final regulations."

Although the reason behind the one-year delayed effective date of the FSS final regulations was not explained in the Conference Report accompanying the NAHA, it is the Department's understanding that the intent was to synchronize the effective date of the FSS final regulations with the mandatory implementation and operation of local FSS programs. That is, the Guidelines would govern the FSS program in FY 1991 and FY 1992, when participation in the program was optional for PHAs and IHAs, and the rule would replace the Guidelines when the program became mandatory in FY 1993. Had the Department been able to meet the publication dates set forth in the FSS statute for the notice of Guidelines and the FSS final regulations, the FSS final regulations would be effective in early 1993—the approximate time the Department would be issuing notices of funding availability for new public/Indian housing units and new section 8 rental certificates and vouchers. However, because the NAHA constitutes significant housing legislation, creating several new housing programs (including the HOME Investments Partnerships Program, the Homeownership and Opportunity for People Everywhere (HOPE) programs, the HOPE for Elderly Independence program), all of which require regulatory guidance, the Department's limited resources were hard pressed to meet the statutory deadlines established for issuance of regulations for all these new programs.

In order that the mandatory implementation and operation of local FSS programs, which continues to be required of PHAs, not be without regulatory guidance, the Department is issuing an interim rule which sets forth the regulations in 24 CFR parts 905 (subpart R), 962 and 984, that will govern, respectively, commencing in FY

1993 operation of: HUD's Indian housing FSS program (for those IHAs that opt to participate in this program); HUD's public housing FSS program; and HUD's section 8 rental certificate and voucher FSS programs.

The Department believes that further justification for issuance of the interim rule is found in title I of the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992) (the 1992 Act). Section 106 of title I amends the FSS statute to provide PHAs with increased flexibility in the implementation and administration of FSS programs. (The amendments made to the FSS program by section 106 are discussed in Section III.B. of the preamble to the interim rule.) Section 191 of title I is the "implementation" section of title I, and provides that HUD shall issue any final regulations necessary to implement the provisions of, and amendments made by, title I not later than the expiration of the 180 day period beginning on the date of enactment of the 1992 Act. This implementation section indicates that the Congress intended PHAs to be able to take advantage of the changes made to the FSS program by section 106 earlier than the one year effective date provided by the NAHA.

Accordingly, the interim rule, which is being published elsewhere in today's **Federal Register**, is based on the FSS Guidelines, takes into consideration the public comments received on the Guidelines, and incorporates the changes made to the FSS program by the 1992 Act.

This final rule adopts the regulations contained in the FSS interim rule as the FSS final regulations.

III. Other Matters

Impact on the Economy

This final rule does not constitute a major rule as that term is defined in section 1(b) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. An analysis of the rule indicates that it would not have (1) an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of the United States-based enterprises in domestic or export markets.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that the rule will not have a significant impact on a substantial number of small entities. The rule governs the procedures under which PHAs (and IHAs that elect to participate in the FSS program) use public housing development assistance and section 8 rental assistance, together with public and private resources, to provide an assistance package of housing and supportive services, designed to enable participating families to achieve self-sufficiency. While this rule requires that, commencing in FY 1993, all PHAs receiving new rental units, or new rental certificates and vouchers, must operate an FSS program, this requirement is not based in regulation, but in statute. The rule provides, in accordance with statutory authority, that PHAs may be excepted from operating an FSS program, or may be permitted to operate a smaller FSS program, if local circumstances make it infeasible for the PHA to operate an FSS program of minimum size, or any size FSS program. The FSS statute, however, provides no exemption from operation of an FSS program solely on the basis that a PHA is a small PHA. The FSS statutory requirements, as implemented by this rule, apply to all PHAs regardless of size.

Environmental Impact

With respect to this rule, a Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implements section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA). The rule does not concern the development of public or Indian housing projects or units to be assisted under the section 8 rental certificate or voucher programs, or other activities with the potential for significant physical impacts. The rule concerns requirements for the provision of supportive services, which, under 24 CFR 50.20(o) and 50.19, have been categorically excluded from NEPA review or compliance under the environmental laws listed in 24 CFR 50.4 due to lack of physical impact. This Finding of No Significant Impact remains applicable to this rule, and is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, room 10276, 451 Seventh Street, SW., Washington, DC 20410.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that the rule may have a significant impact on the maintenance and general well-being of some families. The objective of the Family Self-Sufficiency program is to assist low-income families move from economic dependency to economic independence. The objective of this rule is to provide the regulatory guidance that PHAs may require to successfully achieve the objectives of this program. Since the impact on the family is considered beneficial, no further review under the order is necessary.

Executive Order 12612 Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that this rule would not have substantial, direct effects on States, on their political subdivisions, or on their relationship with the Federal government, or on the distribution of power and responsibilities among the various levels of government. The rule is limited to implementing the procedures under which PHAs and IHAs will operate local Family Self-Sufficiency programs. The Family Self-Sufficiency program is an assistance program, the objective of which is to aid families in obtaining economic independence by providing these families with affordable housing and supportive services which will help them reach this goal.

Regulatory Agenda

This rule was listed as sequence number 1569 in the Department's Semiannual Agenda of Regulations, published on April 26, 1993 (58 FR 24382, 24435) under Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects

24 CFR Part 905

Grant programs—Indians, Low and moderate income housing, Aged, Grant programs—housing and community development, Handicapped, Indians, Loan programs—housing and community development, Loan programs—Indians, Public housing, Reporting and recordkeeping requirements.

24 CFR Part 962

Grant programs—housing and community development, Public

housing, Reporting and recordkeeping requirements.

24 CFR Part 984

Grant programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements.

Final Rule

Accordingly, the interim rule which amends title 24 of the Code of Federal Regulations to add a new subpart R to part 905, and to add new parts 962 and 984, which is published elsewhere in today's **Federal Register** is hereby adopted as a final rule.

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

Dated: March 12, 1993.

Michael B. Janis,

General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 93–12327 Filed 5–26–93; 8:45 am]

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federal register

Thursday
May 27, 1993

Part IV

Department of Education

Federal Pell Grant, et al.; Revision of the Need Analysis Methodology for the 1994–95 Award Year; Notice

DEPARTMENT OF EDUCATION

Federal Pell Grant, Federal Perkins Loan, Federal Work-Study, Federal Supplemental Educational Opportunity Grant, and Federal Stafford Loan Programs; Revision of the Need Analysis Methodology for the 1994–95 Award Year

AGENCY: Department of Education.

ACTION: Notice.

SUMMARY: The Secretary of Education announces the annual update to the tables used in the need analysis methodology that an institution of higher education must use in calculating expected family contributions for the 1994–95 award year under the Federal Pell Grant, campus-based (Federal Perkins Loan, Federal Work-Study, and Federal Supplemental Educational Opportunity Grant), and Federal Stafford Loan programs. The Secretary takes this action under the authority of title IV of the Higher Education Act of 1965, as amended (HEA).

FOR FURTHER INFORMATION CONTACT: Ms. Edith Bell, Program Specialist, General Provisions Branch, Division of Policy Development, U.S. Department of Education, 400 Maryland Avenue, SW. (Room 4318, ROB–3), Washington, DC 20202–5444, telephone (202) 708–7888. Deaf and hearing impaired individuals may call the Federal Information Relay Service at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The need analysis methodology is used to determine student eligibility for assistance under title IV of the HEA. This methodology, referred to as the Federal Needs Analysis Methodology, is used to calculate the expected family contribution (EFC) for the Federal Pell Grant Program, the campus-based (Federal Perkins Loan, Federal Work-Study, and Federal Supplemental Educational Opportunity Grant) and Federal Stafford Loan programs. This methodology is established by statute.

Federal Needs Analysis Methodology

Part F of title IV of the HEA specifies the criteria, data elements, calculations, and tables for the computation of expected family contributions for the Federal Pell Grant, campus-based and Federal Stafford Loan programs. In addition, section 478 requires the Secretary to adjust four of the tables—the Income Protection Allowance, the Adjusted Net Worth of a Business or Farm, the Education Savings and Asset Protection Allowance, and the Assessment Schedules and Rates—each award year to take into account inflation for the 12 months between December 31 of the previous year and December 31 of the current year. The changes are based, in general, upon increases in the Consumer Price Index.

For the award year 1994–95, the Secretary is charged with updating the income protection allowances, adjusted net worth of a business or farm, and the assessment schedules and rates to account for inflation that took place between December 1992 and December 1993. However, since the Secretary must publish these tables before December 1993, the increases in the tables must be based upon a percentage equal to the estimated percentage increase in the Consumer Price Index for all Urban Consumers for 1992. The Secretary estimates that the increase in the Consumer Price Index for all Urban Consumers for the period December 1992 through December 1993 will be 3.0 percent. The updated tables for the 1994–95 award year are set forth in sections 1, 2, and 4.

The Secretary must also revise for each award year the table on asset protection allowance as provided for in section 478(d) of the HEA. The Education Savings and Asset Protection Allowance table for the award year 1994–95 has been updated below in section 3.

Section 477(b)(5) also requires the Secretary to increase the amount specified for the Employment Expense Allowance to account for inflation based upon increases in the Bureau of Labor Statistics budget of the marginal costs for a two-earner compared to a one-earner family for meals away from home, apparel and upkeep, transportation, and housekeeping services. Therefore, the Secretary is increasing this allowance as described in section 5.

The HEA provides for the following annual updates:

1. Income Protection Allowance

This allowance is the amount of reasonable living expenses that would be associated with the maintenance of an individual or family. The allowance is offset against the family's income and varies by family size. The income protection allowances for parents of dependent students and independent students with dependents other than a spouse for the award year 1994–95 are:

Family size (including student)	Number in college				
	1	2	3	4	5
2	$10,840	$8,980	.....	.....	.....
3	13,490	11,650	$9,800	.....	.....
4	16,670	14,810	12,970	$11,110	.....
5	19,660	17,810	15,970	14,110	$12,270
6	23,000	21,150	19,300	17,450	15,600

Note.—For each additional family member add $2,600. For each additional college student subtract $1,840.

2. Adjusted Net Worth (NW) of a Business or Farm

A portion of the full net value of a farm or business is excluded from the calculation of an expected contribution since: (1) the income produced from such assets is already assessed in another part of the formula; and (2) the formula protects a portion of the value of the assets. The portion of these assets included in the contribution calculation is computed according to the following schedule. This schedule is used for parents of dependent students, independent students without dependents other than a spouse, and independent students with dependents other than a spouse.

If the net worth of a business or farm is—	Then the adjusted net worth is—
Less than $1	$0.
$1 to $75,000	$0+40% of NW.
$75,001 to $230,000 .	$30,000+50% of NW over $75,000.
$230,001 to $385,000	$107,500+60% of NW over $230,000.
$385,001 or more	$200,500+100% of NW over $385,000.

3. Education Savings and Asset Protection Allowance

This allowance protects a portion of net worth (assets less debts) from being considered available for postsecondary educational expenses. There are three asset protection allowance tables—one for parents of dependent students, one for independent students without dependents other than a spouse, and one for independent students with dependents other than a spouse.

DEPENDENT STUDENTS

If the age of the older parent is—	Then the allowance is—	
	Two parents	One parent
25 or less	$0	$0
26	2,100	1,500
27	4,300	3,100
28	6,400	4,600
29	8,600	6,200
30	10,700	7,700
31	12,900	9,200
32	16,000	10,800
33	17,200	12,300
34	19,300	13,900
35	21,500	15,400
36	23,600	16,900
37	25,800	18,500
38	27,900	20,000
39	30,100	21,600
40	32,200	23,100
41	33,000	23,500
42	33,900	24,100
43	34,700	24,500
44	35,400	25,100
45	36,300	25,600
46	37,200	26,200
47	38,500	26,900
48	39,400	27,500
49	40,500	28,000
50	41,500	28,700
51	42,800	29,400
52	43,900	30,300
53	45,300	31,000
54	46,700	31,800
55	47,900	32,500
56	49,400	33,500
57	50,900	34,300
58	52,500	35,300
59	54,400	36,300
60	56,000	37,200
61	58,100	38,200
62	59,800	39,300
63	61,900	40,400
64	64,100	41,800
65 or more	66,300	42,900

INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE

If the age of the student is—	Then the allowance is—	
	Married	Unmarried
25 or less	$0	$0
26	2,100	1,500
27	4,300	3,100

INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE—Continued

If the age of the student is—	Then the allowance is—	
	Married	Unmarried
28	6,400	4,600
29	8,600	6,200
30	10,700	7,700
31	12,900	9,200
32	16,000	10,800
33	17,200	12,300
34	19,300	13,900
35	21,500	15,400
36	23,600	16,900
37	25,800	18,500
38	27,900	20,000
39	30,100	21,600
40	32,200	23,100
41	33,000	23,500
42	33,900	24,100
43	34,700	24,500
44	35,400	25,100
45	36,300	25,600
46	37,200	26,200
47	38,500	26,900
48	39,400	27,500
49	40,500	28,000
50	41,500	28,700
51	42,800	29,400
52	43,900	30,300
53	45,300	31,000
54	46,700	31,800
55	47,900	32,500
56	49,400	33,500
57	50,900	34,300
58	52,500	35,300
59	54,400	36,300
60	56,000	37,200
61	58,100	38,200
62	59,800	39,300
63	61,900	40,400
64	64,100	41,800
65 or more	66,300	42,900

INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE

If the age of the student is—	Then the allowance is—	
	Married	Unmarried
25 or less	$0	$0
26	2,100	1,500
27	4,300	3,100
28	6,400	4,600
29	8,600	6,200
30	10,700	7,700
31	12,900	9,200
32	16,000	10,800
33	17,200	12,300
34	19,300	13,900
35	21,500	15,400
36	23,600	16,900
37	25,800	18,500
38	27,900	20,000
39	30,100	21,600
40	32,200	23,100
41	33,000	23,500
42	33,900	24,100
43	34,700	24,500

INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE—Continued

If the age of the student is—	Then the allowance is—	
	Married	Unmarried
44	35,400	25,100
45	36,300	25,600
46	37,200	26,200
47	38,500	26,900
48	39,400	27,500
49	40,500	28,000
50	41,500	28,700
51	42,800	29,400
52	43,900	30,300
53	45,300	31,000
54	46,700	31,800
55	47,900	32,500
56	49,400	33,500
57	50,900	34,300
58	52,500	35,300
59	54,400	36,300
60	56,000	37,200
61	58,100	38,200
62	59,800	39,300
63	61,900	40,400
64	64,100	41,800
65 or more	66,300	42,900

4. Assessment Schedules and Rates

Two separate assessment schedules—one for dependent students, and one for independent students with dependents other than a spouse—are used in determining the expected family contribution toward educational expenses from family financial resources.

For dependent students, the expected parental contribution is derived from an assessment of the parents' adjusted available income (AAI). For independent students with dependents other than a spouse, the expected contribution is derived from an assessment of the family's AAI. The AAI represents a measure of financial strength which considers both income and assets.

DEPENDENT STUDENTS

If the AAI is—	Then the contribution is—
Less than −$3,409	−$750.
−$3,409 to $9,700	22% of AAI.
$9,701 to $12,200	$2,134+25% of AAI over $9,700.
$12,201 to $14,600	$2,759+29% of AAI over $12,200.
$14,601 to $17,100	$3,455+34% of AAI over $14,600.
$17,101 to $19,600	$4,305+40% of AAI over $17,100.
$19,601 or more	$5,305+47% of AAI over $19,600.

INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE

If the AAI is—	Then the contribution is—
Less than −$3,409	−$750.
−$3,409 to $9,700	22% of AAI.
$9,701 to $12,200	$2,134 + 25% of AAI over $9,700.
$12,201 to $14,600	$2,759 + 29% of AAI over $12,200.
$14,601 to $17,100	$3,455 + 34% of AAI over $14,600.
$17,101 to $19,600	$4,305 + 40% of AAI over $17,100.
$19,601 or more	$5,305 + 47% of AAI over $19,600.

5. Employment Expense Allowance

This allowance for employment-related expenses, which is used for the parents of dependent students and for married independent students with dependents, recognizes additional expenses incurred by working spouses and single-parent households. The allowance is based upon the marginal differences in costs for a two-earner family compared to a one-earner family for meals away from home, apparel and upkeep, transportation, and housekeeping services.

The employment expense allowance for parents of dependent students, married independent students without dependents other than a spouse, and independent students with dependents other than a spouse is the lesser of $2,500 or 35 percent of earned income.

6. Allowance for State and Other Taxes

This allowance for state and other taxes protects a portion of the parents' and students' income from being considered available for postsecondary education expenses. There are four tables for state and other taxes, one each for parents of dependent students, dependent students, independent students without dependents other than a spouse, and independent students with dependents other than a spouse.

PARENTS OF DEPENDENT STUDENT

If parents' State or territory of residence is	And parents' total income is—	
	Less than $15,000 or	$15,000 or more
	Then the percentage is	
Wyoming, Tennessee, Nevada, Alaska, Texas	3	2
Louisiana, Florida, Washington, South Dakota	4	3

PARENTS OF DEPENDENT STUDENT—Continued

If parents' State or territory of residence is	And parents' total income is—	
	Less than $15,000 or	$15,000 or more
Alabama, Mississippi	5	4
North Dakota, Illinois, Connecticut, New Mexico, Missouri, West Virginia, Arizona, Indiana, Oklahoma, Arkansas	6	5
New Hampshire, Pennsylvania, Colorado, Georgia, Kansas, Kentucky, Idaho	7	6
North Carolina, Virginia, Delaware, South Carolina, Ohio, Utah, Nebraska, Montana, California, New Jersey, Iowa, Vermont, Hawaii	8	7
Massachusetts, Rhode Island, Michigan, Minnesota, Maine, Maryland	9	8
District of Columbia, Wisconsin, Oregon	10	9
New York	11	10
Other	4	3

INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE

If students' State or territory of residence is	And students' total income is—	
	Less than $15,000 or	$15,000 or more
	Then the percentage is—	
Wyoming, Tennessee, Nevada, Alaska, Texas	3	2
Louisiana, Florida, Washington, South Dakota	4	3
Alabama, Mississippi	5	4
North Dakota, Illinois, Connecticut, New Mexico, Missouri, West Virginia, Arizona, Indiana, Oklahoma, Arkansas	6	5
New Hampshire, Pennsylvania, Colorado, Georgia, Kansas, Kentucky, Idaho	7	6

INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE—Continued

If students' State or territory of residence is	And students' total income is—	
	Less than $15,000 or	$15,000 or more
North Carolina, Virginia, Delaware, South Carolina, Ohio, Utah, Nebraska, Montana, California, New Jersey, Iowa, Vermont, Hawaii	8	7
Massachusetts, Rhode Island, Michigan, Minnesota, Maine, Maryland	9	8
District of Columbia, Wisconsin, Oregon	10	9
New York	11	10
Other	4	3

DEPENDENT STUDENTS

If students' State or territory of residence is	The percentage is—
Alaska, Texas, South Dakota, Wyoming, Washington, Tennessee, Nevada	0
Florida, New Hampshire	1
Connecticut, Louisiana, Illinois, North Dakota	2
Mississippi, Arizona, Alabama, Pennsylvania, New Jersey, Missouri	3
Nebraska, Indiana, Colorado, New Mexico, Oklahoma, Kansas, West Virginia, Rhode Island, Virginia, Georgia, Arkansas, Vermont, Michigan	4
Montana, Idaho, Utah, Kentucky, Massachusetts, California, North Carolina, South Carolina, Ohio, Iowa, Delaware, Maine, Wisconsin	5
Oregon, Maryland, Minnesota, Hawaii	6
District of Columbia, New York	7
Other	2

INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE

If students' State or territory of residence is	The percentage is—
Alaska, Texas, South Dakota, Wyoming, Washington, Tennessee, Nevada	0
Florida, New Hampshire	1
Connecticut, Louisiana, Illinois, North Dakota	2

INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE—Continued

If students' State or territory of residence is	The percentage is—
Mississippi, Arizona, Alabama, Pennsylvania, New Jersey, Missouri	3
Nebraska, Indiana, Colorado, New Mexico, Oklahoma, Kansas, West Virginia, Rhode Island, Virginia, Georgia, Arkansas, Vermont, Michigan	4
Montana, Idaho, Utah, Kentucky, Massachusetts, California, North Carolina, South Carolina, Ohio, Iowa, Delaware, Maine, Wisconsin	5
Oregon, Maryland, Minnesota, Hawaii	6
District of Columbia, New York	7
Other	2

(Catalog of Federal Domestic Assistance Numbers: 84.007 Federal Supplemental Educational Opportunity Grant; 84.032 Federal Stafford Loan Program; 84.033 Federal Work-Study Program; 84.038 Federal Perkins Loan Program; 84.063 Federal Pell Grant Program)

Dated: May 20, 1993.

Maureen A. McLaughlin

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 93–12490 Filed 5–26–93; 8:45 am]

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Thursday
May 27, 1993

Part V

Department of Education

34 CFR Parts 462 and 472
State-Administered Workplace Literacy Program; National Workplace Literacy Program; Proposed Rule

DEPARTMENT OF EDUCATION

34 CFR Parts 462 and 472

RIN 1830–AA11

State-Administered Workplace Literacy Program; National Workplace Literacy Program

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend existing regulations that govern the State-Administered Workplace Literacy Program and the National Workplace Literacy Program. These amendments are needed to increase project accountability and to make technical changes. The regulations provide rules for applying for and expending Federal funds under these programs.

DATES: Comments must be received on or before June 28, 1993.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Dr. Thomas L. Johns, Director, Policy Analysis Staff, Office of Vocational and Adult Education, U.S. Department of Education, (Mary E. Switzer Building, room 4050), 400 Maryland Avenue, SW., Washington, DC 20202–7120.

A copy of any comments that concern the information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Mrs. Sharon A. Jones, Department of Education, 400 Maryland Avenue SW., room 4050, Mary E. Switzer Building, Washington, DC 20202–7120. Telephone: (202) 205–8237. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

The State-Administered Workplace Literacy Program and the National Workplace Literacy Program are important steps toward achieving the National Education Goals. Specifically, the workplace literacy programs address Goal 5, that every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship. Moreover, the National Workplace Literacy Program supports this goal by providing grants to exemplary partnerships between a business, industry, or labor organization, or a private industry council and an education organization to support work-related literacy education.

These proposed regulations would increase the accountability of workplace literacy projects. The Department is implementing this strategy in order to expand the demonstration and dissemination activities of projects, thereby increasing the number of instructional approaches, materials, and techniques for providing work-related literacy education that are submitted to and approved by the Department's Program Effectiveness Panel, and subsequently made available to practitioners.

Summary of Major Provisions

The following is a summary of the major regulatory provisions the Secretary is proposing in the NPRM. The NPRM includes minor technical corrections in the existing regulations. These minor technical corrections are not discussed.

State-Administered Workplace Literacy Program

The NPRM would revise §§ 462.30 and 462.32 to require partners to enter into a binding agreement that details the role of each partner and is submitted with the application. An identical requirement is in the regulations governing the National Workplace Literacy Program. Through its experience in administering this program, the Department has observed that a binding partnership agreement is critical to the success of workplace projects involving multiple partners. Requiring a partnership agreement under the State-administered program will strengthen accountability and further ensure the success of projects funded under that program.

National Workplace Literacy Program

(1)(a) *Definition of employment and training agency.* The NPRM would revise the definition of "employment and training agency" in § 472.5(b) in order to clarify that employment and training agencies under the workplace literacy programs are nonprofit agencies. This change would codify the Secretary's interpretation of that definition, and would restrict the participation of for-profit employment and training firms to participation as "businesses and industry organizations" as defined in § 472.5.

(b) *Definition of project director.* The NPRM would amend § 472.5(b) to define the term "project director" as the person with day-to-day operational responsibility for the project. Section 472.32(e) would require each recipient of an award to provide for a project director. The project director would participate in conferences sponsored by the Department to improve project accountability.

(2) *Preapplications.* Section 472.10 allows the Secretary to require applicants to submit a preapplication if the Secretary includes that requirement in an application notice published in the **Federal Register**. Section 472.11 establishes the conditions under which the Secretary can consider such an application. The NPRM would delete Subpart B containing these sections because the preapplication process has never been used and is not expected to be used in the future.

(3) *Small businesses.* Section 472.21(e) is being added to establish the conditions under which an applicant may be awarded the statutorily mandated preference for including a small business in a partnership. Corresponding changes are being made to § 472.5(b) with the addition of a definition of "small business" that is based on the Small Business Administration's definition of that term, and to § 472.20 with the deletion of paragraph (c).

(4) *Accountability.* Generally, the regulations governing the National Workplace Literacy Program would be revised to increase the accountability of projects funded under this program and thereby ensure that these demonstration projects further contribute to the improvement of education. This approach is designed to expand the demonstration and dissemination activities of projects and to increase the number of instructional approaches, materials, and techniques for providing workplace literacy that are submitted to and approved by the Department's Program Effectiveness Panel and subsequently made available to practitioners. The following provisions would be changed to implement this strategy:

(a) *Selection criteria.* The selection criteria in § 472.22 would be revised to focus on projects that undertake more activities of a demonstration nature, clearly identify promising practices, and disseminate information to inform policy and practice in the broad field of workplace literacy. Specifically, the selection criteria encourage partnerships to—

(i) Focus on improving performance in jobs or job functions that have a broad representation within the Nation's workforce so that products can be

adapted for use by similar workplaces nationwide;

(ii) Develop or use curriculum materials for adults based on literacy skills needed in the workplace;

(iii) Develop curriculum and instructional materials and methods, and test and revise them so that promising practices may be clearly identified and adopted by other worksites of a similar type;

(iv) Provide, and document for others, structured programs of staff training in such areas as curriculum development and special methods of teaching most effective for workplace environments;

(v) Submit in their applications a plan to disseminate the results of proposed projects; and

(vi) Include evaluations that collect evidence verifying the effectiveness of the projects' practices thus making project outcomes more suitable for submission to the Department's Program Effectiveness Panel (PEP). The PEP validates and promotes proven practices in education that can be replicated at other sites.

(b) *Commitment.* The selection criterion in § 472.22(h)(2) would be added to encourage applicants to show how partners plan to establish a program of workplace literacy services that can continue after the Federal funding ends. This would permit the workplace training initiated with Federal funds to be sustained and integrated into the long-term planning of partner organizations.

Under the National Workplace Literacy Program, it is generally an education partner's role to design a work-related literacy curriculum for specific types of jobs for business and labor organizations that are also partners in the project. However, a project's promising practices can benefit these partners both during and after the project itself. Therefore, business and labor partners are encouraged to plan to use non-Federal funds to extend the Federal investment in training to workers that have not been served by a project. Workers who have been served may also benefit from additional training based on outcomes of the project. Integration of literacy services into the culture of the workplace reflects a commitment to carry out the broad purposes of the National Workplace Literacy Program. Of course, the new selection criterion concerning commitment is not intended to reduce efforts to demonstrate innovative approaches during the period of Federal funding or to encourage unnecessary training after that funding has ended. The Secretary is particularly interested in receiving comments on this criterion, including any effects it might have on small businesses.

(c) *Extended grant period.* The heightened emphasis on demonstration and dissemination activities would necessitate a lengthening of the grant period to three years, as authorized by section 371(a)(6) of the Adult Education Act, in order to allow for the testing and revision of promising practices.

(d) *Start-up period.* Section 472.32(b) would be revised to extend the three-month start-up period currently authorized to one that does not exceed six months. The extension of the start-up period would benefit projects by allowing additional time for curriculum development and staff training activities.

(e) *Reporting.* To ensure adequate progress over the extended grant period, § 472.30(b) of the NPRM would add a new requirement for projects to submit performance and financial reports to the Secretary at least semi-annually. The semi-annual report is designed to increase program accountability, track project progress, and ensure that comparable data concerning activities of the National Workplace Literacy Program are available. The Secretary anticipates use of a two-page report form that would request data on the number and type of learners and sites served, learner outcomes, and total Federal spending during the reporting period. Under proposed § 472.31(f), the Secretary could determine that a grantee fully or partially met the reporting requirements in § 472.30 if it had cooperated in a Federal evaluation of its project.

The Secretary is interested in receiving comments on whether semi-annual reports would be overly burdensome.

(f) *Evaluation requirements.* A new § 472.31 would be added to strengthen the evaluation requirements under this program. A project would be required to plan and budget for an independent evaluation that collects evidence supporting the effectiveness of its practices.

(5) *Circumstances under which a project may continue despite the withdrawal of a partner from a partnership.* Section 472.34 of the NPRM would add regulations to establish the conditions under which a project may continue despite the withdrawal of a partner. These regulations are intended to accommodate partners who, during an extended project period, become unable to perform their role in the partnership because of unanticipated changes in market, labor, and related conditions. The Secretary anticipates that the withdrawal of a partner would be rare and will be allowed only if the conditions in § 472.34 are fully satisfied.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities.

The small entities that would be affected by these proposed regulations are small local educational agencies, institutions of higher education, schools, businesses, industries, or labor or other organizations receiving Federal funds under this program. However, the regulations would not have a significant economic impact on the small entities affected because the regulations would not impose excessive regulatory burdens or require unnecessary Federal supervision. The regulations would impose minimal requirements to ensure the proper expenditure of program funds.

Paperwork Reduction Act of 1980

Sections 462.30, 462.32, 472.22, and 472.31 contain information collection requirements. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these sections to the Office of Management and Budget (OMB) for its review (44 U.S.C. 3504(h)).

These regulations affect the following types of entities eligible to apply for funds under the Workplace Literacy Program: State educational agencies, local educational agencies, institutions of higher education, schools (including area vocational schools), employment and training agencies, community-based organizations, businesses, industries, labor organizations, and private industry councils. The Department needs and uses the information to make grants, to monitor the compliance of grantees, and to increase the accountability of recipients.

Annual public reporting and recordkeeping burden for this collection of information is estimated to average 90 hours per response for 300 respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Organizations and individuals desiring to submit comments on the

information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, room 3002, New Executive Office Building, Washington, DC 20503; Attention: Daniel J. Chenok.

Intergovernmental Review

These programs are subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in room 4050, 330 C Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects

34 CFR Part 462

Adult education, Business and industry, Labor unions, Reporting and recordkeeping requirements, Workplace literacy.

34 CFR Part 472

Adult education, Business and industry, Labor unions, Reporting and recordkeeping requirements, and Workplace literacy.

(Catalog of Federal Domestic Assistance Number 84.198 National Workplace Literacy Program. Catalog of Federal Domestic Assistance Number has not been assigned for the State-Administered Workplace Literacy Program)

Dated: May 20, 1993.

Richard W. Riley,

Secretary of Education.

The Secretary proposes to amend parts 462 and 472 of title 34 of the Code of Federal Regulations as follows:

PART 462—STATE-ADMINISTERED WORKPLACE LITERACY PROGRAM

1. The authority citation for part 462 continues to read as follows:

Authority: 20 U.S.C. 1211a(b), unless otherwise noted.

2. Section 462.30 is amended by adding a new paragraph (c) to read as follows:

§ 462.30 Who is eligible to apply to a State for an award?

* * * * *

(c) The partners shall enter into an agreement, in the form of a single document signed by all partners, designating one member of the partnership as the applicant and the subgrantee or contractor. The agreement must also detail the role each partner plans to perform and bind each partner to every statement and assurance made in the application.

3. Section 462.32 is revised to read as follows:

§ 462.32 What are the local application requirements?

A local partnership application, submitted to an SEA for funding under the State-administered Workplace Literacy Program, must contain—

(a) The information in section 371(a)(4) of the Act; and

(b) A signed partnership agreement as described in § 462.30(c).

(Authority: 20 U.S.C. 1211(b)(5))

PART 472—NATIONAL WORKPLACE LITERACY PROGRAM

4. The authority citation for part 472 continues to read as follows:

Authority: 20 U.S.C. 1211(a), unless otherwise noted.

5. Part 472 is amended by removing and reserving subpart B.

6. Section 472.5 is amended by revising paragraph (a) and the definition of "Employment and training agency" in paragraph (b) and by adding new definitions of "Project director" and "Small business" to paragraph (b) in alphabetical order to read as follows:

§ 472.5 What definitions apply?

(a) The definitions in 34 CFR 460.4 apply to this part.

(b) * * *

Employment and training agency includes any nonprofit agency that provides—as a substantial portion of its activity—employment and training services, either directly or through contract.

* * * * *

Project director means the person with day-to-day operational responsibility for the project.

* * * * *

Small business means a business entity that—

(1) Is organized for profit, with a place of business located in the United States and that makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials, or labor, or both; and

(2) May be in the legal form of an individual proprietorship, partnership, corporation, joint venture, association, trust or a cooperative, except that where the form is a joint venture there can be no more than 49 percent participation by foreign business entities in the joint venture; and

(3) Meets the requirements found in 13 CFR part 121 concerning Standard Industrial Classification codes and size standards.

§ 472.20 [Amended]

7. Section 472.20 is amended by removing paragraph (c).

8. Section 472.21 is amended by revising paragraph (b) and adding a new paragraph (e) to read as follows:

§ 472.21 How does the Secretary evaluate an application?

* * * * *

(b) The Secretary may award up to 100 points, including a reserved 10 points to be distributed in accordance with paragraph (d) of this section, based on the criteria in § 472.22.

* * * * *

(e) In addition to the points to be awarded based on the criteria in § 472.22, the Secretary awards five points to applications from partnerships that include as a partner a small business that has signed the partnership agreement.

9. Section 472.22 is amended by removing the word "and" after the semicolon at the end of paragraph (a)(3); removing the period at the end of paragraph (a)(4), and adding, in its place, "; and"; adding a new paragraph (a)(5); revising paragraph (b), introductory text; revising paragraph

(c)(1); removing the word "and" after the semicolon at the end of paragraph (c)(3); removing the period at the end of paragraph (c)(4), and adding, in its place, "; and"; adding a new paragraph (c)(5); revising paragraph (d), introductory text; removing the word "and" after the semicolon at the end of paragraph (d)(2)(iii); adding the word "and" after the semicolon at the end of paragraph (d)(2)(iv); adding a new paragraph (d)(2)(v); revising paragraph (e), introductory text; revising paragraph (e)(2)(i); revising paragraph (f), introductory text; removing the word "and" after the semicolon at the end of paragraph (f)(4); removing the period at the end of paragraph (f)(5), and adding, in its place, "; and"; adding a new paragraph (f)(6) and a "Note to § 472.22(f)(6)" following the paragraph; revising paragraph (g), introductory text; and adding a new paragraph (h) to read as follows:

§ 472.22 What selection criteria does the Secretary use?

(a) * * *

(5) Focuses on improving performance in jobs or job functions that have a broad representation within the Nation's workforce so that the products can be adapted for use by similar workplaces across the Nation.

(b) *Extent of need for the project.* (10 points) * * *

* * * * *

(c) * * *

(1) Develop or use curriculum materials for adults based on literacy skills needed in the workplace;

* * * * *

(5) Provide, and document for others, a program of training for staff including, but not limited to, techniques of curriculum development and special methods of teaching that are appropriate for workplace environments.

(d) *Plan of operation.* (15 points) * * *

* * * * *

(2) * * *

(v) A realistic time table for accomplishing project objectives;

* * * * *

(e) *Applicant's experience and quality of key personnel.* (8 points) * * *

* * * * *

(2) * * *

(i) The qualifications, in relation to project requirements, of the project director;

* * * * *

(f) *Evaluation plan.* (10 points) The Secretary reviews each application to determine the quality of the plan for an independent evaluation of the project, including the extent to which the applicant's methods of evaluation—

* * * * *

(6) Will yield results that can be summarized and submitted to the Secretary for review by the Department's Program Effectiveness Panel.

Note to § 472.22(f)(6): The Program Effectiveness Panel (PEP) is the Department's primary mechanism for validating the effectiveness of educational programs developed by schools, universities, and other agencies. The PEP is composed of experts in the evaluation of educational programs and in other areas of education, at least two-thirds of whom are non-Federal employees who are appointed by the Secretary. Regulations governing the PEP are codified in 34 CFR parts 785 through 789. Specific criteria for PEP review are found in 34 CFR 786.12 or 787.12.

(g) *Budget and cost-effectiveness.* (7 points) * * *

* * * * *

(h) *Demonstration and commitment.* (10 points)

(1) The quality of the applicant's plan, during the grant period, to disseminate the results of the project, including—

(i) Demonstrating promising practices used by the project to others interested in implementing these techniques;

(ii) Conducting workshops or delivering papers at national conferences or professional meetings; and

(iii) Making available material that will help others implement promising practices developed in the project.

(2) The quality of the applicant's plan to continue the program after Federal funding has ceased, including—

(i) Continued provision or expansion of work-based literacy services built on the outcomes of the funded project; and

(ii) Integration of workplace literacy services into long-term planning of partner organizations.

§ § 472.30, 472.31 [Redesignated as §§ 472.32, 472.33]

10. Sections 472.30 and 472.31 are redesignated as §§ 472.32 and 472.33, respectively.

11. A new § 472.30 is added to read as follows:

§ 472.30 What are the reporting requirements?

(a) A recipient of a grant or cooperative agreement under this program shall submit to the Secretary performance and financial reports.

(b) These reports must be submitted at times required by the Secretary and at least semi-annually.

(c) These reports must contain information required by the Secretary.

(Authority: 20 U.S.C. 1211(a))

12. A new § 472.31 and "Note to § 472.31" are added to read as follows:

§ 472.31 What are the evaluation requirements?

(a) Each recipient of a grant or cooperative agreement under this program shall provide and budget for an independent evaluation of project activities.

(b) The evaluation must be both formative and summative in nature.

(c) The evaluation must be based on student learning gains and the effects of job advancement, job performance (including, for example, such elements as productivity, safety, and attendance), and project and product spread and transportability.

(d) A proposed project evaluation design for the entire project period, expanding on the plans outlined in the application pursuant to § 472.22(f), must be submitted to the Secretary for review and approval prior to the end of the first year of the project period.

(e) A summary of evaluation activities and results that can be reviewed by the Department's Program Effectiveness Panel, as described in 34 CFR parts 785 through 789, must be submitted to the Secretary during the last year of the project period.

(f) If a grantee cooperates in a Federal evaluation of its project, the Secretary may determine that the grantee fully or partially meets the evaluation requirements of this section and the reporting requirements in § 472.30.

(Authority: 20 U.S.C. 1211(a))

Note to § 472.31: As used in § 472.31(c)—

"*Spread*" means the degree to which—

(1) Project activities and results are demonstrated to others;

(2) Technical assistance is provided to others to help them replicate project activities and results;

(3) Project activities and results are replicated at other sites; or

(4) Information and material about or resulting from the project are disseminated; and

"*Transportability*" means the ease by which project activities and results may be replicated at other sites, such as through the development and use of guides or manuals that provide step-by-step directions for others to follow in order to initiate similar efforts and reproduce comparable results.

13. Section 472.32, as redesignated, is amended by revising paragraphs (b), (d)(1), and (e) to read as follows:

§ 472.32 What other requirements must be met under this program?

* * * * *

(b)(1) The project period may include a start-up period, not to exceed six months, during which the project is

being established and prior to the time services are provided to adult workers.

(2) Applicants shall minimize the start-up period, if any, proposed for their projects.

* * * * *

(d) * * *

(1) 100 percent of the administrative costs incurred in establishing a project during the start-up period described in paragraph (b) of this section by an SEA, LEA, or other entity described in § 472.2(a), that receives a grant under this part; and

* * * * *

(e) Each recipient of an award under this program shall provide for a project director.

14. A new § 472.34 is added to read as follows:

§ 472.34 Under what circumstances may a project continue if a partner withdraws?

(a) A project may continue despite the withdrawal of a partner that is unable to perform its role as outlined in the grant award document if the following conditions are met:

(1) Written approval is given by the Secretary.

(2) The partnership continues to meet the requirements in § 472.2(b).

(3) The partnership will be able to complete the remainder of the project.

(4) The partner's withdrawal will not cause a change in the scope or objectives of the grant or cooperative agreement.

(b) In determining that the condition in paragraph (a)(4) of this section is satisfied, the Secretary considers such factors as whether—

(1) A similar new partner will sign the partnership agreement and agree to carry out the role of the withdrawing partner as described in the grant agreement;

(2) One or more of the remaining partners will agree to carry out the role of the withdrawing partner as described in the grant agreement; or

(3) One or more of the remaining partners will expand its activities as approved under the grant in order to compensate for the activities that would have been carried out under the grant agreement by the partner that is withdrawing without a change in the project's scope or objectives.

(Authority: 20 U.S.C. 1211(a))

[FR Doc. 93–12491 Filed 5–26–93; 8:45 am]

BILLING CODE 4000–01–P

federal register

Thursday
May 27, 1993

Part VI

Department of Education

Institutional Quality Assurance Program; Notice

DEPARTMENT OF EDUCATION

Institutional Quality Assurance Program

AGENCY: Department of Education.

ACTION: Notice of deadline date for participation in the Institutional Quality Assurance Program and revision of selection criteria.

SUMMARY: The Secretary issues a deadline date for the submission of a written notice by an institution that it wishes to participate in the Institutional Quality Assurance (IQA) Program and amends the criteria used to select institutions for the IQA Program. In addition, the Secretary amends the limitation of participants for the IQA Program. The Secretary also implements a name change from the Institutional Quality Control (IQC) Project to the Institutional Quality Assurance (IQA) Program.

EFFECTIVE DATE: These selection criteria take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. These selection criteria will become effective after the information collection requirement in this notice has been submitted by the Department of Education and approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980. If you want to know the effective date of these criteria, call or write the Department of Education contact person.

DEADLINE DATE FOR REQUEST TO PARTICIPATE IN IQA PROGRAM: An institution must submit its request to participate in the IQA Program by June 28, 1993.

FOR FURTHER INFORMATION CONTACT: Barbara Mroz, Performance and Accountability Improvement Staff, Field Operations Service, U.S. Department of Education, 400 Maryland Avenue SW. (Regional Office Building 3, room 5036), Washington, DC 20202–5252. Telephone Number: (202) 708–8439. Deaf and hearing impaired individuals may call the Federal Information Relay Service at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Secretary implements a name change pursuant to section 487A of the Higher Education Act of 1965, as amended (HEA). The Institutional Quality Control (IQC) Project is now renamed the Institutional Quality Assurance (IQA) Program. The regulatory authority for the IQC Project would have expired at the end of the 1993–94 award year. However, enactment of the Higher Education Amendments of 1992 (Pub. L. 102–325) (the Amendments) provides statutory authority for the IQA Program. The IQA Program is an alternative management approach to verification of information provided on student financial assistance applications, under which a participating institution develops and implements a quality assurance system in connection with its administration of the Federal Pell Grant, campus-based (Federal Perkins Loan, Federal Work-Study, and Federal Supplemental Educational Opportunity Grant), and Federal Stafford Loan programs. An institution must submit a written request to participate in the IQA Program by the date listed above.

The Secretary plans to continue to provide the regulatory exemptions related to student verification that were part of the IQC Project to institutions that participate in the IQA Program. Therefore, an institution that is selected to participate in the IQA Program is exempt, for the period of its participation in the IQA Program, from the requirements specified in the verification regulations of Subpart E of the Student Assistance General Provisions regulations, 34 CFR part 668. These requirements are contained in the following sections:

—Section 668.53(a) (1) through (4);
—Section 668.54(a) (2), (3), and (5);
—Section 668.56;
—Section 668.57, except that an institution shall require an applicant that it has selected for verification to submit to it a copy of the income tax return, if filed, of the applicant, his or her spouse, and his or her parents, if the income reported on the income tax return was used in determining the expected family contribution; and
—Section 668.60(a).

In lieu of these regulatory requirements, the Secretary requires a participating institution to develop and implement a quality control or assurance system in connection with its administration of the Student Financial Assistance Programs authorized by Title IV of the Higher Education Act of 1965, as amended (Title IV, HEA Programs). Under a quality control or assurance system, the institution must (1) evaluate its current procedures for administering the Title IV, HEA programs ("management assessment component"); (2) identify the variances in both data item (*e.g.*, household size) and student aid award (*e.g.*, Pell overpayment) accuracy that result from its current verification policies and office procedures ("annual measurement component"); (3) design corrections to its procedures that will enable it to eliminate or significantly reduce those variances ("corrective actions component"); and (4) review the management assessment and remeasure and analyze data annually ("monitoring system status").

The Secretary is considering providing additional regulatory flexibility to institutions participating in the IQA Program beginning with the 1994–95 award year. The Secretary will provide details of any additional regulatory exemptions, along with the new quality assurance activity that will replace the regulatory requirements, to institutions participating in the IQA Project at a later date.

The Secretary published Final Selection Criteria for participation in the IQC Project in the **Federal Register** on July 26, 1991 (56 FR 35790–35791). When the Secretary published the Final Selection Criteria he indicated that, to administer the IQC Project properly, the number of institutions participating in the IQC Project should not exceed 102. Currently 79 institutions participate in the IQC Project, and these institutions need not reapply to continue their participation. Because the results from the IQC Project have been positive, and the Congress provided legislative authority for the IQA Program, the Secretary no longer considers it necessary, or desirable, to limit the number of institutions participating to 102. However, the Secretary has chosen a controlled expansion of the IQA Program over a three-year period, to allow for further assessments of the IQA implementation and results. Therefore, the Secretary will limit to 100 the number of additional institutions accepted to participate in the IQA Program in the 1993–94 award year.

The selection criteria published in the July 26, 1991 Notice indicated that selected institutions should have experience in the Federal Pell Grant, campus-based (Federal Perkins Loan, Federal Work-Study, and Federal Supplemental Educational Opportunity Grant), and Federal Stafford Loan programs and in dealing with a significant number of students and Federal dollars in all those programs. Accordingly, the selection criteria required that an institution be a participant in the above programs during the 1990–91 award year and have participated in all five programs during the preceding two award years (the 1988–89 and 1989–90 award years).

The Secretary is updating the relevant award years contained in those criteria. Therefore, institutions admitted to participate in the IQA Program for the first time during the 1993–94 award

year must be participating in the five programs during the 1992–93 award year, and have participated in all five programs during the 1990–91 and 1991–92 award years.

The Secretary is republishing Final Selection Criteria I, II, and III in this notice. The Secretary will select all applicants that meet Selection Criterion I provided that the total number of new participants does not exceed the limit of 100 institutions set in Selection Criterion II. In the event that the number of new applicants meeting Selection Criterion I exceeds 100, the Secretary will select applicants on the basis of Selection Criterion III.

This Notice clarifies that, as part of Selection Criteria III, an institution will be evaluated on the basis of findings resulting from the institution's latest ED audit, in addition to findings resulting from the institution's latest program review. In addition, the Secretary has updated the criterion with regard to participation in the electronic data transmission projects of the Title IV programs to include current projects.

Application Procedures

There are no special application forms that must be used to apply to participate in the IQA Program. An institution applies to participate in the IQA Program by sending a written notice of its request to participate to the Assistant Secretary for Postsecondary Education. In this notice, an interested institution must include a brief statement that demonstrates its commitment to quality control and error reduction in managing student financial assistance dollars. This statement must summarize: (a) The institution's procedures for verification of student data and eligibility; (b) the activities and procedures that it uses routinely to control, reduce, and correct errors in its administration of the Title IV, HEA programs; and (c) the resources, such as automated data processing, personnel, and the management support at all levels of the organization, that will be committed to assure efficient administration of the program. The institution's adequate completion of the statement of commitment is a necessary element in the application process. Although the statement is not considered as a part of the review of the selection criteria, it provides information necessary to allow the Secretary to make a complete determination of the institution's ability to administer the program. Interested institutions may request background information and materials on the IQA Program from the Department of Education contact person.

Paperwork Reduction Act of 1980

Annual public reporting burden for this collection of information is estimated to average 1 hour per response for 100 respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project, Room 3002, New Executive Office Building, Washington, DC 20503; attention: Daniel J. Chenok.

Waiver of Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)), and the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed rules. However, the changes to the criteria are technical in nature and establish no new substantive policy. Therefore, pursuant to 5 U.S.C. 553(b)(B) the Secretary finds that publication of proposed selection criteria is unnecessary and contrary to the public interest.

Final Selection Criteria I, II, and III

I. In order to be selected to participate in the IQA Program, an institution must:

1. Participate in the Federal Pell Grant, campus-based (Federal Perkins Loan, Federal Work-Study and Federal Supplemental Educational Opportunity Grant) and Federal Stafford Loan programs during the 1992–93 award year and have participated in all five programs during the 1990–91 and 1991–92 award years;

2. Have had, in the aggregate, at least 1,000 Federal Pell Grant and campus-based program recipients during the 1990–91 award year;

3. Have awarded, in the aggregate, at least $1 million under the Federal Pell Grant and campus-based programs combined in the 1990–91 award year; and

4. Have submitted and had approved by the Secretary its most recent audit report in which the reported liability was less than $150,000.

II. If not more than 100 applicants meet the above criterion, the Secretary selects all the applicants who meet the criterion to participate in the IQC Project.

III. If more than 100 applicants meet the above criteria, the Secretary selects applicants who score the highest number of points on the basis of the following additional criteria.

1. Findings of the Latest ED Program Review or Audit (Maximum 30 Points)

An applicant receives the following number of points based upon the findings of the latest program review or audit conducted by ED at the institution:

Findings	Points
For each award year covered by the latest program review or audit:	
Compliance with all applicable statutes and regulations	30
Failure to comply with applicable statutory and regulatory requirements, which results in an assessed liability of an amount equal to not more than 15 percent of the amount received by the institution under the Federal Pell and campus-based programs for that year	16
Failure to comply with applicable statutory and regulatory requirements, which results in an assessed liability of an amount equal to more than 15 percent of the amount received by the institution under the Federal Pell and campus-based programs for that year	0

2. The Institution's Full-Time Equivalent (FTE) Enrollment for the 1990–91 Award Year (Maximum 20 Points)

An applicant receives the following number of points based upon its FTE enrollment for the 1990–91 award year:

FTE enrollment	Points
Above 10,000	20
5001–10,000	15
2000–5000	10
Fewer than 2000	0

3. Compliance with the Federal Pell Grant Program Reporting Requirements (Maximum 20 Points)

An applicant receives 20 points if it complies with all the deadline dates for the receipt of institutional payment (IPS) documents for the 1991–92 award year which were published in the **Federal Register** on April 29, 1992 (57 FR 18320).

4. Participation in ED Electronic Data Transmission Projects. (Maximum 10 Points)

An applicant receives 10 points for participating in award year 1992–93 in

the Electronic Data Exchange if it performs one or more of the following four processing functions: Complete and send electronic initial and renewal applications (Stage Zero); receive electronic Student Aid Reports (Stage I); make electronic corrections (Stage II); or receive electronic payment information (Stage III). The Electronic Data Exchange establishes a link between the Department of Education's Central Processing System and participating schools and service agents. Both schools and Federal student aid applicants benefit from the speed and ease of using Electronic Data Exchange.

Authority: 20 U.S.C. 1070 et seq.

(Catalog of Federal Domestic Assistance Numbers: Number 84.007, Federal Supplemental Educational Opportunity Grant Program; Number 84.032, Federal Stafford Loan Program; Number 84.033, Federal Work-Study Program; Number 84.038, Federal Perkins Loan Program; Number 84.063, Federal Pell Grant Program)

Dated: May 21, 1993.

Richard W. Riley,

Secretary of Education.

[FR Doc. 93–12492 Filed 5–26–93; 8:45 am]

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federal register

Thursday
May 27, 1993

Part VII

Environmental Protection Agency

Intent To Grant BP Chemicals, Inc., an Exemption From the Land Disposal Restrictions of the Hazardous and Solid Waste Amendments of 1984; Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4659–9]

Intent To Grant BP Chemicals, Inc., an Exemption From the Land Disposal Restrictions of the Hazardous and Solid Waste Amendments of 1984 (HSWA) Regarding Injection of Hazardous Waste

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Intent to Grant an Exemption for the use of Waste Disposal Well No. 4 to BP Chemicals, Inc. of Lima, Ohio, for the Injection of Certain Hazardous Wastes.

SUMMARY: The United States Environmental Protection Agency (USEPA or Agency) today is proposing to grant an exemption from the ban on disposal of hazardous wastes through its waste injection well (WDW) No. 4 to BP Chemicals, Inc. (BPCI) of Lima, Ohio. If the exemption is granted and if WDW No. 4 is permitted by the Ohio Environmental Protection Agency (Ohio EPA), BPCI may use WDW No. 4 to inject Resource Conservation and Recovery Act (RCRA) regulated hazardous wastes, codes K011, K013, K014, F039, and various D, U, and P listed materials listed in the following table:

Ignitability	D001
Corrosivity	D002
Cyanides	D003
Arsenic	D004
Barium	D005
Cadmium	D006
Total chromium	D007
Lead	D008
Mercury	D009
Selenium	D010
Silver	D011
Acrolein	P003
Allyl alcohol	P005
Hydrogen cyanide	P063
Potassium cyanide	P098
Sodium cyanide	P106
Acetaldehyde	U001
Acetone	U002
Acetonitrile	U003
Acrylic acid	U008
Acrylonitrile	U009
Benzene	U019
Chloroform	U044
Crotonaldehyde	U053
Cyclohexane	U057
Methylene chloride	U080
Ethyl acetate	U112
Formaldehyde	U122
Formic acid	U123
Furan	U124
Furfural	U125
Lindane	U129
Isobutyl alcohol	U140
Maleic anhydride	U147
Mercury	U151
Methacrylonitrile	U152
Methanol	U154
Methyl ethyl ketone	U159
Methyl isobutyl ketone	U161
Nitrobenzene	U169
Phenol	U188
Pyridine	U196
Carbon tetrachloride	U211
Tetrohydrofuran	U213
Toluene	U220
Xylene	U239

These wastes were banned from land disposal on various dates as set forth at 40 CFR 148.14 *et seq.* On May 7, 1992, the USEPA granted an exemption for the above named wastes for BPCI's WDW Nos. 1, 2, and 3 based on a finding that BPCI's injected wastes will not migrate out of the injection zone within the next 10,000 years. BPCI has now met all the requirements with respect to WDW No. 4, including a demonstration of mechanical integrity, to enable the USEPA to exempt WDW No. 4 from the restrictions on the land disposal of hazardous wastes.

DATES: The USEPA requests public comments on today's proposed decision. Comments will be accepted until July 6, 1993. Comments post-marked after the close of the comment period will be stamped "Late". A joint public hearing with the Ohio EPA to allow comment on draft permits proposed by Ohio EPA and this proposed action by USEPA will be scheduled and notice of this hearing will be given in a local paper and to all people on mailing lists developed by the USEPA and the Ohio EPA. The participation of the USEPA in the joint public hearing will be canceled if it does not appear to be warranted by public interest. If you wish to be notified of the date and location of the public hearing or to request that USEPA participate, please contact the person listed below.

ADDRESSES: Submit written comments, by mail, to: United States Environmental Protection Agency, Region 5, Underground Injection Control Section (WD–17J), 77 West Jackson Street, Chicago, Illinois 60604, Attn: Richard J. Zdanowicz, Chief.

FOR FURTHER INFORMATION CONTACT: Harlan Gerrish, Lead Petition Reviewer, UIC Section, Water Division, Office Telephone Number: (312) 886–2939, 17th floor, Metcalfe Building, 77 West Jackson Street, Chicago, Illinois 60404.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

The Hazardous and Solid Waste Amendments of 1984 (HSWA), enacted on November 8, 1984, impose substantial new responsibilities on those who handle hazardous waste. The amendments prohibit the land disposal of untreated hazardous waste beyond specified dates, unless the Administrator determines that the prohibition is not required in order to protect human health and the environment for as long as the waste remains hazardous (RCRA Section 3004(d)(1), (e)(1), (f)(2), (g)(5)). The requirements for such a determination for injection wells are codified in 40 CFR part 148, Subpart B.

B. Previous Action

On March 1, 1992 USEPA published a notice at 57 FR 8753 proposing to grant an exemption to BPCI WDW Nos. 1, 2, and 3 from the ban on disposal of certain hazardous wastes. This proposal was based on USEPA's review of BPCI's no-migration demonstration which included an analysis of the effects of injection through BPCI's WDW No. 4 in addition to injection through WDW Nos. 1, 2, and 3. USEPA determined that wastes injected through these wells would not leave the injection zone for the next 10,000 years and that the granting of an exemption was proper. It granted the exemption for the BPCI wells on May 7, 1992 (published June 1, 1992 at 57 FR 23094). The USEPA has determined that an exemption for WDW No. 4 must be issued separately because construction of that well was incomplete at the time the original exemption was granted. The wastes for which this exemption is granted are those specified in the Summary portion of this notice.

C. Submission

On November 20, 1992, BPCI submitted a request that an exemption from the land disposal of hazardous wastes be granted for WDW No. 4 at the Lima facility. The request was accompanied by data demonstrating required mechanical integrity testing. BPCI submitted additional data demonstrating satisfactory results of the testing on December 16, 1992.

II. Basis for Determination

The aspects of the no-migration demonstration relevant to BPCI's waste injection operation, including WDW No. 4 among others, were described in the **Federal Register** notice proposing to grant an exemption to BPCI on March 12, 1992. However, BPCI still needed to submit the Mechanical Integrity Test (MIT) information for WDW No. 4 required by 40 CFR 148.20 (a)(2)(iv). MITs, including a Standard Annulus Pressure Test and a Radioactive Tracer Survey are required to assure that the

waste does not leak from the tubing prior to reaching the injection zone nor upward along the well bore after injection. On October 26, 1992, BPCI conducted a pressure test of the annulus system of WDW No. 4 and a series of radioactive tracer surveys, all witnessed by Ohio EPA personnel.

The pressure test consisted of raising the pressure within the annulus system to 1,241 pounds per square inch (psi) which is almost 400 psi above the proposed pressure limit. The pressure in the system, measured using a recently calibrated 0–2,000 psi gauge with an accuracy of 0.25% of full scale, fluctuated by as much as 2 psi, but was 1,241 psig at the end of the 1-hour test period. The greatest fluctuation, therefore, represents only a fraction of the 3% per hour change which is allowable under Ohio and USEPA policies and the stability of the pressure readings indicate that no leak exists. The radioactive tracer surveys were conducted using logging equipment owned and operated by Atlas Wireline Services. The tests included tracking slugs of very short-lived radioactive material through the tubing and open well bore from a depth of 2,865 feet to 3,035 feet. Based on its review of the initial logs of the surveys and additional logs scaled for better resolution, USEPA has determined that the surveys showed that no radioactive material went upward above the casing shoe after its exit from the tubing. Therefore, results of the required tests confirm that the injected wastes are carried into the injection interval via the well and do not return along the well bore upward above the casing shoe.

III. Conditions of the Petition Approval

In addition to general conditions found at 40 CFR part 148, the USEPA imposes the following requirements as a condition of granting this exemption from the ban on injection of certain hazardous wastes for WDW No. 4:

(1) The permitted injection zone must be comprised of the Middle Run, Mt. Simon, and Eau Claire Formations;

(2) Injection shall occur only into the Middle Run and Mt. Simon Sandstones in WDW No. 4;

(3) This exemption is issued in conjunction with the exemption issued for the BPCI Lima, Ohio, site on May 7, 1992; the combined monthly injection volume for all four wells at the BPCI Lima, Ohio, site must not exceed 24 million gallons;

(4) The petitioner shall fully comply with all requirements set forth in the Underground Injection Control Permit-to-Operate for BPCI WDW No. 4 issued by the Ohio EPA; and

(5) The injection pressure at the well head shall be no greater than 844 psi, the pressure at which the no-migration demonstration was made.

Condition 4 of the exemption issued on May 7, 1992, required completion of a final report on seismic surveys carried out near the BPCI facility. The report was submitted on May 8, 1992. On February 8, 1993, USEPA notified BPCI that USEPA is satisfied with the interpretations of the seismic surveys performed in the vicinity of the BPCI facility. These surveys give no evidence of complex structural conditions which might allow movement of injectate from the injection zone. Condition 4 of the original exemption is therefore satisfied.

Dated: May 14, 1993.

Barry C. De Graff,

Acting Director, Water Division Region 5, U.S. Environmental Protection Agency.

[FR Doc. 93–12643 Filed 5–26–93; 8:45 am]

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federal register

Thursday
May 27, 1993

Part VIII

The President

Executive Order 12849—Implementation of Agreement With the European Community on Government Procurement

Federal Register
Vol. 58, No. 101
Thursday, May 27, 1993

Presidential Documents

Title 3—

The President

Executive Order 12849 of May 25, 1993

Implementation of Agreement With the European Community on Government Procurement

WHEREAS, the United States and the European Community (EC) have entered into a Memorandum of Understanding on Government Procurement (Agreement) that provides appropriate reciprocal competitive government procurement opportunities;

WHEREAS, the commitments made in the Agreement are intended to become part of an expanded General Agreement on Tariffs and Trade Agreement on Government Procurement (GATT Code) and are an important step toward an expanded GATT Code;

WHEREAS, as a result of these commitments, U.S. businesses will obtain increased access to EC member state procurement for U.S. goods and services;

WHEREAS, I have determined that it is inconsistent with the public interest to apply the restrictions of the Buy American Act, as amended (41 U.S.C. 10a–10d), to procurement covered by the Agreement;

NOW, THEREFORE, by virtue of the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, and title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511–2518), and in order to implement the Agreement, it is hereby ordered as follows:

Section 1. In applying the provisions of the Buy American Act, the heads of the agencies listed in Annex 1, Parts A and B, of this order are requested, as of the date of this order, to apply no price differential between articles, materials, or supplies of U.S. origin and those originating in the member states of the EC.

Sec. 2. For purposes of this order, the rule of origin specified in section 308 of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2518), shall apply in determining whether goods originate in the member states of the EC.

Sec. 3. This order shall apply only to solicitations, issued by agencies listed in Annex 1, Parts A and B, of this order, above the threshold amounts set forth in Annex 2.

Sec. 4. This order shall apply to solicitations outstanding on the date of this order, except for those for which the initial deadline for receipt of bids or proposals has passed, and to all solicitations issued after the date of this order.

Sec. 5. Except for procurements by the Department of Defense, the United States Trade Representative (USTR) shall be responsible for interpretation of the Agreement. The USTR shall seek the advice of the interagency organization established under section 242(a) of the Trade Expansion Act of 1962 (19 U.S.C. 1872(a)) and consult with affected agencies, including the Office of Federal Procurement Policy.

Sec. 6. This Executive order is effective immediately. Although regulatory implementation of this order must await revisions to the Federal Acquisition Regulation (FAR), it is expected that agencies listed in Annex 1, Parts A and B, of this order will take all appropriate actions in the interim to implement those aspects of the order that are not dependent upon regulatory revision.

Sec. 7. Pursuant to section 25 of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 421(a)), the Federal Acquisition Regulatory Council shall ensure that the policies established herein are incorporated in the FAR within 30 days from the date this order is issued.

William J. Clinton

THE WHITE HOUSE,
May 25, 1993.

Billing code 3195–01–P

Annex 1A

Department of Agriculture

Department of Commerce

Department of Defense

Department of Education

Department of Energy

(Not including national security procurement made in support of safeguarding nuclear materials or technology and entered into under the authority of the Atomic Energy Act; and oil purchases related to the Strategic Petroleum Reserve)

Department of Health and Human Services

Department of Housing and Urban Development

Department of the Interior

Department of Justice

Department of Labor

Department of State

Department of Transportation

(The national security consideration currently applicable to the Department of Defense under the GATT Government Procurement Code is equally applicable under this Agreement to the Coast Guard)

Department of the Treasury

United States Agency for International Development

General Services Administration (other than Federal Supply Groups 51 and 52 and Federal Supply Class 7340)

National Aeronautics and Space Administration

Department of Veterans Affairs

Environmental Protection Agency

United States Information Agency

National Science Foundation

Panama Canal Commission

Executive Office of the President

Farm Credit Administration

National Credit Union Administration

Merit Systems Protection Board

ACTION Agency

United States Arms Control and Disarmament Agency

Office of Thrift Supervision

Federal Housing Finance Board

National Labor Relations Board

National Mediation Board

Railroad Retirement Board

American Battle Monuments Commission

Federal Communications Commission
Federal Trade Commission
Interstate Commerce Commission
Securities and Exchange Commission
Office of Personnel Management
United States International Trade Commission
Export-Import Bank of the United States
Federal Mediation and Conciliation Service
Selective Service System
Smithsonian Institution
Federal Deposit Insurance Corporation
Consumer Product Safety Commission
Equal Employment Opportunity Commission
Federal Maritime Commission
National Transportation Safety Board
Nuclear Regulatory Commission
Overseas Private Investment Corporation
Administrative Conference of the United States
Board for International Broadcasting
Commission on Civil Rights
Commodity Futures Trading Commission
The Peace Corps
National Archives and Records Administration

Annex 1B

The Power Marketing Administrations of the Department of Energy
Tennessee Valley Authority

Annex 2

Thresholds Applicable to Agencies listed in Annex 1A
Goods contracts—130,000 SDRs (currently $176,000)
Construction contracts—$6,500,000
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Goods contracts—$450,000
Construction contracts—$6,500,000

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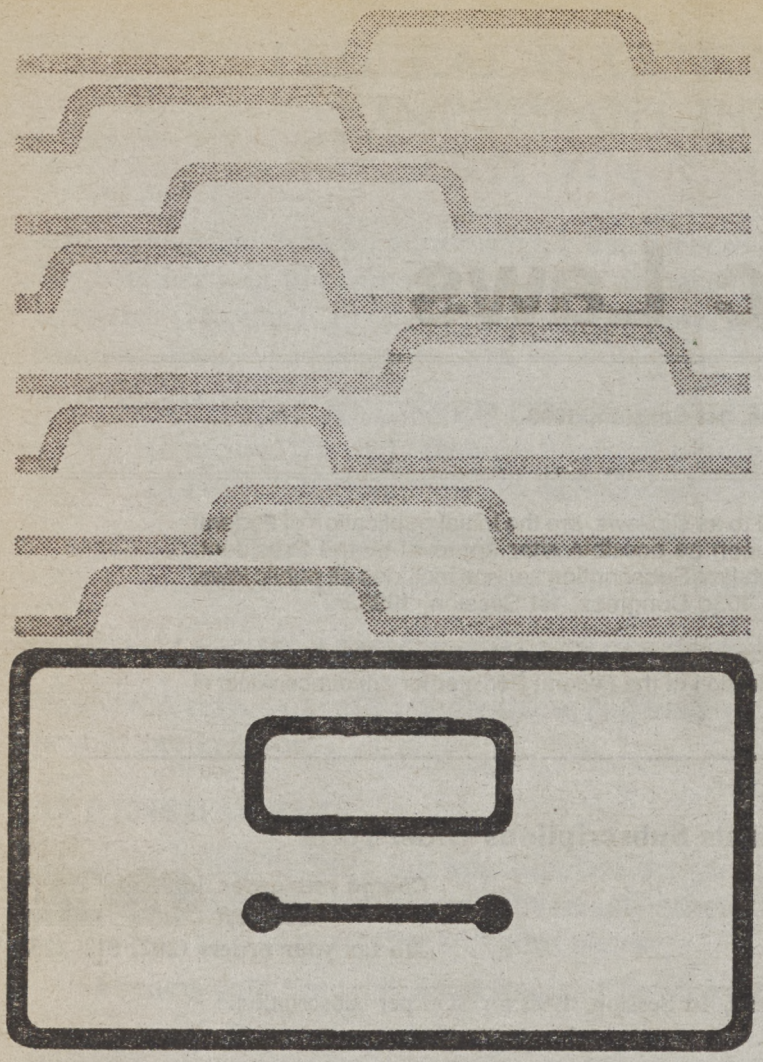

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in the Code of Federal Regulations (CFR)

GUIDE: Revised January 1, 1992

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