AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

2-10-94
Vol. 59 No. 28

federal register

Thursday
February 10, 1994

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

SECOND CLASS NEWSPAPER

Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

2-10-94
Vol. 59 No. 28
Pages 6213-6530

federal register

Thursday
February 10, 1994

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WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:
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WHERE: Office of the Federal Register, 7th Floor Conference Room, 800 North Capitol Street NW, Washington, DC (3 blocks north of Union Station Metro)
RESERVATIONS: 202–523–4538

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WHEN: March 23 at 9:00 am
WHERE: University of Arizona Medical School, DuVal Auditorium, 1501 N. Campbell Avenue, Tucson, AZ
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WHEN: March 30 at 9:00 am
WHERE: Oakland Federal Building, 1301 Clay Street, Conference Rooms A, B, and C, 2nd Floor, Oakland, CA
RESERVATIONS: Federal Information Center 1–800–726–4995

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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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1 CFR Parts 305 and 310

Recommendations and Statements of the Administrative Conference Regarding Administrative Practice and Procedure

AGENCY: Administrative Conference of the United States.

ACTION: Final action.

SUMMARY: For FY 1994, the Administrative Conference is publishing in the Code of Federal Regulations (CFR) the titles, but not the texts, of the formal recommendations and statements adopted by the Conference during the year. The Conference expects to publish both the titles and texts of recommendations and statements in the CFR in future years.

EFFECTIVE DATE: The addition of the titles of recommendations and statements to the Code of Federal Regulations is to be effective February 10, 1994.

FOR FURTHER INFORMATION: Renee Barnow, Information Officer (202–254–7020).

SUPPLEMENTARY INFORMATION: The Administrative Conference of the United States is a federal agency whose mission includes making recommendations and other statements to improve the efficiency, adequacy, and fairness of the administrative procedures used by federal agencies in carrying out administrative programs (5 U.S.C. 594(1)). Recommendations and statements of the Administrative Conference are published in full text in the **Federal Register** upon adoption. In 1994, for purely budgetary reasons, the Administrative Conference removed the texts of all recommendations and statements from Parts 305 and 310 of the Code of Federal Regulations (see 58 FR 54271, October 21, 1993). This action does not reflect any change in the Conference's views set forth in the recommendations and statements.

While removing the texts of recommendations and statements from the Code of Federal Regulations for 1994, the Conference decided to continue to publish the table of contents for all Administrative Conference recommendations and statements in the CFR for the convenience of the public. By this action, the Conference is adding the titles of recommendations and statements adopted in 1993 to the table of contents for parts 305 and 310.

Copies of all recommendations and statements, and the research reports on which they are based, will continue to be available from the Office of the Chairman of the Administrative Conference, 2120 L Street, NW., suite 500, Washington, DC 20037; telephone: (202) 254–7020. As explained at 1 CFR 304.2, requests for single copies of such documents will be filled at no charge to the extent that supplies on hand permit.

For the reasons set forth in the preamble, 1 CFR chapter III is amended as follows:

PART 305—RECOMMENDATIONS OF THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

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

Authority: 5 U.S.C. 591–596.

2. New §§ 305.93–1 through 305.93–5 are added to the table of contents to read as follows:

305.93–1 Use of APA Formal Procedures in Civil Money Penalty Proceedings (Recommendation No. 93–1).
305.93–2 Administrative and Judicial Review of Prompt Corrective Action Decisions by the Federal Banking Regulators (Recommendation No. 93–2).
305.93–3 Peer Review in the Award of Discretionary Grants (Recommendation No. 93–3).
305.93–4 Improving the Environment for Agency Rulemaking (Recommendation No. 93–4).
305.93–5 Procedures for Regulation of Pesticides (Recommendation No. 93–5).

PART 310—MISCELLANEOUS STATEMENTS

1. The authority citation for part 310 continues to read as follows:

Authority: 5 U.S.C. 591–596.

2. New § 310.16 is added to the table of contents to read as follows:

310.16 Right to Consult with Counsel in Agency Investigations.

Dated: February 1, 1994.

Jeffrey S. Lubbers,
Research Director.

[FR Doc. 94–2957 Filed 2–9–94; 8:45 am]

BILLING CODE 6110–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 123

Disaster—Physical Disaster and Economic Injury Loans

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The Small Business Administration (SBA) is revising on an immediate basis the limitations on its share of disaster assistance made available to homeowners for any one disaster commencing on or after January 1, 1994, from $20,000 to $40,000 for repair and replacement of household and personal effects and from $100,000 to $200,000 for repair or replacement of a primary residence, and is also increasing the limitations expressed in other provisions of its regulations governing disaster loans to homeowners which are based upon those limitations. This revision is being undertaken on an emergency basis and is therefore published as a final rule.

DATES: This rule is effective on February 10, 1994.

ADDRESSES: Comments should be submitted to Bernard Kulik, Assistant Administrator for Disaster Assistance, U.S. Small Business Administration, 409 Third Street, SW., 8th floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Michael E. Deegan, Office of Disaster Assistance, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Pursuant to section 7(b)(1) of the Small Business Act, 15 U.S.C. 636(b)(1), SBA is authorized to make disaster loans available to repair, rehabilitate or replace homeowner's real or personal property damaged or destroyed as a result of physical disasters. Section 7(c)(6) of the same Act, 15 U.S.C. 636(c)(6), provides that such loans are limited to a total amount of $500,000 of SBA assistance for each disaster.

Under these authorities, SBA has established by regulation the following limitations on assistance available to homeowners and others for disasters commencing on or after October 1, 1982:

(1) $20,000 for repair or replacement of household and personal effects;

(2) $100,000 for repair or replacement or a primary residence, including repair or replacement of landscaping and/or recreational facilities not to exceed $2,500;

(3) Eligible refinancing not to exceed the lesser of $100,000 or the physical damage to the real property which is to be repaired;

(4) $24,000 for mitigation of further damage from like disasters;

(5) $244,0000 for the total loan within the limitations specified in (1) through (4) above, and

(6) Persons living in a damaged home who are not dependents of the occupant may apply for loans to repair or replace personal property to the extent of their loss, but such loans may not exceed $20,000.

These loan limitations were established in 1984, and have become insufficient to meet the needs of many homeowners and renters who have been confronted with the effects of physical disasters by virtue of the impact of economic inflation. They are now, for example, inadequate to compensate many disaster victims for the costs associated with rebuilding, replacing and repairing residential, real property and household effects such as clothing, furniture and appliances which have been lost or damaged as a result of a physical disaster. Moreover, in the aftermath of disasters, especially large catastrophes, construction costs often increase sharply. Therefore, SBA, under the statutory authority cited above, has decided to increase these limitations to meet the impact of inflation and construction cost increases. Effective for any disaster commencing on or after January 1, 1994, the new limitations are:

(1) $40,000 for repair or replacement of household and personal effects;

(2) $200,000 for repair or replacement of a primary residence, including repair replacement of landscaping and/or recreational facilities not to exceed $5,000;

(3) Eligible refinancing not to exceed the lesser of $200,000 or the physical damage to the real property which is to be repaired;

(4) $48,000 for mitigation of future damage from like disasters;

(5) $488,000 for the total loan within the limitations specified in (1) through (4) above, and

(6) Persons living in a damaged home who are not dependents of the occupant may apply for loans to repair or replace personal property to the extent of their loss, but such loans may not exceed $40,000.

SBA is establishing these new limitations effective upon publication pursuant to 13 CFR 123.1(b) which authorizes emergency changes in the regulations governing its disaster assistance program, and 5 U.S.C. 553(b)(B) which permits publication of regulations in final form without notice of comment when an agency finds that good cause exists for publication in final form on an emergency basis, and that notice and comment is impracticable, unnecessary or contrary to the public interest. In this regard, the public interest in seeing to it that the new limitations are effective as to the recent California earthquake disaster makes the utilization of notice and comment rulemaking impracticable.

Compliance With Executive Orders 12866, 12612, and 12778; Regulatory Flexibility Act, 5 U.S.C. 601, et seq.; and the Paperwork Reduction Act, 44 U.S.C. Ch. 35.

For purposes of Executive Order 12866, SBA certifies that this rule will not have an annual economic effect in excess of $100 million, result in a major increase in costs for individuals or governments, or have a significant adverse effect on competition, and, therefore, would not constitute a major or significant rule. SBA has made this determination based upon the fact that even though this rule would increase the amounts of disaster assistance available to an individual borrower, it would not, in and of itself, increase the gross amount of disaster assistance available to those who are eligible. Individual applicants will still be governed by eligibility requirements for SBA disaster assistance and will remain eligible for assistance to the extent of verifiable loss as present regulations provide.

For purposes of Executive Order 12612, SBA certifies that this rule will not have federalism implications warranting the preparation of a Federalism assessment.

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

For purposes of the Regulatory Flexibility Act, SBA certifies that this rule will not have a significant economic effect on a substantial number of small entities for the same reason that it is not a major or significant rule.

For purposes of the Paperwork Reduction Act, SBA certifies that this rule will not impose a new recordkeeping or reporting requirement.

(Catalog of Federal Domestic Assistance Program No. 59.008, Small Business)

List of Subjects in 13 CFR Part 123

Disaster, Physical disaster and economic injury loans.

For the reasons set out above, pursuant to sections 5(b)(6), 7(b)(1), and 7(c)(6) of the Small Business Act, Title 13, part 123 of the Code of Federal Regulations, is amended to read as follows:

PART 123—[AMENDED]

1. The authority citation for part 123 continues to read as follows:

Authority: Sections 5(b)(6), 7(b), (c), (f) of the Small Business Act, 15 U.S.C. 634(b)(6), 636(b), (c), (f); Pub. L. 102–395, 106 Stat. 1828, 1864; and Pub. L. 103–75, 107 Stat. 739.

2. Section 123.25 is amended by revising paragraphs (a) and (b) to read as follows:

§ 123.25 Special conditions—Home loans.

(a) *Limits.* SBA's share of loans approved on or after October 1, 1983, to a Homeowner (including all dependents) is limited for any one disaster commencing on or after January 1, 1994, to the following:

(1) $40,000 for repair or replacement of household and personal effects;

(2) $200,000 for repair or replacement of a primary residence, including repair or replacement of landscaping and/or recreational facilities not to exceed $5,000;

(3) Eligible refinancing pursuant to § 123.24(f) not to exceed the lesser of $200,000 or the physical damage to the real property which is to be repaired;

(4) $48,000 for mitigation pursuant to § 123.24(j);

(5) $488,000 for the total loan within the limitations specified in paragraphs (a)(1) through (a)(4) of this section.

(b) *Additional limits.* Persons living in a damaged home who are not dependents of the occupant may apply for loans to repair or replace personal property to the extent of their loss, but such loans may not exceed $40,000.

* * * * *

Dated: February 1, 1994.

Erskine B. Bowles,

Administrator.

[FR Doc. 94–2933 Filed 2–9–94; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-CE-88-AD; Amendment 39-8819; AD 94-04-01]

Airworthiness Directives: de Havilland DHC-6 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes two existing airworthiness directives (AD's) that currently require repetitively inspecting the wing attachment fittings and the wing front fittings for cracks on certain de Havilland DHC-6 series airplanes, and replacing any cracked part. The Federal Aviation Administration's policy on aging commuter class aircraft is to eliminate or, in certain instances, reduce the number of repetitions of certain short-interval inspections when improved parts or modifications are available. This action requires incorporating a modification that would eliminate the need for the repetitive inspections currently required by the two existing AD's. The actions specified by this AD are intended to prevent loss of control of the airplane caused by cracked wing attachment fittings.

DATES: Effective March 31, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of March 31, 1994.

ADDRESSES: Service information that applies to this AD may be obtained from de Havilland, Inc., 123 Garratt Boulevard, Downsview, Ontario, Canada, M3K 1Y5. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the **Federal Register**, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jon Hjelm, Aerospace Engineer, FAA, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; telephone (516) 791-6220.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD that would apply to certain de Havilland DHC-6 series airplanes was published in the **Federal Register** on October 27, 1993 (58 FR 57758). The action proposed to supersede AD 69-02-01 and AD 85-16-10 with a new AD that would (1) initially retain the repetitive inspection of the wing attachment fittings required by the current AD's; and (2) eventually require installing new steel adapter fittings as terminating action for those repetitive inspections. The inspections would be accomplished in accordance with de Havilland Service Bulletin (SB) No. 6/476, Revision B, dated January 22, 1988, and the installation would be accomplished in accordance with de Havilland SB No. 6/500, dated January 22, 1988.

Interested persons have been afforded an opportunity to participate in the making of this amendment. One comment was received supporting the proposed rule and no comments were received on the FAA's determination of the cost to the public.

After careful review of all available information, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD nor add any additional burden upon the public than was already proposed.

The FAA estimates that 169 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 96 workhours per airplane to accomplish the required action, and that the average labor rate is approximately $55 an hour. Parts cost approximately $6,750 per airplane. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $2,033,072.

AD 69-02-01 and AD 85-16-10, both of which are superseded by this action, currently require inspecting the top inner faces of the wing attachment fittings for cracks at intervals of 500 hours time-in-service (TIS), but require removing both the left and right upper wing- fuselage fairings, dye penetrant inspecting them utilizing a 10-power glass, and reattaching the fairings. These inspections take approximately 3 workhours at an average cost of $55 per hour; approximately $165 per airplane or $297,440 for the entire fleet. The inspection procedures of this AD take approximately 3 workhours at an average cost of $55 per hour.

The cost figures do not account for the recurring costs of the repetitive inspections required by AD 69-02-01 and AD 85-16-10. This AD only requires these repetitive inspections until accomplishment of the mandatory modification. This elimination of the repetitive inspections reduces the cost of the required modification requirement.

The intent of the FAA's aging commuter airplane program is to ensure safe operation of commuter-class airplanes that are in commercial service without adversely impacting private operators. Of the approximately 169 airplanes in the U.S. registry that are affected by this AD, the FAA has determined that approximately 50 percent are operated in scheduled passenger service by 14 different operators. A significant number of the remaining 50 percent are operated in other forms of air transportation such as air cargo and air taxi.

This AD allows 2,000 hours time-in-service (TIS) before mandatory accomplishment of the design modification. The average utilization of the fleet for those airplanes in commercial commuter service is approximately 25 to 50 hours TIS per week. Based on these figures, operators of commuter-class airplanes involved in commercial operation would have to accomplish the required modification within 10 to 20 calendar months after this AD becomes effective. For private owners, who typically operate between 100 to 200 hours TIS per year, this will allow 120 to 240 calendar months (about 10 to 20 years) before the required modification is mandatory. In addition, replacing the fittings terminates the need for the repetitive inspections.

The incremental costs of this AD depend on the utilization of de Havilland DHC-6 series airplanes, and whether cracks were found during any of the repetitive inspections accomplished within 2,000 hours TIS after the effective date of this AD. The discussion that follows assumes that no cracked fittings are found and operators/owners do not replace the fittings until required at 2,000 hours TIS after the effective date of this AD.

This AD imposes additional costs on most operators/owners of de Havilland DHC-6 series airplanes. Although the action eliminates the repetitive inspections upon replacement of the fitting at 2,000 hours TIS after the effective date of the AD, the cost of the replacement fittings will most likely be more than the cost of the repetitive inspections. The following presents the greatest present value incremental costs for 10, 20, and 30-year remaining service lives (a chart that represents this is contained in the regulatory flexibility analysis and may be obtained by contacting the Docket at the location contained in the ADDRESSES section of the preamble of this AD):

• 10-year remaining service life—Approximately $9,000 for de Havilland DHC–6 series airplanes utilized an average of 725 hours TIS annually;

• 20-year remaining service life—Approximately $8,200 for de Havilland DHC–6 series airplanes utilized an average of 560 hours TIS annually; and

• 30-year remaining service life—Approximately $7,800 for de Havilland DHC–6 series airplanes utilized an average of 525 hours annually.

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily or disproportionally burdened by government regulations. The RFA requires government agencies to determine whether rules would have a "significant economic impact on a substantial number of small entities," and, in cases where they would, conduct a Regulatory Flexibility Analysis in which alternatives to the rule are considered. FAA Order 2100.14A, Regulatory Flexibility Criteria and Guidance, outlines FAA procedures and criteria for complying with the RFA. Small entities are defined as small businesses and small not-for-profit organizations that are independently owned and operated or airports operated by small governmental jurisdictions. A "substantial number" is defined as a number that is not less than 11 and that is more than one-third of the small entities subject to the required rule, or any number of small entities subject to the rule which is substantial in the judgment of the rulemaking official. A "significant economic impact" is defined as an annualized net compliance cost, adjusted for inflation, which is greater than a threshold cost level for defined entity types. FAA Order 2100.14A sets the size threshold for small entities operating aircraft for hire at 9 aircraft owned and annualized cost threshold at $65,300 for scheduled operators and $4,600 for unscheduled operators (expressed in second quarter 1993 dollars).

The 169 U.S.-registered airplanes affected by this AD are owned according to the following breakdown: 13 by individuals, 8 by U.S. government agencies, and 148 by businesses or not-for-profit enterprises. Of the 148 entities, one owns 26 airplanes, one owns 11 airplanes, nineteen own between 2 and 9 airplanes, and fifty own 1 airplane each.

The FAA cannot determine the sizes of all the 148 owner entities nor the relative significance of the costs or cost savings estimated above. However, more than one-third of these entities operate their de Havilland DHC–6 series airplanes in scheduled service. According to statistics obtained by the FAA, these airplane operators in scheduled service utilize their airplanes an average of 1,383 hours TIS annually, and general aviation operators utilize their airplanes an average of 706 hours TIS annually. These figures may have a standard of error of 14.4 percent and the general aviation average may include some airplanes in commuter service. The FAA cannot reasonably estimate the distribution of these hours among the de Havilland DHC–6 fleet.

Because of these uncertainties, no cost thresholds for significant economic impact can be reasonably determined. The FAA solicited comments concerning the impact of the notice of proposed rulemaking (NPRM) on owners of affected airplanes, and received no comments on this matter. Based on the possibility that this AD could have a significant impact on a substantial number of small entities, the FAA conducted a regulatory flexibility analysis. A copy of this analysis may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

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

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979) because of substantial public interest; and, (3) if promulgated, may have a significant economic impact on a substantial number of small entities. The FAA has conducted an Initial Regulatory Flexibility Determination and Analysis and has considered alternatives to this action that could minimize the impact on small entities. A copy of this analysis may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES". After careful consideration, the FAA has determined that the required action is the best course to achieve the safety objective of returning the airplane to its original certification level of safety.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing AD 69–02–01, Amendment 39–2347, and AD 85–16–10, Amendment 39–5216, and adding the following new AD to read as follows:

94–04–01 De Havilland: Amendment 39–8819; Docket No. 91–CE–88–AD. Supersedes AD 69–02–01, Amendment 39–2347, and AD 85–16–10, Amendment 39–5216.

Applicability: Models DHC–6–1, DHC–6–100, DHC–6–200, and DHC–6–300 airplanes (all serial numbers), certificated in any category.

Compliance: Required as indicated, unless already accomplished.

To prevent loss of control of the airplane caused by cracked wing attachment fittings, accomplish the following:

(a) Within the next 100 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished within the last 400 hours TIS, and thereafter at intervals not to exceed 500 hours TIS until compliance with paragraph (b) or (c) of this AD, accomplish the following:

(1) Remove both left and right upper wing-fuselage fairings in accordance with the applicable de Havilland maintenance manual.

(2) Using dye penetrant procedures and at least 10-power magnification, visually inspect the top inner faces of the left and right forward wing attachment fittings, either part number (P/N) C6WM1031–1 and C6WM1031–2, P/N C6WM1133–1 and C6WM1133–2, or P/N C6WM1162–1 and C6WM1162–2, for cracks in accordance with the Accomplishment Instructions section of de Havilland Service Bulletin (SB) No. 6/476, Revision B, dated January 22, 1988.

(b) If cracks are found, prior to further flight, replace the forward wing attachment fittings with new front steel adapter fittings (Modification No. 6/1887), P/N C6WM1162–3 and C6WM1163–4, in accordance with the Accomplishment Instructions section of de Havilland SB No. 6/500, dated January 22, 1988.

(c) Within the next 2,000 hours TIS after the effective date of this AD, unless already accomplished in accordance with paragraph (b) of this AD, replace the forward wing attachment fittings with new front steel adapter fittings (Modification No. 6/1887), P/N C6WM1162-3 and C6WM1163-4, in accordance with the Accomplishment Instructions section of de Havilland SB No. 6/500, dated January 22, 1988.

(d) The installation of new front steel adapter fittings (Modification No. 6.1887) as specified in paragraphs (b) and (c) of this AD is considered terminating action for the repetitive inspection requirement of this AD.

(e) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) An alternative method of compliance or adjustment of the compliance times that provides an equivalent level of safety may be approved by the Manager, New York Aircraft Certification Office, 181 Franklin Avenue, room 202, Valley Stream, New York 11581. The request shall be forwarded through an FAA Maintenance Inspector, who may add comments and then send it to the Manager, New York Aircraft Certification Office.

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

(g) The inspections required by this AD shall be done in accordance with de Havilland Service Bulletin No. 6/476, Revision B, dated January 22, 1988. The modification required by this AD shall be done in accordance with de Havilland Service Bulletin No. 6/500, dated January 22, 1988. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from de Havilland, Inc., 123 Garratt Boulevard, Downsview, Ontario, Canada, M3K 1Y5. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment (39-8819) supersedes AD 69-02-01, Amendment 39-2347, and AD 85-16-10, Amendment 39-5216.

(i) This amendment (39-8819) becomes effective on March 31, 1994.

Issued in Kansas City, Missouri, on February 3, 1994.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94-3048 Filed 2-9-94; 8:45 am]

BILLING CODE 4910-13-U

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14 CFR Part 71

[Airspace Docket No. 91-ANM-16]

Alteration of Jet Routes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects the description of Jet Route J-54, located in the vicinity of Idaho and Oregon, published in the **Federal Register** on February 3, 1994. That final rule inadvertently removed a segment from Cherokee, WY, to Laramie, WY. Therefore, this action reflects the reinstatement of that jet route segment from Cherokee, WY, to Laramie, WY, in the description of Jet Route J-54.

EFFECTIVE DATE: 0701 u.t.c., March 9, 1994.

FOR FURTHER INFORMATION CONTACT: Norman W. Thomas, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9230.

SUPPLEMENTARY INFORMATION: On February 3, 1994, the Federal Aviation Administration (FAA) published a final rule correcting the description of Jet Route J-54, located in Idaho and Wyoming, to reinstate Boise, ID, and to remove a segment from Cherokee, WY, to Laramie, WY (59 FR 5080). This action reflects the reinstatement of the segment from Cherokee, WY, to Laramie, WY, in the description of J-54.

Correction of Final Rule

Accordingly, pursuant to the authority delegated to me, the publication on February 3, 1994 (59 FR 5080) and the description in FAA Order 7400.9A, which is incorporated by reference in 14 CFR 71.1, are corrected as follows:

§ 71.1 [Corrected]

On page 5080, in the second column, the description for J-54 is corrected to read as follows:

J-54 [Corrected]

From Tatoosh, WA, via Olympia, WA; Baker, OR; Boise, ID; Pocatello, ID; Cherokee, WY; to Laramie, WY.

Issued in Washington, DC, on February 4, 1994.

Willis C. Nelson,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 94-3044 Filed 2-7-94; 12:25 pm]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

[TD 8436]

RIN 1545-AP91

Deposits of Employment Taxes; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains a correcting amendment to Treasury Decision 8436 which was published in the **Federal Register** for Thursday, September 24, 1992 (57 FR 44099). The final regulations relate to the deposit of Federal employment taxes (including railroad retirement taxes) under section 6302 of the Internal Revenue Code.

EFFECTIVE DATE: January 1, 1993.

FOR FURTHER INFORMATION CONTACT: Vincent G. Surabian at (202) 622-4940 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correcting amendment provide guidance under section 6302 relating to the deposit of Federal employment taxes, effective January 1, 1993.

Need for Correction

As published, TD 8436 contains an ambiguity which may prove to be misleading and is in need of clarification. Section 31.6302-1(f)(3)(ii) of the regulations provides that the deposit makeup date for deposit shortfalls for employers depositing under the Semi-weekly or One-Day rule is the first Wednesday or Friday (whichever is earlier) falling on or after the 15th day of the month following the month in which the deposit was required to be made. Section 31.6302-1(h)(2) of the regulations, however, provides that if the aggregate amount of taxes reportable on the return for the return period exceeds the total amount deposited by the employer with regard to the return period pursuant to § 31.6302-1, the balance due must be remitted in accordance with the applicable forms and instructions. Under section 6151(a) of the Internal Revenue Code, any balance due is required to be paid by the due date of the return for the return period. The due date for Form 941, Employer's Quarterly Federal Tax Return, is the last day of the

first month following the close of the calendar quarter.

Under § 31.6302–1 of the regulations, a deposit under the Semi-weekly or One-Day rule with respect to a pay date occurring on the last day of a return period (calendar quarter) is not due until after the close of that return period. For example, an employer with a pay date on Wednesday, March 31, 1993, must make a deposit by Thursday, April 1, 1993, if depositing under the One-Day rule, or by Wednesday, April 7, 1993, if depositing under the Semi-weekly rule. Under § 31.6302–1(f)(3)(ii), as drafted, a shortfall with respect to either deposit would not be due until Wednesday, May 19, 1993, well after the return due date (April 30) for the return period. This result was not intended.

List of Subjects in Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

Accordingly, 26 CFR part 31 is corrected by making the following correcting amendment:

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME AT SOURCE

Paragraph 1. The authority citation for part 31 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

§ 31.6302–1 [Amended]

Par. 2. In § 31.6302–1, paragraph (f)(3)(ii) is amended by adding the language "or, if earlier, the return due date for the return period" immediately after the last word in the paragraph and before the period.

Dale D. Goode,

Federal Register Liaison Officer, Ass't Chief Counsel (Corporate).

[FR Doc. 94–3175 Filed 2–9–94; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AF94

Procedural Due Process and Appellate Rights

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) has amended its adjudication regulations concerning procedural due process and appellate rights. This amendment is necessary to clearly reflect VA policy concerning the scheduling of claimant hearings, and to clarify the number of decision-makers VA will provide to conduct claimant hearings. The intended effects of this amendment are to stipulate that a claimant hearing will not normally be scheduled solely for the purpose of receiving argument by a claimant's representative, and that the claimant is expected to be present at the hearing; and to clarify that the requisite number of decision-makers for the conduct of claimant hearings is one.

EFFECTIVE DATE: This amendment is effective, February 10, 1994.

FOR FURTHER INFORMATION CONTACT: John Bisset, Jr., Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233–3005.

SUPPLEMENTARY INFORMATION: VA published a proposal to amend 38 CFR 3.103(c)(2) to stipulate that a claimant hearing will not normally be scheduled solely for the purpose of receiving argument by a claimant's representative, and that the claimant is expected to be present at the hearing, in the **Federal Register** of July 15, 1993 (58 FR 38103–04). VA also published a proposal to amend § 3.103 (c)(1) and (c)(2) to clarify that the requisite number of decision-makers for the conduct of claimant hearings is one, in the **Federal Register** of July 15, 1993 (58 FR 38106). Interested persons were invited to submit written comments, suggestions or objections concerning the proposals on or before August 16, 1993. In order to avoid any possible confusion that might arise if final rules were separately published, we have combined publication of the final rule proposed under RIN 2900–AG33 with the final rule under RIN 2900–AF94. Since no comments concerning either proposal were received, the proposed amendments are adopted without change.

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. The reason for this certification is that this amendment would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance program numbers are 64.104, 64.105, 64.109 and 64.110.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

Approved: January 12, 1994.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 3 is amended as set forth below:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A, continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

§ 3.103 [Amended]

2. In § 3.103(c)(1), in the third sentence, remove the word "personnel" and insert, in its place, the words "one or more employees"; in the fourth sentence, remove the words "VA personnel" and insert, in their place, the words "one or more VA employees".

3. In § 3.103(c)(2), remove the first two sentences and add, in their place, the sentences:

§ 3.103 Procedural due process and appellate rights.

* * * * *

(c) * * *

(2) The purpose of a hearing is to permit the claimant to introduce into the record, *in person*, any available evidence which he or she considers material and any arguments or contentions with respect to the facts and applicable law which he or she may consider pertinent. All testimony will be under oath or affirmation. The claimant is entitled to produce witnesses, but the claimant and witnesses are expected to be present. The Veterans Benefits Administration will not normally schedule a hearing for the sole purpose of receiving argument from a representative. * * *

* * * * *

4. In § 3.103(c)(2), in what is now the fifth sentence, remove the word "personnel" and insert, in its place, the words "employee or employees".

[FR Doc. 94–3066 Filed 2–9–94; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA-15-6025; FRL-4828-2]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania; RACT for VOC's From Synthetic Organic Chemical Manufacturing Industries (SOCMI) in Allegheny County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking a limited approval/limited disapproval on a State Implementation Plan (SIP) revision submitted by the Pennsylvania Department of Environmental Resources (PADER). This revision establishes and requires reasonably available control technology (RACT) to control fugitive volatile organic compounds (VOC) emissions from Synthetic Organic Chemical and Polymer Manufacturing–Fugitive Sources (SOCMI) and the associated test method required to determine compliance. This revision has been submitted by the PADER at the request of the Allegheny County Bureau of Air Pollution Control (BAPC) to fulfill its 1982 ozone SIP commitment to adopt all applicable control technique guidelines (CTG's) published by EPA. The intended effect of this document is to take limited approval action on the revision because the regulation strengthens the SIP. At the same time, EPA is taking limited disapproval action on this revision because it does not fully meet the Federal SIP requirements. Furthermore, the limited disapproval action initiates the 18-month sanction clock and the 24-month Federal implementation plan (FIP) period. These actions are being taken under the Clean Air Act (CAA).

EFFECTIVE DATE: This rule will become effective on March 14, 1994.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; Jerry Kurtzweg ANR-443, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; Commonwealth of Pennsylvania, Department of Environmental Resources Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105; and Allegheny County Health Department, Bureau of Air Pollution Control, 301 39th Street, Pittsburgh, Pennsylvania 15201.

FOR FURTHER INFORMATION CONTACT: Kelly A. Sheckler, (215) 597-6863.

SUPPLEMENTARY INFORMATION: On December 15, 1992 (57 FR 59327), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Pennsylvania. The NPR proposed limited approval and limited disapproval of the addition of section 534, Synthetic Organic Chemical and Polymer Manufacturing–Fugitive Sources and section 605 I, the associated test method required to determine compliance with section 534, which revised Article XX of the Allegheny County Health Department Rules and Regulations, as a revision to the Allegheny County portion of the Pennsylvania SIP. The formal SIP revision was submitted by the Commonwealth of Pennsylvania on July 13, 1987.

As discussed in the NPR (57 FR 59327), the proposed revision serves to strengthen the SIP because the regulations constitute RACT for the synthetic organic chemical and polymer manufacturing fugitive sources, except as discussed below. By taking limited approval action, the regulations will be made federally enforceable. Therefore, EPA is taking limited approval action. At the same time, the revision is not approvable pursuant to section 182(a)(2)(A) of the CAA because its Director discretion provisions are not consistent with the interpretation of section 172 of the pre-amendment guidance. Specifically, section 534 at paragraph D of the Allegheny County's regulation, which provides the Director of the Allegheny County BAPC the discretion to approve alternatives, must be amended to require that the use of any alternative VOC emission reduction system and/or alternative monitoring procedures also be approved by the United States Environmental Protection Agency. Therefore, EPA is also taking limited disapproval action.

Under section 179(a)(2), if the Administrator disapproves a submittal under section 110(k) for an area designated nonattainment based on the submittal's failure to meet one or more of the elements required by the Act, the Administrator must apply sanctions set forth in section 179(b) unless the deficiency has been corrected within 18 months of such disapproval. Section 179(b) provides two sanctions available to the Administrator: Highway funding and emission offsets. The disapproval action in this final rulemaking initiates the 18-month sanctions period for Allegheny County. Moreover, final disapproval triggers the 24-month period by which EPA must promulgate a Federal implementation plan (FIP) under section 110(c) until such time as the Commonwealth of Pennsylvania corrects the language of Article XX, section 534 at paragraph D as described above.

The rationale for EPA's action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

Final Action

EPA is taking limited approval/limited disapproval action on the addition of section 534, Synthetic Organic Chemical and Polymer Manufacturing–Fugitive Sources and section 605 I, the associated test method required to determine compliance with section 534, which revised Article XX, as a revision to the Allegheny County portion of the Pennsylvania SIP.

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

The limited disapproval action taken in this rulemaking notice initiates, the 18-month sanction clock for Allegheny County and the 24-month FIP clock for EPA, upon the effective date of this document.

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

This action pertaining to the limited approval/limited disapproval of Allegheny County's RACT for VOC's from SOCMI, has been classified as a Table 3 action for signature by the Acting Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993 memorandum from Michael H.

Shapiro, Acting Assistant Administrator for Air and Radiation. On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and Table 3 SIP revisions from the requirements of section 3 of Executive Order 12291 for a period of two years. The EPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. The OMB has agreed to continue the waiver until such time as it rules on EPA's request. This request is still applicable under Executive Order 12866, which superseded Executive Order 12291 on September 30, 1993.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 11, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile Organic Compounds.

Dated: January 6, 1994.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph(c)(86) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(86) Revisions to the Pennsylvania Regulations for reasonably available control technology (RACT) to control fugitive organic chemical manufacturing industries, Article XX of the Rules and Regulations of the Allegheny County Health Department, section 534 and 605 I submitted on July 13, 1987 by the Pennsylvania Department of Environmental Resources (DER).

(i) Incorporation by reference.

(A) Letter of July 13, 1987 from the Pennsylvania Department of Environmental Resources transmitting regulations for the control of "Synthetic Organic Chemical and Polymer Manufacturing-Fugitive Sources" and the associated test method, EPA method 21.

(B) Article XX, of the Rules and Regulations of the Allegheny County Health Department, section 534 and 605 I, effective June 10, 1987.

3. Section 52.2023 is amended by adding paragraph (h) to read as follows:

§ 52.2023 Approval status.

* * * * *

(h) The Allegheny County Bureau of Air Pollution Control (BAPC) Article XX, section 534 at paragraph D, does not fulfill its 1982 ozone SIP commitment to adopt all applicable control technique guidelines published by EPA. These regulations establish and require reasonable available control technology to control fugitive volatile organic compounds emissions (VOC) from synthetic organic chemical and polymer manufacturing–fugitive sources and associated test method required to determine compliance, but provide the Director of the Bureau authority to approve an alternative VOC emission reduction system and/or alternative monitoring procedure. The approval of any such alternatives by the Director of the BAPC cannot and would not amend the SIP. Only the Administrator of the United States Environmental Protection Agency (EPA) has the authority to approve an alternative VOC emission reduction system and/or the use of an alternative monitoring procedure as a revision to the SIP. Air Pollution Article XX, section 534 at paragraph D of the SIP will remain inadequate until this language providing for Director discretion is corrected to require that any such alternatives approved by the Director of BAPC must also be approved by EPA. The amended version of Article XX, section 534, paragraph D must be adopted by the Commonwealth, submitted to EPA and approved as a SIP revision to correct this deficiency in the Pennsylvania SIP.

[FR Doc. 94–2911 Filed 2–9–94; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 93–33; RM–8160; 8233]

Radio Broadcasting Services; Oakhurst, Firebaugh and June Lake, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 276A for Channel 296A at Oakhurst, California, and modifies the license for Station KAAT (FM) accordingly to enable it to increase its effective radiated power to six kilowatts, in response to a petition filed by California Sierra Corporation. Additionally, Channel 234A is substituted for Channel 276A at Firebaugh, California, a vacant allotment for which a petition for reconsideration seeking reinstatement of an application is pending. See 58 FR 12916, March 3, 1993. Coordinates for Channel 276A at Oakhurst, California, are 37–25–08 and 119–44–04. Coordinates for Channel 234A at Firebaugh, California, are 36–51–30 and 120–27–12. (See also, Supplementary Information, *infra*). With this action, the proceeding is terminated with respect to RM–8160 only.

EFFECTIVE DATE: March 24, 1994.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's First Report and Order, MM Docket No. 93–33, adopted, January 11,1994, and released, February 7, 1994. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, located at 1919 M Street, NW., room 246, or 2100 M Street, NW., suite 140, Washington, DC 20037.

An additional proposal filed in this proceeding by Don Stewart, seeking the allotment of a Class A FM channel to June Lake, California, is the subject of a Further Notice of Proposed Rule Making and will be resolved separately.

List of Subjects in 47 CFR Part 73

Radio Broadcasting Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under California, is amended by removing Channel 276A and adding Channel 234A at Firebaugh; and by removing Channel 296A and adding Channel 276A at Oakhurst.

Federal Communications Commission.

John A. Karousos,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 94–3055 Filed 2–9–94; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF ENERGY

48 CFR Parts 904, 925, 952, and 970

RIN 1991–AB06

Acquisition Regulation; Restrictions on Awards to Foreign Controlled Contractors

AGENCY: Department of Energy (DOE).

ACTION: Final rule.

SUMMARY: The Department today publishes this notice to provide its disposition of public comments received in response to its invitation to comment on an interim final rule published in the **Federal Register** on November 10, 1993. The purpose of the interim final rule was to amend the Department of Energy Acquisition Regulation (DEAR) to implement section 836 of the Fiscal Year 1993, Defense Authorization Act. That section prohibits award of a contract under a national security program to a company owned by an entity controlled by a foreign government if that company requires access to a proscribed category of information to perform the contract. The interim final rule provided that it would automatically become effective on January 10, 1994.

FOR FURTHER INFORMATION CONTACT: Richard B. Langston, Office of Procurement and Assistance Management (HR–521.1), Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–8247.

SUPPLEMENTARY INFORMATION: DOE published an interim final rule in the **Federal Register** (58 FR 59682) on November 10, 1993, that amended the DEAR to implement section 836 of the Fiscal Year 1993, Defense Authorization Act. That section prohibits award of a contract under a national security program to a company owned by an entity controlled by a foreign government if that company requires access to a proscribed category of information to perform the contract.

The interim final rule amended the DEAR by adding a new subpart 904.71 to describe a prohibition on contracting with any company owned by an entity controlled by a foreign government if the company will require access to proscribed information to perform the contract. This subpart contained definitions and described grounds under which the prohibition may be waived by the Secretary of Energy. A new subpart 925.7 was added to provide notice of this prohibition. Part 952 was amended to provide a solicitation provision to be used in solicitations that require access to proscribed information by the contractor. Part 970 was also amended to apply these changes to management and operating contracts if they require access to proscribed information.

Since no public comments were received, DOE has determined not to amend the interim final rule and it became effective on January 10, 1994.

List of Subjects in 48 CFR Parts 904, 925, 952, and 970

Government procurement.

Issued in Washington, DC, on February 4, 1994.

G.L. Allen,

Acting Deputy Assistant Secretary for Procurement and Assistance Management.

[FR Doc. 94–3095 Filed 2–9–94; 8:45 am]

BILLING CODE 6450–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1051, 1053, and 1312

[Ex Parte No. MC–180 (Sub-No. 3)]

Regulations Implementing Section 7 of the "Negotiated Rates Act of 1993"

AGENCY: Interstate Commerce Commission.

ACTION: Delay of effective date of final rules.

SUMMARY: By decision served January 13, 1994, (59 FR 2303, January 14, 1994), the Commission promulgated regulations required by the Negotiated Rates Act of 1993 (Pub. L. No. 11003–180). The effective date of the final rules was set to be February 13, 1994.

On January 28, 1994, the American Trucking Associations (ATA) and National Small Shipments Traffic Conference, Inc. and Health and Personal Care Distribution Conference, Inc. (Conferences) filed petitions asking the Commission to extend the effective date of the rules to April 2, 1994. ATA and the Conferences indicate that additional time is needed for carriers and shippers to revise their current relationships, which may involve new paper freight bills and reprogramming of computers to enable the insertion of the proper notices and warnings required by the new statute and regulations. ATA states that the 120 days provided in the statute for the Commission to develop its regulations was intended to provide carriers and shippers adequate time to make these revisions. The Conferences state also that extension of the effective date will enable the ATA and shipper groups to jointly file a formal request that will present to the Commission a common set of interpretive questions requiring declaratory answers before the new rules take effect. The requests are reasonable and will be granted.

EFFECTIVE DATE: Effective February 7, 1994, the effective date of the final rules at 59 FR 2303 is delayed to April 2, 1994.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder (202) 927–6373 [TDD for the hearing impaired: (202) 927–5721.]

Decided: February 4, 1994.

By the Commission, Gail C. McDonald, Chairman.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 94–3113 Filed 2–9–94; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 652

[Docket No. 931072–4027; 092193C]

Atlantic Surf Clam and Ocean Quahog Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: 1994 fishing quotas for surf clams and ocean quahogs.

SUMMARY: NMFS issues final quotas for the Atlantic surf clam and ocean quahog fisheries for 1994. The quotas are set annually to prevent overfishing and to establish a basis for setting individual quotas under the Fishery Management Plan for the Atlantic Surf Clam and

Ocean Quahog Fisheries (FMP). These final quotas were selected from a range defined as optimum yield (OY) for each fishery. The intent of this action is to establish allowable harvests of surf clams and ocean quahogs from the exclusive economic zone in 1994.

EFFECTIVE DATE: January 1, 1994.

ADDRESSES: Copies of the Mid-Atlantic Fishery Management Council's analysis and recommendations are available from David Keifer, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901.

FOR FURTHER INFORMATION CONTACT: Myles Raizin (Resources Policy Analyst) 508–281–9104.

SUPPLEMENTARY INFORMATION: The FMP directs the Secretary of Commerce (Secretary), in consultation with the Mid-Atlantic Fishery Management Council (Council), to specify quotas for surf clams and ocean quahogs on an annual basis from a range to represent the OY for each fishery.

For surf clams, the quota must fall within the OY range of 1.85 million bushels and 3.40 million bushels. For ocean quahogs, the quota must fall within the range of 4.00 million bushels and 6.00 million bushels.

In specifying the quotas, the Secretary considered the latest available stock assessments prepared by NMFS, data reported by harvesters and processors, and other relevant information concerning exploitable biomass and spawning biomass, fishing mortality rates, stock recruitment, projected effort and catches, and areas closed to fishing. This information was presented in a written report prepared by the Council and adopted by the Regional Director, Northeast Region, NMFS.

Proposed quotas of 2.85 million bushels for surf clams and 5.4 million bushels for ocean quahogs were recommended by the Council.

This action establishes a surf clam quota of 2.85 million bushels and an ocean quahog quota of 5.4 million bushels for the 1994 fisheries, which are identical to the 1993 quotas. These quotas established by the Secretary are unchanged from the proposed quotas NMFS published in the **Federal Register** on November 3, 1993 (58 FR 58681). The public comment period ended on December 2, 1993. No comments were received.

The final quotas for the 1994 Atlantic surf clam and ocean quahog fisheries are as follows:

1994 SURF CLAM/OCEAN QUAHOG QUOTAS

Fishery	1994 final quotas (in bushels)
Surf clam	2,850,000
Ocean quahog	5,400,000

Other Matters

This action is taken under authority of 50 CFR part 652.

List of Subjects in 50 CFR Part 652

Fisheries, Recordkeeping and reporting requirements.

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

Dated: February 4, 1994.

Nancy Foster,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 94–3043 Filed 2–9–94; 8:45 am]

BILLING CODE 3510–22–M

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50 CFR Parts 672 and 675

[Docket No. 940225–4025; I.D. 012494B!]

Groundfish of the Gulf of Alaska, Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency interim rule; request for comments.

SUMMARY: NMFS has determined that an emergency exists in groundfish fisheries in the Gulf of Alaska (GOA) and in the Bering Sea and Aleutian Islands management area (BSAI). Management measures must be implemented to prevent overfishing of GOA thornyhead rockfish and Pacific ocean perch (POP) and to limit unnecessarily high bycatch amounts of these rockfish species and Pacific halibut in the GOA trawl fisheries in a manner that will reduce the likelihood of premature fishery closures. These measures include revising regulations applicable to the management and monitoring of the GOA halibut bycatch limit established for trawl gear fisheries, revising directed fishing standards, and adjustment of BSAI flatfish seasons to provide for additional fishing opportunities in the BSAI early in the fishing year. This action is necessary to respond to new information applicable to the management of GOA halibut and rockfish species and to avoid premature fishery closures. This action is intended to further the goals and objectives contained in the fishery management plans for the groundfish fisheries off Alaska.

DATES: Effective February 7, 1994 through May 11, 1994. Comments are invited on this action until February 25, 1994.

ADDRESSES: Comments should be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, Alaska 99802, Attention: Lori Gravel. Copies of the Environmental Assessment (EA) prepared for a proposed regulatory amendment, which will follow and implement the actions taken under the emergency rule, may be obtained from the same address.

FOR FURTHER INFORMATION CONTACT: Susan J. Salveson, Fisheries Management Division, Alaska Region, NMFS, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

Fishing for groundfish by U.S. vessels in the exclusive economic zone of the GOA and the BSAI is managed by the Secretary of Commerce according to the Fishery Management Plan (FMP) for Groundfish of the GOA and the FMP for the Groundfish Fishery of the BSAI. The FMPs were prepared by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801, *et seq.*) (Magnuson Act), and are implemented by regulations governing the U.S. groundfish fisheries at 50 CFR parts 672 and 675. General regulations that also pertain to U.S. fisheries are codified at 50 CFR part 620.

Management problems can arise that need to be addressed quicker than is feasible in the normal procedures provided by the Magnuson Act for FMP amendments and implementing regulations. Section 305(c) of the Magnuson Act authorizes the Secretary to issue emergency regulations to address such situations. Emergency regulations may remain in effect for 90 days with a possible 90-day extension.

At its September 1993 meeting, the Council requested NMFS to prepare a rulemaking that would implement several management measures to prevent some GOA trawl fisheries from taking a disproportionate amount of the GOA halibut bycatch limit established for the trawl fisheries, thus causing premature closure of other trawl fisheries. These proposed emergency measures were presented to the Council in September 1993 by GOA and BSAI trawl industry representatives as an alternative to controversial FMP amendments that were considered by

the Council that would establish a super exclusive registration program for vessels participating in the GOA and BSAI groundfish fisheries.

These alternative measures were intended to address the competition for the halibut bycatch limit established for the GOA trawl fisheries (§ 672.20(f)) and included (1) the establishment of two GOA trawl fishery categories that would be eligible to receive separate apportionments of the halibut bycatch limit, (2) revision of directed fishing standards to eliminate unnecessarily high halibut bycatch rates that can result from covert targeting on groundfish species for which directed fishing is closed, and (3) adjustment of the season opening date for the BSAI yellowfin sole and "other flatfish" fisheries from May 1 to January 20. The intent of the recommended season adjustment is to provide for additional fishing opportunities in the BSAI early in the year and reduce the incentive for trawl vessel operators to move from the BSAI to the GOA after the rock sole roe fishery is closed, typically by the end of February. NMFS intends to prepare a proposed rule and publish it in the **Federal Register** for public review and comment.

At its December 1993 meeting, the Council requested NMFS to implement the above management measures immediately under an emergency interim rule, by less than a unanimous vote. This request was in response to new information from some affected fishermen about the management of GOA halibut bycatch and total allowable catch (TAC) amounts specified for thornyhead rockfish and Pacific ocean perch (POP).

Several fishermen furnished information on practices of other fishermen in the affected fisheries that are inconsistent with conservation of Pacific halibut bycatch. This information was given in the form of testimony, which was presented to the Council orally and in writing. These are permissible means of constructing an administrative record to undergird the Council's determinations.

Overfishing concerns exist for thornyhead rockfish and POP that will require conservative management of the TAC amounts specified for these species to avoid reaching overfishing levels and premature closure of other groundfish fisheries that take thornyhead rockfish or POP as bycatch. The Council heard concerns about the effect of premature trawl closures brought about from proposed halibut bycatch restrictions or overfishing on the GOA trawl fisheries and the communities that depend on them.

Management measures to avert these problems must be implemented early in the fishing season to avoid serious problems affecting inseason monitoring and management of the thornyhead rockfish and POP TACs and the halibut bycatch limit established for GOA trawl fisheries.

Implementing these measures under emergency interim rulemaking will provide immediate benefits to the public that outweigh the value of postponement for public review and comment. NMFS concurs with the Council's recommendation to implement the following measures by an emergency interim rule while a regulatory amendment is reviewed, which would put these measures in place.

A. Establish two GOA trawl fishery categories for purposes of apportioning the GOA halibut bycatch limit established for the trawl gear fisheries (§ 672.20(f)). These two categories are the (1) shallow water fishery complex (the Alaska pollock, Pacific cod, Atka mackerel, shallow water flatfish, flathead sole, and "other species" trawl fisheries), and (2) the deep water fishery complex (the deepwater flatfish, rex sole, arrowtooth flounder, sablefish, and rockfish trawl fisheries);

B. Revise the method for calculating retainable amounts of groundfish species under directed fishing standards (§§ 672.20(h) and 675.20(i)). Revised methods will prohibit using retained amounts of arrowtooth flounder or groundfish species closed to directed fishing as a basis for calculating retainable amounts of other groundfish species that are closed to directed fishing; and

C. Adjust the opening date for the BSAI yellowfin sole and "other flatfish" fisheries from May 1 to January 20. As a result of this season adjustment, directed fishing standards governing retainable amounts of flatfish species at § 675.20(h)(2) also are revised.

A fuller description of, and justification for, each of these measures follow.

Establishment of Two GOA Trawl Categories for Purposes of Apportioning the Halibut Bycatch Mortality Limit

Existing regulations at § 672.20(f) establish a framework process for the annual specification of separate Pacific halibut prohibited species catch (PSC) limits for "trawl" and "fixed gear" fisheries, and for apportioning those limits by season. Although these regulations limit the bycatch of Pacific halibut in the GOA groundfish trawl fisheries, they have resulted in conflict among, and preemption of, groundfish trawling operations in the GOA as different trawl fishery components compete for shares of the available halibut PSC limit. This occurs due to seasonal variations in halibut bycatch rates and amounts experienced in the different trawl fisheries and the lack of trawl fishery categories in regulations that could receive separate apportionments of the halibut PSC limit.

Under existing regulations, it is possible for the activities of one group of trawl vessels used to fish for a particular groundfish species or species complex to take a disproportionate amount of the halibut bycatch limit. This can cause the premature attainment of the halibut PSC limit and closure of all trawling operations in the GOA, except for trawling for pollock with pelagic trawl gear. Such closures may leave significant amounts of economically important TAC unharvested, idling vessels and crew, and disrupting processing and fishing support sectors, fishery dependent communities, and intermediate and final markets. Even if the total trawl PSC limit is not reached prematurely, the threat that at any point in time in the fishing year it may be, can force other user groups to incur unnecessary costs, alter fishing plans, or undertake inefficient or undesirable fishing decisions.

Many of the potentially adverse impacts of the present framework process used to manage halibut bycatch in the GOA trawl fisheries would be avoided or reduced if the GOA trawl PSC limit is apportioned between competing fishery categories. Fishery data from the GOA trawl fisheries indicate that the variation in halibut bycatch rates and associated bycatch mortality in these fisheries appears to be relatively well demarcated by the following operational categories: (1) Those vessels fishing for species in the "shallow water species complex" (Alaska pollock, Pacific cod, shallow water flatfish, flathead sole, Atka mackerel, or "other species"), and (2) those vessels fishing for species in the "deep water species complex" (sablefish, rockfish, deep water flatfish, and arrowtooth flounder). Although the Council's action on this management measure included the flathead sole fishery in the deep water complex, 1993 fishery data show that over 65 percent of the total GOA flathead sole harvest was associated with fisheries in the shallow water complex. Therefore, NMFS is including the flathead sole fishery in the shallow water complex. The shallow water and deep water complexes are associated with inshore and offshore trawl operations, respectively.

Based on Council recommendations at its September and December 1993 meetings, the emergency rule apportions the 1994 GOA halibut trawl PSC limit

among fisheries and seasons as set forth below:

Apportionment of the 2000 metric ton (mt) halibut bycatch mortality limit established for the 1994 GOA trawl fisheries among the shallow and deep water trawl fishery complexes and seasons. Seasons open and close at 12 noon, Alaska local time (A.l.t.), except that the first season opens at 00:01 hours, A.l.t., January 20, and the last season ends at 12 midnight, A.l.t., December 31.

Season	Shallow complex (metric tons)	Deep complex (metric tons)	Total (metric tons)
Jan. 20–Mar. 31	500	100	600
Mar. 31–Jun. 30	100	300	400
Jun. 30–Sep. 30	200	400	600
Sep. 30–Dec. 31	(1)	(1)	400

[1] No apportionment.

Attainment of a seasonal (quarterly) bycatch allowance by a fishery complex will result in directed fishing closures for each species within that fishery complex for the remainder of the quarter, except that when the halibut bycatch allowance, or seasonal apportionment thereof, specified for the shallow water complex is reached, directed fishing for pollock with pelagic trawl gear may continue subject to other regulatory provisions. Any overages or shortfalls of a quarterly bycatch allowance will be accounted for in the subsequent quarterly allowance.

A detailed justification for the fishery and seasonal apportionments of the 1994 halibut PSC limit is described in the EA prepared for this management measure (see ADDRESSES). In summary, the apportionments implemented under this emergency rule reflect the recommendations presented to the Council at its September and December 1993 meetings by an *ad hoc* industry working group responsible for developing this management measure. These apportionments are intended to accommodate seasonal bycatch requirements in a manner that optimizes the 1994 halibut PSC limit established for trawl gear relative to anticipated trawl fishing patterns and 1994 groundfish TACs.

Revision of the Methodology Used To Calculate Retainable Amounts of Groundfish Under Directed Fishing Standards

The emergency rule amends §§ 672.20(h) and 675.20(i) to address problems with the current regulatory provisions for calculation of "retainable" bycatch amounts of groundfish species for which directed fishing is closed. Current regulations provide for an overly liberal computation of retainable amounts of groundfish bycatch species because the basis for bycatch retention inappropriately includes species not open for directed fishing. This compromises the intent of using directed fishing standards to restrict bycatch of species after directed fishery closures, effectively allowing unlimited bycatch retention.

An associated concern exists that some vessel operators deliberately target on arrowtooth flounder only to provide a basis for retaining allowable amounts of high valued groundfish species for which directed fishing is closed. In this case, arrowtooth flounder is harvested solely for the purpose of providing "directed catch" against which "retainable bycatch" quantities may be calculated and accumulated. Subsequently, the arrowtooth flounder directed catch is discarded and only the economically valuable bycatch, authorized on the basis of the quantity of the arrowtooth harvest, are actually retained for processing. This practice effectively subverts the "bycatch only" intent of fishery closures and associated directed fishing standards at §§ 672.20 and 675.20. Furthermore, trawl operations for arrowtooth flounder experience relatively high bycatch rates of halibut and contribute to the premature attainment of the halibut PSC limit, further aggravating the competition for halibut as bycatch in the Alaska trawl fisheries and increasing the potential for costly trawl fishery closures.

Adjustment of Season Opening Dates for the BSAI Flatfish Fisheries

Under the emergency rule, the opening date for the yellowfin sole and "other flatfish" fisheries is adjusted from May 1 to January 20, the beginning of the trawl fishing year in the Bering Sea (§ 675.23(d)). The directed fishing standard for flatfish species (§ 675.20(h)(2)) is changed to accommodate this season change and allow sufficient bycatch amounts of rock sole, yellowfin sole, arrowtooth flounder, or "other flatfish" in the flatfish fisheries, while allowing for fishing operations to minimize the discard waste of these species. The proposed change to the directed fishing standard for these flatfish species also would establish species specific standards, rather than aggregate standards for all flatfish species closed to directed fishing. The intent of this action is to simplify directed fishing standards, and reduce discard waste by increasing the retainable amounts of flatfish species closed to directed fishing relative to other flatfish species that are open to directed fishing.

The purpose of the season adjustment for the yellowfin sole and "other flatfish" fisheries is to provide the BSAI trawl industry with viable fishing alternatives, reduce the need for, and likelihood of, significant movement of fishing capacity from the BSAI to the GOA, reduce competition for GOA halibut bycatch under the halibut bycatch restrictions established for the GOA trawl fisheries, and reduce the likelihood that displacement of Bering Sea trawl effort into the GOA may preempt fishing opportunities for GOA operations later in the fishing year by exhausting the GOA trawl halibut PSC limit, thus necessitating GOA-wide trawl closures. This action also will reduce the likelihood that bycatch amounts of GOA thornyhead rockfish and POP will reach overfishing levels, resulting in costly fishery closures.

The original purpose for delaying directed fishing for yellowfin sole and "other flatfish" species until May 1 was to prevent the joint venture processing (JVP) and domestic annual processing (DAP) fisheries from taking a disproportionate share of their respective red king crab or halibut bycatch allowances established for Bycatch Limitation Zones 1 or 2H (defined at § 675.2), before available amounts of yellowfin sole and other groundfish species were harvested. Early attainment of red king crab or halibut bycatch allowances because of high bycatch rates experienced in the early spring flatfish fisheries resulted in premature fishery closures that prevented available amounts of flatfish and other groundfish species from being

harvested. Delaying the opening of the yellowfin sole and "other flatfish" fisheries until May 1 allowed the DAP fisheries to utilize the bulk of the available Zone 1 PSC limits in the rock sole and Pacific cod fisheries from January through April, optimizing their catch of allocated groundfish species.

The flatfish fisheries have changed substantially since the May 1 starting date was implemented. JVP fisheries no longer operate in the EEZ off Alaska. The domestic industry has developed profitable new markets for products from the "other flatfish" complex. In addition, the yellowfin sole and rock sole/"other flatfish" fisheries are allocated separate bycatch allowances that may be seasonally apportioned to optimize the groundfish harvest within the established prohibited species bycatch restrictions.

The May 1 opening date of the yellowfin sole and "other flatfish" fisheries now has the effect of preventing domestic fishermen from harvesting these resources at the beginning of the fishing year, when few other fishing opportunities exist. This has contributed, for example, to a situation in which the available TAC for the "other flatfish" complex has been underutilized in recent years. In 1991, only about 47 percent of the TAC for this species group was harvested. In 1992 and 1993, that figure dropped to 38 percent and 45 percent, respectively. While these resources have been underutilized, despite an expressed interest in accessing them at the beginning of the fishing year, retention of the May 1 opening has forced BSAI trawl fishermen to either move into the GOA deepwater flatfish fishery, which opens in January, or cease fishing until May 1.

The rock sole fishery in the Bering Sea currently opens at the beginning of the fishing year to allow the lucrative "roe" fishery to be conducted. This fishery typically closes in late-February or early-March when the rock sole are spawned out. Seasonal halibut bycatch restrictions can close other fisheries (e.g., Pacific cod during 1991 and 1992), leaving, as noted above, few alternative fishing opportunities for the BSAI groundfish fleet. Flathead sole, one of the species in the Bering Sea "other flatfish" category, produce roe, which matures just after rock sole roe matures. Markets for roe-bearing flathead sole have emerged, making this fishery a natural extension of that for roe-bearing rock sole in the Bering Sea. Other markets for these flatfish species, including a domestic fillet market, are under development.

Under the emergency rule, opening the BSAI yellowfin sole fishery and the "other flatfish" fishery at the beginning of the 1994 trawl season (January 20) will provide vessel operators fishing in the Bering Sea with the opportunity to participate in a potentially profitable, developing fishery. This opportunity is expected to reduce the need for vessels to move into the GOA trawl fisheries early in the fishing year, thus potentially decreasing pressure on the GOA halibut PSC limit, reducing the likelihood of rockfish bycatch amounts reaching overfishing levels in the GOA trawl fisheries, and diminishing the probability of preemption of existing GOA groundfish fisheries through early closure.

NMFS concurs that the above regulatory measures must be implemented by emergency rulemaking to prevent overfishing of thornyhead rockfish and POP stocks and premature attainment of the halibut trawl PSC limit, thus reducing the likelihood of costly fishery closures. Such closures would result in significant direct economic loss to nearly all segments of the GOA trawl industry due to foregone groundfish harvests and closure of processing operations. Social costs associated with such closures include increased unemployment and reduced cash flow through business and communities that support and depend upon the GOA groundfish fisheries. Comments on this action are invited through February 25, 1994 (see **ADDRESSES**).

Classification

The Assistant Administrator for Fisheries, NOAA (AA), has determined that this rule is necessary to respond to an emergency situation and that it is consistent with the Magnuson Act and other applicable laws.

This rule is not subject to review under E.O. 12866.

The AA finds that the reasons justifying promulgation of this rule on an emergency basis also make it impracticable and contrary to the public interest to provide notice and opportunity for prior comment or to delay for 30 days its effective date under sections 553(b) and (d) of the Administrative Procedure Act. The management measures implemented under this emergency rule must be implemented as soon as possible to respond to testimony at the Council's September and December 1993 meetings concerning the developing competition between GOA trawl fisheries for the halibut bycatch mortality limit and the potential for overfishing of thornyhead rockfish and POP. This action is necessary to allocate the GOA halibut PSC limit between trawl fisheries, limit the influx of BSAI trawl effort into the GOA after the BSAI rock sole roe fishery ends in late February, and prevent an associated increase in thornyhead, POP, and halibut bycatch amounts. Decreased bycatch of these species under the emergency rule will diminish the potential for premature fishery closures, decrease foregone groundfish harvests, and increase fishery revenues under existing overfishing and halibut bycatch restrictions.

This rule is exempt from the procedures of the Regulatory Flexibility Act, because it is issued without opportunity for prior public comment.

This rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal management program of the State of Alaska. This determination has been submitted under section 307 of the Coastal Zone Management Act for review by the responsible State agency.

An EA was prepared for the regulatory amendment that will follow this action (see **ADDRESSES**).

List of Subjects in 50 CFR Parts 672 and 675

Fisheries, Recordkeeping and reporting.

Dated: February 4, 1994.

Nancy Foster,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR parts 672 and 675 are amended as follows:

PART 672—GROUNDFISH OF THE GULF OF ALASKA

1. The authority citation for part 672 continues to read as follows:

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

2. In § 672.20, paragraphs (f)(1)(i) and (h)(1) are suspended from February 7, 1994 until May 11, 1994 and new paragraphs (f)(3) and (h)(3) are added from February 7, 1994 until May 11, 1994 as follows:

§ 672.20 General limitations.

* * * * *

(f) * * *

(3) *Trawl gear fisheries.*—(i) Apportionment of the Halibut PSC limit to Trawl gear fisheries. The halibut PSC limit for trawl gear specified under paragraph (f)(2) of this section is apportioned into bycatch allowances and seasonal apportionments thereof, specified in paragraph (f)(3)(iii) of this section, for fishery categories defined in

paragraph (f)(3)(ii) of this section, based on each category's proportional share of the anticipated bycatch mortality of halibut during a fishing year and the need to optimize the amount of total groundfish harvested under the non-trawl halibut PSC limit. The sum of all halibut bycatch allowances will equal the halibut PSC limit specified at paragraph (f)(2) of this section.

(ii) For purposes of apportioning the trawl halibut PSC limit among fisheries, the following fishery categories are specified and defined in terms of round-weight equivalents of those groundfish species for which a TAC has been specified under § 672.20 (a) and (c):

(A) Shallow water species fishery. Fishing with trawl gear during any weekly reporting period that results in a retained aggregate catch of pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, and "other species" that is greater than the retained amount of any other groundfish species or species group.

(B) Deep water species fishery. Fishing with trawl gear during any weekly reporting period that results in a retained catch of groundfish and is not a shallow water species fishery as defined under paragraph (f)(3)(ii)(A) of this section.

(iii) 1994 emergency interim bycatch allowances and seasonal apportionments thereof. The halibut PSC limit specified for vessels using trawl gear under paragraph (f)(2) of this section is apportioned among trawl fishery categories and season under this paragraph (f)(3) as follows:

Season	Shallow water species complex (metric tons)	Deep water species complex (metric tons)	Total (metric tons)
Jan. 20—Mar. 31	500	100	600
Mar. 31—Jun. 30	100	300	400
Jun. 30—Sep. 30	200	400	600
Sep. 30—Dec. 31	(1)	(1)	400

1 No apportionment.

(iv) *Attainment of a Pacific halibut trawl fishery bycatch allowance.* If, during the fishing year, the Regional Director determines that U.S. fishing vessels participating in either of the trawl fishery categories listed in paragraphs (f)(3)(ii) (A) or (B) of this section will catch the Pacific halibut bycatch allowance, or seasonal apportionment thereof, specified for that fishery category in paragraph (f)(3)(iii) of this section, NMFS will close the entire Gulf of Alaska to directed fishing with trawl gear for each species and/or species group that comprises that fishery category, except that when the halibut bycatch allowance or seasonal apportionment thereof specified for the shallow water species fishery is reached, fishing for pollock by vessels using pelagic trawl gear may continue, consistent with other provisions of this part.

* * * * *

(h) * * *

(3) *Calculations.*—(i) In making any determination concerning directed fishing under paragraph (g) of this section, the amount or percentage of any species, species group or any fish or fish products will be calculated in round weight equivalents.

(ii) Arrowtooth flounder or any groundfish species for which directed fishing is closed may not be used to calculate retainable amounts of other groundfish species under paragraph (g) of this section.

* * * * *

PART 675—GROUNDFISH FISHERY OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

3. The authority citations for 50 CFR part 675 continue to read as follows:

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

4. In § 675.20, paragraphs (h)(2), (h)(6), and (i)(1) are suspended from February 7, 1994 until May 11, 1994, and new paragraphs (h)(7), (h)(8) and (i)(3) are added from February 7, 1994 until May 11, 1994, as follows:

§ 675.20 General limitations.

* * * * *

(h) * * *

(7) Yellowfin sole, rock sole, arrowtooth flounder, or "other flatfish". The operator of a vessel is engaged in directed fishing for yellowfin sole, rock sole, arrowtooth flounder, or "other flatfish" if he retains at any time during a trip an amount of one of these species equal to or greater than 35 percent of the amount of the other respective species retained at the same time on the vessel during the same trip, plus 20 percent of any groundfish species other than yellowfin sole, rock sole, or "other flatfish" retained at the same time on the vessel during the same trip.

(8) *Other.* Except as provided under paragraphs (h) (1) through (7) of this section, the operator of a vessel is engaged in directed fishing for a specific species or species group if he retains at any particular time during a trip that species or species group in an amount equal to or greater than 20 percent of the amount of all other fish species retained at the same time on the vessel during the same trip.

(i) * * *

(3) *Calculations.* (i) In making any determination concerning directed fishing under paragraph (h) of this section, the amount or percentage of any species, species group or any fish or fish products will be calculated in round weight equivalents.

(ii) Arrowtooth flounder or any groundfish species for which directed fishing is closed may not be used to calculate retainable amounts of other groundfish species under paragraph (h) of this section.

* * * * *

5. In § 675.23, paragraph (c) is suspended from February 7, 1994 until May 11, 1994 and new paragraph (f) is added from February 7, 1994 until May 11, 1994, as follows:

§ 675.23 Seasons.

* * * * *

(f) Directed fishing for arrowtooth flounder and Greenland turbot is authorized from 12 noon Alaska local time, May 1 through 12 midnight, Alaska local time, December 31, subject to the other provisions of this part.

[FR Doc. 94-3054 Filed 2-7-94; 4:30 pm]

BILLING CODE 3510-22-P

Proposed Rules

Federal Register
Vol. 59, No. 28
Thursday, February 10, 1994

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

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 840, 842, and 843

Petition To Initiate Rulemaking; Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Citizen Complaints and State and Federal Inspection and Enforcement Authority

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Department of the Interior.

ACTION: Withdrawal of petition to initiate rulemaking.

SUMMARY: At the request of the petitioners, the Office of Surface Mining Reclamation and Enforcement is withdrawing a petition for rulemaking submitted by the Interstate Mining Compact Commission that was published in the August 17, 1993 **Federal Register** (58 FR 43594).

FOR FURTHER INFORMATION CONTACT: Daniel Stocker, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240: Telephone: 202–208–2550.

SUPPLEMENTARY INFORMATION: On August 17, 1993 (58 FR 43594), OSM published in the **Federal Register** a notice of availability and request for comment on a petition for rulemaking submitted by the Interstate Mining Compact Commission (IMCC). The petition, submitted under section 201(g) of the Surface Mining Control and Reclamation Act of 1977, requested that the Federal regulations at 30 CFR parts 840, 842 and 843 be amended to address the oversight role of OSM in States where a regulatory program approved by the Secretary of the Interior is in effect. The petition focused on the treatment of citizen complaints alleging violations at surface coal mining and reclamation operations and on citizen complaints alleging that a State permitting decision does not conform to applicable regulatory program requirements.

The IMCC in a letter to OSM dated January 24, 1994, withdrew the petition for rulemaking without prejudice, prior to any decision by OSM with respect to the petition. Therefore, OSM is terminating further action on a decision to grant or deny the petition.

Dated: February 3, 1994.

Anne H. Shields,

Acting Director, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 94–3008 Filed 2–9–94; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

34 CFR Parts 602 & 667

State Postsecondary Review Program and Secretary's Procedures and Criteria for Recognition of Accrediting Agencies; Meetings

AGENCY: Department of Education.

ACTION: Notice of regional meetings to obtain additional public comment in the development of final regulations.

SUMMARY: The Assistant Secretary for Postsecondary Education announces regional meetings to obtain public comment on the proposed regulations for the State Postsecondary Review Program, 34 CFR part 667, that were published in the **Federal Register** on January 24, 1994 (59 FR 3604), and the Secretary's Procedures and Criteria for Recognition of Accrediting Agencies, 34 CFR Part 602, that were also published in the **Federal Register** on January 24, 1994 (59 FR 3578).

DATES: The meetings will be held on Feb. 15, 17, 18, 25, and 28. See **SUPPLEMENTARY INFORMATION.**

ADDRESSES: The meetings will be held in Atlanta, GA; Philadelphia, PA; Boston, MA; Chicago, IL; San Francisco, CA. See **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Diane Rogers (202) 708–8200.

SUPPLEMENTARY INFORMATION: In order to increase the opportunity for public participation in the development of final regulations, the Assistant Secretary for Postsecondary Education is convening a series of meetings in different parts of the country and invites institutions, accrediting agencies, State postsecondary review entities and other interested parties to provide comments on the proposed regulations at these meetings. The Department will make a transcript of the public comments so that the Secretary can take these comments into account in the drafting of the final regulations.

If you plan to attend any meeting, the Assistant Secretary suggests that you bring a copy of the regulations with you. If you wish to provide written comments on either or both of the proposed regulations, you may bring your comments to the meeting or mail them to the Department at the address given in the preamble of the notices of proposed rulemaking for these programs published in the January 24, 1994 **Federal Register**.

State Postsecondary Review Program

In the **Federal Register** of January 24, 1994, the Secretary has proposed regulations to implement the State Postsecondary Review Program (SPRP) authorized under title IV, part H, subpart 1 of the Higher Education Act of 1965, as amended (HEA). Under the SPRP, the Secretary enters into an agreement with a State in which the State designates a postsecondary review entity (SPRE) that is responsible for conducting or coordinating reviews of institutions of higher education referred to the State by the Secretary under specific statutory provisions. The purpose of the review is to determine whether those institutions should continue to participate in the title IV, HEA student financial assistance programs. The SPRE reviews institutions on the basis of standards developed in consultation with institutions located in the State. The Secretary reimburses SPREs for costs they incur under the SPRP. The deadline date for submission of comments to the Department on these proposed regulations is March 21, 1994.

Secretary's Procedures and Criteria for Recognition of Accrediting Agencies

In the **Federal Register** of January 24, 1994, the Secretary also proposed regulations to amend the current regulatory provisions governing the Secretary's recognition of accrediting agencies. The proposed regulations implement provisions contained in title IV, part H, subpart 2 of the HEA. The purpose of the Secretary's recognition of accrediting agencies is to assure that those agencies are, for HEA and other

Federal purposes, reliable authorities as to the quality of education or training offered by the institutions of higher education or higher education programs they accredit. The deadline date for submission of comments to the Department on these proposed regulations is March 21, 1994.

Dates: The regional meetings are scheduled for February 15, 17, 18, 25, and 28. The meeting in Atlanta will begin at 1 p.m. and end at 4 p.m. The other meetings will begin at 10 a.m. and end at 1 p.m. We have included the telephone number for the hotel where each meeting will be held, should you wish to make hotel reservations.

Addresses: The regional meetings are scheduled to be held at the following locations:

February 15, 1994—Atlanta, Georgia The Stouffer Concourse Hotel, One Hartsfield Centre Parkway, Atlanta, Georgia 30354, Hotel telephone number: (404) 209–9999

February 17, 1994—Philadelphia, Pennsylvania, The Doubletree Hotel Philadelphia, Broad Street at Locust, Philadelphia, Pennsylvania 19107, Hotel telephone number: (215) 893–1600

February 18, 1994—Boston, Massachusetts, Logan International Airport, Hilton Hotel, 75 Service Road, Boston, Massachusetts 02128–2079, Hotel telephone number: (617) 569–9300

February 25, 1994—Chicago, Illinois, Westin Hotel O'Hare, 6100 River Road, Rosemont, Illinois 60018, Hotel telephone number: (708) 698–6000

February 28, 1994—San Francisco, California, San Francisco Airport Marriott Hotel, 1800 Old Bayshore Highway, Burlingame, California 90410, Hotel telephone number: (415) 692–9861

Note: As space for these meetings is limited, we encourage you to make hotel reservations as soon as possible.

For Further Information Contact: Diane Rogers, Office of the Assistant Secretary for Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., (room 4614, ROB–3), Washington, DC 20202–5100. Telephone (202) 708–8200. 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.

Dated: February 7, 1994.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 94–3170 Filed 2–9–94; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 489

[BPD–748–P]

RIN 0938–AG03

Medicare Program; Change in Provider Agreement Regulations Related to Federal Employee Health Benefits

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend current Medicare regulations to require that payment for inpatient hospital services furnished to retired Federal workers age 65 and older who are enrolled in a Federal Employee Health Benefits (FEHB) plan but who are not entitled to receive hospital benefits under Medicare Part A (Hospital Insurance) may not exceed the hospital payments established for Medicare purposes for inpatient hospital services. The rule would also amend current Medicare regulations to authorize HCFA to consider termination or nonrenewal of a hospital's Medicare provider agreement for knowingly and willfully failing to accept, on a repeated basis, the Medicare rate as payment in full from an FEHB plan. This proposed rule would implement section 7002(f) of the Omnibus Budget Reconciliation Act of 1990, enacted on November 5, 1990.

DATES: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on April 11, 1994.

ADDRESSES: Mail written comments to the following address:

Health Care Financing Administration, Department of Health and Human Services, Attention: BPD–748–P, P.O. Box 26676, Baltimore, MD 21207.

If you prefer, you may deliver your written comments to one of the following addresses:

Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, MD 21207.

Due to staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code BPD–748–P. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in room 309–G of the Department's offices at 200 Independence Avenue SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

Copies: To order copies of the **Federal Register** containing this document, send your request to: Superintendent of Documents, U.S. Government Printing Office, ATTN: New Order, P.O. Box 371954, Pittsburgh, PA 15250–7954.

Specify the date of the issue requested and enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 783–3238 or by faxing to (202) 512–2250. The cost for each copy is $4.50. In addition, you may view and photocopy the **Federal Register** document at most libraries designated as U.S. Government Depository Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**. The order desk operator will be able to tell you the location of U.S. Government Depositories.

FOR FURTHER INFORMATION CONTACT: Mel Lewis, (410) 966–4615.

SUPPLEMENTARY INFORMATION:

I. Background

The Office of Personnel Management (OPM) administers Federal Employee Health Benefit (FEHB) plans. These plans provide a variety of health services packages to current Federal employees and their families as well as to retired Federal workers and any eligible dependents. Most retired Federal employees age 65 and older are eligible to receive hospital insurance benefits under Medicare Part A (Hospital Insurance), one of two insurance programs created by the Social Security Amendments of 1965 when the Medicare program was established by the addition of title XVIII to the Social Security Act (the Act). There are, however, some retired Federal workers age 65 and older who are not entitled to receive hospital insurance benefits under Medicare Part A.

Present Medicare conditions of participation (requirements that

hospitals must meet to qualify for participation in the Medicare program) mandate that a provider not charge a beneficiary for services for which the beneficiary is entitled to have payment made under Medicare. A provider is defined in 42 CFR 400.202 as a hospital, a skilled nursing facility (SNF), a comprehensive outpatient rehabilitation facility (CORF), a home health agency (HHA), or, effective November 1, 1983 through September 30, 1986, a hospice that has in effect an agreement to participate in Medicare, or a clinic, a rehabilitation agency, or a public health agency that has a similar agreement but only to furnish outpatient physical therapy or speech pathology services. Under the requirement not to charge a beneficiary for services for which the beneficiary is entitled to have payment made under Medicare, the provider agrees to accept Medicare payment in full for services covered under Medicare and furnished by the provider. Existing Medicare conditions of participation and provider agreements do not require that hospitals accept the Medicare prospective payment system (PPS) rate as payment in full when issued by an FEHB plan for an enrollee not entitled to Medicare Part A.

Reforms in the Health Benefits Program under section 7002(f) of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508, enacted on November 5, 1990) require that FEHB plans limit their inpatient payment for retired FEHB enrollees who are age 65 and older but who are not entitled to receive hospital insurance benefits under Medicare to rates that would have been paid by Medicare under the inpatient hospital prospective payment system. The prospective payment system is a system of payment for acute inpatient hospital stays under Medicare Part A based on prospectively set rates. Under this system, Medicare payment is made at a predetermined, specific rate for each hospital discharge.

Section 7002(f) of Public Law 101–508 also requires that the OPM notify the Secretary of Health and Human Services (the Secretary) of incidents when a hospital knowingly and willfully attempts to collect, on a repeated basis, the difference between the Medicare payment rates and the hospital's charge, less any deductible or coinsurance obligation. The Secretary may consider these incidents as violations of the Medicare provider agreement and may consider termination or nonrenewal of the agreement. A Medicare provider agreement is an agreement between HCFA and one of the providers specified in § 489.2(b) to furnish services to Medicare beneficiaries and to comply with section 1886 of the Act, which establishes hospital payments. HCFA may terminate a provider agreement if any of the failings listed in § 489.53(a), which sets forth the basis for HCFA's termination of an agreement with any provider, is attributable to a provider.

The committee and conference reports accompanying Public Law 101–508 support the implementation of the changes in the provider agreement regulations. The Report of the Committee on the Budget of the House of Representatives (H.R. Rep. No. 881, 101st Cong., 2d Sess. 177 (1990)) accompanying Public Law 101–508 explains that section 8002(d) of the House bill:

> * * * Requires the Office of Personnel Management, in consultation with the Department of Health and Human Services, to develop and implement a system through which health benefits plan carriers will be able to identify Medicare-eligible FEHBP annuitants. Establishment of this system will ensure that payments under coordination of benefits with Medicare do not exceed the present or future statutory maximum which physicians may charge Medicare beneficiaries.

The Conference Report to Accompany H.R. 5835 (H.R. Rep. No. 964, 101st Cong., 2d Sess. 976 (1990)) states that section 8002 of the House bill:

> * * * Requires improved coordination between the Office of Personnel Management and the Department of Health and Human Services in order to ensure that Medicare's payments and limits can be correctly applied when the FEHBP carriers make a secondary payment.

The Conference Report also points out that:

> Section 8005 of the Senate amendment applies Medicare part A hospital payment limits to payments to providers of services to FEHBP annuitant enrollees who are age 65 and older but not eligible for Medicare.

The report states that the Conference agreement encompasses the House and Senate provisions, including a requirement for:

> * * * Improved coordination between the Office of Personnel Management and the Department of Health and Human Services in order to ensure that Medicare's payment and limits can be correctly applied * * * and the Senate provision which applies Medicare hospital payment limits to payments to providers of services to FEHBP annuitant enrollees who are age 65 and older but not eligible for Medicare.

II. Provisions of the Proposed Regulations

We are proposing to revise the following regulations to implement section 7002(f) of Public Law 101–508:

We would amend § 489.21, which sets forth specific limitations on charges under Medicare provider agreements, by revising the introductory text to make the limitations for inpatient hospital services applicable to retired FEHB plan enrollees age 65 or older who are not entitled to Medicare benefits. We would also add a new paragraph (i) under § 489.21 to require that the provider not charge for inpatient hospital services that are in excess of the hospital payments, after applicable copayments have been satisfied, established for Medicare purposes for inpatient hospital services under section 1886 of the Act furnished to a retired Federal employee age 65 or older who is enrolled in an FEHB plan and who is not entitled to receive hospital benefits under Medicare Part A.

We would amend § 489.53, which sets forth the basis for termination of provider agreements by HCFA. We would add to § 489.53 a new paragraph (a)(13) stating that we may terminate the agreement with any provider if we find that the provider knowingly and willfully charges, on a repeated basis, more than the hospital payments, after applicable copayments have been satisfied, established for Medicare purposes for inpatient hospital services under section 1886 of the Act.

III. Regulatory Impact Statement

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that a proposed rule would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, all hospitals are considered to be small entities.

Also, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a proposed rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds.

This proposed rule would add a new paragraph (i) under § 489.21 to require that payment for inpatient hospital services furnished to retired Federal workers age 65 or older who are enrolled in an FEHB plan but who are not entitled to receive hospital benefits under Medicare Part A may not exceed the hospital payments established for

Medicare purposes for inpatient hospital services.

In addition, we may terminate the Medicare agreement with any provider if the provider knowingly and willfully charges, on a repeated basis, an amount in excess of the hospital payments, after applicable copayments have been satisfied, established for Medicare purposes for inpatient hospital services under section 1886 of the Act.

Prospective payment rates tend to be substantially below the rates most hospitals charge most private insurers, including those private insurers participating in the Federal Employee Health Benefit Program. This new requirement will therefore result in substantial savings to the FEHBP. The requirement became effective January 1, 1992, without rulemaking. Hospitals have been notified of their obligations through OPM administrative procedures, savings will accrue directly through the OPM program, and compliance will be obtained and monitored by OPM.

HCFA is involved only because the Congress required that we establish a sanction mechanism in case any hospitals knowingly and willfully violate the requirement on a repeated basis. These sanction procedures would come into play only after an OPM determination of a problem and notification to HCFA. Hospitals that do not charge more than the hospital payments established for Medicare purposes would not be affected by this rule. We do not believe that any hospitals would knowingly refuse to comply, or that any hospital would lose provider status. Therefore, this proposed rule would have negligible economic effects.

For these reasons, we are not preparing analyses for either the RFA or section 1102(b) of the Act since we have determined, and the Secretary certifies, that this proposed rule would not result in a significant economic impact on a substantial number of small entities and would not have a significant economic impact on the operations of a substantial number of small rural hospitals.

In accordance with the provisions of Executive Order 12866 this proposed rule was not reviewed by the Office of Management and Budget.

IV. Other Required Information

A. Paperwork Reduction Act

This proposed rule contains no information collection requirements. Consequently, this rule need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

B. Response to Comments

Because of the large number of items of correspondence we normally receive on a proposed rule, we are not able to acknowledge or respond to them individually. However, we will consider all comments that we receive by the date and time specified in the "DATES" section of this preamble, and when we proceed with the final rule, we will respond to the comments in the preamble to the final rule.

List of Subjects in 42 CFR Part 489

Health facilities, Medicare, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 42 CFR chapter IV, subchapter E, part 489 is proposed to be amended as set forth below:

PART 489—PROVIDER AND SUPPLIER AGREEMENTS

1. The authority citation for part 489 continues to read as follows:

Authority: Secs. 1102, 1861, 1864(m), 1866, and 1871 of the Social Security Act (42 U.S.C. 1302, 1395x, 1395aa(m), 1395cc, and 1395hh).

Subpart B—Essentials of Provider Agreements

2. Section 489.21 is amended by revising the introductory text of the section and by adding a new paragraph (i) to read as follows:

§ 489.21 Specific limitations on charges.

Except as specified in subpart C of this part, the provider agrees not to charge a beneficiary for any of the services enumerated in this section, or in the instance of a retired Federal Employee Health Benefit (FEHB) plan enrollee age 65 or older not entitled to Medicare benefits, other than a prepayment enrollee, for those services listed exclusively in paragraph (i) of this section.

* * * * *

(i) Inpatient hospital services that are in excess of the hospital payments, after applicable copayments have been satisfied, established for Medicare purposes for inpatient hospital services under section 1886 of the Act furnished to a retired Federal employee age 65 or older who is enrolled in an FEHB plan, other than a prepayment plan, and who is not entitled to receive hospital benefits under Medicare Part A.

Subpart E—Termination of Agreement and Reinstatement After Termination

3. In § 489.53, the introductory text to paragraph (a) is republished and a new paragraph (a)(13) is added to read as follows:

§ 489.53 Termination by HCFA.

(a) *Basis for termination of agreement with any provider.* HCFA may terminate the agreement with any provider if HCFA finds that any of the following failings is attributable to that provider:

* * * * *

(13) It knowingly and willfully charges, on a repeated basis, more than the hospital payments, after applicable copayments have been satisfied, established for Medicare purposes for inpatient hospital services under section 1886 of the Act.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance)

Dated: October 13, 1993.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

Approved: December 1, 1993.

Donna E. Shalala,

Secretary.

[FR Doc. 94–3098 Filed 2–9–94; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 93–33; RM–8160; RM–8233]

Radio Broadcasting Services; Oakhurst, Firebaugh and June Lake, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is issuing a Further Notice to provide an opportunity to comment on a counterproposal filed by Don Stewart seeking the allotment of a Class A FM channel to June Lake, California, as that locality's first local aural transmission service. Channel 226A is being considered for allotment to June Lake. However, additional information is requested to determine whether June Lake qualifies as a "community" for allotment purposes. Coordinates used for channel 226A at June Lake as 37–47–06 and 119–04–06.

DATES: Comments must be filed on or before March 31, 1994, and reply comments on or before April 15, 1994.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner as follows: Don Stewart, 12550 Brookhurst Street—#35A, Garden Grove, CA 92640.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Further Notice of Proposed Rule Making, MM Docket No. 93–33, adopted January 11, 1994, and released, February 7, 1994. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or county review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *et parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 94–3056 Filed 2–9–94; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 93–227; RM–8292]

Radio Broadcasting Services; Marathon and Stevens Point, WI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal.

SUMMARY: This document dismisses the proposal to substitute Channel 285A for Channel 285C3 at Marathon, Wisconsin, modify the license for Station WMGU(FM) and reallot the Channel to Stevens Point, Wisconsin, in response to comments filed by Eagle of Wisconsin, Inc. See 58 FR 42715, August 11, 1993. With this action, this proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 83–227, adopted January 14, 1994, and released February 7, 1994. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., suite 140, Washington, DC 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communication Commission.

John A. Karousos,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 94–3057 Filed 2–9–94; 8:45 am]

BILLING CODE 6712–01–M

GENERAL SERVICES ADMINISTRATION

48 CFR Part 552

[GSAR Notice No. 5–383]

General Services Administration Acquisition Regulation; Contractor Identification of Products With Environmental Attributes

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comments on a proposed revision to the General Services Administration Acquisition Regulation (GSAR) (published as an interim rule, 59 FR 3657, January 26, 1994). The revision revises the multiple award schedule (MAS) clause at 552.238–75, Identification of Energy-Efficient Office Equipment and Supplies Containing Recovered Materials or Other Environmental Attributes to require MAS contractors to identify such products and briefly describe the environmental benefit associated with them.

DATES: comments are due in writing on or before April 11, 1994 to be considered in the formulation of the final rule.

ADDRESSES: Comments should be addressed to the GSA Desk Officer, room 3235, NEOB, Washington, DC 20503 and to Ms. Marjorie Ashby, General Services Administration, Office of GSA Acquisition Policy, 18th and F Sts., NW., Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Paul Linfield, Office of GSA Acquisition Policy (202) 501–1224.

SUPPLEMENTARY INFORMATION:

A. Background

Various statutes, including the Energy Policy and Conservation Act, as amended (42 U.S.C. 6201 *et seq.*), the Energy Policy Act of 1992 (Pub. L. 102–486), the Clean Air Act Amendments of 1990 (Pub. L. 101–549), and the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6901 *et seq.*), require Federal agencies to consider energy-efficiency and other environmental considerations in their procurement practices. These requirements are reinforced in a number of executive orders, including Executive Order 11912, 12759, 12843, 12845 and 12873. As a major procuring agency, the GSA, through its multiple awards schedule programs, provides encouragement to suppliers to produce products with environmental attributes and can assist Federal agencies in meeting their responsibilities expressed in the various statutes and executive orders through the identification of those products.

B. Executive Order 12866

This rule was reviewed by the Office of Management and Budget (OMB) in accordance with Executive Order 12866, Regulatory Planning and Review.

C. Regulatory Flexibility Act

Under multiple award schedules, contractors currently are required to submit certain marketing information with their offers and to public and distribute to ordering agencies commercial catalogs and/or pricelists. This rule would require those contractors to identify and describe those products that have environmental attributes.

This change may have an economic effect on a substantial number of small entities. Accordingly, an initial regulatory flexibility analysis has been prepared and submitted to the Acting Chief Counsel for Advocacy of the Small Business Administration. Copies of the initial regulatory flexibility analysis are

available for public comment from the office identified above. GSA awarded approximately 2,800 multiple award schedule contracts valued at approximately $4.19 billion during fiscal year 1992. Approximately 74 percent of these contracts were awarded to small business concerns.

D. Paperwork Reduction Act

The revised clause at 552.238–75 contains an information collection requirement that is subject to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and it has been submitted to OMB for approval under the Act. The title of this collection is Identification of Products with Environmental Attributes. Requiring contractors to identify and describe products with environmental attributes is intended to stimulate the development of products that incorporate pollution prevention technologies and facilitate the marketing of such products to the Federal Government, the Nation's largest single consumer. Federal agencies are required to give preference to such products, when doing so is cost-effective and meets performance requirements. The estimated annual burden for this collection is 14,000 hours. This is based on an estimated average burden hour per response of 5 hours, a proposed frequency of one response per respondent, and an estimated number of likely respondents of 2,800.

Comments on the information collection requirement in this rule may be directed to the Office of Information and Regulatory Affairs of OMB. Attention: Desk Officer for GSA, Washington, DC 20503, and to Ms. Marjorie Ashby, Office of GSA Acquisition Policy, room 4006, 18th and F Sts., NW., Washington, DC 20405.

List of Subjects in 48 CFR Part 552

Government procurement.

Accordingly, it is proposed that 48 CFR part 552 be amended to read as follows:

1. The authority citation for 48 CFR Part 552 continues to read as follows:

Authority: 40 U.S.C. 486(c).

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

2. Section 552.238–75 is revised to read as follows:

552.238–75 Identification of Energy-Efficient Office Equipment and Supplies Containing Recovered Materials or Other Environmental Attributes

As prescribed in 538.203–71(d), insert the following clause:

Identification of Energy-Efficient Office Equipment and Supplies Containing Recovered Materials or Other Environmental Attributes (XXX 1994)

(a) *Definitions. Energy-efficient office equipment*, as used in this clause, means office equipment that provide equivalent or better performance and value to users, but uses significantly less energy than competing models.

Recovered materials, as used in this clause, means waste material and by-products which have been recovered or diverted from solid waste, but such term does not include those materials and by-products generated from, and commonly reused, within an original manufacturing process (42 U.S.C. 6903(19)).

(b) The offeror shall identify in its offer and include in any commercial catalogs and pricelists submitted to the Contracting Officer, energy-efficient office equipment and supplies that contain recovered material or other environmental attributes. Additionally, a brief description of the environmental attribute associated with any item so identified must be included with the offer. An example of energy-efficient office equipment is microcomputers and associated equipment identified by the Environmental Protection Agency's (EPA's) Energy Star Logo. Supplies that contain recovered materials and other environmental attributes include products identified in EPA procurement guidelines (40 CFR parts 248 through 253) and products that are either degradable, ozone safe, recyclable, contain low volatile organic content compounds, or contribute to source reduction. Such supplies shall satisfy the guidance contained in 16 CFR part 260, Guides for the Use of Environmental Marketing Claims.

(c) An offeror, in identifying an item with an environmental attribute and in describing its environmental attribute, shall possess evidence or rely upon a reasonable basis to substantiate the claim (see 16 CFR 260.5). The Government will accept an offeror's claim of an item's environmental attribute on the basis of—

(1) Participation in a Federal agency sponsored program, e.g., EPA's Energy Star Computer program;

(2) Verification by an independent organization that specializes in certifying such claims; or

(3) Possession of competent and reliable evidence. For any test, analysis, research, study or other evidence to the "competent and reliable," it must have been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results. (End of Clause)

Dated: January 28, 1994.

Richard H. Hopf, III,

Associate Administrator, Office of Acquisition Policy.

[FR Doc. 94–3151 Filed 2–9–94; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 651

[Docket No. 940232–4032; I.D. 020494A]

Northeast Multispecies Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notification of Flexible Area Action System #7.

SUMMARY: NOAA issues this notice to inform the public and the fishing industry that the New England Fishery Management Council (Council) is considering Flexible Area Action System #7 under Amendment 3 to the Northeast Multispecies Fishery Management Plan (FMP). The purpose of the action would be to protect substantial concentrations of spawning haddock (with a large percentage of females full of roe) from being disturbed or caught and wastefully discarded at sea. This situation presents a hazard to haddock spawning success as well as significant wasted haddock mortality.

DATES: Comments on this proposed action must be received by February 24, 1994. The Council's Multispecies Committee will hold a hearing on February 24, 1994, at 10 AM.

ADDRESSES: Send comments on this proposed action, the fact-finding report and the Council's impact analysis to Richard B. Roe, Regional Director, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930.

Copies of the NMFS Northeast Regional Director's (Regional Director) fact-finding report and the Council's impact analysis will be available on February 18, 1994, upon request from Douglas G. Marshall, Executive Director, New England Fishery Management Council, 5 Broadway (Route 1), Saugus, MA 01960.

The public hearing will be held at the King's Grant Inn, Danvers, Massachusetts in conjunction with a meeting of the Committee to solicit comments on the proposed action.

FOR FURTHER INFORMATION CONTACT: E. Martin Jaffe, NMFS, Fishery Policy Analyst, 508–281–9272.

SUPPLEMENTARY INFORMATION: This action is taken under 50 CFR 651.26 as established by Amendment 3 to the FMP. Amendment 3 was approved by the Secretary of Commerce on November 24, 1989, and published on December 22, 1989 (54 FR 52803), with

the regulations effective on December 19, 1989. Section 651.26 specifies a Flexible Area Action System (FAAS) whereby protection can be provided to concentrations of juvenile, sub-legal or spawning fish. As part of this process, the Regional Director will initiate a fact-finding investigation of the alleged problem. The Council will also provide an impact analysis of alternative measures that might be implemented under this action.

The Council's Multispecies Committee (Committee) received a sea sampler's report that excessive by-catches of spawning haddock were occurring in Area I off of Cape Cod, Massachusetts. To determine the extent of the problem and whether it is appropriate to take action, the Committee has initiated this action.

Potential Area Affected

(1) The potential area of the proposed action that could be affected includes part or all of Area 1, defined at 50 CFR 651.21(a)(1) and encompassed by lines connecting the following points: (a) 40°53′ N. Latitude, 68°53′ W. Longitude; (b) 41°35′ N. Latitude, 68°30′ W. Longitude; (c) 41°50′ N. Latitude, 68°45′ W. Longitude; (d) 41°50′ N. Latitude, 69°00′ W. Longitude; (e) 41°30′ N. Latitude, 69°00′ W. Longitude; (f) 41°30′ N. Latitude, 69°23′ W. Longitude, and (a) 40°53′ N. Latitude, 68°53′ W. Longitude.

(2) The principal species that could be affected by any action would be haddock and Atlantic cod, primarily, and any other groundfish species where fisheries for them are forced to move to other areas for the period of a closure.

(3) The types of gear that could be affected by this action are all types of gear capable of catching groundfish, including, but not limited to, otter trawls, sink gillnets, hook gear, traps and any other gear types directed at haddock or that catch haddock in the area defined as a result of the fact-finding.

(4) The fisheries that potentially would be impacted are the commercial and recreational groundfish fisheries that operate in the area of the proposed action and use the gear types listed above.

(5) The principal ports that would be affected are Portland, Maine, Gloucester, Massachusetts, Boston, Massachusetts, New Bedford/Fairhaven, Massachusetts, and Galilee, Rhode Island. Some smaller ports could also be impacted.

(6) The expected duration of the action is as long as 180 days. If implemented as early as March 1, 1994, the action could last until August 28, 1994.

(7) The Committee expects to recommend that those areas that are determined to have significant concentrations of spawning haddock be closed to fishing with the types of gear described in (3) above.

Other actions which might be considered are implementation of any measures currently listed in the Northeast Multispecies Fishery Management Plan and its implementing regulations, e.g., a minimum mesh size.

(8) The Council will begin analyzing the potential impacts from possible action upon publication of this notice.

(9) The Council's impact analysis will be available on February 18, 1994.

List of Subjects in 50 CFR Part 651

Fisheries, Fishing, Reporting and recordkeeping requirements, Vessel permits and fees.

Dated: February 4, 1994.

Richard H. Schaefer,

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

[FR Doc. 94–3007 Filed 2–4–94; 4:50 pm]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 59, No. 28
Thursday, February 10, 1994

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

February 4, 1994.

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.

Extension

- *Food and Nutrition Service*

Food Stamp Program—Identification Card Requirements.

Recordkeeping; Monthly; Annually.

Individuals or households; State or local governments; 220,898,524 responses; 1,555,402 hours.

David Walters (703) 305–2385.

Reinstatement

- *Animal and Plant Health Inspection Service*

7 CFR 319, 321, 352—Foreign quarantine Notices PPQ 368, 546, 564, 587(MD) and 588.

On occasion.

Individuals or households; State or local governments; Farms; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations; 290,391 responses; 99,935 hours.

Pete Grosser (301) 436–6799.

New Collection

- *Forest Service*

Hells Canyon Private Land Use Regulations: 36 CFR 292, Subpart E.

On occasion.

Individualls or households; 12 responses; 96 hours.

Thomas P. Lennon (202) 205–1423.

Larry K. Roberson,

Deputy Department Clearance Officer.

[FR Doc. 94–3042 Filed 2–9–94; 8:45 am]

BILLING CODE 3410–01–M

Farmers Home Administration

Availability of Rural Housing Targeting Set Aside (RHTSA) Funds

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice.

SUMMARY: The Farmers Home Administration (FmHA) announces the availability of Rural Housing Targeting Set Aside (RHTSA) funds for Fiscal Year (FY) 1994. This action is taken to publish notice of the availability of Sections 502, 504, 514, 515 and 524 loan/grant funds in targeted, underserved areas and certain colonias that are now eligible for FmHA housing assistance. The intended effect is to make the public aware of eligible targeted counties and targeted housing funds available through FmHA.

EFFECTIVE DATE: February 10, 1994.

FOR FURTHER INFORMATION CONTACT: Cynthia Reese-Foxworth, Loan Specialist, Multi-Family Housing Processing Division, at (202) 720–1608, or Gloria Denson, Loan Specialist, Single Family Housing Processing Division at (202) 720–1474. The address is USDA-FmHA, South Agriculture Building, 14th and Independence Ave. SW., Washington, DC 20250–0700.

SUPPLEMENTARY INFORMATION:

Programs Affected

These programs/activities are listed in the Catalog of Federal Domestic Assistance under Nos:

10.405 Farm Labor Housing Loans and Grants.
10.410 Low Income Housing Loans.
10.411 Rural Housing Site Loans.
10.415 Rural Rental Housing Loans.
10.417 Very Low Income Housing Repair Loans and Grants.
10.427 Rural Rental Assistance Payments.

Discussion of Notice

7 CFR, part 1940, subpart L contains the "Methodology and Formulas for Allocation of Loan and Grant Program Funds." Exhibit C of subpart L contains information on RHTSA.

The Housing and Community Development Act of 1992 requires that at least 5 targeted counties contain Indian tribal lands. Based upon the selection criteria, 6 of the 100 targeted counties and 2 of the pooled counties contain Indian tribal lands. They are as follows:

Choctaw County, Alabama.
Bethel Census Area, Alaska.
Apache County, Arizona.
Navajo County, Arizona.
Rolette County, North Dakota.
Sioux County, North Dakota.
Nome Census Area, Alaska (Pool Funds Only).
Yukon-Koyukuk County, Alaska (Pool Funds Only).

FmHA is particularly interested in receiving loan requests for tribal organizations in these counties to develop housing.

The following information has been provided to FmHA field offices on Fiscal Year 1994 RHTSA funds and designated counties eligible for FmHA housing assistance:

FARMERS HOME ADMINISTRATION RURAL HOUSING TARGETING SET ASIDE (RHTSA)

[FY 1994]

State	Very low-income 502 loans FY 1994 set aside	Low-income 502 loans FY 1994 set aside	Total 502 loans FY 1994 set aside	504 grants FY 1994 set aside	504 loans FY 1994 set aside	515 loans FY 1994 set aside
Alabama	2,400,000	3,600,000	6,000,000	75,000	120,000	1,368,000
Alaska	1,600,000	2,400,000	4,000,000	50,000	80,000	1,368,000
Arizona	1,600,000	2,400,000	4,000,000	50,000	80,000	1,368,000
Arkansas	1,600,000	2,400,000	4,000,000	50,000	80,000	1,368,000
Georgia	1,600,000	2,400,000	4,000,000	50,000	80,000	1,368,000
Kentucky	1,600,000	2,400,000	4,000,000	50,000	80,000	1,368,000
Mississippi	3,200,000	4,800,000	8,000,000	100,000	150,000	1,368,000
New Mexico	2,400,000	3,600,000	6,000,000	75,000	120,000	1,368,000
North Dakota	1,600,000	2,400,000	4,000,000	50,000	80,000	1,368,000
Puerto Rico	3,200,000	4,800,000	8,000,000	100,000	150,000	7,475,000
South Dakota	3,200,000	4,800,000	8,000,000	100,000	150,000	1,368,000
Texas	3,200,000	4,800,000	8,000,000	100,000	150,000	1,764,000
Utah	800,000	1,200,000	2,000,000	25,000	40,000	1,368,000
Wisconsin	800,000	1,200,000	2,000,000	25,000	40,000	1,368,000
State total	28,800,000	43,200,000	72,000,000	900,000	1,400,000	25,655,000
Reserve	7,200,000	10,800,000	18,000,000	350,000	350,000	1,350,000
National total	36,000,000	54,000,000	90,000,000	1,250,000	1,750,000	27,005,000

Minimum state funding levels are established in sections 502, 504 and 515, based upon national averages, as follows:

Section 502—the lessor of $2,000,000 per county or $8,000,000 per state

Section 504 loans—the lessor of $40,000 per county or $150,000 per state

Section 504 grants—the lessor of $25,000 per county or $100,000 per state

Section 515—sufficient funds to obligate approximately 36 units at $38,000 per unit

Section 514 funds of $815,000 and section 524 funds of $30,000, are available on a first-come, first-served basis.

800 units of new construction RA are available for section 515 requests.

The RHTSA reserve will be available on an as needed basis for SFH programs. For MFH, the reserve will be available only for patch-outs until April 1, 1994.

Pooling of unused RHTSA funds and RA is tentatively scheduled for July 1, 1994, and may be changed administratively, based upon fund usage.

All unused RHTSA funds and RA are subject to year-end pooling, tentatively scheduled for August 15, 1994.

100 COUNTIES ELIGIBLE IN FISCAL YEAR 1994 FOR RHTSA FUNDS IMMEDIATELY AND AT POOLING

State	County name
Alabama	Choctaw.
Alabama	Perry.
Alabama	Wilcox.
Alaska	Bethal Census Area.
Alaska	Wade Hampton Census Area.
Arizona	Apache S.
Arizona	Navajo, S.
Arkansas	Lee.
Arkansas	Newton.
Georgia	Hancock.
Georgia	Taliaferro.
Kentucky	Breathitt.
Kentucky	Elliott.
Mississippi	Bolivar.
Mississippi	Coahoma.
Mississippi	Issaquena.
Mississippi	Sharkey.
New Mexico	McKinley.
New Mexico	Mora.
New Mexico	San Juan.
North Dakota	Rolette.
North Dakota	Sioux.
Puerto Rico	Aguas Burnas.
Puerto Rico	Aibonito.
Puerto Rico	Anasco.
Puerto Rico	Aquadilla.
Puerto Rico	Arroyo.
Puerto Rico	Barranquitas.
Puerto Rico	Cabo Rojo.

100 COUNTIES ELIGIBLE IN FISCAL YEAR 1994 FOR RHTSA FUNDS IMMEDIATELY AND AT POOLING—Continued

State	County name
Puerto Rico	Caguas.
Puerto Rico	Carolina.
Puerto Rico	Cayey.
Puerto Rico	Ciales.
Puerto Rico	Cidra.
Puerto Rico	Coamo.
Puerto Rico	Comerio.
Puerto Rico	Culebra.
Puerto Rico	Dorado.
Puerto Rico	Florida.
Puerto Rico	Guanica.
Puerto Rico	Guayanilla.
Puerto Rico	Guaynabo.
Puerto Rico	Gurabo.
Puerto Rico	Isabela.
Puerto Rico	Juana Diaz.
Puerto Rico	Juncos.
Puerto Rico	Lajas.
Puerto Rico	Lares.
Puerto Rico	Las Marias.
Puerto Rico	Las Piedras.
Puerto Rico	Loiza.
Puerto Rico	Luquillo.
Puerto Rico	Manati.
Puerto Rico	Maricao.
Puerto Rico	Mayaguez.
Puerto Rico	Moca.
Puerto Rico	Naguabo.
Puerto Rico	Naranjito.

100 COUNTIES ELIGIBLE IN FISCAL YEAR 1994 FOR RHTSA FUNDS IMMEDIATELY AND AT POOLING—Continued

State	County name
Puerto Rico	Orocovis.
Puerto Rico	Patillas.
Puerto Rico	Penuelas.
Puerto Rico	Ponce.
Puerto Rico	Rincon.
Puerto Rico	Sabana Grande.
Puerto Rico	Salinas.
Puerto Rico	San Juan.
Puerto Rico	San Sebastian.
Puerto Rico	Santa Isabel.
Puerto Rico	Toa Alta.
Puerto Rico	Toa Baja.
Puerto Rico	Trujillo Alto.
Puerto Rico	Utuado.
Puerto Rico	Vega Alta.
Puerto Rico	Vega Baja.
Puerto Rico	Vieques.
Puerto Rico	Villalba.
Puerto Rico	Yabucoa.
South Dakota	Bennett.
South Dakota	Corson.
South Dakota	Dewey.
South Dakota	Jackson.
South Dakota	Mellette E.
South Dakota	Shannon, PT.
South Dakota	Todd.
South Dakota	Ziebach.
Texas	Duval.
Texas	Edwards.

100 COUNTIES ELIGIBLE IN FISCAL YEAR 1994 FOR RHTSA FUNDS IMMEDIATELY AND AT POOLING—Continued

State	County name
Texas	Frio.
Texas	Hudspeth.
Texas	Jim Wells.
Texas	Karnes.
Texas	La Salle.
Texas	Maverick.
Texas	Presidio.
Texas	San Patricio.
Texas	Uvalde.
Texas	Webb.
Texas	Zavala
Utah	San Juan.
Wisconsin	Menominee.

50 COUNTIES ELIGIBLE IN FISCAL YEAR 1994 FOR RURAL HOUSING TARGETING SET ASIDE (RHTSA) POOLED FUNDS ONLY

State	County name
Alabama	Clark.
Alabama	Dallas.
Alaska	Dillingham Census area.
Alaska	Nome Census area.
Alaska	Yukon-Koyukuk.
Arizona	Coconino, Pt.
Arizona	La Paz.
Arkansas	St. Francis.
Arkansas	Searcy.
Georgia	Clay.
Georgia	Dooly.
Georgia	Marion.
Georgia	Talbot.
Georgia	Webster.
Idaho	Madison.
Kentucky	Casey.
Kentucky	Knott.
Kentucky	Knox.
Kentucky	Lawrence.
Kentucky	Perry.
Louisiana	Plaquemines.
Louisiana	Red River.
Louisiana	St. Martin.
Louisiana	St. Mary.
Louisiana	Terrebonne.
Mississippi	Greene.
Mississippi	Leflore.
Mississippi	Panola.
New Mexico	Catron.
New Mexico	Chaves.
North Carolina	Warren.
North Carolina	Halifax.
North Dakota	Benson.
Puerto Rico	Ceiba.
Puerto Rico	Hormigueros.
Puerto Rico	Quebradillas.
Texas	Cochran.
Texas	Crosby.
Texas	Dawson.
Texas	Ector.
Texas	Gaines.
Texas	Kinney.
Texas	Kleberg.
Texas	Pecos.
Texas	Reeves.

50 COUNTIES ELIGIBLE IN FISCAL YEAR 1994 FOR RURAL HOUSING TARGETING SET ASIDE (RHTSA) POOLED FUNDS ONLY—Continued

State	County name
Texas	Terry.
Texas	Val Verde.
Virginia	Lee.
Virginia	Northampton.
Virgin Islands	St. Thomas.

Dated: February 2, 1994.

Michael V. Dunn,

Administrator, Farmers Home Administration.

[FR Doc. 94–3211 Filed 2–9–94; 8:45 am]

BILLING CODE 3410–07–U

DEPARTMENT OF COMMERCE

International Trade Administration

[C–223–601]

Fresh-Cut Flowers From Costa Rica; Preliminary Results of Countervailing Duty Administrative Review and Intent To Terminate Suspended Investigation

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of countervailing duty administrative review and intent to terminate suspended investigation; fresh-cut flowers from Costa Rica.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the agreement suspending the countervailing duty investigation on certain fresh-cut flowers from Costa Rica. The review covers the period January 1, 1991 through December 31, 1991 and six programs. On January 22, 1992, the Government of Costa Rica (GOCR) requested an administrative review and termination of the suspended investigation covering fresh-cut flowers. Section 355.25(a)(2) of the Department's regulations permits termination of a suspended investigation if the Department determines that all producers and exporters covered by the suspension agreement have not applied for or received any net subsidy on the subject merchandise for a period of at least five consecutive years, and it is not likely that the producers or exporters will in the future apply for or receive any net subsidy on the merchandise from those programs that the Department has found countervailable. Therefore, we examined the programs to determine if the producers and exporters had complied with the terms of the suspension agreement during the review period. The Department has found that the signatories were in compliance with the terms of the suspension agreement in each of the four previous review periods (56 FR 66434, December 23, 1991; 56 FR 2163, January 22, 1991; 55 FR 17478, April 25, 1990; 54 FR 36838, September 5, 1989). We also preliminarily determine that the GOCR and the signatories of the suspension agreement on fresh-cut flowers have complied with the terms of the suspension agreement during the current period of review (POR). On the basis of our analysis of the information in the record, we preliminarily determine that it is not likely that the producers or exporters will in the future apply for or receive a net subsidy from the countervailable programs. Therefore, we preliminarily determine that the GOCR has met all requirements for termination of the suspended countervailing duty investigation on certain cut flowers as outlined in the Department's regulations. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: February 10, 1994.

FOR FURTHER INFORMATION CONTACT: Elizabeth Patience or Jean Kemp, Office of Agreements Compliance, International Trade Administration, U.S. Department of Commerce, Constitution Avenue and 14th Street NW., Washington, DC 20230; telephone: (202) 482–3793.

SUPPLEMENTARY INFORMATION:

Background

On December 26, 1991, the Department published a notice of "Opportunity to Request an Administrative Review" of the suspended investigation in this proceeding (56 FR 66846). The producers and exporters listed in appendix A, accounting for more than eighty-five (85) percent of total exports of subject merchandise from Costa Rica to the United States, are signatories to the suspension agreement. Our information indicates that the 38 signatory companies accounted for substantially all of the imports into the United States of this merchandise during the POR. The GOCR and the signatories are the respondents in this review. The suspension agreement permits ACOFLOR, the Costa Rican Association of Flower Growers, to act on behalf of the signatories. See Suspension of Countervailing Duty Investigation; Certain Fresh-Cut Flowers from Costa Rica, 52 FR 1356, 1360 (1987).

On January 22, 1992, respondents requested the fifth administrative review of the suspended investigation covering fresh-cut flowers (52 FR 1356, January 13, 1987). At the same time, respondents requested termination of the suspended investigation, in accordance with 19 CFR 355.25(a)(2) and 355.25(b)(2). On February 24, 1992, the Department initiated this review, covering the period January 1, 1991 through December 31, 1991 (57 FR 6314). On March 31, 1992, the Department published public notification of the GOCR's request for termination of the suspended investigation (57 FR 10885). The Department is now conducting this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act), and 19 CFR 355.22 and 355.25. The final results of the last administrative review in this case where published in the **Federal Register** on December 23, 1991 (56 FR 66434).

Scope of Review

Imports covered by this review are shipments of miniature (spray) carnations, standard carnations, and pompon chrysanthemums from Costa Rica. This merchandise is currently classifiable under the Harmonized Tariff Schedule (HTS) items 0603.10.30 and 0603.10.70. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period January 1, 1991 through December 31, 1991 and six programs: (1) Tax Credit Certificates; (2) Certificates for Increasing Exports; (3) Income Tax Exemptions for Export Earnings; (4) Exporter Credit for Sales Tax and Consumption Tax on Certain Domestic Purchases; (5) Exporter Exemptions for Taxes and Duties on Imports; and (6) Accelerated Depreciation. On January 20, 1992, ACOFLOR certified, on behalf of itself, its individual members, and as authorized, the signatories to the Agreement, that none of the signatories (1) applied for or received any net subsidy on the subject merchandise during the appropriate period under any program that the Commerce Department previously found countervailable in these proceedings; and (2) that the signatories shall not apply for or receive any net subsidy on the subject merchandise under any program the Department has previously determined to be countervailable in these proceedings. On January 23, 1992, the Ministry of Foreign Trade submitted a certification that the GOCR did not provide ACOFLOR, its members, or any signatory of the Agreement, any net subsidy on the subject merchandise during the appropriate period, pursuant to any program that the Department has previously determined to be countervailable in these proceedings. We selected six producers/exporters of the subject merchandise which are signatories to the agreement for the purpose of verifying the accuracy of the respondents' information and certifications: American Flower Corporation, S.A., Flores de Coris, S.A., Fincas Nabori, S.A., Flores Garces, S.A. (formerly Hermelink y Garces, S.A.), Flor Bella, S.A., and Floricultura Cartaginesa (collectively, the six companies).

Analysis of Programs

(1) Tax Credit Certificates

Certificados de Abono Tributario (CATs) are bearer instruments issued by the Central Bank of Costa Rica. Prior to 1991, the value of the CAT was 15 percent of the amount of the foreign currency converted from a firm's shipments of non-traditional exports. Effective December 3, 1993, the GOCR ceased granting CATs as part of new "export contracts" which allow exporters to receive GOCR benefits. During the period of review (POR), if a company with an export contract voluntarily accepted a reduction in the value of the CAT from 15 percent to 10.5 percent, it could extend its export contract benefits for three years and be exempt from the 25 percent tax on CAT earnings. The Central Bank is not granting CATs in new export contracts.

The suspension agreement prohibits Costa Rican producers and exporters of fresh-cut flowers from applying for or receiving any benefits under the CAT program for shipments of the subject merchandise to the United States. Effective the date of the agreement (January 13, 1987), any unused certificates received on prior shipments of the subject merchandise to the United States were to be returned to the Central Bank of Costa Rica (Central Bank). During verification, we examined the GOCR's records and found no exporters of the subject merchandise received or possessed unused CATs for exports to the United States during the POR. In addition, we examined the six companies' accounting records which indicated that the companies did not receive or possess unused CATs for subject merchandise during the POR. Therefore, we preliminarily determine that, with respect to this program, the signatories have complied with the agreement during this administrative review. We also preliminarily determine that, with respect to this program, the signatories have complied with the agreement for a period of five consecutive years based upon the results in this review and the four previous administrative reviews.

(2) Certificates for Increasing Exports (CIEX)

This program provides grants to agricultural and agro-industrial producers who increase exports from one year to the next. The suspension agreement prohibits Costa Rican producers and exporters of fresh-cut flowers from applying for or receiving any benefits under the CIEX program. In August 1984, the program was discontinued due to lack of funds, and the last benefits were paid in 1986. In 1988, the Costa Rican Congress approved a special commission of bonds for the purpose of liquidating the outstanding CIEX benefits for 1983/84, 1984/85, and 1985/86. During verification, we examined government and company records and found that this program was not used by the signatories during the POR. Therefore, we preliminarily determine that, with respect to this program, the signatories have complied with the agreement during this administrative review. We also preliminarily determine that, with respect to this program, the signatories have complied with the agreement for a period of five consecutive years based upon the results in this review and the four previous administrative reviews.

(3) Income Tax Exemptions for Export Earnings

Firms in Costa Rica are eligible for a tax exemption for export earnings. The suspension agreement prohibits Costa Rican producers and exporters of fresh-cut flowers from applying for or receiving any income tax exemptions for income derived from exports of the subject merchandise to the United States. During verification, we examined the six companies' tax returns. We found that any benefits due under this program had been calculated in accordance with the terms of the suspension agreement and did not include earnings on exports of the subject merchandise. Therefore, we preliminarily determine that, with respect to this program, the signatories have complied with the agreement during the POR. We also preliminarily determine that, with respect to this program, the signatories have complied with the agreement for a period of five consecutive years based upon the results in this review and the four previous administrative reviews.

(4) Exporter Credit for Sales Tax and Consumption Tax on Certain Domestic Purchases

Exporting firms in Costa Rica are eligible for a rebate of sales taxes and selective excise taxes (i.e., indirect taxes) paid on certain domestically-purchased articles. The suspension agreement prohibits Costa Rican producers and exporters of fresh-cut flowers from applying for or receiving any rebates of sales taxes and selective excise taxes on domestic purchases not physically incorporated into any exports. During verification, we examined government and company records and determined that none of the signatory producers and exporters applied for or received any rebates of these taxes during the review period on domestic purchases not physically incorporated into exports. Therefore, we preliminarily determine that, with respect to this program, the signatories have complied with the agreement during the POR. We also preliminarily determine that, with respect to this program, the signatories have complied with the agreement for a period of five consecutive years based upon the results in this review and the four previous administrative reviews.

(5) Exporter Exemptions for Taxes and Duties on Imports

Costa Rican firms with export contracts may be exempted from paying duties and taxes on imported raw materials, intermediate products and capital goods used to produce exported finished products. The suspension agreement prohibits Costa Rican producers and exporters of fresh-cut flowers from applying for or receiving any exemptions from taxes, surcharges, and duties (i.e., indirect taxes) on non-physically incorporated imports. Initially, this requirement prevented exporters or producers from receiving an exemption on any non-physically incorporated imports, whether used in the production of subject merchandise or not, because the Department was unable to verify that the exemption did not benefit the subject merchandise. Subsequently, the Department found that the agency responsible for granting exemptions, CENPRO, had instituted a system of controls to ensure that no exemptions would be granted for imports no physically incorporated into exports of the subject merchandise. See Certain Cut Flowers from Costa Rica; Preliminary Results of Countervailing Duty Administrative Review, 54 FR 27197, 27198 (1989). During the POR, as part of this system of controls, ACOFLOR received a list from CENPRO of flower growers that applied for tax and duty exemptions under this program. Before any applications were processed, a representative of ACOFLOR visited the flower growers claiming the exemptions, inspected the imported good in question, and verified its intended use. If the ACOFLOR representative determined that the imported good would be used in the production of the subject merchandise, ACOFLOR would require that the flower grower promptly withdraw its application for exemption.

During verification, we examined the system of controls administered by ACOFLOR and CENPRO and government and company records, and determined that no exporter or producer received such exemptions on any item without verification that the item in question had not been or will not be physically incorporated in the subject merchandise. Therefore, because we were able to verify that items receiving duty-free treatment did not provide benefits to the subject merchandise, we preliminarily determine that, with respect to this program, the signatories have complied with the agreement during this administrative review. We also preliminarily determine that, with respect to this program, the signatories have complied with the agreement for a period of five consecutive years based upon the results in this review and the four previous administrative reviews.

(6) Accelerated Depreciation

Exporting firms in Costa Rica may use accelerated depreciation for new equipment if they are authorized to do so by the Ministerio de Hacienda. The suspension agreement prohibits Costa Rican producers and exporters of fresh-cut flowers from making use of accelerated depreciation. During verification, we examined the six companies' depreciation records and determined that no firm used accelerated depreciation during the POR. Therefore, we preliminarily determine that the signatories have complied with the terms of the suspension agreement for the POR. We also preliminarily determine that, with respect to this program, the signatories have complied with the agreement for a period of five consecutive years based upon the results in this review and the four previous administrative reviews.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the GOCR and signatory companies have complied with all the terms of the suspension agreement during period January 1, 1991 through December 31, 1991. As described above, we also preliminarily determine that the signatories have complied with the agreement for a period of five consecutive years. In addition, the GOCR and ACOFLOR, as authorized by the signatories, have certified to the Department that the signatories will not in the future apply for or receive any net subsidy on the subject merchandise under any program the Department has previously determined to be countervailable in these proceedings. We also note that the GOCR and ACOFLOR have stated in the record that they will maintain procedures to ensure producers and exporters of fresh-cut flowers from Costa Rica will not receive net subsidies under any program the Department has previously determined to be countervailable in these proceedings, in the event that the agreement is terminated. Moreover, the Department has not been presented with any evidence indicating the signatories may apply for or receive any such subsidy in the future. On the basis of the foregoing evidence, in accordance with 19 CFR 355.25(a)(2)(ii), we preliminarily determine that it is not likely that the producers or exporters will in the future apply for or receive a net subsidy from the countervailable programs. See *Matsushita Elec. Indus. Co, Ltd.* v. *United States*, 750 F.2d 927, 933 (Fed Cir. 1984); *PPG Indus.* v. *United States*, 780 F. Supp. 1389 (CIT 1991); See also Ceramic Tile from Mexico; Final Results of Countervailing Duty Administrative Review and Revocation in Part of Countervailing Duty Order, 59 FR 2823, 2824 (January 19, 1994). Therefore we preliminarily determine to terminate the suspended countervailing duty investigation on fresh-cut flowers from Costa Rica.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 44 days after the date of publication or the first workday thereafter. Rebuttal briefs and rebuttals to written comments, limited to issues in those comments, must be filed not later than 37 days after the date of publication. The Department will publish the final results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with sections 751(a)(1)(C) and 751(c) of the Tariff Act (19 U.S.C. 1675(a)(1)(C) and 1675(c)) and 19 CFR 355.22 and 355.25.

Dated: February 3, 1994.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

Appendix A—List of Signatory Producers and Exporters

1. American Flower Corporation, S.A.
2. Flores del Cerro, S.A.
3. Agroflor de Paraiso, S.A.
4. Flores Garces, S.A.
5. Tico Flor, S.A.
6. Coexflo, S.A.
7. Compania Agricola Flex, S.A.
8. Flor Bella, S.A.
9. Exporflor de Cartago, S.A.
10. Lianpa, S.A.
11. Floricultura de Costa Rica, S.A.
12. Vivero El Zamorano, S.A.
13. Floress de Iztaru, S.A.
14. Inversiones Costa Flor, S.A.
15. Coopeflor, S.A.
16. Euroflores, S.A.
17. Flores y Follajes del Tirol, S.A.
18. Flores del Volcan CRP, S.A.
19. Goreza, S.A.
20. Llano Claro, S.A.
21. Ornamentales Cargil, S.A.
22. Floricultura La Colina, S.A.
23. Flores Intercontinentales, S.A.
24. Fincas Nabori, S.A.
25. Flores de Coris, S.A.
26. Florex, S.A.
27. C.R.B. Internacional, S.A.
28. Flores del Caribe, S.A.
29. Zurqui Flor de Costa Rica, S.A.
30. Rio Tapezco, S.A.
31. Jardin Botanico LDL de Costa Rica, S.A.
32. Tropiflor de la Montana, S.A.
33. Floricultura Santa Rosa, S.A.
34. Corporacion Rica Flor, S.A.
35. Intertec, S.A.
36. Accoreo, S.A.
37. Floricultura Cartaginesa, S.A.
38. Brumas Bajas, S.A.

[FR Doc. 94–3062 Filed 2–9–94; 8:45 am]

BILLING CODE 3510–DS–M

Minority Business Development Agency

Business Development Center Applications: Newark/Jersey City (Service Area)

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625, and 15 U.S.C. 1512; the Minority Business Development Agency (MBDA) is soliciting competitive applications under its Minority Business Development Center (MBDC) program. The total cost of performance for the first budget period (12 months) from July 1, 1994 to June 30, 1995 is estimated at $521,516. The total Federal Amount is $443,289 and is composed of $432,477 plus the Audit Fee Amount of $10,812. The application must include a minimum cost share of 15% ($78,227 of the total project cost through non-Federal contributions. Cost-sharing contributions may be in the form of cash contributions, client fees, in-kind contributions or combinations thereof. The MBDC will operate in the Newark/Jersey City, N.J. geographic service area.

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 provides business development services to the minority business community to help establish and maintain viable minority businesses. To this end, MBDA funds organizations to identify and coordinate public and private sector resources on behalf of minority individuals and firms; to offer a full range of management and technical assistance to minority entrepreneurs; and to serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated 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 each evaluation criteria category to be considered programmatically acceptable and responsive. Those applications determined to be acceptable and responsive will then be evaluated by the Director of MBDA. Final award selections shall be based on the number of points received, the demonstrated responsibility of the applicant, and the determination of those most likely to further the purpose of the MBDA program. Negative audit findings and recommendations and unsatisfactory performance under prior Federal Awards may result in an application not being considered for award. The applicant with the highest point score will not necessarily receive the award.

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.

Quarterly reviews culminating in year-to-date evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the total discretion of MBDA based on such factors as the MBDC's performance, the availability of funds and Agency priorities.

DATES: The closing date for applications is March 11, 1994. Applications must be postmarked on or before March 11, 1994. The mailing address for submission is:

ADDRESSES: New York Regional Office, Minority Business Development Agency, Jacob K. Javits Federal Building, room–3720, New York, New York 10278. (Area Code & Telephone Number): (212) 264–3262.

FOR FURTHER INFORMATION CONTACT: William R. Fuller, Acting Regional Director, New York Office at (212) 264–3262.

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. The collection of information requirements for this project have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 0640–0006. Questions concerning the preceding information can be answered by the contact person indicated above, and copies of application kits and applicable regulations can be obtained at the above address.

Pre-Award Costs—Applicants are hereby notified that if they incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that an applicant may have received, there is no obligation on the part of the Department of Commerce to cover pre-award costs. Awards under this program shall be subject to all Federal laws, and Federal and Departmental regulations, policies, and procedures applicable to Federal financial assistance awards.

Outstanding Account Receivable—No award of Federal funds shall be made to an applicant who has outstanding delinquent Federal debt until either the delinquent account is paid in full, repayment schedule is established and at least one payment is received, or

other arrangements satisfactory to the Department of Commerce are made.

Name Check Policy—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.

Award Termination—The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part any time before the date of completion whenever it is determined that the award recipient 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 the MBDC work requirements; and reporting inaccurate or inflated claims of client assistance. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

False Statements—A false statement on an application for Federal financial assistance is grounds for denial or termination of funds, and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Primary Applicant Certifications—All primary applicants must submit a completed Form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying."

Nonprocurement Debarment and Suspension—Prospective participants (as defined at 15 CFR part 26, section 105) are subject to 15 CFR part 26, Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies.

Drug Free Workplace—Grantees (as defined at 15 CFR part 26, section 605) are subject to 15 CFR part 26, Subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies.

Anti-Lobbying—Persons (as defined at 15 CFR part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000.

Anti-Lobbying Disclosures—Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, Appendix B.

Lower Tier Certifications—Recipients shall require applications/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

11.800 Minority Business Development, (Catalog of Federal Domestic Assistance)

Dated: February 2, 1994.

William R. Fuller,

Acting Regional Director, Regional Office.

[FR Doc. 94–3101 Filed 2–9–94; 8:45 am]

BILLING CODE 3510–21–M

Business Development Center Applications: Fayetteville, NC

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625 and 15 U.S.C. 1512, the Minority Business Development Agency (MBDA) is soliciting competitive applications under its Minority Business Development Center (MBDC) program. The total cost of performance for the first budget period (12 months) from July 1, 1994 to June 30, 1995 is estimated at $169,125. The application must include a minimum cost-share of 15% of the total project cost through non-Federal contributions. The Federal amount includes $4,125 for an annual audit fee. Cost-sharing contributions may be in the form of cash contributions, client fees, in-kind contributions or combinations thereof. The MBDC will operate in the Fayetteville, North Carolina geographic service area.

The award number for this MBDC will be 04–10–94006–01.

The funding instrument for this project 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 provides business development services to the minority business community to help establish and maintain viable minority businesses. To this end, MBDA funds organizations to identify and coordinate public and private sector resources on behalf of minority individuals and firms; to offer a full range of management and technical assistance to minority entrepreneurs; and to serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated 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 each evaluation criteria category to be considered programmatically acceptable and responsive. Those applications determined to be acceptable and responsive will then be evaluated by the Director of MBDA. Final award selections shall be based on the number of points received, the demonstrated responsibility of the applicant, and the determination of those most likely to further the purpose of the MBDA program. Negative audit findings and recommendations and unsatisfactory performance under prior Federal awards may result in an application not being considered for award. The applicant with the highest points score will not necessarily receive the award.

MBDCs shall be required to contribute at least 15% of the total project cost through non-Federal contributions. To assist in this effort, the MBDCs may charge client fees for management and technical assistance (M&TA) rendered. Based on a standard rate of $50 per hour, the MBDC 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.

Quarterly reviews culminating in year-to-date evaluations will be conducted to determine if funding for

the project should continue. Continued funding will be at the total discretion of MBDA based on such factors as the MBDC's performance, the availability of funds and Agency priorities.

DATES: The closing date for application is March 17, 1994. Applications must be postmarked on or before March 17, 1994.

ADDRESSES: Atlanta Regional Office, U.S. Department of Commerce, Minority Business Development Agency, 401 West Peachtree Street, NW., suite 1715, Atlanta, Georgia 30308–3516, (404) 730–3300.

FOR FURTHER INFORMATION CONTACT: Robert M. Henderson, Acting Regional Director, Atlanta Regional Office, telephone (404) 730–3300.

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. The collection of information requirements for this project have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 0640–0006. A pre-application conference to assist all interested applicants will be held on March 2, 1994, 9:00 a.m. at the following address: U.S. Department of Commerce, Minority Business Development Agency, 401 West Peachtree Street NW., room 1715, Atlanta, Georgia 30308–3516.

Questions concerning the preceding information can be answered by the contact person indicated above, and copies of application kits and applicable regulations can be obtained at the above address.

Pre-Award Costs—Applicants are hereby notified that if they incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that an applicant may have received, there is no obligation on the part of the Department of Commerce to cover pre-award costs.

Awards under this program shall be subject to all Federal laws, and Federal and Departmental regulations, policies, and procedures applicable to Federal financial assistance awards.

Outstanding Account Receivable—No award of Federal funds shall be made to an applicant who has outstanding delinquent Federal debt until either the delinquent account is paid in full, repayment schedule is established and at least one payment is received, or other arrangements satisfactory to the Department of Commerce are made.

Name Check Policy—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 honestly or financial integrity.

Award Termination—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 award recipient 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 the MBDC work requirements; and reporting inaccurate or inflated claims of client assistance. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

False Statements—A false statement on an application for Federal financial assistance is grounds for denial or termination of funds, and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Primary Applicant Certifications—All primary applicants must submit a completed Form CD–511, "Certifications regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying."

Nonprocurement Debarment and Suspension—Prospective participants (as defined at 15 CFR part 26, Section 105) are subject to 15 CFR Part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies.

Drug-Free Workplace—Grantees (as defined at 15 CFR part 26, Section 605) are subject to 15 CFR part 26, subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies.

Anti-Lobbying—Persons (as defined at 15 CFR part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000.

Anti-Lobbying Disclosures—Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, appendix B.

Lower Tier Certifications—Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

11.800 Minority Business Development, (Catalog of Federal Domestic Assistance)

Dated: February 4, 1994.

Robert M. Henderson,

Acting Regional Director, Atlanta Regional Office.

[FR Doc. 94–3163 Filed 2–9–94; 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 issuance of an extension to Scientific Research Permit No. 777 (P496).

On April 27, 1992 (57 FR 15286), the U.S. Army Corps of Engineers, Coastal Ecology Group was issued Scientific Research Permit 777 under the authority of the Endangered Species Act of 1973 (ESA) 16 U.S.C. 1531–1543) and the NMFS regulations governing listed fish and wildlife (50 CFR parts 217–227). On April 22, 1993, the Corps was issued Modification 1 to Permit 777, and on June 14, 1993, the Corps was issued Modification 2 to Permit 777.

Notice is hereby given that on February 2, 1994, NMFS issued Modification 3 to Permit 777, which extends the duration of the authorization through April 21, 1995.

Issuance of this extended permit, as required by the ESA, was based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the listed species which are the subject of this

Permit; (3) is consistent with the purposes and policies set forth in section 2 of the ESA. This permit was also issued in accordance with and is subject to parts 217–222 of title 50 CFR, the NMFS regulations governing listed species permits.

The application, permit, modifications, and supporting documentation are available for review by interested persons in the following offices by appointment:

Office of Protected Resources, National Marine Fisheries Service, 1335 East West Hwy., Silver Spring, Maryland 20910; and

National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, FL 33702 (813–893–3141).

Dated: February 2, 1994.

William W. Fox, Jr.,

Director, Office of Protected Resources.

[FR Doc. 94–3159 Filed 2–9–94; 8:45 am]

BILLING CODE 3510–22–M

Endangered Species; Permits

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

ACTION: Issuance of Second Modification to Scientific Research Permit 726 (P45I).

On March 22, 1991 (56 FR 13309), Dr. Boyd Kynard was issued Permit 726 take shortnose sturgeon (*Acipenser brevirostrum*) for scientific research activities, subject to certain conditions set forth therein, as authorized under the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and the NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217–227). On May 7, 1993, as authorized by the ESA, NMFS issued Modification 1 to Permit 726. On December 16, 1993 (58 FR 65702), as authorized by the ESA, NMFS extended Permit 726 through December 31, 1994, and acknowledged the receipt of another modification request.

Notice is hereby given that on February 3, 1994, as authorized by the ESA, NMFS issued Modification 2 to Permit 726, subject to certain conditions set forth therein. The modification authorizes Dr. Kynard to take an additional 15 adult shortnose sturgeon, to be captured from the population below the Holyoke Dam, tagged with radio tags, and released, and take up to 500 drifting eggs or embryos (which may be alive or dead) using stationary plankton nets set downstream of suspected spawning sites, and preserved. This modification is valid for the duration of the permit, through December 31, 1994.

Issuance of this Permit, as required by the ESA, was based on a finding that such Permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the listed species which is/are the subject of this Permit; (3) is consistent with the purposes and policies set forth in Section 2 of the ESA. This Permit was also issued in accordance with and is subject to Parts 217–227 of Title 50 CFR, the NMFS regulations governing listed species permits.

The application, permit, and supporting documentation are available for review by interested persons in the following offices by appointment:

Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, MD 20910 (301–713–2322); and

National Marine Fisheries Service, Northeast Region, One Blackburn Drive, Gloucester, MA 01930 (508–281–9250).

Dated: February 3, 1994.

William W. Fox, Jr.

Director, Office of Protected Resources.

[FR Doc. 94–3141 Filed 2–9–94; 8:45 am]

BILLING CODE 3510–22–M

Endangered Species; Permits

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

ACTION: Issuance of a modification to Scientific Research Permit 802 (P512).

On November 23, 1992 (57 FR 56903), Dr. André Landry was issued Permit 802 to take sea turtles for scientific research activities, subject to certain conditions set forth therein, as authorized under the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and the NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217–227). On December 4, 1993 (58 FR 65346), as authorized by the ESA, NMFS issued Amendment 1 to Permit 802 and acknowledged the receipt of an application for a modification.

Notice is hereby given that on February 2, 1994, as authorized by the ESA, NMFS issued Modification 1 to Permit 802. The modification authorizes Dr. Landry to capture an additional 100 Kemp's ridley (*Lepidochelys kempii*) sea turtles. These turtles may be flipper tagged, weighted, and measured. Blood and fecal samples may be collected, and the turtles may also be equipped with radio, sonic, and/or satellite tags. In addition, by NMFS' request, Dr. Landry must conduct a multiple tagging program on all Kemp's ridley sea turtles. Double flipper tags, passive integrated transponder (PIT) tags and magnetic tags would be attached to or inserted in all Kemp's ridley turtles taken. This modification is valid for the duration of the permit, through December 31, 1997.

Issuance of this modification, as required by the ESA, was based on a finding that the permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the listed species which are the subject of the permit; (3) is consistent with the purposes and policies set forth in section 2 of the ESA. The permit was also issued in accordance with and is subject to parts 217–227 of title 50 CFR, the NMFS regulations governing listed species permits.

The application, permit, amendment, modification, and supporting documentation are available for review by interested persons in the following offices by appointment:

Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, MD 20910 (301–713–2322); and

National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, FL 33702 (813–893–3366).

Dated: February 2, 1994.

William W. Fox, Jr.,

Director, Office of Protected Resources.

[FR Doc. 94–3160 Filed 2–9–94; 8:45 am]

BILLING CODE 3510–22–M

Endangered Species; Permits

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

ACTION: Issuance of Scientific Research Permit 886; St. George's School (P437A).

On December 8, 1993, notice was published (58 FR 64556) that an application had been filed by St. George's School, to take listed species of sea turtles, as authorized by the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and the NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217–222).

Notice is hereby given that on February 3, 1994 as authorized by the provisions of the ESA, NMFS issued Permit 886 to St. George's School to take sea turtles, subject to certain conditions set forth therein.

The permit authorizes the study of sea turtles in the pelagic stage and in their feeding habitats in the Bahamas and the Caribbean. Up to 200 loggerhead (*Caretta cartta*), 200 green (*Chelonia mycas*), 100 hawksbill (*Eretmochelys imbricata*), 5 leatherback (*Dermochelys coriacea*), 5 Kemp's ridley (*Lepidochelys*

kempii), and 5 olive ridley (*L. olivacea*) sea turtles may be captured, flipper tagged, blood sampled, and potentially recaptured during research activities. The permit continues research activities, previously authorized under Permit 676, through December 31, 1998.

Issuance of this permit, as required by the ESA, was based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the listed species which is/are the subject of this permit; (3) is consistent with the purposes and policies set forth in Section 2 of the ESA. This permit was also issued in accordance with and is subject to parts 217–222 of title 50 CFR, the NMFS regulations governing listed species permits.

The application, permit, and supporting documentation are available for review by interested persons in the following offices by appointment:

Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, MD 20910 (301–713–2322); and

National Marine Fisheries Service, Northeast Region, One Blackburn Drive, Glouchester, MA 01930 (508–281–9250).

National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, FL 33702 (813–893–3141).

Dated: February 3, 1994.

William W. Fox, Jr.,

Director, Office of Protected Resources.

[FR Doc. 94–3140 Filed 2–9–94; 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title: Annual Health Care Survey for DoD Beneficiaries.

Type of Request: New collection.

Average Burden per Response: 30 minutes.

Responses Per Respondent: 1.

Number of Respondents: 41,000.

Annual Burden Hours: 20,500.

Annual Responses: 41,000.

Needs and Uses: In accordance with Section 724 of the National Defense Authorization Act for Fiscal Years 1992 and 1993, the Department of Defense is conducting an annual health care survey of its beneficiaries. The survey will ask eligible beneficiaries about their health, access, knowledge of health care programs and other information.

Affected Public: Individuals or households.

Frequency: Annually.

Respondents Obligation: Voluntary.

OMB Desk Officer: Ms. Allison Eydt. Written comments and recommendations on the proposed information collection should be sent to Ms. Eydt at the Office of Management and Budget, Desk Officer for DoD, room 3001, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce. Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, Virginia 22202–4302.

Dated: February 7, 1994.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–3142 Filed 2–9–94; 8:45 am]

BILLING CODE 5000–04–M

Office of the Secretary

Ballistic Missile Defense Advisory Committee; Meeting

ACTION: Notice of Advisory Committee meeting.

SUMMARY: The Ballistic Missile Defense (BMD) Advisory Committee will meet in closed session in Colorado Springs, CO, on February 23 and 24, 1994.

The mission of the BMD Advisory Committee is to advise the Secretary of Defense and Deputy Secretary of Defense through the USD(A) on all matters relating to ballistic missile defense acquisition, system development, and technology.

In accordance with Section 10(d), as amended (5) U.S.C., App II, (1982), it has been determined that this BMD Advisory Committee meeting concerns matters listed in 5 U.S.C., 552(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Dated: February 7, 1994.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–3150 Filed 2–9–94; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on Antitrust Aspects of Defense Industry Consolidation

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Science Board Task Force on Antitrust Aspects of Defense Industry Consolidation will meet in open session on February 15, 1994 at the Department of Justice, 9th Street and Constitution Avenue, room 3109, Washington, DC.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense.

Persons interested in further information should call Ms. Amy Jeffress at (703) 697–7228.

Dated: February 7, 1994.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–3148 Filed 2–9–94; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on Depot Maintenance Management

ACTION: Change in Date of Advisory Committee Meeting Notice.

SUMMARY: The meeting of the Defense Science Board Task Force on Depot Maintenance Management scheduled for January 20–21, 1993 as published in the **Federal Register** (Vol. 58, No. 247, Page 68635, Tuesday, December 28, 1993, FR Doc. 93–31555) will be held on February 3–4, 1994. In all other respects the original notice remains unchanged.

Dated: February 7, 1994.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–3149 Filed 2–9–94; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on Depot Maintenance Management

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Depot Maintenance Management will meet in closed session on February 22–23, March 1–2, and March 15–16, 1994 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of

Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will assess the overall performance and management of depot-level activities of the Department of Defense.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that these DSB Task Force meetings, concern matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly these meetings will be closed to the public.

Dated: February 7, 1994.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense

[FR Doc. 94–3144 Filed 2–9–94; 8:45 am]

BILLING CODE 5000-04-M

Defense Science Board Task Force on Readiness

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Readiness will meet in closed session on February 22, March 25, April 21, and May 9, 1994 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense (Acquisition and Technology) on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will provide advice, recommendations, and supporting rationale on the components of a Readiness Early Warning System to insure that our forces do not become "hollow," and, where deficiencies may begin to emerge, to suggest corrective actions.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that these DSB Task Force meetings, concern matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly these meetings will be closed to the public.

Dated: February 7, 1994.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–3143 Filed 2–9–94; 8:45 am]

BILLING CODE 5000-04-M

Department of the Navy

Secretary of the Navy's Advisory Committee on Naval History; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C., App. 2), notice is hereby given that the Secretary of the Navy's Advisory Committee will meet on March 10-11, 1994, from 8:00 a.m. to 4:00 p.m., in the Dudley Knox Center for Naval History Conference Room, Building 1, Washington Navy Yard, Washington, D.C. 20374-5060. The purpose of the meeting is to elicit the advice of the committee concerning various aspects of the Navy's historical programs. The meeting will be open to the public.

For further information concerning this meeting, contact: Dr. W. S. Dudley, Naval Historical Center, Building 57, Washington Navy Yard, 20374-5060, telephone 202-433-7230.

Dated: February 2, 1994

Michael P. Rummel

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 94–3161 Filed 2–9–94; 8:45 am]

BILLING CODE 3810-AE-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 proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: An expedited 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 February 25, 1994.

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, 400 Maryland Avenue, 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: February 3, 1994.

Linda C. Tague,

Acting Director, Information Resources Management Service.

Office of Intergovernmental and Interagency Affairs

Type of Review: Expedite.

Title: Presidential Academic Fitness Award School Order Form.

Abstract: This collection will be used by public and non-public, elementary and secondary schools. Interested schools will use the order form to participate in the Presidential Academic Fitness Awards Program (PAFA), confirming their address and indicating the number of awards needed by exit grade at the school. The Department will use the information to award certificates to school recipients.

Additional Information: An expedited review is requested in order to provide sufficient time for participating schools to mail the order form back to the Department by April 4. Therefore, we are requesting OMB clearance by February 25, 1994. The two pages of the order form that changed from the previous year has been included for public comment. The order form reflects revisions to the criteria for participation in the PAFA program.

Frequency: Annually.

Affected Public: Individuals or households; State or local governments; Non-profit institutions.

Reporting Burden:

Responses: 52,000

Burden House: 17,333

Recordkeeping Burden:

Recordkeepers: 0

Burden Hours: 0

BILLING CODE 4000–1–M

U.S. Department of Education

PRESIDENTIAL ACADEMIC FITNESS AWARDS PROGRAM
ORDER FORM FOR CERTIFICATES

	Award Level 1 - Elementary	Award Level 2 - Middle/Jr. High	Award Level 3 - Senior High
	4,5,6,7,8	7,8,9	12
1. Circle highest grade in school			
2. Total number of students in this grade			
3. President's Award for Educational Excellence NTE 5% of the enrollment at the exit grade			
4. President's Academic Effort Award NTE 10% of the enrollment at the exit grade			

5. Date of Award Ceremony _____

6. CORRECT ANY ERRORS ON ADDRESS LABEL AND CHECK BOX IF CHANGE IS REQUIRED.

Check here if your address requires correction. ☐

7. AFFIRMATION: I affirm that that the students receiving this award have met the standards of achievement established at this school.

_____
Signature of Principal Date

_____
Name (Print) Telephone

PRESIDENTIAL ACADEMIC FITNESS AWARDS PROGRAM

PRESIDENT'S AWARD FOR EDUCATIONAL EXCELLENCE

Selected students, at each of the award levels (elementary or middle school / junior high school or high school), are to meet the requirements indicated in A and B and, at least, one or more in C, D, and E:

A. GRADE POINT AVERAGE: Students are to earn an A- (3.7 on a 4.0 scale) GPA or 90 on a 100 point scale. When computing GPA at the respective award level, only the years at that level are to be included through the fall semester of the exiting grade.

NOTE: elementary schools are not to include K - 3 in their computation.

B. SCHOOL CRITERIA / STANDARDS: Standards of achievement are to be established at each school. This will enable school personnel to develop their own recommended criteria and objectively apply these to all students. (The use of a representative committee may be helpful.)

In addition to A and B, schools are to include one or more of the following three criteria to determine their selected students:

C. STANDARDIZED ACHIEVEMENT TEST (Reading): Achieve in the 85th percentile or higher,

OR

D. STANDARDIZED ACHIEVEMENT TEST (Math): Achieve in 85th perecentile or higher. (High school seniors may use college admissions examinations such as SAT or ACT.)

OR

E. RECOMMENDATIONS FROM A TEACHER PLUS ONE OTHER SCHOOL STAFF MEMBER:
One recommendation is to reflect outstanding achievement in one or more areas such as English, mathematics, science, history, geography, art, foreign language, and any other courses that reflect a school's core curriculum. This judgment is to be supported by tangible evidence that is comprised of either results on teacher-made tests, portfolio assessment, or special projects. The second recommendation from a school staff member may address, for example: involvememt in community service; or extracurricular activities including tutoring other students and/or demonstration of creativity and achievement (visual and performing arts).

PRESIDENT'S ACADEMIC EFFORT AWARD

- Criteria under B and E.
- A student whose prior school record would have met the school's selection criteria for the President's Award for Educational Excellence, but due to illness, other personal crisis, or special needs could not maintain such high standards during the year.
- An unusual behavior change that would produce notable improvement in learning and achievement.

These examples are drawn from effort awards presented in the past. The list is by no means exhaustive: it serves as an example.

Public reporting burden for this collection is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, including suggestions for reducing this burden to: U.S. Department of Education, Information and Compliance Division, Washington, D.C. 20202-4651; and to the Office of Management and Budget, Paperwork Reduction Project 1860-0501, Washington D.C. 20503.

ED 80-0900

[FR Doc. 94–3011 Filed 2–9–94; 8:45 am]
BILLING CODE 4000–01–C

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 March 14, 1994.

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 any 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: February 3, 1994.

Cary Green,

Director, Information Resources Management Service.

Office of Elementary and Secondary Education

Type of Review: Extension.

Title: Application for Training Programs in Early Childhood Education and Violence Counseling.

Frequency: Annually.

Affected Public: Individuals or households; Federal agencies or employees; Non-profit institutions.

Reporting Burden:
Responses: 90
Burden Hours: 540

Recordkeeping Burden:
Recordkeepers: 5
Burden Hours: 50

Abstract: Institutions of higher education will apply for grants to establish innovative programs to recruit and train students under the Training Programs in Early Childhood Education and Violence Counseling. The Department will use this information to make grant awards.

Office of Special Education and Rehabilitative Services

Type of Review: New.
Title: Survey of Independent Living Training and Technical Assistance Needs.
Frequency: Annually.
Affected Public: State or local governments; Non-profit institutions.
Reporting Burden:
Responses: 240
Burden Hours: 240
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: Survey is used to obtain information from Statewide Independent Living Councils and centers for independent living regarding their training and technical assistance needs in order to determine funding priorities.

Office of the Under Secretary

Type of Review: New.
Title: Evaluation of Upward Bound.
Frequency: Annually.
Affected Public: Individuals or households; Non-profit institutions.
Reporting Burden:
Responses: 7,331
Burden Hours: 4,443
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: The evaluation of Upward Bound will include student follow-up data collected through a computer assisted telephone interview, the collection of information on student transcripts and participation data, and the acquisition of information on project operations and course offerings. The information will be used to inform Congress about the services provided to Upward Bound participants and the effectiveness of the program and to provide valuable information on the strategies that are particularly effective for specific populations of students.

Office of Postsecondary Education

Type of Review: Revision.
Title: Fiscal Operations Report and Application to Participate in the Federal Perkins Loan, Supplemental Educational Opportunity Grant, and Federal Work-Study Programs.
Frequency: Annually.
Affected Public: State or local governments; businesses or other for-profit; non-profit institutions.
Reporting Burden:
Responses: 4,800
Burden Hours: 79,173
Recordkeeping Burden:
Recordkeepers: 4,800
Burden Hours: 384
Abstract: This form will be used to compute the amount of funds needed by each institution during the 1995–96 award year. The Department will use the information to assess program effectiveness and to account for funds expended during the 1993–94 award year.

[FR Doc. 94–3017 Filed 2–9–94; 8:45 am]
BILLING CODE 4000–01–M

Training in Early Childhood Education and Violence Counseling

AGENCY: Department of Education.

ACTION: Notice of proposed priorities for fiscal year 1994.

SUMMARY: The Secretary proposes absolute priorities and a competitive preference for fiscal year 1994 under the Training in Early Childhood Education and Violence Counseling Program. The absolute priorities would target Federal financial resources on several categories of disadvantaged students who are seeking careers in early childhood development or violence counseling, increase the likelihood that the disadvantaged students would be retained in the training program, and ensure that trainees would be prepared for work in economically disadvantaged areas. The competitive preference would increase the likelihood that applicants address the critical need for

trained individuals to provide counseling to young children who have been affected by violence and to adults who work with these young children.

DATES: Comments must be received on or before February 10, 1994.

ADDRESSES: All comments concerning the proposed absolute priorities and competitive preference should be addressed to Mary Jean LeTendre, U.S. Department of Education, 400 Maryland Avenue SW., room 2043, FOB–6, Washington, DC 20202–6132.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Alexander, U.S. Department of Education, 400 Maryland Avenue SW., room 2025, FOB–6, Washington DC 20202–2641. Telephone: (202) 401–1692. Individuals who use a telecommunication 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: This notice contains three proposed absolute priorities and one competitive preference under the Training in Early Childhood Education and Violence Counseling Program. The purpose of this program is to provide financial assistance to institutions of higher education (IHEs) to enable them to establish innovative programs to recruit and train students for careers in (1) early childhood development and care, or preschool programs, or (2) providing counseling to young children from birth to 6 years of age who have been affected by violence and to adults who work with these children. The authorizing legislation (Section 596 of the Higher Education Amendments of 1992) limits grants to IHEs that (1) prepare students for work in economically disadvantaged areas; (2) plan to focus their recruitment, retention, and training efforts on disadvantaged students; and (3) have demonstrated effectiveness in providing the type of training for which the institution seeks assistance. In addition, the Secretary proposes that grants be limited to projects that meet each of the three absolute priorities in this notice, and that competitive preference be given to applicants whose proposed project meets the proposed competitive priority.

The purpose of the proposed priorities would advance Goal 1 of the National Education Goals by improving early childhood education and child care services in disadvantaged areas, and by enhancing the ability of educators and others to help young children and their families cope with violence.

The Secretary will announce the final priorities in a notice in the **Federal Register**. The final priorities will be determined by responses to this notice and other considerations of the Department. Funding of particular projects will depend on the nature of the final priorities and the quality of the applications received.

Note: This notice of proposed priorities does *not* solicit applications. A notice inviting applications under these competitions will be published in the **Federal Register** concurrent with or following publication of the notice of final priorities.

Proposed Absolute Priorities

Under 34 CFR 75.105(c)(3) the Secretary proposes to give an absolute preference to applications that meet each of the following three priorities. The Secretary proposes to fund under this competition only applications that meet these three absolute priorities.

Proposed Absolute Priority 1—Focusing Training and Recruitment on Certain Categories of Disadvantaged Students

Background: There is a growing need for well-qualified early childhood educators and child care providers, especially by parents who are on public assistance and seeking employment. Studies demonstrate that more than 11 million children are involved in early care and education outside their homes, including approximately 60 percent of children in families with incomes of $10,000 or less. The quality of the services these children receive will depend on the knowledge and skills of the people who care for and teach them.

The statute requires grantees to focus their recruitment, retention, and training efforts on disadvantaged individuals. This proposed priority would require each IHE to include in its application a plan demonstrating that its recruitment, retention, and training efforts will be targeted primarily toward one or more of the following categories (1) individuals who are recipients of public assistance under programs such as Aid to Families with Dependent Children (AFDC); Special Supplemental Food Program for Women, Infants, and Children (WIC); or the food stamp program; or who have been recipients of public assistance within 12 months prior to recruitment in the program; (2) graduating high school seniors whose parents are recipients of public assistance under programs such as AFDC, WIC, or the food stamp program, or whose parents have been recipients of public assistance within 12 months prior to recruitment in the program; (3) individuals who lack a postsecondary degree and are currently working in a Chapter 1, Head Start, or Even Start program or other Federal, State, or local program primarily serving disadvantaged young children; or (4) individuals who lack a postsecondary degree and are parents of children participating in Head Start, Even Start, or eligible Chapter 1 schoolwide programs or other Federal, State, or local program primarily serving disadvantaged young children. This proposed priority would contribute to higher employment rates for low-income individuals, and better paying jobs for the working poor, while increasing the supply of quality child care providers and violence counselors.

Priority

Each IHE must include in its application a plan demonstrating that its recruitment, retention and training efforts will be targeted primarily toward one or more of the following categories:

(1) Individuals who are recipients of public assistance under programs such as Aid to Families with Dependent Children (AFDC); Special Supplemental Food Program for Women, Infants, and Children (WIC); or the food stamp program; or who have been recipients of public assistance within 12 months prior to recruitment in the program.

(2) Graduating high school seniors whose parents are recipients of public assistance under programs such as AFDC, WIC, or the food stamp program, or whose parents have been recipients of public assistance within 12 months prior to recruitment in the program.

(3) Individuals who lack a postsecondary degree and are currently working in a Chapter 1, Head Start, or Even Start program or other Federal, State, or local program primarily serving disadvantaged young children.

(4) Individuals who lack a postsecondary degree and are parents of children participating in Head Start, Even Start, or eligible Chapter 1 schoolwide programs or other Federal, State, or local program primarily serving disadvantaged young children.

Proposed Absolute Priority 2—Training Programs Resulting in a Two-Year Certificate or Degree

Background: The typical lead teacher in non-school sponsored early childhood classrooms has completed high school and has had some postsecondary education. In Head Start, for example, one study found that 56.5 percent of lead teachers had a high school diploma, or equivalent, or a Child Development Associate (CDA) certificate (Observational Study of Early Childhood Programs), but had not

completed a formal education program at the postsecondary level. The same study showed that while 100 percent of lead teachers in school-sponsored early childhood programs had at least a BA or BS degree, 63.2 percent of the teaching assistants or aides had not completed any formal education beyond high school and most lacked specific training in early childhood education.

Child care workers have one of the highest turnover rates of all occupations. During the past decade, staff turnover in child care centers nearly tripled. Some of the reasons often cited for this high turnover rate are low pay, lack of benefits, stressful working conditions, and lack of training in critical job safety, skill competencies, and child development knowledge. This proposed priority would require each IHE to demonstrate in its application that a primary component of the proposed project would be a course of study leading to a two-year certificate or degree in early childhood development and care, preschool education, or violence counseling. This priority would allow projects to include shorter term training opportunities such as those leading to a CDA certificate, as well as longer term opportunities such as a four-year degree in early childhood development, so long as a primary component of the project is a course of study leading to a two-year certificate or degree.

Earning a two-year degree would enhance the career opportunities and improve the retention of individuals working in programs serving low-income children. At the same time, encouraging institutions to provide a two-year degree would serve to attract and retain low-income individuals for whom a four-year degree may initially seem out of reach, and provide a credential likely to result in a living wage job and meaningful career advancement for individuals in low-paying positions.

Priority

Each IHE must demonstrate in its application that a primary component of the proposed project would be a course of study leading to a two-year certificate or degree in early childhood development and care, preschool education, or violence counseling.

Proposed Absolute Priority 3—Field Experience

Background: Research in adult learning emphasizes the need for linking training to practical issues in participants' lives— often through the use of concurrent hands-on practice. This is especially important for trainees who will be working in disadvantaged areas. Coursework alone is insufficient to prepare trainees for work in the child care field; the curriculum should relate closely to real-world issues and include practical experience. Students need experience working with children in appropriate high-quality settings where they can observe other teachers and practice what they have learned through coursework.

This proposed absolute priority would require that all individuals served by the proposed project receive substantial field experience in early childhood development and care, preschool education, or violence counseling.

Training programs in early childhood education and violence counseling that include concurrent classroom training and field experience components are not only more likely to retain students, but may result in higher employability following the training and increase the likelihood that students will return to disadvantaged areas for employment.

Priority

All individuals served by the proposed project will receive substantial field experience in early childhood development and care, preschool, education, or violence counseling. The field experience must be in communities where there is highly concentrated poverty, a high incidence of violence, or both.

Proposed Competitive Preference

Under 34 CFR 75.105(c)(2)(i) the Secretary proposes to give preference to applications that meet the following competitive priority. The Secretary proposes to award 10 additional points to an application that meets this priority in a particularly effective way. These points would be in addition to any points the applicant earns under the selection criteria for the program:

Proposed Competitive Preference—Emphasis on Training for Violence Counseling

Background: Each day in American communities, children are witnesses to violent acts or are victims of abuse or personal assault. Recent studies report high percentages of young children witnessing shootings and stabbings at home and on the street. Other studies show an alarming increase in the numbers of pediatric firearms deaths and injuries.

Some experts describe the impact of violence on many children as "post-traumatic stress disorder." Research has found that chronic exposure to violence can have serious developmental consequences for children, including psychological disorders, grief and loss reactions, impaired intellectual development and school problems, truncated moral development, pathological adaptation to violence, and identification with the aggressor. Furthermore, research demonstrates that the younger the child, the greater the threat of exposure to violence to healthy development.

Most teachers and child care providers have not been trained to help children cope with the effects of violence. Given the national epidemic of violence, there is a responsibility to enhance the ability of educators to help young children and their families cope with violence and promote their resilience. There is also a need to train additional service providers to address the developmental impact of exposure to violence on young children and to support families in their efforts to protect their children's physical and emotional well-being. The purpose of this competitive preference is to provide a strong incentive for applicants to include a course of study in violence counseling in their proposed projects.

Priority

Competitive preference will be given to applicants whose proposed project includes training and field experience leading to a degree or certificate in violence counseling for some or all of the participants.

Executive Order 12866

This notice of proposed priorities has been reviewed in accordance with Executive Order 12866. Under the terms of the order the Secretary has assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the notice of proposed priorities are those resulting from statutory requirements and those determined by the Secretary as necessary for administering this program effectively and efficiently.

Intergovernmental Review

This program is 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 priorities. All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in Room 2017, 400 Maryland Avenue, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

Program Authority: Section 596 of the Higher Education Amendments of 1992.

(Catalog of Federal Domestic Assistance Number 84.266, Early Childhood Education and Violence Counseling Program)

Dated: February 4, 1994.

Thomas W. Payzant,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 94–3171 Filed 2–9–94; 8:45 am]

BILLING CODE 4000–01–P–M

[CFDA No.: 84.214A]

Migrant Education Even Start Program Cancellation of Discretionary Program for Fiscal Year (FY) 1994

SUMMARY: On September 24, 1993, the Department of Education published a notice in the **Federal Register** inviting applications for new awards for FY 1994 for the Migrant Education Even Start Program (58 FR 50141, 50148–49). The purpose of this notice is to advise potential applicants that this competition is being withdrawn due to insufficient funds.

FOR FURTHER INFORMATION CONTACT: Regina Kinard, Office of Migrant Education, U.S. Department of Education, 400 Maryland Avenue, SW., room 2155, FOB–6, Washington, DC 20202. Telephone: (202) 401–0742. 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.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Dated: February 2, 1994.

Thomas W. Payzant,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 94–3018 Filed 2–9–94; 8:45am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM87–17–000]

Natural Gas Data Collection System; Availability of Revised Data Entry, Edit-Checking, and Print Software and Errata Notice for FERC Form No. 2–A

February 4, 1994.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of availability of revised PC executable software (data entry, edit-checking and print), User's Manual and errata notice for FERC Form No. 2–A.

SUMMARY: On December 23, 1993, the Commission issued revised record formats and edit-checks for the FERC Form No. 2–A (58 FR 68897, December 29, 1993). Most of the changes to the record formats and edit checks were necessary to accommodate certain new accounting requirements and new and revised pages for the Form No. 2–A that were established in Order No. 552, issued March 31, 1993. This version of the Form No. 2–A software (1) provides for the new accounting and reporting requirements of Order No. 552 and (2) includes 'cosmetic' enhancements to improve the readability of the printed output pages.

The Form No. 2–A software is divided into two packages for distribution: (1) Data entry module and (2) edit-checking module and print module. The data entry module is separated from the edit-checking and print modules because the Commission must require prospective users of the data entry module to sign a sublicensing agreement before releasing the data entry module to the user. Details on how to obtain the two software packages are explained in the **ADDRESSES** and **SUPPLEMENTARY INFORMATION** sections of this Notice.

An errata notice to correct several errors in the Form No. 2–A list of new and revised record formats and edit check equations released on December 23, 1993, is provided in Appendix A.

DATES: The software and User's Manual for the Form No. 2–A are available on February 4, 1994.

ADDRESSES: (1) Requests for the Form No. 2–A data entry software module (DEFTA) should be directed to James M. Krug at the address below. Each request for the DEFTA software must be accompanied by a signed copy of the DEFTA sublicensing agreement. These requests should be addressed to: James M. Krug, PR20.2, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street NE., room 6010, Washington, DC 20426, (202) 208–0677.

(2) Requests for the Form No. 2–A edit-checking software and print software module and User's Manual should be directed to: Public Reference and Files Maintenance Branch, Federal Energy Regulatory Commission, 941 North Capitol Street NE., room 3104, Washington, DC 20426, (202) 208–1371.

FOR FURTHER INFORMATION CONTACT: For general information on the Form No. 2–A software and documentation, contact: Robert Trimble at (202) 208–0906.

For information related to the execution of the software, contact: James M. Krug at (202) 208–0677.

SUPPLEMENTARY INFORMATION: The Data Entry software for the Form No. 2–A, (DEFTA), was developed by FERC staff using the Paradox 3.5 Procedural Application Language marketed by Borland International (BORLAND). This software is being made available to the public as a runtime module, a propriety non-interactive version of Paradox that permits users to run applications developed in Paradox. Users of the runtime version of DEFTA can perform only the operations included in DEFTA and not any of the ad hoc design interactions included in Paradox itself.

The Form No. 2–A data entry software is being made available with no licensing fees under the terms of the Commission's Paradox Runtime license. However, each nonmajor pipeline company requesting the DEFTA software will be required to sign and return to the Commission, a sublicensing agreement acknowledging BORLAND's copyright on the Paradox Runtime Version 3.5 software and absolving BORLAND of culpability for any damages that might result from the use of this software. A signed copy of the DEFTA sublicensing agreement must be on file with the Commission before Staff will issue the software to the requesting party.

All users who previously submitted a signed copy of the DEFTA sublicensing agreement will automatically be sent the updated version of DEFTA. The sublicensing agreement and the automatic updating procedure described above applies only to the data entry software module.

Copies of the Form No. 2–A (1) edit-checking and print software modules, (2) User's Manual and (3) record formats are available through the Commission's duplication contractor, LaDorn System Corporation (LaDorn). The Form No. 2–A software, User's Manual and record formats can be purchased on diskette in the following ways:

(1) By written request to the Commission, Federal Energy Regulatory Commission, 825 N. Capitol Street NE., Washington, DC 20426, ATTN: Mr. William McDermott, Chief, Public Reference & Files Branch.

Please enclose a check, payable to LaDorn System Corporation for $7.00 per diskette ordered and $3.40 to cover postage and handling. Allow 10–14 days for processing and delivery.

(2) Directly from LaDorn System Corporation at the cashier's window in the Commission's Public Reference Room for $7.00 per diskette plus applicable sales tax, if any. The Public Reference Room is located on the third floor, 941 N. Capitol Street, NE., Washington, DC.

(3) By telephone request to LaDorn Energy Information Services at 1–800–676–FERC. Orders placed by phone will be assessed charges as follows:

(a) a $25.00 processing fee,

(b) $7.00 per diskette ordered, and

(c) cost of shipping and handling.

(The requestor will have a choice of regular mail, 2–Day Express Mail or Federal Express).

Please contact the Commission's Public Reference & Files Maintenance Branch on (202) 208–1371 or LaDorn (1–800–676–FERC) for information and the cost of purchasing the paper version of any documents.

LaDorn System Corporation employees cannot answer questions regarding the use of the record formats and software. Any questions concerning the application of the information contained in these documents should be directed to the individual listed in the FOR FURTHER INFORMATION CONTACT section of this notice.

This notice, including all of the appendices, is available through the Commission Issuance Posting System (CIPS), an electronic bulletin board service that provides access to formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed on a 24-hour basis using a personal computer with a modem. Your communications software should be set at full duplex, no parity, eight data bits and one stop bit. To access CIPS at 300, 1200 or 2400 baud dial (202) 208–1397. For access at 9600 baud dial (202) 208–1781. FERC is using U.S. Robotics HST Dual Standard modems. If you have any problems, please call (202) 208–2474. The notice will be available on CIPS for 30 days from the date of issuance of the notice.

In addition to publishing the text of this notice in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this notice during normal business hours in the Reference and Information Center (room 3308) at the Commission's headquarters, 941 North Capitol Street NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

Appendix A—Corrections to the Form No. 2–A New and Revised Record Formats and Edit Check Equations Released on December 23, 1993

Appendix C—Summary of Revisions to the FERC Form No. 2–A Record Formats and General Instructions

Add:

1. F8/28—Inserted new item 286a—Noncurrent Portion of Allowances, character positions 192–203, data type—numeric; item 287 moved to 204–215; item 288 moved to 216–227; item 289 moved to 228–239 and edit equation for item 289 revised to 'item 283 − item 284 + (sum of items 285, 286, 286a, 287 and 288); Footnote Id moved to 240–243.

Revise:

2. F8/08—item 98—the Comments Column should read (sum of items 86 thru 89) + item 89a − item 89b + (sum of items 90 thru 93) − item 94 + (sum of items 95 thru 97) − item 97a + item 97b.

3. F8/36—item 401—the Comments Column should read (sum of items 386 thru 392) + item 391a − item 391b + (sum of items 393 thru 396) − item 397 + item 398 − item 399 + item 400 − item 400a + item 400b.

Appendix E—List of New and Revised Form No. 2–A Edit Checks

Add:

4. Edit Check #5: item 56 = item 47 + item 48 + item 49 + item 50 − item 51 − item 52 + item 53 − item 54 + item 55.

5. Edit Check #51: item 289 = item 283 − item 284 + item 285 + item 286 + item 286a + item 287 + item 288.

Revise:

6. Edit Check #2: item 34 = item 26 + item 27 + item 28 − item 29 + item 30 + item 30a − item 30b + item 31 + item 32 + item 33.

7. Edit Check #11: item 98 = item 86 + item 87 + item 88 + item 89 + item 89a − item 89b + item 90 + item 91 + item 92 + item 93 − item 94 + item 95 + item 96 + item 97 − item 97a + item 97b.

[FR Doc. 94–3041 Filed 2–9–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. RP94–78–001]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

February 4, 1994.

Take notice that on January 31, 1994, Algonquin Gas Transmission Company (Algonquin), tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, First Revised Sheet No. 705, with an effective date of January 7, 1994.

Algonquin states that it has submitted a revised tariff sheet in compliance with ordering paragraph (C) of the Commission's January 6, 1994, order in Docket No. RP94–78–000. Algonquin requests that the Commission accept the revised tariff sheet effective January 7, 1994.

Algonquin states that the revised tariff sheet conforms to the changes proposed in Texas Eastern's January 14, 1994, filing to recover GSR costs (1) through a reservation surcharge instead of a direct bill, and (2) over a reasonable period.

Algonquin states that copies of this filing were served upon each affected party and interested state commissions and parties on the service list in Docket No. RP94–78–000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before February 11, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–3040 Filed 2–9–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–115–001]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

February 4, 1994.

Take notice that on February 1, 1994, Algonquin Gas Transmission Company (Algonquin) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following tariff sheet, with the proposed effective date of the tariff sheet is November 1, 1993:

2 Sub First Revised Sheet No. 98

Algonquin states that the purpose of this filing is to replace its January 21, 1994 filing in this docket. The revised tariff sheet reflects the assignment of the Granite State Gas Transmission's AFT-1 entitlements to Bay State Gas Company and Northern Utilities, Inc.

Algonquin states that copies of this filing were served upon each affected party and interested state commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR Section 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before February 11, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94-3039 Filed 2-9-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP93-159-001]

Michigan Gas Storage Co.; Proposed Changes in FERC Gas Tariff and of Motion to Make Suspended Rates Effective

February 4, 1994.

Take notice that on February 1, 1994, Michigan Gas Storage Company (MGS) tendered for filing tariff sheets revised in compliance with the Commission's August 31, 1993 Order (Order) in this docket. The Order required that MGS eliminate costs associated with facilities not in service and certificated by December 31, 1993. MGS also tendered on February 1, 1994 its motion to make effective the rates originally filed in this docket (as modified in compliance with the Order) on February 1, 1994—the first day after the period for which the rates were suspended.

MGS states that copies of the filing were served upon those on the service list, MGS's jurisdictional customers and the Michigan Public Service Commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before February 11, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94-3036 Filed 2-9-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-48-010]

Viking Gas Transmission Co.; Reports of Credits of Interruptible Revenues

February 4, 1944.

Take notice that on February 1, 1994, Viking Gas Transmission Company (Viking) filed a Report of Credits of Interruptible Revenues. Viking States that the purpose of its filing is to report the credits of interruptible revenues Viking will make to Eligible Firm Shippers pursuant to the January 21, 1994, Stipulation and Agreement in Docket No. RP92-48-000.

Viking states that copies of the filing have been served on all parties listed on the service list compiled by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before February 11, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94-3038 Filed 2-9-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER91-195-014]

Western Systems Power Pool; Informational Filing

February 4, 1994.

Take notice that on January 31, 1994, the Western Systems Power Pool (WSPP) filed certain information as required by May 13, 1993, letter order in the above-referenced proceeding. Copies of WSPP's informational filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94-3037 Filed 2-9-94; 8:45 am]

BILLING CODE 6717-01-M

Office of Energy Efficiency and Renewable Energy

Office of Fossil Energy

Petroleum Refinery Industry Workshop

AGENCY: Energy Efficiency and Renewable Energy, Fossil Energy, Department of Energy (DOE).

ACTION: Notice of workshop.

SUMMARY: The U.S. DOE is announcing one workshop for the purpose of soliciting comments and feedback from the petroleum refining industry on its near-, mid-, and long-term technology needs.

DATES: February 14-15, 1994.

ADDRESSES: J. W. Marriott Hotel, 5950 Westheimer, Houston, Texas 77056.

FOR FURTHER INFORMATION CONTACT: Daniel E.Wiley, U.S. Department of Energy, Office of Industrial Technologies, EE-233, 1000 Independence Avenue, SW, Washington, DC 20585, 202-586-2099.

SUPPLEMENTARY INFORMATION: On behalf of DOE's Offices of Energy Efficiency and Renewable Energy and Fossil Energy, Argonne National Laboratory (ANL) and the National Petroleum Refiners Association will conduct one workshop. Information received from this workshop will assist DOE in the assessment of the petroleum refinery industry's interest in, and the need for, establishing a collaborative R&D program with DOE. The objective of the collaborative program with the refining industry is to help it remain competitive *vis-a-vis* the rapidly changing market (domestic and international) and regulatory environment. This information will be utilized in the preparation of a Petroleum Refinery of the Future initiative. A critical aspect of the study is to solicit comments and feedback from affected interests on: (1) The key market and regulatory factors that will or are likely to cause significant change in refinery practice; (2) a vision of the "refinery of the future" beyond the year 2000; (3) specific changes in refinery technology that can be expected or that will be required to occur; and (4) R&D that will assist the industry in making a cost-effective transition to the projected future refinery environment. The DOE believes that the success of such an

initiative lies in targeting research areas and specific technologies having a high priority within the industry. The public workshop format will provide a forum for representatives of both the industry as well as the public to raise critical issues and challenges, to exchange views on various issues, and to convey specific concerns and positions. The views expressed by participants and their areas of agreement and disagreement will be reported to the DOE. The workshop format is sufficiently flexible to allow introduction of issues by any participants not on the agenda. Workshop facilitators will be provided by Argonne National Laboratory and the National Petroleum Refiners Association. Detailed information on registration at these workshops can be obtained from: Terrence S. Higgins, National Petroleum Refiners Association, telephone (202) 457–0480; or Michael Petrick, Argonne National Laboratory, telephone (708) 252–5960.

Issued in Washington, DC, on February 4, 1994.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 94–3165 Filed 2–9–94; 8:45 am]

BILLING CODE 6450–01–P

Office of Hearings and Appeals

Proposed Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of Proposed Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the proposed procedures for disbursement of a total of $83,847.58, plus accrued interest, in refined petroleum overcharges obtained by the DOE under the terms of a Remedial Order issued to Alameda Chevron, *et al.*, Case Nos. LEF–0093, *et al.* The OHA has tentatively determined that the funds will be distributed in accordance with the provisions of 10 C.F.R. Part 205, Subpart V and 15 U.S.C. 4501, the Petroleum Overcharge Distribution and Restitution Act (PODRA).

DATE AND ADDRESS: Comments must be filed in duplicate on or before March 14, 1994 and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All comments should display a reference to Case Number LEF–0093, *et al.*

FOR FURTHER INFORMATION CONTACT: Kim L. Hargrove, Staff Attorney, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–2400.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision sets forth the procedures that the DOE has tentatively formulated to distribute to eligible claimants $83,847.58, plus accrued interest, obtained by the DOE under the terms of a Remedial Order that the DOE issued to Alameda Chevron, *et al.*, on October 22, 1980. Under the Remedial Order, Alameda Chevron and 15 other firms were found to have violated the Federal petroleum price and allocation regulations involving the sale of motor gasoline during the relevant audit periods.

The OHA has proposed to distribute the Remedial Order funds is a two stage refund proceeding. Purchasers of motor gasoline from any one of the Remedial Order firms named in the Appendix following the Proposed Decision and Order will have an opportunity to submit refund applications in the first stage. Refunds will be granted to applicants who satisfactorily demonstrate they were injured by the pricing violations and who document the volume of motor gasoline they purchased from one or more of the Remedial Order firms during the relevant audit period. In the event that money remains after all first stage claims have been disposed of, the remaining funds will be disbursed in accordance with the provisions of 15 U.S.C. 4501, the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA).

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to forward two copies of their submissions, within 30 days of publication of this notice in the **Federal Register**, to the address set forth at the beginning of this notice. Comments so received, will be made available for public inspection between the hours of 1 p.m. and 5 p.m., Monday through Friday, except Federal holidays, in the Public Reference Room 1E–234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: February 3, 1994.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Proposed Implementation of Special Refund Procedures

February 3, 1994.

Names of Firms: Alameda Chevron, *et al.*

Date of Filing: July 20, 1993.

Case Numbers: LEF–0093, *et al.*

On July 20, 1993, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) filed a Petition requesting that the Office of Hearings and Appeals (OHA) formulate and implement Subpart V special refund proceedings. Under the procedural regulations of the DOE, special refund proceedings may be implemented to refund monies to persons injured by violations of the DOE petroleum price regulations, provided DOE is unable to readily identify such persons or to ascertain the amount of any refund. 10 CFR 205.280. We have considered the ERA's request to formulate refund procedures for the disbursement of monies remitted by Alameda Chevron and 15 other firms pursuant to a Remedial Order (hereafter, the Order) issued by OHA on October 22, 1980, to those firms and have determined that such procedures are appropriate. Each firm's name, case number and amount of money remitted to remedy its pricing violations has been set out in the Appendix immediately following this Decision.

Under the terms of the Order, a total of $83,847.58 has been remitted to the DOE to remedy pricing violations which occurred during the relevant audit periods. These funds are being held in an escrow account established with the United States Treasury pending a determination of their proper distribution. See Memorandum from George B. Breznay, Director OHA, to James T. Campbell, Comptroller, "Transferring Funds to Escrow Account," August 20, 1993. This Decision sets forth OHA's tentative plan to distribute those funds. The specific application requirements appear in Section III of this Decision. Because these procedures are set forth in proposed form, refund applications should not be filed at this time. Comments are solicited.

I. Jurisdiction and Authority

The general guidelines that govern OHA's ability to formulate and implement a plan to distribute refunds are set forth at 10 CFR part 205, Subpart

V. These procedures apply in situations where the DOE cannot readily identify the persons who were injured as a result of actual or alleged violations of the regulations or ascertain the amount of the refund each person should receive. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, see Office of Enforcement, 8 DOE ¶ 82,508 (1981) and Office of Enforcement, 8 DOE ¶ 82,597 (1981).

II. Background

The facts alleged in the Remedial Order were undisputed. Each Remedial Order firm was a "retailer" of motor gasoline as that term has been defined at 10 CFR 212.31 and was therefore subject to the provisions of 10 CFR part 210 and 10 CFR part 212, Subpart F. The Order states that during the relevant audit period, they each charged prices higher than those permitted by 10 CFR 212.93(a)(2); levied a cents-per-gallon fee for services associated with the sale of motor gasoline in violation of 10 CFR 210.62(d)(1) and refused to make their records available for inspection in violation of 10 CFR 210.92(b).

The firms were ordered to reduce their prices for motor gasoline by specified amounts until a sufficient volume of gasoline had been sold at the reduced prices to remedy the violations.[1] After decontrol, the Order was modified to require direct monetary restitution to the Treasury instead. See Sunset Boulevard Car Wash, 20 FERC ¶ 62,319 at 63,537 (1982). The firms objected. The Order has since been affirmed by the Federal Energy Regulatory Commission (FERC) in a Decision issued on August 13, 1982. *Id.*

III. The Proposed Motor Gasoline Refund Procedures

This section sets forth the considerations that will be used to evaluate applications for refund payable from the monies remitted by each firm. We propose to implement a two stage refund proceeding. Purchasers of motor gasoline from any of these gasoline retailers will have an opportunity to submit refund applications in the first stage. In the event that money remains after all first stage claims have been disposed of, the remaining funds will be disbursed in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986 (15 U.S.C. 4501) (PODRA).

Refund applications submitted in this special refund proceeding will be evaluated in exactly the same manner as applications submitted in other refined product proceedings. Refunds will be granted to applicants who satisfactorily demonstrate they were injured by the pricing violations and who document the volume of motor gasoline they purchased from one or more of these retailers during the relevant audit period. In order to permit applicants to participate in the refund proceeding without incurring inordinate expense and to facilitate OHA's consideration of refund applications, we plan to adopt certain presumptions regarding pricing violations and injury. 10 CFR 205.282(e).

With regard to the pricing violations, we propose to adopt a rebuttable presumption that such violations were dispersed equally throughout each of these retailer's sales of motor gasoline during the audit period and that refunds should therefore be made on a pro rata or volumetric basis. Under this volumetric refund approach, an applicant will be eligible to receive a refund that is equal to the gallons of gasoline purchased multiplied by the per gallon refund amount, plus accrued interest.

We are proposing that a separate per gallon refund amount (volumetric) be set for each retailer. The volumetric was obtained by dividing the remedial order funds each retailer remitted by the gallons of motor gasoline we believe it sold during the relevant audit period.[2] Applicants believing they were disproportionately overcharged will have an opportunity to rebut this presumption and those who succeed in doing so, will be eligible to receive refunds calculated at a higher volumetric.

The potential applicants are likely to fall into just two categories since each of the Remedial Order firms was retailer. We will provide a presumption of injury for end-users of petroleum products whose businesses were unrelated to the petroleum industry and were therefore not subject to the regulations promulgated under the Emergency Petroleum Allocation Act of 1973 (EPAA), 15 U.S.C. §§ 751–760h. In order to receive a refund, such applicants will only be required to document the volume of motor gasoline they purchased from one or more of these retailers during that retailer's audit period. See Shell Oil Company, 17 DOE ¶ 85,204 (1988). The second category of applicant consists of both retailer and reseller applicants who will be required to submit detailed evidence of injury. These applicants must show that the overcharges were absorbed, not passed through to their customers. They therefore will be unable to rely upon injury presumptions utilized in many refined product refund cases. *Id.*

Only claims for at least $15 in principal will be processed. This minimum has been adopted in refined product refund proceedings because the cost of processing claims for refunds of less than $15 outweighs the benefits of restitution in those instances. See Mobil Oil Corp., 13 DOE ¶ 85,339 (1985).

The deadline for filing an Application for Refund is June 1, 1995.

It Is Therefore Ordered That:

The refund amount remitted to the Department of Energy by Alameda Chevron and the 15 firms listed in the Appendix, pursuant to the Remedial Order finalized on October 22, 1980, be distributed in accordance with the foregoing Decision.

APPENDIX

Case No.	Case name	$ Amount	Audit period	Volumetric
LEF–0093	Alameda Chevron	$2,270.92	8/1/79–10/30/79	.0151
LEF–0094	Ben's Exxon Service	3,056.42	8/1/79–1/30/80	.0102
LEF–0095	Berryessa Chevron	2,933.32	8/1/79–10/30/79	.0196
LEF–0096	Bill Wren's Shell	4,366.42	8/1/79–1/11/80	.0163
LEF–0097	Cutting Shell Service	4,815.87	8/1/79–1/30/80	.0161
LEF–0098	Ed Gularte Chevron	6,235.74	8/1/79–1/30/80	.0208
LEF–0099	Joe Berube Services	8,294.00	8/1/79–12/13/79	.0375

[1] The Order imposed no sanctions upon the firms for failing to provide records pursuant to 10 CFR 210.92(b). See Remedial Order at 1 and 7.

[2] In the absence of accurate figures indicating the amount of motor gasoline sold by each firm during the audit period, we have estimated the volume of their sales using the best available data. Our estimate is that each gasoline retailer sold 50,000 gallons of motor gasoline per month for each month of its audit period. This figure was used to calculate each retailer's volumetric. Should interest in claims submitted pursuant to this Order indicate that our sales volume estimate was inaccurate, it may be necessary to reestimate the volumetric.

APPENDIX—Continued

Case No.	Case name	$ Amount	Audit period	Volumetric
LEF–0100	McDowell Exxon	6,998.37	8/1/79–10/20/79	.0529
LEF–0101	Petaluma Standard Service	3,987.27	8/1/79–1/30/80	.0133
LEF–0102	Regalia's Chevron Service	8,887.87	8/1/79–1/11/80	.0332
LEF–0103	Starr Union Service	6,773.51	8/1/79–11/20/79	.0372
LEF–0104	Tenth Street Chevron	7,097.98	8/1/79–1/30/80	.0237
LEF–0105	Tom's Coffee Tree Chevron	4,500.00	8/1/79–11/20/79	.0247
LEF–0106	Wallace Arco Service	2,067.09	8/1/79–1/11/80	.0069
LEF–0107	Walt's Shell Service	3,562.80	8/1/79–11/14/79	.0206
LEF–0108	Weber's Chevron Service	8,000.00	8/1/79–11/14/79	.0464
		$83,847.58		

[FR Doc. 94–3097 Filed 2–9–94; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4836–7]

New Source Review Reform Subcommittee; Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: On July 7, 1993, the EPA gave notice of the establishment of the New Source Review (NSR) Reform Subcommittee (Subcommittee) (58 FR 36407) under the auspices of the Clean Air Act Advisory Committee (55 FR No. 217, 46993) which was established pursuant to the Federal Advisory Committee Act (5 U.S.C. app I). The Subcommittee's purpose is to provide independent advice and counsel to the EPA on policy and technical issues associated with reforming the NSR rules.

Open Meeting Dates: Notice is hereby given that the Subcommittee will hold an open meeting on March 16–17, 1994 at the Omni Hotel, 201 Foster Street, Durham, North Carolina 27702, telephone (919) 683–6664, telefax (919) 683–2046. The Subcommittee is scheduled to meet from 8:30 a.m. to 5 p.m. on March 16 and 8:30 a.m. to 1 p.m. on March 17, 1994. Due to the size of the meeting room, seating is limited to approximately 100 individuals and will be made available on a first come, first serve basis.

At its last meeting on January 20–21, 1994, the Subcommittee decided that an additional meeting would be necessary to reach a final consensus on certain recommendations for program reform. Consequently, at the March 16–17, 1994 meeting, the Subcommittee will review final recommendations developed by subgroups on specific issues regarding Class I area impacts, best available control technology and NSR applicability.

Inspection of Committee Documents: Documents relating to the above-noted topics will be publicly available at the meeting. Thereafter, these documents, together with transcript of the Subcommittee's meeting, will be available for public inspection in EPA Air Docket No. A–90–37. The docket is available for public inspection and copying between 8:30 a.m. to 12 noon and 1:30 to 3:30 p.m., weekdays, at EPA's Air Docket (6102), room M–1500, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

The transcript of the upcoming meeting will be available to the public through EPA's Office of Air Quality Planning and Standards (OAQPS) Technology Transfer Network (TTN) electronic bulletin board. For assistance in accessing the OAQPS TTN, contact the systems operator at (919) 541–5384 in Research Triangle Park, North Carolina, during normal business hours.

FOR FURTHER INFORMATION CONTACT: For questions concerning the Subcommittee or its activities, please contact Mr. David Solomon, Designated Federal Official to the Subcommittee at (919) 541–5375, telefax (919) 541–5509, or by mail at U.S. EPA, OAQPS, Air Quality Management Division (MD–15), Research Triangle Park, North Carolina 27711.

Dated: January 26, 1994.

John S. Seitz,

Director, Office of Air Quality Planning and Standards.

[FR Doc. 94–3122 Filed 2–9–94; 8:45 am]

BILLING CODE 6560–50–P

[FRL–4836–4]

Meeting of the Local Government Advisory Committee

On March 2–3, 1994, the Local Government Advisory Committee will conduct its first meeting. The purpose of the meeting is to provide members with information regarding the Agency's past and current local government activities and develop the Committee's first priorities and projects.

The Committee is charged with identifying and recommending a series of activities to improve the implementation of environmental programs by local governments. These activities should be developed to address unmet local government needs caused by a lack of coordination and communication among various governmental agencies and programs; an inability to develop priorities as to the problems to be addressed; the need for data and information on the costs and benefits of regulation and on technical, legal, and scientific aspects of regulation; limited financing; and, inflexible requirements resulting from the nature of regulations.

The meeting will be held at the One Washington Circle Hotel located at One Washington Circle, NW., in Washington, DC. The meeting will begin at 9 a.m. on March 2nd and conclude at 11 a.m. on March 3rd.

The Designated Federal Officer (DFO) for this Committee is Denise Zabinski. She is the point of contact for information concerning any Committee matters and can be reached by calling (202) 260–0419 or by writing to 401 M Street, SW., (1502), Washington, DC 20460.

This is an open meeting and all interested persons are invited to attend. Meeting minutes will be available within thirty days after the meeting and can be obtained by written request from the DFO. Members of the public are requested to call the DFO at the above number if planning to attend so that arrangements can be made to comfortably accommodate attendees as much as possible.

Dated: February 4, 1994.

Shelley H. Metzenbaum,

Associate Administrator, Office of Regional Operations and State/Local Relations.

[FR Doc. 94-3166 Filed 2-9-94; 8:45 am]

BILLING CODE: 6560-50-P

[FRL-4836-5]

Meeting of the Small Town Environmental Planning Task Force

On March 3-4, 1994, the Small Town Environmental Planning Task Force will conduct its first meeting. The purpose of the meeting is to provide members with information regarding the Agency's past and current local government activities and develop the Committee's first priorities and projects.

The Task Force is charged with identifying regulations developed pursuant to Federal environmental laws which pose significant compliance problems for small towns; identifying means to improve the working relationship between the Environmental Protection Agency and small towns; reviewing proposed regulations for the protection of environmental and public health and suggesting revisions that could improve the ability of small towns to comply with such regulations; and, identifying means to promote regionalization of environmental treatment systems and infrastructure serving small towns to improve the economic conditions of such systems and infrastructure.

The meeting will be held at the One Washington Circle hotel located at One Washington Circle, NW., in Washington, DC. The meeting will begin at 11 a.m. on March 3rd and conclude at 12 noon on March 4th.

The Designated Federal Officer (DFO) for this Committee is Ann Cole. She is the point of contact for information concerning any Committee matters and can be reached by calling (202) 260-3953 or by writing to 401 M Street, SW., (1502), Washington, DC 20460.

This is an open meeting and all interested persons are invited to attend. Meeting minutes will be available within thirty days after the meeting and can be obtained by written request from the DFO. Members of the public are requested to call the DFO at the above number if planning to attend so that arrangements can be made to comfortably accommodate attendees as much as possible.

Shelley H. Metzenbaum,

Associate Administrator, Office of Regional Operations and State/Local Relations.

[FR Doc. 94-3167 Filed 2-9-94; 8:45 am]

BILLING CODE: 6560-50-P

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of Information Collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for OMB review for the information collection system identified below.

Type of Review: Extension of expiration date without any change in substance or method of collection.

Title: Summary of Deposits.

Form Number: FDIC 8020/05.

OMB Number: 3064-0061.

Expiration Date of Current OMB Clearance: April 30, 1994.

Frequency of response: Annually.

Respondents: Offices of insured banks with branches in the United States.

Number of respondents: 68,000.

Number of responses per respondent: 1.

Total annual responses: 68,000.

Average number of hours per response: 0.55.

Total annual burden hours: 37,400.

OMB reviewer: Gary Waxman, (202) 395-7340, Office of Management and Budget, Paperwork Reduction Project 3064-0061, Washington, DC 20503.

FDIC contact: Steven F. Hanft, (202) 898-3907, Office of the Executive Secretary, room F-400, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before April 11, 1994.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: The Summary of Deposits annual survey obtains data about the amount of deposits held at all offices of all insured banks with branches in the United States. The survey data provide a basis for measuring the competitive impact of bank mergers, and are also used in banking research.

Dated: February 3, 1994.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Acting Executive Secretary.

[FR Doc. 94-3005 Filed 2-9-94; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street, NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 207-011144-005.

Title: Australia-New Zealand Direct Line Service Agreement.

Parties: Pacific Container S.A., Australia-New Zealand Containerline S.A., Societe Navle et Commerciale.

Synopsis: The proposed amendment changes the name of Pacific Container S.A. to Compagnie Commerciale Armoricaine d'Armement, S.A. ("CCCA"); Australia-New Zealand Containerline S.A. to Francaise de Navigation par Conteneurs, S.A. ("FNC"); and Societe Navale et Commerciale to SCAC Delmas-Vieljeux. The changes result from an organizational change transferring the joint service to CCCA and FNC. The parties have requested a shortened review period.

Agreement No.: 207-011441-001.

Title: NOSAC/NYK Joint Service (East/West) Agreement.

Parties: NOSAC ANS, Nippon Yusen Kabushiki Kaisha.

Synopsis: The proposed amendment revises the scope to reflect the intention of the parties to limit carriage under the Agreement to uncontainerized cargo on roll-on/roll-off vessels, and specifies that in the event the joint service becomes a party to a conference agreement, it will be governed by the voting rules of the conference. It also makes other non-substantive changes to the Agreement.

Agreement No.: 217-011445.

Title: Space Charter Agreement Between SeaFreight Line Ltd/Navimar Lines, C.A.

Parties: SeaFreight Line Ltd, Navimar Lines, C.A.

Synopsis: The proposed Agreement permits the parties to charter space from each other in the trade between ports in Venezuela and Florida and U.S. points via those ports. The parties have requested a shortened review period.

Agreement No.: 203–011446.

Title: Mexican Discussion Agreement.

Parties: Crowley American Transport, Corp., Thompson Shipping Company, Ltd., Tropical Shipping & Construction Co. Ltd.

Synopsis: The proposed Agreement would permit the parties to meet, exchange information and agree upon rates, charges and other matters of mutual interest in the trade between U.S. Atlantic and Gulf Coast ports and points and ports and points in Mexico. Adherence to any agreement reached is voluntary. The parties have requested a shortened review period.

Agreement No.: 224–200555–002.

Title: Jacksonville Port Authority/ Allen Freight Trailer Bridge, Inc. Terminal Agreement.

Parties: Jacksonville Port Authority, Allen Freight Trailer Bridge, Inc.

Synopsis: The proposed amendment sets forth annual rate increases as provided for in the Agreement.

Agreement No.: 224–200847.

Title: The Port Authority of New York & New Jersey/P&O Containers Ltd. Container Incentive Agreement.

Parties: The Port Authority of New York & New Jersey ("Port") P&O Containers Ltd. ("P&O").

Synopsis: The Agreement provides for the Port to pay P&O a container incentive of $20.00 for each import container and $30.00 for each export container loaded or unloaded from a vessel at the Port's marine terminals during calendar year 1994, provided each container is shipped by rail to or from points more than 260 miles from the Port.

Agreement No.: 224–200848.

Title: The Port Authority of New York & New Jersey/Atlantic Container Lines Container Incentive Agreement.

Parties: The Port Authority of New York & New Jersey ("Port"), Atlantic Container Lines ("ACL").

Synopsis: The Agreement provides for the Port to pay ACL a container incentive of $20.00 for each import container and $30.00 for each export container loaded or unloaded from a vessel at the Port's marine terminals during calendar year 1994, provided each container is shipped by rail to or from points more than 260 miles from the Port.

Agreement No.: 224–200849.

Title: The Port Authority of New York & New Jersey/Inchcape Shipping Services Container Incentive Agreement.

Parties: The Port Authority of New York & New Jersey ("Port"), Inchcape Shipping Services ("Inchcape").

Synopsis: The Agreement provides for the Port to pay Inchcape a container incentive of $20.00 for each import container and $30.00 for each export container loaded or unloaded from a vessel at the Port's marine terminals during calendar year 1994, provided each container is shipped by rail to or from points more than 260 miles from the Port.

By Order of the Federal Maritime Commission.

Dated: February 7, 1994.

Joseph C. Polking,

Secretary.

[FR Doc. 94–3085 Filed 2–9–94; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

[Docket No. 7100-0128]

Bank Holding Company Reporting Requirements

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Extension of comment period on changes to bank holding company reporting requirements (FR Y-9C, FR Y-9LP and FR Y-9SP) and a request for public comments on additional changes to the reporting requirements related to the proposed Call Report revisions.

BACKGROUND: Notice is hereby given by the Board of Governors of the Federal Reserve System (the Board) under delegated authority from the Office of Management and Budget (OMB), as per 5 CFR 1320.9 (OMB Regulations on Controlling Paperwork Burdens on the Public), of an extension of the comment period regarding revisions to the bank holding company reporting requirements, and a request for public comment, on additional changes to the Financial Statements for Bank Holding Companies (FR Y-9C, FR Y-9LP and FR Y-9SP) necessitated by the proposed revisions to the Reports of Condition and Income (Call Report). Some revisions to the bank holding company reporting requirements were initially published in the **Federal Register** on December 17, 1993 (58 **FR** 65997). The Board announced at that time that additional revisions to the bank holding company reporting requirements may be necessary based upon upcoming revisions to the Call Report, which were not finalized at the time of publication of the December 17, 1993 **Federal Register** Notice. Therefore, the Board is granting an extension of the initial comment period, which ended January 3, 1994, to allow bank holding companies more time to review and comment on the proposed initial revisions, as well as the opportunity to comment on additional reporting changes that are based upon the proposed Call Report revisions. The specific changes to the FR Y-9 series of reports related to the Call Report revisions are summarized below and will be required for the March 31, 1994 reporting date.[1]

DATES: Comments must be submitted on or before March 9, 1994.

ADDRESSES: Comments, which should refer to the OMB Docket number should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, or delivered to the Board's mail room B-2223 between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments received may be inspected in room B-1122 between 9:00 a.m. and 5:00 p.m., except as provided in Section 261.8(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.8(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Robert T. Maahs, Supervisory Financial Analyst (202/872-4935), Mark S. Benton, Senior Financial Analyst (202/ 452-5205), or Tina Robertson, Senior Financial Analyst (202/452-2949), Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System. A copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, and other documents will be placed into OMB's public docket files once approved and may be requested from the Federal Reserve Board Clearance Officer, Mary M. McLaughlin (202/452-3829), Chief, Financial

[1] The revisions to the FR Y-9SP are effective with the June 1994 reporting date.

Reports, Division of Research and Statistics, Board of Governors of the Federal System, Washington, DC 20551. For the hearing impaired only, Telecommunications Device for the Deaf (TDD), Dorothea Thompson (202/452-3544), Board of Governors of the Federal Reserve System, 20th and C Street, NW., Washington, DC 20551.

Description of Affected Reports

1. *Report Title:* Consolidated Financial Statements for Bank Holding Companies
Agency Form Number: FR Y-9C
OMB Docket Number: 7100-0128
Frequency: Quarterly
Reporters: Bank Holding Companies
Annual Reporting Hours: 147,511
Estimated Average Hours per Response: Range from 5 to 1,250 hours
Number of Respondents: 1,418
Small businesses are affected.

The information collection is mandatory (12 U.S.C. 1844(b) and (c) and part of the information is given confidential treatment. Confidential treatment is not routinely given to the data in these reports. However, confidential treatment for the report information, in whole or in part, can be requested in accordance with the instructions to the form.

The FR Y-9C consolidated financial statements are currently filed by all bank holding companies that have total consolidated assets of $150 million or more, or with more than one subsidiary bank.[2] In addition, an FR Y-9C must be filed by lower-tier BHCs that have total consolidated assets of $1 billion or more. The following bank holding companies are exempt from filing the FR Y-9C, unless the Board specifically requires an exempt company to file the report: bank holding companies that are subsidiaries of another bank holding company and have total consolidated assets of less than $1 billion; bank holding companies that have been granted a hardship exemption by the Board under section 4(d) of the Bank Holding Company Act; and foreign banking organizations as defined Y section 211.23(b) of Regulation K.

The report includes a balance sheet, income statement, and statement of changes in equity capital with supporting schedules providing information on securities, loans, risk-based capital, deposits, interest sensitivity, average balances, off-balance sheet activities, past due loans, and loan charge-offs and recoveries.

2. *Report Title:* Parent Company Only Financial Statements for Large Bank Holding Companies
Agency Form Number: FR Y-9LP
OMB Docket Number: 7100-0128
Frequency: Quarterly
Reporters: Bank Holding Companies
Annual Reporting Hours: 28,722
Estimated Average Hours per Response: Range from 2.0 to 13.5 hours
Number of Respondents: 1,751
Small businesses are affected.

The information collection is mandatory (12 U.S.C. 1844(b) and (c) and part of the information is given confidential treatment. Confidential treatment is not routinely given to the data in these reports. However, confidential treatment for the report information, in whole or in part, can be requested in accordance with the instructions to the form.

The FR Y-9LP financial statements are to be filed on a parent company only basis by any bank holding company filing an FR Y-9C, or by the parent company of any bank holding company that is a majority-owned subsidiary of a FR Y-9C respondent.[3] The following bank holding companies are exempt from filing the FR Y-9LP, unless the Board specifically requires an exempt company to file the report: bank holding companies that are subsidiaries of another bank holding company and have total consolidated assets of less than $1 billion; bank holding companies that have been granted a hardship exemption by the Board under section 4(d) of the Bank Holding Company Act; and foreign banking organizations as defined y section 211.23(b) of Regulation K.

3. *Report Title:* Parent Company Only Financial Statements for Small Bank Holding Companies
Agency Form Number: FR Y-9SP
OMB Docket Number: 7100-0128
Frequency: Semiannual
Reporters: Bank Holding Companies
Annual Reporting Hours: 33,600
Estimated Average Hours per Response: Range from 1.5 to 6.0 hours
Number of Respondents: 4,480
Small businesses are affected.

The information collection is mandatory (12 U.S.C. 1844(b) and (c) and part of the information is given confidential treatment. Confidential treatment is not routinely given to the data in these reports. However, confidential treatment for the report information, in whole or in part, can be requested in accordance with the instructions to the form.

The FR Y-9SP is a parent company only financial statement filed by one bank holding companies with total consolidated assets of less than $150 million.[3] This report, an abbreviated version of the more extensive FR Y-9LP, is designed to obtain basic balance sheet and income information for the parent company, information on intangible assets, information on intercompany transactions, and data for capital adequacy evaluation.

Additional Reporting Form Revisions Necessitated By Call Report Revisions.

FR Y-9C:

(1) Revise the reporting of securities in the followingFR Y-9C schedules to reflect the effect of Financial Accounting Standards Board Statement No. 115, "Accounting for Certain Investments in Debt and Equity Securities" (FASB 115), which bank holding companies must adopt for reporting purposes for fiscal years beginning after December 15, 1993:

(a) In the body of Schedule HC-A, "Securities," the amortized cost and fair value for each type of held-to-maturity securities would be reported separately from the amortized cost and fair value for each type of available-for-sale securities. In addition, as announced in the December 17, 1993 **Federal Register** Notice, bank holding companies with total consolidated assets of $1 billion or more will be required to report additional detail as a memoranda item on certain debt securities, mortgage-backed securities and equity securities. This information will include the amortized cost and fair value of each type of held-to-maturity or available-for-sale security classified as certain debt, mortgage-backed securities and equity securities.

(b) On Schedule HC-A, Memoranda item 5, "Debt securities held for sale," would be deleted. A new Memorandum item would be added for the amortized cost of held-to-maturity securities sold or transferred during the calendar year-to-date.

(c) On Schedule HC, "Balance Sheet," item 2, "Securities," would be split into separate items for "Available-for-sale securities" and "Held-to-maturity securities," while a new item (26.e) would be added and entitled "Net unrealized holding gains (losses) on available-for-sale securities."

(d) On Schedule HI, "Income Statement," item 6, "Gains (Losses) on securities not held in trading accounts," would be split into separate items for gains (losses) on available-for-sale securities and held-to-maturity securities.

[2] Proposed revisions to the FR Y-9C reporting panel are discussed in the December 17, 1993 **Federal Register** Notice.

[3] Proposed revisions to the FR Y-9LP reporting panel are discussed in the December 17, 1993 **Federal Register** Notice.

[4] Proposed revisions to the FR Y-9SP reporting panel are discussed in the December 17, 1993 **Federal Register** Notice.

(e) On Schedule HI-A, "Changes in Equity Capital," item 13 would be recaptioned as "Change in net unrealized holding gains (losses) on available-for-sale securities."

(2) Revisions related to trading activities and derivative products:

(a) On Schedule HC, "Balance Sheet," a new category of liabilities, "Trading liabilities," would be added.

(b) On Schedule HC-G, "Memoranda," revaluation gains and losses on interest rate, foreign exchange rate, and other commodity and equity contracts would be reported, as well as "liability for short positions." This additional information on Schedule HC-G would be reported only by bank holding companies with total consolidated assets of $1 billion or more, or with $2 billion or more in par/notional amounts of interest rate, foreign exchange rate, and other commodity and equity contracts.

(c) On Schedule HC-H, which collects past due and nonaccrual data, additional items would be added to collect interest rate, foreign exchange rate, and other commodity and equity contracts that are past 30 through 89 days or past due 90 days or more. Bank holding companies would report the book value of amounts carried as assets on the balance sheet for such past due contracts as well as the replacement costs of those past due contracts with a positive replacement cost. This additional information on Schedule HC-G would be reported only by bank holding companies with total consolidated assets of $1 billion or more, or with $2 billion or more in par/notional amounts of interest rate, foreign exchange rate, and other commodity and equity contracts. Consistent with existing treatment of certain Schedule HC-H data, bank holding company information on contracts past due 30 through 89 days would be treated as confidential.

FR Y-9LP:

Revise the reporting in the following FR Y-9LP schedules to reflect the effect of FASB 115:

(a) On Schedule PC, "Balance Sheet," add a new item to equity (item 20.e) entitled "Net unrealized holding gains (losses) on available-for-sale securities."

(b) On Schedule PC-b, "Memoranda," revise item 11 to collect the "market value of securities classified as available-for-sale in Schedule PC, item 2.a through 2.c" and the "amortized cost of securities classified as held-to-maturity in Schedule PC, item 2.a through 2.c."

FR Y-9SP:

Revise the reporting in the following FR Y-9SP schedules to reflect the effect of FASB 115:

(a) On the Balance Sheet, add a new item to equity (item 16.d) entitled "Net unrealized holding gains (losses) on available-for-sale securities."

(b) On the Memoranda section of the balance sheet, revise item 6 to collect the "market value of securities classified as available-for-sale in item 2 of the balance sheet" and the "amortized cost of securities classified as held-to-maturity in item 2 of the balance sheet."

Legal Status

The Legal Division has determined that (12 U.S.C. 1844(b) and (c)) authorizes the Board to require these reports.

Overall, the Board does not consider the data in these reports to be confidential. However, a bank holding company may request confidential treatment pursuant to section (b)(4) and (b)(6) of the Freedom of Information Act (5 U.S.C. 552(b)(4) and (b)(6)). Section (b)(4) provides exemption for "trade secrets and commercial or financial information obtained from a person and privileged or confidential." Section (b)(6) provides exemption for "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Section (b)(8) exempts matters that are "contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions."

The Legal Division has also determined that on the Y-9C, Schedule HC-H, Column A, requiring information on "assets past due 30 through 89 days and still accruing" and memoranda item 2 are confidential pursuant to Section (b)(8) of the Freedom of Information Act (5 U.S.C. 552(b)(8)).

Regulatory Flexibility Act Analysis

The Board certifies that the above bank holding company reporting requirements are not expected to have a significant economic impact on small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The reporting requirements for the small companies require significantly fewer items of data to be submitted than the amount of information required of large bank holding companies.

The information that is collected on the reports is essential for the detection of emerging financial problems, the assessment of a holding company's financial condition and capital adequacy, the performance of pre-inspection reviews, and the evaluation of expansion activities through mergers and acquisitions. The imposition of the reporting requirements is essential for the Board's supervision of bank holding companies under the Bank Holding Company Act.

Board of Governors of the Federal Reserve System, February 2, 1994.

William W. Wiles,

Secretary of the Board.

[FR Doc. 94-3112 Filed 2-9-94; 8:45 am]

BILLING CODE 6210-01-F

Fifth Third Bancorp, 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 March 7, 1994.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Fifth Third Bancorp*, Cincinnati, Ohio; to merge with The National Bancorp of Kentucky, Inc., Lexington, Kentucky, and thereby indirectly acquire National Bank of Cynthiana, Cynthiana, Kentucky, and First National Bank of Falmouth, Falmouth, Kentucky.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230

South LaSalle Street, Chicago, Illinois 60690:

1. First Michigan Bank Corporation, Holland, Michigan; to merge with Old State Bank Corporation, Fremont, Michigan, and thereby indirectly acquire Old State Bank of Fremont, Fremont, Michigan.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. First Bank System, Inc., Minneapolis, Minnesota; to acquire 100 percent of the voting shares of First Financial Investors, Inc., New York, New York, and thereby indirectly acquire St. Louis Bank for Savings, FSB, Duluth, Minnesota, which will be converted to St. Louis Bank for Savings, National Association, and merged into First Bank National Association, Minneapolis, Minnesota, a subsidiary of First Bank System, Inc.

D. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Palmer Bancshares, Inc., Palmer, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Palmer Bancshares of Delaware, Inc., Wilmington, Delaware, and thereby indirectly acquire Commercial State Bank, Palmer, Texas.

2. Palmer Bancshares of Delaware, Inc., Wilmington, Delaware; to become a bank holding company by acquiring 100 percent of the voting shares of Commercial State Bank, Palmer, Texas.

Board of Governors of the Federal Reserve System, February 4, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94-3091 Filed 2-9-94; 8:45 am]

BILLING CODE 6210-01-F

Eva Gabriella Murr, 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 March 2, 1994.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. Eva Gabriella Murr, Rye, New York; to acquire an additional 14.98 percent of the voting shares of B.M.J. Financial Corp., Bordentown, New Jersey, for a total of 24.9 percent, and thereby indirectly acquire Bank of Mid-Jersey, Bordentown, New Jersey; Mount Holly State Bank, Mount Holly, New Jersey; and Southern Ocean State Bank, Little Egg Harbor Township, Tuckerton, New Jersey.

B. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Harmon C. Hurt, Troy, Ohio; to retain 4.39 percent of the voting shares of Florida Bancorporation, Inc., Palm Harbor, Florida, and thereby indirectly acquire Florida Bank of Commerce, Palm Harbor, Florida.

2. Albert Paris Qualls, Jr., Ft. Walton Beach, Florida; to acquire 100 percent of the voting shares of E.C.S.B. Holding Company, Inc., Ft. Walton Beach, Florida, and thereby indirectly acquire Emerald Coast State Bank, Ft. Walton Beach, Florida.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. George F. Ehlis, Dickinson, North Dakota; to acquire an additional 18.97 percent of the voting shares of United Bancor, Ltd., Dickinson, North Dakota, for a total of 29.68 percent, and thereby indirectly acquire American State Bank and Trust of Dickinson, Dickinson, North Dakota.

D. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. City Bankshares, Inc., ESOP, Carl Lindon Short, Trustee, Oklahoma City, Oklahoma; to acquire an additional 0.79 percent of the voting shares of City Bankshares, Inc., Oklahoma City, Oklahoma, for a total of 15.92 percent, and thereby indirectly acquire City Bank & Trust, Oklahoma City, Oklahoma.

Board of Governors of the Federal Reserve System, February 4, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94-3092 Filed 2-9-94; 8:45 am]

BILLING CODE 6210-01-F

The Shorebank Corporation, et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 2, 1994.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. The Shorebank Corporation, Chicago, Illinois; to engage *de novo* through its subsidiaries, Cleveland Development Bancorporation, Chicago, Illinois, and Cleveland Enterprise Group, Chicago, Illinois, in community development activities by assisting the formation of locally-owned businesses that will provide employment opportunities for low- and moderate-

income individuals pursuant to § 225.25(b)(6) of the Board's Regulation Y.

2. The Shorebank Corporation, Chicago, Illinois; to engage *de novo* through its subsidiaries, Cleveland Development Bancorporation, Chicago, Illinois, and CDB Development, Co., Chicago, Illinois, in community development activities by engaging in real estate development activities including the construction, rehabilitation, ownership, and management of residential, commercial, and industrial real estate that promotes the community welfare and benefits low- and moderate-income individuals pursuant to § 225.25(b)(6) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 4, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94-3093 Filed 2-9-94; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

[Dkt. 9189]

Detroit Auto Dealers Association, Inc., et al.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement represents two identical consent agreements with two different groups of respondents (one group of respondents associated with the sale of GM, Ford, Lincoln-Mercury and Volkswagen Vehicles; and the other group of respondents associated with the sale of Chrysler, Plymouth and Dodge vehicles), accepted subject to final Commission approval, would require, among other things, one hundred and forty six Detroit-area automobile dealerships, owners and managers, and dealer associations to stay open at least 62 hours a week for a year. In addition, the agreement would prohibit the respondents from entering into, continuing or carrying out any agreement to establish, fix or maintain any hours of operation.

DATES: Comments must be received on or before April 11, 1994.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Ernest Nagata, FTC/H-394, Washington, DC 20580. (202) 326-2714.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's Rules of Practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order To Cease and Desist

The agreement herein, by and between respondents identified in Attachments A, B, C, D and E, and their attorneys, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's rule governing consent order procedures. In accordance therewith the parties hereby agree that:

1. Respondent dealers identified in Attachments A and C are all corporations with their principal places of business located at the addresses shown in Attachments A and C.

2. Individual respondents identified in Attachments B and D are officers of various dealers, as shown in Attachments B and D, and as such they formulate, direct and control the acts and practices of the dealers for which they are officers.

3. Respondent associations identified in Attachment E are incorporated trade associations for motor vehicle dealers with their principal places of business located at the addresses shown in Attachment E.

4. The respondents listed in Attachments A, B, C, D and E have been served with a copy of the complaint issued by the Federal Trade Commission alleging that they and others have violated section 5 of the Federal Trade Commission Act, and have filed answers to the complaint denying these allegations.

5. The respondents listed in Attachments A, B, C, D and E admit all the jurisdictional facts relating to Count I set forth in the Commission's complaint in this proceeding.

6. The respondents listed in Attachments A, B, C, D and E waive the following with respect to Count I of the complaint:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

7. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the respondents listed in Attachments A, B, C, D and E in which event it will take such action as it may consider appropriate, or issue and serve its decision, in disposition of Count I of the complaint issued by the Commission in this proceeding.

8. This agreement is for settlement purposes only and relates solely to Count I of the Commission's complaint in this proceeding; this agreement does not constitute an admission by the respondents listed in Attachments A, B, C, D and E that the law has been violated as alleged in Count I of the complaint issued by the Commission.

9. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(f) of the Commission's Rules, the Commission may without further notice to the respondents listed in Attachments A, B, C, D and E, (1) issue its decision containing the following Order to cease and desist in disposition of Count I of the complaint issued by the Commission in this proceeding, and (2) make information public in respect thereto. When so entered, the Order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The Order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to Order to respondents' addresses as stated in this agreement shall constitute service. The respondents listed in Attachments A, B, C, D and E waive any right they might have to any other manner of service. The complaint may be used in construing the terms of the Order, and no agreement,

understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or to contradict the terms of the Order.

10. The respondents listed in Attachments A, B, C, D and E have read the complaint and the order contemplated hereby. These respondents understand that once the Order has been issued, they may be required to file one or more compliance reports showing they have fully complied with the Order. These respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

It Is Ordered, that for the purposes of this order, the following definitions shall apply:

1. "Person" means any natural person, corporation, partnership, association, joint venture, trust, or other organization or entity, but not governmental entities.

2. "Dealer" means any person who receives on consignment or purchases motor vehicles for sale or lease to the public, and any director, officer, employee, representative or agent of any such person.

3. "Dealer association" means any trade, civic, service, or social association whose membership is composed primarily of dealers.

4. "Detroit area" means the Detroit, Michigan metropolitan area, comprising Macomb County, Wayne County and Oakland County in the State of Michigan.

5. "Hours of operation" means the times during which a dealer is open for business to sell or lease motor vehicles.

6. "Weekday hours" means the hours of 9 a.m. to 6 p.m. Monday through Friday.

7. "Non-weekday hours" means hours other than 9 p.m. to 6 p.m. Monday through Friday.

8. "Major holidays" means New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving and Christmas, and includes the date federal courts close in observance of these specified holidays if such holiday falls on a Sunday.

9. "Holiday weeks" means any week that contains a major holiday, Christmas Eve or New Year's Eve.

10. "Daylight Savings Time" means the legal time during the period described in 15 U.S.C. 260a.

11. "Standard Time" means the legal time during any period other than the period described in 15 U.S.C. 260a.

12. "Unsafe Area" means any area that is unsafe for both customers and dealership employees after dark.

13. "Group I Dealership and Individual Respondent" means any corporation listed in Addendum A to the order, including its officers, directors, representatives, agents, divisions, subsidiaries and successors and assigns, and any individual listed in Addendum B to the order.

14. "Group II Dealership and Individual Respondent" means any corporation listed in Addendum C to the order, including its officers, directors, representatives, agents, divisions, subsidiaries and successors and assigns, and any individual listed in Addendum D to the order.

15. "Association Respondent" means any association listed in Addendum E to the order, the officers, directors, representatives, agents, divisions, subsidiaries, successors and assigns of any listed association.

16. "Respondent" means any dealership, individual, or association respondent.

17. "Consenting Respondent" means any dealership, individual, or association respondent listed in any addendum to this order.

18. "Non-association Respondent" means any dealership or individual respondent. The term "non-association respondent" does not include any individual respondent who does not own or operate a dealership in the Detroit area.

I

It Is Further Ordered, that each consenting respondent shall cease and desist from, directly or indirectly or through any corporate or other device, entering into, continuing, or carrying out any agreement, contract, combination, or conspiracy, in or affecting commerce (as "commerce" is defined in the Federal Trade Commission Act), with any other respondent or other dealer or dealer association in the Detroit area to establish, fix, maintain, adopt, or adhere to any hours of operation.

II

It Is Further Ordered, that each consenting respondent shall cease and desist from, directly or indirectly or through any corporate or other device, performing any of the following acts or practices or encouraging, inducing, or requiring any person to perform any of the following acts or practices, or entering into, continuing, or carrying out any agreement, contract, combination, or conspiracy with any other person in the Detroit area to do or perform any of the following acts or practices:

A. Exchanging information or communicating with any other respondent or other dealer or dealer association in the Detroit area concerning hours of operation, except to the extent necessary to comply with any order of the Federal Trade Commission, and except, after two (2) years from the date this order becomes final, to the extent necessary to incorporate individual dealers' hours of operation in lawful joint advertisements; *provided, however,* (i) that nothing in this Part II.A of the order shall prohibit joint advertisements incorporating individual dealers' hours of operation, when such individual dealers are legally operated, directly or indirectly, under common control; and (ii) that nothing in this Part II.A of the order shall prohibit joint advertisements incorporating individual dealers' hours of operation for special events such as tent sales, mall sales, or annual sales when hours of operation are extended.

B. Requesting, recommending, coercing, influencing, inducing, encouraging, or persuading, or attempting to request, recommend, coerce, influence, induce, encourage, or persuade, any other respondent or other dealer or dealer association in the Detroit area to maintain, adopt or adhere to any hours of operation.

III

It Is Further Ordered, that each Group I dealership and individual respondent shall, commencing ten (10) days after this order becomes final and continuing for a period of one (1) year, maintain a minimum of sixty-two (62) hours of operation per week for the sale and lease of motor vehicles; *provided, however,* that each Group I dealership and individual respondent shall have the option of maintaining less than sixty-two (62) hours of operation during the weeks that contain one of the major holidays, Christmas Eve or New Year's Eve; provided further that during such holiday weeks each Group I dealership and individual respondent shall maintain an adjusted minimum number of hours of operation, determined by subtracting (1) the number of hours of operation ordinarily in effect for the day of the week on which the major holiday occurs, and (2) in the case of holiday weeks containing Christmas Eve or New Year's Eve, one-half the number of hours of operation ordinarily in effect for the day of the week on which Christmas Eve or New Year's Eve occurs, from sixty-two (62). Each Group I dealership and individual respondent shall post conspicuously its hours of

operation at each of its places of business subject to this order in a manner and location readily visible to the public from outside the main entrance of the dealership's showroom. Each Group I dealership and individual respondent shall conduct its sales and lease operation during any non-weekday hours in all respects in the same manner as during weekday hours, except that the motor vehicle sales force and supporting sales force on duty during non-weekday hours may be reduced to a number sufficient to meet the market demand during such non-weekday hours; *provided, however*, that the sales force and supporting sales staff shall at all such times be sufficient in number and authority to consummate fully all sales and lease transactions, in the same manner as during weekday hours.

IV

It Is Further Ordered, that each Group II dealership and individual respondent shall, commencing ten (10) days after this order becomes final and continuing for a period of one (1) year, maintain a minimum of sixty-two (62) hours of operation per week during daylight savings time and fifty-eight (58) hours of operation per week during standard time for the sale and lease of motor vehicles; *provided, however*, that each Group II dealership and individual respondent shall have the option of maintaining less than sixty-two (62) hours of operation during daylight savings time, or less than fifty-eight (58) hours of operation during standard time, during the weeks that contain one of the major holidays, Christmas Eve or New Year's Eve; provided further that during such holiday weeks each Group II dealership and individual respondent shall maintain an adjusted minimum number of hours of operation, determined by subtracting (1) The number of hours of operation ordinarily in effect for the day of the week on which the major holiday occurs, and (2) in the case of holiday weeks containing Christmas Eve or New Year's Eve, one-half the number of hours of operation ordinarily in effect for the day of the week on which Christmas Eve or New Year's Eve occurs, from sixty-two (62), during daylight savings time, or from fifty-eight (58), during standard time. Each Group II dealership and individual respondent shall post conspicuously its hours of operation at each of its places of business subject to this order in a manner and location readily visible to the public from outside the main entrance of the dealership's showroom. Each Group II dealership and individual respondent shall conduct its sales and lease operation during any non-weekday hours in all respects in the same manner as during weekday hours, except that the motor vehicle sales force and supporting sales staff on duty during non-weekday hours may be reduced to a number sufficient to meet the market demand during such non-weekday hours; *provided, however*, that the sales force and supporting sales staff shall at all such times be sufficient in number and authority to consummate fully all sales and lease transactions, in the same manner as during weekday hours.

The requirements of Parts III and IV of this order to maintain minimum weekly hours of operation shall not apply to any individual respondent who does not own or operate a dealership in the Detroit area.

V.

It is Further Ordered, that in the event the proceeding in Docket No. 9189 against any non-association respondent results in a final adjudicated order in accordance with section 5(g)–(k) of the Federal Trade Commission Act, 15 U.S.C. 45, or in a subsequent consent order requiring such non-association respondent to maintain fewer minimum weekly hours of operation than required by Part III of this order, then each consenting respondent subject to Part III of this order shall be bound only by the minimum weekly hours of operation obligations set forth in such subsequent order against any non-association respondent; *provided, however*, that this Part V shall not apply to an order for dismissal against any non-association respondent, or to an order based on a finding (1) that any non-association respondent had entered into a labor agreement incorporating fewer hours of operation than required by Part III of this order, (2) that any non-association respondent is located in an unsafe area, or (3) that the minimum hours requirement of any non-association respondent should be less than the requirements set forth in Part III of this order based on the unique circumstances of that respondent.

VI

It Is Further Ordered, that in the event the proceeding in Docket 9189 against any non-association respondent results in a final adjudicated order in accordance with section 5(g)–(k) of the Federal Trade Commission Act, 15 U.S.C. 45, or in a subsequent consent order requiring such non-association respondent to maintain fewer minimum weekly hours of operation than required by Part IV of this order, then each consenting respondent subject to Part IV of this order shall be bound only by the minimum weekly hours of operation obligations set forth in such subsequent order against any non-association respondent; *provided, however*, that this Part VI shall not apply to an order for dismissal against any non-association respondent, or to an order based on a finding (1) that any non-association respondent had entered into a labor agreement incorporating fewer hours of operation than required by Part IV of this order or (2) that the minimum hours requirement of any non-association respondent should be less than the requirements set forth in Part IV of this order based on the unique circumstances of that respondent.

VII

It Is Further Ordered, that each Group I dealership and individual respondent, a well as each Group II dealership and individual respondent, shall, while Parts III and Part IV of this order are in effect, disclose its hours of operation in all of its advertising, except that such disclosure is not required in joint-dealer advertisements conducted through an association or in advertisements offering for sale a single, particular motor vehicle. In any print advertisements, the disclosure shall be made in a clear and prominent manner in the same type style as that in which the principal portion of the text of the advertisement appears and in twelve point or larger bold type so that it can be readily noticed. In television advertisements, the disclosure shall be presented in both the audio and visual portions. During the audio portion of the disclosure in television and radio advertisements, no other sounds, including music, shall occur and the rate of speech shall be the same as for the other parts of the advertisement. The audio portion of the disclosure in television and radio advertisements need not state the dealership's hours of operation on a day-by-day basis so long as the disclosure states clearly and prominently the evenings in which the dealership is open and any Saturday hours.

VIII

It Is Further Ordered, that each association respondent shall, for a period of five (5) years from the date this order becomes final, cause to be made minutes of all business meetings of its membership, its board of directors, and its committees, Such minutes shall (i) Identify all persons attending such meeting, (ii) include a certification, signed by the presiding officer and the secretary under penalty of perjury, that states whether hours of operation were discussed at the meeting, and (iii) summarize what was discussed at the

meeting. If hours of operation were discussed at any business meeting subject to this order, then the minutes of such meeting shall identify the participants in the discussion of hours of operation and state in detail the substance of the discussion(s). Each association respondent shall retain such minutes (including, but not limited to, the required certifications) for a period of five (5) years from the date the minutes were created. Such minutes shall be provided to the Commission upon request.

It Is Further Ordered, that each association respondent shall:

A. Within sixty (60) days from the date this order becomes final, amend its bylaws, rules and regulations to eliminate any provision inconsistent with any provision of this order;

B. Within sixty (60) days from the date this order becomes final, amend its bylaws, rules and regulations to incorporate: (1) A provision that prohibits its members from discussing at any formal or informal membership, board of directors, or committee meeting the house of operation of any dealer, except to the extent necessary to comply with any order of the Federal Trade Commission; and (2) a provision that requires expulsion from membership of any member who violates such prohibition;

C. Within ten (10) days after the amendment of any bylaws, rules or regulations pursuant to this order, furnish a copy of such amended bylaws, rules or regulations to all members, and within ten (10) days of any new member joining an association respondent, furnish to such new member a copy of the bylaws, rules and regulations of association respondent; and

D. Within sixty (60) days after receiving information from any source concerning a potential violation of any bylaw, rule, or regulation required by Part IX.B. of this order, investigate the potential violation, record the findings of the investigation, and expel for a period of one (1) year any member who is found to have violated any of the bylaws, rules or regulations required by Part IX.B. of this order.

X

It Is Further Ordered, that each association respondent shall, for a period of five (5) years from the date this order becomes final, provide to the Commission the name and address of any member expelled pursuant to the requirements of Part IX.D. of this order within ten (10) days after such expulsion.

XI

It Is Further Ordered, that within ten (10) days after the date this order becomes final, each Group I dealership and individual respondent, as well as each Group II dealership and individual respondent, shall provide a copy of the order to each of its employees involved in motor vehicle sales or leasing in the Detroit area and each association respondent shall provide a copy of the order to each of its officers, directors, members and employees. For a period of five (5) years from the date this order becomes final, each Group I dealership and individual respondent, as well as each Group II dealership and individual respondent, shall provide a copy of the order to each new employee involved in motor vehicle sales or leasing in the Detroit area, and each association respondent shall provide a copy to each new member, within ten (10) days after the date the employee is hired or the new member joins the association respondent.

XII

It Is Further Ordered, that each consenting respondent shall, within ninety (90) days after this order becomes final and annually thereafter for a period of five (5) years, file with the Commission a verified written report setting forth in detail the manner and form in which it has complied with this order.

The requirements of this part XII to file a compliance report with the Commission shall not apply to any individual respondent who does not own or operate a dealership in the Detroit area; provided, however, that such individual respondent shall, within ninety (90) days after this order becomes final, file with the Commission a verified written report stating that he does not own or operate a dealership in the Detroit area; provide further that if circumstances change whereby such individual respondent does own or operate a dealership in the Detroit Area, then that individual respondent shall notify the Commission at the earliest practicable date prior to any such change and begin complying with the requirements of Part XII of this order.

XIII

It Is Further Ordered, that for a period of five (5) years from the date this order becomes final, each consenting respondent that is not an individual shall notify the Commission at least thirty (30) days prior to any proposed change in corporate status (such as dissolution, assignment, or sale) that results in the emergence of a successor corporation, the creation of dissolution of subsidiaries, or any other change in any corporate respondent which may affect compliance obligations arising out of the order. Each consenting respondent that is an individual shall, for five (5) years from the date the order becomes final, promptly notify the Commission of the discontinuance of his present business or employment and of any new affiliation or employment with any dealer or dealer association. Such notice shall include the individual's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged, as well as a description of the individual's duties and responsibilities in connection with the new business or employment.

Attachment A

Group I Dealership Respondents

Jim Causley Pontiac-GMC Truck, Inc., 38111 Gratiot Avenue, Mt. Clemens, MI 48043
Jim Fresard Pontiac, Inc., 400 North Main Street, Royal Oak, MI 48067
Red Holman Pontiac, Inc. a/k/a Red Holman Pontiac-Toyota-GMC Truck Co., 35300 Ford Road, Westland, MI 48185
Art Moran Pontiac, GMC, Inc., 29000 Telegraph Road, Southfield, MI 48034
Rinke Pontiac, GMC, Inc., 27100 Van Dyke Avenue, Warren, MI 48093
Bob Sellers Pontiac-GMC Truck, Inc. a/k/a Bob Sellers Pontiac-GMC, Inc., 38000 Grand River, Farmington Hills, MI 48335
Shelton Pontiac-Buick, Inc., 855 S. Rochester Road, Rochester, MI 48306
Jack Cauley Chevrolet, Inc., 7020 Orchard Lake Road, West Bloomfield, MI 48033
Dick Genthe Chevrolet, Inc., 15600 Eureka Road, Southgate, MI 48195
Lou LaRiche Chevrolet a/k/a Lou LaRiche Chevrolet-Subaru, Inc., 40875 Plymouth Road, Plymouth, MI 48170
Mark Chevrolet, Inc., 33200 Michigan Avenue, Wayne, MI 48184
George Matick Chevrolet, Inc., 14001 Telegraph Road, Redford, Michigan 48239
Matthews-Hargreaves Chevrolet Co., 1616 South Main Street, Royal Oak, MI 48067
Merollis Chevrolet Sales & Service, 21800 Gratiot Avenue, Eastpointe, MI 48021–2224
Mike Savoie Chevrolet, Inc., 1900 West Maple, Troy, MI 48084
Les Stanford Chevrolet, Inc., 21711 Michigan Avenue, Dearborn, MI 48123
Tennyson Chevrolet, Inc., 32570 Plymouth Road, Livonia, MI 48150
Buff Whelan Chevrolet, Inc., 40445 Van Dyke Avenue, Sterling Heights, MI 48311–8002
Wink Chevrolet, Co. d/b/a Bill Wink Chevrolet/GMC, 10700 Ford Road, Dearborn, MI 48126
Ed Rinke Chevrolet, Inc. a/k/a Ed Rinke Chevrolet-GMC Co., 26125 Van Dyke Avenue, Centerline, MI 48015–1280
Armstrong Buick-Opel, Inc., 30500 Plymouth Road, Livonia, MI 48150
Fischer Automotive Group, Inc. f/k/a/ Fisher Buick-Subaru, Inc., 1790 Maplelawn, Troy, MI 48099–0909

Tamaroff Buick Opel, Inc. f/k/a Tamaroff Buick-Honda, Inc., 28585 Telegraph Road, Southfield, MI 48034
Audette Cadillac, Inc., 7100 Orchard Lake Road, West Bloomfield, MI 48033
Dreisbach and Sons Cadillac, Inc. a/k/a Dreisbach & Sons Cadillac Co., 24600 Grand River Avenue, Detroit, MI 48219
Birmingham Chrysler-Plymouth, Inc., 2100 West Maple Road, Troy, MI 48084
Lochmoor Chrysler-Plymouth, Inc., 18165 Mack Avenue, Detroit, MI 48224
Shelby Oil Company, Inc. d/b/a Monicatti Chrysler-Plymouth, Inc., 40755 Van Dyke Avenue, Sterling Heights, MI 48078
Roseville Chrysler-Plymouth, Inc., 25800 Gratiot Avenue, Roseville, MI 48006
Westborn Chrysler-Plymouth, Inc., 23300 Michigan Avenue, Dearborn, MI 48124
Colonial Dodge, Inc., 24211 Gratiot Avenue, E. Detroit, MI 48021
Mt. Clemens Dodge, Inc., 43774 N. Gratiot, Mt. Clemens, MI 48043
Northwestern Dodge, Inc., 10500 W. Eight Mile Road, Ferndale, MI 48220
Oakland Dodge, Inc., 101 W. Fourteen Mile Road, Madison Heights, MI 48071
Sterling Heights Dodge, Inc., 40111 Van Dyke Avenue, Sterling Heights, MI 48078
Van Dyke Dodge, Inc., 28400 Van Dyke Avenue, P.O. Box 1539, Warren, MI 48090
Avis Ford, Inc., 29200 Telegraph Road, Southfield, MI 48034
Jorgensen Ford, Inc. f/k/a Jerry Bielfield Co., 8333 Michigan Avenue, Detroit, MI 48210
Fairlane Ford Sales, Inc. f/k/a Beverly John Ford a/k/a Bob Ford, Inc., 14585 Michigan Avenue, Dearborn, MI 48126
Gorno Brothers, Inc., 22025 Allen Road, Woodhaven, MI 48183
Jerome-Duncan, Inc., 8000 Ford Country Lane, Sterling Heights, MI 48313–3710
McDonald Ford Sales, Inc., 550 West Seven Mile Road, Northville, MI 48167
Pat Milliken Ford, Inc., 9600 Telegraph Road, Redford, MI 48239
Russ Milne Ford, Inc., 43870 N. Gratiot Avenue, Mt. Clemens, MI 48036
North Brothers Ford, Inc., 33300 Ford Road, Westland, MI 48185
Stark Hickey West, Inc., 24760 West Seven Mile Road, Detroit, MI 48219
Bob Thibodeau, Inc., 26333 Van Dyke Avenue, Centerline, MI 48015
Arnold Lincoln Mercury Co., 29000 Gratiot Avenue, Roseville, MI 48066
Stu Evans Lincoln Mercury of Garden City a/k/a Stu Evans Lincoln-Mercury, Inc. of Garden City, 32000 Ford Road, Garden City, MI 48135
Stu Evans Lincoln Mercury of Southgate a/k/a Stu Evans Lincoln-Mercury, Inc. of Southgate, 16800 Fort Street, Southgate, MI 48195
Hines Park Lincoln Mercury a/k/a Hines Park Lincoln-Mercury, Inc., 40601 Ann Arbor Road, Plymouth, MI 48170
Krug Lincoln-Mercury, Inc., 21531 Michigan Avenue, Dearborn, MI 48124
McInerney, Inc. d/b/a Northland Chrysler-Plymouth, Inc., 14100 West Eight Mile Road, Oak Park, MI 48237
Park Motor Sales Co. a/k/a PHP d/b/a Park Motor Sales Co., 18100 Woodward Avenue, Detroit, MI 48203
Star Lincoln Mercury, Inc., 24350 Twelve Mile Road, P.O. Box 2142, Southfield, MI 48037
Charnock Oldsmobile, Inc., 24555 Michigan Avenue, Dearborn, MI 48124
Drummy Oldsmobile, Inc., 14925 East Eight Mile Road, Eastpointe, Michigan 48021
Gage Oldsmobile, Inc., 21710 Woodward, Ferndale, MI 48220–0280
Bill Rowan Oldsmobile a/k/a Bill Rowan Oldsmobile, Inc., 15800 Eureka Road, Southgate, MI 48195
Suburban Oldsmobile-Cadillac f/k/a Suburban Oldsmobile-Datsun, Inc., 1810 Maplelawn, Troy, MI 48099–0909
Autobahn Motors, Inc., 1765 South Telegraph Road, Bloomfield Hills, MI 48013
Melton Motors, Inc., 15100 Eureka, Southgate, MI 48195
Wood Motors, Inc., 15351 Gratiot Avenue, Detroit, MI 48205
Pointe Dodge, Inc., 18001 Mack Avenue, Detroit, MI 48224

Attachment B—

Group I Individual Respondents

W. Robert Allen c/o. Matthews-Hargreaves Chevrolet Co., 1616 South Main Street, Royal Oak, MI 48067
Thomas Clark Armstrong, c/o Armstrong Buick-Opel, Inc., 30500 Plymouth road, Livonia, MI 48150
Charles Audette c/o Audette Cadillac, Inc., 7100 Orchard Lake Road, West Bloomfield, MI 48033
Frank B. Audette c/o Audette Cadillac, Inc., 7100 Orchard Lake Road, West Bloomfield, MI 48033
Robert F. Barnett, 3923 Maple Hill East, West Bloomfield, MI 48033
Jerry M. Bielfield, 19457 Suffolk, Detroit MI 48203
Robert M. Brent, 32711 Van Dyke Avenue, Warren, MI 48093
Paul Carrick c/o Autobahn Motors, Inc., 1765 South Telegraph Road, Bloomfield Hills, MI 48013
John H. Cauley c/o Jack Cauley Chevrolet, Inc., 7020 Orchard Lake Road, West Bloomfield, MI 48033
James F. Causely, Sr. c/o Jim Causley Pontiac-GMC Truck, Inc., 38111 Gratiot Avenue, Mt. Clemens, MI 48043
J. Herbert Charnock c/o Charnock Oldsmobile, Inc., 24555 Michigan Avenue, Dearborn, MI 48124
John Cueter, 2448 Washtenaw, Ypsilanti, MI 48197
Al Dittrich, 5825 Highland Road, Waterford, MI 48237
Thomas S. Dreisbach c/o Dreisbach and Sons Cadillac, Inc., 24600 Grand River Avenue, Detroit, MI 48219
John L. Drummy, Sr. c/o Drummy Oldsmobile, Inc., 14925 East Eight Mile Road, Eastpointe, Michigan 48021
Richard J. Duncan c/o Jerome-Duncan, Inc., 8000 Ford Country Lane, Sterling Heights, MI 48313–3710
Stewart Evans c/o Stu Evans Lincoln Mercury of Garden City, 32000 Ford Road, Garden City, MI 48135
Arnold Feuerman c/o Arnold Lincoln Mercury Co., 29000 Gratiot Avenue, Roseville, MI 48066
W.R. Flannery a/k/a Richard Flannery, 3456 Franklin Road, Bloomfield Hills, MI 48302
B. John Ford a/k/a John Ford c/o Bob Ford, Inc., 14585 Michigan Avenue, Dearborn, MI 48126
F. James Fresard, c/o Jim Fresard Pontiac, Inc., 400 North Main Street, Royal Oak, MI 48067
Frank Galeana, c/o Van Dyke Dodge, Inc., 28400 Van Dyke Avenue, P.O. Box 1539, Warren, MI 48090
Richard E. Genthe, c/o Dick Genthe Chevrolet, Inc., 15600 Eureka Road, Southgate, MI 48195
Albert A. Holman, c/o Red Holman Pontiac, Inc., 35300 Ford Road, Westland, MI 48185
George Kolb, c/o Hines Park Lincoln-Mercury, 40601 Ann Arbor Road, Plymouth, MI 48170
Sigmund Krug, c/o Krug Lincoln-Mercury, Inc., 21531 Michigan Avenue, Dearborn, MI 48124
Louis H. LaRiche, c/o Lou LaRiche Chevrolet, 40875 Plymouth Road, Plymouth, MI 48170
Walter N. Lazar, P.O. Box 6594, Delray Beach, FL 33484
W. Desmond McAlister, 33011 Westview Court South, Bloomfield Hills, MI 48304
Martin J. McInerney, c/o McInerney, Inc., 14100 West Eight Mile Road, Oak Park, MI 48237
George S. Matick, Jr., c/o George Matick Chevrolet, Inc., 14001 Telegraph Road, Redford, Michigan 48239
Kenneth Meade, c/o Pointe Dodge, Inc., 18001 Mack Avenue, Detroit, MI 48224
George Melton, c/o Melton Motors, Inc., 15100 Eureka, Southgate, MI 48195
Norman A. Merollis, c/o Merollis Chevrolet Sales & Service, 21800 Gratiot Avenue, Eastpointe, MI 48021–2224
W.B. (Pat) Milliken, c/o Pat Milliken Ford, Inc., 9600 Telegraph Road, Redford, MI 48239
Russell H. Milne, c/o Russ Milne Ford, Inc., 43870 N. Gratiot Avenue, Mt. Clemens, MI 48036
Arthur C. Moran, c/o Art Moran Pontiac, GMC, Inc., 29000 Telegraph Road, Southfield, MI 48034
James E. North, c/o North Brothers Ford, Inc., 33300 Ford Road, Westland, MI 48185
James E. Riehl, c/o Roseville Chrysler-Plymouth, Inc., 25800 Gratiot Avenue, Roseville, MI 48006
Roland J. Rinke, c/o Rinke Pontiac, GMC, Inc., 27100 Van Dyke Avenue, Warren, MI 48093
Arthur J. Roshak, c/o Colonial Dodge, Inc., 24211 Gratiot Avenue, E. Detroit, MI 48021
William H. Rowan, c/o Bill Rowan Oldsmobile, 15800 Eureka Road, Southgate, MI 48195
Myron P. Savoie, c/o Mike Savoie Chevrolet, Inc., 1900 West Maple, Troy, MI 48084
Robert B. Sellers, c/o Bob Sellers Pontiac-GMC Truck, Inc., 38000 Grant River, Farmington Hills, MI 48335
C.M. Shelton, c/o Shelton Pontiac-Buick, Inc., 855 S. Rochester Road, Rochester, MI 48306
Joseph B. Slatkin, c/o Sheila Rosenbauer, Harry Slatkin Builders, 39935 Grand River, Novi, MI 48375
Leslie J. Stanford, c/o Les Stanford Chevrolet, Inc., 21711 Michigan Avenue, Dearborn, MI 48123

Marvin M. Tamaroff, c/o Tamaroff Buick Opel, Inc., 28585 Telegraph Road, Southfield, MI 48034
Harry Tennyson, c/o Tennyson Chevrolet, Inc., 32570 Plymouth Road, Livonia, MI 48150
Robert Thibodeau, c/o Bob Thibodeau, Inc 26333 Van Dyke Avenue, Centerline, MI 48015
Anthony J. Viviano, c/o Sterling Heights Dodge, Inc., 40111 Van Dyke Avenue, Sterling Heights, MI 48078
Stanley A. Wilk, c/o Star Lincoln Mercury, Inc., 24350 Twelve Mile Road, P.O. Box 2142, Southfield, MI 48037
William J. Wink, Jr., c/o Wink Chevrolet, Co., 10700 Ford Road, Dearborn, MI 48126
Donald Wood, Sr., c/o Wood Motors, Inc., 15351 Gratiot Avenue, Detroit, MI 48205
Robert Zankl, 18018 Riverside Drive, Pompano Beach, FL 33062

Attachment C

Group II Dealership Respondents

James Martin Chevrolet, Inc., 6250 Woodward Avenue, Detroit, MI 48202
Jefferson Chevrolet, Co., 2130 East Jefferson Avenue, Detroit, MI 48207
Charles Dalgleish Cadillac, Inc., 6160 Cass Avenue, Detroit, MI 48202
Bill Snethkamp, Inc., 16430 Woodward Avenue, Highland Park, MI 48023
Garrity Motor Sales, Inc., 11500 Joseph Campau, Hamtramck, MI 48212

Attachment D

Group II Individual Respondents

Charles H. Dalgleish, Jr. c/o Charles Dalgleish Cadillac, Inc., 6160 Cass Avenue, Detroit, MI 48202
Douglas Dalgleish c/o Charles Dalgleish Cadillac, Inc., 6160 Cass Avenue, Detroit, MI 48202
James A. Garrity c/o Garrity Motor Sales, Inc., 11500 Joseph Campau, Hamtramck, MI 48212
James B. Large c/o James Martin Chevrolet, Inc., 6250 Woodward Avenue, Detroit, MI 48202
William Snethkamp c/o Bill Snethkamp, Inc., 16430 Woodward Avenue, Highland Park, MI 48023
James P. Tellier c/o Jefferson Chevrolet, Co., 2130 East Jefferson Avenue, Detroit, MI 48207
Raymond R. Tessmer c/o Jefferson Chevrolet, Co., 2130 East Jefferson Avenue, Detroit, MI 48207

Attachment E

Association Respondents

Tri-County Pontiac Dealers Association, Inc., 16000 W. Twelve Mile Road, Southfield, MI 48076
Greater Detroit Chevrolet Dealers Association, Inc., 100 Renaissance Center, Suite 3100, Detroit, MI 48243
Chrysler-Plymouth Dealers Association of Greater Detroit, Inc. c/o Dykema Gossett, 400 Renaissance Center, Detroit, MI 48243–1668
Southeastern Michigan Dodge Dealers Association, Inc. f/k/a Greater Detroit Dodge Dealers Association, Inc., 13500 Telegraph Road, Taylor, MI 48180
Metro Detroit Buick Dealers Association, Inc., 100 Renaissance Center, Suite 3100, Detroit, MI 48243
Metro Detroit Cadillac Dealers Association, Inc., 100 Renaissance Center, Suite 3100, Detroit, MI 48243
Metropolitan Detroit Ford Dealers, Inc., 30955 Northwestern Highway, Suite 250, Farmington Hills, MI 48334
Metropolitan Detroit Oldsmobile Dealers Association, Inc., 24700 Northwestern Highway, P.O. Box 307, Southfield, MI 48037–0307
Metropolitan Lincoln-Mercury Dealers Association, Inc., 1500 Woodward Avenue, Suite 300, Bloomfield Hills, MI 48303
Southeastern Michigan Volkswagen Dealers Association, Inc., 650 First National Building, Detroit, MI 48226
Metropolitan Detroit Chevrolet Dealers Advertising Association a/k/a Metropolitan Detroit Chevrolet Dealers Advertising Association, Inc., 100 Renaissance Center, Suite 3100, Detroit, MI 48243
Chrysler-Plymouth Dealers of Greater Detroit Advertising Association, Inc. c/o Dykema Gossett, 400 Renaissance Center, Detroit, MI 48243–1668
Ford Dealers Advertising Fund, Inc., 30955 Northwestern Highway, Suite 250, Farmington Hills, MI 48334
Lincoln-Mercury Dealers Advertising Fund—Detroit District, Inc., 1500 Woodward Avenue, Suite 300, Bloomfield Hills, MI 48303
Tri-County D.A.A., Inc., 13500 Telegraph Road, Taylor, MI 48180

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, two agreements to a proposed consent order from sixty-nine automobile dealerships, sixty-two owners or managers of automobile dealerships and fifteen dealer associations located in the Detroit, Michigan area. Each agreement was executed by a different group of dealers, individuals and associations, but the agreements are identical in content. The parties to the agreements (hereinafter collectively referred to as "the dealers") are listed below.

The proposed consent order has been placed on the public record for 60 days for reception of comments by interested parties. Comments received during this period will become part of the public record. After 60 days, the Commission will again review the agreements and the comments received and will decide whether it should withdraw from the agreements or make final the agreements' proposed order.

On December 20, 1984, the Commission issued an administrative complaint alleging that the dealers, together with other dealers who are not parties to the consent agreements, agreed among themselves and with others to limit competition in the sale of new motor vehicles in the Detroit, Michigan area in violation of Section 5 of the Federal Trade Commission Act, by adopting and adhering to a schedule limiting hours of operation for the sale or lease of motor vehicles in the Detroit area. The alleged agreement limited weekday evening hours to Mondays and Thursdays and eliminated Saturday hours altogether, except for occasional special sales.

On July 14, 1987, the Administrative Law Judge ("ALJ") issued an Initial Decision dismissing the complaint. The ALJ found that the dealers and the other respondents had acted in response to employee demands for shorter hours and, therefore, that the dealers' agreement was exempt from the antitrust laws by reason of the non-statutory labor exemption.

Counsel supporting the complaint appealed the Initial Decision to the Commission. On February 22, 1989, the Commission issued a decision reversing the ALJ. The Commission held that the dealers were not entitled to the nonstatutory labor exemption because their uniform hours restrictions were not the result of any collective bargaining activity with employees; on the contrary, the dealers had agreed among themselves in order to avoid collective bargaining. The Commission's Final Order, among other provisions, prohibited the dealers from conspiring in any way to fix hours of operation. As a corrective measure the Final Order also required the dealers to remain open a minimum of 64 hours a week for one year. The Commission found that "a cease and desist order alone would be inadequate to remedy the respondents' violations of section 5." Because of the history of violent enforcement of the hours restrictions, the Commission found that "[d]ealers individually will decide to remain closed for fear of reprisals if they try to extend hours. Only if many dealers are open at the same time, making enforcement of the restriction difficult or impossible, will the fear of being singled out for enforcement be overcome." *Detroit Auto Dealers Assoc., Inc.*, 111 FTC 417, 506 (1989).

The dealers and other respondents appealed the Commission's decision to the United States Court of Appeals for the Sixth Circuit. On January 31, 1992, the Court of Appeals affirmed the Commission's decision in substantial part and remanded the case to the Commission for the "limited purpose" of reconsidering certain issues.

The dealers subsequently signed an Agreement Containing a Consent Order to Cease and Desist in order to resolve the allegations in the administrative

complaint. Under Part I of the proposed order, the dealers would be prohibited from entering into, continuing or carrying out any agreement to establish, fix or maintain any hours of operation.

Part II.A of the proposed order would prohibit the dealers from exchanging information or communicating with any other dealer or association concerning hours of operation, except to the extent necessary to comply with any order of the Commission, and except, after two (2) years from the date the order becomes final, to the extent necessary to incorporate individual dealers' hours of operation in lawful joint advertisements. Part II.A has two exceptions to the two-year prohibition against the inclusion of individual dealers' hours of operation in joint advertising. First, the prohibition would not apply to individual dealers that are legally operated under common control. Second, the prohibition would not apply to joint advertising for special events such as tent sales, mall sales, or annual sales when hours of operation are extended.

Part II.B of the proposed order would prohibit the dealers from requesting, recommending, coercing, influencing, inducing, encouraging or persuading another dealer or dealer association to maintain, adopt or adhere to any hours of operation.

Under Parts III and IV of the proposed order, the dealers (other than the associations) would be required to maintain certain minimum hours of operation for a period of one year. Part III would require the vast majority of the dealers (identified as "Group I" respondents, listed in Addendums A and B to the orders) to maintain a minimum of sixty-two (62) hours of operation per week for a one-year period, with a reduced minimum for weeks that contain one of six major holidays (New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving and Christmas), Christmas Eve or New Year's Eve.

Under Part IV of the proposed consent order, certain dealers (identified as "Group II" respondents, listed in Addendums C and D to the orders) would be required to maintain a lower minimum of 58 hours of operation per week during Standard (non-daylight savings) time, with a 62-hour minimum in effect during Daylight Savings time. Group II dealers have provided evidence to the Commission that because of the crime rate in the areas in which they do business, the safety of their employees would be jeopardized if their dealerships were required to be open for 62 hours during Standard time, when daylight hours are shorter. The dealers in Group II would be permitted to make the same adjustment for holiday weeks as the Group I dealers.

Parts III and IV of the proposed order would also provide that the staffing for non-weekday hours may be reduced to a level sufficient to meet the market demand during such hours, provided that the staffing shall be sufficient in number and authority to consummate fully all sales and lease transactions in the same manner as during weekday hours.

Parts V and VI of the proposed order would provide most-favored-nations treatment to Group I and Group II dealers, respectively, in the event that any subsequent Commission order requires fewer minimum hours of operation than required by Part III or Part IV, whichever is applicable. Parts V and VI would also specify certain exceptions to the triggering of most-favored-nations treatment.

Under Part VII of the proposed order, the dealers would be required to disclose their hours of operation in all advertising for a none-year period. A printed disclosure must be made in a "clear and prominent manner" using "twelve point or larger bold type so that it can be readily noticed." In radio advertising or in the audio portion of television advertising, the respondent need not state specific hours on a day-by-day basis so long as it states "clearly and prominently" the evenings on which it is open, and any Saturday hours.

Under Part VIII of the proposed consent order, each association would be required to maintain detailed certified minutes of any meeting at which hours of operation are discussed.

Part IX of the proposed order would require each association to amend its bylaws, rules and regulations to: (i) Eliminate any provision inconsistent with any provision of the order; (ii) incorporate a provision that prohibits its members from discussing hours of operation at any meeting; and (iii) expel from membership any member who violates such prohibition. Each association would also be required to furnish a copy of the amended bylaws, rules and regulations to every member and new member, and within 60 days after receiving information concerning a potential violation of any bylaw, rule or regulation required by the order, conduct an investigation and expel for one year any person who is found to have committed a violation. Under Part X of the proposed order, each association would be required to provide to the Commission the name and address of each member expelled pursuant to paragraph IX.

The remainder of the proposed order contains provisions regarding compliance, record-keeping and distribution of the order to various persons. Part XI would require each dealership and association to give a copy of the order to each employee and member, and to each new employee and member, as the case may be. Part XII would require the dealers to file annual compliance reports for a period of five years. The reporting requirement would be waived for individuals who no longer own or operate a dealership in the Detroit area, provided that the individual submits an initial compliance report so stating. The reporting requirement would be re-activated if the individual again comes into ownership or operation of a dealership in the Detroit area. Part XIII of the proposed order would require each dealer to report any change of status that may affect its obligations under the order.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreements and the proposed order or to modify in any way their terms.

Parties to the Consent Agreements

Group I Dealerships (Addendum A to the Agreements)

Jim Causley Pontiac-GMC Truck, Inc.
Jim Fresard Pontiac, Inc.
Red Holman Pontiac, Inc. a/k/a Red Holman Pontiac-Toyota-GMC Truck Co.
Art Moran Pontiac, GMC, Inc. a/k/a Art Moran Pontiac-GMC, Inc.
Rinke Pontiac, GMC, Inc. a/k/a Rinke Pontiac-GMC Co.
Bob Sellers Pontiac-GMC Truck, Inc. a/k/a Bob Sellers Pontiac-GMC, Inc.
Shelton Pontiac-Buick, Inc.
Jack Cauley Chevrolet, Inc.
Dick Genthe Chevrolet, Inc.
Lou LaRiche Chevrolet a/k/a Lou LaRiche Chevrolet-Subaru, Inc.
Mark Chevrolet, Inc.
George Matick Chevrolet, Inc.
Matthews-Hargreaves Chevrolet Co.
Merollis Chevrolet Sales & Service
Ed Rinke Chevrolet, Inc. a/k/a Ed Rinke Chevrolet-GMC Co.
Mike Savoie Chevrolet, Inc.
Les Stanford Chevrolet, Inc.
Tennyson Chevrolet, Inc.
Buff Whelan Chevrolet, Inc.
Wink Chevrolet, Co. d/b/a Bill Wink Chevrolet/GMC
Armstrong Buick-Opel, Inc.
Fischer Automotive Group, Inc. f/k/a Fischer Buick Mazda-Subaru-Suzuki a/k/a Fischer Buick-Subaru, Inc.
Tamaroff Buick Opel, Inc. a/k/a Tamaroff Buick-Honda, Inc.
Audette Cadillac, Inc.
Dreisbach and Sons Cadillac, Inc. a/k/a Dreisbach & Sons Cadillac Co.
Birmingham Chrysler-Plymouth, Inc.

Lochmoor Chrysler-Plymouth, Inc.
Shelby Oil Company, Inc.
Roseville Chrysler-Plymouth, Inc.
Westborn Chrysler-Plymouth, Inc.
Colonial Dodge, Inc.
Mt. Clemens Dodge, Inc.
Northwestern Dodge, Inc.
Oakland Dodge, Inc.
Sterling Heights Dodge, Inc.
Van Dyke Dodge, Inc.
Avis Ford, Inc.
Jorgensen Ford, Inc. f/k/a Jerry Bielfield Co.
Fairlane Ford, Inc. a/k/a Beverly John Ford
Gorno Brothers, Inc.
Jerome-Duncan, Inc.
McDonald Ford Sales, Inc.
Pat Milliken Ford, Inc.
Russ Milne Ford, Inc.
North Brothers Ford, Inc.
Stark Hickey West, Inc.
Bob Thibodeau, Inc.
Arnold Lincoln Mercury Co. a/k/a Arnold Lincoln-Mercury Co.
Stu Evans Lincoln Mercury of Garden City a/k/a Stu Evans Lincoln-Mercury, Inc., of Garden City
Stu Evans Lincoln Mercury of Southgate a/k/a Stu Evans Lincoln-Mercury, Inc., of Southgate
Hines Park Lincoln Mercury a/k/a Hines Park Lincoln-Mercury, Inc.
Krug Lincoln-Mercury, Inc.
McInerney, Inc. d/b/a Northland Chrysler-Plymouth, Inc.
Park Motor Sales Co. a/k/a PHP d/b/a Park Motor Sales Co.
Star Lincoln Mercury, Inc. a/k/a Star Lincoln-Mercury, Inc.
Charnock Oldsmobile, Inc.
Drummy Oldsmobile, Inc.
Gage Oldsmobile, Inc.
Bill Rowan Oldsmobile a/k/a Bill Rowan Oldsmobile, Inc.
Suburban Oldsmobile-Cadillac a/k/a Suburban Oldsmobile-Datsun, Inc.
Autobahn Motors, Inc.
Melton Motors, Inc.
Wood Motors, Inc.
Pointe Dodge, Inc.

Group II Dealerships (Addendum B to the Agreements)

James Martin Chevrolet, Inc. a/k/a James-Martin Chevrolet, Inc.
Jefferson Chevrolet, Co. a/k/a Jefferson Chevrolet Co.
Charles Dalgleish Cadillac, Inc. a/k/a Charles Dalgleish Cadillac-Peugeot, Inc.
Bill Snethkamp, Inc.
Garrity Motor Sales, Inc.

Group I Individuals (Addendum C to the Agreements)

W. Robert Allen
Thomas Clark Armstrong a/k/a Thomas Armstrong
Charles Audette
Frank B. Audette a/k/a Frank Audette
Robert Barnett a/k/a Robert B. Barnett
Jerry Bielfield a/k/a Jerry M. Bielfield
Robert M. Brent
Paul Carrick
John H. Cauley
James Causely a/k/a James F. Causley, Sr.
J. Herbert Charnock
John Cueter
Al Dittrich
Thomas S. Dreisbach
John L. Drummy, Sr.
Richard Duncan a/k/a Richard J. Duncan
Stewart Evans
Arnold Feuerman
W.R. Flannery a/k/a Richard Flannery
B.J. Ford a/k/a John Ford
F. James Fresard
Frank Galeana
Richard E. Genthe
Albert A. Holman
George Kolb
Sigmund Krug
Louis LaRiche a/k/a Louis H. LaRiche
Walter N. Lazar
W. Desmond McAlister
Martin J. McInerney
George S. Matick, Jr.
Kenneth Meade
George Melton
Norman A. Merollis
Pat Milliken a/k/a W.B. (Pat) Milliken
Russell H. Milne
Arthur C. Moran
James North a/k/a James E. North
James E. Riehl a/k/a James Riehl
Roland J. Rinke a/k/a Roland Rinke
Arthur J. Roshak
William H. Rowan
Myron P. Savoie
Bob Sellers a/k/a Robert B. Sellers
C.M. Shelton a/k/a C.M. (Bud) Shelton
Joseph B. Slatkin
Leslie J. Stanford
Marvin M. Tamaroff a/k/a Marvin Tamaroff
Harry Tennyson
Bob Thibodeau, Sr. a/k/a Robert Thibodeau
Anthony J. Viviano
Stanley A. Wilk
William J. Wink, Jr.
Donald Wood, Sr. a/k/a Donald Wood
Robert Zankl

Group II Individuals (Addendum D to the Agreements)

Charles H. Dalgleish, Jr. a/k/a Charles Douglas Dalgleish Dalgleish, Jr.
James a. Garrity
James P. Large
William Snethkamp
James P. Tellier
Raymond R. Tessmer

Associations (Addendum E to the Agreements)

Tri-County Pontiac Dealers Association, Inc. a/k/a Tri County Pontiac Dealers Association, Inc.
Greater Detroit Chevrolet Dealers Association, Inc.
Chrysler-Plymouth Dealers Association of Greater Detroit, Inc., a corporation a/k/a Chrysler and Plymouth Dealers Association of Greater Detroit, Inc.
Southeastern Michigan Dodge Dealers Association, Inc. a/k/a Greater Detroit Dodge Dealers Association, Inc.
Metro Detroit Buick Dealers Association, Inc.
Metro Detroit Cadillac Dealers Association, Inc.
Metro Detroit Ford Dealers, Inc. a/k/a Metropolitan Detroit Ford Dealers, Inc.
Metropolitan Detroit Oldsmobile Dealers Association, Inc.
Metropolitan Lincoln-Mercury Dealers Association, Inc.
Southeastern Michigan Volkswagen Dealers Association, Inc.
Metropolitan Detroit Chevrolet Dealers Advertising Association, Inc.
Chrysler-Plymouth Dealers of Greater Detroit Advertising Association, Inc. a/k/a Chrysler Plymouth Dealers of Greater Detroit Advertising Association, Inc.
Ford Dealers Advertising Fund, Inc. a/k/a Metro Detroit Ford Advertising Fund, Inc.
Lincoln-Mercury Dealers Advertising Fund—Detroit District, Inc.
Tri-County D.A.A., Inc. a/k/a Tri County D.A.A., Inc.

Donald S. Clark,

Secretary.

[FR Doc. 94–3089 Filed 2–9–94; 8:45 am]

BILLING CODE 6750–01–M

[File No. 922 3123]

Unocal Corporation, et al.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, the three companies from making claims about the attributes or performance of any gasoline without first having scientific evidence to substantiate their claims. In addition, the respondents would be required to mail their credit-card customers, in certain states, a notice stating that most cars do not need a high octane gasoline to perform properly, and to remind them to check their owner's manual to determine the proper octane level of gasoline to purchase.

DATES: Comments must be received on or before April 11, 1994.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Sue Frauens, FTC/Los Angeles Regional Office, 11000 Wilshire Blvd., Suite 13209, Los Angeles, CA. 90024. (310) 575–7890.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period

of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order To Cease and Desist

In the matter of Unocal Corporation, a corporation, Union Oil Company of California, a corporation, and Leo Burnett Company, Inc., a corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Unocal Corporation, a corporation, Union Oil Company of California, a corporation, and Leo Burnett Company, Inc., a corporation, hereinafter sometimes referred to as proposed respondents, and it now appears that proposed respondents are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed That by and between Unocal Corporation, a corporation, Union Oil Company of California, a corporation, and Leo Burnett Company, Inc., a corporation, and counsel for the Federal Trade Commission that:

1. Respondent Unocal Corporation is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business at 1201 West Fifth Street, Los Angeles, California 90017.

2. Respondent Union Oil Company of California is a corporation organized, existing, and doing business under and by virtue of the laws of the State of California, with its office and principal place of business at 1201 West Fifth Street, Los Angeles, California 90017.

3. Respondent Leo Burnett Company, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principle place of business at 35 West Wacker Drive, Chicago, Illinois 60601.

4. Proposed respondents admit all the jurisdictional facts set forth in the draft complaint here attached.

5. Proposed respondents waive:

(a) Any procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusion of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access To Justice Act.

6. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

7. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents of facts, other than jurisdictional facts, or of violations of law as alleged in the draft complaint here attached.

8. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents: (1) Issue its complaint corresponding in form and substance with the draft complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding; and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to-order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any rights they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

9. Proposed respondents have read the proposed complaint and order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is Ordered That respondents Unocal Corporation, Union Oil Company of California and Leo Burnett Company, Inc., corporations, their successors and assigns, and their officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, labelling, packaging, offering for sale, sale or distribution of Unocal 92 and 89 octane gasolines or any other gasoline in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from making any representation, directly or by implication, about:

A. The superiority of Unocal 92 or 89 octane in providing engine power or acceleration for any automobile;

B. The superiority of Unocal 92 or 89 octane in prolonging the longevity of an engine for any automobile; or

C. The relative or absolute attributes or performance of any gasoline with respect to vehicle engine power, acceleration, longevity, or any other performance characteristic, unless at the time of making such representation, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation. For purposes of this Order, "competent and reliable scientific evidence" shall mean tests, analysis, research, studies or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

Provided That, nothing in this Order shall prohibit respondents from truthfully representing the numerical octane rating of any gasoline.

Provided further that, it shall be a defense hereunder that respondent Leo Burnett Company, Inc. neither knew nor had reason to know of an inadequacy of substantiation for the representation.

It is further ordered That for three (3) years after the date of the last dissemination of the representation to which they pertain, respondents Unocal Corporation, Union Oil Company of California and Leo Burnett Company, Inc. shall maintain and upon request make available to the Federal Trade Commission or its staff for inspection and copying:

A. All materials relied upon to substantiate any claim or representation covered by this Order; and

B. All tests, reports, studies or surveys in respondents' possession or control that contradict any representation covered by this Order.

III

It is further rodered That respondents Unocal Corporation, Union Oil Company of California and Leo Burnett Company, Inc. shall forthwith distribute a copy of this Order to all operating divisions, subsidiaries, franchisees, officers, managerial employees, and all of their employees or agents engaged in the preparation or placement of advertisements or promotional materials covered by this Order and shall obtain from each such employee a signed statement acknowledging receipt of the order.

IV

It is further ordered That respondents Unocal Corporation, Union Oil Company of California and Leo Burnett Company, Inc. shall notify the Commission at least thirty (30) days prior to any proposed change in the corporation(s) such as a dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation(s) that may affect compliance obligatings under this Order.

V

It is further ordered That respondents Unocal Corporation, Union Oil Company of California and Leo Burnett Company, Inc. shall, within sixty (60) days after service upon them of this Order and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this Order.

It is further ordered That respondents Unocal Corporation and Union Oil Company of California shall mail to the last known address of all consumers who hold an active Unocal credit card on the date this Order becomes final, and who reside in any of the states of Oregon, Washington, Nevada, California, or Hawaii, an exact copy of the Notice which is incorporated by reference as Appendix A.

The mailing shall not include any other documents that contradict or in any way mitigate the information in the Notice. Respondents Unocal Corporation and Union Oil Company of California shall bear all costs of printing and disseminating the Notice. The Notice shall be mailed by first class mail within 30 days of the date of this Order becomes final.

Appendix A—Important Information About the Octane Needs of Your Car

As a Unocal customer, you probably know that Unocal offers three grades of unleaded gasoline at its service stations: 87 octane regular, 89 octane mid-grade, and 92 octane premium. The 89 and 92 octane grades are formulated primarily for vehicles that are designed to operate on higher octanes (high-performance vehicles) and for vehicles that may be experiencing engine knocking and pinging.

In July 1991, the Federal Trade Commission issued a brochure that advises consumers to purchase the lowest octane gasoline that their cars can use without engine knocking or pinging. The brochure notes that "many experts believe that most cars do not need a high octane gasoline to perform properly and efficiently." The brochure also advises consumers to "first check your owner's manual for the recommended octane level." According to the brochure, if your vehicle runs without knocking or pinging it generally does not need, and will not perform better with, higher octane gasoline.

The octane requirements of your vehicle can vary over time or under certain weather, altitude and driving conditions. If your car is knocking or pinging at the octane level recommended in your owner's manual, you may need a higher octane gasoline.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed consent order from Unocal Corporation, Union Oil Company of California, and Leo Burnette Company, Inc. ("Respondents").

The proposed consent order has been placed on the public record for sixty (60) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action, or make final the proposed order contained in the agreement.

Unocal Corporation and its wholly-owned subsidiary, Union Oil Company of California, Inc. (collectively, "Unocal") are marketers of gasoline and other petroleum products, including Unocal 89 and 92 octane gasolines. Leo Burnette Company, Inc. ("Leo Burnett) is an advertising agency and prepared and disseminated advertisements for Unocal gasoline.

The Commission's complaint in this matter charges Respondents with making unsubstantiated claims in advertisements and promotional materials for Unocal 89 and 92 octane gasolines. Specifically, the complaint alleges that Respondents represented that Unocal 89 and 92 provide superior engine performance and longevity as compared to regular unleaded gasoline, that would be significant to consumers, for automobiles generally. The complaint alleges that Respondents represented that they had a reasonable basis for these claims when, in fact, they did not. The complaint further charges that Leo Burnett knew or should have known that the claims were unsubstantiated.

The consent order contains provisions designed to remedy the alleged violations. Part I of the order requires Respondents to cease from making any representations regarding (a) the superiority of Unocal 89 or 92 octane gasolines in providing engine power or acceleration or prolonging engine longevity, or (b) the relative or absolute attributes or performance of any gasoline with respect to any performance characteristic, unless they possess competent and reliable scientific evidence to substantiate the claim. Part I states that nothing in the order prohibits Respondents from truthfully representing the numerical octane rating of any gasoline. Part I also provides that Leo Burnett would have a defense to an alleged violation of the order if it neither knew nor had reason to know that the substantiation for any representation was inadequate.

Part II of the order requires Respondents to maintain and make available to the Federal Trade Commission material relating to the support for their representations. Part III requires Respondents to provide a copy of the order to, and obtain a signed acknowledgement from, their divisions, subsidiaries, franchisees, officers, managerial employees and all other employees involved in advertising covered by the order. Part IV requires Respondents to notify the Commission of certain changes in corporate structure. Part V requires Respondents to file written compliance reports with the Commission.

Part VI of the order requires Unocal to mail a notice to active Unocal credit card holders in five states within thirty days after the order is final. The five states are Oregon, Washington, Nevada, California, and Hawaii.

The notice explains that Unocal sells three octane levels of unleaded gasoline—87 regular, 89 mid-grade and 92 premium, and that the last two grades are designed primarily for high performance vehicles and vehicles that are experiencing engine knocking or pinging. The notice then refers to a 1991 FTC brochure which advises consumers to check their owner's manual for the recommended octane level and purchase the lowest octane gasoline that does not result in knocking. It notes that, according to the brochure, if the car runs without knocking or pinging, it generally will not perform better with higher octane. The notice further states that octane requirements can vary under different conditions, and that if the car is knocking at the recommended octane level, it may need a higher octane.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

Separate Statement of Commissioner Deborah K. Owen, Concurring In Part, and Dissenting in Part, in the Matter of Unocal Corporation, et al. (File No. 922-3123)

I concur in the Commission's action to accept for public comment an administrative complaint against, and consent agreement with, Unocal Corporation and its advertising agency, Leo Burnett Company, Inc., for allegedly making unsubstantiated octane performance and longevity claims. However, based on the ad itself and the available extrinsic evidence, I do not find reason to believe that Exhibit A to the complaint (commonly referred to as the "Love Is Forever" ad) conveys the message alleged in Paragraph 8, that Unocal 92 octane provides significantly superior engine performance and longevity for automobiles generally, as opposed to for high performance

automobiles. Accordingly, I respectfully dissent as to Exhibit A, Paragraph 8, and all references to 92 octane gasoline in the administrative complaint.

Statement of Roscoe B. Starek, III Concurring in Part and Dissenting in Part, in Unocal Corporation, et al., Matter No. 922-3123

I support the decision to charge Unocal Corporation with unsubstantiated representations regarding its 89 octane and 92 octane gasoline. I further support the decision to charge Leo Burnett Company, Inc. for unsubstantiated representations regarding 92 octane gasoline.

I dissent, however, from issuance of this complaint insofar as it charges Leo Burnett with liability for the Unocal 89 octane claims. Complaint paras. 9, 11, 12. In recent years, the Commission has prosecuted three advertising agencies for very significant, even egregious violations of Section 5 of the Federal Trade Commission Act (FTC Act). Here, I think the record supports the conclusion that Leo Burnett made substantial, good faith pre-dissemination efforts to determine whether its 89 octane claim was substantiated. Hence, it is my view that inclusion of the 89 octane allegation in the complaint represents a significant and unnecessary departure from recent precedent regarding advertising agency liability.

I also oppose inclusion of this allegation against Leo Burnett on legal grounds. The FTC Act requires the Commission to make a two-step determination before it issues a complaint: It must conclude first, that it has reason to believe that an unfair or deceptive act or practice has been committed, and second, that a proceeding would be in the interest of the public. FTC Act, Section 5(b), 15 U.S.C. 45(b). The record supports the conclusion that Leo Burnett requested and was presented with factual information in support of the claim for 89 octane gasoline, although it also possessed some information that would tend to undermine the general nature of the benefit provided by 89 octane gasoline. The Commission previously has held, with respect to a claim requiring complex scientific substantiation, that where an advertising agency requested and relied upon evidence that provided some scientific basis for the claim, possession of additional information tending to undermine the substantiation did not put the agency on notice that substantiation was inadequate. *Bristol-Myers Co.*, 102 F.T.C. 21, 365–66 (1983). Given this precedent, and on the record before us, I am not able to conclude that there is reason to believe that Leo Burnett engaged in actionable conduct in connection with the 89 octane claims.

Moreover, elimination of the 89 octane charge from the complaint would have simplified the complaint without the need for any significant change in order coverage.[1] Under these circumstances, it does not appear that it is in the public interest to include this charge in the complaint.

[FR Doc. 94–3087 Filed 2–9–94; 8:45 am]

BILLING CODE 6750–01–M

[File No. 912 3147]

Vein Clinics of America, Inc. et al.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, an Illinois-based corporation and its officer from misrepresenting the rate of likely recurrence for any venous disease following treatment, or misrepresenting the newness, past availability, safety, risks or potential side-effects of any cosmetic or plastic surgery procedure. In addition, the consent agreement would require respondents to have scientific evidence to substantiate any representations it makes about any cosmetic or plastic surgery procedure it markets or sells in the future.

DATES: Comments must be received on or before April 11, 1994.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Richard Kelly or Sondra Mills, FTC/H–200, Washington, DC (202) 326–3304 or 326–2673.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order To Cease and Desist

In the matter of Vein Clinics of America, Inc., a corporation, and D. Brian McDonagh, M.D., individually and as an officer of said corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Vein Clinics of America, Inc., a corporation, and D. Brian McDonagh, M.D., individually and as an officer of said corporation, and it now appearing that Vein Clinics of America, Inc. and D. Brian McDonagh, M.D., hereinafter sometimes referred to as a proposed respondents, are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Vein Clinics of America, Inc., by its duly authorized officer, and D. Brian McDonagh, M.D., individually and as an officer of said corporation, and their attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Vein Clinics of America, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 1101 Perimeter Drive, Suite 615, in the City of Schaumburg, State of Illinois.

Proposed respondent D. Brian McDonagh, M.D. is the Chairman of the Board and National Medical Director of Vein Clinics of America, Inc. He formulates, directs and controls the policies, acts and practices of said corporation. His address is 1535 Lake Cook Road, in the City of Northbrook, State of Illinois.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) All rights under the Equal Access to Justice Act.

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[1] While it would have appeared appropriate to exempt Leo Burnett from Parts 1A and 1B of the order insofar as they specifically pertained to engine power, acceleration and longevity claims for 89 octane gasoline, Part 1C still would have fenced-in these and other performance claims regarding *any* gasoline.

4. This agreement shall not become part of the public record of the proceeding unless and until accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, in which event it will take such action as it may consider appropriate or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by the proposed respondents of facts, other than jurisdictional facts, or of violations of law as alleged in the draft Complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (10) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully compiled with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

Definitions

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

1. "Sclerotherapy" means the treatment of venous disease by injecting a solution into a vein with a needle.

2. "Compression sclerotherapy" means the treatment of venous disease by injecting a solution, including but not limited to Sotradecol (sodium tetradecyl sulfate), into a vein with a needle, followed by compression of the injected area with bandages or wraps and post-procedure ambulation by the patient.

3. "Any substantially similar service" means compression sclerotherapy in which a solution of Sotradecol (sodium tetradecyl sulfate) is injected into a vein.

4. "Venous disease treatment procedure" includes, but is not limited to, sclerotherapy, compression sclerotherapy, laser treatments, electrocautery, and surgery.

5. "Competent and reliable scientific evidence" means tests, analyses, research, studies or other evidence based on the expertise of professionals in the relevant area, that have been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

I

It is Ordered That respondents Vein Clinics of America, Inc., a corporation, its successors and assigns, and its officers, and D. Brian McDonagh, M.D., individually and as an officer and medical director of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, promotion, offering for sale or sale of any venous disease treatment procedure or any other cosmetic or plastic surgery procedure in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from, in any manner, directly or by implication:

A. Representing that the rate at which varicose veins recur following surgery is approximately 65% to 85% in five years, or otherwise misrepresenting the rate at which venous disease is likely to recur or return following treatment by any venous disease treatment procedure;

B. Representing that prior to the opening of Vein Clinics of America, surgery was the only available treatment for large varicose veins;

C. Representing that the sclerotherapy practiced at respondents' clinics as of the date respondents sing this Order sometimes referred to as the "MicroCure Process," or any substantially similar service, is a newly discovered and/or previously unavailable method of treating varicose and spider veins;

D. Misrepresenting that the sclerotherapy practiced at respondents' clinics as of the date respondents sign this Order, sometimes referred to as the "MicroCure Process," or any substantially similar service, is exclusively available at respondents' clinics;

E. Misrepresenting the newness of, or the past or present availability of, any cosmetic or plastic surgery procedure, including any venous disease treatment procedure;

F. Representing that the sclerotheraphy practiced at respondents' clinics as of the date respondents sign this Order, sometimes referred to as the "MicroCure Process," or any substantially similar service:

(1) Does not present the risk of burning, marking, or scarring the skin; or

(2) Presents no possibility of significant risks to health;

G. Misrepresenting the safety, risks, or potential side-effects of any cosmetic or plastic surgery procedure, including any venous disease treatment procedure.

II

It is further ordered That respondents Vein Clinics of America, Inc., a corporation, its successors and assigns, and its officers, and D. Brian McDonagh, M.D., individually and as an officer and medical director of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, promotion, offering for sale or sale of any venous disease treatment procedure or any other cosmetic or plastic surgery procedure, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from making any representation, in any manner, directly or by implication, regarding:

A. The success rate or the rate at which a condition is likely to recur or return following treatment by any cosmetic or plastic surgery procedure, including any venous disease treatment procedure; or

B. The rate or nature of risks to health or of adverse cosmetic side-effects presented by any cosmetic or plastic surgery procedure,

including any venous disease treatment procedure;

unless, at the time of making such representation, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

III

It is further ordered That for five (5) years after the last date of dissemination of any representative covered by this Order, respondents, or the successors and assigns, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. All materials that were relied upon in disseminating such representation; and

B. All tests, reports, studies, surveys, demonstrations or other evidence in their possession or control that contradict, qualify, or call into question such representation, or the basis relied upon for such representation, including complaints from consumers.

IV

It is further ordered That respondents shall distribute a copy of this Order to each of their operating divisions, to each of their managerial employees, and to each of their officers, agents, representatives, or employees engaged in the preparation or placement of advertising or other material covered by this Order and shall secure from such person a signed statement acknowledging receipt of this Order.

V

It is further ordered That respondents shall notify the Commission at least thirty (30) days prior to any proposed change in the corporation such a dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this order'.

VI

It is further ordered That, for a period of ten (10) years from the date of entry of this Order, the individual respondent named herein shall promptly notify the Commission of the discontinuance of his present business or employment, with each such notice to include the respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged as well as a description of respondent's duties and responsibilities in connection with the business or employment.

VII

It is further ordered That respondents shall, within sixty (60) days after service upon them of this Order and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with the requirements of this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Vein Clinics of America, Inc., a Delaware corporation, and D. Brian McDonagh, M.D., its Chairman of the Board and National Medical Director (hereinafter collectively referred to as "VCA"). VCA markets a procedure commonly known as "compression sclerotherapy" for treating venous disease, including varicose veins, spider veins and ulcers. VCA's treatment method, which it sometimes refers to as the "MicroCure Process", consists of injecting solutions of Sotradecol (sodium tetradecyl sulfate) into the veins, followed by compression of the area with a bandage and post-procedure ambulation by the patient. Proposed respondents currently offer their sclerotherapy treatment services to the public at twelve clinics located in cities in California, Georgia, Illinois, Kansas, Maryland and Virginia.

The proposed consent order has been placed on the public record for sixty (60) days for the reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Commission's complaint charges that proposed respondents deceptively advertised: (1) The rate at which venous disease recurs following treatment by VCA's procedure and by other methods; (2) the newness and availability of the treatment method administered by VCA; and (3) the risks to health and of adverse cosmetic side-effects presented by VCA's treatment procedure and by other methods of treating venous disease.

Recurrence

The complaint against VCA alleges that proposed respondents falsely represented that varicose veins recur at a rate of approximately 65 to 85 percent in five years following surgical treatment when, in fact, the rate at which venous disease recurs five years after surgery is substantially lower than 65 percent.

The complaint also alleges that VCA failed to posses a reasonable basis for claims it made regarding the rate at which venous disease recurs following treatment by VCA's method and by other treatment methods. In brochures VCA provided to prospective customers, proposed respondents represented that the rate at which venous disease recurs within five years following treatment by VCA is less than 3 percent. VCA also claimed that the rate at which venous disease recurs following treatment by hypertonic saline injections is "high." VCA's brochures also represented that there is virtually no recurrence of venous disease among patients who have undergone treatment by VCA after having previously undergone surgery or other modes of treatment and that venous disease recurs at a lower rate following treatment by VCA than by any other treatment method. The Commission believes that these recurrence rate claims are deceptive because at the time proposed respondents made these claims, VCA did not posses adequate substantiation for those claims.

The proposed consent order seeks to address the alleged recurrence rate misrepresentations cited in the complaint in several ways. First, the order (Part I.A) prohibits proposed respondents from representing that the rate at which varicose veins recur following surgery is approximately 65 to 85 percent in five years.

Second, Part I.A further prohibits proposed respondents from otherwise misrepresenting the rate at which venous disease is likely to recur or return following treatment by any venous disease treatment procedure.

Third, Part II.A of the order requires proposed respondents to posses a reasonable basis consisting of competent and reliable scientific evidence substantiating any claim regarding the success rate or the rate at which a condition is likely to recur or return following treatment by any cosmetic or plastic surgery procedure, including any venous disease treatment procedure.

Newness and Availability

The Commission's complaint further alleges that proposed respondents falsely represented that VCA's treatment procedure, sometimes referred to by VCA as the "MicroCure Process," is a unique mode of treatment that is exclusively available from VCA and that differs materially from the procedures generally used by other physicians to treat varicose and spider veins. The complaint also alleges that proposed

respondents falsely represented that VCA's procedure is a newly discovered, previously unavailable method of treating varicose and spider veins and that prior to the opening of VCA, surgery was the only available treatment for large varicose veins.

In fact, according to the complaint, proposed respondents' treatment method is not unique, is not exclusively available from VCA and does not differ materially from the procedures used by physicians to treat varicose and spider veins. Rather, VCA's procedure, known within the medical community as compression sclerotherapy, can be, has been and is regularly performed by other physicians. VCA's procedure is neither a new nor previously unavailable method of treating varicose and spider veins. Moreover, prior to the advent of VCA, surgery was not the only method of treating large varicose veins.

The proposed consent order prohibits the alleged misrepresentations. First, the consent order prohibits proposed respondents from representing that prior to VCA, surgery was the only available treatment for large varicose veins (Part I.B).

Second, the proposed consent prohibits VCA from representing that its procedure is a newly discovered and/or previously unavailable method of treating varicose and spider veins (Part I.C).

Third, the proposed consent further prohibits VCA from misrepresenting that its procedure is exclusively available at proposed respondents' clinics (Part I.D).

Finally, the proposed order broadly prohibits VCA from making any misrepresentations regarding the newness of, or the past or present availability of, any cosmetic or plastic surgery procedure, including any venous disease treatment procedure (Part I.E).

Risks and Side-Effects

The complaint also alleges that VCA's brochures and advertisements falsely represented that proposed respondents' sclerotherapy method does not present the risk of burning, marking or scarring the skin. The complaint further alleges that VCA falsely represented that the only significant risk to health and risk of allergic reaction presented by respondents' method is that of a mild allergic reaction in 1 in 1,000 patients.

In fact, according to the complaint, VCA's sclerotherapy can result in burning, marking and scarring the skin. Injections of Sotradecol may cause ulcers (open sores) to form if it extrudes onto the surface of the skin when injected, leaving scars, and may result in potentially permanent pigmentation. Sotradecol can also cause sever allergic reactions, including the possibility of anaphylactic shock.

In addition, the complaint alleges that proposed respondents failed to possess a reasonable basis for claims that VCA's sclerotherapy presents (a) fewer significant risks to health than other non-surgical methods of treating venous disease, and (b) presents fewer risks of adverse cosmetic side-effects than other methods of treating venous disease. The Commission believes these claims are deceptive because at the time proposed respondents made these claims, they did not possess adequate substantiation for those claims.

The proposed consent order addresses these alleged misrepresentations in several ways. First, the proposed consent prohibits VCA from representing that its sclerotherapy does not present the risk of burning, marking or scarring the skin (Part I.F.1) or presents no possibility of significant risks to health (Part I.F.2).

Second, the proposed consent broadly prohibits VCA from misrepresenting the safety, risks, or potential side-effects of any cosmetic or plastic surgery procedure, including any venous disease treatment procedure (Part I.G).

Third, the proposed consent order requires VCA to possess a reasonable basis consisting of competent and reliable scientific evidence substantiating any claims about the rate or nature of risks to health, or of adverse cosmetic side-effects, presented by any cosmetic or plastic surgery procedure, including any venous disease treatment procedure (Part II.B).

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order, or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 94–3088 Filed 2–9–94; 8:45 am]

BILLING CODE 6750–01–M

GENERAL SERVICES ADMINISTRATION

Business Advisory Board; Meeting

Meeting Notice: Notice is hereby given that the General Services Administration (GSA) Business Advisory Board will meet February 23, 1994, from 8 a.m. to 4 p.m. at the General Services Administration Building at 18th and F Streets, room 6137, Washington, DC, 20405. Notice is required by the Federal Advisory Committee Act, 5 U.S.C. App. 2, and the implementing regulation, 41 CFR 101–6.

The purpose of the meeting is to provide a forum to discuss the development of asset management principles that will guide the management of GSA's real property portfolio. The agenda for this meeting will include discussions on and recommendations of asset management principles to guide GSA's ownership enterprise.

The meeting will be open to the public.

For further information, contact Deborah Schilling (202) 501–9192 of the Public Buildings Service, Real Estate Reinvention Task Force, GSA, Washington, DC 20405.

Dated: February 2, 1994.

David L. Bibb,

Deputy Commissioner, Public Buildings Service.

[FR Doc. 94–3145 Filed 2–9–94; 8:45 am]

BILLING CODE 6820–BR–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

On Fridays, the Department of Health and Human Services, Office of the Secretary publishes a list of information collections it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The following are those information collections recently submitted to OMB.

1. Survey of Medicare Beneficiary Understanding of the Explanation of Medical Benefits—New—This survey of Medicare beneficiary understanding of the "Explanation of Your Medicare Part B Benefits" notice is needed to provide a scientific measure of the effectiveness of the recently revised notice and to collect beneficiaries suggestions for future improvements. Respondents: Individuals; Total Number of Respondents: 400; Frequency of Response: one time; Average Burden per Response: 15 minutes; Estimated Annual Burden: 100 hours.

OMB Desk Officer; Allison Eydt.

Copies of the information collection packages listed above can be obtained by calling the OS Reports Clearance Officer on (202) 619–0511. Written comments and recommendations for the proposed information collection should be sent directly to the OMB desk officer

designated above at the following address:

OMB Reports Management Branch, New Executive Office Building, room 3208, Washington, DC 20503.

Dated: January 28, 1994.

Dennis P. Williams,

Deputy Assistant Secretary, Budget.

[FR Doc. 94-3100 Filed 2-9-94; 8:45 am]

BILLING CODE 4150-04-M

Annual Update of the HHS Poverty Guidelines

AGENCY: Department of Health and Human Services.

ACTION: Notice.

SUMMARY: This notice provides an update of the HHS poverty guidelines to account for last (calendar) year's increase in prices as measured by the Consumer Price Index.

EFFECTIVE DATE: These guidelines go into effect on the day they are published (unless an office administering a program using the guidelines specifies a different effective date for that particular program).

ADDRESSES: Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services (HHS), Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: *For information about how the poverty guidelines are used in a particular program,* contact the Federal (or other) office which is responsible for that program.

For general information about the poverty guidelines (but not for information about how they are used in a particular program), contact Gordon Fisher, Office of the Assistant Secretary for Planning and Evaluation, HHS—telephone: (202) 690-6141.

For information about the Hill-Burton Uncompensated Services Program (no-fee or reduced-fee health care services at certain hospitals and other health care facilities for certain persons unable to pay for such care), contact the Office of the Director, Division of Facilities Compliance, HHS—telephone: (301) 443-5656. The Division of Facilities Compliance notes that as set by 42 CFR 124.505(b), the effective date of this update of the poverty guidelines for facilities obligated under the Hill-Burton Uncompensated Services Program is sixty days from the date of this publication.

Under a recent amendment to the Older Americans Act, the figures in this notice are the figures that area agencies on aging should use to determine "greatest economic need" for *Administration on Aging programs. For information about those programs,* contact Donald Fowles, Administration on Aging, HHS—telephone: (202) 619-2614.

For information about the Department of Labor's Lower Living Standard Income Level (an alternative eligibility criterion with the poverty guidelines for certain Job Training Partnership Act programs), contact Hugh Davies, Office of Employment and Training Programs, U.S. Department of Labor—telephone: (202) 219-5580.

For information about the number of persons in poverty or about the Census Bureau (statistical) poverty thresholds, contact Kathleen Short, Chief, Poverty and Wealth Statistics Branch, U.S. Bureau of the Census—telephone: (301) 763-8578.

1994 Poverty Guidelines for All States (Except Alaska and Hawaii) and the District of Columbia

Size of family unit	Poverty guideline
1	$7,360
2	9,840
3	12,320
4	14,800
5	17,280
6	19,760
7	22,240
8	24,720

For family units with more than 8 members, add $2,480 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)

1994 Poverty Guidelines for Alaska

Size of family unit	Poverty guideline
1	$9,200
2	12,300
3	15,400
4	18,500
5	21,600
6	24,700
7	27,800
8	30,900

For family units with more than 8 members, add $3,100 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)

1994 Poverty Guidelines for Hawaii

Size of family unit	Poverty guideline
1	$8,470
2	11,320
3	14,170
4	17,020
5	19,870
6	22,720
7	25,570
8	28,420

For family units with more than 8 members, add $2,850 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)

The preceding figures are the 1994 update of the poverty guidelines required by sections 652 and 673(2) of the Omnibus Budget Reconciliation Act (OBRA) of 1981 (Pub. L. 97-35). As required by law, this update reflects last year's change in the Consumer Price Index (CPI-U); it was done using the same procedure used in previous years.

Section 673(2) of OBRA-1981 (42 U.S.C. 9902(2)) requires the use of the poverty guidelines as an eligibility criterion for the Community Services Block Grant program, while section 652 (42 U.S.C. 9847) requires the use of the poverty guidelines as an eligibility criterion for the Head Start program. The poverty guidelines are also used as an eligibility criterion by a number of other Federal programs (both HHS and non-HHS). When such programs give an OBRA-1981 citation for the poverty guidelines, they cite section 673(2).

The poverty guidelines are a simplified version of the Federal Government's statistical poverty thresholds used by the Bureau of the Census to prepare its statistical estimates of the number of persons and families in poverty. The poverty guidelines issued by the Department of Health and Human Services are used for administrative purposes—for instance, for determining whether a person or family is financially eligible for assistance or services under a particular Federal program. The poverty thresholds are used primarily for statistical purposes. Since the poverty guidelines in this notice—the 1994 guidelines—reflect price changes through calendar year 1993, they are approximately equal to the poverty thresholds for calendar year 1993 which the Census Bureau will publish in late summer 1994.

In certain cases, as noted in the relevant authorizing legislation or program regulations, a program uses the

poverty guidelines as only one of several eligibility criteria, or uses a percentage multiple of the guidelines (for example, 130 percent or 185 percent of the guidelines). Some other programs, while not using the guidelines to exclude non-lower-income persons as ineligible, use them for the purpose of giving priority to lower-income persons or families in the provision of assistance or services. In some cases, these poverty guidelines may not become effective for a particular program until a regulation or notice specifically applying to the program in question has been issued.

The poverty guidelines given above should be used for both farm and nonfarm families. Similarly, these guidelines should be used for both aged and non-aged units. The poverty guidelines have never had an aged/non-aged distinction; only the Census Bureau (statistical) poverty thresholds have separate figures for aged and non-aged one-person and two-person units.

Definitions

There is no single administrative definition of "income," "family," "family unit," or "household" that is valid for all programs that use the poverty guidelines. Federal programs may use administrative definitions that differ somewhat from the statistical definitions given below; the Federal office which administers a program has the responsibility for making decisions about administrative definitions. Similarly, non-Federal organizations which use the poverty guidelines in non-Federally-funded activities may use administrative definitions that differ from the statistical definitions given below. In either case, to find out the precise definitions used by a particular program, one must consult the office or organization administering the program in question. The following statistical definitions (derived for the most part from language used in U.S. Bureau of the Census, Current Population Reports, Series P60–185 and earlier reports in the same series) are made available for illustrative purposes only.

(a) *Family.* A family is a group of two or more persons related by birth, marriage, or adoption who live together; all such related persons are considered as members of one family. For instance, if an older married couple, their daughter and her husband and two children, and the older couple's nephew all lived in the same house or apartment, they would all be considered members of a single family.

(b) *Unrelated individual.* An unrelated individual is a person 15 years old or over (other than an inmate of an institution) who is not living with any relatives. An unrelated individual may be the only person living in a house or apartment, or may be living in a house or apartment (or in group quarters such as a rooming house) in which one or more persons also live who are not related to the individual in question by birth, marriage, or adoption. Examples of unrelated individuals residing with others include a lodger, a foster child, a ward, or an employee.

(c) *Household.* As defined by the Bureau of the Census for statistical purposes, a household consists of all the persons who occupy a housing unit (house or apartment), whether they are related to each other or not. If a family and an unrelated individual, or two unrelated individuals, are living in the same housing unit, they would constitute two family units (see next item), but only one household. Some programs, such as the food stamp program and the Low-Income Home Energy Assistance Program, employ administrative variations of the "household" concept in determining income eligibility. A number of other programs use administrative variations of the "family" concept in determining income eligibility. Depending on the precise program definition used, programs using a "family" concept would generally apply the poverty guidelines separately to each family and/or unrelated individual within a household if the household includes more than one family and/or unrelated individual.

(d) *Family unit.* "Family unit" is not an official U.S. Bureau of the Census term, although it has been used in the poverty guidelines **Federal Register** notice since 1978. As used here, either an unrelated individual or a family (as defined above) constitutes a family unit. In other words, a family unit of size one is an unrelated individual, while a family unit of two/three/etc. is the same as a family of two/three/etc.

(e) *Income.* Programs which use the poverty guidelines in determining eligibility may use administrative definitions of "income" (or "countable income") which differ from the statistical definition given below. Note that for administrative purposes, in many cases, income data for a part of a year may be annualized in order to determine eligibility—for instance, by multiplying by four the amount of income received during the most recent three months.

For statistical purposes—to determine official income and poverty statistics—the Bureau of the Census defines income to include total annual cash receipts before taxes from all sources, with the exceptions noted below. Income includes money wages and salaries before any deductions; net receipts from nonfarm self-employment (receipts from a person's own unincorporated business, professional enterprise, or partnership, after deductions for business expenses); net receipts from farm self-employment (receipts from a farm which one operates as an owner, renter, or sharecropper, after deductions for farm operating expenses); regular payments from social security, railroad retirement, unemployment compensation, strike benefits from union funds, workers' compensation, veterans' payments, public assistance (including Aid to Families with Dependent Children, Supplemental Security Income, Emergency Assistance money payments, and non-Federally-funded General Assistance or General Relief money payments), and training stipends; alimony, child support, and military family allotments or other regular support from an absent family member or someone not living in the household; private pensions, government employee pensions (including military retirement pay), and regular insurance or annuity payments; college or university scholarships, grants, fellowships, and assistantships; and dividends, interest, net rental income, net royalties, periodic receipts from estates or trusts, and net gambling or lottery winnings.

For official statistical purposes, income does not include the following types of money received: Capital gains; any assets drawn down as withdrawals from a bank, the sale of property, a house, or a car; tax refunds, gifts, loans, lump-sum inheritances, one-time insurance payments, or compensation for injury. Also excluded are noncash benefits, such as the employer-paid or union-paid portion of health insurance or other employee fringe benefits, food or housing received in lieu of wages, the value of food and fuel produced and consumed on farms, the imputed value of rent from owner-occupied nonfarm or farm housing, and such Federal noncash benefit programs as Medicare, Medicaid, food stamps, school lunches, and housing assistance.

Dated: February 7, 1994.

Donna E. Shalala,

Secretary of Health and Human Services.

[FR Doc. 94–3229 Filed 2–9–94; 8:45 am]

BILLING CODE 4150–04–P

Centers for Disease Control and Prevention

National Childhood Lead Poisoning Prevention Education Conference

The National Center for Environmental Health (NCEH) of the Centers for Disease Control and Prevention (CDC) and the Agency for Toxic Substances and Disease Registry will convene the following conference cosponsored by the Maternal and Child Health Bureau, Health Resources and Services Administration; National Institute of Environmental Health Sciences, National Institutes of Health; Food and Drug Administration; National Institute of Standards and Technology; Environmental Protection Agency; Department of Housing and Urban Development; Consumer Product Safety Commission; and Department of Defense.

Name: National Childhood Lead Poisoning Prevention Education Conference—Building Better Programs in Lead Education.

Times and dates: 8:30 a.m.–6 p.m., March 9, 1994; 8:30 a.m.–5:30 p.m., March 10, 1994; 8:30 a.m.–11 a.m., March 11, 1994.

Place: Atlanta Renaissance Hotel, 590 West Peachtree Street NW., Atlanta, Georgia 30308.

Status: Open to the public, limited only by the space available.

Purpose: To bring together Federal, State, and local entities involved in lead education to share information on effective education programs, materials, and strategies. The conference will also provide training on planning, implementing, and evaluating educational lead programs.

Matters to be discussed: Conference topics to be discussed include: (1) Conducting needs assessments, (2) developing goals and objectives, (3) planning communication strategies, (4) evaluating programs, (5) reaching varied audiences, (6) risk communications, (7) social marketing, (8) coordinating efforts, (9) public/private sector involvement, (10) assessing effectiveness, and (11) communicating results.

Registration forms are available from the contact person shown below.

Contact person for more information: Niki Keiser, Childhood Lead Poisoning Prevention Branch, Division of Environmental Hazards and Health Effects (F42), NCEH, CDC, 4770 Buford Highway, NE., Chamblee, Georgia 30341, telephone 404/488–7330.

Dated: February 3, 1994.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 94–3047 Filed 2–9–94; 8:45 am]

BILLING CODE 4160–18–M

CDC Advisory Committee on the Prevention of HIV Infection; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: CDC Advisory Committee on the Prevention of HIV Infection.

Times and dates: 8:30 a.m.–5 p.m., February 28, 1994; 8:30 a.m.–3 p.m., March 1, 1994.

Place: Sheraton Century Center Hotel, 2000 Century Boulevard, NE., Atlanta, Georgia 30345.

Status: Open to the public, limited only by the space available.

Purpose: This committee is charged with advising the Director, CDC, regarding objectives, strategies, and priorities for HIV prevention efforts including maintaining surveillance of HIV infection and AIDS, the epidemiologic and laboratory study of HIV and AIDS, information/education and risk reduction activities designed to prevent the spread of HIV infection, and other preventive measures that become available.

Matters to be discussed: The committee will continue to review the reports of the five subcommittees which conducted an external review of CDC's HIV prevention programs. They will also be updated on current HIV prevention activities. Agenda items are subject to change as priorities dictate.

Contact person for more information: Connie Granoff, Committee Assistant, Office of the Associate Director for HIV/AIDS, CDC, 1600 Clifton Road, NE., Mailstop E–40, Atlanta, Georgia 30333, telephone (404) 639–2918.

Dated: February 3, 1994.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 94–3045 Filed 2–9–94; 8:45 am]

BILLING CODE 4160–18–M

National Committee on Vital and Health Statistics; Meeting

Pursuant to Public Law 92–463, the National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC), announces the following committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS).

Times and dates: 1p.m.–5p.m., March 8, 1994; 9 a.m.–5p.m., March 9, 1994; 9 a.m.–1 p.m., March 10, 1994.

Place: Room 703A–729A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open.

Purpose: The purpose of this meeting is for the committee to consider reports from each NCVHS subcommittee; to receive reports from offices of the Department of Health and Human Services; to explore information needs for health reform; and to address new business as appropriate.

Contact person for more information: Substantive program information as well as summaries of the meeting and a roster of committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, NCHS, room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone 301/436–7050.

Dated: February 3, 1994.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 94–3046 Filed 2–9–94; 8:45 a.m.]

BILLING CODE 4160–18–M

Food and Drug Administration

[Docket No. 94D–0025]

Interim Guidance on the Voluntary Labeling of Milk and Milk Products From Cows That Have Not Been Treated With Recombinant Bovine Somatotropin

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing interim guidance on the labeling of milk and milk products from cows that have not been treated with recombinant bovine somatotropin. Several States and industry and consumer representatives have requested guidance from FDA on this issue. This interim guidance is intended to respond to these requests.

DATES: Written comments by March 14, 1994.

ADDRESSES: Submit written comments on the interim guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Shellee A. Davis, Center for Food Safety and Applied Nutrition (HFS–306), Food and Drug Administration, 200 C St. SW., Washington DC 20204, 202–205–4681.

SUPPLEMENTARY INFORMATION: On November 5, 1993, FDA approved a new animal drug application providing for the subcutaneous use of sterile sometribove zinc suspension (recombinant bovine somatotropin (rbST) or a recombinant bovine growth hormone (rbGH)) in lactating dairy cows to increase the production of marketable milk (58 FR 59946, November 12, 1993). FDA approved the product because the agency had determined after a thorough review that rbST is safe and effective for dairy cows, that milk from rbST-treated

cows is safe for human consumption, and that production and use of the product do not have a significant impact on the environment. In addition, the agency found that there was no significant difference between milk from treated and untreated cows and, therefore, concluded that under the Federal Food, Drug, and Cosmetic Act (the act), the agency did not have the authority in this situation to require special labeling for milk from rbST-treated cows. FDA stated, however, that food companies that do not use milk from cows supplemented with rbST may voluntarily inform consumers of this fact in their product labels or labeling, provided that any statements made are truthful and not misleading. Several States and industry and consumer representatives have asked FDA to provide guidance on the labeling of milk and milk products from cows that have not been treated with rbST.

FDA agrees that, with the expiration of the congressional moratorium on the commercial sale of rbST on February 3, 1994, the issuance of guidance would help prevent false or misleading claims regarding rbST. FDA views this document primarily as guidance to the States as they consider the proper regulation of rbST labeling claims. Given the traditional role of the States in overseeing milk production, the agency intends to rely primarily on the enforcement activities of the interested States to ensure that rbST labeling claims are truthful and not misleading. The agency is available to provide assistance to the States.

The guidance presented here reflects FDA's interpretation of the act and may be relevant to States' interpretation of their own similar statutes. This document does not bind FDA or any State, and it does not create or confer any rights, privileges, benefits, or immunities for or on any persons. Furthermore, this document reflects FDA's current views on this matter. FDA may reconsider its position at a later date in light of any comments it receives on this guidance document.

Interested persons may, on or before March 14, 1994, submit to the Dockets Management Branch (address above) written comments on the interim guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

The text of the interim guidance follows:

Interim Guidance on the Voluntary Labeling of Milk and Milk Products From Cows That Have Not Been Treated With Recombinant Bovine Somatotropin

Appropriate Labeling Statements

At the Federal level, statements about rbST in the labeling of food shipped in interstate commerce would be reviewed under sections 403(a) and 201(n) of the act. Under section 403(a) of the act, a food is misbranded if statements on its label or in its labeling are false or misleading in any particular. Under section 201(n), both the presence and the absence of information are relevant to whether labeling is misleading. That is, labeling may be misleading if it fails to disclose facts that are material in light of representations made about a product or facts that are material with respect to the consequences that may result from use of the product. Thus, certain labeling statements about the use of rbST may be misleading unless they are accompanied by additional information. This guidance is based on the use of the false or misleading standard in the Federal law, which is incorporated in many States' food and drug laws. States may also have additional authorities that are relevant in regulating such claims.

Because of the presence of natural bST in milk, no milk is "bST-free," and a "bST-free" labeling statement would be false. Also, FDA is concerned that the term "rbST free" may imply a compositional difference between milk from treated and untreated cows rather than a difference in the way the milk is produced. Instead, the concept would better be formulated as "from cows not treated with rbST" or in other similar ways. However, even such a statement, which asserts that rbST has not been used in the production of the subject milk, has the potential to be misunderstood by consumers. Without proper context, such statements could be misleading. Such unqualified statements may imply that milk from untreated cows is safer or of higher quality than milk from treated cows. Such an implication would be false and misleading.

FDA believes such misleading implications could best be avoided by the use of accompanying information that puts the statement in a proper context. Proper context could be achieved in a number of different ways. For example, accompanying the statement "from cows not treated with rbST" with the statement that "No significant difference has been shown between milk derived from rbST-treated and non-rbST-treated cows" would put the claim in proper context. Proper context could also be achieved by conveying the firm's reasons (other than safety or quality) for choosing not to use milk from cows treated with rbST, as long as the label is truthful and nonmisleading.

States should evaluate any labeling statement about rbST in the context of the complete label and all labeling for the product, as well as of any advertising for the product. Available data on consumers' perceptions of the label statements could also be used to determine whether a statement is misleading.

Substantiation of Labeling Claims

There is currently no way to differentiate analytically between naturally occurring bST and recombinant bST in milk, nor are there any measurable compositional differences between milk from cows that receive supplemental bST and milk from cows that do not. Therefore, to ensure that claims that milk comes from untreated cows are valid, States could require that firms that use such claims establish a plan and maintain records to substantiate the claims, and make those records available for inspection by regulatory officials. The producer of a product labeled with rbST claims should be able to demonstrate that all milk-derived ingredients in the product are from cows not treated with rbST. Failure to maintain records would make it difficult for a firm to defend itself in the face of circumstantial evidence that it is using rbST or selling milk from treated cows. In some situations (e.g., dairy cooperatives that only process milk from untreated cows), States may decide that affidavits from individual farmers and processors are adequate to document that milk or milk products received by the firm were from untreated cows.

States should consider requiring that firms that use statements indicating that their product is "certified" as not from cows treated with rbST be participants in a third party certification program to verify that the cows have not been injected with rbST. States could seek to ensure that certification programs contain the following elements: Participating dairy herds should consist of animals that have not been supplemented with rbST. The program should be able to track each cow in the herd over time. Milk from non-rbST herds should be kept separate from other milk by a physical segregation, verifiable by a valid paper trail, throughout the transportation and processing steps until the finished milk or dairy product is in final packaged form in a labeled container. The physical handling and recordkeeping provisions of such a program would be necessary not because of any safety concerns about milk from treated cows but to ensure that the labeling of the milk is not false or misleading.

Dated: February 17, 1994.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 94–3214 Filed 2–8–94; 9:27 am]

BILLING CODE 4160–01–F

Indian Health Service

Tribal Management Program for American Indians/Alaska Natives: Grants Application Announcement

AGENCY: Indian Health Service, HHS.

ACTION: Notice of competitive grant applications for tribal management grants for American Indians/Alaska Natives.

SUMMARY: The Indian Health Service (IHS) announces that competitive grant applications are now being accepted for Tribal Management Grants for American

Indians/Alaska Natives. These grants are established under the authority of section 103(b)(2) and section 103(e) of the Indian Self-Determination and Education Assistance Act, Pub. L. 93–638, as amended by Pub. L. 100–472, 25 U.S.C. 450h(b)(2). There will be only one funding cycle during fiscal year (FY) 1994. This program is described at 93.228 in the Catalog of Federal Domestic Assistance. These grants will be awarded and administered in accordance with this announcement; Department of Health and Human Services regulations governing Pub. L. 93–638 grants at 42 CFR 36.101 *et seq.* and 45 CFR part 92, Department of Health and Human Services, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, or 45 CFR part 74, Administration of Grants to Non-profit Recipients; the Public Health Service Grant Policy Statement; and applicable Office of Management and Budget Circulars. Executive Order 12372 requiring intergovernmental review is not applicable to this program. Therefore, this program is not subject to the Public Health System Reporting requirements as referenced in Executive Order 12372. Public Health Service urges applicants submitting feasibility studies or health plans to address specific objectives of Healthy People 2000. Such interested applicants may obtain a copy of 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: *A. Application Receipt Date*—An original and two (2) copies of the completed grant application must be submitted with all required documentation to the Grants Management Branch, Division of Acquisition and Grants Operations, Twinbrook Building, suite 300, 12300 Twinbrook Parkway, Rockville, Maryland 20852, by close of business March 28, 1994.

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 close of business 5 p.m. or (2) postmarked on or before the deadline 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. Late applications not accepted for processing will be returned to the applicant and will not be considered for funding.

B. Additional Dates:

1. Application Review: April 25, 1994
2. Applicants Notified of Results: On or about June 17, 1994 (approved, recommended for approval but not funded, or disapproved)
3. Anticipated Start Date: August 1, 1994.

CONTACTS FOR ASSISTANCE: For Tribal Management Grant program information, contact Ms. Bea Bowman, Division of Community Services, Indian Health Service, Parklawn Building, room 6A–05, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6840. For grant application and business management information, contact Mrs. Kay Carpentier, Grants Management Branch, Indian Health Service, Twinbrook Building, suite 100, 12300 Twinbrook Parkway, Rockville, Maryland 20852, (301) 443–5204. (The telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: This announcement provides information on the general program purpose, eligibility and documentation, funding priorities, project types, funds available, limitations, period of support and application procedures for FY 1994.

A. General Program Purpose

The purpose of the Tribal Management Grant Program is to improve the management capacity of a tribal organization to enter into a contract under the Indian Self-Determination Act, Pub. L. 93–638. Tribal management grants assist tribes and tribal organizations in preparing to assume operation of all or part of an existing IHS direct operated health care program by enabling them to develop and maintain their management capabilities.

In addition, tribal management grants are available to any tribal organization under the authority of Public Law 93–638 section 103(e) for (1) obtaining technical assistance from providers designated by the tribal organization, including tribal organizations that operate mature contracts, for the purpose of program planning and evaluation, including the development of any management systems necessary for contract management, and the development of cost allocation plans for indirect cost rates; and (2) planning, designing, and evaluating Federal health programs serving the tribe, including Federal administrative functions.

Tribal management grants may not be used to support operational programs, or to supplement existing public and private resources. The grants may, however, be used as matching shares for other Federal grant programs that develop tribal capabilities to contract for the administration and operation of health programs.

Note: Projects related to water, sanitation, waste management; and long term care; tuition, fees, stipends for certification and training of staff providing direct services; and design and planning of construction for facilities will not be considered eligible for review. Projects which include training and technical assistance on the pending regulations for Indian Self-Determination and Education Assistance Act, Pub. L. 93–638, as amended by Pub. L. 100–472, will not be considered for funding. Inclusion of these activities in a proposed project shall render the application ineligible and the application will be returned to the applicant.

B. Eligibility and Documentation

Any federally recognized Indian tribe or Indian tribal organization is eligible to apply for a grant, however, only one tribal management grant will be awarded and funded to a tribe or tribal organization per funding cycle. Eligible applicants include tribal organizations that operate mature contracts who are designated by a tribe or tribes to provide technical assistance and/or training.

The following documentation is required:

1. Documentation of new federally recognized/restored tribes—A copy of the Federal Register Notice of letter from the Bureau of Indian Affairs (BIA) verifying tribal status.

2. Tribal Resolution—(a) A resolution of the Indian tribe(s) served by the project must accompany the application; (b) Applications which propose projects to include more than one Indian tribe must include resolutions from all tribes to be served; and (c) Applications by tribal organizations will not require a specific tribal resolution(s) if the current blanket tribal resolution(s) under which they operate would encompass the proposed grant activities.

C. Funding Priorities

The IHS has established the following funding priorities for awarding tribal management grants. Funding priorities were published for public comment in the **Federal Register** on November 23, 1992, at 57 FR 54986 and retained with clarification as published on March 12, 1993 at 58 FR 13605.

Priority I

An Indian tribe that has received Federal recognition (new, restored, unterminated, funded or unfunded) within the past three (3) years and is preparing to contract under Pub. L. 93–

638 to assume operation of health care services.

Priority II

An Indian tribe or Indian tribal organization currently contracting with IHS, with a stated intention to contract all or part of an existing IHS operated service unit or health program. Applicants meeting this profile must have current certified management systems, i.e. BIA, IHS, or CPA certified; and resolutions of support from the tribes to be served by the project in a multi-tribal service unit.

Priority III

An Indian tribe or Indian tribal organization stating an interest in contracting IHS health programs for the first time. Applicants meeting this profile must have current certified management systems, i.e. BIA, IHS, or CPA certified; or respond within a specific time period in the first quarter of the grant period to establish certified management systems to begin receiving federal funds.

Priority IV

An Indian tribe or Indian tribal organization stating an interest in planning, designing and evaluating Federal health programs serving the tribe, including Federal administrative functions.

Priority V

An Indian tribe or Indian tribal organization currently contracting IHS tribal programs, i.e., Community Health Representative program, Alcohol programs, Emergency Medical Services, etc., and are seeking improvement or expansion of existing tribal health management structure without further contracting.

D. Project Types

The Tribal Management Grant Program consists of seven (7) types of projects: (1) Feasibility studies, (2) planning, (3) development of tribal health management structure, (4) human resources development, (5) evaluation, (6) technical assistance and (7) Federal programs analysis.

Note: The above listing of project types are not subject to prioritization.

Applications shall address only one project type as opposed to a combination of two or more project types.

Project Types Descriptions

1. Feasibility Study—a study of a specific IHS program or segment of a program to determine if tribal management of the program is possible. This study shall indicate necessary plans, approach, training and resources required to assume tribal management of the program. The study shall include a minimum of four (4) major components:

a. Health needs and health care services assessments, which identify existing health care services and delivery system, program division issues, health status indicators, unmet needs, volume projections, and demand analysis.

b. Management analysis of existing management structure, proposed management structure, implementation plans and requirements, and personnel staffing requirements and recruitment barriers.

c. Financial analysis of historical trends data, financial projections and new resource requirements for program and management costs, and analysis of potential revenues from Federal/Non-Federal sources.

d. Decision stage which incorporates findings; conclusions and recommendations; and presentation of the feasibility study and recommendations to the governing body to determine whether tribal assumption of the health program(s) is desirable or warranted.

2. Plan—a collection of data to establish goals, policies, and procedures for operation of tribal health programs. Health plans shall specify IHS health programs and the priority order in which the tribe will assume operation of these programs. A plan shall include a minimum of four components:

a. Survey and analysis of the population's needs.

b. Prioritization of health needs and programs.

c. Statement of goals and objectives for each program to be assumed.

d. Strategy including policies and procedures for tribal assumption and operation of each program.

3. Development of Tribal Health Management Structure—creation or enhancement and implementation of systems to manage, organize or direct health programs. Management structures include health department structure and organization, tribal health boards, systems for accounting, personnel, third party billing, medical records, etc., upgrading to achieve accreditation through Joint Commission on Accreditation of Health Organizations (JCAHO) or development of fiscal and patient registration systems to meet requirements of Federally Qualified Health Centers (FQHC). Management structure projects shall include at minimum the following:

a. Description of existing structures.

b. Explanation of the purpose and design of the proposed management structure.

c. Identification of improvements expected and impact of newly created or enhanced management structure proposed.

d. Short range and long range strategies for tribal operation of the management structure.

4. Human Resources Development—development of a particular skill or group of skills required for tribal staff to manage or operate an IHS program. The human resources development plan shall at minimum include:

a. Training needs assessment and analysis of education, skills and experience of current staff and future requirements.

b. Assessment of management and administrative competence required to meet short range (1–2 years) and long range (not more than 5 years) needs coupled with identification of organizational needs.

c. Identification of short range and long range management training program.

5. Evaluation Studies—a systematic collection, analysis, and interpretation of data to determine the value of current tribal health programs. Evaluation studies shall at minimum include:

a. Effects of any previous studies as related to the goals and objectives, policies and procedures, or programs on target groups.

b. A description of the current tribal health programs' effectiveness and efficiency, including direct services, financial management, personnel, data collection and analysis, third party billing, etc.

c. Identification of what could be done to improve the health care delivery system(s).

6. Technical Assistance—aid or help from providers designated by the tribal organization, including tribal organizations that operate mature contracts, for the purposes of program planning and evaluation, including development of any management systems necessary for contract management, and development of cost allocation plans for indirect cost rates. For example, an Indian tribe or Indian organization may wish to seek technical assistance from a tribe to develop a managed care component for a direct service delivery system.

7. Federal Programs Analysis—projects focused on planning, designing and evaluating Federal programs serving the tribe, including Federal administrative functions. For example a tribe or tribal organization may wish to evaluate IHS direct services programs

such as Contract Health Services, Mental Health, Public Health Nursing, etc.

E. Funds Available, Limitations and Period of Support

1. Funds available—It is anticipated that approximately $5,000,000 will be available for approximately 75 new and continuation grants averaging $67,000 each. Grant funding levels include both direct and indirect costs.

2. Limitations—Only one grant project will be awarded per tribe or tribal organization. A current tribal management grantee whose project will not be completed within the current grant period will not be awarded new, renewal or competing continuation grants.

3. Period of support—(a) feasibility studies and planning projects are limited to one year (12 months) funding; (b) projects regarding tribal management structure, human resources development, evaluation, technical assistance, and Federal programs analysis may be funded up to three (3) years in annual budget periods depending upon the defined scope of work.

F. The Tribal Management Grant Application Kit

A Tribal Management Application Kit, including the required PHS form and Narrative PHS 5161–1 (Rev. 7/92) (OMB Approval No. 0937–0189) and the U.S. Government Standard forms (SF–424, SF–424A and SF–424B), may be obtained from the Grants Management Branch, Division of Acquisition and Grants Operations, IHS, Twinbrook Metro Plaza, suite 100, 12300 Twinbrook Parkway, Rockville, MD 20852, telephone (301) 443–5204. (Note: This is not a toll free number.)

G. Grant Application Requirements

All applications must be singled-spaced, typewritten, and consecutively numbered pages using black type not smaller than 12 characters per one inch, with conventional border margins, on only one side of standard size $8^{1/2} \times 11$ paper that can be photocopied. All applications must include the following in the order presented:

—Tribal Resolution(s) and Documentation (B. Eligibility and Documentation),
—Standard Form 424, Application for Federal Assistance,
—Standard Form 424A, Budget Information—Non-Construction Programs, (pages 1 and 2),
—Standard form 424B, Assurances—Non-Construction Programs (front and back),
—Checklist (pages 23–24) Note: Each standard form and the checklist is contained in the PHS Grant Application, Form PHS 5161–1 (Revised 7/92),
—A one-page project abstract (H. 1.),
—A table of contents (H. 2.),
—Introduction (H. 3.),
—Need for Assistance (H. 4.),
—Objective(s), Results, and Benefits Expected (H. 5),
—Approach (H. 6.),
—Evaluation (H. 7),
—Key Personnel (H. 8.),
—Budget Justification and Management Controls (H. 9), and
—Appendix to include:
*Resumes (Curriculum Vitae) of key staff,
*Position descriptions for key staff,
*Organizational chart,
*Copy of current negotiated indirect cost rate agreement,
*A map of the area to benefit from the project,
*A copy of the survey instrument, if used.
*Application Receipt Card, PHS—3038–1 Rev. 5–90.

H. Application Narrative Instructions, Application Standards (Criteria) and Weights

The following instructions for preparing the application narrative also constitute the standards (criteria or basis for evalaution) for reviewing the application to approve or disapprove. Weights assigned each section are noted in parenthesis.

1. Abstract—An abstract may not exceed one typewritten page. The abstract should clearly present the application in summary form, from a "who-what-when-where-how-cost" point of view so that reviewers see how the multiple parts of the application fit together to form a coherent whole.

2. Table of Contents—Provide a one page typewritten table of contents.

Narrative: Please describe the complete project in clear and succinct language as application reviewers may have little or no knowledge regarding the tribe or tribal organization. It should be organized as described in this section, should not exceed 25 single spaced pages, and address the following: (Note: Application narratives exceeding 25 pages will *not* be accepted for review.)

3. Introduction (5 pts.)

a. Identify the funding priority and justify the priority selected.

b. Identify the type of project.

c. State the type (specific or blanket) and date of resolution submitted with the application. (Refer to B. Eligibility and Documentation).

d. Describe the population to be served by management of tribal health programs and the number of eligible beneficiaries.

e. Provide a precise location of the project and area to be served by the proposed project including a map (include the map in the appendix).

4. Need for Assistance (10 pts.)

a. Explain the reason for the project.

b. Describe the tribe's current health operations including whether the tribe has a health department, how long it has been operating, what programs or services are currently provided and indicate accomplishments using statistics if available.

c. Describe the overall and specific need for assistance by explaining the current and past situation or demand and unmet need (i.e., resources, staffing, equipment, training, etc.).

d. Identify relevant environmental, economic, social, financial or organizational programs requiring solutions.

e. Include relevant statistical data to support the need and include examples.

f. Describe the relationship between this project and other federally funded work planned, anticipated, or underway.

g. Identify all previous and/or current tribal management grants received, dates of funding, and project accomplishments (Do not include copies of reports).

5. Objective(s) Results and Benefits Expected (20 pts.)

a. State is measurable terms, realistic principal and subordinate objectives of the project.

b. Identify the expected results, benefits and outcome or product to be derived from each objective of the project.

c. Identify who will do what, when, and how, relating to the anticipated outcome of the project.

6. Approach (20 pts.)

a. Outline and describe the major tasks and activities with the objective(s) to be achieved.

b. Include a workplan with start, target milestones and completion dates on a calendar timeline.

c. Discuss present or proposed staffing of the project. Position descriptions for key personnel must be included in the Appendix.

d. Describe data sources, management, quality control, and analysis by addressing:

1. Data to be collected, by whom, and time intervals in the project,

2. Data sources and how access to the sources will be attained,

3. Procedure to collect, receive, code and prepare the data for analysis,

4. How data will be kept confidential and secure,

5. Contingency plan for low response rates,

6. How completeness and accuracy of data will be measured and assured.

7. Plan for statistical or non-statistical analyses of data,

8. Include a copy of survey instrument(s), if used.

e. If use of consultants or contractors is proposed or anticipated, provide a detailed scope of work which clearly defines the deliverable or outcomes anticipated; and qualifications and experience requirements.

f. Identify who will review and accept the work products of the project deliverable/outcomes, including work to be performed by consultants or contractors.

7. Evaluation (15 pts.)

a. State how it will be determined if the project's objectives were achieved and how the accomplishment of those objectives can be attributed to the project.

b. Discuss the criteria to be used to evaluate results and benefits.

c. Explain the methodology that will be used to determine if the needs identified for the project are being met and if the project's outcomes identified are being achieved.

8. Key Personnel (15 pts.)

a. Provide job position descriptions and resumes (if applicable) for key staff.

b. Identify qualifications and experience requirements for consultants or contractors if use is anticipated.

c. State the tribe's approved Indian Preference policy.

9. Budget Justification and Management Control (15 pts.)

a. Provide a budget justification in accordance with the budget narrative instructions contained on page 21 of form PHS 5161-1

b. Describe where the project will be housed, i.e., facilities and equipment available.

c. List equipment and software purchases necessary for implementation of the project; include descriptive rationale and justification for computer hardware/software.

d. Describe the management control of the tribe/tribal organization over the direction and acceptability of work to be performed by the consultant or contractor.

e. Provide documentation of current certified financial management system, i.e. BIA, IHS, or CPA certified.

f. If a first-time applicant, include a plan to meet the special requirement of establishing certified management systems to begin receiving Federal funds.

g. If indirect cost are claimed, applicant must submit a copy of Indirect Cost Rate Agreement supporting this claim.

10. Multi-year Projects—projects requiring a second or third year must include a program narrative and categorical budget and justification for each additional year of funding requested.

11. Appendix—to include:

a. Current approved organizational chart,

b. Resumes and job descriptions for key staff,

c. Copy of current negotiated indirect cost rate agreement,

d. A map of the area to benefit from the project,

e. A copy of the survey instrument, if used, and

f. Application receipt card, PHS 3038-1 Rev. 5-90.

I. Assurances

The application shall contain assurances to the Secretary that the applicant will comply with program regulations, 42 CFR part 36 subpart H.

J. Reporting

1. Program Report—Program progress reports will be submitted quarterly. These reports will include a brief description of a comparison of actual accomplishments to the goals established for the period, reasons for slippage and other pertinent information as required. A final report is due 90 days after expiration of the budget/project period.

2. Financial Status Report—Quarterly financial status reports will be submitted 30 days after the end of the quarter. Final financial status reports are due 90 days after expiration of the budget/project period. Standard Form 269 (long form) will be used for financial reporting.

K. Grant Administration Requirements

Grants are administered in accordance with the following documents:

1. 45 CFR part 92, Department of Health and Human Services, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, or 45 CFR part 74, Administration of Grants to Non-profit recipients.

2. Public Health Service Grant Policy Statement, and

3. Appropriate Cost principles: OMB Circular A-87, State and Local Governments, or OMB Circular A-122, Non-profit Organizations.

L. Objective Review Process

Applications meeting eligibility requirements that are complete and conform to this program announcement will be reviewed by a centralized Ad Hoc Objective Review Committee (ORC) appointed by IHS primarily for review of these applications. The review will be conducted at the IHS Headquarters and in accordance with IHS objective review procedures. The objective review process ensures nationwide competition for limited funding. The ORC will be comprised of IHS (40% or less) and other federal or non-federal individuals (60% or more) with appropriate expertise. The ORC will review each application against established criteria. Based upon the evaluation criteria, the reviewers assign a numerical score to each application, which will be used in making the final funding decision. Applications scoring less than 60 points will be considered technically unacceptable and will be disapproved.

M. Application Standards Qualitative Rating Factors

1.0=Excellent—very comprehensive, in-depth clear response. The application meets this standard with no omissions. Consistently high performance can be expected.

0.8=Very Good—extensive, detailed application similar to excellent in quality, but with minor areas requiring additional clarification. High quality performance is likely, but not assured due to minor omissions or areas where less than excellent performance might be expected.

0.6=Good—no deficiencies in the response. Better than acceptable performance can be expected, but in some significant area there is lack of clarity which might impact on performance.

0.4=Fair—the response generally meets minimum standards. Existing deficiencies are confined to areas with minor impact on performance and can be corrected without revision.

0.2=Marginal—deficiencies exist in significant areas. The application can be corrected without major revision or serious deficiencies exist in areas with minor impact.

0.0=Unsatisfactory—serious deficiencies exist in significant areas. The project cannot be expected to meet minimum requirements without revisions. The application only indicates a willingness to perform a project without specifying how or demonstrating the capacity to do so. Only vague indications exist regarding capability.

N. Results of the Review

The results of the objective Review are forwarded to the Associate Director, Office of Tribal Activities, for final

review and approval. Applicants are notified of their approval or approval without funds, on or about June 17, 1994. A Notice of Grant Award will be issued approximately ten (10) days prior to the start date of August 1, 1994. Unsuccessful applicants are notified in writing of disapproval not later than June 17, 1994. A brief explanation of the reasons the application was not approved is provided along with the name of an IHS official to contact if more information is desired.

Dated: December 10, 1993.

Michel E. Lincoln,

Acting Director.

[FR Doc. 94–3009 Filed 2–9–94; 8:45 am]

BILLING CODE 4160–16–M

Office of Inspector General

Program Exclusions: January 1994

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions.

During the month of January 1994, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusion is imposed, no program payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, Maternal and Child Health Services Block Grant and Block Grants to States for Social Services programs. In addition, no program payment is made to any business or facility, e.g., a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all other Federal non-procurement programs.

Subject, city, state	Effective date
Program-Related Convictions:	
Belkin, Howard R, West Bloomfield, MI	02/08/94
Dorn, Martin, Vineland, NJ	02/07/94
Ferrell, Elizabeth B, Atlanta, GA	02/03/94
Jones, Naythania, Kew Gardens, NY	02/07/94
Metro Pharmacy, Inc, Detroit, MI	02/07/94
Miller, Juliet Louise, Miami, FL	02/03/94
Nieto, Daniel S, Richmond, VT	02/03/94
Papier, Donald, Palermo, NJ	02/07/94
Penna, Nicholas J, Morganton, NC	02/03/94
Phoenix Medical Corp, Miami, FL	02/03/94
Quirantes, Ramon Tomas, Miami Springs, FL	02/03/94
Ramon Quirantes Orthopedics, Hialeah, FL	02/03/94
Royal Crest Health Care Ctr, Gastonia, NC	02/03/94
Sodano, Michael, Beachwood, NJ	02/07/94
Stewart, Ralph Timothy, Stillwater, MN	02/08/94
Weiner & Belkin D.D.S., P.C., Detroit, MI	02/08/94
Whittle, Barbara, Charlotte, NC	02/03/94
Patient Abuse/Neglect Convictions	
Freeman, Glenda Peterson, Birmingham, AL	02/03/94
Johnson, Leslie, Marks, MS	02/03/94
Norphlet, Farry J Jr, Taylor, MS	02/03/94
Rollins, Phyllis Lorraine, Cottondale, AL	02/03/94
Rowe, Barbara Smith, Mobile, AL	02/03/94
Turner, Vincent Tyrone, Whistler, AL	02/03/94
Conviction for Health Care Fraud	
Belski, Israel, North Merrick, NY	02/07/94
Cobb, Clarissa Fox, Chapel Hill, NC	02/03/94
Hicks, Mary L, Fayetteville, NC	02/03/94
Lewis, Leila Bridges, Charlotte, NC	02/03/94
Sprinkle, Lori Ann, Salisbury, NC	02/03/94
Controlled Substance Convictions	
Aziz, Rahil, Rome, NY	02/07/94
Cuong, Tran T, Alexandria, VA	02/03/94
Gamad, Romulo R, Warren, OH	02/08/94
Meggison, Scott D, Bay City, MI	02/08/94
Sewards, Patrick Milo, Allentown, PA	02/03/94
Entities Owned/Controlled by Convicted	
C D Hearing Laboratories, Huntington, NY	02/07/94
Domar Eyewear, Inc, Vineland, NJ	02/07/94
Eljay Drug, Inc, Woodhaven, NY	02/07/94
Default on Heal Loan	
Abanzukwe, Joy Ijeoma, Philadelphia, PA	02/13/94
Ahmed, Azza A, Newark, NJ	02/17/94
Akunne, Festus O, Jersey City, NJ	02/17/94
Alesescu, Kenneth J, Roseville, CA	02/13/94
Alexander, Edward A, Culver City, CA	02/13/94
Baisch, Joan D, Cypress, CA	02/13/94
Benjamin, Roxanne L, Rose City, MI	02/18/94
Benson, Laurel J, Denver, CO	02/13/94
Bernstein, David T, Atlanta, GA	02/13/94
Buckles, Bobby R, Boise, ID	02/13/94
Butko, Nathaniel K, Gardena, CA	02/13/94
Campbell, Otis Jr, McMinnville, TN	02/13/94
Caro, Joseph E, Utuado, PR	02/17/94
Chrencik, Charles F, Columbiana, AL	02/13/94
Daley, William M, Boston, MA	02/13/94
Davenport, Lorenzo N, Amityville, NY	02/17/94
Davis, Georgia A, Stone Mountain, GA	02/13/94
Day, Clararuth E, Cleveland, OH	02/18/94
Douglas, Clifford C, Redlands, CA	02/13/94
Earley, Kenneth S, Atlanta, GA	02/13/94
Eruchie, Anthonia O, East Orange, NJ	02/17/94
Gearity, Katherine Ann, North Bergen, NJ	02/17/94
Glick, Stanley B, Los Angeles, CA	02/13/94
Hartwick, Russell A Jr, Wellston, OH	02/13/94
Hermida, Mario D, Bergenfield, NJ	02/17/94
Jankord, Dean F, Burnsville, MN	02/18/94
Johnson, Kevin D, Hackensack, NJ	02/17/94
Karagounis, Vasilios, Rochester, NY	02/17/94
Kelly, Robert B, Old Bridge, NJ	02/17/94
Kolb, Maryann, Mesa, AZ	02/13/94
Kolbeck, Janet C, Omaha, NE	02/13/94
Kunihira, Dale Y, San Bernardino, CA	02/13/94
Levine, Jeffrey D, Orlando, FL	02/13/94
Markle, James A, Pompano Beach, FL	02/13/94
Miller, John W, Pittsburgh, PA	02/13/94
Mitchell, Albert B, Philadelphia, PA	02/13/94
Nelson, Mark J, Poughkeepsie, NY	02/17/94
Nevers, Harry M, Bronx, NY	02/17/94
Olujobi, Dele F, Hempstead, NY	02/17/94
Oranen, David J, Sacramento, CA	02/13/94
Popa, Dragos B, Long Island City, NY	02/17/94
Posey, Willie L II, Rochester Hills, MI	02/18/94
Pratt, Edward P, Bristol, NH	02/13/94

Subject, city, state	Effective date
Reed, Robert W, San Bernardino, CA	02/13/94
Rensch, Michael A, Omaha, NE	02/13/94
Richardson, James M, Hackensack, NJ	02/17/94
Rieselman, James R, Phoenix, AZ	02/13/94
Roberts, Pamela M, Mount Vernon, NY	02/17/94
Rojowski, Ravenna F, Teaneck, NJ	02/17/94
Romanski, Michael M, Wall, NJ	02/17/94
Samuels, Trudy, Ft Washington, PA	02/13/94
Schiettino, David, Hoboken, NJ	02/17/94
Schwartz, Mark S, Atlantic Beach, NY	02/17/94
Smith, Carl Andrew, Garden Grove, CA	02/13/94
Smith-Burton, Cynthia W, Shawnee Mission, KS	02/13/94
Trimble, Dale A, Holbrook, AZ	02/13/94
Wheatley, William J, Washingtonville, NY	02/17/94
Whipkey, Douglas G, Jensen Beach, FL	02/13/94

Dated: February 3, 1994.

James F. Patton,

Director, Health Care Administrative Sanctions, Office of Investigations.

[FR Doc. 94-3164 Filed 2-9-94; 8:45 am]

BILLING CODE 4110-60-P

Public Health Service

National Vaccine Advisory Committee (NVAC); Public Meeting

AGENCY: Office of the Assistant Secretary for Health, HHS.

SUMMARY: The Department of Health and Human Services (DHHS) and the Office of the Assistant Secretary for Health (OASH) are announcing the forthcoming meeting of a NVAC Subcommittee on Vaccination Registries.

DATES: Date, Time and Place: February 25–26, 1994, at 8:30 a.m. to 5 p.m. on February 25, and 8:30 a.m. to 11:30 a.m. on February 26. The meeting will be held in San Antonio, Texas, at La Mansion del Rio Hotel, 112 College Street, in the Iberian West Ballroom. The entire meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Written requests to participate should be sent to Chester A. Robinson, D.P.A., Acting Executive Secretary, National Vaccine Advisory Committee, National Vaccine Program Office, Hubert Humphrey Building, room 730–E, 200 Independence Avenue, SW., Washington, DC 20201, (202) 401–8141.

AGENDA: OPEN PUBLIC HEARING: Interested persons may formally present data, information, or views orally or in writing on issues to be discussed by the Subcommittee or on any of the duties and responsibilities of the Subcommittee as described below. Those desiring to make presentations should make a request to the contact person before February 21, and submit a brief description of the information they wish to present to the Subcommittee. Those requests should include the names and addresses of proposed participants and an indication of the approximate time required to make their comments. A maximum of 10 minutes will be allowed for such presentations. Any person attending the meeting who does not request an opportunity to speak in advance of the meeting will be allowed to make an oral presentation at the conclusion of the meeting, if time permits, at the chairperson's discretion.

OPEN SUBCOMMITTEE DISCUSSION: The Subcommittee shall act in an advisory capacity to the NVAC for the purpose of examining different models for establishing a State-based National Immunization Registry System. The Subcommittee will discuss key vaccination registry issues for states and local governments and the uses of registries for disease surveillance. The registry systems will be evaluated on their ability to provide immunization records to families and health care providers, notify new parents of the need of immunizing their children, track vaccinations given, identify unvaccinated children, be the basis for a recall system, aid in the monitoring of adverse vaccine events, and provide data useful in clinic and program management.

A list of Subcommittee members and the charter of the Advisory Committee will be available at the meeting. Those unable to attend the meeting may request this information from the contact person.

Dated: February 3, 1994.

Chester A. Robinson,

Acting Executive Secretary, NVAC.

[FR Doc. 94-3099 Filed 2-9-94; 8:45 am]

BILLING CODE 4160-17-M

Substance Abuse and Mental Health Services Administration

Cooperative Agreements for Managed Care Demonstration Models for SSI Beneficiaries Disabled Due to Addiction to Alcohol and Other Drugs

AGENCY: Center for Substance Abuse Treatment, Substance Abuse and Mental Health Services Administration (SAMHSA), HHS.

ACTION: Program update and reannouncement.

Under the authority of sections 501(d)(18) and 510(a) and (b) (1) and (5) of the Public Health Service Act and section 1110 of the Social Security Act, the Center for Substance Abuse Treatment (CSAT), in cooperation with the Social Security Administration (SSA), is reannouncing the "Cooperative Agreements for Managed Care Demonstration Models for SSI Beneficiaries Disabled Due to Addiction to Alcohol and Other Drugs" program to solicit State applications for model programs designed for the referral and monitoring (R&M) of Supplemental Security Income (SSI) recipients disabled due to drug addiction or alcoholism (DA&A). The goal of this cooperative agreement demonstration is to maximize substance abusers' opportunities for rehabilitation and assure the effective utilization of Federal resources. Eligibility for this cooperative agreement demonstration is limited to the following states who currently have SSA R&M contracts: Arizona, California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Washington, and Wisconsin. Eligibility is limited to these states because the demonstration projects must build on the expertise and systems already established by existing referral and monitoring agency (RMA) contracts with the SSA. In keeping with CSAT's practice of working closely with the states to ensure coordination and synergy between State and Federal funding efforts, eligibility for this program is limited to the Single State Agency for DA&A of those states listed above. The State DA&A Agency will work cooperatively with any other State agency involved with the provision of R&M services, however, the State DA&A Agency will be considered the applicant. Applications will also be accepted from consortia of neighboring States in a region, providing that one Single State Agency for DA&A be designated as the grantee for the cooperative agreement award and the legal signatory.

Approximately $1.3 million will be available to support approximately 1–2 awards in FY 1994. The receipt date for applications is May 10, 1994.

This program was originally announced in the **Federal Register** (Vol. 58, No. 107) on June 7, 1993. Cooperative agreement awards for FY

1993 were made in September 1993. The announcement has subsequently been updated for FY 1994 to: (1) Clarify that New York City is included under the State of New York's eligibility for this program; (2) clarify that demonstration projects must include case managers who are trained to work with dually diagnosed beneficiaries, as well as those with drug addiction and alcoholism; (3) clarify that a letter of intent to submit an application is not necessary; (4) clarify that CSAT will include an urban/rural distribution of projects among eligible states as an award decision-making criterion; and (5) incorporate other minor technical changes related to individual contacts and addresses, and to help ensure overall clarity.

For additional information regarding the program and/or application procedures and for kits including the PHS 5161–1 application form, a copy of the updated announcement and guidance for submitting an application, contact: George Kanuck, Public Health Advisor, Quality Assurance and Evaluation Branch, Center for Substance Abuse Treatment, Rockwall II, suite 880, 5600 Fishers Lane, Rockville, MD 20857, Telephone: (301) 443–3820.

(The Catalog of Federal Domestic Assistance number for this program is 93.132.)

Dated: February 4, 1994.

Richard Kopanda,

Acting Executive Officer, SAMHSA.

[FR Doc. 94–3058 Filed 2–9–94; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–41–5700; WYW124414]

Proposed Reinstatement of Terminated Oil and Gas Lease

February 4, 1994.

Pursuant to the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), a petition for reinstatement of oil and gas lease WYW124414 for lands in Sweetwater County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination. The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188) and the Bureau of Land Management is proposing to reinstate lease WYW124414 effective July 1, 1993, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Doris M. Miller,

Acting Supervisor Land Law Examiner.

[FR Doc. 94–3133 Filed 2–9–94; 8:45 am]

BILLING CODE 4310–22–M

[WY–930–4210–04; WYW 101848]

Conveyance and Opening Order; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of exchange of public land in Campbell County for private land in Campbell County.

SUMMARY: This notice advises the public of completion of an exchange of Federal surface estate for private surface estate, between the United States, Bureau of Land Management, and Glenn L. Clabaugh, Sylvia S. Clabaugh, and Bonnie A. Clabaugh, under the authority of section 206 of the Federal Land Policy and Management Act of 1976, as amended, 43 U.S.C. 1716.

EFFECTIVE DATE: February 10, 1994.

FOR FURTHER INFORMATION CONTACT: Tamara Gertsch, Bureau of Land Management, Wyoming State Office, P.O. Box 1828, 2515 Warren Avenue, Cheyenne, Wyoming 82001, 307–775–6115.

SUPPLEMENTARY INFORMATION: The Federal surface estate of the following described land has been conveyed to Glenn L. Clabaugh, Sylvia S. Clabaugh, and Bonnie A. Clabaugh of Gillette, Wyoming:

Sixth Principal Meridian, Wyoming

T. 53 N., R. 70 W.,
Sec. 19, lot 17;
Sec. 30, lots 7, 8, 12, 13, 14, and 15.
T. 53 N., R. 71 W.,
Sec. 10, lot 8;
Sec. 11, lots 9 and 10;
Sec. 15, lots 3, 4, 5, and 6;
Sec. 20, lots 6 and 7;
Sec. 21, lots 2, 3, and 7;
Sec. 24, lots 9 and 10;
Sec. 25, lots 1 and 8;
Sec. 29, lots 2, 3, 5, 6, 7, and 10;
Sec. 30, lots 9, 10, 11, 12, 13, 14, 15, 16, and 20;
Sec. 32, lot 2.

The land described contains 1,534.73 acres.

1. In exchange for the Federal surface estate described above, the United States acquired the following described surface estate:

Sixth Principal Meridian, Wyoming

T. 53 N., R. 71 W.,
Sec. 3, lots 2, 3, SE¼NW¼, NW¼SE¼, SW¼SE¼;
Sec. 10, lots 7, SW¼NE¼;
Sec. 11, lots 5, 6, 7, 8;
Sec. 12, lots 1, 2, 3, 4, 5, 6, 7, 8.
T. 54 N., R. 71 W.,
Sec. 34, NE¼, NE¼NW¼, S½NW¼, SW¼SE¼;
Sec. 35, SW¼SW¼.

The land described contains 1,126.03 acres.

2. The fair market value of the private land conveyed to the United States is $71,000.00. The fair market value of the Federal land conveyed to the Clabaugh's is $73,500.00. A cash equalization payment of $295.00 was paid by the Clabaugh's, and the remaining $2,205.00 was waived pursuant to section 9 of the Federal Land Exchange Facilitation Act of 1988 (Public Law 100–409). The public interest was well served by waiving this amount in order to acquire key public access to large blocks of public land and providing lands with high recreational and wildlife values.

3. At 9 a.m. on March 14, 1994, the land will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 9 a.m., March 14, 1994, will be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

Dated: February 3, 1994.

John A. Naylor,

Chief, Branch of Land Resources.

[FR Doc. 94–3134 Filed 2–9–94; 8:45 am]

BILLING CODE 4310–22–M

[NV–940–5101–10–F303; N–57461]

Pipeline Right-of-Way Application; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice is to inform the public that a right-of-way application has been filed for a gas pipeline that will cross approximately 45 miles of public land.

FOR FURTHER INFORMATION CONTACT: Mary Clark, BLM Nevada State Office, 850 Harvard Way, P.O. Box 12000, Reno, Nevada 89520, (702) 785–6530.

SUPPLEMENTARY INFORMATION: Paiute Pipeline Company has applied for a right-of-way grant under Section 38 of

the Mineral Leasing Act of 1920 (30 U.S.C. 185), to construct approximately 45 miles of pipeline across the following described public lands:

Mount Diablo Meridian, Nevada

T. 16 N., R 20E.,
Sec. 29, S½SW¼, SW¼SE¼;
Sec. 30, SW½NE¼, S½ lot 1 NW¼, S½ lot 2 NW¼, N¼SE¼.
T. 20 N., R. 22 E.,
Sec. 22, N½S½;
Sec. 24, S½NW¼, N½NE¼.
T. 20 N., R. 23 E.,
Sec. 20, N½N½.
T. 31 N., R. 33E.,
Sec. 4, lot 1 NE¼, W½ lot 2 NE¼ E½SW¼, NW¼SE¼;
Sec. 8, SE¼SE¼;
Sec. 20, W½E½, NE¼NE¼;
Sec. 32, NE¼NW2¼, W½W½.
T. 37 N., R. 37 E.,
Sec. 12, NW¼NE¼, E½NW¼, N½SW¼, SW¼SW¼;
Sec. 14, lot 2, N½NE¼, SW¼NE¼, NE¼SW¼, S½SW¼.
T. 37 N., R. 39 E.,
Sec. 6, lots 3, 4, 5.
T. 38 N., R. 38 E.,
Sec. 3, lots 2, 3, SW¼NE¼, SE¼NW¼, N½SW¼, SW¼SW¼;
Sec. 16, NW¼NE¼, E½NW¼, N½SW¼, SW¼SW¼;
Sec. 20, E½NE¼, N½SE¼, SW¼SE¼;
Sec. 30, SE¼SE¼.
T. 43 N., R. 42 E.,
Sec. 5, lots 2, 3, SE¼NW¼.
T. 44 N., R. 42 E.,
Sec. 12, SE¼SE¼;
Sec. 13, N½NE¼, E½NW¼, SW¼NW¼, NW¼SW¼;
Sec. 14, SE¼SW¼, NE¼SE¼, S½SE¼;
Sec. 22, NE¼SW¼, S½SW¼;
Sec. 23, lots 3, 4, 5;
Sec. 27, NW¼NW¼;
Sec. 28, N½NE¼, SW¼NE¼, E½SW¼, SW¼SW¼, NW¼SE¼;
Sec. 32, E½NE¼, SW¼NE¼, W½SE¼;
Sec. 33, NW¼NW¼.
T. 44 N., R. 43 E.,
Sec. 4, lots 3, 4;
Sec. 5, lot 1, S½NE¼, N½SW¼, SW¼SW¼, NW¼SE¼;
Sec. 6. SE¼SE¼;
Sec. 7, lots 2, 3, N½NE¼, SW¼NE¼, SE¼NW¼.
T. 45 N., R. 43 E.,
Sec. 24, SE¼NE¼, S½SW¼, N½SE¼, SW¼SE¼;
Sec. 24, NW¼NW¼;
Sec. 26, NE¼NE¼, S½NE¼, SE¼NW¼, N½SW¼, SW¼SW¼;
Sec. 27, SE¼SE¼;
Sec. 33, W½E½, S½SW¼, NE¼SE¼;
Sec. 34, N½NE¼, NE¼NW¼, S½NW¼, NW¼SW¼.
T. 45 N., R. 44 E.,
Sec. 23, SW¼;
Sec. 27, N½, SW¼.
Containing approximately 145 acres.

The proposed 50-foot wide right-of-way will involve 27.5 miles of 24" pipeline, 14.25 miles of 16" pipeline, and 2.5 miles of 12" pipeline and will be located within an existing Southeast Gas pipeline right-of-way.

The application also requests a 55-foot wide tempory work area abutting the proposed right-of-way and a 100-foot wide tempory work space abutting any wilderness study areas.

An EIS covering this right-of-way project will be prepared by the Federal Energy Regulatory Commission.

The right-of-way application and related documents are available for review at the Bureau of Land Management, Nevada State Office, 850 Harvard Way, Reno, Nevada.

Robert G. Steele,
Deputy State Director, Operations.
[FR Doc. 94-3139 Filed 2-9-94; 8:45 am]
BILLING CODE 4310-HC-M

Bureau of land management

[AZ-040-4210-05-03; AZA 28016]

Realty Action; Recreation and Public Purposes (R&PP) Act Classification; Arizona

AGENCY: Breau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following public lands in Graham County, Arizona have been examined and found suitable for classification for conveyance to the Graham County Board of Supervisors under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). Graham County proposes to use the lands for a landfill.

Gila and Salt River Meridian, Arizona

T. 6 S., R. 26 E.,
Sec. 29, NW¼;
Sec. 30, E½FE¼.
Containing 240 acres, more or less.

The lands are not needed for Federal purposes, and conveyance is consistent with current BLM land use planning and would be in the public interest.

Conveyance of the lands will be subject to the following terms, conditions, and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. All valid existing rights documented on the official public land records at the time of patent issuance.

3. A right-of-way for ditches and canals constructed by the authority of the United States.

4. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.

Detailed information concerning this action is available for review at the Office of the Bureau of Land Management, Safford District, 711 14th Avenue, Safford, Arizona.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested persons may submit comments regarding the proposed conveyance or classification of the lands to the District Manager, Safford District Office, 711 14th Avenue, Safford, Arizona 85546.

Classification Comments

Interested parties may submit comments involving the suitability of the land for a landfill. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments

Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a landfill.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective April 11, 1994.

Dated: January 31, 1994.

William T. Civish,
District Manager.
[FR Doc. 94-3126 Filed 2-9-93; 8:45 am]
BILLING CODE 4310-32-M

Bureau of Land Management

[NV-930-4210-04; N-57818]

Realty Action; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following described public lands in Elko County, Nevada, administered by the Bureau of Land Management, are being considered for

disposal by exchange under section 206 of the Federal Land Policy and Management Act (FLPMA) of October 21, 1976 (43 U.S.C. 1716).

Mount Diablo Meridian, Nevada

T. 35 N., R. 68 E.,
Sec 2, All;
T. 35 N., R. 69 E.,
Sec. 6, All;
T. 36 N., R. 68 E.,
Sec. 2, All;
Sec. 4, All;
Sec. 8, E½;
Sec. 10, All;
Sec. 12, All;
Sec. 14, All;
Sec. 16, All;
Sec. 20, All;
Sec. 22, E½, E½NW¼, SW¼;
Sec. 24, All;
Sec. 26, All;
Sec. 28, All;
Sec. 34, All;
Sec. 36, All
T. 36 N., R. 69 E.,
Sec. 2, S½NE¼, NW¼;
Sec. 4, All;
Sec. 6, All;
Sec. 18, All;
Sec. 30, All
T. 37 N., R. 68 E.,
Sec. 14, All;
Sec. 22, All;
Sec. 24, All;
Sec. 26, All;
Sec. 28, SE¼;
Sec. 34, All;
Sec. 36, All;
T. 37 N., R. 69 E.,
Sec. 18, All
Sec. 20, All;
Sec. 22, All;
Sec. 26, All;
Sec. 28, All;
Sec. 30, All;
Sec. 32, All;
Sec. 34, N½NE¼, SE¼NE¼, N½NW¼, S½S½.

Containing 21,394.24 acres, more or less.

Final determination on disposal will await completion of an environmental analysis.

In accordance with the regulations of 43 CFR 2201.1(b), subject to valid existing rights, publication of this Notice in the **Federal Register** shall segregate the public lands as described in this Notice from all forms of appropriation under the public land laws, including the mining laws, but not the mineral leasing laws, and from any subsequent land exchange proposals filed by any proponent other than Simplot Land and Cattle Company, or its nominee.

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.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Elko District Office, P.O. Box 831, Elko, NV 89803. All objections will be reviewed by the State Director, who may sustain, vacate, or modify this realty action. In the absence of timely filed objections, this realty action shall become the final determination of the Department of the Interior.

Dated: January 27, 1994.

Rodney Harris,

District Manager.

[FR Doc. 94–3137 Filed 2–9–94; 8:45 am]

BILLING CODE 4310–HC–M

[NV–940–5440–10–F500; N–57581]

Notice of Proposed Conveyance of Public Land for Airport Purposes, Nevada; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction notice.

The Notice of Proposed Conveyance of Public Land for Airport Purposes for N–57581 published in the **Federal Register** on November 10, 1993, page 5929, is hereby corrected as follows:

1. Column 3, line 7, should read: Sec. 26, N½NE¼, SW¼NE¼, NE¼NW¼, S½NW¼.

2. Column 3, line 8, the acreage figure should read 343.55 acres.

Robert G. Steele,

Deputy State Director, Operations.

[FR Doc. 94–3138 Filed 2–9–94; 8:45 am]

BILLING CODE 4310–HC–M

[WY–060–4210–05; WYW57848]

Realty Action: Termination of Recreation and Public Purposes Classification; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Classification termination.

SUMMARY: This order terminates a Bureau of Land Management classification affecting 40 acres of public land near Gillette, Wyoming. After termination of the classification, 30 days from the effective date, the underlying lands will immediately become subject to the operation of the public land laws, generally and the mining laws.

EFFECTIVE DATE: February 25, 1994.

FOR FURTHER INFORMATION CONTACT: David Pomerinke, Area Manager, Buffalo Resource Area, BLM, 189 Cedar, Buffalo, Wyoming 82834, (307) 684–5586.

By virtue of the authority vested in the Secretary of the Interior by the Recreation and Public Purposes Act of June 14, 1926, as amended; 43 U.S.C. 869; 869–4; it is ordered as follows:

1. Pursuant to the regulations in 43 CFR 2091.7–1(b)(1) and the authority delegated to me by the BLM Manual section 1203 (48 FR 85), the classification decision of October 2, 1978 which classified 40 acres of public land as suitable for recreation and public purposes under the Act of June 14, 1926, as amended; 43 U.S.C. 869, 869–4; under serial number WYW57848 is hereby revoked. The lands are described as follows:

Sixth Principal Meridian, Wyoming

T. 49 N., R. 72 W.,
Sec. 12: NE¼SW¼

The area described contains 40 acres in Campbell County.

2. At 9 a.m. on March 22, 1994, the lands will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on March 22, 1994, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 9 a.m. on March 22, 1994 the lands will be opened to location and entry under the United States mining laws. Appropriation of any of the lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State Law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in legal courts.

Dated: February 4, 1994.

David A. Pomerinke,

Area Manager.

[FR Doc. 94–3162 Filed 2–9–94; 8:45 am]

BILLING CODE 4310–22–M

[AZ-020-04-4410-10]

Arizona: Resource Management Planning

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: In accordance with 43 CFR 1610.2(c) and 1610.3-1(d), notice is hereby given of intent to prepare a Category I amendment to Lower Gila North and Lower Gila South planning documents, Lower Gila Resource Area, Phoenix District, Arizona. This notice also constitutes the scoping notice required by regulation for the National Environmental Policy Act (43 CFR 1507.7). The proposed action is to amend the Lower Gila North Management Framework Plan (MFP) completed in December 1982 and the Lower Gila South Resource Management Plan (RMP) completed in June 1988. The Category I planning amendment will be based on existing statutory requirements and policies and will carry out the requirements of the Federal Land Policy and Management Act of 1976 (FLPMA). The amendment and accompanying environmental assessment (EA) will provide the basis for modifying the recreation, wildlife, minerals, wild burros and lands sections of the existing land use plans. The times and schedules for public meetings will be announced in the local news media. A thirty- (30) day time schedule for written public comment will follow the scheduled public meetings. Relevant documents will be available for public review at the Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona.

FOR FURTHER INFORMATION CONTACT: Hank Molz, Phoenix District Office, Lower Gila Resource Area, 2015 West Deer Valley Road, Phoenix, Arizona 85027. Telephone (602) 780-8090.

SUPPLEMENTARY INFORMATION: The planning areas are in the Lower Gila Resource Area in portions of Yuma, La Paz, Maricopa, Pima, Pinal and Yavapai Counties. The proposed amendment addresses land tenure, oil and gas, desert tortoise habitat management, recreation and wild burro management. Disciplines to be represented and used to prepare the amendment include lands, recreation, wildlife, botany, archaeology, geology, economics, range, wilderness and fire management. Public meetings will be held in Ajo, Gila Bend, Buckeye, Sun City, Wickenburg and Phoenix, Arizona. All public input will be through written comments during the plan amendment process.

Date: January 31, 1994.

David J. Miller,

Associate District Manager.

[FR Doc. 94-3127 Filed 2-9-94; 8:45 am]

BILLING CODE 4310-32-M

[ID-942-04-4060-02]

Filing of Plats of Survey; Idaho

The plat of survey of the following described land will be officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9 a.m., January 25, 1994.

The plat representing the dependent resurvey of a portion of the 6½ Standard Parallel North (south boundary, Township 33 North, Range 6 East), and portions of the subdivisional lines, and adjusted 1893 meander lines of the right bank of the Clearwater River, the subdivision of section 4, and the survey of Lots 10 and 12 in section 4, Township 32 North, Range 6 East, Boise Meridian, Idaho, Group No. 863, was accepted January 21, 1994.

This survey was executed to meet certain administrative needs of the U.S.D.A. Forest Service.

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: January 25, 1994.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 94-3132 Filed 2-9-94; 8:45 am]

BILLING CODE 4310-66-M

[ES-960-4950-10-4513: ES-046653, Group 2, Massachusetts]

Filing of Plat of Dependent Resurvey of the Land Held in Trust for the Wampanoag Tribal Council of Gay Head, Inc.

The plat, in four sheets, of a portion of the dependent resurvey of the boundaries of the land held in trust for the Wampanoag Tribal Council of Gay Head, Inc., of the town of Gay Head, Dukes County, Massachusetts, has been officially filed in Eastern States, Springfield, Virginia, at 7:30 a.m., on February 2, 1994.

The survey was made upon request submitted by the Bureau of Indian Affairs.

Copies of the plat will be made available upon request and prepayment of the reproduction fee of $4.00 per copy.

Dated: February 3, 1994.

Carson W. Culp, Jr.,

State Director.

[FR Doc. 94-3136 Filed 2-9-94; 8:45 a.m.]

BILLING CODE 4310-GJ-M

[UT-942-4210-06; U-18809, U-38078, U-38287, U-57904]

Cancellation of Proposed Withdrawals; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice cancels three proposed withdrawals requested by the Bureau of Reclamation (BR) and one proposed withdrawal for the Bureau of Land Management (BLM). The BR proposed withdrawals are for the White Rocks Dam and Reservoir, U-38287, of 1,112.35 acres, trailhead facilities for the Uintah Unit of the Central Utah Project (CUP), U-38078, of 298.57 acres, and the Flaming Gorge Unit of the Colorado River Storage Project, U-57904, of 493.24 acres. The BLM proposed withdrawal was for several recreation sites in Garfield and Wayne Counties, U-18809, of 1,673.61 acres. The lands have already been opened to surface entry and mining by operation of law.

EFFECTIVE DATE: February 10, 1994.

FOR FURTHER INFORMATION CONTACT: Randy Massey, BLM Utah State Office, P.O. Box 45155, Salt Lake City, Utah 84145-0155, (801) 539-4119.

SUPPLEMENTARY INFORMATION: Notices of Proposed Withdrawals were published in the **Federal Register**, which segregated the lands described therein from settlement, sale, location, or entry under the general land laws, including the mining laws, subject to valid existing rights. Notices for the three BR proposed withdrawals were published on the following dates and the lands were segregated for two years from the publication date. White Rocks Dam and Reservoir proposed withdrawal was published in 42 FR 59427, November 17, 1977, and the segregation expired November 16, 1979. The trailhead facilities proposed withdrawal for the Uintah Unit of the CUP was published in 42 FR 58577, November 10, 1977, and the segregation expired November 9, 1979. Flaming Gorge proposed withdrawal was published in 51 FR 39920, November 2, 1986, and the segregation expired November 2, 1988. The Bureau of Reclamation has determined that the lands will not be needed in connection with the projects identified and has canceled its applications. The BLM proposed

withdrawal for recreation sites was published in 27 FR 10089, May 19, 1972, and in the segregation expired October 20, 1991. Many of the sites proposed to be withdrawn have not been constructed and a determination has been made that the other sites which were constructed do not need withdrawal protection at this time, and the BLM has canceled its application.

Ted D. Stephenson,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 94–3119 Filed 2–9–94; 8:45 am]

BILLING CODE 4310–DQ–M

Bureau of Reclamation

Price—San Rafael Rivers Unit, Carbon and Emery Counties, UT; Planning Report/Final Environmental Impact Statement

AGENCY: Bureau of Reclamation, Interior; Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of availability of planning report/final environmental impact statement: INT FES–94–04.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Bureau of Reclamation (Reclamation) has prepared a planning report/final environmental impact statement (PR/FEIS) for the Price-San Rafael Rivers Unit, Utah. The PR/FEIS outlines a salinity control program within the Price and San Rafael River basins. Implementation of this program includes installing piped laterals off-farm and working with farmers to reduce salt leaching.

ADDRESSES: Single copies of the PR/FEIS may be obtained on request at the address below:

U.S. Department of Interior, Bureau of Reclamation, Planning and Environmental Division, PO Box 11568, Salt Lake City UT 84147–0568;

U.S. Department of Agriculture, Soil Conservation Service, PO Box 11350, Salt Lake City UT 84147–0350.

Libraries

Copies of the PR/FEIS are available for inspection at the following locations:

College of Eastern Utah Library, 451 East 400 North, Price UT 84501

Colorado State University Libraries, Ft. Collins CO 80523

Harold B. Lee Library, Brigham Young University, Provo UT 84602

Huntington Library, 190 West 1 North, Huntington UT 84528

Marriott Library, University of Utah, Salt Lake City UT 84117

Orem, City Library, 56 North State, Orem UT 84057

Price City Library, 159 East Main, Price UT 84501

Provo Public Library, 13 North 100 East, Provo UT 84601

Salt Lake City Public Library, 209 East 500 South, Salt Lake City UT 84111

Utah State University, Logan UT 84322

Weber State College Library, 3750 Harrison Boulevard, Ogden UT 84408.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Fluharty (Reclamation Officer), telephone: (801) 379–1155; or Marilyn O'Dell (Soil Conservation Service Project Manager), telephone: (801) 524–5025.

SUPPLEMENTARY INFORMATION: The preferred plan would include the installation of sprinkler irrigation systems, improved surface irrigation and irrigation water management, and the elimination of water from all open conveyance systems in the project area during the winter (nonirrigation) season.

The PR/FEIS presents the preferred plan and the no action alternative, describes the existing environment, and analyzes the environmental consequences of project implementation. It also presents the comments received during the 90-day public review of the draft statement and documents Reclamation and Soil Conservation Service responses.

Dated: December 17, 1993.

Donald R. Glaser,

Deputy Commissioner.

[FR Doc. 94–3111 Filed 2–9–94; 8:45 am]

BILLING CODE 4310–94–M

Fish and Wildlife Service

Availability of Draft Recovery Plan for the Saltwater Crocodile (Crocodylus porosus) in the Republic of Palau for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of a draft recovery plan for the saltwater Crocodile (Crocodylus Porosus) in the Republic of Palau. The population of this species within this Pacific archipelago is estimated at 150 animals.

DATES: Comments on the draft recovery plan must be received on or before April 11, 1994 to receive consideration by the Service.

ADDRESSES: Copies of the draft recovery plan are available for inspection, by appointment, during normal business hours at the following locations: U.S. Fish and Wildlife Service, P.O. Box 50167, Honolulu, Hawaii 96850 (Building address: 300 Ala Moana Blvd., room 6307, Honolulu, Hawaii 96813) (phone 808/541–2749); and the Palau Bureau of Natural Resources and Development, Ministry of Resources and Development, P.O. Box 117, Koror, Republic of Palau 96940 (phone 680/488–1475). Requests for copies of the draft recovery plan and written comments and materials regarding the plan should be addressed to regarding the plan should be addressed to Robert P. Smith, Field Supervisor of the Pacific Islands Office, at the Honolulu address given above. Comments and materials received are available upon request for public inspection and by appointment during normal business hours at the above Honolulu address.

FOR FURTHER INFORMATION CONTACT: Karen W. Rosa, Fish and Wildlife Biologist, at the Honolulu address given above.

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States and affiliated nations. Recovery plans describe actions considered necessary for the conservation of the species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act as amended in 1988 requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during the public comment period prior to approval of each new or revised Recovery Plan. Substantive technical comments will result in changes to the plans. Substantive comments regarding recovery plan implementation may not necessarily result in changes to the recovery plans, but will be forwarded to appropriate Federal or other entities so that they can take these comments into

account during the course of implementing recovery actions. Individualized responses to comments will not be provided.

The species being considered in this recovery plan is *Crocodylus porosus*. The population addressed in this plan is located in the Republic of Palau. *C. porosus* has been severely depleted throughout its range, and the Palau population is presently estimated at 150 animals. Foremost among the threats facing this crocodile are the hunting of wild populations for skins and meat and loss of habitat. Another limiting factor is the taking of live animals for local exhibition. The crocodile is not protected under Palauan law.

Recovery efforts will focus on the establishment and management of three protected areas, securing of illegally-held captive crocodiles, enforcement of U.S. laws and development and enforcement of Palauan laws to protect the species throughout Palau, and initiation of research and public education programs.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of these plans.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: January 24, 1994.

Marvin L. Plenert,

Regional Director, U.S. Fish and Wildlife Service, Region 1.

[FR Doc. 94–3129 Filed 2–9–94; 8:45 am]

BILLING CODE 4310–55–M

Fish and Wildlife Service

Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT–785966.

Applicant: Central Park Wildlife Center, New York, New York.

The applicant requests a permit to purchase in interstate commerce one captive-born pair and one juvenile (unsexed) cotton-topped tamarin (*Sanguinus oedipus*) from the Los Angeles Zoo, Los Angeles, California, for the purpose of enhancement of propagation and survival of the species.

PRT–785967.

Applicant: NYZS/The Wildlife Conservation Society, Bronx, New York.

The applicant requests a permit to import one male captive-born proboscis monkey (*Nasalis larvatus*) from the Wilhelma Zoo, Stuttgart, Germany, for the purpose of enhancement of propagation and survival of the species.

PRT–784966.

Applicant: NYU School of Medicine, New York, New York.

The applicant requests a permit to import blood samples of captive-born chimpanzees (*Pan troglodytes*) from the TNO Primate Center, Netherlands, for biomedical research aimed at developing malaria vaccines and for the enhancement of survival of the species.

PRT–785148.

Applicant: Ogden Environmental & Energy, Services Co., Inc., San Diego, California.

The applicant requests a permit to take least Bell's vireos (*Vireo bellii pusillus*) to assess the potential noise impact realignment will have on the species at Marine Corps Air Station Camp Pendleton, California.

PRT–751198.

Applicant: Kelly A. Young, Las Vegas, Nevada.

The applicant requests an amendment to her existing permit to authorize export, import, and reexport of one captive-bred male black leopard (*Panthera pardus delacouri*) born September 30, 1992, for the purpose of enhancement of propagation and survival of the species.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, 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, Office of Management Authority, 4401 North Fairfax Drive, room 420(c), Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: February 4, 1994

Susan Jacobsen,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 94–3021 Filed 2–9–94; 8:45 am]

BILLING CODE 4310–55–P

Issuance of Permit for Marine Mammals

On September 30, 1993, a notice was published in the **Federal Register**, Vol. 58, No. 188, Page 51098, that an application had been filed with the Fish and Wildlife Service by the New York Aquarium for a permit to: take (remove from the wild) 6 walruses (*Odobenus rosmarus*) for public display purposes.

Notice is hereby given that on January 14, 1994, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

Documents and other information submitted for these applications are available for review *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, rm 432, Arlington, Virginia 22203. Phone (703) 358–2104 or Fax (703) 358–2281.

Dated: February 4, 1994.

Susan Jacobsen,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 94–3022 Filed 2–9–94; 8:45 am]

BILLING CODE 4310–55–P

Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora; Ninth Regular Meeting; Thirty-First Meeting of the Standing Committee; Public Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Correction.

SUMMARY: In **Federal Register** notice Vol. 59, No. 19, beginning on page 4096, in the issue of Friday, January 28, 1994, make the following correction:

On page 4096 in the third column, in the third paragraph, the location of the public meeting was previously listed as Conference Room 200 of the Fish and Wildlife Service building, 4401 N. Fairfax Drive, Arlington VA. This should be changed to read Room 7000 of the Department of the Interior building, 18th & C Streets NW., Washington, DC.

Dated: Feb 4, 1994.

Kenneth Stansell,

Acting Chief, Office of Management Authority.

[FR Doc. 94–3020 Filed 2–9–94; 8:45 am]

BILLING CODE 4310–55–M

Notice of Availability, Oil Spill Restoration Plan

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the release of the draft Nestucca Oil Spill Restoration Plan (Plan) for public review. The Plan covers the Service proposal to restore natural resources injured as a result of the 1988 Nestucca barge oil spill. A public information meeting addressing the plan will be held on March 15, 1994, in Ocean Shores, WA.

DATES: Written comments must be submitted on or before March 28, 1994.

ADDRESSES: Requests for copies of the Plan may be made to: U.S. Fish and Wildlife Service, Ecological Services, 3704 Griffin Lane SE., suite 102, Olympia, Washington 98501–2192.

Written comments or materials regarding the Plan should be sent to the same address.

FOR FURTHER INFORMATION CONTACT: David C. Frederick, State Supervisor, U.S. Fish and Wildlife Service, 3704 Griffin Lane SE, suite 102, Olympia, Washington 98501–2192, (Attention: Environmental Contaminants Program).

Interested parties may also call (206) 753–9440 for further information.

SUPPLEMENTARY INFORMATION: On December 22, 1988, the tug, Ocean Service, collided with the barge, Nestucca, which spilled more than 230,000 gallons of No. 6 fuel oil into the Pacific Ocean near Grays Harbor, Washington. Shorelines were oiled within Grays Harbor and along 110 miles of the Washington State coast north of Grays Harbor, including portions of Olympic National Park and five National Wildlife Refuges. Oil also reached south to Oregon State and north to Vancouver Island, British Columbia. More than 13,000 oiled migratory birds were recovered by wildlife rescue and rehabilitation operations, of which, approximately 1,000 survived the oiling and rehabilitation process and were released. Estimates of actual migratory bird mortality from the spill range from 4 to 6 times the 13,000 oiled birds collected.

In 1991, the United States of America settled claims for natural resource damages associated with 1988 Nestucca oil spill under the authority of the Clean Water Act. The settlement proceeds shall be used to compensate for injury, destruction, or loss of natural resources within the Department of the Interior's trusteeship. The Plan is being released in accordance with the natural resource damage assessment regulations found at 43 CFR, part 11. It is intended to describe Service proposals to restore natural resources lost as a result of this spill. Restoration efforts will focus on migratory birds, primarily common murres (*Uria aalge*).

The Plan focuses on determining what factors are most important in regulating common murre survival and reproduction in Washington and diminishing human perturbations at Oregon and Washington seabird colonies. The following actions are proposed: (1) Educate pilots, boaters, fishermen, and other visitors to the Washington and Oregon coasts and National Wildlife Refuges about protected wildlife resources in these areas and explain the reasons for, and methods of minimizing disturbance to seabirds and other wildlife; (2) delineate and describe seabird mortality resulting from the incidental take of seabirds in Washington net fisheries and identify and implement measures to reduce the mortality; (3) improve habitat conditions for burrow nesting seabirds by eradicating the introduced European rabbit (*Oryctolagus cuniculus*) from Destruction Island; and (4) monitor common murre attendance at Washington breeding colonies to determine if the selected restoration actions are successful, and to identify how the survival and reproductive success of common murres and other seabirds at these colonies is being impacted. These impacts may be addressed through future restoration actions.

Interested members of the public are invited to review and comment on the Plan and to provide additional alternatives. In Washington, copies are available for review at the U.S. Fish and Wildlife Service's Ecological Services Field Office in Olympia (3704 Griffin Lane SE., suite 102, Olympia, Washington), the Nisqually National Wildlife Refuge office (100 Brown Farm Road, Olympia, Washington), the Washington Coastal Refuges office (33 South Barr Road, Port Angeles, Washington), and the following Washington State community libraries: Port Angeles, Sequim, Forks, Clallum Bay, Ocean Shores, Port Townsend, Port Hadlock, Olympia, Aberdeen, Westport, Hoquiam, and Raymond. In Oregon, copies are available for review at the Hatfield Marine Science Center Library in Newport and the U.S. Fish and Wildlife Service Regional Office in Portland (911 NE 11th Avenue).

An informational meeting, open to the public, will be held to explain the Plan, provide information, and to answer any questions. The meeting will be held at the Ocean Shores Convention Center, Mezzanine Room 1, 120 West Chance Ala Mer, Ocean Shores, Washington; on March 15, 1994, from 7 to 9 pm. All written and public meeting comments will be considered and addressed in the final Plan at the conclusion of the restoration planning process.

Dated: February 1, 1994.

Marvin Plenert,

Regional Director, Region 1, Fish and Wildlife Service.

[FR Doc. 94–3131 Filed 2–9–94; 8:45 am]

BILLING CODE 4310–55–M

INTERSTATE COMMERCE COMMISSION

Motor Passenger Carrier or Water Carrier Finance Applications Under 49 U.S.C. 11343–11344

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties of, or acquire control of motor passenger carriers or water carriers under 49 U.S.C. 11343–11344. The applications are governed by 49 CFR Part 1182, as revised in *Pur., Merger & Cont.—Motor Passenger & Water Carriers*, 5 I.C.C. 2d 786 (9189). The findings for these applications are set forth at 49 CFR 1182.18. Persons wishing to oppose an application must follow the rules under 49 CFR part 1182, subpart B. If no one timely opposes the application, this publication automatically will become the final action of the Commission.

No. MC–F–20487, filed January 10, 1994. Evergreen Trails, Inc., d/b/a Gray Line of Seattle—Purchase—Bremerton-Tacoma Stages, Inc., d/b/a/ Cascade Trailways. Applicant's representative: Jeremy Kahn, Suite 702, 1726 M Street, NW., Washington, DC 20036. Evergreen Trails, Inc., d/b/a/ Gray Line of Seattle (Evergreen) (MC–107638) seeks authority to acquire all of the interstate authority of Bremerton-Tacoma Stages, Inc., d/b/a/ Cascade Trailways (Cascade) under No. MC–28339 and the intrastate authorities issued by the Washington Utilities and Transportation Commission in Certificate No. C–345 and the Public Utility Commission of Oregon in Authority No. 189587.

Evergreen, a motor passenger carrier, is a wholly owned subsidiary of Holland America Lines-Westours, Inc. (HALW), a motor passenger carrier holding authority in No. MC–118832. Control by HALW of these carriers was previously approved by the Commission.

Paul Harmon, the noncarrier individual in control of Cascade, also

controls Harmon Enterprises, Inc. (MC–249206), a motor property carrier.

Transfer of the intrastate authority is effected under 49 U.S.C. 11341(a). Temporary authority under 49 U.S.C. 11349 was granted January 14, 1994.

Decided: February 4, 1994

By the Commission, the Motor Carrier Board.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 94–3114 Filed 2–9–94; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–32 (Sub-No. 56X)]

Boston and Maine Corp.—Discontinuance of Service Exemption—in Middlesex County, MA

Boston and Maine Corporation (B&M) has filed a notice of exemption under 49 CFR 1152, subpart F—*Exempt Abandonments and Discontinuances* to discontinue service over a 0.93-mile line of railroad on the Stoneham Branch line, owned by the Massachusetts Bay Transportation Authority (MBTA),[1] extending between milepost 0.00 and milepost 0.93 in Stoneham, Middlesex County, MA.

B&M has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic has been rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to use of this exemption, any employee affected by the discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on March 12, 1994, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues[2] and formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] must be filed by February 22, 1994. Petitions to reopen must be filed by March 2, 1994, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any pleading filed with the Commission should be sent to applicant's representative: Kevin J. O'Connell, Esq., Boston and Maine Corporation, Iron Horse Park, No. Billerica, MA 01862.

If the notice of exemption contains false or misleading information, the exemption is void *ab initio*.

B&M has filed an environmental report which addresses the discontinuance's effects, if any, on the environmental and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by February 15, 1994. Interested persons may obtain a copy of the EA by writing to SEA (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA is available to the public.

Environmental and historic preservation conditions will be imposed, where appropriate, in a subsequent decision.

Decided: February 3, 1994.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 94–3115 Filed 2–9–94; 8:45 am]

BILLING CODE 7035–01–P

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[1] The property at issue is owned by the MBTA, and will continue to be owned by the MBTA after consummation of the proposed discontinuance of service.

[2] A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Energy and Environment in its independent investigation) cannot be made before the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[3] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[Docket No. AB–3 (Sub-No. 114X)]

Exemption Missouri Pacific Railroad Company—Discontinuance of Trackage Rights and Lease Exemption—in Perry and Randolph Counties, IL

Missouri Pacific Railroad Company (MP) has filed a notice of exemption under 49 CFR 1152 subpart F—Exempt *Abandonments and Discontinuances of Trackage Rights* to discontinue trackage rights on approximately 3.7 miles of rail line and lease of a 945 foot portion of connecting track owned by Illinois Central Railroad Company (IC), successor to Gulf, Mobile & Ohio Railroad Company (GM&O).[1] The trackage rights involve: (1) That portion of the Leahy spur owned by GM&O from point of switch at survey station 30504 plus 07 to the east right-of-way line of GM&O approximately 305 feet; (2) that portion of GM&O's main line between survey station 30504 plus 07 (south of Willisville, IL) and survey station 30504 plus 93.5 at Percy, IL; and (3) that portion of MP–GM&O connecting track from survey station 30698 plus 03.5 approximately 310 feet. The lease involves that portion of the MP–GM&O connecting track owned by GM&O extending from survey station 30698 plus 03.5 to the point where the connecting track intersects the west right-of-way line of GM&O.[2] All involved line segments are located in Perry and Randolph Counties, IL.

MP indicates that operations by other carriers will continue on a portion of the involved line. IC intends to abandon a portion of the line by Notice of Exemption filed January 24, 1994, in Docket No. AB–43 (Sub-No. 165X).

MP has certified that: (1) No local traffic has moved pursuant to the trackage rights or lease operation over this line for at least 2 years; (2) no overhead traffic has moved over this line for at least 2 years and any overhead traffic on the line has been rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of

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[1] For purposes of clarity and consistency, the rail line segments involved in the trackage rights and lease agreement are identified, as they are in the notice filed by MP, with reference to the predecessor entity, GM&O.

[2] The trackage rights and lease of track were approved by the Commission in Finance Docket No. 26669, Missouri Pacific Railroad Company—Trackage Rights Etc.—Gulf, Mobile & Ohio Railroad Company, served August 16, 1971. Pursuant to the trackage rights/lease agreement of May 14, 1971, as amended by an agreement of September 30, 1986, between GM&O and MP, the lease of track and trackage rights were terminated on December 31, 1987.

such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.[3]

As a condition to use of this exemption, any employee adversely affected by the discontinuance shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

This exemption will be effective on March 12, 1994, unless stayed pending reconsideration. Petitions to stay must be filed by February 21, 1994. Petitions to reopen must be filed by March 2, 1994, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.[4]

A copy of any petition filed with the Commission should be sent to applicant's representative: Joseph D. Anhofer, 1416 Dodge Street, Room 830, Omaha, NE 68179.

If this notice of exemption contains false or misleading information, the exemption is void *ab initio*.

Decided: February 3, 1994.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 94–3116 Filed 2–9–94; 8:45 am]

BILLING CODE 7035–01–P

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

Request for Nomination to the Board of Trustees

AGENCY: Institute of American Indian and Alaska Native Culture and Arts Development (aka Institute of American Indian Arts).

ACTION: Request for nominations.

SUMMARY: The Board directs the Administration of the Institute of American Indian and Alaska Native Culture and Arts Development, including soliciting, accepting, and disposing of gifts, bequests, and other properties for the benefit of the Institute. The Institute, established under Public Law 99–498 (20 U.S.C. 4411 *et seq.*), provides scholarly study of and instruction in Indian art and culture, and establishes programs which culminate in the awarding of degrees in the various fields of Indian art and culture.

The Board consist of thirteen members appointed by the President of the United States, by and with the consent of the U.S. Senate, who are American Indians or persons knowledgeable in the field of Indian art and culture. This notice requests nominations to fill one appointment on the Board of Trustees.

DATES: Nominations will be accepted until March 14, 1994.

ADDRESSES: Nominations may be sent to the Chairman, Board of Trustees, Institute of American Indian Arts, Post Office Box 1836, Santa Fe, New Mexico 87504.

FOR FURTHER INFORMATION CONTACT: Ken Blankenship, Chairman of the Board of Trustees, Institute of American Indian Arts, Post Office Box 20006, Santa Fe, New Mexico 87504.

SUPPLEMENTARY INFORMATION: Public Law 99–498 (20 U.S.C. 4412(a)(2)(b), requires the President to publish in the **Federal Register** an announcement regarding nominations of the Presidentially appointed members of the Board of Trustees of the Institutes. On February 22, 1991 (56 FR 8099, February 26, 1991) President delegated to the Chairman of the Board of Trustees the responsibility to publish an announcement regarding these nominations in the **Federal Register**. All nominations submitted will be forwarded to the President for consideration.

Dated: February 4, 1994.

Kenneth Blankenship,

Chairman, Board of Trustees, Institute of American Indian and Alaska Native Culture and Arts Development.

[FR Doc. 94–3120 Filed 2–9–94; 8:45 am]

BILLING CODE 4320–01–M

DEPARTMENT OF JUSTICE

Consent Judgment in Action to Recover Costs and Obtain Civil Penalties Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that seven Consent Decrees in *United States* v. *Frola, et al.*, Civil Action No. 2:91cv04280 (DRD) were lodged on February 1, 1994, with the United States District Court for New Jersey. A separate Consent Decree was negotiated between the United States and each of the following Defendants (collectively, "Settling Defendants"): Albert Von Dohln and the Estate of James V. Frola; Republic Environmental Systems (New York) Inc., successor in interest to Chemical Management, Inc.; Luzon Oil Company, Inc.; Petroleum Tank Cleaners, Inc.; Snyder Enterprises, Inc.; Texaco Inc.; and Total Recovery, Inc. ("TRI").

The United States brought suit against Settling Defendants on September 27, 1991 pursuant to sections 106 and 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), as amended, 42 U.S.C. 9606 and 9607(a), seeking civil penalties for Settling Defendants' alleged failure to comply with a Unilateral Administrative Order ("UAO") issued by the United States Environmental Protection Agency ("EPA") on October 16, 1985, and seeking recovery of costs incurred by the United States in response to the release of hazardous substances at the Quanta Resources, Inc. Site, located at 163 River Road in the Town of Edgewater, New Jersey.

The proposed Consent Decrees require Settling Defendants to pay $2,450,000; specifically, they must pay: (1) $940,000 in past response costs incurred by the United States for actions taken in response to the release of hazardous substances from the Site, (2) $725,000 in civil penalties and punitive damage for noncompliance with the October, 1985 UAO, and (3) $785,000 into escrow to fund the future performance of certain response activities specified in the UAO.

In addition, TRI is required to pursue best efforts in recovering from insurers $1,200,000 in additional response costs (including interest), plus $800,000 towards funding the remaining work specified in the UAO. The United States agrees to settle all claims addressed in the proposed Consent Decrees but does not agree to release Settling Defendants from their continuing liability at the Site.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the Consent Decrees. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530 and should refer to *United States* v. *Frola, et al.*, D.O.J. Ref. No. 90–11–2–197A.

[3] No environmental or historical documentation is required here pursuant to 49 CFR 1105.6(b)(3).

[4] As this is a discontinuance only, no public use or trail conditions may be imposed.

The proposed Consent Decrees may be examined at the Office of the United States Attorney, 970 Broad Street, Newark, New Jersey 07101; at the Region II office of the Environmental Protection Agency, 26 Federal Plaza, room 437, New York, NY 10278; or at the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed Consent Decrees 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 $57.50 (25 cents per page reproduction costs, exclusive of attachments and appendices) payable to "Consent Decree Library."

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 94–3156 Filed 2–9–94; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Guam Power Authority*, Civil Action No. CIV–94–0004 (D. Guam), was lodged on January 24, 1994 with the United States District Court for the District of Guam. This is a civil action against Guam Power Authority under section 113(b) of the Clean Air Act ("Act"), 42 U.S.C. 7413, for violation of the Prevention of Significant Deterioration ("PSD") requirements of part C of the Clean Air Act, 42 U.S.C. 7470–7491, and the regulations promulgated thereunder at 40 CFR 52.21 ("the PSD regulations"), 40 CFR 52.21 that are incorporated into the Guam State Implementation Plan ("SIP"), and the New Source Performance Standards ("NSPS") for gas turbines promulated pursuant to Section 111 of the Act, 42 U.S.C. 7411, and found in 40 CFR part 60.

The Complaint seeks civil penalties and injunctive relief to ensure future compliance with the PSD regulations and the NSPS. The alleged violations involved failure to obtain an installation permit under the PSD regulations for construction of the Dededo Power Station ("the Station"); failure to provide written notice of the date of commencement of that construction pursuant to the NSPS; failure to provide written notice of the anticipated date of the initial startup of the Station pursuant to the NSPS; failure to provide written notice of the actual date of initial startup of the Station pursuant to the NSPS; and failure to conduct performance test(s) on gas turbines at the Station pursuant to the NSPS. Guam Power Authority is the owner and operator of the Station where the violation occurred. Guam Power Authority will pay a civil penalty of $150,000 and is enjoined to comply with all of the provision of the PSD permit issued by EPA with regard to a natural gas-fired turbine designated CT–1; and with all provisions of the NSPS Regulations applicable to CT–1; and to retest CT–1 pursuant to the requirements of 40 CFR 60.335(c) within sixty days of the lodging of the Consent Decree.

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. *Guam Power Authority*, DOJ Ref. # 90–5–2–1–1831.

The proposed consent decree may be examined at the office of the United States Attorney, suite 502–A, Pacific News Buildings, 238 Archbishop Flores Street, Agana, Guam 96910; at the Region IX office of the 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 refer to the referenced case and enclose a check in the amount of $3.25 (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. 94–3154 Filed 2–9–94; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on January 12, 1994, a proposed consent decree in *United States* v. *Williams Pipe Line Company, et al.*, Civil Action No. 89–1393–T, was lodged with the United States District Court for the District of Kansas. The proposed consent decree concerns a complaint filed by the United States on July 25, 1989, which alleged violations of the Clean Air Act, 42 U.S.C. 7401 *et seq.*, and its implementing regulations codified at 40 CFR part 61, subpart M, at the Augusta Refinery which is located in Augusta, Kansas.

The complaint alleged that defendants Derby Refining Company (Derby), Blackburn, Inc. (Blackburn), and Ventech Engineers, Inc. (Ventech) failed to adequately wet friable asbestos material while being stripped or removed as well as failing to adequately wet friable asbestos material which had been removed or stripped from the facility while awaiting collection and disposal in accordance with the NESHAP workplace standards. The complaint also alleged that defendant ARC and Derby failed to give proper notice of its intent to remove friable asbestos from the facility in violation of the NESHAP notice provision. The complaint sought injunctive relief to require compliance with the asbestos NESHAP standards and civil penalties for past violations.

The Consent Decree requires Defendants, jointly and severally, to pay $45,000 in settlement of the United States' claims for civil penalties against them. In addition, the decree requires each defendants ARC and Derby to develop and implement an Asbestos Control Program described in Attachment 1 to the Consent Decree.

The Department of Justice will receive for a period of thirty (30) days from the date of the publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, United States Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Williams Pipe Line Company, et al.*, Ref. No. 90–5–2–1–1268.

The proposed consent decree may be examined at the following locations: (a) Office of the United States Attorney for the District of Kansas, 306 U.S. Courthouse, 401 North Market Street, Wichita, Kansas 67202; (b) the Region VII Office of the Environmental Protection Agency, 726 Minnesota Avenue, Kansas City, Kansas 66101; and (c) the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decrees may be obtained in person or by mail from the Consent Decree Library. In requesting a copy of the Consent Decree, please enclose a check for copying costs in the amount of $4.25 (25 cents per page

reproduction costs), payable to the Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section.

[FR Doc. 94-3155 Filed 2-9-94; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

[Docket No. 93-2]

Chester R. Barnes, M.D.; Revocation of Registration

On September 9, 1992, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Chester R. Barnes, M.D., 1625 East Fourth Street, Los Angeles, California 90033. The Order to Show Cause sought to revoke Dr. Barnes' (Respondent) DEA Certificate of Registration, AB0289492, and deny any pending applications for registration as a practitioner. The Order to Show Cause alleged that revocation of Respondent's DEA Certificate of Registration was proper pursuant to 21 U.S.C. 824(a)(2) based on Respondent's felony conviction for illegal distribution of controlled substances in violation of 21 U.S.C. 841(a)(1).

On October 21, 1992, counsel for Respondent requested a hearing and the matter was placed on the docket of Administrative Law Judge Mary Ellen Bittner. Prehearing statements were filed by counsel for the Government and counsel for Respondent. By Order dated March 26, 1993, the administrative law judge scheduled a telephone conference call for April 6, 1993. When the conference call was placed, counsel for Respondent was not available. On April 7, 1993, the administrative law judge issued another order rescheduling the conference call for April 19, 1993. When the conference call was attempted on that date, counsel for Respondent again failed to be present. On April 21, 1993, counsel for the Government notified the administrative law judge that attempts to reach a settlement with Respondent's counsel had been unsuccessful. By Memorandum and Order dated May 17, 1993, the administrative law judge terminated the proceedings in this matter, stating that Respondent had waived his right to a hearing pursuant to 21 CFR 1301.54(d). Pursuant to 21 CFR 1301.54(e) and 1301.57, the Acting Administrator hereby issues his final order in this matter based upon the investigative file.

The Acting Administrator finds that on at least four occasions between July 12, 1990 and August 20, 1990, Respondent issued prescriptions for controlled substances to undercover agents for no legitimate medical purpose. In November 1990, a search warrant was served on Respondent's medical office and patient records were seized for review.

At the request of a DEA Diversion Investigator, a doctor serving as a consultant to the Medical Board of California (Board) reviewed over a dozen of Respondent's patient files. The Board doctor concluded that in numerous cases Respondent had ordered controlled substances for his patients without conducting an adequate history and in the absence of any medical complaint on the part of the patient. The Board doctor also noted that in many instances no physical examination was conducted and the patients' files did not contain information indicating a necessity for the prescription of potent analgesics.

On May 13, 1993, in the United States District Court, Central District of California, Respondent pled guilty to two felony counts of illegal distribution of Tylenol with codeine #3 and Tylenol with codeine #4, controlled subtances listed in Schedule III, in violation of 21 U.S.C. 841(a)(1). Respondent was convicted on these counts on May 17, 1991. Respondent was placed on probation for a period of three years and ordered to pay a $5,000.00 fine.

On July 12, 1993, Respondent signed a renewal application which was received by the DEA on July 27, 1993. In this application, Respondent answered "no" to the question inquiring as to whether he had ever been convicted of a crime in connection with controlled substances. By responding in the negative to this question, Respondent materially falsified his application. Pursuant to 21 U.S.C. 824(a)(1), such a falsification constitutes a separate ground upon which revocation of a registration may be based.

In reviewing the investigative file, the Acting Administrator finds that Respondent has exhibited poor judgment in exercising his responsibilities which accompany a DEA Certificate of Registration. Further, by materially falsifying his renewal application, Respondent has exhibited a cavalier disregard for the law and a disturbing lock of candor. As a result, the Acting Administrator concludes that Respondent can no longer be entrusted with a DEA Certificate of Registration.

Accordingly, the Acting Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that Dr. Chester Barnes' DEA Certificate of Registration, AB0289492, be, and it hereby is, revoked, and further orders that Dr. Chester Barnes' renewal application dated July 12, 1993, be, and it hereby is, denied. This order is effective March 14, 1994.

Dated: February 4, 1994.

Stephen H. Greene,

Acting Administrator of Drug Enforcement.

[FR Doc. 94-3029 Filed 2-9-94; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 92-74]

David W. Bradway, M.D.; Denial of Application

On July 7, 1992, the Deputy Assistant Administrator (then-Director), Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to David W. Bradway, M.D. (Respondent), of Magnolia, New Jersey, seeking to deny his application for a DEA Certificate of Registration. The statutory basis for the Order to Show Cause was that Respondent's registration would be inconsistent with the public interest, as that term is used in 21 U.S.C. 823(f).

Respondent, through counsel, requested a hearing on the issues raised by that Order to Show Cause, and the matter was docketed before Administrative Law Judge Paul A. Tenney. Following prehearing procedures, a hearing was held in Washington, DC, on November 12, 1992. On January 27, 1993, in his findings of fact, conclusions of law, and recommended ruling, the administrative law judge recommended that the Administrator grant Respondent a DEA Certificate of Registration.

On February 12, 1993, the Government filed exceptions to Judge Tenney's opinion pursuant to 21 CFR 1316.66, and on March 11, 1993, the administrative law judge transmitted the record to the Administrator. The Acting Administrator has carefully considered the entire record in this matter and, pursuant to 21 CFR 1316.67, hereby issues his final order in this matter based upon findings of fact and conclusions of law as hereinafter set forth.

The Acting Administrator finds that on January 30, 1979, New Jersey police found the body of a deceased individual. The detective who discovered the body also found a receipt for a prescription written by the Respondent on the body. This began an investigation of the Respondent which included obtaining controlled substance prescriptions from area pharmacies that

were written by the Respondent. The prescriptions were written by the Respondent in his own name, in the names of young men who testified at Respondent's criminal trial, and in the names of some of Respondent's relatives, none of whom ever received a prescription from the Respondent.

The investigation by New Jersey authorities further revealed that during a seven month period from January to July 1978, Respondent ordered and received from a pharmaceutical distributor large quantities of controlled substances. During this period however, Respondent was pursuing his residency in radiology, and therefore, had no legitimate medical need for these drugs.

On November 3, 1980, in the New Jersey Superior Court for Cumberland County, Respondent was convicted of one count of conspiracy: To distribute, possess and possess with intent to distribute, controlled substances; to induce, persuade, aid and contribute to the unlawful use of a narcotic drug; and to knowingly and intentionally keep a residence for the purpose of using controlled dangerous substances; thirty counts of unlawful distribution of controlled substances; four counts of unlawful possession with intent to distribute controlled substances; and one count of manslaughter by unlawfully distributing controlled substances in such a grossly negligent and reckless manner as the cause the death of an individual.

Respondent previously possessed DEA Certificate of Registration, AB7672517. On November 1, 1981, DEA issued an Order to Show Cause proposing to revoke Respondent's previous DEA Certificate of Registration. Following a January 1983 hearing in the matter, the then-Administrator concurred with the findings of the administrative law judge: That Respondent issued prescriptions for Demerol and Quaaludes in his own name, and in the names of his friends and relatives; these prescriptions were not issued for a legitimate medical purpose, but were in fact used to obtain drugs for personal use and abuse; because of Respondent's unlawful actions, a friend attending one of Respondent's "drug parties", died of a drug overdose; Respondent's friends became addicted to Demerol as was Respondent himself; and there was no reasonable assurance that Respondent was a different person or markedly changed from the time he had committed these crimes. As a result of these findings, the then-Administrator revoked Respondent's previous DEA Certificate of Registration. See David W. Bradway, M.D., Docket No. 81–26, 48 FR 49937 (October 28, 1983).

On September 19, 1987, Respondent filed a new application for DEA registration, and DEA again issued an Order to Show Cause proposing to deny Respondent's application. On November 1, 1988, an administrative hearing was held before Administrative Law Judge Mary Ellen Bittner. Respondent was not represented by counsel, and did not testify.

During the hearing, Respondent presented the testimony of his employer, who testified to his supervision of Respondent's employment as a medical practitioner. The Director of the New Jersey Physician's Health Program also testified on behalf of the Respondent. The Director testified to Respondent's rehabilitation based upon Respondent's participation in the Physician's Health Program, and to Respondent's ability to handle controlled substances.

Following the administrative hearing, Judge Bittner recommended that Respondent be granted a DEA registration for Schedules IV and V, with certain conditions. However, the then-Administrator did not follow the recommendation, in part because of his finding that the testimony regarding Respondent's rehabilitation was not credible; Respondent's failure to testify which left little evidence of his rehabilitation; as well as, the absence of any psychiatric testimony or report regarding Respondent's own use of dangerous controlled substances. As a result, the then-Administrator denied Respondent's application for a DEA Certificate of Registration. See David W. Bradway, M.D., Docket No. 88–62, 54 FR 53382 (December 28, 1989).

The factual determinations relied upon by the previous Administrators relating to the prior revocation of Respondent's DEA registration, and the denial of his subsequent application for a Certificate of Registration, are conclusive, and accordingly, the Acting Administrator hereby adopts the above-referenced final orders in their entirety.

In this proceeding, no new allegations of improper handling of controlled substances were introduced. As a result, the critical issue is whether the circumstances, which existed during the time of the prior proceedings, have changed sufficiently to support a conclusion that Respondent's registration is now in the public interest.

At the November 12, 1992 administrative hearing, the Respondent testified. The administrative law judge found that Respondent testified with great sincerity and obvious pain concerning the remorse and regret that he felt about the events leading to the individual's death. The Respondent also testified regarding his ongoing participation in the Physician's Health Program sponsored by the New Jersey Academy of Medicine, and how the program not only assisted the Respondent in his own rehabilitation, but also permitted the Respondent to become involved with different physicians in self-help groups.

The administrative law judge also found persuasive an October 29, 1992 psychiatric report which was placed into evidence by the Respondent. The report outlined Respondent's satisfactory steps toward rehabilitation, and also recommended Respondent's continued close contact with the Physician's Health Program and continued random drug testing when deemed necessary by program officials.

The Director of the New Jersey Physician's Health Program again testified on behalf of the Respondent. As with the previous administrative hearing, the Director testified to Respondent's recovery from drug usage, and to the likelihood of Respondent relapsing to drugs at this stage of his life and abusing his privileges to prescribe them as being, "extremely remote."

The administrative law judge further found that the opinion testimony given at this proceeding by the Director regarding Respondent's recovery, was entitled to more weight than the testimony given by him at the November 1988 administrative hearing. The administrative law judge attributed this finding to the passing of an additional four or five years without any drug incidents, and that the Director's opinion was consistent with the psychiatric report.

Pursuant to 21 U.S.C. 823(f), "[i]n determining the public interest, the following factors will be considered:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety."

It is well established that these factors are to be considered in the disjunctive, i.e., the Administrator may properly rely on any one or a combination of the factors and give each factor the weight he deems appropriate. See Henry J.

Schwartz, Jr., M.D., Docket No. 88–42, 54 FR 16422 (1989).

The administrative law judge found factors two, three, four and five relevant based upon Respondent's unlawful writing of prescriptions and subsequent administering of controlled substances to youths, including administering controlled substances to an individual, whose death was attributed to Respondent's administering of controlled substances; Respondent's multiple count conviction in November 1980; and, Respondent's writing of prescriptions in his name, the names of relatives, as well as the names of the youths for no legitimate medical purpose.

The administrative law judge found that, based upon Respondent's testimony and demeanor during the hearing, the medical diagnosis given in the psychiatric report, as well as the testimony of the Director of the New Jersey Physician's Health Program regarding Respondent's recovery from drug abuse, Respondent had produced evidence which was heretofore lacking and which persuasively indicated that Respondent's registration is in the public interest. The administrative law judge therefore recommended that the Administrator grant the Respondent's application for a DEA Certificate of Registration, however, with two limitations: Consistent with the suggestions of the psychiatric report, the Respondent would remain in close contact with the Physician's Health Program to the extent that the program may see the need for random drug testing; and that Respondent keep meticulous records of all controlled substances that he prescribes in the course of any medical practice: The record of each prescription to include the date, name, and address of the patient; and the name, quantity and strength of the controlled substance prescribed, with the records to be forwarded to the DEA Camden, New Jersey Resident Office on a monthly basis for a period of one year.

The Government filed exceptions to the administrative law judge's recommendation, based in part upon matters involving Respondent's unlawful conduct with respect to controlled substances. In addition to arguing that Respondent would have unlimited access to the same drugs he once unlawfully administered and abused, the Government outlined the egregious nature of Respondent's past conduct which ultimately led to his criminal convictions: His obtaining controlled substances for no legitimate medical purpose; injecting young men as well as himself with dangerous combinations of controlled substances and causing the youths to become addicted to Demerol; and, his administering controlled substances to an individual which resulted in the latter's death.

The Government further argued that the administrative law judge's recommendation does not reconcile itself to a previous finding in a similar matter, where the administrative law judge recommended a restricted registration. See Frank Chin, M.D., Docket No. 92–13, 57 FR 47673 (1992). Finally, in its argument against the Respondent's registration, the Government argued that the lapse of time since Respondent last possessed a DEA Certificate of Registration was a factor worthy of consideration.

In its exceptions, the Government urged the Administrator to deny the Respondent's application for a Certificate of Registration. However, the Government also argued in the alternative, that if Respondent's application is granted, that his registration be restricted to Schedules IV and V.

The Acting Administrator, having considered the entire record, determines that the registration of the Respondent is still not in the public interest. Although the Respondent has presented evidence which demonstrates his progress towards recovery from substance abuse, and has indicated remorse over events leading up to the individual's death, the Acting Administrator adopts the finding of the then-Administrator in his final order published in the **Federal Register** on December 28, 1989: "It is the position of the DEA that a Certificate of Registration to handle controlled substances is a privilege, not a right, and it should only be granted to doctors who have demonstrated high standards of ethical conduct and who are completely trustworthy in handling dangerous controlled substances * * *."

It is the judgment of the Acting Administrator that the Respondent has not demonstrated either ethical conduct nor trustworthy behavior to warrant the granting of a DEA Certificate of Registration. The Acting Administrator concludes that the record does not support a finding that the Respondent can be entrusted with a DEA Certificate of Registration.

Having concluded that there is a lawful basis for the denial of Respondent's application for a DEA Certificate of Registration, and having further concluded that Respondent's registration would not be in the public interest, it is the Acting Administrator's conclusion that the Respondent's application be denied. Accordingly, the Acting Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 283 and 28 CFR 0.100(b), hereby orders that the application of David W. Bradway, M.D., for registration under the Controlled Substances Act, be, and it hereby is, denied. This order is effective February 10, 1994.

Dated: February 4, 1994.

Stephen H. Greene,

Acting Administrator of Drug Enforcement.

[FR Doc. 94–3024 Filed 2–9–94; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 93–72]

William G. Gray, M.D.; Revocation of Registration

On July 23, 1993, the Deputy Assistant Administrator (then-Director) of the Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to William G. Gray, M.D. (Respondent), of Roanoke, Virginia proposing to revoke his DEA Certificate of Registration, AG3146431, and to deny any pending applications for registration as a practitioner under 21 U.S.C. 823(f). The proposed action was based on Respondent's lack of state authorization to handle controlled substances in the Commonwealth of Virginia, as well as, his prescribing or dispensing various controlled substances to several individuals, two of whom were minors, without a legitimate medical purpose and outside the scope of professional practice.

The Order to Show Cause was sent to Respondent by registered mail. Respondent, through counsel, filed a request for a hearing and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. On September 20, 1993, the Government filed a motion for summary disposition based upon an order of the Commonwealth of Virginia, Virginia Board of Medicine, which suspended Respondent's medical license for an indefinite period of time, effective march 6, 1992.

Respondent filed a response seeking a continuance of the proceedings until the Virginia Board of Medicine could review the summary suspension of Respondent's medical license. Thereafter, on October 19, 1993, Respondent filed an additional response which explained that the Virginia Board of Medicine did hold a hearing and, in fact, voted to revoke Respondent's medical license as of October 7, 1993. Respondent also withdrew his

opposition to the Government's motion for summary disposition.

On October 25, 1993, in her opinion and recommended decision, the administrative law judge granted the Government's motion for summary disposition and recommended that Respondent's DEA Certificate of Registration issued to him in Virginia be revoked based upon Respondent's current lack of state authorization to handle controlled substances in the Commonwealth of Virginia. Neither party filed exceptions to the opinion and recommended decision. On November 23, 1993, the administrative law judge transmitted the record to the Acting Administrator. The Acting Administrator has carefully considered the entire record in this matter and pursuant to 21 CFR 1316.67, hereby issues his final order in this matter based upon findings of fact and conclusions of law as hereinafter set forth.

The Acting Administrator finds that Respondent's controlled substance license was revoked by the Commonwealth of Virginia, Virginia Board of Medicine on October 7, 1993. This revocation was based upon allegations concerning the improper prescribing and dispensing of controlled substances.

Consequently, Respondent is no longer authorized to prescribe, dispense, administer or otherwise handle controlled substances in the Commonwealth of Virginia. The Acting Administrator concludes that DEA does not have the statutory authority under the Controlled Substances Act to issue a registration if the applicant is without state authority to handle controlled substances. 21 U.S.C. 802(21) and 823(f). The Acting Administrator and his predecessors have consistently so held. See Ramon Pla, M.D., Docket No. 86–54, 51 FR 41168 (1986); George S. Heath, MD., Docket No. 86–24, 51 FR 26610 (1986); Dale D. Shahan, D.D.S., Docket No. 85–57, 51 FR 23481 (1986); and cases cited therein.

Respondent concedes that his license to practice medicine in the Commonwealth of Virginia is revoked and does not contest the Government's motion for summary disposition at this time. Therefore, the Acting Administrator concludes that Respondent's DEA Certificate of Registration must be revoked.

Accordingly, the Acting Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that the DEA Certificate of Registration, AG3146431, previously issued to William G. Gray, M.D., be, and it hereby is, revoked and that any pending applications for renewal of such registration be, and they hereby are, denied. This order is effective February 10, 1994.

Dated: February 4, 1994.

Stephen H. Greene,

Acting Administrator of Drug Enforcement.

[FR Doc. 94–3031 Filed 2–9–94; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 93–13]

James Henry Holmes, M.D.; Partial Revocation of Registration

On October 23, 1992, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), directed an Order to Show Cause to James Henry Holmes, M.D. (Respondent), proposing to revoke his DEA Certificate of Registration, BH0285331, as a practitioner under 21 U.S.C. 824(a)(4), and to deny any pending applications under 21 U.S.C. 823(f). The Order to Show Cause alleged that the continued registration of the Respondent would be inconsistent with the public interest.

The Respondent requested a hearing on the issues raised in the Order to Show Cause. The matter was docketed before Administrative Law Judge Paul A. Tenney. Following prehearing procedures a hearing was held in Sacramento, California on April 20, 1993.

On July 1, 1993, Judge Tenney issued his findings of fact, conclusions of law, and recommended ruling in which he recommended that the Respondent's registration be continued and that he be given a formal reprimand. The Government filed exceptions to this opinion, and on August 13, 1993, the administrative law judge transmitted the record of the proceedings to the Administrator.

The Acting Administrator has considered the record in its entirety and, pursuant to 21 CFR 1316.67, enters his final order in this matter, based on findings of fact and conclusions of law as hereinafter set forth.

The administrative law judge found that the Respondent received a degree in physical therapy from Loma Linda University in 1960, and worked as a physical therapist until he entered medical school in 1971. Respondent received his medical degree in 1974, and entered private practice in Stockton, California in 1976, where he continued as a sole practitioner for seventeen years.

In 1989, the California Department of Health Services noted that the Respondent frequently appeared as a prescribing physician for patients who were under investigation for Medi-Cal fraud. In 1990, the State Attorney General initiated an investigation of the Respondent. On October 2, 1990, a State investigator, operating in an undercover capacity, made a visit to the Respondent's office. The investigator, who gave no indication of immediate pain, asked for a prescription for Tylenol with codeine. The Respondent provided the undercover investigator with a prescription for the substance, ostensibly on the belief that the patient's job as a construction worker might require occasional treatment for pain.

The undercover investigator returned to Respondent's office on four more occasions between November 1990 and April 1991, and on each occasion, Respondent issued the undercover investigator a prescription for Tylenol with codeine. The undercover investigator did not give any indication of pain during these visits. Respondent testified that he issued these prescriptions because he assumed that since he had issued the undercover investigator a prescription in the past, there was a valid medical need for the drug prescribed.

On February 25, 1991, another undercover investigator, posing as the first investigator's friend, went to Respondent's office and requested and received a prescription for Tylenol with codeine, based upon the Respondent's stated belief that the individual would experience discomfort similar to that of the first undercover investigator. On several occasions, the Respondent refused to issue undercover investigators prescriptions for Tylenol with codeine.

On May 28, 1991, an undercover investigator who had initially been refused a prescription by Respondent, telephoned Respondent and asked for a prescription for Tylenol with codeine. When Respondent asked if the undercover investigator was having any problems, the investigator stated, "[o]h yeah, that's right. I have to have a problem. My elbow hurts." Respondent then telephoned in a prescription for Tylenol with codeine for the undercover investigator.

On June 11, 1991, the initial undercover investigator telephoned Respondent and warned him that investigators were asking about Respondent's prescriptions. Subsequently, Respondent added the notation "back pain" to the undercover investigator's medical records. On July 31, 1991, the undercover investigator

returned to Respondent's Office and was again issued a prescription for Tylenol with codeine for no apparent medical need.

Judge Tenney found that the Respondent, on eight occasions during the period October 1990 to May 1991, prescribed the Schedule III controlled substance Tylenol #3 with codeine to undercover operatives, without a legitimate medical purpose, but under strong mitigating circumstances; and that on four occasions in March through May 1991, Respondent refused to so prescribe the same substance.

In November 1991, the State of California filed an eight count misdemeanor complaint alleging that Respondent had improperly prescribed Tylenol with codeine. On January 6, 1992, the Respondent pled guilty to a single misdemeanor count of a violation of the California Health and Safety Code, for prescribing a controlled substance without a legitimate medical purpose. Subsequently, the State of California suspended the Respondent for an indefinite period from participation as a provider in the California Medical Assistance Program (Medi-Cal). The Respondent has been excluded by the U.S. Department of Heath and Human Services from participation in the Medicare and Medicaid programs for period of three years. However, since this was a permissive exclusion it is not considered as a separate ground for revocation under 21 U.S.C. 824 (a)(5).

The administrative law judge found that the Respondent indicated remorse for his conduct, and testified that he had instituted new office procedures before approving any prescriptions for controlled substances. The administrative law judge further found that the Respondent is an active highly respected member of the Stockton community and is one of the few area physicians who will accept Medi-Cal patients. The Respondent provides free medical assistance for the homeless, and a number of his patients wrote letters on his behalf and attested to his fine character.

Under 21 U.S.C. 824(a)(4), the Administrator of the Drug Enforcement Administration may revoke the registration of a practitioner if he determines that such registration would be inconsistent with the public interest as determined under 21 U.S.C. 823.

Pursuant to 21 U.S.C. 823(f), "[i]n determining the public interest, the following factors shall be considered:

(1) The recommendation of the appropriate State licensing board or disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety."

It is well established that these factors are to be considered in the disjunctive, i.e., the Administrator may properly rely on any one or a combination of factors, and give each factor the weight he deems appropriate. Henry J. Schwartz, Jr., M.D., 54 FR 16422 (1989).

Of the stated factors, the administrative law judge found that the Government established a prima facie case for revocation under 21 U.S.C. 823(f) (2) through (5). Judge Tenney found that the evidence supported a finding that the Respondent's experience with regard to dispensing controlled substances and compliance with applicable laws included eight occasions where he prescribed controlled substances absent a legitimate medical purpose and while not acting in the usual course of medical practice; that the Respondent was convicted under State law of unlawfully prescribing a controlled substance; and that the Respondent's conduct in falsifying patient records posed a threat to the public health and safety.

The administrative law judge concluded that the mitigating circumstances outweigh the prima facie violations. Judge Tenney found that Respondent trusted the representations of the undercover investigator. In addition, on four occasions, Respondent refused to prescribe Tylenol with codeine to the undercover investigators. Respondent is respected in the community and has changed his prescribing practices.

As a result the administrative law judge concluded that even though Respondent prescribed controlled substances for no legitimate medical purpose, Respondent should be permitted to continue his registration. Accordingly the administrative law judge recommended that Respondent be given a formal reprimand for his prescribing practices and that he be given another chance.

The Government filed an exception to the conclusion of the administrative law judge that the violations of law occurred under strong mitigating circumstances. The Government contended that the Respondent had been identified as a high prescriber of controlled substances by a California State agency and had prescribed controlled substances without a legitimate medical purpose notwithstanding the quality of his interaction with his patients. The Government also opposed the administrative law judge's recommendation that the Respondent's registration be continued, and recommended revocation. The Government also recommended, in the alternative, that if a lesser sanction is warranted, then the Respondent's registration should be continued in Schedules IV and V only, subject to restrictions that he maintain a separate journal of controlled substances prescribed, administered, or dispensed, and that all such records be made available to DEA on demand.

The Acting Administrator adopts the findings of fact, conclusions of law, and recommended ruling of Administrative Law Judge Tenney except as otherwise noted herein. The Acting Administrator specifically declines to adopt the finding of the administrative law judge that the mitigating circumstances of this case outweigh the prima facie violations. There is no doubt in the record that the Respondent's conduct in prescribing controlled substances to the undercover operatives was unlawful, that he attempted to conceal this unlawful conduct, and that he continued this conduct even when he became aware that his practices were in question.

Based on the foregoing, the Acting Administrator concludes that the Respondent's continued registration as a practitioner in Schedules II and III is inconsistent with the public interest. However, the mitigating circumstances indicate that the Respondent would not pose a risk to the public interest if he were to continue as a practitioner under the following conditions and restrictions. Respondent will maintain a separate journal of all controlled substances prescribed, administered, or dispensed for a period of one year, and the Respondent will agree to make all such records available for DEA inspection, during normal business hours, without the requirement of a notice of inspection or an administrative inspection warrant.

Accordingly, the Acting Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration, BH0285331, issued to James Henry Holmes, M.D., be and it hereby is, revoked, in Schedules II and III; and orders that it be continued in Schedules IV and V, under the terms

and conditions noted herein. This order is effective March 14, 1994.

Dated: February 4, 1994.

Stephen H. Greene,

Acting Administrator of Drug Enforcement.

[FR Doc. 94-3028 Filed 2-9-94; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 92-36]

Jerry Neil Rand, M.D.; Denial of Application

On February 13, 1992, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Jerry Neil Rand, M.D. (Respondent), of San Diego, California, proposing to deny his application for registration as a practitioner on grounds that his registration would be inconsistent with the public interest, as set forth in 21 U.S.C. 823(f). The Order to Show Cause alleged that from at least mid-1986 Respondent self-administered hypnotic sedatives and pain medication; on November 21, 1987, Respondent was arrested for the illegal possession of Schedule III and IV controlled substances in Orange County, California; in May 1988, the Medical Board of California filed a complaint against the Respondent alleging that he was intoxicated while attending a patient, that he failed to supervise his physician assistants by pre-signing prescriptions, and that he engaged in unprofessional conduct in the treatment of five patients; and the Medical Board of California (Medical Board), on September 18, 1989, entered a stipulated decision and order which revoked the Respondent's medical license, and then stayed that order and placed him on five years probation.

Respondent, through counsel, filed a request for hearing on the issues raised by the Order to Show Cause, and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. Following prehearing procedures, a hearing was held in San Diego, California on June 25, 1992. On July 7, 1993, in her opinion and recommended ruling, findings of fact, conclusions of law, and decision, the administrative law judge recommended that the Respondent's application for a DEA Certificate of Registration be granted subject to certain restrictions.

No exceptions to Judge Bittner's opinion were filed by either party. On August 9, 1993, the administrative law judge transmitted the record to the Administrator.

The Acting Administrator has carefully considered the entire record in this matter and, pursuant to 21 CFR 1316.67, hereby issues his final order in this matter based upon findings of fact and conclusions of law as hereinafter set forth.

The administrative law judge found that the Respondent is a licensed physician in the State of California, under probation from the Medical Board. He graduated from the Chicago Medical School in 1972 and specialized in emergency medicine at hospitals in Illinois and California. In 1984, the Respondent opened an urgent care center in Orange County, California, which he operated until his entry into a drug rehabilitation program in April 1988.

The administrative law judge found that the Respondent sent a letter to the DEA in February 1990, advising that he had voluntarily terminated his previous DEA registration. Subsequently, in July 1990, Respondent submitted an application for a new DEA Certificate of Registration.

During the hearing, the Government presented evidence that over a period of several years, from at least mid-1986, the Respondent was accused of self-administering hypnotic sedatives and pain medications, including a daily dose of 40 to 50 mg. of Valium, a Schedule IV controlled substance; that the Respondent entered three separate substance abuse treatment facilities in August, October, and November of 1987, where he was diagnosed as drug dependent; that on November 21, 1987, Respondent was arrested in Orange County, California for illegal possession of controlled substances for his own use, including Dolophine, a Schedule II controlled substance, Anexsia, Fiorinal and Fioricet, Schedule III controlled substances, and Darvon, a Schedule IV controlled substance, which resulted in a State court issuing a temporary restraining order prohibiting the Respondent from practicing medicine; that on September 18, 1989, the Medical Board issued a stipulated decision and order which revoked Respondent's medical license, stayed the revocation, and placed the Respondent on five years probation; that the Respondent's ex-girlfriend had told a Medical Board investigator that Respondent had abused Demerol, a Schedule II controlled substance, in his home, that he had telephoned local pharmacies for controlled substance deliveries to his home or office, and that he had abused barbiturates; that an employee of the Respondent told an investigator that Demerol was routinely missing from office stock, and that the Respondent kept unsecured controlled substance samples in his desk; and that a State audit of the Respondent's office had determined that he could only account for nine of fifty-six DEA Schedule II order forms that he had received in 1986.

Respondent testified at the hearing that he did not believe that all of the Government's evidence was factually correct. He maintained that the Anexsia found by the Orange County police was prescribed by an orthopedist, and the other noted substances were office samples. He also disagreed with his ex-girlfriend's representation, and asserted that she was a Demerol abuser, and in fact that he was allergic to Demerol. Regarding his office practice, he admitted that he had pre-signed prescriptions for his physician assistants, but was not sure what happened to his DEA Schedule II order forms.

The administrative law judge found that in May 1988, the Medical Board filed an accusation alleging that the Respondent had been arrested in 1987; had been diagnosed as drug dependent; that as a result of his usage of controlled substances or dangerous drugs he had "become a danger to himself, other persons or the public, or has impaired his ability to practice his profession safely"; had treated a patient while intoxicated; and failed to adequately supervise physician assistants by signing blank prescription forms. A supplemental accusation, filed in June 1988, and amended in March 1989, alleged that between 1985 and 1986, the Respondent provided incompetent and grossly negligent medical care to five patients.

The administrative law judge found that the Respondent admitted the substantive allegations of the accusations when he entered into a stipulated decision and order with the Medical Board. The order, effective September 25, 1989, revoked Respondent's medical license, stayed the revocation and placed Respondent of five years probation. The order further required, *inter alia*, that the Respondent enter a drug rehabilitation program, an refrain from practicing medicine until the Medical Board and the drug rehabilitation program concluded that it would be safe for him to reenter the practice of medicine.

The Respondent testified that he suffered a back injury in 1984, and received a regimen of treatment which included traction and various controlled substances. In 1986, he had spinal fusion surgery and was continued on pain medications and anti-depressants. He testified that various physicians and psychiatrists prescribed controlled substances for pain, and he would

frequently overdose, which included the night of his arrest by Orange County police. The Respondent testified that he entered a methadone treatment center in 1987, which did not help; was subsequently hospitalized for three weeks, where he only received more pain medication; and then entered a three week drug abuse rehabilitation program at Saint Joseph's Hospital in April 1988.

Witnesses for the Respondent, including a chemical dependency counselor, a psychiatrist, and physicians testified that after Respondent left St. Joseph's Hospital, he attended an inpatient drug rehabilitation program at Rancho L'Abri for two-and-a-half months, where he received detoxification treatment and therapy; he then moved to Alternative Solutions, a halfway house type of recovery center, where he resided for approximately two years. The witnesses agreed that the Respondent had embraced the recovery program, had made steady progress, was aware of the negative impact of drugs, and had abstained from drugs. Various letters from other individuals also attested to the Respondent's attendance in recovery programs.

Witnesses also testified as to the Respondent's continuing participation in the Medical Board Diversion Program in which he attends mandated twice weekly counseling, and submits to random visits from compliance officers and urine screenings. The Respondent testified that for the 18 months following his stay at the halfway house, he was employed in a clinic where he engaged in general practice and addiction medicine.

The Administrator may deny an application for registration if he determines that such registration would be inconsistent with the public interest. Pursuant to 21 U.S.C. 823(f), "[i]n determining the public interest, the following factors shall be considered:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety."

It is well established that these factors are to be considered in the disjunctive, i.e., the Administrator may properly rely on any one or a combination of factors, and give each factor the weight he deems appropriate. Henry J. Schwarz, Jr., M.D., Docket No. 88–42, 54 FR 16422 (1989).

The administrative law judge concluded that the first, fourth, and fifth factors were relevant and found that as to the first factor, the Respondent's medical license is restricted by a five year probation; that as to factor four, the Respondent unlawfully obtained and abused controlled substances; and that as to factor five, the Medical Board findings regarding his treatment of patients were pertinent.

Judge Bittner further found that as a result of his personal abuse of controlled substances, the Respondent abrogated his professional responsibilities as a physician and his responsibilities as a DEA registrant; that he was hospitalized three times for substance abuse; voluntarily surrendered his previous DEA registration; and had his State medical license placed on probation for a period of five years. The administrative law judge concluded that there is a lawful basis for denying the Respondent's application.

The administrative law judge also found that the Respondent has demonstrated his current fitness to possess a DEA registration, insofar as his substance abuse began as a result of a chronic pain condition generated by a back injury; that the Respondent admitted his drug abuse and indicated remorse for past misconduct; that the Respondent presented credible evidence of appropriate medical and rehabilitative treatment; and that he had not used drugs for over three years preceding the hearing, and was committed to a drug-free lifestyle.

The administrative law judge found that several witnesses credibly testified that the Respondent was committed to his recovery. The administrative law judge further credited the Respondent's stated intent to establish an addictionology medical practice and his contention that he needed controlled substance authority to be effective in this field. Judge Bittner found that the Respondent is unlikely to abuse controlled substances in the future or otherwise abuse the privileges of a DEA registrant.

As a result, the administrative law judge recommended that the Administrator grant the Respondent's application for a DEA registration subject to certain restrictions. These restrictions included provisions that the Respondent be limited to prescribing controlled substances, except in a hospital setting where he would be allowed to administer controlled substances; that he not possess or store any controlled substances in his office or home (other than those lawfully prescribed by another practitioner); that he not dispense, other than by prescription, any controlled substance from his office or home; that he not write any controlled substance prescriptions for himself, or any family member; that he not obtain for his own use any controlled substances, except on written prescription by another practitioner; that he notify the DEA on each occasion he acquires a controlled substance by prescription; that he submit quarterly to the DEA for a period of two years a log of all controlled substance prescriptions he issues; and finally that he complete an appropriate continuing medical education course, approved by the Medical Board, in the proper handling of controlled substances.

The Acting Administrator concurs with the administrative law judge's findings of fact and conclusions of law, except as herein noted. The Acting Administrator disagrees with the administrative law judge's finding that the Respondent is unlikely to abuse controlled substances or the privileges of a registrant in the future. The Acting Administrator concludes that the Respondent's rehabilitative efforts, although laudable, are not sufficiently complete to ensure that he will not again succumb to the pressures of abusing controlled substances. The Acting Administrator does not adopt the administrative law judge's conclusion that the Respondent's registration, even with certain restrictions in place, would be in the public interest. The Acting Administrator declines to adopt the administrative law judge's decision and recommendation that the Respondent's application be granted. Accordingly, the Acting Administrator finds that the registration of the Respondent would not be in the public interest at this time.

The Acting Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that the application for a DEA Certificate of Registration of Jerry Neil Rand, M.D., be, and it hereby is, denied. This order is effective February 10, 1994.

Dated: February 4, 1994.

Stephen H. Greene,

Acting Administrator of Drug Enforcement.

[FR Doc. 94–3026 Filed 2–9–94; 8:45 am]

BILLING CODE 4410–09–M

Herbert J. Robinson, M.D.; Revocation of Registration

On August 31, 1993, the Deputy Assistant Administrator (then-Director), Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Herbert J. Robinson, M.D. (Respondent), of San Antonio, Texas, proposing to revoke his DEA Certificate or Registration, BR2619887, and deny any pending applications for registration as a practitioner. The statutory basis for the Order to Show Cause was that Dr. Robinson had materially falsified a response on his DEA application for registration. 21 U.S.C. 824(a)(1).

The Order to Show Cause was served on Dr. Robinson on September 9, 1993. By letter dated October 1, 1993, the Respondent submitted, through counsel, copies of various documents and a written statement in which he waived his right to a hearing in this matter. The Acting Administrator has carefully considered the Respondent's written submission and the DEA investigative file in this case. Accordingly, under the provision of 21 CFR 1301.54 and 1301.57, the Acting Administrator enters his final order in this matter, based on findings of fact and conclusions of law as hereinafter set forth.

The Acting Administrator finds that in June 1986, the DEA, in conjunction with the Texas Board of Medical Examiners (Board) initiated an investigation based on a review of pharmacy records which indicated that the Respondent's prescribing practices might not be for legitimate medical uses. The Respondent prescribed large quantities of the controlled substance Talwin and the non-controlled substance pyribenzamine (PBZ), which when used in combination, are highly desirable on the street and is known as "T's and Blues".

In 1987, the Board subpoenaed patient records from the Respondent, which he refused to provide. On September 24, 1988, the Board suspended Respondent's medical license indefinitely until he provided the records in question. Meanwhile, the DEA was unable to determine the Respondent's whereabouts, and the Respondent's previous DEA Certificate of Registration, AR0950469, expired in normal course on April 30, 1989, and was not renewed.

Thereafter, on January 12, 1991, the Board issued an order terminating the Respondent's license suspension and indicated that he had satisfactorily provided them the records in question, and concluded that there was no apparent violation of the State Medical Practice Act.

On January 23, 1991, the Respondent executed a Renewal Application for DEA Registration utilizing the DEA renewal form sent to him prior to the 1989 expiration of his registration. On February 7, 1991, the DEA sent the Respondent a form letter indicating that since his old registration number had expired and been retired, it would be necessary for him to complete an application for a new registration. On February 13, 1991, the Respondent executed an application for registration in which he checked "NO" in answer to question 4(b) which states:

> Has the applicant ever been convicted of a crime in connection with controlled substances under State or Federal law, or ever surrendered or had a Federal controlled substance registration revoked, suspended, restricted or denied, or ever had a State professional license or controlled substance registration revoked, suspended, denied, restricted or placed on probation?

Based on the information that the Respondent provided in this application, the DEA routinely processed his application and assigned a new DEA registration number, BR2619887. Had the Respondent truthfully indicated the fact of his prior State license suspension, a new DEA investigation would likely have been convened to determine all the underlying facts and circumstances before action was taken on his application.

In their written submission, Counsel for Respondent represented that the response was "unintentionally in error in part", while Respondent, in his written statement, explained that:

> The response stating "no" to a question which asked in part whether you had ever has [sic] a state professional license or controlled substance registration revoked, suspended, denied, restricted, or placed on probation was in error if the response is limited to the professional license suspension and correct if applied to the remainder of the question.

A DEA application for registration is an application pursuant to 21 U.S.C. 823(f) and 21 CFR 1301.21. The Acting Administrator finds that the response made by the Respondent to Question 4(b) in his application for registration was untrue.

The Acting Administrator further finds that the Respondent's medical license was suspended from September 1988 until January 1991. The restoration of his medical license was contingent on the Respondent taking action to provide specific patient records to the Board. By January 1991, the Respondent ostensibly completed a series of administrative actions in order to restore himself to full State practice. In addition to State mandates, Respondent also knew that he had to meet Federal registration requirements: he filed a DEA renewal application form (albeit outdated), which does not have a question regarding revocation or suspension of State professional licenses, with DEA in January 1991; received a letter from DEA requesting that he file a new application form on February 7, 1991; and filed a new application on February 13, 1991.

The Acting Administrator finds that at the time of his application for registration, the Respondent knew that his State professional license had been previously suspended, and that the Respondent knew or should have known that the response he made to Question 4(b) was false.

The Administrator may revoke or suspend a DEA Certificate of Registration under 21 U.S.C. 824(a), upon a finding that the registrant:

(1) Has materially falsified any application filed pursuant to or required by this subchapter or subchapter II of this chapter;

(2) Has been convicted of a felony under this subchapter or subchapter II of this chapter or any other law of the United States, or of any State relating to any substance defined in this subchapter as a controlled substance;

(3) Has had his State license or registration suspended, revoked, or denied by competent State authority and is no longer authorized by State law to engage in the manufacturing, distribution, or dispensing of controlled substances or has had the suspension, revocation, or denial of registration recommended by competent State authority;

(4) Has committed such acts as would render his registration under section 823 of this title inconsistent with the public interest as determined under such section;

(5) Has been excluded (or directed to be excluded) from participation in a program pursuant to Section 1320a–7(a) of Title 42.

The Acting Administrator concludes that the Respondent materially falsified his application for registration and that his registration must be revoked. Bobby Watts, M.D., 58 FR 46995 (1993); see also, Jess B. Caderao, M.D., 48 FR 38560 (1983) and Ronald H. Futch, M.D., 53 FR 38990 (1988). However, since the Respondent has stated in his submissions that he wishes to cooperate fully with the DEA in the resolution of this matter, the Acting Administrator has accepted this representation in mitigation. Accordingly, if after the

passage of one year from the effective date of this order, the Respondent applies for DEA registration, and has otherwise been in compliance with the laws and regulations relating to controlled substances, his application will be given favorable consideration.

The Acting Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that the DEA Certificate of Registration, BR2619887, previously issued to Herbert J. Robinson, M.D., be, and it hereby is, revoked. This order is effective March 14, 1994.

Dated: February 4, 1994.

Stephen H. Greene,

Acting Administrator of Drug Enforcement.

[FR Doc. 94-3027 Filed 2-9-94; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 93-48]

Rebecca Wright Twine, M.D.; Revocation of Registration

On April 5, 1993, the Deputy Assistant Administrator (then-Director) of the Office of Diversion Control, Drug Enforcement Administration (DEA), issued to Rebecca Wright Twine, M.D. (Respondent), of Uniondale, New York, an Order to Show Cause proposing to revoke Respondent's DEA Certificate of Registration, AW8066070, and to deny any pending applications for registration as a practitioner under 21 U.S.C. 823(f). The proposed action was predicated on Respondent's lack of authorization to handle controlled substances in the State of New York. 21 U.S.C. 824(a)(3).

The Order to Show Cause was served on Respondent in person. Respondent, acting on her own behalf, filed a letter which maintained that the issue raised in the Order to Show Cause would be resolved in other courts and that it was not necessary to proceed with a hearing. Thereafter, the matter was docketed before Administrative Law Judge Mary Ellen Bittner who directed the parties to file statements of their respective positions as to the current status of the case.

Respondent did not respond to the administrative law judge's order. The Government filed its case-status report and noted, *inter alia*, that DEA could not be deprived of jurisdiction by other judicial or administrative bodies. On June 25, 1993, the administrative law judge then filed a memorandum and order, notifying Respondent that DEA did have jurisdiction to hear the issue raised by the Order to Show Cause and that if Respondent wanted a hearing, she should file a request on or before July 23, 1993.

Respondent failed to file such a request. On August 2, 1993, the administrative law judge filed an order terminating the proceedings. Pursuant to 21 CFR 1301.54(a) and 1301.54(d), Respondent is deemed to have waived her opportunity for a hearing. Accordingly, the Acting Administrator now enters his final order in this matter without a hearing and based upon the investigative file. 21 CFR 1301.57.

The Acting Administrator finds that Respondent's medical license was revoked by the New York State Department of Health, effective September 25, 1991. This revocation was based upon a finding that Respondent was mentally unfit to practice medicine. Consequently, Respondent is no longer authorized to prescribe, dispense, administer or otherwise handle controlled substances in any schedule in the State of New York.

The Drug Enforcement Administration cannot register or maintain the registration of a practitioner who is not duly authorized to handle controlled substances in the state in which she conducts her business. 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. See James H. Nickens, M.D., 57 FR 59847 (1992); Elliott F. Monroe, M.D., 57 FR 23246 (1992); Bobby Watts, M.D., 53 FR 11919 (1988).

No evidence of explanation or mitigating circumstances has been offered by Respondent. Therefore, the Acting Administrator concludes that Respondent's DEA Certificate of Registration must be revoked.

Accordingly, the Acting Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration, AW8066070, previously issued to Rebecca Wright Twine, M.D., be, and it hereby is, revoked, and any pending applications for the renewal of such registration, be, and they are, denied. This order is effective February 10, 1994.

Dated: February 4, 1994.

Stephen H. Greene,

Acting Administrator of Drug Enforcement.

[FR Doc. 94-3030 Filed 2-9-94; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 92-63]

Vernor Prescription Center; Revocation of Registration

On June 12, 1992, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Vernor Prescription Center (Respondent), of Detroit, Michigan, proposing to revoke Respondent's DEA Certificate of Registration, BV1142784, and to deny any pending applications for registration as a practitioner under 21 U.S.C. 823(f). The Order to Show Cause alleged that Respondent's continued registration is inconsistent with the public interest, as that term is used in 21 U.S.C. 823(f) and 824(a)(4).

Respondent, represented by its owner/operator, timely filed a request for a hearing on the issues raised in the Order to Show Cause and the matter was docketed before Administrative Law Judge Paul A. Tenney. Following prehearing procedures, a hearing was held, beginning on October 14, 1992, in Detroit, Michigan.

On January 19, 1993, Judge Tenney issued his findings of fact, conclusions of law and recommended ruling, recommending that Respondent's DEA Certificate of Registration be suspended for one year with respect to dispensing, without a prescription from a physician, controlled substances listed in Schedule V. The Government filed exceptions pursuant to 21 CFR 1316.66. Respondent, through counsel who was retained after the hearing, filed a response to the Government's exceptions. The response argued that the exceptions were not timely filed but the exceptions were filed before expiration of the 20-day time limit provided by 21 CFR 1316.66.

On March 11, 1993, Judge Tenney transmitted the record of the proceedings, including the Government's exceptions and Respondent's response to the exceptions, to the Administrator. The Acting Administrator has carefully considered the record in its entirety and adopts, in part, the opinion and recommended decision of the administrative law judge and makes independent findings and conclusions of his own. Pursuant to 21 CFR 1316.67, the Acting Administrator hereby issues his final order in this matter.

The Acting Administrator finds that Respondent stocked and sold Schedule V cough preparations primarily over-the-counter. The Controlled Substances Act and its attendant regulations permits a pharmacy to dispense a

Schedule V controlled substance without a prescription issued by a practitioner, as long as the drug is dispensed for a legitimate medical purpose. If a customer chooses to obtain a Schedule V cough preparation over-the-counter, the pharmacy must have the purchaser sign a logbook and record various other information pursuant to 21 CFR 1306.32(e). An audit was conducted by DEA Diversion Investigators of Respondent's logbook of all over-the-counter sales of such cough preparations covering the period January 1, 1988 through February 9, 1989. This audit revealed that on 32 occasions, Respondent sold a Schedule V cough preparation to the same individual on consecutive days, in violation of 21 CFR 1306.32(b).

This audit also revealed that there were 32 individuals who purchased more than 35 bottles of Schedule V cough preparations within the audit period. Nine of these purchasers bought the cough syrup in excess of 100 times during the audit period. Subsequent interviews of some of these high volume purchasers revealed that they were in fact addicted to codeine and supported their habit by purchasing the Schedule V cough preparations from Respondent. Significantly, one of the persons interviewed revealed that on some occasions when he went to Respondent to purchase the cough preparation, there were three or four people ahead of him in line to buy these cough medicines.

Further investigation revealed that Respondent made excessive purchases of Schedule V cough preparations from October 1988 until July 1992. For the months of October and November 1988, Respondent ordered 912 four-ounce bottles. For the months of February, March and May 1989, Respondent purchased 1,536 bottles for an average of 512 bottles per month for those three months. In September 1989, Respondent ordered 1,260 bottles, although the distributors actually only sold Respondent 606 bottles for that month.

For 1990, Respondent purchased an average of 149 bottles per month over a seven month period. In 1991, Respondent ordered an average of 124.25 bottles for the months in which Respondent ordered such cough preparations. For the months of May, June and July 1992, Respondent purchased an average of 68 bottles per month.

The administrative law judge found that Respondent's declining purchases of these Schedule V cough preparations were a mitigating factor. The Acting Administrator concludes however, that the fact that such purchases declined is not a mitigating circumstance because the purchases remained excessive. In January 1990, a drug distributor sales representative informed a DEA Investigator that the average pharmacy purchased 12 to 14 bottles of Schedule V cough preparations per month during cold and flu season. In the State of Michigan, the average purchase by a pharmacy for these cough preparations was approximately 14 bottles per month. This figure was established in Barton Drug, Inc., Docket No. 91–28, 57 FR 44211 (1991) and the Acting Administrator takes official notice of this statistic. Hence, Respondent's purchases remained excessive.

In addition, the DEA notified wholesalers and distributors sometime in the late 1980's to monitor the sales of these cough preparations to pharmacies located in Michigan due to an ongoing problem of the abuse of these products by customers of various retail pharmacies. Any decline in purchases of these cough preparations by Respondent was in no small part due to the monitoring by the various distributors. The Acting Administrator also notes that the sales figures available for 1992 only included the summer months. Therefore, the average of 68 bottles a month is excessive in light of the fact that these cough preparations were not purchased during cold and flu season.

The Acting Administrator finds that the February 9, 1989 audit revealed that Respondent failed to provide all of his invoices for purchases of these Schedule V cough preparations.

In evaluating whether Respondent's continued registration by the Drug Enforcement Administration would be inconsistent with the public interest, as that term is used in 21 U.S.C. 824(a)(4), the Acting Administrator considers the factors enumerated in 21 U.S.C. 823(f). They are as follows:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable Sate, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

In determining whether a registrant's continued registration is inconsistent with the public interest, the Acting Administrator is not required to make findings with respect to each of the factors listed above. Instead, the Acting Administrator has the discretion to give each factor the weight he deems appropriate, depending upon the facts and circumstances of each case. See *David E. Trawick, D.D.S.*, Docket No. 88–69, 53 FR 5326 (1988).

The Acting Administrator concurs with the opinion and recommended decision of the administrative law judge to the extent that factors two and five of the public interest factors apply. Respondent not only often dispensed Schedule V cough preparations within a 48-hour period to the same customer in violation of 21 CFR 1306.32(b), he also dispensed excessive amounts of these controlled substances to various customers without a legitimate medical reason contrary to 21 U.S.C. 829(c) and 21 CFR 1306.04(a). The owner/operator, as a professional pharmacist, should have known that many of the excessive purchases of these controlled substances resulted in transactions to abusers of such substances. The Acting Administrator will not permit a pharmacist to abdicate his professional and legal responsibilities merely because a drug is dispensed without a prescription. See *Liberty Discount Drugs, Inc.*, Docket No. 88–73, 54 FR 30116 (1989). Respondent also failed to provide purchase invoices for some of these Schedule V controlled substances in violation of 21 U.S.C. 827 and 21 CFR 1304.24.

The administrative law judge, however, did not recommend complete revocation of Respondent's DEA Certificate of Registration. Rather he recommended a suspension for one year of Respondent's Schedule V dispensing privileges without a prescription. This recommendation was based upon the fact that Respondent's purchases of Schedule V cough preparations had declined, and because Respondent testified he had monitored these purchases and in some cases imposed more stringent requirements for dispensing these controlled substances than were required by law.

The Acting Administrator cannot agree with this recommended remedy. As noted above, Respondent's purchases remained excessive (especially in light of the average amounts purchased by retail pharmacies), despite the fact that an audit had been performed and that distributors took active measures to monitor and curtail their sales to Michigan pharmacies. Moreover, Respondent's actions belie his assertions that he took active measures to monitor the sale of the Schedule V cough preparations.

The Acting Administrator finds that the same remedy must be imposed in this case as was imposed in the cases of

Liberty Discount Drugs, Inc., Docket No. 88–73, 54 FR 30116 (1989) and Barton Drug, Inc., Docket No. 91–28, 57 FR 44211 (1991), where the facts were virtually indistinguishable from the facts in the present case. In these two cases, the Administrator ordered that the pharmacies' registrations be revoked in their entirety. To adequately protect the public interest, the same remedy must be imposed in the present case.

Accordingly, the Acting Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration, BV1142784, previously issued to Vernor Prescription Center, be, and it hereby is, revoked, and any pending applications for the renewal of such registration, be, and they hereby are, denied. This order is effective March 14, 1994.

Dated: February 4, 1994.

Stephen H. Greene,

Acting Administrator of Drug Enforcement.

[FR Doc. 94–3032 Filed 2–9–94; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–29, 410]

A.O. Smith Electrical Products Co., Upper Sandusky, OH; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on January 18, 1994 in response to a worker petition which was filed on January 5, 1994 on behalf of workers at A.O. Smith Electrical Products Company, Upper Sandusky, Ohio.

An active certification covering the petitioning group of workers remains in effect (TA–W–26, 762). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Workers who are laid off prior to March 24, 1994 will be eligible for benefit under the existing certification. Workers at the subject firm who are laid off after that date are encouraged to resubmit a petition to apply for trade adjustment assistance benefits.

Signed at Washington, DC this 31st day of January, 1994.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 94–3107 Filed 2–9–94; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The Purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 21, 1994.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 21, 1994.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 24th day of January, 1994.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Smith Energy Services (Co.)	Odessa, TX	1/24/94	01/15/94	29,415	Oil and Gas.
Sonoco Fibre Drum, Inc. (GCW)	Saraland, AL	1/24/94	01/05/94	29,416	Fibre & Plastic Drums.
R.P. Nixon Operations, Inc. (Co.)	Hays, KS	1/24/94	01/11/94	29,417	Oil and Gas.
Rohr Industries (workers)	Chula Vista, CA	1/24/94	11/18/93	29,418	Casings for Aircraft Engines.
Publix Group L.P. (workers)	New York, NY	1/24/94	01/03/94	29,419	Dress and Sport Shirts.
National Brush Co. (workers/Co.)	Aurora, IL	1/24/94	01/07/94	29,420	Brooms and Brushes.
Kraft General Foods (IBT)	Avon, NY	1/24/94	12/17/93	29,421	Jello Pudding and Cool Whip.
KSG-Botin (Piston Facility) (workers)	South Haven, MI	1/24/94	01/06/94	29,422	Aluminum Pistons, Cast Moldings.
J.K. Operating Corp. (workers)	Kulpmont, PA	1/24/94	01/12/94	29,423	Ladies' and Juniors Sleepwear
Jay-Lan Corp. (workers)	Hays, KS	1/24/94	01/11/94	29,424	Crude Oil.
Great Southern Oil & Gas Co. (Co.)	Lafayette, LA	1/24/94	01/05/94	29,425	Oil and Gas.
G & S Investments, Inc. (workers)	Praque, OK	1/24/94	01/10/94	29,426	Crude Oil.
Tech-Aid (workers)	Oak Brook, IL	1/24/94	01/12/94	29,427	Technical Services.
Carter South Co. (Co.)	Blackshear, GA	1/24/94	01/12/94	29,428	Canvas Footwear.
Forwest Drilling, Inc. (workers)	Houston, TX	1/24/94	01/10/94	29,429	Oil.
Exxon Co. USA (workers)	Carrollton, TX	1/24/94	01/06/94	29,430	Oil and Gas.
Arco Oil and Gas Co. (Co.)	Dallas, TX	1/24/94	01/12/94	29,431	Oil and Gas.
Arco Oil and Gas Co. (Co.)	Midland, TX	1/24/94	01/12/94	29,432	Oil and Gas.
Arco Oil and Gas Co. (Co.)	Houston, TX	1/24/94	01/12/94	29,433	Oil and Gas.
Arco Oil and Gas Co. (Co.)	Bakersfield, CA	1/24/94	01/12/94	29,434	Oil and Gas.
Arco Exploration & Production (Co.)	Plano, TX	1/24/94	01/12/94	29,435	Oil and Gas.
A.C.A. Lumber (Co.)	Beaver, WA	1/24/94	01/12/94	29,436	Dimensional Alder Lumber.

APPENDIX—Continued

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Philips Technologies, Airpax (workers)	Frederick, MD	1/24/94	01/11/94	29,437	Thermal Sensing Devices.
Canal Industries, Inc.(workers)	Stigler, OK	1/24/94	01/11/94	29,438	Girls' Dresses.
American Central Gas Co. (workers)	Odessa, TX	1/24/94	02/05/94	29,439	Gas Repairmen.

[FR Doc. 94–3109 Filed 2–9–94; 8:45 am]

BILLING CODE 4510–30–M

Changes in Emergency Unemployment Compensation (EUC) Benefit Period Durations for All States and the Beginning of Extended Benefit (EB) Periods for Three States

This notice announces changes in benefit period durations available under the Emergency Unemployment Compensation Program for all States resulting from amendments to the EUC law, and the beginning of Extended Benefit Periods for three States.

Background

The Emergency Unemployment Act of 1991, as amended by Public Law 103–152, extended the EUC program through April 30, 1994, with no EUC to be paid on any new claim to establish an EUC account after February 5, 1994. Section 2(b)(1)(B) of that law amended section 102(b)(2) of Public Law 102–164 by establishing the maximum number of weeks of benefits available in States at 13 or 7 weeks. Claimants filing initial claims for EUC for weeks of unemployment beginning after October 2, 1993 are entitled to either 13 to 7 weeks of EUC, depending on the unemployment rates experienced in their State.

Currently, new claimants in three States (Alaska, California and West Virginia) are potentially eligible for 13 weeks of EUC. New claimants in all other States are potentially eligible for 7 weeks of benefits. Claimants who filed initial claims which were effective for a week beginning prior to October 2, 1993 are potentially eligible to collect the entire entitlement as in effect prior to the reduction in weeks available.

In addition, the following State-specific change in EUC benefit period durations to which claimants are entitled has occurred since the publication of the last notice:

- October 31, 1993—Rhode Island decreased to 7 weeks.

Thus, in Rhode Island, the maximum amount of EUC payable for new accounts established for weeks of unemployment beginning after October 31, 1993 is 7 weeks.

In the permanent Extended Benefits Program, three States have started EB period effective October 3, 1993. Oregon and Washington have triggered "on" to extended benefits based on their three-month average seasonally adjusted total unemployment rate (TUR) which exceeded 6.5 percent and was 10 percent higher than either corresponding three-month average TUR in the two immediately preceding years. Puerto Rico triggered "on" to extended benefits as a result of its 13-week average insured unemployed rate exceeding 6.0 percent. Claimants in Washington are eligible for a maximum of 20 weeks of extended benefits due to the State's three-month average TUR exceeding 8.0 percent, while claimants in Oregon and Puerto Rico are eligible for 13 weeks of extended benefits.

Information for Claimants

The duration of benefits payable in the Emergency Unemployment Compensation Period, and the terms and conditions on which they are payable, are governed by the Act and the operating instructions issued to the States by the U.S. Department of Labor. The State employment security agency will furnish a written notice of potential entitlement to each individual who has exhausted all rights to regular benefits and is potentially eligible for EUC benefits (20 CFR 615.13(c)(2), made applicable to the EUC program by section 101(d)(2) of the Emergency Unemployment Act of 1991).

Persons who believe they may be entitled to EUC or EB benefits, or who wish to inquire about their rights under the programs, should contact the nearest State employment service office or unemployment compensation claims office in their locality.

Signed at Washington, DC, on February 4, 1994.

Doug Ross,

Assistant Secretary of Labor.

[FR Doc. 94–3110 Filed 2–9–94; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for NAFTA Transitional Adjustment Assistance

Petitions for transitional adjustment assistance under the North American Free Trade Agreement-Transitional Adjustment Assistance Implementation Act (Pub. L. 103–182), hereinafter called (NAFTA–TAA), have been filed with State Governors under section 250(a) of subchapter D, chapter 2, title II, of the Trade Act of 1974, as amended, are identified in the Appendix to this Notice. Upon notice from a Governor that a NAFTA–TAA petition has been received, the Director of the Office of Trade Adjustment Assistance (OTAA), Employment and Training Administration (ETA), Department of Labor (DOL), announces the filing of the petition and takes actions pursuant to paragraphs (c) and (e) of section 250 of the Trade Act.

The purpose of the Governor's actions and the Labor Department's investigations are to determine whether the workers separated from employment after December 8, 1993 (date of enactment of Public Law 103–182) are eligible to apply for NAFTA–TAA under subchapter D of the Trade Act because of increased imports from or the shift in production to Mexico or Canada.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing with the Director of OTAA at the U.S. Department of Labor (DOL) in Washington, DC, provided such request is filed in writing with the Director of OTAA not later than February 21, 1994.

Also, interested persons are invited to submit written comments regarding the subject matter of the petitions to the Director of OTAA at the address shown below not later than February 21, 1994.

Petitions filed with the Governors are available for inspection at the Office of the Director, OTAA, ETA, DOL, room C–4318, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 28th day of January, 1994.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition number	Articles produced
American Marketing Ind./Swingster Co. (workers).	Ocean Springs, MS	01/04/94	01/04/94	NAFTA-00001	Sportswear & Jackets.
Emerson Electric (workers)	Logansport, IN	01/06/94	01/05/94	NAFTA-00002	Electro/Mechanical Products, HVAC.
Simmons Upholstered Furniture Inc. (workers).	Vancouver, WA	01/13/94	01/13/94	NAFTA-00003	Upholstered Furniture.
Seattle Shake & Shingle (workers)	Forks, WA	01/19/94	01/14/94	NAFTA-00004	Cedar Shakes & Shingles.
A.C.A. Lumber Inc. (Co.)	Beaver, WA	01/14/94	01/12/94	NAFTA-00005	Lumber.
Nintendo of America, Inc. (workers)	Redmond, WA	01/19/94	01/18/94	NAFTA-00006	Electronic Game Sets.
Worzalla Publishing Co. (workers)	Eatontown, NJ	01/19/94	01/12/94	NAFTA-00007	Printing, Binding & Book Mfg.
Allied Signal Aerospace (workers)	Eatontown, NJ	01/20/94	01/14/94	NAFTA-00008	Winding Assemblies for Power Generators.
Uniroyal Goodrich Tire Company (URW).	Woodburn, IN	01/19/94	01/17/94	NAFTA-00009	Tires, Radial Passenger, Lt. Trucks.

[FR Doc. 94-3106 Filed 2-9-94; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-28,329]

Optek Technology, Inc., El Paso, TX; Revised Determination on Reconsideration

Pursuant to a court remand in *Former Employees of Optek Technology, Inc.* v. *Secretary of Labor* (USCIT 93-03-00170), the Department is revising its initial denial of eligibility to workers of Optek Technology, Inc., in El Paso, Texas.

The Department requested a voluntary remand from the U.S. Court of International Trade in order to obtain additional information on the activities of the Optek Technology workers at El Paso, Texas.

Investigation findings show that on February 26, 1993, when the Department's denial was issued for the subject workers there were no manufacturing facilities of Optek which had workers certified eligible for trade adjustment assistance. However, shortly after the El Paso workers' denial, the workers at Optek's production facility at Mineral Wells, Texas were certified for TAA under petition, TA-W-28,687.

Production facility at Mineral Wells, Texas, which ceased operations on January 14, 1994.

The findings show a reduced demand for El Paso services by Mineral Wells which resulted in reduced activities and worker separations in mid-1992 at El Paso.

Conclusion

After careful review of the additional facts obtained on reconsideration, it is concluded that increased imports of articles like or directly competitive with the electronic components produced at Optek Technology's Mineral Wells facility contributed importantly to the decline in sales and to the total or partial separation of workers at Optek Technology, Inc., in El Paso, Texas.

In accordance with the provisions of the Trade Act of 1974, I make the following revised determination:

All workers of Optek Technology, Inc., El Paso, Texas who became totally or partially separated from employment on or after January 1, 1992 and before January 14, 1994 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 31st day of January 1994.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Service, Unemployment Insurance Service.

[FR Doc. 94-3108 Filed 2-9-94; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Rotation of Membership on the NASA/Industry Process Action Team for Procurement Issues

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice.

SUMMARY: Notice is given of the rotation of industry members to serve on the NASA/Industry Process Action Team. Nasa is soliciting the names of NASA Contractor personnel who desire to serve on the 1994/95 Process Action Team.

DATES: Requests for membership must be received on or before March 25, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. David Muzio, Procurement Analyst, NASA Headquarters, Code HP, 300 E Street, SW., Washington, DC 20546, telephone (202) 358-0432.

SUPPLEMENTARY INFORMATION: The Associate Administrator for Procurement has established a working group of NASA and industry representatives called the NASA/Industry Process Action Team (PAT). The PAT provides a forum for the examination and discussion of issues and concerns associated with improving the operational aspects of current procurement policies and procedures. Members are afforded the opportunity to identify issues and concerns to be addressed by NASA during the PAT's tenure and to provide their individual or organizational viewpoints on procurement policy and procedure changes developed by NASA before they are provided for public comment.

Based on the issues and concerns discussed during the PAT meetings, PAT members may be asked to assist in the presentation of an industry-wide conference on procurement issues. Membership is open to companies of any size willing to sign up two people (primary/alternate) for a one year term. The PAT consists of approximately 20 members from industry, both large and small businesses, four (4) NASA representatives, a member from the U.S. Chamber of Commerce, and a member from a law firm with Government contracts experience. The PAT meets 8-10 times a year depending on the number of complexity of issues under

change. If more than 20 companies volunteer for membership, the members will be selected by lottery.

NASA contractors who desire membership on the PAT should contact the person listed under the caption FOR FURTHER INFORMATION CONTACT not later than March 25, 1994.

Deidre A. Lee,

Associate Administrator for Procurement.

[FR Doc. 94-3023 Filed 2-9-94; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Agency Information Collection Under OMB Review

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Comments on this information collection must be submitted on or before March 14, 1994.

ADDRESSES: Send comments to Ms. Susan Daisey, Assistant Director, Grants Office, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., room 310, Washington, DC 20506 (202-606-8494) and Mr. Steve Semenuk, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., room 3002, Washington, DC 20503 (202-395-6880).

FOR FURTHER INFORMATION CONTACT: Ms. Susan Daisey, Assistant Director, Grants Office, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., room 310, Washington, DC 20506 (202) 606-8494 from whom copies of forms and supporting documents are available.

SUPPLEMENTARY INFORMATION: All of the entries are grouped into new forms, revisions, extensions, or reinstatements. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what the form will be used for; (6) an estimate of the number of responses; (7) the frequency of response; (8) an estimate of the total number of hours needed to fill out the form; (9) an estimate of the total annual reporting and recordkeeping burden. None of these entries are subject to 44 U.S.C. 3504(h).

Category: Revisions

Title: Reviewer Evaluation.

Form Number: Not Applicable.

Frequency of Collection: Quarterly.

Respondents: Humanities scholars.

Use: Evaluation of proposals.

Estimated Number of Respondents: 400.

Frequency of Response: Once.

Estimated Hours for Respondents to Provide Information: 2 per respondent.

Estimated Total Annual Reporting and Recordkeeping Burden: 400 hours.

Donald Gibson,

Acting Deputy Chairman.

[FR Doc. 94-3049 Filed 2-9-94; 8:45 am]

BILLING CODE 7536-01-M

Cooperative Agreement for the Administration of Site Visits

AGENCY: National Endowment for the Arts.

ACTION: Notification of availability.

SUMMARY: The National Endowment for the Arts is requesting proposals leading to the award of a Cooperative Agreement to assist its Theater Program in the administration and coordination of artistic and administration evaluations of grant applicants. Responsibilities include coordinating schedules and assignments, making travel arrangements, disbursing funds to reporters who perform the reviews, maintaining records, and submitting reports. Those interested in receiving the Solicitation package should reference Program Solicitation PS 94-05 in their written request and include two (2) self-addressed labels. Verbal requests for the Solicitation will not be honored.

DATES: Program Solicitation PS 94-05 is scheduled for release approximately February 23, 1994 with proposals due on March 23, 1994.

ADDRESSES: Requests for the Solicitation should be addressed to National Endowment for the Arts, Contracts Division, room 217, 1100 Pennsylvania Ave., NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: William I. Hummel, Contracts Division, National Endowment for the Arts, 1100 Pennsylvania Ave., NW., Washington, DC 20506 (202/682-5482).

William I. Hummel,

Director, Contracts and Procurement Division.

[FR Doc. 94-3123 Filed 2-9-94; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-309]

Maine Yankee Atomic Power Co.; Issuance of Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to facility Operating License No. DPR-36, issued to Maine Yankee Atomic Power Company for operation of the Maine Yankee Atomic Power Station, located in Lincoln County, Maine.

Identification of Proposed Action

The proposed amendment is in response to the licensee's application dated January 25, 1993, as supplemented in letters dated November 3, November 23, December 9, 1993, and January 5, 1994.

The proposed amendment would increase the maximum number of spent fuel assemblies stored in the Maine Yankee spent fuel pool (SFP) to 2019 from 1476. The proposed increase is required to provide spent fuel storage space through the duration of the current operating license, including the final full core offload. The NRC staff has prepared an Environmental Assessment of the proposed action.

Summary of Environmental Assessment

The "Final Generic Environmental Impact Statement (FGEIS) on Handling and Storage of Spent Light Water Reactor Power Reactor Fuel" (NUREG-0575), Volumes 1, 2 and 3, concluded that the environmental impact of interim storage of spent fuel is negligible, and the cost of the various alternatives reflects the advantage of continued generation of nuclear power with the attendant requirement of spent fuel storage. Because of the differences in design, the FGEIS recommends evaluating SFP expansions on a case-by-case basis.

For Maine Yankee, the expansion of the storage capacity of the SFP will not create any significant additional radiological effects or nonradiological environmental impacts.

The additional whole body dose that might be received by an individual at the site boundary and the estimated dose to the population within an kilometer radius is believed to be too small to have any significance when compared to the fluctuations in the annual dose this population receives from exposure to background radiation. The occupational radiation dose from the proposed operation of the expanded

SFP is estimated to be extremely small compared to the total annual occupational radiation exposure for this facility.

No effect on the waste heat rejected by the plant is expected as a result of the reracking effort. Administrative controls currently in place at Maine Yankee ensure that the design limits of the SFP cooling and purification system will not be exceeded under normal or full core discharge conditions.

Finding of No Significant Impact

The NRC staff has reviewed the proposed SFP reracking relative to the requirements set forth in 10 CFR part 51, Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions. Based on this assessment, the NRC staff concludes that there are no significant radiological or nonradiological impacts associated with the proposed action and that the issuance of the proposed amendment to the license will have no significant impact on the quality of the human environment. Therefore, pursuant to 10 CFR 51.31, no environmental impact statement need be prepared for this action.

For further details with respect to this action, see (1) the application for amendment as described above, (2) the FGEIS on Handling and Storage of Spent Light Water Power Reactor Fuel (NUREG 0575), (3) the Final Environmental Statement for the Maine Yankee Atomic Power Station, dated July 1972, and (4) the Environmental Assessment of this matter dated February 2, 1994.

These documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the local public document room located at Wiscasset Public Library, High Street, P.O. Box 367, Wiscasset, Maine 04578.

Dated at Rockville, Maryland, this 2nd day of February, 1994.

For the Nuclear Regulatory Commission.

Gordon E. Edison,

Acting Director, Project Directorate I–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 94–3061 Filed 2–9–94; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–267]

Public Service Company of Colorado, Fort St. Vrain Nuclear Generating Station; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission is considering issuance of an exemption from the requirements of 10 CFR 140.11(a)(4) to Possession-Only License No. DPR–34, issued to the Public Service Company of Colorado (PSC or the licensee), for the Fort St. Vrain Nuclear Generating Station (FSV) located in Platteville, Colorado.

Environmental Assessment

Identification of Proposed Action

The proposed action would grant an exemption from the requirements from 10 CFR 140.11(a)(4) to the extent that primary financial protection in the amount of $100,000,000 shall be maintained, rather than the $200,000,000 required by 10 CFR 140.11(a)(4), and an exemption from participation in the industry retrospective rating plan (secondary level financial protection) for FSV. The licensee requested the exemption in a letter dated February 25, 1993.

The Need for the Proposed Action

FSV was permanently shutdown on August 18, 1989, and all spent fuel has been transferred to a separately licensed independent spent fuel storage installation (ISFSI). On May 21, 1991, the NRC modified Facility Operating License No. DPR–34 to a Possession-Only License (POL). The FSV is being dismantled in accordance with the approved FSV Decommissioning Plan. The requested exemption addresses two areas for relief in financial protection requirements: (1) A reduction in the primary financial protection coverage requirements from $200,000,000 to $100,000,000 and (2) withdrawal from participation in the industry retrospective rating plan.

Since FSV no longer contributes as great a risk to the retrospective rating plan participants as an operating plant, this reduction in risk should be reflected in the indemnification requirements to which the licensee is subject. approval of this request would allow a more equitable allocation of financial risk.

Environmental Impact of the Proposed Action

The proposed action does not involve any significant environmental impacts. Since the proposed action does not involve a change in plant operation or configuration, there is reasonable assurance that the proposed action would not increase the probability or the consequences of an accident or reduce the margin of safety. No changes would be made in the types or quantities of effluents that may be released offsite. Further, there would be no significant increase in the allowable individual or cumulative radiation exposure. Accordingly, the NRC concludes that this proposed action would result in no significant radiological environmental impact.

With regard to potential non-radiological impacts, the proposed action does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the NRC concludes that there are no significant non-radiological impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the NRC has concluded that there are no significant environmental impacts associated with the proposed action, any alternative with equal or greater environmental impacts need not be evaluated.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in the Supplement to the Environmental Report for FSV.

Agencies and Persons Consulted

The licensee initiated this exemption request. The NRC staff has reviewed the request and has consulted with a representative of the State of Colorado regarding the environmental impact of the proposed action. The State representative did not provide comments.

Finding of No Significant Impact

Based upon this environmental assessment, the staff concludes that the proposed action will not have a significant effect on the quality of the human environment. Therefore, the NRC has determined not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to this action, see the licensee application for exemption dated February 25, 1993, which is available for public inspection at the NRC's Public Document Room, Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the Greeley Public Library, City Complex Building, Greeley, Colorado.

Dated at Rockville, Maryland, this 3rd day of February, 1994.

For the Nuclear Regulatory Commission.

John H. Austin,

Chief, Decommissioning and Regulatory Issues Branch, Division of Low-Level Waste Management and Decommissioning, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 94–3060 Filed 2–9–94; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 030-01176]

Environmental Assessment: Finding of No Significant Impact and Notice of Opportunity for Hearing Related to Amendment of Material License 49-09955-10, University of Wyoming

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Environmental assessment.

SUMMARY: NRC plans to issue an amendment to NRC License No. 49-09955-10, authorizing the University of Wyoming to use hydrogen-3 (tritium) for *in-vivo* studies on captive pronghorn antelope (*Antilocapra americana*) living in fenced pastures at Sybille Wildlife Research and Conservation Education Unit, Albany County, Wyoming.

FOR FURTHER INFORMATION CONTACT: Dr. Donna-Beth Howe, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 504-2636.

ENVIRONMENTAL ASSESSMENT

Identification of the Proposed Action

The proposed action is to amend NRC Byproduct Material License No. 49-09955-10, issued to the University of Wyoming and renewed on June 22, 1993. The license currently authorizes personnel from the University of Wyoming to use byproduct material at the University of Wyoming, Laramie, Wyoming. It does not authorize use of radioactive materials at Sybille Wildlife Research and Conservation Education Unit (Sybille Unit) and prohibits the release of radioactive materials for field studies. The proposed amendment would authorize University of Wyoming personnel to use hydrogen-3 labeled water (tritiated water) in studies on approximately six lactating pronghorn antelopes (*Antilocapra americana*) and their respective fawns.

The tritiated water portion of the proposed study is part of a larger scientific study of pronghorn antelope. The larger study focuses on lactation (the most demanding activity of the female pronghorn antelope's energy cycle) and examines the factors of female body condition, milk output, fawn birth weights, and fawn growth rates. The study will compare fawn milk intake, body-water turnover, and growth with observed behavioral activities for both mothers and fawns and physical measurements of the mother's weight, body-water turnover, and milk composition. This scientific information will also be used in a comparison with information from similar studies with other native North American ungulates (hoofed mammals).

The female pronghorn antelopes and their fawns will be located in two fenced outdoor enclosures at the Sybille Unit, a facility in Albany County, Wyoming, operated by the Wyoming Game and Fish Department. The study involves the injection of tritiated water into the lactating female pronghorn antelopes, the females' production of tritiated milk, the ingestion of tritiated milk by their fawns, and the release of tritiated water, water vapor, and feces directly into the environment, by both the mothers and the fawns. Accordingly, pursuant to 10 CFR 51.21, NRC has prepared this assessment of the resulting environmental impact.

The non-site-specific aspects of the pronghorn antelope tritiated water studies (i.e., possession of the preinjection tritiated water, use and subsequent laboratory analysis of tritiated biological samples, analysis of wipe test samples for removable contamination, waste disposal, and health and safety aspects of tritium use at the University) are performed under the University of Wyoming's current authority in License No. 49-09955-10.

Background

By letter dated April 7, 1993 (and attachments), the University of Wyoming, (applicant) Safety Office requested an NRC amendment to perform hydrogen-3 labeled water (tritiated water) field studies on lactating pronghorn antelopes at the Sybille Unit. The Wyoming Game and Fish Department conditionally authorized the performance of the studies at the Sybille Unit, pending NRC approval of the amendment request. The tritiated studies cannot begin until NRC amends the University of Wyoming's license to authorize the studies.

As the name "Sybille Wildlife Research and Conservation Education Unit" indicates, the Sybille Unit has two missions. The first is to provide facilities and services for research on hoofed big-game species and other exotic species considered for reintroduction into the wild. Pronghorn antelope, elk (*Cervus canadensis*), white tailed deer (*Odocoileus virginianus*), mule deer (*Odocoileus hemionus*), bighorn sheep (*Ovis canadensis*), and other wild animals are maintained at the facility. Two exotic species (the blackfooted ferret (*Mustela nigripes*) and Wyoming toad (*Bufo hemiophrys baxteri*)) being considered for reintroduction into the wild are quartered at Sybille Unit and included in the Federal list of endangered species. Research at the Sybille research facilities supplements and enhances field work done by Wyoming Game and Fish personnel and laboratory work done at the Game and Fish Research Laboratory in Laramie. The research facility is capable of supporting parasite, disease, nutrition, anatomy, physiology, ecology, management, research technique, and toxicology projects. All of these areas are important in managing Wyoming's wildlife.

The second mission is to provide conservation education to individuals, groups, and the general public. This mission is considered just as important as the first and is why most of the facilities at the Sybille Unit are open to the public. The visitors center alone receives 4000 to 6000 visitors, from May to September, when it is open. The education activities include lectures, tours for individuals and groups, training professional wildlife personnel in handling captive wild animals, and providing public recreational activities. Public hunting, fishing, camping, and sight-seeing are permitted at the Sybille Unit when they do not jeopardize the wildlife research mission.

The Sybille Unit, itself, is 12.5 square kilometers (3100 acres) of land operated by the Wyoming Game and Fish Department. The Sybille Unit was formed in 1948 to protect an important winter grazing range for wild deer. The area had historically been range land for white tailed deer, mule deer, bighorn sheep, elk, and pronghorn antelope. When the Sybille Unit was established, this winter range was threatened by cattle overgrazing and ranchers' fences. It physically consists of two adjacent areas with different primary missions. These areas are referred to as the 1.2-square-kilometer (300-acre) Sybille Area and the larger 11.3-square-kilometer (2800-acre) Johnson Creek Area.

The Sybille Area is located in a 3.2-kilometer (2-mile) section of the open-ended North Sybille Canyon, about 72 kilometers (45 miles) northeast of Laramie and 55 kilometers (34 miles) southwest of Wheatland, Wyoming, in Southeastern Wyoming. The Sybille Unit personnel live at the Sybille Area. The research animals are also quartered there. The tritiated pronghorn antelope studies will be done at the Sybille Area. The larger Johnson Creek Area, located north of the Sybille Area, includes the Johnson Creek and a 26,700-square-meter (6.6-acre) reservoir on the creek.

The Johnson Creek Area is used for public water recreation, fishing, camping, and elk and deer hunting. In the Sybille Area, hunting is not permitted where the research animals are quartered, and fishing is prohibited. The public has free access to certain

areas of the Sybille Area and may be given guided tours to the normally restricted areas where the research animals are quartered. It is estimated that from 1300 to 2000 individuals take guided tours through the restricted area each year. In the restricted areas, the visitors may observe, but not come into contact with, research animals or their quarters.

The pronghorn antelope, a native North American ungulate, is physically 1- to 1.5-meters (3- to 5-feet) long, 0.8- to 1-meter (2.5- to 3-feet) high at the shoulder, and weighs from 36 to 70 kilograms (79 to 155 pounds). The females are usually 10 percent smaller than the males. Their native habitats include grasslands and deserts ranging in altitude from sea level to 3.3 kilometers (2 miles). They browse and graze on a wide variety of shrubs, forbs, grasses, cacti, and other plants. In desert areas, pronghorn antelopes survive not only by drinking available water, but also by conserving water and getting most of their water from the plants they eat. They are the fastest terrestrial mammals in the New World, with a maximum speed, on hard ground, of 86 kilometers (53 miles) per hour and a cruising speed of 48 kilometers (30 miles) per hour. They have very little body fat and obtain their speed from their muscular front legs and shoulders that can produce leaps from 3.5 to 6 meters (12 to 20 feet).

All animals used in the studies are already living in captivity and no new animals will be taken from the wild for the study. The six pregnant females for the 1994 study will be selected from surplus pronghorn antelopes obtained from a group of captive pronghorn antelopes at the Colorado Division of Wildlife, Foothills Wildlife Research Facility, Fort Collins, Colorado. The same six adult females will be bred for the proposed 1995 studies. Each study animal will be marked with either a color-coded neck collar or fluorescent paint. For ease of identification, each mother and her fawns will be marked with the same color. The six pronghorn antelopes from Colorado may either become part of the Sybille Unit's permanent pronghorn antelope research herd or be returned to Colorado. Their fawns will probably continue to live at the Sybille Unit. Any animals that die in the study will be sent to the Wyoming State Veterinary Laboratory for necropsy and incineration. No animals in the study will be used for human consumption.

The animals in the study will be kept in two 4047-square-meter (1-acre) pastures at the Sybille Area. These pastures will be formed by extending the 1014-square-meter (0.25-acre) paddock previously designated for the pronghorn antelope. The field studies are expected to extend over 4 months (June–October) in both 1994 and 1995. As many as six pregnant pronghorn antelopes are expected to be available for the studies each year.

Periodically, during the course of the study, the lactating females will be injected with tritiated water; tritiated milk samples will be collected from the mothers; and tritiated urine samples will be collected from both the mothers and their fawns. The milk and urine samples are taken to measure milk intake and body-water turnover during milk production and infant growth. All biological samples will be returned to the University of Wyoming, for analysis.

Need for the Proposed Action

A number of researchers are studying the effects of observable physical, behavioral, and environmental parameters on the balance between neonatal survival and maternal body condition for survival and future reproductive success in different native North American ungulates. This will be one of the first studies on the pronghorn antelope. The study is designed to be comprehensive and include many interrelated parameters obtained from different scientific approaches (i.e., observation of nursing behavior, chemical analysis of the milk, physical measurement of weight gain, and quantitative measurement of milk intake and body-water turnover).

The pronghorn antelope is unique among the native North American ungulates for the following reasons: It is the fastest North American mammal; both males and females are subjected to extremely high energy demand (e.g., locomotory costs, climatic extremes, and thermal stress) with minimal body reserves (i.e., body fat); the female has the highest known relative reproductive effort among ungulates (e.g., the highest ratio of offspring birth weight to maternal body weight); and the female may be able to sequentially abort embryos under severe nutritional conditions. In the wild, the pronghorn antelope continues to forage during the winter, moving as far as 160 kilometers (100 miles) from summering areas. During winter snow conditions in their native habitat, they experience high energy expenditures at a time when available foraging is reduced.

Mature females, weighing approximately 50 kilograms (110 pounds), breed in the fall (October), deliver in early summer (June), and usually have twins. The fawns have approximately 4 months to grow large enough and strong enough to survive predatory threats and the rigors of winter foraging. At the same time that the mother is expending large amounts of energy to ensure the survival of her current offspring, she must also replenish her reserves, and expend energy to ensure her own survival and that of future offspring. The tritiated water studies are intended to quantify the body-water turnover of the mother during milk production, quantify the milk transfer from the mother to the fawns, and quantify the fawns' body-water turnover during a period of rapid growth and development. The tritiated water injections will be repeated every 2 weeks, to quantify changes in body-water turnover, with time and development.

The study is expected to enable researchers to identify critical physiological compromises in the balance between maximizing neonatal survival and maintaining good maternal body condition in pronghorn antelopes. Information from this study can be compared with similar information obtained from research on other native North American ungulates (e.g., mule deer, red deer (*cervus elaphus*), muskoxen (*ovibos moschatus*), caribou (*rangifer tarandus*), and reindeer (*rangifer tarandus*)) to identify important factors in their management and survival.

Environmental Impacts of the Proposed Action

The Affected Environment

In general the Sybille Unit terrain is described as rugged and rocky, with narrow rock-crowned ridges and numerous deep draws. Some sections have fairly level ridge tops and swales. There are level stretches of bottom land of various sizes along Johnson Creek and North Sybille Creek. The soils are young, shallow, rocky, and well-drained. When the Sybille Unit was started, in 1948, the area was overgrazed and cattle were removed from the area. The range vegetation consists of primarily big mountain sage brush and mid-range grasses. Sage brush provides 20 to 30 percent of the ground cover. The area is considered semiarid, with moderate to cool summers, and moderate to severe winters. Precipitation in the area averages between 38 and 50 centimeters (15 and 20 inches) per year. Snowfall can be heavy, but the spatial distribution ranges from bare to deep drifts.

Wheatland, Wyoming, 55 kilometers (34 miles) away, with a population of approximately 5000 people, is the nearest community. The Johnson Creek

Area forms the northern boundary of the Sybille Area. Private cattle ranches form the western, southern, and eastern boundaries. The 1.2-square-kilometer (300-acre) Sybille Area stretches for 3.2 kilometers (2 miles) along the North Sybille Creek and Wyoming State Route 34, near the bottom of the open-ended North Sybille Canyon. The canyon is 0.4-kilometers (0.25-miles) wide at the widest point, with steep sides on both the northern and southern boundaries of the Sybille Area. North Sybille Creek and State Route 34 run roughly parallel to each other and the sides of the southwest- to northwest-oriented canyon.

North Sybille Creek flows in a northeast direction toward Wheatland. Natural drainage areas for the Johnson Creek and the Sybille areas are physically separated until Johnson Creek flows into the North Sybille Creek just east of the Sybille Unit boundary on private ranch land downstream from the Sybille Area. The natural drainage from the canyon sides along the southern boundary is from the private ranches onto the Sybille Area. The lowest expected water flow within the Sybille Area during the summer studies is 167 liters (5.93 cubic feet) per second. This estimate is based on the 1974 to 1992 monthly summaries reported for the nearby US Geological Survey Station.

Most of the land immediately south of the Sybille Area drains into the Middle Sybille Creek, which eventually flows into the North Sybille Creek farther downstream than Johnson Creek. North Sybille Creek flows through private cattle ranch land east of the Sybille Area and eventually flows into the Laramie River, which flows into the Platt River. Therefore, tritium released into the North Sybille Creek will not affect either the private ranch lands west and south of the Sybille Area or the public-use areas in the Johnson Creek Area, but would be carried through private lands downstream, after it leaves the Sybille Area.

The Sybille Area, used primarily for big-game research, is physically divided into eight fenced areas containing pastures, permanent residences, and wildlife research buildings and shelters. Currently 11 people (9 adults and 2 children approximately 3 years old) live in the four permanent residences at the Sybille Area. The visitor's center and three houses are located on the same side of State Route 34 as the research animal quarters that include the pronghorn antelope pastures, but are physically separated from the animal areas by at least one locked 2.1-meter (7-foot) game fence (i.e., a 2.3-meter (7.5-foot) woven-wire fence topped with barb wire).

The three houses are the Headquarters building, with attached staff living quarters, the blackfooted ferret biologist's residence near the blackfooted ferret facility, and the third house, which is the closest residence to the tritiated pronghorn antelope quarters. Permanent buildings on the animal quarter side of the fence include the Wyoming toad facility, the blackfooted ferret facility, numerous animal shelters, hay barns, a veterinary lab, and offices. The blackfooted ferret facility is approximately 460 to 550 meters (500 to 600 yards) away and on the other side of a hill from the tritiated pronghorn antelope quarters. The closest residence is 137 to 183 (150 to 200 yards) and downhill from the tritiated pronghorn antelope quarters. The majority of the buildings and pastures are downstream from the tritiated antelopes. The fourth residence, some animal shelters, and hay barns are located on the other side of Wyoming State Route 34.

The research animal quarter area consists of a series of large semi-enclosed animal shelter structures, fenced pens, paddocks, and corrals. All of these are linked together with both covered and open lanes. The lanes can be used as temporary holding areas for animals; confined routes to move animals between buildings, corrals, and pastures; and pedestrian walkways for the general public on guided tours, or for Sybille Area workers. The tritiated pronghorn antelopes' two 4047-square-meter (one-acre) pastures are attached to a 61-meter- (200-foot-) long semi-enclosed structure. The structure has a center corridor and four isolation or holding pens on each side of the corridor. The north half of each pen is roofed with metal sheathing and galvanized metal and walled with metal. All the floors are concrete and drain into a waste water disposal system by concrete gutters. The animals are free to move between the pastures and the shelter. Their water, feed troughs, and weight scale are located in the shelter.

The Pronghorn antelope shelter is between the office-veterinary laboratory building on the east and an equally large semi-enclosed sheep building on the west. The sheep building is north of the elk corrals and separated from them by a concrete lane that continues through the pronghorn antelope shelter to the office building. A gravel lane separates the elk corrals behind the sheep building from the pronghorn antelope paddocks. The veterinary laboratory office building is to the east of the corridor. The central corridor serves as the main walking lane connecting the pens to each other, as well as connecting the veterinary building and all other corrals in the Headquarters area.

The waste water disposal system consists of the open concrete floor gutters passing through the animal shelters and veterinary laboratory, an underground holding tank, and drain tile field. The tile field is located just north of the veterinary building. This waste water disposal system was developed as part of the Sybille Unit's animal quarantine system, to prevent the spread of disease from quarantined animals to other animals in the area. The pronghorn antelope paddocks and pastures have the same game-proof fencing found elsewhere at Sybille Area.

The southern fence of the pronghorn antelope pastures is on the southern boundary of the Sybille Area. Cattle on the private cattle ranch south of the Sybille area may graze on the other side of the fence. Although the cattle could come in nose-to-nose contact with the pronghorn antelopes, the size of the cattle grazing range makes this unlikely.

Water for Human and Animal Use

Although animals in pastures with the North Sybille Creek flowing through them have access to the creek for drinking, the majority of the animals at the Sybille Area receive all their water from wells. None of the water used by the residents and visitors at Sybille Area comes from surface water in the North Sybille Creek. The primary water source for visitors and residents and animals south of the road are three shallow wells 7.8- to 9.6-meters (26- to 32-feet) deep, located at the Headquarters building, at the residence closest to the tritiated pronghorn antelopes, and at the bighorn sheep corral. The closest well is approximately 135 to 180 meters (150 to 200 yards) from the proposed paddock. Water for the supervisor's residence and for animals north of the road comes from a spring located north of the supervisor's residence, which is much farther away from the proposed pastures. The boundaries of the Sybille Area have game-proof fences.

Study Subjects

The Pronghorn antelopes included in the tritiated water studies will be adult females that have recently given birth and the young they are nursing. Females that did not give birth or lost their young shortly after birth will not be used in the study. The study animals will be free to move in the pasture. Although this is not the same as free-ranging, the pronghorn antelopes' basic movements and behaviors should be

sufficiently similar to free-ranging animals to provide scientific data. The mothers and their offspring will be similarly marked by color-coded neck collars or fluorescent paint, for easy visual identification. The mothers are expected to be captured every 2 weeks for new tritiated water injections and milk-sample collections. When the mother receives her tritium injection, the fawns will be given deuterated water to drink. The biological half-life of tritium in the pronghorn antelope is expected to be similar to the 2.7-day biological half-life of tritium in caribou (another North American ungulate living in arid areas). Both the mothers and the fawns will be weighed periodically on animal scales. Routine tritiated milk and urine samples will be collected during the study.

Endangered or Threatened Species

There are two endangered species living in captivity at the Sybille Area of the Sybille Unit (i. e., the blackfooted ferret (*Mustela nigripes*) and Wyoming toad (*Bufo hemiophrys baxteri*)). Black-footed ferrets can weigh up to 1.3 kilograms (2.5 pounds), are 50- to 63-centimeters (20- to 25-inches) long (including their 13- to 15-centimeters (5- to 6-inch) tail), and have black face mask, black feet, and black tip to their tails. The blackfooted ferret was officially placed on the Federal list of endangered species in 1967 and thought to be extinct in the 1970's, until a group was found in Wyoming. All known wild blackfooted ferrets were taken into captivity between 1985 and 1987, when canine distemper reduced their numbers to 18. The Sybille Unit is one of three locations with active breeding programs. The goal is to reintroduce the animals born in these facilities into the wild. The blackfooted ferret is a member of the weasel family that preys primarily on prairie-dogs and in the wild lives in prairie-dog burrows. Their natural predators are owls, hawks, eagles, coyotes, badgers, and bobcats. With conversion of the prairies into farmland, prairie-dog habitats were eliminated and blackfooted ferrets almost disappeared.

The Wyoming toad is a glacial relic known to live only in Albany County, Wyoming. The adult is about 5.6-centimeters (2.2-inches) long. The female is slightly larger than the male. The toads' back is a dark brown, gray, or greenish color, with small dark blotches, an indistinct median strip, and rounded warts. The cranial crest is fused. Individual toads can be identified by the variations in their skin color and wart patterns, and the Wyoming toad can be distinguished from other species by the small adult size and the fused cranial crest. The Wyoming toad was first discovered in 1946 and placed on the Federal list of endangered species in 1984. Its historical distribution was restricted to within 48 kilometers (30 miles) of Laramie, Wyoming. It inhabited floodplain, ponds, and small seepage lakes in the shortgrass communities of the Laramie Basin. Recent reproduction has been low, and red-leg bacteria, discovered in 1990, caused a further reduction in the adult population.

At the Sybille Unit, the toads are kept in hibernation in the Wyoming toad building and brought out of hibernation in late spring (May), to be carried to breeding ponds in the Laramie Basin about 97 kilometers (60 miles) southwest of the Sybille Unit, for breeding and introduction of the tadpoles into the wild. The adults are then returned to the Sybille Unit. The breeding ponds located at Lake George, Hutton National Wildlife Refuge in the Laramie Basin (about 16 to 24 kilometers (10 to 15 miles) southwest of Laramie), are not located in the North Sybille drainage area. They eat ants, beetles, and other arthropods. Spraying insecticides to control mosquitoes, changes in agricultural practices, increased predation, diseases, and climatic changes may have contributed to their declining numbers.

Both endangered species are physically isolated from the other animals at Sybille Area and neither receives any of its water from the North Sybille Creek. They are located inside their own adjacent buildings and not permitted outside unless being reintroduced to areas away from the Sybille Area.

Study Protocol

The tritiated water will be injected into the adult females. Routine tritiated milk and urine samples will be collected for analysis. Tritium concentration in the milk and urine will provide information on the body-water turnover of the mother and the ingestion of tritiated milk by the fawn. However, quantitative data on the fawns' own body-water turnover cannot be determined unless the fawns' body water is labeled with a different isotope. Therefore, the fawns are given deuterated water (1 gram of deuterated water per kilogram of body weight) by mouth tube, each time the mother is injected with tritiated water. Deuterium is a naturally occurring non-radioactive isotope of hydrogen. The deuterium concentrations are measured by infrared spectrophotometry. Because it is not radioactive, the deuterated water neither involves byproduct material nor results in radioactive releases at the study site.

The study protocol calls for the initial collection of a body water sample (urine or milk) from the adult, injection of tritiated water intramuscularly into each adult, and administration of deuterated water to each fawn by mouth tube. The following day, and every 2 to 3 days, for 10 days, urine samples are collected from each animal, using a small vial on a pole. Most of the tritiated urine will fall to the ground. The samples are frozen and analyzed later. The process is repeated at 2 week intervals (approximately 5 effective half-lives), for up to 4 months. The tritium injections will be stopped once the fawns are weaned. The researchers expect them to be weaned in less than 4 months.

Each 50 kilogram (110 pound) adult female is expected to receive a maximum of 8 injections with 11 megabecquerels (300 microcuries) of tritium in each injection. Six adult females are expected to be in the tritiated water phase of the study each year. The maximum amount of tritium in a pronghorn antelope mother and her fawns at any one time is 11 megabecquerels (300 microcuries). The maximum amount of tritium expected to be released by an adult in a single day is 2.5 megabecquerels (66 microcuries). The maximum amount of tritium released in 4 months by one mother and her fawns is expected to be 89 megabecquerels (2.4 millicuries).

At any one time, the maximum amount of tritium in all the study animals is expected to be 67 megabecquerels (1.8 millicuries). This assumes six mothers are in the study and all deliver healthy fawns. The maximum amount of tritium expected to be released by all six mothers in one day is 15 megabecquerels (396 microcuries). The maximum amount of tritium expected to be released in 4 months by six mothers and their fawns is 533 megabecquerels (14.4 millicuries).

Pathways to the Environment

The adult lactating pronghorn antelope will lose tritiated water by respiration (exhaled water vapors), direct losses in urine, milk, and feces. Some tritium may be lost in saliva during grooming. The tritiated milk will be ingested by the fawns, who will in turn lose tritium through respiration, urine, and feces.

In the Sybille Area's semiarid environment, most of the tritiated water released by feces and urine is expected to evaporate into water vapor. The dynamic environment in which the tritium is released is expected to

distribute the tritium in water vapor, soil, water, and plants, within the pronghorn antelope's shelter and pasture, and not reconcentrate it. Sun, wind, and rain would be expected to disperse the tritium in and beyond these enclosures. The expected pathway is for tritium to be released primarily into the air and secondarily into the North Sybille Creek.

The open waste water gutter in the pronghorn antelope shelters will be covered and sealed during the study. Therefore, tritium in surface run off or deposited on the concrete, or in the soil, will not enter the waste water holding tank and drain tile system. The effective half-life of tritium within any particular part of the environment will be on the order of 3 days, as it moves through biological systems at Sybille Area and beyond. If it were trapped in the holding tank, the expected half-life of tritium would be the same as its 12-year physical half-life. In the drain field, the effective half-life would have depended on the molecular and biological stability of the molecules containing the tritium.

Pathway to Humans

Several factors, such as the exclusion of visitors and guided tours, in the restricted areas, from the pronghorn antelope shelters, pastures, and corridor for the pronghorn antelope shelter, make it unlikely that the tritium and tritiated animals will come in direct contact with the general public.

In the semiarid environment of the Sybille Unit, most of the tritiated water vapor and tritiated water released is expected to evaporate. Tritium left in the ground is expected to commingle with surface water run-off with very little, if any, migration into the aquifer. Well water provides all the drinking water at the Sybille area. Well water calculations, for the worst case scenario assuming one percent of the tritium entered the aquifer and migrated to a single well with an average water usage of (50 gallons) per day (very conservative and unlikely assumptions), resulted in a concentration of 74 becquerels (2,000 picocuries) per liter. This concentration is an order of magnitude less than the U.S. Environmental Protection Agency's drinking water standard 740 becquerels (20,000 picocuries) per liter. This concentration would be minuscule if more realistic assumptions were made for the probability of tritium penetrating the aquifer, its dispersion in the aquifer, and total water usage from the well. Therefore, neither the general public nor the Sybille residents are expected to ingest tritiated water.

Surface water calculations, for the worst case scenario assuming all the tritium injected from June to September went into the North Sybille Creek and the flow rate for the creek was only half its lowest flow rate (very conservative and unlikely assumptions), resulted in a concentration of 0.6 becquerel (17 picocuries) per liter. This concentration is three orders of magnitude less than the EPA's drinking water standard. This concentration becomes even smaller when water flowing through the Sybille Area is further diluted with water from Johnson Creek, Middle Sybille Creek, and other tributaries.

No one is expected to eat tritiated meat from the study pronghorn antelopes. The licensee has prohibited the use of the study animals for human consumption; hunters are not permitted to hunt where the animals are quartered; and the animals are not able to jump the fences and escape into areas where hunting is permitted.

The animals are permitted to move freely between their roofed shelter and the open pasture. Since the roofed shelter is not air-tight, the tritium released in exhaled water vapor or evaporating tritium in urine of feces deposited within the shelter is expected to disperse into the atmosphere and not concentrate in the shelter. Air inhalation calculations, for the worst case scenario assuming all the tritium injected between June and September was inhaled by a single individual standing one meter above and downwind of the tritium with an average wind velocity of 0.25 meters per second (very conservative and extremely unlikely assumptions), resulted in a total dose equivalent to the individual for the year of 0.027 millisievert (2.7 millirem). This is ten percent of the total dose equivalent permitted for the general public (10 CFR 20.1301). When realistic occupancy factors, distances, and wind velocities are used the total effective dose equivalent to any one individual becomes minuscule.

The tritium released as tritiated water is expected to evaporate and mix with water and water vapor present in the semiarid environment. Therefore, concentration in any particular water, plant, or animal segment of the environment is unlikely. Tritium may enter the food chain in minute amounts, through commercially grown food crops or domestic live stock animals downwind or downstream from the site. If this occurred, the total dose equivalent for a member of the general public would be significantly less than the worst-case calculations discussed above. They would be insignificant.

University of Wyoming personnel who handle the tritiated water, collect samples, and inject the pronghorn antelopes have procedures and equipment to minimize their exposure to tritium and to ensure exposures are below the 10 CFR part 20 limits. Instruction and written procedures address proper receipt, survey, transportation, and handling of tritium and tritium-contaminated waste, and how to handle spills and other emergency situations. Further, these individuals are subject to the University of Wyoming's bioassay program, to monitor their tritium uptake from all sources.

Dose and Effect on the Pronghorn Antelopes

The adult pronghorn antelope will receive injections of 11 megabecquerels (300 microcuries) of tritiated water. The initial concentration of tritiated water is expected to be 0.2 megabecquerels (6 microcuries) per milliliter of body water. The biological half-life of tritium for the adult pronghorn antelope is estimated to be 2.7 days, and the estimated maximum radiation dose to a single adult is approximately 0.56 millisieverts (56 millirem). The dose to an individual fawn is dependent upon the tritium concentration in the mother's milk, amount of milk ingested, tritium retention in the fawn, and the weight of the fawn. With all these factors taken into consideration, the dose to the fawn is probably between 0.1 and 10 times the dose to the mother.

Although most reported radiation biology studies used external gamma radiation and small mammals, some studies on larger mammals such as burros, pigs and sheep were done. No specific information is currently available for pronghorn antelopes. The internal beta dose from the tritiated water to each pronghorn antelope is well below the 7.7 millicoulombs per kilogram (30 roentgens) (gamma) that may cause reduced reproductive potential in mammals (which varies with age, species, and sex) and the 1.5 to 2.5 sieverts (150-to 250-rads) (gamma) radiation dose expected to kill 50 percent of a burro, pig, or sheep population, the LD–50 (lethal dose-50). The radiation doses to the pronghorn antelopes and their fawns are not expected to cause either acute or latent effects.

Effects on Endangered Species

The tritiated mothers and fawns are not expected to come in direct contact with the two endangered species (the blackfooted ferret and the Wyoming toad) because both of these species are

kept in buildings isolated from the other animals at the Unit. If any tritium is released into North Sybille Creek, it is not expected to come into contact with these endangered species, because they receive their water from wells. They also have very different biological life cycles and habitats.

Effects on Other Species

Other plant and animal species in the area should not be adversely affected by the release of tritiated water into the environment. The pronghorn antelopes are kept in a fenced area that will keep out most predators. Although coyotes have attacked and killed adult pronghorn antelopes in their pastures, coyotes are not hunted for food and the tritium ingested by the coyote is not expected to enter the human food chain. Eagles may attempt to take young fawns in the wild, but the fenced areas are not expected to provide the birds enough open space to attempt a landing and escape. Pronghorn antelopes that die during the study will be sent to the Wyoming State Veterinary Laboratory for necropsy and incineration and would not be available for scavengers. The pronghorn antelopes are expected to be free of tritium within 4 to 8 weeks of the end of the last tritium injection, because of the 2.7-day biological half-life of tritium in the animals.

Since the tritium exposure levels in the pronghorn antelopes are not high enough to cause either short- or long-term effects in the pronghorn antelopes, the even lower levels of tritium dispersed in the environment are not expected to have acute or long-term effects on other species in the area.

Conclusions

Based on the foregoing assessment, the NRC staff concludes that the environmental effects of using tritium for the *in-vivo* studies of the nursing pronghorn antelope and her fawns are expected to be extremely small. The concentrations of tritium released by the pronghorn antelope into the unrestricted areas will be well below the limits specified in 10 CFR part 20. Thus, the estimated doses to residents, other members of the general public, and the University of Wyoming personnel at the Sybille Wildlife Research Center are insignificant. Based on these considerations, this action will not result in significant effects on the quality of the human environment.

The estimated doses to the pronghorn antelope are too low to result in acute effects in the animals and are not expected to cause long-term effects. Additionally, dispersion in the environment would expose other species to even lower levels of tritium.

Neither of the two endangered species (i.e., the blackfooted ferret and the Wyoming Toad) living at the Sybille Area are expected to come in direct contact with the tritiated pronghorn antelopes, tritium-contaminated soil in the pronghorn antelope pastures, or tritiated water in North Sybille Creek. Further, the probability of them coming into contact with tritium-contaminated food products, soil, water, or air is quite small.

Therefore, in accordance with 10 CFR 51.31, a Finding of No Significant Impact is considered appropriate for this proposed action.

Alternatives to the Proposed Action

As required by section 102(2)E of the National Environmental Protection Act of 1969, as amended (NEPA) (42 U.S.C. 4322 (2) E), possible alternatives to the proposed action have been considered. The first alternative is to confine the animals to an indoor laboratory or environmental chamber to quantify the metabolic and energy expenditures. These experiments, however, cannot duplicate the metabolic rates and energy expenditures of the pronghorn antelopes when they are grazing and involved in other natural behaviors in the wild. Because they are not easily restrained and their movement would be restricted in laboratory conditions, data obtained under these conditions would not be meaningful. Although the 4046-square-meter (1-acre) pastures cannot replicate free-ranging conditions, the pronghorn antelopes' diet of sagebrush and grasses is the same, the animals appear to move normally, and the mother-fawn interactions are not expected to be adversely affected by the confinement of the pasture. Therefore, this alternative cannot be used in this study to quantify milk production and body-water turnover in both the mothers and the fawns.

A second alternative is to use only deuterium in either the mother or the fawns. In the mothers, it would provide data on milk uptake in the fawn and body-water turnover in the mother, but without the second isotope, the body-water turnover in the fawns could not be determined, and this is an critical parameter in the study. In the fawns, it would provide body-water turnover data, but not quantify milk uptake. If the six mother-fawn sets were divided evenly into 2 groups of either just mothers or just fawns receiving the deuterium, data could be collected for all the mother-fawn parameters. This is not an acceptable alternative because there may not be enough measurements for each data point to overcome individual mother-fawn dynamic differences, especially, if one or more groups are not able to complete the study.

A third alternative is to collect milk-production data and fawn body-growth data from carefully weighing the mother and fawns before and after feeding. The scales that would be used are not located in the Pronghorn antelope paddock and pastures. The animals would have to be captured after each feeding session and moved to the scales. This activity is considered to be too disruptive to the mothers and their fawns to result in meaningful data. Therefore, this alternative cannot be used in this study.

The last alternative to the proposed action is the denial of the license amendment request. This would result in the University of Wyoming having to abandon its attempt to study body-water turnover and milk production in the Pronghorn antelope, which, in turn, provides quantitative data on the role of adult body condition and neonatal survival. Although some of this information may be available for other ungulates, it is not available for the Pronghorn antelope, and the uniqueness of the Pronghorn antelope makes it important to scientifically understand its survival strategies.

The Pronghorn antelope is the only member of its family and genus, and it may have survival strategies that have not been measured in other species. Data on lactation strategies of the adult female and the growth rate of the fawns will increase the scientific understanding of herd recruitment and contribute to effective management of the species.

There are no currently available alternatives to quantifying the milk production and body-water turnover data determinations for the mothers and fawns, obtained from the study. The applicant will do double-labeled studies, using tritium in the mother and deuterium in the fawns, measuring the amount of tritium in the milk and urine of the mother, and measuring the amount of tritium and deuterium in the fawns' urine. The deuterium portion of the study does not involve byproduct material. Both the tritium and the deuterium data are needed to interpret the milk production and body-water data.

The benefit of denying the license amendment request would be no excess radiation exposure above normal background at Sybille Area to the individual Pronghorn antelope mothers and their fawns involved in the study. The benefit and the risk, to the

Pronghorn antelopes, from the additional radiation exposure, have to be weighed against the scientific information, needed to manage and protect the species, that is to be obtained from this study (i.e., quantitative milk production and body-water turnover information for the Pronghorn antelope during lactation and nursing). Further, this benefit has to be weighed against the scientific information obtained clarifying the physiological compromises between maximizing neonatal survival and maintaining good maternal body condition for survival of future reproductive success in Pronghorn antelopes and other ungulates.

The benefits to be gained from denial would be no release of radioactive material to the environment. This is not a significant benefit, because the estimated concentrations in unrestricted areas and resulting doses to humans from the studies will be insignificant.

Agencies and Persons Contacted

In performing this assessment, the staff contacted the University of Wyoming and the Sybille Wildlife Research and Conservation Education Unit.

Finding of No Significant Impact

The Commission has determined, under NEPA and the Commission's regulations in 10 CFR part 51, that this proposed amendment to Byproduct Material License No. 49–09955–10 to permit the injection of tritiated water into six nursing Pronghorn antelopes, if granted, would not have a significant effect on the quality of the human environment or the tritiated Pronghorn antelopes, and that an environmental impact statement is not required. This determination is based on the foregoing environmental assessment performed in accordance with the procedures and criteria in 10 CFR Part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions."

For further details of this action, see the license application dated April 7, 1992, and other related correspondence. The documents (in Docket No. 030–01176) may be examined or copied, for a fee, in the Commission's Region IV Public Document Room, 611 Ryan Plaza Drive, suite 400, Arlington, Texas 76011–8064.

Notice of Opportunity for a Hearing

Any person whose interest may be affected by the issuance of this amendment may file a request for a hearing. Any request for hearing must be filed with the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555 within 30 days of publication of this notice in the **Federal Register** and must be served on the NRC staff by mail addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555 or by delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852; and must be served on the applicant by mail or delivery to the University of Wyoming, Safety Office, P. O. Box 3413, room 312, Merica Hall, Laramie, Wyoming 82071–3413. The request for a hearing must comply with the requirements set forth in the Commission's regulations, 10 CFR part 2, subpart L, "Informal Hearing Procedures for Adjudications in Material Licensing Proceedings." Subpart L of 10 CFR part 2 may be examined or copied for a fee in the Commission's Region IV Public Document Room, 611 Ryan Plaza Drive, suite 400, Arlington, Texas 76011–8064, or in the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555.

As required by 10 CFR part 2, subpart L (10 CFR 2.1205), the request for hearing must describe in detail: (1) The interest of the requestor in the proceeding; (2) how that interest may be affected by the results of the proceedings, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in paragraph (g) of 10 CFR 2.1205; (3) the requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and (4) the circumstances establishing that the request for a hearing is timely in accordance with paragraph (c) of 10 CFR 2.1205.

The factors in 10 CFR 2.1205(g) that must be addressed in the request for hearing include: (1) The nature of the requestor's right under the Atomic Energy Act of 1954 to be made a party to the proceeding; (2) the nature and extent of the requestor's property, financial, or other interest in the proceeding; and (3) the possible effect of any order that may be entered in the proceeding upon the requestor's interest.

Dated at Rockville, Maryland this 7th day of February 1994.

For the U.S. Nuclear Regulatory Commission.

John E. Glenn,

Chief, Medical, Academic, and Commercial Use Safety Branch, Division of Industrial and Medical Nuclear Safety, NMSS.

[FR Doc. 94–3059 Filed 2–9–94; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Request for Extension of SF 87 Submitted to OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces the reclearance of Standard Forms 87 and 87A, and solicits comments on them.

Standard Forms 87 and 87A, Fingerprint Charts, are completed by applicants for Federal positions throughout the Government. SF 87 is used by OPM, and SF 87A is used by agencies having a special agreement with OPM and the FBI. The information collected is used to conduct the checks of the FBI fingerprint files required by E.O. 10450, Security Requirements for Government Employment, issued April 27, 1953, and authorized under 5 U.S.C. 3301 and E.O. 10577, as amended by E.O. 12107. The number of respondents annually who are not Federal employees is expected to be 24,800 with total reporting hours of 4,960.

For copies of this proposal call C. Ronald Trueworthy on 703–908–8550.

DATES: Comments on this proposal should be received on or before March 14, 1994.

ADDRESSES: Send or deliver comments to—Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., room 3002, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Peter Garcia, 202–376–3800.

U.S. Office of Personnel Management

Lorraine A. Green,

Deputy Director.

[FR Doc. 94–3053 Filed 2–9–94; 8:45 am]

BILLING CODE 6325–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Public Comments on U.S. Negotiations With Saudi Arabia in the Context of That Country's Accession to the General Agreement on Tariffs and Trade (GATT)

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and request for comments.

SUMMARY: Notice is hereby given that the Trade Policy Staff Committee (TPSC) is requesting written public comments on the announced intention of Saudi Arabia to accede to the GATT. Comments received will be considered by the Executive Branch in developing the U.S. position and objectives for the bilateral and multilateral negotiations that will determine Saudi Arabia's terms of accession to the General Agreement.

DATES: Public comments are due by 12 noon, March 4, 1994.

ADDRESSES: Office of the U.S. Trade Representative, 600 17th Street, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Cecilia Leahy Klein, Director for GATT Affairs (telephone: 202–395–3063), or Alex Terman, Deputy Director for the Middle East and Mediterranean, (telephone: 202–395–3074), Office of the U.S. Trade Representative, 600 17th Street, NW., Washington, DC 20506.

SUPPLEMENTARY INFORMATION:

1. Written Comments

The Chairman of the Trade Policy Staff Committee invites written public comments on the issues that will be addressed in the course of negotiations with Saudi Arabia to determine the Protocol and tariff terms of Saudi Arabia's accession to the General Agreement. These terms will be negotiated in bilateral meetings with Saudi Arabia and in meetings of the Working Party established by the Contracting Parties to the GATT on July 21, 1993. The Committee is particularly interested in views on the possible impact of Saudi Arabia's accession to the GATT on U.S. trade, on any trade measures applied by Saudi Arabia that could be subject to the provisions of the General Agreement, on tariff levels currently applied by Saudi Arabia to imports of specific interest to U.S. exporters, and on the experiences of U.S. firms in trading with Saudi Arabia. The Committee is seeking information on the structure and conduct of Saudi Arabia's trade policies, on barriers to trade with that country, or on any other measure that inhibits imports or artificially stimulates exports.

All comments will be considered by the Executive Branch in developing the U.S. position and objectives for GATT examination of Saudi Arabia's accession and for bilateral negotiations concerning both the substantive terms of the Protocol of Accession and the establishment of Saudi Arabia's GATT schedule of tariff concessions. Information on products or practices subject to these negotiations should include, whenever appropriate, the import tariff classification number used by Saudi Arabia for the product concerned.

Persons wishing to submit written comments should provide a statement, in twenty copies, by noon, Friday, March 4, 1994, to Carolyn Frank, TPSC Secretary, Office of the U.S. Trade Representative, room 414, 600 17th Street, NW., Washington, DC 20506. Non-confidential information received will be available for public inspection by appointment, in the USTR Reading Room, 600 17th Street, NW., room 101, Washington, DC, Monday through Friday, 10 a.m. to 12 noon and 1 p.m. to 4 p.m. For an appointment call Brenda Webb on 202–395–6186. Business confidential information will be subject to the requirements of 15 CFR 2003.6. Any business confidential material must be clearly marked as such on each page, including any cover letter, and must be accompanied by a non-confidential summary thereof.

2. Background

On July 21, 1993, the GATT Contracting Parties established a Working Party to examine a request by Saudi Arabia to accede to the General Agreement pursuant to Article XXXIII. This Working Party, composed of interested GATT members, will examine Saudi Arabia's foreign trade regime during several meetings and submit to the GATT Council recommendations that may include a draft Protocol of Accession. There is no established timetable for the accession process, and the Working Party will not initiate its discussions until Saudi Arabia submits a comprehensive Foreign Trade Memorandum detailing its foreign trade regime. The United States will be a major participant in these deliberations, and will engage in bilateral negotiations with Saudi Arabia to develop the terms of its accession to the General Agreement contained in the Protocol and in a schedule of tariff concessions. In the course of these negotiations, Saudi Arabia's willingness to adopt the results of the Uruguay Round of Multilateral Trade Negotiations will also be explored, with a view to providing for Saudi Arabia's eventual membership in post-Uruguay Round GATT institutions.

The Protocol of Accession that Saudi Arabia negotiates with the Contracting Parties will set forth the agreed terms of its GATT membership, including the relationship of its foreign trade regime to the Articles of the General Agreement. Aspects of the foreign trade regime that are normally examined in such negotiations include: Application of most-favored-nation treatment (including, e.g., the Arab Boycott) and national treatment to imports from other GATT contracting parties, licensing requirements, quantitative trade restrictions, subsidy practices as they affect trade, non-tariff charges and taxes, customs valuation and classification procedures, transparency in trade regulation and administration, and state trading practices and monopolies. The Working Party will want to receive information from Saudi Arabia concerning issues covered by the Uruguay Round, including trade in services, intellectual property protection, trade-related investment measures, agricultural supports and subsidies, and sanitary and phytosanitary requirements.

In addition, as part of the accession process, Saudi Arabia will also conduct bilateral negotiations with interested GATT members to formulate a schedule of tariff concessions that will become part of its Protocol of Accession. These concessions will consist of Saudi Arabia's agreement to bind the tariffs applied to certain imports, restricting its ability to increase the tariff rate applied to those items without offering appropriate compensatory tariff concessions on other items. The rates of duty negotiated bilaterally, as well as all the other protections of GATT Articles, will apply to the trade of other GATT contracting parties with whom Saudi Arabia has GATT relations after its accession.

As a GATT member, Saudi Arabia will enjoy a multilateral guarantee of unconditional most favored nation treatment from other GATT contracting parties that is more comprehensive than that available through bilateral agreements. The bindings on tariffs maintained in the tariff schedules of other GATT contracting parties that have GATT relations with Saudi Arabia will be extended to its exports as obligations under the GATT. Saudi Arabia will also have recourse to GATT procedures to protect itself from unfair or unreasonable trade actions by its GATT trading partners.

In return for these benefits, Saudi Arabia will be expected to grant similar benefits to the trade of other GATT contracting parties, to conduct its trade policies in accordance with the rules set out in the General Agreement, and to establish its own schedule of tariff concessions.

(Authority: 15 CFR 2002.2)

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 94–3173 Filed 2–9–94; 8:45 am]

BILLING CODE 3190–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–33583; File No. SR–MSRB–94–02]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board, Notice of Extension of Comment Period Relating to Political Contributions and Prohibitions on Municipal Securities Business

February 4, 1994.

On January 12, 1994, the Municipal Securities Rulemaking Board ("MSRB") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–MSRB–94–02), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), and Rule 29b–4 thereunder. The MSRB filed the proposal to adopt rules relating to political contributions and prohibitions on municipal securities business. Notice of the proposed rule change was provided by the issuance of a Commission release, Securities Exchange Act Release No. 33482 (January 14, 1994), and by publication in the **Federal Register**, 59 FR 3389 (January 21, 1994).

The Commission received a request for extension of the period for public comment on the proposed rule change.[1] The Commission finds that the complexity and significance of the filing dictates a longer comment period to ensure complete analysis of the proposal.[2] Thus, the Commission finds good cause, pursuant to section 19(b)(2) of the Act, to extend the period for comment.

The Commission hereby extends the period for public comment on the proposed rule change for a period of 30 days, until March 11, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–3153 Filed 2–9–94; 8:45 am]

BILLING CODE 8010–01–M

[1] Letter from Jeffrey L. Esser, Executive Director, Government Finance Officers Association, to Jonathan G. Katz, Secretary, Commission, (January 31, 1994).

[2] The MSRB did not object to the Commission extending the comment period. Letter from Ron Smith, Secretary, MSRB, to Kathy England, Assistant Director, Division of Market Regulation, Commission, (February 4, 1994).

[Release No. 34–33579; File No. SR–Phlx–93–64]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange Relating to the Listing and Trading of Options on The Big Cap Index

February 4, 1994.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 2, 1994, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Phlx.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx, pursuant to Rule 19b–4 of the Act, proposes to list and trade options on The Big Cap Index ("Index"), an index developed by the Phlx and comprised of fifty highly capitalized U.S. stocks representing a variety of industries.

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 Phlx 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 Phlx has prepared summaries, set forth in section (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory basis for, the Proposed Rule Change

The Phlx proposes to list for trading European-style options[2] on the Index, a capitalization-weighted index comprised of fifty highly capitalized U.S. common stocks in a variety of industries, including but not limited to technology, manufacturing, and the service industries. The Index also includes some of the largest and most widely-held U.S. common stocks.[3] The Exchange proposes classifying the Index as a broad-based index.

The formula for calculating the Index is as follows:

$$\frac{(MV1)+(MV2)+\ldots.(MV50)}{BMV}\times 100$$

Where:

MV=Market Value (Price × Shares outstanding), summed for all issues.

BMV=Base Market Value; Summation of (Closing Price × Shares Outstanding) for the day prior to the start of the Index calculation.

The current price of each component issue is multiplied by the number of outstanding shares. The resulting market values are added to determine the current aggregate market value of the issues in the Index. To compute the

[1] On January 5, 1994, the Phlx amended the proposal, changing the name of the index from the "Nifty Fifty Index" to "The Big Cap Index." *See* letter from Michele R. Weisbaum, Associate General Counsel, Phlx, to Brad Ritter, Office of Derivatives Regulation, Division of Market Regulation ("Division"), SEC, dated January 5, 1994 ("Amendment No. 1"). On January 25, 1994, the Phlx amended the proposal: (1) to set the exercise prices at 5 point intervals instead of 2½ point intervals; and (2) to request accelerated approval of the proposed rule change. *See* Letter from Michele R. Weisbaum, Associate General Counsel, Phlx, to Richard Zack, Branch Chief, Office of Derivatives Regulation, Division, SEC, dated January 25, 1994. On January 28, 1994, the Phlx amended the proposal: (1) to reflect the new ticker symbol as a result of Amendment No. 1; (2) to provide that the index will be updated during the trading day at least once every 15 seconds, rather than once every minute; (3) to specify that the expiration cycle applicable to options of the Index will be three expiration months from the March, June, September, December cycle plus two additional near-term months; and (4) to clarify the Exchange's obligations with respect to delisting and replacing components of the Index. *See* Letter from Michele R. Weisbaum, Associate General Counsel, Phlx, to Richard Zack, Branch Chief, Office of Derivatives Regulation, Division, SEC, dated January 27, 1994.

[2] A European-style option can be exercised only during a specified period before the option expires.

[3] The components of the Index are: General Electric; Exxon; AT&T; Wal-Mart; Coca Cola; Philip Morris Co.; Proctor & Gamble; Merck & Co.; GTE Corp.; Mobil; DuPont; American International; Pepsi Co.; Intel; General Motors; Bristol-Meyers Squibb; Amoco; Bell Atlantic; Ford; Johnson & Johnson; Motorola; IBM; Ameritech; 3M; Walt Disney Co.; Eastman Kodak; Sears, Roebuck; Home Depot; McDonalds Corp.; Atlantic Reichfield; Hewlett-Packard; American Express; Time Warner; Schlumberger Ltd.; Dow Chemical; BankAmerica; Southern Co; Citicorp; Boeing Co.; ITT Corp.; Toys R Us; Merrill Lynch; K Mart; H.J. Heinz; Weyerhauser; The Limited; Colgate Palmolive; Monsanto; Xerox; and International Paper.

current Index value, the aggregate market value is divided by the base market value and multiplied by 100. The value of the Index was set to equal 200 on December 1, 1993.

To account for changes in capitalization of any of the component issues resulting from mergers, acquisitions, delistings, substitutions, etc., the base market value will be adjusted periodically. The following formula is used to make such adjustments:

$$NBMV = \frac{OBMV \times NMV}{OMV}$$

Where:

NBMV=new base market value
OBMV=old base market value
NMV=new market value
OMV=old market value

Adjustments in the value of the Index which are necessitated by the addition and/or deletion of an issue from the Index are made by adding and/or subtracting the market value (price × shares outstanding) of the relevant issues.

The Index value will be updated dynamically at least once every 15 seconds during the trading day. The Phlx has retained Bridge Data, Inc. to compute the value of the Index. Pursuant to Phlx Rule 1100A, updated Index values will be disseminated and displayed by means of primary market prints reported by the Consolidated Tape Association and over the facilities of the Options Price Reporting Authority. The Index value will also be available on broker/dealer interrogation devices to subscribers of the option information.

In accordance with Phlx Rule 1009A, if any change in the nature of any stock in the Index occurs as a result of delisting, merger, acquisition or otherwise, the Exchange will take appropriate steps to delete this stock from the Index and replace it with another stock which the Exchange believes would be compatible with the intended market character of the Index.

The Exchange believes that there is a market need for an index that captures and reflects the sentiment, direction, and pricing of the largest and most important companies in the U.S. but remains based on a relatively small number of stocks for easy replication of the Index with a basket of stocks for more accurate hedging. The Phlx proposes to list only European-style options on the Index, which, they believe, should appeal to sellers of the option that desire to contain any risks attendant with early exercises. In light of these features, the Phlx believes that the proposed Index option is unique and will fill a current void in the options market.

Index options will be traded pursuant to the current Phlx rules governing the trading of index options, particularly Phlx Rules 1000A through 1103A, and generally, Phlx Rules 1000 through 1070.

Index options will be "A.M.-settled index options" and will expire on the Saturday following the third Friday of the expiration month, and the last day for trading in an expiring series will be the second business day (ordinarily a Thursday) preceding the expiration date.

The Phlx proposes to employ position and exercise limits pursuant to Phlx Rule 1001A(a)(1) and 1002A, respectively. Essentially, the Exchange proposes to establish position limits for Index options of 25,000 contracts total, with no more than 5,000 such contracts in the series with the nearest expiration date. Exercise price intervals will be initially set at 5 point intervals and additional exercise prices will be added in accordance with Phlx Rule 1012(a)(iii).

The Phlx will trade consecutive and cycle month series pursuant to Phlx Rule 1101A. Specifically, there will be three expiration months from the March, June, September, December cycle plus two additional near-term months so that the three nearest term months will always be available.

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act, in general, and with Section 6(b)(5), in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to facilitate transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR-Phlx-93-64 and should be submitted by March 3, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94-3152 Filed 2-9-94; 8:45 am]

BILLING CODE 8010-01-M

[Investment Company Act Rel. No. 20055; 812-8608]

G.T. Global Growth Series, et al.; Application for Exemption

February 4, 1994.

AGENCY: Securities and Exchange Commission (the "SEC" or the "Commission").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: G.T. Global Growth Series, G.T. Investment Funds, Inc., G.T.

[4] 17 CFR 200.30-3(a)(12) (1993).

Investment Portfolios, Inc., and each portfolio thereof, and any future portfolios thereof that will issue multiple classes of shares that are identical in all material respects to the classes described in the application, and any other open-end management investment companies established or acquired in the future that are in the same "group of investment companies" as that term is defined in rule 11a–3 under the Act and that issue multiple classes of shares that are identical in all material respects to the classes described in the application (the "Funds"), G.T. Capital Management, Inc. ("G.T. Capital"), and G.T. Global Financial Services, Inc. ("G.T. Global").

RELEVANT ACT SECTIONS: Order requested under section 6(c) to amend a previous order that granted relief from sections 2(a)(32, 2(a)(35), 18(f), 18(g), 18(i), 22(c), and 22(d) of the Act and rule 22c–1 thereunder.

SUMMARY OF APPLICATION: Applicants seek an order that would amend a prior order that permitted the issuance of multiple classes of shares and the imposition and, under certain circumstances, the waiver, of a contingent deferred sales charge ("CDSC"). The amended order would permit applicants to waive the CDSC with respect to certain additional types of redemptions.

FILING DATE: The application was filed on October 12, 1993 and amended on January 13, 1994. By supplemental letter dated February 4, 1994, counsel, on behalf of applicants, agreed to file a further amendment during the notice period to make certain technical changes. This notice reflects the changes to be made to the application by such further amendment.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 28, 1994, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 50 California Street, San Francisco, California 94111.

FOR FURTHER INFORMATION CONTACT: Marilyn Mann, Special Counsel, at 504–2259, or Barry D. Miller, Senior Special Counsel, at 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants Representations

1. The Funds are organized as series of three registered, open-end, management investment companies: G.T. Global Growth Series, G.T. Investment Funds, Inc., and G.T. Investment Portfolios, Inc. G.T. Global Growth Series is a Massachusetts business trust currently comprised of six operating portfolios: G.T. America Growth Fund, G.T. Europe Growth Fund, G.T. International Growth Fund, G.T. Japan Growth Fund, G.T. Pacific Growth Fund, and G.T. Worldwide Growth Fund. G.T. Investment Funds, Inc. is a Maryland corporation currently comprised of eight operating portfolios: G.T. Global strategic Income Fund, G.T. Global Emerging Markets Fund, G.T. Global Government Income Fund, G.T. Global Growth & Income Fund, G.T. Global High Income Fund, G.T. Global Health Care Fund, G.T. Latin America Growth Fund, and G.T. Global Telecommunications Fund. G.T. Investment Funds, Inc. has additional series which have not yet commenced operations. G.T. Investment Portfolios, Inc. is also a Maryland corporation currently comprised of a single operating portfolio: G.T. Global Dollar Fund. G.T. Global serves as the distributor of the share of each Fund. Shares of the common stock or beneficial interest of the Funds, as applicable, are available through brokers or financial institutions that have entered into agreements with G.T. Global to sell Fund shares. Shares may also be acquired directly through G.T. Global. G.T. Capital is the investment manager and administrator for each of the Funds, other than G.T. Global High Income Fund, for which G.T. Capital is only the administrator.[1] From time to time, other Funds may be established that are managed and administered by G.T. Capital and/or distributed by G.T. Global.

2. In a prior application, applicants requested an order of the Commission pursuant to section 6(c) of the Act exempting applicants from the provisions of sections 2(a)(32), 2(a)(35), 18(f), 18(g), 18(i), 22(c) and 22(d) of the Act and rule 22c–1 thereunder to the extent necessary to permit the Funds to sell two classes of shares for the purpose of establishing a dual distribution system ("Dual Distribution System"), to allow the Funds the ability to impose a CDSC on redemption of certain shares purchased at net asset value, and to waive or reduce the CDSC with respect to certain types of redemptions (the "Prior Order").[2]

3. Applicants propose to amend the Prior Order to permit the Funds to waive the CDSC with respect to the following additional types of redemptions: (1) Redemptions made in connection with participant-directed exchanges between options in an employer-sponsored benefit plan; (2) redemptions made for the purpose of providing cash to fund a loan to a participant in a tax-qualified retirement plan; (3) redemptions made in connection with a distribution from any retirement plan or account that is permitted in accordance with the provisions of section 72(t)(2) of the Internal Revenue Code of 1986, as amended (the "Code"), and the regulations promulgated thereunder; (4) redemptions made in connection with a distribution from any retirement plan or account that involves the return of an excess deferral amount pursuant to section 401(k)(8) or section 402(g)(2) of the Code or the return of excess aggregate contributions pursuant to section 401(m)(6) of the Code; (5) redemptions made in connection with a lump-sum distribution from an employer-sponsored retirement plan, the proceeds of which are transferred directly to a G.T. Global Individual Retirement Account ("IRA") or other G.T. Global retirement account, or are otherwise invested in Fund shares; (6) redemptions made in connection with a distribution (from a qualified profit-sharing or stock bonus plan described in section 401(k) of the Code) to a participant or beneficiary under section 401(k)(2)(B)(IV) of the Code upon hardship of the covered employee (determined pursuant to Treas. Reg. § 1.401(k)–1(d)(2)); (7) redemptions made by full-time employees of

[1] G.T. Global High Income Fund seeks its investment objective by investing all of its investable assets in the Global High Income Portfolio ("Portfolio"). G.T. Global High Income Fund may withdraw the investment of the Fund from the Portfolio at any time, if the Board of Directors of G.T. Investment Funds, Inc. determines it is in the best interests of the Fund to so do. G.T. Global High Income Fund pays administration fees directly to G.T. Capital, and bears a *pro rata* portion of the investment management and administration fees paid by the Portfolio to G.T. Capital.

[2] Investment Company Act Release Nos. 18961 (Sept. 17, 1992) (notice) and 19022 (Oct. 14, 1992) (order).

financial institutions that, directly or through their affiliates, have entered into selling agreements with G.T. Global or that otherwise have an arrangement with respect to sales of Fund shares with a broker/dealer that has entered into a selling agreement with G.T. Global, and the children, siblings and parents of such employees; (8) redemptions made on behalf of accounts as to which a financial institution or broker/dealer charges an account management fee, where the financial institution or broker dealer has entered into an agreement with G.T. Global regarding such accounts; (9) redemptions made by or for the benefit of certain states, counties or cities, or any instrumentalities, departments or authorities thereof; and (10) redemptions made by any of the companies comprising or affiliated with the G.T. Group. Each of these additional waivers will apply only to Class B shares issued subsequent to the issuance of the order.

4. Currently, each Fund offers two classes of shares which are hereinafter referred to as the "Class A" shares and the "Class B" shares. The Class A shares of the Funds are currently sold subject to a traditional front-end sales load and service and distribution fees, in the aggregate, of up to .50% per annum of the average daily net asset value of the Class A shares. The Class B shares are currently sold subject to service and distribution fees, in the aggregate, of up to 1.00% per annum of the average daily net asset value of the Class B shares, and may be subject to a CDSC upon redemption.

5. In no event will the amount of the CDSC exceed 6% of the aggregate purchase payments made by an investor for Class B shares of a Fund, pursuant to the Prior Order. The CDSC is not imposed on redemptions of Class B shares that were purchased more than six years prior to the redemptions ("CDSC Period") or on those Class B shares derived from reinvestment of dividends/distributions. Likewise, no CDSC is imposed on an amount that represents an increase in the value of the shareholder's account resulting from capital appreciation above the amount paid for Class B shares purchased in the CDSC Period.

6. Applicants also have the ability to impose a CDSC on the proceeds of certain redemptions of Class A shares initially sold without a sales charge. Such Class A shares are limited to those sold at net asset value pursuant to the sales charge waiver for large purchases. Currently, this waiver applies to sales where the amount of purchase exceeds $500,000. The CDSC applicable to these Class A shares is imposed only in the event of a redemption transaction within twenty-four months following the share purchase and is calculated in the same manner as the CDSC with respect to the Class B shares described herein. The amount of the CDSC, however, is limited to 1% of the lower of the original purchase price or the net asset value of such shares at the time of redemption. In addition, each of the CDSC waivers or reductions applicable to the redemptions of Class B shares are also applicable to redemptions of Class A shares that are otherwise subject to the CDSC. All references hereafter to Class B shares shall be deemed to include a reference to Class A shares to the extent that a CDSC is applied to such shares in the limited circumstances described above.

7. The amount of the CDSC on Class B shares is calculated as the lesser of the amount that represents a specified percentage of the net asset value of the Class B shares at the time of purchase, or the amount that represents such percentage of the net asset value of the Class B shares at the time of redemption. As a result, no CDSC is imposed on an amount that represents an increase in the value of the shareholder's account resulting from capital appreciation above the amount paid for Class B shares purchased in the CDSC Period. In determining the applicability and rate of any CDSC, it is assumed that a redemption is made first of Class B shares representing reinvestment of the dividends and capital gain distributions, second of Class B shares held by the shareholder for a period equal to or greater than the CDSC Period and, finally, of other Class B shares held by the shareholder for the longest period of time. This results in a charge, if any, imposed at the lowest possible rate.

8. Currently, pursuant to the Prior Order, the Funds are permitted to waive or reduce the CDSC (a) on redemptions of Class B shares following death or disability, as defined in section 72(m)(7) of the Code, of a shareholder if the redemption is made within one year after death or disability of the shareholder, as applicable; (b) on redemptions of Class B shares in connection with distributions from an IRA or other qualified retirement plan;[3] (c) on redemptions of Class B shares purchased by current or retired officers, directors or trustees, and current or retired employees of the Funds, G.T. Capital, or G.T. Global or any affiliated company, and by the members of the immediate families of such persons; (d) on redemptions of Class B shares made by registered representatives or full-time employees of brokers and dealers which have entered into dealer agreements with G.T. Global, and their children, siblings and parents; (e) on redemptions of Class B shares made pursuant to a shareholder's participation in any systematic withdrawal plan adopted by a Fund; (f) on redemptions of Class B shares by large accountholders as described in the prior application; (g) on redemptions of Class B shares effected by advisory accounts managed by G.T. Capital or any affiliated company or by any such affiliated company itself; (h) on certain redemptions of Class B shares by tax-exempt employee benefit plans;[4] (i) on redemptions of Class B shares effected pursuant to each Fund's right to liquidate a shareholder's account if the aggregate net asset value of shares held in the account is less than the effective minimum account size; and (j) on redemptions of Class B shares by banks, trust companies, registered investment advisers and other financial institutions with trust powers that use trust funds to purchase shares of a Fund. When the Funds waive or reduce the CDSC, such waiver or reduction is uniformly applied to all offerees of the Funds' Class B shares. In waiving or reducing a CDSC, the Funds comply with the requirements of rule 22d–1 under the Act. The CDSC is waived or reduced by a Fund as provided in such Fund's prospectus at the time the investor purchased the shares.

9. In addition, as described in the prior application, if an investor redeems his Class B shares, pays a CDSC, and subsequently reinvests all of his proceeds from the redemption in Class B shares of the same or a different Fund within 365 days from the redemption, the investor will be credited for the full amount of the CDSC paid at the time of redemption. If the investor invests less than the full amount of the proceeds from the redemption, the investor will be credited for a *pro rata* amount of the CDSC. The credit will be paid by the distributor rather than the Fund.

Applicants' Legal Analysis

1. Section 6(c) of the Act provides in part that the Commission, by order upon application, may conditionally or

[3] As described in the prior application, the CDSC may be waived on redemptions of Class B shares that constitute retirement plan distributions that are permitted to be made without penalty under the Code, other than tax-free rollovers or transfers of assets.

[4] As described in the prior application, the Funds may waive the CDSC in connection with redemptions by tax-exempt employee benefits plans as a result of the enactment or promulgation of any law or regulation pursuant to which continuation of the investment in the Funds would be improper.

unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants submit that their request for an amendment to the Prior Order as set forth above is consistent with this standard.

2. Applicants believe that the proposed additional CDSC waivers are fair and in the best interests of the Funds' shareholders. The waiver of the CDSC under the additional circumstances contemplated would not adversely affect other shareholders of a Fund. Waiver of the CDSC would not result in the loss of any revenue to a Fund, since proceeds from the CDSC will be paid to G.T. Global. Furthermore, as noted above, since the distribution fees payable by the Class B shares of each Fund are based on the average daily net assets of the Class B shares of such Fund, amounts redeemed, including amounts upon which the CDSC is waived, will be removed from the base upon which the distribution fees for such class are calculated. In summary, applicants submit that the waiver of the CDSC in the above additional circumstances will not harm the Funds or their remaining shareholders or unfairly discriminate among shareholders or purchasers.

Applicants' Condition

Applicants agree that the order of the Commission granting the requested relief shall be subject to the following condition:

Applicants will comply with proposed rule 6c–10 under the Act, Investment Company Act Release No. 16619 (Nov. 2, 1988), as such rule is currently proposed and as it may be re-proposed, adopted, or amended.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–3191 Filed 2–9–94; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; in the Vicinity of the City and Borough of Juneau, AK

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 transportation project to provide improved surface access to and from Juneau in the Southeast panhandle of Alaska.

FOR FURTHER INFORMATION CONTACT: Mr. Phillip Smith, Field Operations Engineer, Region 10, Alaska Division, Federal Highway Administration, P.O. Box 21648, Juneau, Alaska, 99802–1648, Telephone: (907) 586–7428, or Mr. Pat Kemp, Regional Pre-Construction Engineer, Alaska Department of Transportation and Public Facilities (ADOT&PF), Southeast Region, 6860 Glacier Highway, Juneau, Alaska, 99801–7999, Telephone: (907) 465–4428.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the ADOT&PF (Southeast Region) will prepare an Environmental Impact Statement (EIS) for a proposal to build a highway through rugged, mountainous terrain. This highway will increase statewide interchange and commerce between central, interior and southeast Alaska. It will meet existing and future demands for moving vehicles, passengers, and freight between Juneau and the land highway network of the North American continent (the continental highway system).

The project eliminates a major gap in the land highway network of the North American continent. This network reaches to within fifty miles of the Juneau road system. instead of a highway, surface access to and from Juneau is provided by scheduled sailings of state ferries. The maximum frequency of service is one trip a day during the summer months. Demand for travel between Juneau and the continental highway system now exceeds the space available for many summer-time sailings. It is difficult to reserve vehicle (and sometimes passenger) space for many departures. Without reservations, most travelers are unlikely to attempt the trip. These service characteristics delay or prevent the movement of passengers, vehicles and freight.

The aim of this project is to provide transportation that is available on-demand and at a reasonable cost to both the state and the highway user. On-demand transportation means the ability to depart on a trip whenever desired, as opposed to tailoring the trip to the schedules of either state ferries, air carriers or barge lines. Reasonable cost to the highway user means reducing both road and/or ferry and barge expenses to expenses comparable to making a similar trip on a land highway. In addition, reasonable costs include reducing total travel time to less than three hours between Juneau and the continental highway system. Reasonable cost to the state means reducing and/or eliminating the use of state ferries if substitute service can be provided by other means such as a land highway. In support of these transportation goals, the Alaska Legislature appropriated funding to ADOT&PF for preparation of an EIS for the proposed project.

Alternatives under consideration include the following: (1) Taking no action, in which access to and from Juneau continues to rely on state ferries; (2) Constructing a highway from Juneau to the continental highway system at Skagway, which includes a bridge to Haines. Phased construction would include a ferry shuttle across Lynn Canal from a temporary terminal on the Katzehin River flats, which could serve Haines and Skagway; (3) Establishing shuttle ferry service from the east side to the west side of Lynn Canal, with construction of a highway from the east side ferry terminal to the continental highway system near Haines. This could include some form of ferry service to Skagway; (4) Constructing a highway east from Juneau up the Taku River Valley as far as the Canadian border, with a Canadian connection to the continental highway system either south of Atlin or west of Dease Lake. Both Atlin and Dease Lake are in the province of British Columbia, Canada; (5) Enhancing the service capabilities of state ferries between Juneau, Haines and Skagway; and (6) Constructing a "summer-use only" highway on either the east or west sides of Lynn Canal. This alternative assumes the road link would not be maintained in the winter, when travelers would continue to rely on state ferries. On-demand transportation would thus be provided during the summer-time periods of peak demand.

Announcements describing the proposed action and soliciting comments will be sent to appropriate federal, state, and local agencies. They will also be sent to private organizations, businesses and citizens

known to have an interest in the proposal. Public scoping meetings will be held in Juneau, Haines and Skagway in Early March of 1994. The resulting draft EIS will be available for public and agency review and comment. Public hearings will be scheduled to accept formal comments on the draft EIS. Public notices will be issued to announce the times and places of all meetings and hearings.

It is important that the full range of issues related to this proposed action be addressed and that all significant issues be identified, thus 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 or ADOT&PFT the addresses or phone numbers provided.

Research, (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of Federal programs and activities apply to this program)

Issued on: January 27, 1994.

Robert E. Ruby,

Division Administrator, Juneau.

[FR Doc. 94–3146 Filed 2–9–94; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

February 3, 1994.

The Department of the 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: 1515–0076.

Form Number: CF 3124.

Type of Review: Reinstatement.

Title: Application for Customshouse Broker's License.

Description: In order to apply for a Customshouse Broker's license (individuals, corporate, partnerships or additional district license) a license application is submitted by the individual or entity in duplicate to district directors of Customs in the district where licensing as a broker is required.

Respondents: Businesses or other for-profit.

Estimated Number of Respondents: 1,800.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1,800 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. 94–3033 Filed 2–9–94; 8:45 am]

BILLING CODE 4820–02–P

Public Information Collection Requirements Submitted to OMB for Review

February 3, 1994.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0430.

Form Number: IRS Form 4810.

Type of Review: Extension.

Title: Request for Prompt Assessment Under Internal Revenue Code Section 6501(d).

Description: Form 4810 is used to request a prompt assessment under Internal Revenue Code (IRC) section 6501(d). IRS uses this form to locate the return to expedite processing of the taxpayer's request.

Respondents: Individuals or households, Farms, Businesses or other for-profit, Federal agencies or employees, Small businesses or organizations.

Estimated Number of Respondents: 4,000.

Estimated Burden Hours Per Respondent: 30 minutes.

Frequency of Response: On occasion, Other (as necessary).

Estimated Total Reporting Burden: 2,000 hours.

OMB Number: 1545–1367.

Form Number: None.

Type of Review: Extension.

Title: Leadership Effectiveness Analysis.

Description: The data collected from this form is used by the executive panels responsible for screening internal and external applicants for the SES Candidate Development Program.

Respondents: Individuals or households, Federal agencies or employees.

Estimated Number of Respondents: 2,100.

Estimated Burden Hours Per Respondent: 30 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 1,050 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 94–3034 Filed 2–9–94; 8:45 am]

BILLING CODE 4830–01–P

Public Information Collection Requirements Submitted to OMB for Review

February 4, 1994.

The Department of the Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171, Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0499.

Form Number: IRS Form 5305–SEP.

Type of Review: Resubmission.

Title: Simplified Employee Pension—Individual Retirement Accounts Contribution Agreement.
Description: This form is used by an employer to make an agreement to provide benefits to all employees under a Simplified Employee Pension (SEP) described in section 408(k). This form is not to be filed with the IRS but to be retained in the employer's records as proof of establishing a SEP and justifying a deduction for contributions in the SEP. The data is used to verify the deduction.
Respondents: Businesses or other for-profit.
Estimated Number of Respondents/Recordkeepers: 100,000.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—7 minutes
Learning about the law or the form—26 minutes
Preparing the form—20 minutes
Frequency of Response: On occasion.
Estimated Total Reporting/Recordkeeping Burden: 88,000 hours.
Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 94–3168 Filed 2–9–94; 8:45 am]
BILLING CODE 4830–01–P

Public Information Collection Requirements Submitted to OMB for Review

February 4, 1994.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0919
Regulation ID Number: PS–105–75 Final
Type of Review: Extension
Title: Limitations on Percentage Depletion in the Case of Oil and Gas Wells
Description: The regulations require each partner to separately keep records of his share of the adjusted basis of partnership oil and gas property and require each partnership, trust, estate, and operator to provide information necessary to compute depletion with respect to oil or gas to certain persons.
Respondents: Businesses or other for-profit
Estimated Number of Recordkeepers: 1
Estimated Burden Hours Per Recordkeeper: 1 hour
Frequency of Response: Other
Estimated Total Reporting Burden: 1 hour
Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports, Management Officer.
[FR Doc. 94–3169 Filed 2–9–94; 8:45 am]
BILLING CODE 4830–01–P

Customs Service

[RP 94–1; ADM–9–03–CO:R:IT:R; 911965 GRV]

Quarterly IRS Interest Rates Used in Calculating Interest on Overdue Accounts and Refunds on Customs Duties

AGENCY: U.S. Customs Service, Treasury.
ACTION: Notice of calculation and interest.

SUMMARY: This notice advises the public of the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts and refunds of Customs duties. For the quarter beginning January 1, 1994, the rates will be 6 percent for overpayments and 7 percent for underpayments. This notice is published for the convenience of the importing public and Customs personnel.

EFFECTIVE DATE: January 1, 1994.
FOR FURTHER INFORMATION CONTACT: John V. Accetturo, National Finance Center, Revenue Branch, (317) 298–1308.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 U.S.C. 1505 and Treasury Decision 85–93, published in the **Federal Register** on May 29, 1985 (50 FR 21832), the interest rate paid on applicable overpayments or underpayments of Customs duties shall be in accordance with the Internal Revenue Code rate established under 26 U.S.C. 6621 and 6622. Interest rates are determined based on the short-term Federal rate. The interest rate that Treasury pays on overpayments will be the short-term Federal rate plus two percentage points. The interest rate paid to the Treasury for underpayments will be the short-term Federal rate plus three percentage points. The rates will be rounded to the nearest full percentage.

The interest rates are determined by the Internal Revenue Service on behalf of the Secretary of the Treasury based on the average market yield on outstanding marketable obligations of the U.S. with remaining periods to maturity of 3 years or less, and fluctuate quarterly. The rates effective for a quarter are determined during the first-month period of the previous quarter.

The rates of interest for the period of January 1, 1994–March 31, 1994, are 6 percent for overpayments and 7 percent for underpayments. These rates will remain in effect through March 31, 1994, and are subject to change on April 1, 1994.

Dated: February 4, 1994.

George J. Weise,
Commissioner of Customs.
[FR Doc. 94–3189 Filed 2–9–94; 8:45 am]
BILLING CODE 4820–02–P

Office of Thrift Supervision

Golden State Federal Savings Bank, Irvine, CA; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Golden State Federal Savings Bank, Irvine, California on August 13, 1993.

Dated: February 3, 1994.

By the Office of Thrift Supervision.

Deborah F. Silberman,
Assistant Chief Counsel.
[FR Doc. 94–3076 Filed 2–9–94; 8:45 am]
BILLING CODE 6720–01–M

Western Federal Saving Association, Marina Del Rey, CA; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) of the Home Owners' Loan Act,

the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Western Federal Savings Association, Marina Del Rey, California, on June 4, 1993.

Dated: February 3, 1994.

By the Office of Thrift Supervision.

Deborah F. Silberman,

Assistant Chief Counsel.

[FR Doc. 94–3082 Filed 2–9–94; 8:45 am]

BILLING CODE 6720–01–M

Westside Bank, a Federal Savings Bank Los Angeles, CA; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in Section 5(d)(2) of the Home Owner's Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Westside Bank, a Federal Savings Bank, Los Angeles, California on September 24, 1993.

Dated: February 3, 1994.

By the Office of Thrift Supervision.

Deborah F. Silberman,

Assistant Chief Counsel.

[FR Doc. 94–3071 Filed 2–9–94; 8:45 am]

BILLING CODE 6720–01–M

Amador Valley Savings and Loan Association Pleasanton, CA; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Amador Valley Savings and Loan Association, Pleasanton, California on September 10, 1993.

Dated: February 3, 1994.

By the Office of Thrift Supervision.

Deborah F. Silberman,

Assistant Chief Counsel.

[FR Doc. 94–3069 Filed 2–9–94; 8:45 am]

BILLING CODE 6720–01–M

First Federal Savings and Loan Association, Pontiac, MI; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in Subdivision (C) of Section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly replaced the Resolution Trust Corporation as Conservator for First Federal Savings and Loan Association, Pontiac, Michigan ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on August 26, 1993.

Dated: February 3, 1994.

By the Office of Thrift Supervision.

Deborah F. Silberman,

Assistant Chief Counsel.

[FR Doc. 94–3072 Filed 2–9–94; 8:45 am]

BILLING CODE 6720–01–M

First Federal Savings Bank of Georgia, F.A., Winder, GA; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in Subdivision (C) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly replaced the Resolution Trust Corporation as Conservator for First Federal Savings Bank of Georgia, F.A., Winder, California ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on November 5, 1993.

Dated: February 3, 1994.

By the Office of Thrift Supervision.

Deborah F. Silberman,

Assistant Chief Counsel.

[FR Doc. 94–3074 Filed 2–9–94; 8:45 am]

BILLING CODE 6720–01–M

First Newport Federal Savings Banks, Newport Beach, CA; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in Subdivision (C) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly replaced the Resolution Trust Corporation as Conservator for First Newport Federal Savings Bank, Newport Beach, California ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on July 23, 1993.

Dated: February 3, 1994.

By the Office of Thrift Supervision.

Deborah F. Silberman,

Assistant Chief Counsel.

[FR Doc. 94–3075 Filed 2–9–94; 8:45 am]

BILLING CODE 6720–01–M

Golden State Bank, F.S.B., Irvine, CA; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Golden State Bank, F.S.B., Irvine, California on August 13, 1993.

Dated: February 3, 1994.

By the Office of Thrift Supervision.

Deborah F. Silberman,

Assistant Chief Counsel.

[FR Doc. 94–3084 Filed 2–9–94; 8:45 am]

BILLING CODE 6720–01–M

Home Unity Federal Savings and Loan Association, Lafayette Hill, PA; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in Subdivision (C) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly replaced the Resolution Trust Corporation as Conservator for Home Unity Federal Savings and Loan Association, Lafayette Hill, Pennsylvania ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on August 27, 1993.

Dated: February 3, 1994.

By the Office of Thrift Supervision.

Deborah F. Silberman,

Assistant Chief Counsel.

[FR Doc. 94–3079 Filed 2–9–94; 8:45 am]

BILLING CODE 6720–01–M

HomeFed Bank, Federal Association, Chatsworth, CA; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in Subdivision (C) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly replaced the Resolution Trust Corporation as Conservator for HomeFed Bank, Federal Association, Chatsworth, California ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on September 3, 1993.

Dated: February 3, 1994.

By the Office of Thrift Supervision.

Deborah F. Silberman,

Assistant Chief Counsel.

[FR Doc. 94–3077 Filed 2–9–94; 8:45 am]

BILLING CODE 6720–01–M

Homestead Federal Savings Association, Millbrae, CA; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in Subdivision (C) of section 5(d)(2) of the Home Owners' Loan Act, the Office of

Thrift Supervision has duly replaced the Resolution Trust Corporation as Conservator for Homestead Federal Savings Association, Millbrae, California ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on September 17, 1993.

Dated: February 3, 1994.

By the Office of Thrift Supervision.

Deborah F. Silberman,

Assistant Chief Counsel.

[FR Doc. 94-3080 Filed 2-9-94; 8:45 am]

BILLING CODE 6720-01-M

Irvington Federal Savings Bank, Glen Burnie, MD; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in Subdivision (C) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly replaced the Resolution Trust Corporation as Conservator for Irvington Federal Savings Bank, Glen Burnie, Maryland ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on August 20, 1993.

Dated: February 3, 1994.

By the Office of Thrift Supervision.

Deborah F. Silberman,

Assistant Chief Counsel.

[FR Doc. 94-3078 Filed 2-9-94; 8:45 am]

BILLING CODE 6720-01-M

The Overland Park Federal Savings and Loan Association, Overland Park, KS; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in Subdivision (C) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly replaced the Resolution Trust Corporation as Conservator for The Overland Park Federal Savings and Loan Association, Overland Park, Kansas ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on August 13, 1993.

Dated: February 3, 1994.

By the Office of Thrift Supervision.

Deborah F. Silberman,

Assistant Chief Counsel.

[FR Doc. 94-3081 Filed 2-9-94; 8:45 am]

BILLING CODE 6720-01-M

San Clemente Federal Savings Bank, Irvine, CA; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in Subdivision (C) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly replaced the Resolution Trust Corporation as Conservator for San Clemente Federal Savings Bank, Irvine, California ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on August 13, 1993

Dated: February 3, 1994.

By the Office of Thrift Supervision.

Deborah F. Silberman,

Assistant Chief Counsel.

[FR Doc. 94-3083 Filed 2-9-94; 8:45 am]

BILLING CODE 6720-01-M

Western Federal Savings and Loan Association, Marina Del Rey, CA; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Western Federal Savings and Loan Association, Marina Del Rey, California on June 4, 1993.

Dated: February 3, 1994.

By the Office of Thrift Supervision.

Deborah F. Silberman,

Assistant Chief Counsel.

[FR Doc. 94-3073 Filed 2-9-94; 8:45 am]

BILLING CODE 6720-01-M

Westside Bank for Savings, F.S.B. Los Angeles, CA; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Westside Bank for Savings, F.S.B. Los Angeles, California on September 24, 1993.

Dated: February 3, 1994.

By the Office of Thrift Supervision.

Deborah F. Silberman,

Assistant Chief Counsel.

[FR Doc. 94-3070 Filed 2-9-94; 8:45 am]

BILLING CODE 6720-01-M

[AC-13; OTS NO. 00886]

Marshalltown Savings Bank, FSB, Marshalltown, IA; Approval of Conversion Application

Notice is hereby given that on February 4, 1994, the Deputy Assistant Director, Corporate Activities Division, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Marshalltown Savings Bank, FSB, Marshalltown, Iowa, convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and the Midwest Regional Office, Office of Thrift Supervision, 122 W. John Carpenter Freeway, suite 600, Irving, Texas 75039.

Dated: February 4, 1994.

By the Office of Thrift Supervision.

Kimberly M. White,

Corporate Technician.

[FR Doc. 94-3067 Filed 2-9-94; 8:45 am]

BILLING CODE 6720-01-M

[AC-12 ; OTS No. 03972]

Redlands Federal Bank, a Federal Savings Bank, Redlands, CA; Approval of Conversion Application

Notice is hereby given that on February 2, 1994, the Deputy Assistant Director, Corporate Activities Division, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Redlands Federal Bank, a federal savings bank, Redlands, California, convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and the West Regional Office, Office of Thrift Supervision, Pacific Telesis Center, One Montgomery St., suite 400, San Francisco, California 94120.

Dated: February 4, 1994.

By the Office of Thrift Supervision.

Kimberly M. White,

Corporate Technician.

[FR Doc. 94-3068 Filed 2-9-94; 8:45 am]

BILLING CODE 6720-01-M

Sunshine Act Meetings

Federal Register
Vol. 59, No. 28
Thursday, February 10, 1994

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).

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 59 FR 4138, January 25, 1994.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:00 p.m. (Eastern Time) Tuesday, February 8, 1994.

CHANGE IN THE MEETING:

Closed Session

The closed portion of the meeting has been cancelled.

CONTACT PERSON FOR MORE INFORMATION: Frances M. Hart, Executive Officer on (202) 663–4070.

Dated: February 8, 1994.

Frances M. Hart,

Executive Officer, Executive Secretariat.

[FR Doc. 94–3306 Filed 2–8–94; 3:52 pm]

BILLING CODE 6750–06–M

FEDERAL ELECTION COMMISSION

DATE AND TIME Tuesday, February 15, 1994 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This Meeting Will Be Closed to the Public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration
Internal personnel rules and procedures or matters affecting a particular employee

DATE AND TIME: Thursday, Feburary 17, 1994 at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, D.C. (Ninth Floor.)

STATUS: This Meeting Will Be Open to the Public.

ITEMS TO BE DISCUSSED:

Final Audit Report on Kerrey for President Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Press Officer, Telephone: (202) 219-4155.

Delores Hardy,

Administrative Assistant.

[FR Doc. 94-3304 Filed 2-8-94; 3:11 pm]

BILLING CODE 6715-01-M

FOREIGN CLAIMS SETTLEMENT COMMISSION

F.C.S.C. Meeting Notice No. 5–94

Announcement in Regard to Commission Meetings and Hearings

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date and time	Subject matter
Wed., Feb. 23, 1994 at—	Oral hearings on objections to proposed decisions issued on claims against Iran—
10:00 a.m ...	IR–1895—CIC International, Ltd.
10:30 a.m ...	IR–0429—Mashid Dereich.
11:00 a.m ...	IR–0361—Diversified Impex Corp.
11:30 a.m ...	IR–1925—Ray O. Roberts.
2:00 p.m	IR–2361—Esshagh Moradfar.
2:30 p.m	IR–0945—Farshad Haghi. IR–0947
3:00 p.m	IR–0980—Richard Hallwood.
3:30 p.m. ...	IR–3206—Estella M. Hodgson.
4:00 p.m	IR–2436—Thomas V. Thomas.
4:30 p.m	IR–2779—Edward Wells.
Thurs., Feb. 24, 1994 at 10:30 a.m	Consideration of Proposed Decisions on claims against Iran. Hearings on the Record on objections to Proposed Decisions on claims against Iran: IR–0349—R.O. Gulden & Co., Inc. IR–3107—Eliel D. Dye and Phyllis E. Dye.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 601 D Street, NW., Washington, DC. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 601 D Street, NW., Room 10000, Washington, DC 20579. Telephone: (202) 208–7727.

Dated at Washington, DC on February 7, 1994.

Judith H. Lock,

Administrative Officer.

[FR Doc. 94–3253 Filed 2–8–94; 12:57 p.m.]

BILLING CODE 4410–01–M

Corrections

Federal Register
Vol. 59, No. 28
Thursday, February 10, 1994

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM-940-4120-04; OKNM 92221]

Invitation to Participate; Exploration for Coal in Oklahoma

Correction

In notice document 94-299 appearing on page 775 in the issue of Thursday, January 6, 1994, make the following correction:

In the first column, in the land description, under T. 6 N., R. 22 E., in Sec. 36, "N½." should read "N½S½."

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM-940-4120-04; OKNM 92222]

Invitation to Participate; Exploration for Coal in Oklahoma

Correction

In notice document 94-300 appearing on page 775 in the issue of Thursday, January 6, 1994, make the following corrections:

1. In the second column, in the land description, under T. 8 N., R. 24 E., in Sec. 1, "S½,SW¼" should read "S½SW¼".

2. In the same column, under T. 8 N., R. 25 E., remove the line that reads "Sec. 6, N½S½ and SE¼SE½;".

BILLING CODE 1505-01-D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-25920]

Filings Under the Public Utility Holidng Company Act of 1935 ("Act")

Correction

In notice document 93-27968 beginning on page 60235 in the issue of Monday, November 15, 1993, make the following correction:

On page 60235, in the second column, after the first partial paragraph, insert **EUA Energy Investment Corporation (70-8283).**

BILLING CODE 1505-01-D

federal register

Thursday
February 10, 1994

Part II

Environmental Protection Agency

40 CFR Part 141

Monitoring Requirements for Public Drinking Water Supplies; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 141

[WH-FRL-4818-8]

National Primary Drinking Water Regulations: Monitoring Requirements for Public Drinking Water Supplies: Cryptosporidium, Giardia, Viruses, Disinfection Byproducts, Water Treatment Plant Data and Other Information Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to require public water systems which serve 10,000 people or greater to generate and provide the Agency with specific monitoring data and other information characterizing their water systems. Systems which use surface water, or ground water under the influence of surface water, and serve between 10,000–100,000 people would be required to (a) monitor their source water at the intake of each plant for two disease-causing protozoa, *Giardia* and *Cryptosporidium*; fecal coliforms or *Escherichia coli*; and total coliforms; and (b) provide specific engineering data as it pertains to removal of disease-causing microorganisms. Systems which use surface water, or ground water under the influence of surface water, and serve more than 100,000 people would be required to monitor their source water at the intake of each plant for the microorganisms indicated above, plus viruses, and, when pathogen levels exceed one pathogen/liter in the source water, finished water for these microorganisms; monitor for certain disinfection byproducts (DBPs) as well as other water quality indicators; and provide specific engineering data as they pertain to removal of disease causing organisms and control of DBPs. All ground water systems that serve more than 100,000 people would be required to monitor for certain DBP, other water quality indicators, and to provide specific physical and engineering data. Systems which use surface water and serve more than 100,000 people and systems which use ground water and serve more than 50,000 people would be required to conduct bench or pilot scale studies to evaluate treatment performance for the removal of precursors to DBPs unless they have met certain source water or treated water quality criteria. This information will be used to consider possible changes to the current Surface Water Treatment Rule (SWTR) and to develop drinking water regulations for disinfectants and DBPs. If the SWTR is amended, information collected under this monitoring rule would assist utilities in complying with such amendments.

DATES: Comments should be postmarked or delivered by hand on or before March 14, 1994. Comments received after this date may not be considered because of time constraints.

ADDRESSES: Send written comments to ESWTR/DBPR Monitoring Docket Clerk, Water Docket (MC-4101); U.S. Environmental Protection Agency; 401 M Street, SW; Washington, DC 20460. Please submit any references cited in your comments. EPA would appreciate an original and three copies of your comments and enclosures (including references). Commenters who want EPA to acknowledge receipt of their comments should include a self-addressed, stamped envelope. No facsimiles (faxes) will be accepted because EPA cannot ensure that they will be submitted to the Water Docket.

The proposed rule with supporting documents and all comments received are available for review at the Water Docket at the address above. For access to Docket materials, call (202) 260-3027 between 9 a.m. and 3:30 p.m. for an appointment.

FOR FURTHER INFORMATION CONTACT: The Safe Drinking Water Hotline, Telephone (800) 426-4791. The Safe Drinking Water Hotline is open Monday through Friday, excluding Federal holidays, from 9 a.m. to 5:30 p.m. Eastern Time. For technical inquiries, contact Stig Regli or Paul S. Berger, Ph.D., Office of Ground Water and Drinking Water (WH-550D), U.S. Environmental Protection Agency, 401 M Street SW., Washington DC 20460, telephone (202) 260-7379 (Regli) or (202) 260-3039 (Berger).

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I. Statutory Authority

The Safe Drinking Water Act (SDWA or the Act), as amended in 1986, requires EPA to promulgate National Primary Drinking Water Regulations (NPDWRs) which specify maximum contaminant levels (MCLs) or treatment techniques for drinking water contaminants (42 U.S.C. 300g-1). NPDWRs apply to public water systems (42 U.S.C. 300f(1)(A). Section 1412(b)(3) of the Act requires EPA to publish regulations for at least 25 contaminants at three year intervals. Section 1412(b)(9) of the Act requires EPA to review existing national primary drinking water regulations at least once every 3 years.

According to section 1445(a)(1) of the Act, every public water system "shall establish and maintain such records, make such reports, conduct such monitoring, and provide such information as the Administrator may reasonably require by regulation to assist him in establishing regulations, [or] * * * in evaluating the health risks of unregulated contaminants". This section authorizes EPA to require systems to monitor and provide the Agency with these data as well as other data characterizing the system, including source and treated water quality.

In addition, section 1401(1)(d) of the Act defines NPDWRs to include "criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels; including quality control and testing procedures * * *". This section authorizes EPA to require systems and laboratories to use Agency-approved methods and quality assurance criteria for collecting and analyzing water samples.

II. Regulatory Background

Two regulations attempt to control disease-causing microorganisms (pathogens) in public water supplies—the Total Coliform Rule (54 FR 27544; June 29, 1989) and the Surface Water Treatment Requirements (SWTR) (54 FR 27486; June 29, 1989). A third regulation, the Groundwater Disinfection Rule, which is currently under development, will add further protection for systems using ground water. The Agency is considering revising the SWTR in conjunction with the development of other new regulations.

Another rule EPA is currently developing will address chemical byproducts that form when disinfectants used for microbial control in drinking water react with various organic chemicals in the source water. Some of these disinfection byproducts are toxic or are probable human carcinogens. As such, they were included on the 1991 Drinking Water Priority List (56 FR 1470; January 14, 1991) as candidates for future regulations. They are among the candidate contaminants for which EPA must meet a Court-ordered deadline that is currently being negotiated.

To develop the Disinfectant/Disinfection Byproducts (D/DBP) Rule, EPA instituted a formal regulation negotiation process in 1992 (57 FR 53866; Nov 13, 1992) including representatives from water utilities, State and local agencies, environmental groups, consumer groups, and EPA. The Negotiating Committee agreed to propose three rules: a) an information collection rule (ICR), which is proposed herein, b) an "interim" enhanced surface water treatment rule (ESWTR), to be proposed within the next few months, and c) D/DBP regulations, to be proposed concurrently with the interim ESWTR.

During the development of the D/DBP Rule, a number of members of the Negotiating Committee did not believe that there were adequate data available to address some of the DBPs on EPA's priority list (56 FR 1473; January 14, 1991). They believed that insufficient data were available on many aspects of DBPs necessary to make appropriate regulatory decisions including health effects and health effect related issues, occurrence of and exposure to contaminants, and the capabilities of treatment technologies. Also of concern were the limited data on microbial contaminants for making regulatory decisions.

The Negotiating Committee's development of the three proposed rules mentioned above was based on the premise of (1) taking prudent immediate steps by proposing a two staged D/DBP rule and an interim ESWTR, and (2) developing additional data through monitoring and research for future regulatory decisions that would support refinements to the proposed interim ESWTR and the Stage 2 D/DBP rule. For example, decisions on the direction of an ESWTR will be limited without more data on the occurrence of microorganisms, the effectiveness of current and advanced treatment schemes, potential consumer exposure, dose response relationships for certain pathogens, pathogen strain differences, and cyst/oocyst viability measures. Likewise, important decisions on the Stage 2 D/DBP rule would benefit from additional data on occurrence of DBPs, effects of current and advanced treatment approaches on DBP formation, potential consumer exposures, acute short-term health effects, chronic health effects, and the use of surrogates as tools for defining adequacy of treatment for specific contaminants and reduced monitoring.

The ICR was developed to obtain both microbial and DBP occurrence, exposure, and treatment data for input to the ESWTR and Stage 2, as outlined below, and would require the expenditure of an estimated $130 million over three and a half years by a segment of public water suppliers. The commitment by the public water supply community to support the collection of additional data was linked to EPA's commitment to provide (1) adequate quality control procedures for collecting and managing the information obtained under the ICR and (2) additional funding, especially on health effects, for properly interpreting the data collected under the ICR. As evidence of this linkage, non-EPA members of the Negotiating Committee sought to assist the Agency in obtaining funding for the health effects and other research equally critical to the future decisions. On May 20, 1993, these committee members sent letters to the Administration and members of Congress requesting support for a federal commitment of $4 million per year for five years to support the needed research. The letters noted that the American Water Works Association Research Foundation had, independent of the negotiations, presented a public-private partnership research plan under which they committed to provide up to $2 million per year for the research under a one for two match.

On a related effort, non-EPA Negotiating Committee members requested on July 14, 1993, in a letter to EPA's Administrator, consideration of reallocation of Agency research funds to support the research needs described above. The July 14, 1993 letter also spoke of the need for the Agency to commit funds necessary to adequately collect, manage, and analyze data collected under the ICR. A number of Negotiating Committee members believed that, without additional federal research and data management funding, the ICR data generated by systems would not be particularly useful in developing the ESWTR or Stage 2 D/DBP Rule.

The Negotiating Committee agreed that more data, especially monitoring data, should be collected under the ICR to assess possible shortcomings of the SWTR and develop appropriate remedies, if needed, to prevent increased risk from microbial disease when systems began complying with the new D/DBP Rule. It was also agreed that EPA would propose an interim ESWTR for systems serving greater than 10,000 people that included a wide range of regulatory alternatives. Data gathered under the ICR would form the basis for developing the most appropriate criteria among the options presented in the proposed interim ESWTR, and eventually for a long-term ESWTR that would include possible refinements to the interim ESWTR and be applicable to all system sizes. Both of these ESWTR rules would become effective concurrently with the requirements of the Stage 1 D/DBP rule for the respective different system sizes.

The Negotiating Committee also agreed that additional data on the occurrence of disinfectants, DBPs, potential surrogates for DBPs, source water and within-treatment conditions affecting the formation of DBPs, and bench-pilot scale information on the treatability for removal of DBP precursors would be useful for developing Stage 2 D/DBP regulatory criteria beyond those currently being considered for proposal in Stage 1. To this end, today's proposed ICR rule, which would require this additional information, was accepted as necessary and reasonable by the Negotiating Committee.

III. Discussion of Proposed Rule

A. Enhanced Surface Water Treatment Requirements

1. Need for Enhanced SWTR

The SWTR, which became effective on December 31, 1990, requires all systems using surface water, or ground water under the direct influence of surface water, to disinfect. It also requires all such systems to filter their water unless they can demonstrate that

they have an effective watershed protection program and can meet other EPA-specified requirements. The SWTR also specifies that systems using surface water must treat water to remove/inactivate at least 99.9% (3 $logs_{10}$) of the *Giardia lamblia* cysts (a protozoan) and at least 99.99% (4 $logs_{10}$) of the viruses. The SWTR does not require a system to monitor its source water or drinking water for these pathogens.

During the development of the SWTR, the United States experienced its first large recognized waterborne disease outbreak of cryptosporidiosis, caused by the protozoan, *Cryptosporidium* (Hayes et al., 1989). Other outbreaks caused by this pathogen have since been reported both in the United States and other countries. Because of the lack of data before 1989 on *Cryptosporidium* oocyst occurrence and susceptibility to treatment, EPA decided to regulate this pathogen in a future rulemaking, rather than to delay publication of the SWTR until these data were available. EPA and others are now performing research to understand the health risks posed by *Cryptosporidium*. Although some occurrence and treatment data are now available, EPA believes that much more is needed before EPA can promulgate a suitable regulation for *Cryptosporidium*. EPA is planning to propose an MCLG and treatment technique requirement for *Cryptosporidium* in the ESWTR, and use the data from this rule to determine the need for, and specifics of, that regulation.

Another shortcoming of the SWTR is that a 3-log removal/inactivation of *Giardia* and a 4-log removal/inactivation of enteric viruses may be inadequate when a system is supplied by a poor quality source water. In developing the SWTR, EPA assumed on the basis of data available at that time, that this level of treatment was adequate for most systems. The Agency published associated guidance recommending greater treatment for systems supplied by poor quality source waters (EPA, 1991).

Subsequent data on *Giardia* densities in source water and drinking water (LeChevallier et al., 1991a,b), however, bring into question the assumption that the treatment specified in the SWTR was adequate for most systems. These new data suggest that *Giardia* cyst concentrations in the source waters of many systems may be too great for the specified minimum level of treatment to adequately control waterborne giardiasis (to be discussed in the preamble of the forthcoming proposed interim ESWTR).

As a result of this uncertainty, EPA needs much more data on the concentration of *Giardia* cysts and viruses for various qualities of source waters, with variation over time and seasonal influences, to determine the need for additional treatment to provide adequate *Giardia* and virus control. In addition, EPA needs more field data on the effectiveness of different types of water treatment for controlling these pathogens.

If these new data indicate that EPA's original assumption was correct, i.e., that only a small percentage of systems have source water *Giardia* and virus concentrations that are too great for adequate control under the SWTR, then guidance (EPA, 1991) may suffice and no revision of the SWTR would be needed. In contrast, if a high percentage of systems have elevated concentrations of *Giardia*, then EPA believes that the SWTR may need to be revised to require additional treatment for such systems.

If the data indicate that a revision of the SWTR is needed, then one regulatory option would be to tailor required treatment levels to *Giardia* concentrations in the source water. For example, the Agency might require a system to achieve at least a 99.9 percent (3-log) reduction if the source water(s) contained less than 1 cyst/100 liters, a 99.99 percent (4-log) reduction if the source water(s) contained 1 to 9 cysts/100 liters, a 99.999 percent (5-log) reduction if the source water(s) contained 10 to 99 cysts/100 liters, and a 99.9999 percent (6-log) reduction if the source water(s) contained more than 99 cysts/100 liters. These suggested level of treatment requirements are consistent with existing EPA Guidance (USEPA 1991). Based on the dose response curve developed by Rose et al (1991) these levels of treatment have been predicted to ensure a risk of less than 1 infection per 10,000 people per year. The concept of utilities providing higher levels of treatment to meet a desired acceptable risk level will be one of the options discussed in the preamble of the forthcoming proposed ESWTR. The data collected under today's monitoring rule, if promulgated, could be used as the basis for the treatment level prescribed.

If EPA decides to revise the SWTR according to the above or similar approach, then the monitoring data would assist the Agency in determining the most appropriate manner for calculating source water pathogen densities. For example, options include the arithmetic means, geometric means, highest value, or a 90th percentile value (e.g., for ten data points, the system would select the second highest, or for 18 data points, the system would select the third highest). These options will be discussed in greater detail in the forthcoming proposed interim ESWTR. These proposed revisions would be modified or withdrawn based on monitoring data collected under the present rule.

In summary, today's proposed rule, if promulgated, would provide the Agency with much needed field data to determine the need for amending the SWTR to control microorganisms in an appropriate manner. Data collected under this proposed rule could also form the basis by which systems could establish levels of treatment, perhaps beyond those minimally required under the SWTR, that are appropriate for controlling microbial risk while complying with new D/DBP regulations. EPA understands that the water industry may voluntarily provide additional useful data for these purposes. The data collected under today's proposed rule, if promulgated, would also support the long-term ESWTR rule.

2. Monitoring and Reporting Requirements and Rationale

The rule would require systems using surface water that serve a population greater than 100,000 (about 233 systems nationally) to monitor their influent to each plant for *Giardia* cysts, *Cryptosporidium* oocysts, "total culturable viruses" (hereafter referred to as "viruses", unless otherwise indicated), fecal coliforms or *Escherichia coli*, and total coliforms. Monitoring would be monthly for 18 months. If a plant has several sources of water, the system must sample the blended water from all sources or, if this is not possible, sample the source with the expected highest pathogen concentration. If, during the first twelve months of monitoring, any pathogen were to exceed a density of one/liter, or if the detection limit for any pathogen exceeds one/liter, the system would be required to monitor their finished water for the entire set of pathogens and indicators at the same frequency as source water sampling for the remaining months.

Under this rule, systems would not be required to continue monitoring for viruses if: (1) viruses are not detected in the source water at the intake (for each plant) during the first twelve months of monitoring, or (2) the system has tested the source water at the intake (for each plant) for either total coliforms or fecal coliforms at least five times per week between [insert first day of month, 4 months prior to the promulgation date of this rule] and [insert first day of month, 2 months after the promulgation date of this rule], and the density of total coliforms or fecal coliforms is less

than 100 colonies/100 ml or 20 colonies/100 ml, respectively, for at least 90% of the samples.

For surface water systems that serve between 10,000 and 100,000 people, the rule would require source water monitoring at the intake of each plant for the organisms listed above, except that they would not have to monitor for viruses. Monitoring for this category of systems would be every two months for 12 months. The rule would require all systems serving more than 10,000 people to provide the above monitoring data and other, system-specific information to EPA. The rule would not apply to systems that purchase all of their water from other systems.

The rationale for requiring this information is to provide EPA with much needed data on the concentrations and variations with time of viral and protozoan pathogens in various types of source waters. It would also help EPA evaluate whether current assumptions on water treatment removal efficiencies for pathogenic protozoa and viruses are appropriate. Together, these data and the data on source water concentrations would provide EPA and the system a better understanding of pathogen concentrations following treatment, which would allow for a more accurate assessment of the pathogen levels and the associated health risk to which the public may be exposed. These data, along with possible additional data on dose-response patterns, pathogen strain differences, and cyst/oocyst viability measures, would allow EPA to determine the circumstances under which the SWTR is not adequate and to revise this rule accordingly to overcome any shortcomings.

The data would also help EPA characterize occurrence relationships among *Giardia* cysts, *Cryptosporidium* oocysts, and viruses. For example, these data would help the Agency evaluate the merits of using *Giardia* as the primary target to define treatment requirements, as it did in the SWTR. In addition, the data may help EPA identify and prevent treatment changes that systems might inappropriately consider to meet the forthcoming D/DBP rule.

The source water data collected under this rule might also be used for determining appropriate levels of treatment for particular systems serving more than 10,000 people, if minimum treatment requirements were specified as a function of source water quality conditions under the interim ESWTR.

EPA would not require systems serving between 10,000 and 100,000 people to monitor treated water because the Agency believes that sufficient data for microorganisms would be provided by the larger systems, which are generally better able to fund the collection of the needed data. EPA would also not require these sized systems to monitor viruses in source waters because the Agency believes that the larger systems would provide sufficient data to establish any relationship between the viruses and the two protozoan pathogens being monitored, regarding source water densities and treatment effectiveness. The Agency, in the absence of data suggesting otherwise, would continue to use *Giardia*, possibly including *Cryptosporidium*, as the primary target organism(s) for regulation, given their greater disinfection resistance compared to most other organisms, and consequently less data would be needed for the viruses.

The data from these larger systems would also be useful for estimating pathogen concentrations in many source waters serving systems with fewer than 10,000 people, which EPA believes typically do not have the financial resources or technical expertise to collect and process the samples as part of the above monitoring requirements. The Agency would use the large system data to define the relationship between the pathogen concentrations in the source water and the concentrations of potential/existing microbial indicators of water quality. If such a relationship were found, then small systems could use one or more of these easily-measured indicators to estimate pathogen concentrations in their source waters.

In addition, small systems that use the same source water and are in the same vicinity as a large system may be able to use the same pathogen concentrations measured by the large system as a basis for determining the minimum level of treatment required. Finally, EPA may be able to use these data to develop national occurrence patterns that would allow the Agency to establish more appropriate treatment criteria for small systems. By characterizing source water quality using any one or a combination of these three approaches, a small system could evaluate the effectiveness of treatment in place for pathogen control and determine the need for additional treatment steps.

The Agency requests suggestions for assessing pathogen exposure in small systems in addition to the three approaches provided above. Following the full compilation of data under the ICR and other research developments, EPA is considering proposing a long-term ESWTR that would include criteria by which systems serving less than 10,000 people could determine appropriate levels of treatment for different source water qualities.

As stated above, under this proposed ICR, systems using surface water and serving more than 100,000 people would be required to monitor their finished water for the entire set of pathogens and indicators if any pathogen density in the source water were to exceed one/liter. Since pathogen occurrence in a particular source water can vary by several orders of magnitude, a pathogen density of slightly greater than one/liter during one month might be followed by considerably greater densities in subsequent months. Requiring a system to monitor its raw and filtered water concurrently in the months following a source water pathogen concentration of greater than one/liter would be more likely to result in pathogen detection in the filtered water compared to a situation where source water pathogen densities are less than one/liter. EPA believes that, at *Giardia* occurrence levels above one/liter or virus occurrence levels above 10/liter, a 3-log *Giardia* reduction or 4-log virus reduction, depending upon the efficacy of treatment, should still be countable in the treated water. At a density less than one/liter in source water, the sample volume needed to detect pathogens in treated waters would be unreasonably high and technically difficult to achieve.

To avoid virus monitoring that is likely to be uninformative because of exceptionally good source water quality, EPA would allow two circumstances under which a system that serves more than 100,000 people could forgo all or part of the virus monitoring requirement. In one case, a system that does not detect any viruses during the first twelve months of monitoring would not be required to monitor viruses during the last six months of monitoring. In the other case, if a system has monitored for total coliforms or fecal coliforms in the source water for at least five days/week every week for six months before the effective date of this rule, and 90 percent of all samples are no greater than 100 total coliform/100 ml or 20 fecal coliforms/100 ml, the system may forgo the virus monitoring requirement, per approval by EPA upon submission of this data. EPA believes that systems that do not detect viruses during a full year of monitoring, or where the densities of total coliforms or fecal coliforms do not exceed the values specified in the SWTR above which a system is required to filter, could assume that treatment that removes/inactivates *Giardia* satisfactorily would also reduce viruses to a safe level.

One issue raised during rule development is whether a system could submit previously collected monitoring data in lieu of part or all of the data required by this rulemaking. EPA believes such data would be useful only if (1) the laboratory used the same analytical methods approved under this rulemaking, (2) the Agency has some assurance that the laboratory used adequate quality assurance procedures in analyzing the samples, (3) the system provides all data, rather than selected data, and that these data include seasonal information, and (4) the laboratory analyzed the full set of pathogens and bacterial indicators required by this rule so that microbial interrelationships can be evaluated. The Agency solicits comment on whether to allow systems to submit previously collected data in lieu of the requirements of this rulemaking and, if so, the appropriateness of the criteria outlined above regarding the admissibility of such data.

Another issue is whether EPA should require systems to submit some percentage of their processed microbiological samples to the Agency or some other repository for archiving. Such a repository would allow EPA, States, systems, and research centers to study the samples in the future for any newly identified pathogens or any additional relationships. Also, a repository could allow for very efficient research since particular samples of interest could be selected from the same sites based on previous ICR monitoring results. The previous data could, in part, be validated using new analytical methods that become available in the future. An examination of archived data may allow EPA to require monitoring of an easily measured indicator rather than pathogens in any future rulemaking.

If the Agency determines that archiving is appropriate, based on public comments received, EPA would facilitate its implementation by making any requirement as simple as possible for systems and laboratories. For this purpose, EPA intends to serve as the repository for all archived samples under this rule. For *Giardia/Cryptosporidium* samples, systems/laboratories would collect a total volume of at least 140L and 1400L for raw and treated waters, respectively, and send approximately one-fourth of the sample concentrate (¼ of the pellet), i.e., about 5 ml of sediment in 5 ml of formalin, to EPA for archiving under refrigeration. For viruses, systems/laboratories would collect a total volume of at least 200L and 1400L for raw and treated waters, respectively, and ship a 100-ml filter eluant (pH neutralized) on dry ice to EPA for each sample.

EPA solicits comment on the feasibility and utility of archiving samples.

EPA also requests comment on the option for requiring systems to collect particle size count data within the treatment plant in lieu of, or in addition to, finished water monitoring for *Giardia* and *Cryptosporidium*. The intent of the finished water monitoring is to provide data on removal efficiencies throughout the treatment process, and applicability of pathogen removal credits for various treatment processes. However, because suspended solids in some source waters may clog the filters and thus limit the sample volume collected, systems may only be able to determine an upper limit for pathogen concentration, i.e., less than the detection limit, rather than an actual concentration. This problem would preclude a system from calculating pathogen reduction efficiencies by treatment. Additionally, the analytical method currently specified does not clearly differentiate between live or dead cysts/oocysts of *Giardia* and *Cryptosporidium*. Potential public misunderstandings of cysts/oocysts detected in plant effluent is another reason to allow particle count data.

Removal efficiencies indicated by particle count data may approximate removal efficiencies of *Giardia* cysts and *Cryptosporidium* oocysts. Particle size counting may be used as a tool for evaluating removal efficiencies of physical removal processes. Ongoing research may provide enough information to establish a quantitative relationship between reductions by treatment of particle counts of specific size and reductions of *Giardia* cysts and *Cryptosporidium* oocysts. Due to recovery problems of *Giardia* and *Cryptosporidium* by the methodology and the inability to quantitate removal efficiencies in many waters, the use of particle counts in the same or smaller size range as *Giardia* and *Cryptosporidium* may be a better method for the evaluation of removal efficiencies by treatment.

The intent of the option for allowing particle size measurements in lieu of finished water monitoring for *Giardia* and *Cryptosporidium* is to obtain data on the use of particle count data as a surrogate for *Giardia* and *Cryptosporidium* removal. Under this option particle counts would be taken on the plant influent, settled water, filter effluent, and plant effluent. The particle count data would be taken on the same day as the plant influent data for *Giardia* and *Cryptosporidium*.

The particle count data would be recorded on a form similar to that shown in Appendix A of this preamble. The data would be recorded as particle size counts for each treatment step between the plant influent and effluent. By requiring particle size counts in increments of "greater than" values for some specified volume of flow, removal efficiency for a specified particle size range (e.g., 5–10 μm), could be calculated for a particular treatment process. This would be done by subtracting the count in the higher size range (e.g., >10 μm) from the count in the lower size range (e.g., >5 μm) for the effluent of one treatment process (or the raw water) and comparing this value, "a", to a similarly calculated value, "b", for a subsequent treatment process (i.e., ["a" − "b"]/"a" × 100). Removal efficiencies calculated based upon particle size counts in the ranges of 2–5 μm and 5–10 μm, as indicated in Appendix A of this preamble, may be conservative indicators for estimating the removal efficiency of *Giardia or Cryptosporidium* which are generally in the respective size ranges of 3–7 microns and 8–12 microns, respectively.

EPA solicits comment on the following issues pertaining to monitoring of particle size counts: Under what circumstances, if any, should monitoring of particle size counts be allowed in lieu of monitoring finished water for *Giardia* and *Cryptosporidium*? What particle size ranges and sample volumes should be monitored? What analytical method(s), including instrumentation, should be used for such monitoring? What criteria should be specified to ensure that particle size data collected from different systems could be appropriately compared? What criteria should be specified to ensure that the particle size measurements would be most representative of removal of *Giardia* and *Cryptosporidium*? Should methods in addition to, or in lieu of, particle size counting, such as Microscopic Particulate Analysis (MPA), be included as a condition for avoiding finished water monitoring of *Giardia* and *Cryptosporidium*?

3. Reasons for Monitoring Listed Pathogens and Indicators

EPA would require monitoring of *Giardia* concentrations because this pathogen causes more reported waterborne disease outbreaks than any other single known pathogen and is more resistant to environmental stresses and disinfection than almost all other known waterborne pathogens. The Agency would require monitoring of *Cryptosporidium* because this pathogen

has caused major waterborne disease outbreaks in the United States, England, and elsewhere, and is even more resistant to disinfection than is *Giardia*. *Cryptosporidium* may also not be as readily removed by filtration as *Giardia*, given its smaller size.

A number of enteric viruses have caused waterborne disease and they may be responsible for many, if not most, of the outbreaks where a causative agent was not specifically identified (about half of all reported outbreaks). EPA believes, however, that it would be prohibitively expensive to monitor for all of them, using current technology. Moreover, adequate analytical methodology is not yet available for routine analysis for many of them. For this reason, the Agency would require systems to monitor total culturable viruses (as determined by BGM (Buffalo Green Monkey) tissue cultures), a group of enteric viruses that are commonly found in fecally polluted waters and which EPA believes are at least somewhat representative of other pathogenic enteric viruses. Total culturable viruses contain some strains that are capable of causing waterborne disease, have been widely studied for many years, and analytical methods are far better defined for them than is the case for many specific enteric viruses. EPA believes that monitoring for total culturable viruses is useful both because this group of viruses contains pathogens and is a potential indicator for other viral pathogens.

Some individuals believe that systems which satisfactorily control for *Giardia* cysts will adequately control for pathogenic viruses, since viruses generally are much less resistant to disinfection than are *Giardia* cysts, and thus virus monitoring is not warranted under this rulemaking. They point out that, based on the Guidance Manual to the Surface Water Treatment Requirements (EPA, 1991), the disinfection CT values (disinfection concentration in mg/l x disinfection contact time in minutes) for achieving the SWTR compliance level inactivation of viruses, which is based on hepatitis A inactivation data, is about one to two orders of magnitude below that for achieving the SWTR compliance level of inactivation of *Giardia*.

EPA, however, does not believe that sufficient data are yet available to conclude that the *Giardia* density in source waters is an adequate gauge to define the necessary treatment for viruses in all types of source waters. The Agency is not aware of data on relative densities between *Giardia* and viruses in source water. If the virus concentration in some source waters greatly exceeds that of *Giardia*, and some pathogenic viruses are significantly more resistant to disinfection than is hepatitis A, an adequate treatment for *Giardia* may not result in adequate control of viruses. Moreover, the Agency notes that viruses have often been detected in fully treated waters (i.e., coagulation, sedimentation, filtration, and disinfection) (Gerba and Rose, 1990; Payment et al., 1985; Hurst, 1991), and it is not aware of any data demonstrating that viruses in raw water or treated water are usually or always accompanied by *Giardia* cysts. The Agency also notes that the CT values for viruses in the Guidance Manual to the SWTR (EPA, 1991) were based upon laboratory studies on free (i.e., non-aggregated) viruses; in environmental waters, viruses are usually aggregated or associated with cell debris, some of which may not be removed entirely by filtration processes. Such cell-associated aggregates are considerably more resistant to disinfection than free viruses (Williams, 1985; Sobsey et al., 1991). Moreover, some pathogenic enteric viruses may be substantially more resistant to disinfection than others (Keswick et al., 1985).

Because of these uncertainties, it may not be appropriate to assume that by controlling *Giardia* densities, systems will adequately control viral pathogens. EPA needs monitoring data from many systems nationwide to determine the level of treatment needed to control viruses. Specifically, the Agency needs to determine the extent to which *Giardia* are present in source waters when viruses are present. The Agency also needs to determine what minimum level of disinfection inactivation is necessary for surface water supplies to ensure adequate virus control, regardless of *Giardia* densities. These data will allow the Agency to determine whether a system that consistently provides an overall *Giardia* reduction of 3-logs (of which at least 0.5-log is due to disinfection alone) or any greater reduction level for *Giardia*, will also consistently provide an adequate control for viruses, especially in cases where virus densities in source waters are much higher than those for *Giardia*. Information collected under this rule would provide part of these data. The Agency believes that these data, along with a more intensive voluntary monitoring effort among a small number of systems, should clarify this situation sufficiently to allow it to develop suitable revisions to the SWTR.

With regard to bacterial pathogens, EPA believes that pathogenic protozoa and many waterborne viruses are more resistant to environmental stress and disinfection than most enteric bacteria that cause waterborne disease. Thus a system that protects the public from pathogenic protozoa and viruses will concurrently protect them from most pathogenic bacteria (except possibly for those bacteria that can proliferate within the distribution system or which have special protective factors). For this reason, EPA would not require these systems to monitor pathogenic bacteria in the source water or in treated water.

While EPA would not require systems to monitor pathogenic bacteria, the Agency would require them to monitor potential bacterial indicators for waterborne pathogens in source water and treated water. Under this rule, EPA is proposing to require systems to monitor for total coliforms and either fecal coliforms or *E. coli*. Total coliforms and fecal coliforms have been used widely for decades to assess source water quality, testing for these two groups of bacteria is very simple and inexpensive, and systems are familiar with these tests. Total coliforms are usually much more numerous in water than fecal coliforms, and therefore enumeration in source waters and treated water is more sensitive than with fecal coliforms. However, fecal coliforms are a better indicator of fresh fecal contamination than are total coliforms. Because the bacterium *E. coli* is more closely related to fresh fecal pollution and to gastrointestinal illness among bathers than are fecal coliforms, EPA would allow a system to analyze for *E. coli* in lieu of fecal coliforms.

EPA solicits comment on the requirement to monitor the specific pathogens and bacterial indicators mentioned above. The Agency specifically seeks comment on whether to require systems to monitor both fecal coliforms and *E. coli*, rather than one or the other. In addition, the Agency may include a requirement to monitor for two other potential indicators—*Clostridium perfringens* (*C. perfringens*) and coliphage which are discussed below.

Clostridium perfringens. C. perfringens is a bacterium that is common in the intestinal tract of warm-blooded animals. This organism forms an endospore in the environment that is extremely resistant to environmental stresses and disinfection. Of the more than 60 species of *Clostridium*, *C. perfringens* is the one most consistently associated with human fecal wastes (Cabelli, 1977). It is consistently present in human feces at a relatively high density (Bisson and Cabelli, 1980) and appears to be excreted in greater numbers than are fecal pathogens (NATO, 1984). There is controversy over

whether other important animal hosts exist, since *C. perfringens* spores are widely found in terrestrial and aquatic environments (Cabelli, 1977). The survivability of *C. perfringens* spores in water and their resistance to treatment compared to the pathogens is much greater than other indicators (Bonde, 1977), except possibly for *Giardia* and *Cryptosporidium*. Analysis is relatively easy and inexpensive. The European Community has a supplementary standard for the endospores of sulfite-reducing *Clostridium* for drinking waters.

Recently, Payment and Franco (1993) published a paper that showed that *C. perfringens* may be a suitable indicator for viral and protozoan pathogens in both raw water and filtered water. In this study, the investigators collected large-volume samples from three water treatment plants and analyzed them for *Giardia* cysts, *Cryptosporidium* oocysts, cultivable human enteric viruses, *Clostridium*, and somatic and male-specific coliphage. They found that *Clostridium* densities were significantly correlated with the densities of viruses, cysts, and oocysts in river water and with viruses and oocysts (but not *Giardia* cysts) in filtered water.

For the above reasons, EPA is considering a requirement that systems monitor their source and filtered water for *C. perfringens* at the same frequency as is being proposed for the other organisms. *C. perfringens* may be appropriate as a low cost monitoring indicator for estimating pathogen densities in the source water and/or for defining treatment effectiveness. If feasible, such an indicator could greatly reduce monitoring costs for determining appropriate levels of treatment to address microbial concerns. This would be of special benefit for smaller systems under the long-term ESWTR. EPA solicits comment on this issue.

Coliphage. The Agency also seeks comment on the utility of coliphage as an indicator of pathogen presence. Coliphages, which are viruses that infect the bacterium *E. coli*, are far simpler to analyze than other viruses and are, like *E. coli*, generally associated with fecal contamination. They have often been discussed as a possible indicator of treatment effectiveness for enteric viruses. Coliphages are commonly categorized into two groups: the somatic phage and the male-specific (or F-specific) phage. The somatic phage gain entry into *E. coli* cells via the cell wall, while the male-specific phage gain entry only through the sex-pili of those *E. coli* cells that have them (referred to as male cells).

Because coliphages are so much simpler to analyze than human viruses, EPA wants to determine whether systems can use coliphages to indicate the presence of the human viruses in source waters and filtered water. Data on relative densities in natural waters are sparse. Somatic phages are common in the feces of humans and other animals but, unlike human viruses, some of them apparently can multiply in natural water, probably in species other than *E. coli*. Male-specific phages are not common in humans and other animals, but are common in sewage, suggesting they can multiply in the sewerage system (IAWPRC, 1991). Data on the relative resistance and removal of coliphages and human viruses during the water treatment process is also scarce, and the data which exist are inconsistent, especially for the somatic phages (IAWPRC, 1991). Some of the male-specific phages (e.g., MS2), however, appear to be more resistant to chemical disinfection than most waterborne pathogens (Sobsey, 1989).

One recent study suggests that coliphages are suitable as an indicator for viruses, at least in filtered water. In the Payment and Franco (1993) study indicated above, the densities of somatic coliphages (*E. coli* CN13 host) were statistically correlated with human enteric viruses and *Cryptosporidium* oocysts (but not *Giardia* cysts) in filtered water, and not in river water. Male-specific coliphages (*Salmonella typhimurium* WG49 host) were correlated with human enteric viruses in filtered water, but not in river water. The male-specific coliphages were also correlated with *Giardia* cysts, but not *Cryptosporidium* oocysts, in river water.

In another study, Havelaar et al. (1993) compared the concentrations of culturable viruses (BGM cell line) with those of thermotolerant coliforms, fecal streptococci, and male-specific RNA phages (*Salmonella typhimurium* WG49 host) for a variety of water types. The investigators found that the male-specific phages were significantly correlated (significant at $P < 1\%$) with culturable virus concentrations in river water, coagulated river water, and lake water, but not for raw and biologically treated sewage. They conclude that male-specific phages may be a suitable indicator for enteric viruses in fresh waters.

If data suggest that one or both groups of coliphages are adequate as an indicator of pathogen presence for source waters and/or treatment effectiveness, EPA may, in the long-term ESWTR, require systems, especially those serving populations fewer than 10,000, to monitor these organisms as one basis for determining what level of treatment is needed to safeguard the drinking water. The Agency solicits comment on this issue.

4. Rationale for Frequency of Microbial Monitoring

The rule would require systems serving more than 100,000 people to monitor monthly for a consecutive period of 18 months, and for systems serving between 10,000–100,000 people to monitor every two months for a consecutive 12 month period, between [insert month beginning three months following promulgation date] and March 1997. Moreover, unlike larger systems, systems serving between 10,000–100,000 people would not be required to monitor treated water.

The extended interval of time within which the monitoring can occur is to allow adequate lab capacity to be developed and approved by EPA. EPA encourages that monitoring begin as soon as the system identifies an EPA approved lab for conducting the analysis. Criteria that EPA will use to approve laboratories for conducting ICR analysis are discussed later. Any D/DBP monitoring required under this rule should not commence until the microbial monitoring can begin to allow EPA to characterize how treatment concurrently affects microbial and DBP occurrence.

The microbial monitoring under this rule would provide EPA with over 15,000 data points for each monitored organism in source water (about 8,000 data points for viruses) and probably up to 4,000 data points for each monitored organism in treated water. EPA believes that this amount of data, complemented with additional research, will be sufficient for allowing the Agency to accurately assess the pathogen exposure and decipher the relationships in source water densities among pathogens and between pathogens and their potential indicators. Importantly, the data provided by this monitoring schedule would allow the Agency to establish a database on pathogen and indicator densities and their variations with time, including seasonal variations, and thus allow the Agency to revise the SWTR, if appropriate, in a reasonable manner.

Under this rule, all monitoring for microbiological related parameters would end no later than March 31, 1997, with a substantial portion of this monitoring completed much sooner. EPA expects monitoring completed during this period will allow the Agency to a) develop the most suitable revisions to the SWTR, if required, and promulgate such a rule by December 1996, and b) for individual systems,

provide sufficient data to establish an appropriate level of treatment by June 1998, the effective date of the interim ESWTR that was agreed to by the Negotiating Committee (should such a rule become necessary). The schedule for such rule development is further described in section III.C of this preamble.

5. Rationale for Reporting Physical Data and Engineering Information

In addition to requiring systems to monitor for specific microorganisms, the rule would also require each system to provide certain information to EPA about the nature of the source water and treatment processes. Systems serving greater than 100,000 or more people would be required to submit the data indicated in Table III.6 (see section III.B.3) using data entry software developed by EPA. This information, in conjunction with the microbial occurrence data indicated in Appendix A of the rule and DBP occurrence data indicated in Tables III.1–III.5 (see section III.B.2), would be used by EPA to analyze relationships between source water quality, treatment characteristics, and finished water quality as it pertains to both pathogens and DBPs. EPA would use the information collected in Table III.6 and from other research to predict the ability of systems to comply with different ESWTR regulatory options, i.e., achieve different levels of pathogen removal and inactivation, either within existing design and operation capacity, or with system upgrades.

The information cited above would assist EPA in evaluating the monitoring data and treatment removal efficiencies, thus clarifying pathogen exposure levels in finished water entering the distribution system under real world conditions. This would allow EPA to develop more refined regulations or guidance to limit pathogen exposure. The information would also help systems comply with the forthcoming D/DBP Rule without undermining pathogen control.

With regard to treatment processes, EPA would require information on the type of disinfectant used and its dosage, contact time, and pH; and the type of filter process used and the media size, depth, and hydraulic loading rate. This information, along with information on pathogen densities in the source water and treated water (including particle size count data if this monitoring option is adopted), would help the Agency determine the validity of existing treatment efficiency assumptions and models for pathogens.

EPA would also require systems that do not detect *Giardia, Cryptosporidium,* or viruses in a sample to report the sample volume used and the organism detection limit. This information would allow EPA to determine the maximum theoretical pathogen density in that sample.

EPA solicits comment on the need to report the listed physical data and engineering information, and whether additional reporting requirements are warranted.

Systems serving between 10,000 and 100,000 people would not have the extensive DBP occurrence data or finished water microbial data required of large systems and, therefore, would only be required to submit part of the information in Appendix A of the rule (i.e., raw water occurrence information for *Giardia, Cryptosporidium*, total coliforms, and fecal coliforms or *E.coli*) and treatment data as it pertains to microbial concerns (Appendix B of the rule). The purpose of the treatment plant information is to enable EPA to predict the national impact on systems in this size category for meeting different ESWTR regulatory options.

The Negotiating Committee agreed that all systems of the pertinent size categories be required to submit physical and engineering data even though this might provide more data than was needed to develop national cost estimates. Nevertheless, the Negotiating Committee believed the requirement to be appropriate because of the large number of systems with diverse characteristics and of the difficulties in otherwise equitably funding the collection of a smaller but still large and representative data set.

EPA solicits comment on whether alternative more efficient means for obtaining treatment plant information are available for systems serving between 10,000 and 100,000 people. For example, is it appropriate to only require the treatment plant data from a random subset of systems in this size category (e.g., from 200 systems), and to extrapolate such data to all the other systems in this size category? Would it be appropriate to assume that systems in the size category 10,000 to 100,000 have, in general, the same design and operating conditions as those in the size category 100,000 and above, and therefore could avoid submitting the required treatment plant information?

6. Analytical Methods

General. EPA must approve all analytical methods used in this rule. In the present rulemaking, the Agency would require all systems to use the same methods for the analysis of *Giardia, Cryptosporidium*, and viruses to facilitate comparisons among the systems.

Total coliforms, fecal coliforms, and E. coli. Analytical methods for monitoring total coliforms and fecal coliforms in source water are already approved by the SWTR under § 141.74(a), and would be used for monitoring under the present rulemaking. For monitoring *E. coli* in source waters, EPA would approve the following methods, all of which have been approved for detecting *E. coli* in drinking water under the Total Coliform Rule (§ 141.21(f)):

(1) EC medium supplemented with 50 μg/ml of 4-methylumbelliferyl-beta-D-glucuronide (MUG), as specified in § 141.21(f)(6)(i). In this method, each total coliform-positive broth culture from the Multiple Tube Fermentation (MTF) Technique (§ 141.74(a)(2)) or each total coliform-positive colony from the Membrane Filter Technique (§ 141.74(a)(2)) is transferred to 10 ml of EC + MUG. After incubation, the inoculated medium is examined with an ultraviolet light. If fluorescence is observed, the medium contains *E. coli.*

(2) Nutrient agar supplemented with 100 μg/ml of MUG, as specified in § 141.21(f)(6)(ii), with the additional requirement that *E. coli* colonies be counted.

(3) Minimal Medium ONPG-MUG Test, often referred to as the Colilert Test, as specified in § 141.74(a)(2), with the additional requirement that total coliform-positive tubes be examined with an ultraviolet light. If fluorescence is observed, the medium contains *E. coli.*

Giardia, cryptosporidium, and total culturable viruses. In August 1993, EPA sponsored a workshop of invited experts in *Giardia, Cryptosporidium*, and virus analysis and quality assurance procedures to help the Agency develop standardized methods for these organisms for use with the ICR. Workshop participants included representatives from academia; water industry; commercial laboratories; and federal, State and local governments. As the basis for the discussion, the workshop used the *Giardia/Cryptosporidium* method published by ASTM (1992) and the method to be published shortly in the 18th edition Supplement to Standard Methods for the Examination of Water and Wastewater. Two virus methods in the 18th edition of Standard Methods (Method 9510C for virus collection and elution; Method 9510G for virus assay) (APHA, 1992) were used. The methods in ASTM (1992) and Standard Methods were used as the basis for this discussion because these texts are

highly respected and widely used references that have been peer-reviewed throughout the scientific community. The workshop generally recommended use of the methods above, but, because these methods allow many sub-options, decided to refine and standardize them to achieve more precise comparisons among systems under the ICR (USEPA, 1993a).

The method for *Giardia/Cryptosporidium*, as revised, is in Appendix C of the proposed rule. This method includes sample collection, purification, and microscopic assay, and allows the density of *Giardia* and *Cryptosporidium* to be determined simultaneously on the same sample. The microscopic assay includes the use of epifluorescence along with differential-interference- (or Hoffman Modulation) contrast optics to identify morphological characteristics.

One issue with regard to the *Giardia/Cryptosporidium* method concerns how to express the results. The total number of cysts and oocysts are counted, based on immunofluorescence, size, shape, and presence of internal structures. Then the total number of cysts with internal structures is tallied. The issue is what terminology to use for these two steps. One procedure is to categorize the first step as a "presumptive" test and the second step as the "confirmed" test. The terminology "confirmed" could be used if at least two internal structures are identified as being *Giardia/Cryptosporidium* cysts/oocysts. The second procedure is to categorize the first step as the "total number of cysts and/or oocysts per 100L" (which would be equivalent to "presumptive") and the second step as the "total number of cysts and/or oocysts with internal structures." The terminology "with internal structures" could be used if at least one internal structure is identified as being *Giardia/Cryptosporidium* cysts/oocysts.

The rationale for considering the two steps as presumptive and confirmed is: (1) Some algal and yeast cells recovered with this procedure cross-react with the protozoan monoclonal antibodies used, (2) many algae and other particles autofluoresce and thereby confuse the analyst, and (3) depending upon the criteria that will be used for defining level of treatment requirements in the interim ESWTR, use of the terminology "confirmed" may reduce the number of false positives and thereby not lead to excessive levels of treatment to achieve the desired health risk goal. However, the use of these terms is somewhat inaccurate in that it diminishes the importance of the total count (i.e., the presumptive test). The confirmed test only reflects those particles where internal structures can be specifically observed, which may represent only a small fraction of the cysts/oocysts on the slide.

EPA requests comment on which terminology is most suitable for referring to the two steps.

Other methods for the assay of *Giardia* and *Cryptosporidium* are currently being developed. One of these assays (the electrotation assay) is based on the observation that particles in a rotating electric field also rotate if the frequency is right. In addition to this assay, other potential assays for the protozoa include polymerase chain reaction and flow cytometry. The Agency requests comment about the most appropriate means for incorporating new and easier analytical methods for *Giardia* and *Cryptosporidium* into the ICR.

The method for viruses, as revised, is in Appendix D of the proposed rule. This method relies on a most probable number technique using BGM tissue culture monolayers, with cytopathic effect (CPE) as the sole enumeration endpoint. Attendees at the workshop considered plaque-forming units (PFU) as an endpoint, but rejected it. Although the PFU endpoint can be determined without the use of a microscope, unlike the CPE endpoint, it may not be as sensitive as CPE, i.e., use of CPE should result in greater virus densities. The workshop members determined that sensitivity was more important than precision in quantitation for comparing virus and protozoan data to determine the appropriateness of using *Giardia* and possibly *Cryptosporidium* as the primary target organism(s) for defining adequacy of treatment.

Clostridium perfringens. If EPA decides to require systems to monitor *Clostridium perfringens*, as was discussed in Section IIIA3 above, the Agency would also specify a method for this bacterium. The Agency believes that the most appropriate method is a membrane filter procedure using M-CP medium (Bisson and Cabelli, 1979), possibly as modified by Armon and Payment (1988). The Agency solicits comment on whether this method is most suitable for monitoring *Clostridium perfringens*. The Agency notes that this organism must be grown under strict anaerobic conditions (i.e., without oxygen).

Coliphage. If EPA decides to require the monitoring of somatic coliphages and/or male-specific coliphage, as was discussed in Section IIIA3, the Agency believes that the most appropriate method is a simple agar overlay procedure. For somatic phage testing, the Agency believes that the most suitable host is *E. coli* C. The Agency solicits comment on whether this procedure and host are most suitable for monitoring the somatic coliphage. The Agency also seeks comment, with data, on what bacterial host is most suitable for monitoring male-specific coliphages. The method for sample collection, sample processing, and assay for somatic and male-specific coliphage is presented in Appendix D of the proposed rule.

EPA requests comment on the appropriateness of the above methods.

7. Laboratory Approval

General. EPA is developing a program for approving laboratories to analyze the pathogens that would be monitored under this rule. This program would ensure that these laboratories are competent to perform the analyses. Analytical skill is especially important for the difficult and sophisticated processing and analyses specified for the total culturable viruses and *Giardia* and *Cryptosporidium*. Another prominent reason for approving laboratories is to ensure that laboratory procedures are as standardized as possible for uniform data comparison among systems.

Currently, EPA has a laboratory certification program for drinking water analyses. All laboratories that analyze drinking water samples to determine compliance with MCLs must be certified by EPA or the State, as specified by 40 CFR 142.10(b)(4) and 141.28. Under this program, EPA certifies the principal State laboratory and, with certain exceptions (see 40 CFR 142.10), each State certifies all drinking water laboratories within the State. Laboratories certified to perform analysis for coliforms under the Total Coliform Rule would be approved to analyze for total coliforms, fecal coliforms, and *E. coli* under the ICR without further action. The current program does not address pathogens.

Rather than broaden the present laboratory certification program to include *Giardia*, *Cryptosporidium*, and the viruses, EPA believes that it would be more appropriate to develop a separate program and to differentiate the two programs by using the term laboratory "approval" instead of "certification" to refer to laboratories performing pathogen analyses required by the ICR. The rationale for this approach is that (1) EPA expects that only a small number of laboratories will be qualified to perform analyses for the protozoa and viruses because of the complexity of the methods, (2) few States and EPA Regions are currently

able to certify laboratories for the pathogens of interest, and (3) the short time constraints for implementing this rule and the short-term nature of the sampling (up to 18 months) do not provide time for a full certification program.

Nevertheless, EPA is proposing to use several major elements of the current certification program in its program to "approve" laboratories for pathogen analysis, including performance evaluation (PE) samples, training, and on-site evaluations. If an interim or long-term ESWTR were to require some systems to monitor the same pathogens as those specified by the ICR, then the laboratory approval criteria would probably be incorporated into the drinking water laboratory certification program.

Performance evaluation samples. Under the laboratory approval program proposed herein, a laboratory would need to analyze satisfactorily a set of PE samples to become approved and subsequent sets of PE samples (e.g., 6, 12, 18 months) to maintain approval. Workshop participants recommended that a set of PE samples for *Giardia/Cryptosporidium* consist of (1) a mixture of *Giardia* cysts and *Cryptosporidium* oocysts, (2) a mixture of *Giardia* cysts and *Cryptosporidium* oocysts plus algal cells, and (3) algal cells only (negative control). According to workshop recommendations, a set of PE samples for viruses should include virus samples of varying titers (concentrations) that the laboratory would process as if they were filter eluates. Currently, EPA is developing a PE sample program intended to satisfy these recommendations.

Training. In addition to PE samples, at least one principal analyst in each laboratory would need to complete an EPA-specified training course or meet the requirements of equivalent training, as defined by the Agency. Although EPA has not yet defined "equivalent training", the Agency is considering an approach involving a training video or an apprenticeship with an expert. EPA is developing two training courses—one in *Giardia/Cryptosporidium* analysis, and the other in environmental virus analysis. Each of these courses would also include training in sample collection.

On-site evaluation. EPA is also proposing to require a laboratory to pass an on-site evaluation before receiving approval. The EPA Regional Administrator would be the ultimate approval authority. The Agency would develop criteria for determining whether an individual has the necessary expertise to conduct the intended tests.

The Agency has drafted a laboratory approval manual that lists the specific criteria that an on-site evaluator would examine. These criteria are based on workshop recommendations. This manual, which is available in the Water Docket, includes a number of certification criteria from Chapters III and V of EPA's laboratory certification manual (USEPA, 1990). For example, as part of the on-site evaluation, the certification officer would ensure that the laboratory has prepared and is using a written laboratory Quality Assurance Plan. This plan is described in EPA's laboratory certification manual (Chapter III). Some draft criteria pertaining to the qualifications of laboratory personnel are indicated below.

For Giardia and Cryptosporidium analysis:

- Technician: This person performs at the bench level and is actively involved in collecting samples, extracting filters, and/or processing the filter eluent for *Giardia/Cryptosporidium* analysis. The technician must have two years of college (full time) in life sciences or a related field.
- Analyst: This person must have two years of college (full time) in the life sciences or a related field and have at least three months experience in examining indirect fluorescent antibody stains under the microscope.
- Principal Analyst/Supervisor: This person is a qualified, experienced microbiologist with a minimum of a B.A./B.S. degree in microbiology or a closely related field. The principal analyst must have completed the ICR protozoan training course (mentioned above) or have equivalent experience, as approved by EPA.

For virus analysis:

- Technician: This person extracts the filter and processes the sample, but does not perform tissue culture work. The technician must have at least three months experience in filter extraction of virus samples and sample processing.
- Analyst: This person performs at the bench level and is involved in all aspects of the analysis, including sample collection, filter extraction, sample processing, and assay. The analyst must have two years of college (full time) in the life sciences or at least six months of bench experience in cell culturing and animal virus analyses.
- Principal Analyst/Supervisor: This person is a qualified, experienced microbiologist who oversees the entire analysis. The individual must have a B.A./B.S. degree in the life sciences with three years experience in cell culture and animal virus analyses. This individual must have completed the ICR environmental virology training course or have equivalent experience, as approved by EPA.

Because of the tight time constraints and the limited number of national experts capable of participating in on-site evaluations, EPA proposes to give highest priority in evaluating those laboratories (e.g., commercial, academic, utility, State) that (1) have been analyzing *Giardia* and *Cryptosporidium* or virus samples for at least one year, (2) have nationally recognized experts in protozoan or virus analyses, or (3) have the technical capability, capacity, and willingness to analyze at least four samples/month under the ICR requirements for *Giardia* and *Cryptosporidium* or viruses.

Laboratory capacity. If, following the beginning effective date of this rule, a system cannot locate an approved laboratory to analyze its water samples for the indicated pathogens, the system would be required to notify EPA in writing (see Section III.C). EPA will inform the system which laboratories are available for performing the requisite analysis, or when new approved laboratories become available to do such analysis.

EPA solicits comment on the approach above for approving laboratories and, more broadly, on the most appropriate means for ensuring that laboratories performing the pathogen analyses are competent. Laboratories wishing to become approved for doing these analyses should contact ICR Laboratory Coordinator, USEPA, Office of Ground Water and Drinking Water, Technical Support Division, 26 West Martin Luther King Drive, Cincinnati, Ohio 45268, for an application form to initiate the approval process.

8. Quality Assurance

Sample collection. For the collection of samples for pathogens, the laboratory would document that each sample collector, either from the laboratory or the system, is properly trained. Without such documentation, the laboratory would not proceed with analyzing the system's samples. EPA encourages approved laboratories to provide adequate training, if needed, not only to laboratory sample collectors, but to individuals at client water systems who collect their own samples for pathogens. Other criteria for sampling are included in the draft laboratory approval manual mentioned in Section 7, above.

Data reporting. EPA proposes to require a laboratory to submit data results to both the Agency and the client system for the pathogens. The water system would also be required to submit

the same data results to the Agency. By receiving and comparing both data submissions, EPA can reduce reporting errors. EPA would require that systems report data in a computer-readable form; in addition, systems serving at least 100,000 people would be required to report data in an EPA-specified electronic format (see Section III.B6 for more discussion). EPA encourages systems serving 10–100,000 people to also submit data using the electronic format.

EPA also proposes to require a laboratory, when the laboratory submits pathogen data to the Agency, to include its results on the most recent set of PE samples for that pathogen. This quality assurance criterion would allow EPA to assess the quality of that data, especially if the data appear to be atypical or equivocal.

B. Stage 2 Disinfection By-Products Rule

1. Need for Additional Data

When drinking water is disinfected, the organic material and bromide that are naturally present in the water react with the disinfectant to form hundreds of DBPs. Only a small subset of these chemicals have been identified due to the complexities of measuring them. Many of them are not stable, so they decompose during the sampling or analytical process. Others are polar and so are not easily extracted from the water for further analysis.

Most of the DBPs that can be measured in drinking water (i.e., there are analytical techniques available to detect them) are byproducts from the use of chlorine. However, there is limited occurrence information on even these DBPs, so the extent of exposure cannot be estimated. Only a subset of them have been studied to determine whether exposure to them presents a risk to health.

Several DBPs were included on the 1991 Drinking Water Priority List (56 FR 1470; January 14, 1991), as candidates for future regulations. During development of the proposed Stage 1 D/DBP Rule, the Negotiating Committee did not believe there were adequate data available to address most of the DBPs on the Priority List, so MCLs were recommended for a subset of the Priority List DBPs (trihalomethanes [THMs], haloacetic acids [HAAs], chlorite and bromate). The Stage 1 D/DBP Rule would address the "other" DBPs in two ways: 1) EPA would assume that control of other Priority List DBPs would occur if systems could meet the MCLs for THMs and HAAs; and 2) EPA would require some surface water systems using conventional treatment to implement optimized coagulation to remove as much organic material as possible before disinfection, thereby minimizing the formation of all DBPs. Total organic carbon (TOC) was designated as the surrogate for the organic precursor material removed during optimized coagulation.

Many members of the Negotiating Committee expressed concern on the adequacy of data to support the use of surrogate limits such as TOC for inclusion in the Stage 1 regulatory criteria. The lack of field data led the Negotiating Committee to base its decisions on the Stage 1 D/DBP Rule using a water treatment plant model to predict DBP concentrations resulting from various changes in treatment practices.

The THM and HAA compliance monitoring requirements being considered for proposal in the Stage 1 D/DBP Rule were modeled after the requirements of the current Total Trihalomethane (TTHM) Rule (44 FR 68624, November 1979). Some members of the Negotiating Committee were concerned that quarterly monitoring for THMs and HAAs would not accurately reflect consumer exposure to DBPs. An under-prediction of consumer exposure would be especially serious if research indicated there were short-term adverse health effects from exposure to DBPs. Field data were not available to assess the spatial and seasonal variability of DBP concentrations within distribution systems. Data were also lacking concerning the usefulness of surrogates, such as total organic halide (TOX), as tools for reducing compliance monitoring costs.

As a result of the above uncertainties, the Negotiating Committee strongly recommended that additional information be collected and analyzed to assist in the development of a Stage 2 D/DBP Rule. Field data are needed to: (1) Characterize source water parameters that influence DBP formation, (2) determine the concentrations of DBPs in drinking water, (3) refine models for predicting DBP formation based on treatment and water quality parameters, and (4) establish cost-effective monitoring requirements that are protective of the public health. Today's proposed rule would provide EPA with the data necessary to accomplish the above tasks.

2. Monitoring and Reporting Requirements and Rationale

The rule would require all community and nontransient, noncommunity systems serving at least 100,000 persons to: (1) Perform the monitoring summarized in Table III.1–.2 and (2) report treatment plant operational data specified in Table III.6. Treatment plants that use alternate disinfectants (chloramines, ozone, or chlorine dioxide) or hypochlorite solutions would also be required to perform monitoring for DBPs that are of particular concern for the disinfectant being used. Community and nontransient, noncommunity systems that use groundwater not under the direct influence of surface water and serve between 50,000 and 99,999 persons would be required to conduct monthly monitoring for total organic carbon (TOC) in water entering the distribution system.

TABLE III.1.—SAMPLING POINTS FOR ALL SYSTEMS

Sampling point	Analyses [1]	Frequency
Treatment plant influent	pH, alkalinity, turbidity, temperature, calcium and total hardness, TOC, UV_{254}, bromide, and ammonia.	Monthly.
Treatment plant influent (optional for waters with high oxidant demand due to the presence of inorganics).	Optional oxidant demand test	Monthly.
Treatment plant influent	TOX	Quarterly.
After air stripping	Ammonia	Monthly.
Before and after filtration	pH, alkalinity, turbidity, temperature, calcium and total hardness, TOC, and UV_{254}.	Monthly.
At each point of disinfection [2]	pH, alkalinity, turbidity, temperature, calcium and total hardness, TOC, and UV_{254}.	Monthly.
At end of each process in which chlorine is applied	Disinfectant residual [3]	Monthly.
After filtration (if chlorine is applied prior to filtration)	THMs, HAAs(6), HANs, CP, HK, CH, and TOX	Quarterly.

TABLE III.1.—SAMPLING POINTS FOR ALL SYSTEMS—Continued

Sampling point	Analyses [1]	Frequency
Entry point to distribution system	pH, alkalinity, turbidity, temperature, calcium and total hardness, TOC, UV_{254}, and disinfectant residual [3].	Monthly.
Entry point to distribution system	THMs, HAAs(6), HANs, CP, HK, CH, TOX, and SDS [4]	Quarterly.
4 THM Compliance Monitoring Points in Distribution System (1 sample point will be chosen to correspond to the SDS sample, [4] 1 will be chosen at a maximum detention time, and the remaining 2 will be representative of the distribution system).	THMs, HAAs (6), HANs, CP, HK, CH, TOX, pH, Temperature, Alkalinity, Total Hardness and Disinfectant Residual [3].	Quarterly.

[1] TOC is total organic carbon. UV_{254} is absorbance of ultraviolet light at 254 nanometers. THMs are chloroform, bromodichloromethane, dibromochloromethane, and bromoform. HAAs(6) is mono-, di-, and trichloroacetic acid; mono- and di- bromoacetic acid; and bromochloroacetic acid. HANs are dichloro-, trichloro-, bromochloro-, and dibromo- acetonitrile. CP is chloropicrin. HK is 1,1-dichloropropanone and 1,1,1-trichloropropanone. CH is chloral hydrate. TOX is total organic halide. SDS is the simulated distribution system test.

[2] For utilities using ozone or chlorine dioxide, Tables III.4 and III.5, respectively, show additional monitoring requirements at this sampling point.

[3] Free chlorine residual will be measured in systems using free chlorine as the residual disinfectant; total chlorine residual will be measured in systems using chloramines as the residual disinfectant.

[4] The SDS (simulated distribution system test) sample will be stored in such a manner that it can be compared to the results from one of the distribution system sampling points. This distribution system sampling point will be selected using the following criteria: 1) No additional disinfectant added between the treatment plant and this point, 2) Approximate detention time of water is available, and 3) No blending with water from other sources. The SDS sample will be analyzed for THMs, HAAs(6), HANs, CP, HK, CH, TOX, pH and disinfectant residual.

[5] Five THM samples.

Monitoring of source water quality. EPA would require all community and nontransient noncommunity water systems serving at least 100,000 persons to conduct monthly monitoring of the raw water entering each treatment plant for pH, alkalinity, turbidity, temperature, calcium and total hardness, total organic carbon (TOC), ultraviolet absorbance at 254 nm (UV_{254}), bromide ion, and ammonia. If the raw water were to contain a sufficiently high concentration of inorganic chemicals (i.e., hydrogen sulfide, iron, manganese) to cause a high oxidant demand, then the system would be encouraged to monitor for this inorganic oxidant demand at the same frequency. Systems would collect samples from the plant influent after water from multiple sources is blended. The sampling point would be before the first treatment step to characterize the chemical quality of the water being treated. A system that uses ground water not under the direct influence of surface water and with multiple wells in the same aquifer would only be required to collect raw water samples from representative wells in the two aquifers serving the largest portion of the system's population.

The above parameters were selected because they influence the quantity and chemical character of the DBPs formed when the disinfectant is added to the water. High oxidant demand water should be characterized because the availability of the disinfectant for reaction with organic material to form DBPs will depend on the amount of disinfectant that is consumed by inorganic chemicals. EPA solicits comments on the definition of high oxidant demand water and the type(s) of measurements necessary to characterize it.

Monthly sampling at the treatment plant influent would provide an estimate of the variability in raw water quality. EPA would use data from this portion of the rule to characterize source water parameters that influence DBP formation.

Monitoring within the treatment plant. EPA would require systems serving at least 100,000 people to monitor for most of the same parameters at several points within the treatment plant. These requirements are summarized in Table III.1. Samples from representative points before and after the filters collected on a monthly basis would be measured for pH, alkalinity, turbidity, temperature, calcium and total hardness, TOC, and UV_{254}. These measurements would provide data on changes in water quality between the plant influent and the last filtration step. Of particular importance are data on how the organic precursor material (as represented by TOC and UV_{254}) is removed prior to and through filtration.

Monthly monitoring of the same parameters (pH, alkalinity, turbidity, temperature, calcium and total hardness, TOC, and UV_{254}) would be required at each point of disinfection. These data are critical, because most data now available for comparing these variables with DBP concentrations are based on source water data. Most utilities do some treatment of the water prior to the addition of disinfectant, so source water measurements do not accurately reflect the quality of the water when the disinfectant is added. These data would provide a more accurate determination of how these parameters influence DBP formation.

Disinfectant residuals would be measured monthly at the end of each treatment process in which chlorine is applied. Free and total chlorine residual would be reported if free chlorine is used as the disinfectant; total chlorine residual would be reported if ammonia is added in combination with chlorine or when sufficient ammonia is present in the source water that breakpoint chlorination is not achieved. These data combined with information on the applied disinfectant dosages and contact times (from the plant operational data discussed in the next section) would give a more accurate picture on DBP formation, because the chlorine or chloramine demand of the water can be estimated. Part of this demand is reflected in the formation of DBPs.

If a water plant practices air stripping to remove volatile organic compounds (VOCs) from the raw water prior to the addition of a disinfectant and the raw water contains ammonia, then a monthly sample collected immediately following the air stripper and analyzed for ammonia would be required. Air stripping might change the concentration of ammonia, and an accurate concentration of ammonia is necessary to determine DBP formation.

EPA would also require systems serving at least 100,000 people to analyze samples from the entry point to the distribution system monthly. The monitoring would consist of pH, alkalinity, turbidity, temperature, calcium and total hardness, TOC, UV_{254}, and disinfectant residual.

Systems are already monitoring for many of the parameters listed above, either to comply with other drinking water regulations or for operational considerations. Therefore, the additional costs of providing monthly

data would not be excessive for these parameters.

The monthly data from the treatment plants would provide EPA with the necessary information to conduct two analyses essential for the development of the Stage 2 D/DBP Rule: (1) The variability in source water quality and treatment operation and its impacts on the parameters that influence the formation of DBPs, and (2) when the data are combined with the DBP data described below, EPA will have a better understanding of how water quality and treatment practices influence DBP formation. This understanding would allow EPA to refine models for predicting DBP formation based on treatment and water quality parameters and thus to further clarify the interrelationships between disinfectant concentrations and DBPs under field conditions.

EPA would require community and nontransient, noncommunity water systems that use only ground water not under the direct influence of surface water and serve between 50,000 and 99,999 people to analyze TOC samples monthly from the entry points to the distribution system.

Additional monitoring for chlorination by-products. EPA would require monitoring for specific chlorination by-products quarterly to fulfill three objectives: (1) To relate water quality and treatment practices to DBP formation, (2) to determine the concentration of DBPs in drinking water, and (3) to establish cost effective monitoring requirements that are protective of public health. The Agency would require analysis for the following chlorination by-products: chloroform, bromodichloromethane, dibromochloromethane, bromoform, monochloroacetic acid, dichloroacetic acid, trichloroacetic acid, monobromoacetic acid, dibromoacetic acid, bromochloroacetic acid, trichloroacetonitrile, dichloroacetonitrile, bromochloroacetonitrile, dibromoacetonitrile, 1,1-dichloropropanone, 1,1,1-trichloropropanone, chloropicrin, and chloral hydrate. Each time a DBP sample is collected, the system would also be required to measure and report pH, temperature, alkalinity, and disinfectant residual. Free chlorine residual would be measured in systems using free chlorine as the disinfectant. Total chlorine residual would be measured at sampling points after the addition of ammonia, because the residual disinfectant would be chloramines.

To relate DBP formation to water quality and treatment practices, EPA would require systems to monitor the above DBPs at the following locations: (1) At a representative point immediately after the last filtration step (if chlorine is applied prior to the filters), (2) at the entry point to the distribution system, and (3) at a TTHM compliance monitoring sampling point in the distribution system which can be related to a simulated distribution system (SDS) sample. This distribution system sampling point would be selected using the following criteria: (1) No additional disinfectant is added to the water between entry to the distribution system and the sampling point, (2) the approximate detention time of the water is available, and (3) there is no blending with water from other treatment plants. A sample would also be collected at the entry point to the distribution system and incubated at a time and temperature corresponding to the distribution system sample. This SDS sample would be analyzed for the same DBPs as the distribution system sample and it would provide a measure of DBP formation under controlled conditions. Data from SDS samples would also be evaluated as a cost-effective alternative to distribution system compliance monitoring.

The concentration of chlorination by-products would be determined by requiring the utilities to conduct quarterly monitoring at four points in the distribution system using the same criteria for sampling point selection as specified in the THM Rule. One sample would be taken from a point representing a maximum detention time in the system. The sample point with the highest THM concentrations would meet this criterion. The second sample would correspond to the SDS sampling point described above. The remaining two points would be representative of the distribution system. All four sampling points would be routine sampling points for TTHM compliance monitoring. This regimen minimizes the sampling costs, since additional sampling points are not required. It also provides a link between the measurements made for this rule and the historical TTHM compliance monitoring data for each system. Systems that have two or more treatment plants serving the same distribution system would only be required to collect four DBP samples in the distribution system.

Six quarters of DBP monitoring would provide EPA with information concerning the spatial and seasonal variability of DBPs within distribution systems. In an effort to evaluate lower cost monitoring options, EPA would also require systems to monitor total organic halide (TOX) concentrations at the same sampling points and at the same time DBP concentrations are measured. Total organic halide (TOX) is an indicator of the total quantity of dissolved halogenated organic material present in water. Essentially all of the TOX present in chlorinated drinking water in the United States is the result of reactions between chlorine and the organic material and bromide ion present in the source water. The eighteen chlorination by-products listed above typically account for less than 50% of the TOX that is measured in chlorinated drinking water. Since TOX also includes the halogenated by-products not routinely measured, it might be a better surrogate of chlorination by-product concentrations than are TTHMs and THAAs. The TOX analysis of treatment plant influent would also be required quarterly, because the source water could contain background concentrations of halogenated organic compounds as a result of chemical contamination or upstream discharges of chlorinated water. The DBP, TOX, and surrogate precursor (i.e., TOC and UV_{254}) data will be evaluated to determine the most cost-effective monitoring requirements that are protective of public health.

All the samples for the above-named parameters would be collected as close together in time as feasible (during the same working day if possible). Samples would be collected during normal plant operating conditions, when there were no obvious changes in source water quality due to storm events, chemical spills, etc. The quarterly sampling for DBPs would be conducted at the same time as the sampling from the treatment plant(s). The quarterly samples would be collected at a time when the source water quality and plant operations had been stable for several days, so that the distribution system sample can be related to the SDS sample that is collected at the same time.

Additional monitoring required for systems using chloramines. EPA would require systems serving at least 100,000 people and using chloramines to analyze for one additional DBP, cyanogen chloride. This by-product is formed when chlorine reacts with organic material in the presence of the ammonium ion (Ohya and Kanno, 1985). There are little data available to assess the occurrence of this compound and the factors influencing its formation are poorly understood. Therefore, these data are necessary to determine how the distribution of by-products would change if utilities switched from free

chlorine to chloramines as the residual disinfectant to meet the MCLs for TTHM and THAA.

Monitoring for cyanogen chloride would be required quarterly, as summarized in Table III.2. Only one sample would be required from the distribution system, because of the analytical complexities of measuring the compound. By sampling at the entry point to the distribution system and at a point of maximum detention time, EPA would be able to assess the concentration range at which this compound occurs. Cyanogen chloride is very reactive, and would be expected both to decompose and be produced within the distribution system.

TABLE III.2.—ADDITIONAL SAMPLING REQUIRED OF SYSTEMS USING CHLORAMINES

Sampling point	Analyses	Frequency
Entry point to distribution system	Cyanogen chloride	Quarterly.
One THM compliance monitoring sample point representing a maximum detention time in distribution system.	Cyanogen chloride	Quarterly.

Additional monitoring required of systems using hypochlorite solutions. EPA would require systems serving at least 100,000 people and using hypochlorite solutions for chlorination to perform the additional monitoring presented in Table III.3. The monitoring would include quarterly measurements for chlorate in the treatment plant influent, hypochlorite feedstock solution, and water at the entry point to the distribution system. Chlorate is a decomposition product found in hypochlorite feedstock (Lister, 1956; Bolyard, et al., 1992; and Gordon et al., 1993). Its concentration in the drinking water would not be expected to change in the distribution system unless additional hypochlorite solution was added, because it is not a DBP from chlorine reactions under drinking water conditions. Quarterly monitoring of the hypochlorite stock solution to assess the factors that influence chlorate formation (pH, storage temperature, and hypochlorite ion concentration) would also be required. These data would allow EPA to assess the significance of chlorate ion resulting from the use of hypochlorite solutions. EPA anticipates chlorate would be regulated as part of the Stage 2 DBP Rule.

TABLE III. 3.—ADDITIONAL SAMPLING REQUIRED OF SYSTEMS USING HYPOCHLORITE SOLUTIONS

Sampling point	Analyses	Frequency
Treatment plant influent	Chlorate	Quarterly.
Hypochlorite stock solution	pH, temperature, free residual chlorine, and chlorate	Quarterly.
Entry point to distribution system	Chlorate	Quarterly.

Additional monitoring required of systems using ozone. EPA would require systems serving at least 100,000 people and using ozone in their treatment process to perform the additional monitoring listed in Table III.4. The ozone contactor influent would be monitored monthly for parameters that influence formation of by-products: pH, alkalinity, turbidity, temperature, calcium and total hardness, TOC, UV_{254}, bromide, and ammonia. The ozone residual would be measured in the contactor effluent and immediately prior to filtration. These data would be combined with the operational data and the DBP data to better understand and predict DBP formation.

TABLE III.4.—ADDITIONAL SAMPLING REQUIRED OF SYSTEMS USING OZONE

Sampling point	Analyses	Frequency
Ozone contactor influent	pH, alkalinity, turbidity, temperature, calcium and total hardness, TOC, UV_{254}, bromide, and ammonia.	Monthly.
Ozone contactor influent	Aldehydes [1] and AOC/BDOC [2]	Quarterly.
Ozone contactor effluent	Ozone residual	Monthly.
Ozone contactor effluent	Aldehydes [1] and AOC/BDOC [2]	Quarterly.
Before filtration	Ozone residual	Monthly.
Entry point to distribution system	Bromate	Monthly.
Entry point to distribution system	Aldehydes [1] and AOC/BDOC [2]	Quarterly.

[1] The aldehydes to be included in this analysis are: formaldehyde, acetaldehyde, butanal, propanal, pentanal, glyoxal, and methyl glyoxal. Measurement of other aldehydes is optional.

[2] Submission of data for assimilable organic carbon (AOC) or biodegradeable organic carbon (BDOC) is optional.

Water systems using ozone would also be required to monitor for specific DBPs that are known to be formed as the result of oxidation reactions. The contactor influent, contactor effluent and water from the entry point to the distribution system would be monitored on a quarterly basis for aldehydes. Utilities would also be encouraged to voluntarily measure assimilable organic carbon (AOC) or biodegradeable dissolved organic carbon (BDOC) at the same sampling points and at the same frequency and voluntarily submit the data. The concentration of bromate would be monitored on a monthly basis at the entry point to the distribution system. The concentration of bromate is not expected to increase in the water after it leaves the treatment plant.

Additional monitoring required of systems using chlorine dioxide. EPA would require systems serving 100,000 people and using chlorine dioxide in their treatment process to conduct the additional monitoring listed in Table III.5. Parameters that influence the formation of by-products would be measured on a monthly basis at sampling point(s) prior to each

application of chlorine dioxide. The analyses would include: pH, alkalinity, turbidity, temperature, calcium and total hardness, TOC, UV_{254}, and bromide.

TABLE III.5—ADDITIONAL SAMPLING REQUIRED OF SYSTEMS USING CHLORINE DIOXIDE

Sampling point	Analyses	Frequency
Treatment plant influent	Chlorate	Quarterly.
Before each chlorine dioxide application	pH, alkalinity, turbidity, temperature, calcium and total hardness, TOC, UV_{254}, and bromide.	Monthly.
Before first chlorine dioxide application	Aldehydes [1] and AOC/BDOC [2]	Quarterly.
Before application of ferrous salts, sulfur reducing agents, or GAC.	pH, chlorine dioxide residual, chlorite, chlorate	Monthly.
Before downstream chlorine/chloramine application	Aldehydes [1] and AOC/BDOC [2]	Quarterly.
Entry point to distribution system	Chlorite, chlorate, chlorine dioxide residual, bromate	Monthly.
Entry point to distribution system	Aldehydes [1] and AOC/BDOC [2]	Quarterly.
3 distribution system sampling points (1 near first customer, 1 in middle of distribution system, and 1 at a maximum detention time in the system).	chlorite, chlorate, chlorine dioxide residual, pH, and temperature.	Monthly.

[1] The aldehydes to be included in this analysis are: formaldehyde, acetaldehyde, butanal, propanal, pentanal, glyoxal, and methyl glyoxal. Measurement of other aldehydes is optional.
[2] Submission of data for AOC or BDOC is optional.

The by-products of particular concern from the use of chlorine dioxide are chlorite and chlorate. Since the application of ferrous salts or sulfur reducing agents changes the concentrations of these by-products, utilities would be required to monitor for chlorite and chlorate prior to and following each of these treatment processes. Monitoring would also be required before and after granular activated carbon (GAC) filtration. These data would provide a better understanding of the formation and control of these two by-products and would allow the development of predictive models for use in development of the Stage 2 D/DBP Rule.

Very little data are available concerning the chlorite and chlorate concentrations generally present in drinking water as a result of chlorine dioxide use. Therefore, utilities would be required to monitor for these by-products at the entry point to the distribution system and at three sites within the distribution system. The concentrations of chlorite and chlorate are expected to change as the water is distributed through the system, so distribution system samples are needed to assess the magnitude of the changes. One sample would be collected near the first customer; another sample would be collected at a point representing the maximum detention time in the distribution system and the last sample would be collected at a point representative of the average consumer.

These water systems would also be required to monitor the chlorine dioxide residual concentrations, pH and temperature at the above sampling points. Of particular concern is the possible re-formation of chlorine dioxide in the distribution system as a result of reactions between chlorite and chlorine. Since chlorine dioxide and its by-products may pose acute health risks, monitoring for them would be required on a monthly basis. The proposed Stage 1 D/DBP Rule may require daily monitoring for chlorine dioxide at the point of entry into the distribution system and monthly monitoring for chlorite at three points in the distribution system.

Because low levels of chlorate have been reported in source water (Bolyard, et al., 1993; and Gordon, et al., 1993), EPA would also require systems using chlorine dioxide to monitor the treatment plant influent monthly for chlorate. This monitoring would provide data to assess the relative amounts of chlorate from source water versus the amount produced as the result of chlorine dioxide use.

EPA would also require systems using chlorine dioxide to perform quarterly monitoring for several oxidation by-products, because there is a small amount of data indicating their presence as the result of chlorine dioxide use. Quarterly monitoring for aldehydes would be required: (1) Before the first chlorine dioxide application in order to determine background levels from the source waters; (2) before application of the secondary disinfectant to determine what was produced by chlorine dioxide; and (3) at the entry point to the distribution system to evaluate the total level delivered to the consumers based upon all the treatment processes and disinfectants. EPA would also encourage systems to voluntarily measure AOC or BDOC at the same sampling points and at the same frequency and voluntarily submit the data. The Agency would require systems to report the bromate concentration present in the sample analyzed for chlorite and chlorate from the entry point to the distribution system, because there are limited data indicating that bromate may be formed as a result of sunlight catalyzed reactions between chlorine dioxide and bromide ion present in the source water (Zika et al., 1985). This would be an additional sample, because the measurement of low levels of bromate (<10 μg/L) in the presence of much higher levels of chlorite (100–1000 μg/L) would require special treatment of the sample.

3. Treatment Process Information Collection

Background/justification. EPA proposes collecting treatment process information as part of this rule to characterize the various forms of treatment currently being used by treatment plants serving more than 100,000 persons. The treatment process information will be used to evaluate options available to large water utilities to monitor and reduce DBP formation. The Water Treatment Plant (WTP) Model (Harrington, et al., 1992) was used to predict THM and HAA levels in the development of the Stage 1 D/DBP Rule. The model is available from the Safe Drinking Water Act Hotline (1–800–426–4791). It uses raw water quality and treatment process data to predict THM and HAA formation. The WTP model is calibrated on fewer than 100 bench-, pilot-, and full-scale studies. This rule would provide a sufficiently large database to upgrade the model to include additional processes, predict other DBPs, and

better calibrate the model based on hundreds of plant experiences.

The process data would be coupled with the water quality data described in Tables III.1 through III.5 to assess how treatment impacts precursor removal; how treatment affects the formation of THMs, HAAs and other DBPs; and how parameters like TOX and SDS compare to distribution system compliance parameters. Relationships between the process data and water quality data collected under this rule would be evaluated to help define Stage 2 requirements of the D/DBP Rule and to better evaluate and refine prediction models that will be used for the Stage 2 D/DBP Rule development.

Specific Process Information. The treatment plant information and unit processes listed in Table III.6 and the water quality data described in previous sections will provide the information necessary to develop predictions between raw water quality, treatment conditions, precursor removal, and DBP formation. EPA selected the parameters listed to characterize the unit process for use in developing the predictions and Stage 2 D/DBP Rule development. For example, coagulation parameters are needed for evaluation of efficiencies to better define the impact of enhanced coagulation for precursor (TOC) control. The depth of the filter is needed to evaluate the feasibility of adding GAC to the filter for precursor removal. The complete process train details are needed to evaluate the feasibility and costs of treatment changes being considered for DBP control. The list does not include every possible water treatment process parameter, but does include the parameters that would be used to characterize the treatment practices for the purpose of this monitoring rule.

TABLE III.6.—TREATMENT PLANT INFORMATION

Utility information:
- Utility Name
- Mailing Address
- Contact Person & Phone Number
- Public Water Supply Identification Number FRDS (PWSID)
- Population Served

Plant information:
- Name of plant
- Design flow (MGD)
- Annual minimum water temperature (C)
- Annual maximum water temperature (C)
- Hours of operation (hours per day)

Source water information:
- Name of source
- Type of source (One of the following)
  - 1 River
  - 2 Stream
  - 3 Reservoir
  - 4 Lake
  - 5 Ground water under the direct influence of surface water
  - 6 Ground water
  - 7 Spring
  - 8 Purchased from Utility Name, FRDS PWSID
  - 9 Other
- Surface water as defined by SWTR (TRUE/FALSE)
- Monthly Average Flow of this Source (MGD)
- Upstream sources of microbiological contamination
  - Wastewater plant discharge in watershed (yes/no)
    - Distance from intake (miles)
    - Monthly average flow of plant discharge (MGD)
    - Point source feedlots in watershed (yes/no)
    - Distance of nearest feedlot discharge to intake (miles)
    - Non-point sources in watershed
    - Grazing of animals (yes/no)
    - Nearest distance of grazing to intake (miles)

Plant influent (ICR influent sampling point):
- Monthly average flow (MGD)
- Monthly peak hourly flow (MGD)
- Flow at time of sampling (MGD)

Plant effluent (ICR effluent sampling point):
- Monthly average flow (MGD)
- Monthly peak hourly flow (MGD)
- Flow at time of sampling (MGD)

Sludge treatment:
- Monthly average solids production (lb/day)
- Installed design sludge handling capacity (ib/day)

General process parameters:

The following data will be required for all unit processes:
- Number of identical parallel units installed
- Number of identical parallel units in service at time of sampling

The following parameters will be required for all unit processes except chemical feeders:
- Design Flow per unit (MGD)
- Liquid volume per unit (gallons)
- Tracer study flow (MGD)

TABLE III.6.—TREATMENT PLANT INFORMATION—Continued

T50 (minutes)
T10 (minutes)
Presedimentation basin:
Surface loading at design flow (gpm/ft²)
Chemical feeder:
Type of feeder (one of the following)
1 Liquid
2 Gas
3 Dry
Capacity of each unit (lb/day)
Purpose (one or more of the following)
1 Coagulation
2 Coagulation aid
3 Corrosion control
4 Dechlorination
5 Disinfection
6 Filter aid
7 Fluoridation
8 Oxidation
9 pH adjustment
10 Sequestration
11 Softening
12 Stabilization
13 Taste and odor control
14 Other
Chemical feeder chemicals (one of the following):
Alum
Anhydrous ammonia
Ammonium hydroxide
Ammonium sulfate
Calcium hydroxide
Calcium hypochlorite
Calcium oxide
Carbon dioxide
Chlorine dioxide—acid chlorite
Chlorine dioxide—chlorine/chlorite
Chlorine gas
Ferric chloride
Ferric sulfate
Ferrous sulfate
Ozone
Polyaluminum chloride
Sodium carbonate
Sodium chloride
Sodium fluoride
Sodium hydroxide
Sodium hypochlorite
Sodium hexametaphosphate
Sodium silicate
Sulfuric acid
Zinc orthophosphate
Other
Notes:
1. The above list is intended to be a comprehensive list of chemicals used at water treatment plants. If the name of a chemical does not appear in the list then "Other Chemical" information will be requested.
2. Formulas and feed rate units will be included in data reporting software.
Monthly average feed rate based on inventory (mg/L) Feed rate at time of sampling (mg/L)
Other chemical:
Note:
In addition to Chemical Feeder information the following will be required for any chemical not included in the Chemical Feeder list of chemicals.
Trade name of chemical
Formula
Manufacturer
Rapid mix:
Type of mixer (one of the following)
1 Mechanical
2 Hydraulic jump
3 Static
4 Other
If mechanical: horsepower of motor
If hydraulic: head loss (ft)

TABLE III.6.—TREATMENT PLANT INFORMATION—Continued

If static: head loss (ft)
Flocculation basin:
Type of mixer (one of the following)
1 Mechanical
2 Hydraulic
3 Other
If mechanical: Mixing power (HP)
If hydraulic: head loss (ft)
Sedimentation basin:
Loading at Design Flow (gpm/ft^2)
Depth (ft)
Filtration:
Loading at Design Flow (gpm/ft^2)
Media Type (one or more of the following)
1 Anthracite
2 GAC
3 Garnet
4 Sand
5 Other
Depth of top media (in)
If more than 1 media: Depth of second media (in)
If more than 2 media: Depth of third media (in)
If more than 3 media: Depth of fourth media (in)
If GAC media: Carbon replacement frequency (months):
Water depth to top of media (ft)
Depth from top of media to bottom of backwash trough (ft)
Backwash Frequency (hours)
Backwash volume (gallons)
Contact basin (Stable liquid level):
Baffling Type (one of the following as defined in SWTR guidance manual)
1 Unbaffled (mixed tank)
2 Poor (inlet/outlet only)
3 Average (Inlet/Outlet and intermediate)
4 Superior (Serpentine)
5 Perfect (Plug flow)
Clearwell (Variable liquid level):
Baffling Type (one of the following as defined in SWTR guidance manual)
1 Unbaffled (mixed tank)
2 Poor (inlet/outlet only)
3 Average (Inlet/Outlet and intermediate)
4 Superior (Serpentine)
5 Perfect (Plug flow)
Minimum liquid volume (gallons)
Liquid volume at time of tracer study (gallons)
Ozone contact basin:
Basin Type
1 Over/Under (Diffused O_3)
2 Mixed (Turbine O_3)
Number of Stages
CT (min mg/L)
EPA requests comments on the design and operating parameters to be reported for ozone contact basins.
Tube settler:
Surface loading at design flow (gpm/ft^2)
Tube angle from horizontal (degrees)
Upflow clarifier:
Design horse power of turbine mixer (HP)
Surface loading at design flow (gpm/ft^2)
Special Equipment (none, one, or more of the following)
1 Lamella plates
2 Tubes
Plate settler:
Surface loading at design flow (gpm/ft^2)
DE filter:
Surface loading at design flow (gpm/ft^2)
Precoat (lb/ft^3)
Bodyfeed (mg/L)
Run length (hours)
Granular activated carbon:
Empty bed contact time at design flow (minutes)
Design regeneration frequency (days)
Actual regeneration frequency (days)
Membranes:
Type (one of the following)

TABLE III.6.—TREATMENT PLANT INFORMATION—Continued

1 Reverse osmosis
2 Nanofiltration
3 Ultrafiltration
4 Microfiltration
5 Electrodialysis
6 Other
Name of Other type
Membrane type (one of the following)
1 Cellulose acetate and derivatives
2 Polyamides
3 Thin-film composite
4 Other
Name of other membrane type
Molecular weight cutoff (gm/mole)
Configuration (one of the following)
1 Spiral wound
2 Hollow fiber
3 Tube
4 Plate and frame
5 Other
Name of other configuration
Design flux (gpd/ft^2)
Design pressure (psi)
Purpose of membrane unit (one or more of the following)
1 Softening
2 Desalination
3 Organic removal
4 Other
5 Contaminant removal—name of contaminant
Percent recovery (%)
Operating pressure (psi)
Air stripping:
Packing height (ft)
Design liquid loading (gpm/ft^2)
Design air to water ratio
Type of packing (Name)
Nominal size of packing (inch)
Operating air flow (SCFM)
Adsorption clarifier:
Surface loading at design flow (gpm/ft^2)
Dissolved air flotation:
Surface loading at design flow (gpm/ft^2)
Slow sand filtration:
Surface loading at design flow (gpd/ft^2)
Ion exchange:
Purpose (one or more of the following)
1 Softening
2 Contaminant removal
Contaminant name
Media type (Name)
Design exchange capacity (equ/ft^3)
Surface loading at design flow (gpm/ft^2)
Bed depth (ft)
Regenerant Name (one of the following)
1 Sodium Chloride (NaCl)
2 Sulfuric Acid (H_2SO_4)
3 Sodium Hydroxide (NaOH)
4 Other
If other: Name and formula
Operating regeneration frequency (hr)
Regenerant concentration (%)
Regenerant Used (lb/day)
Other treatment:
Name
Purpose
Design Parameters

EPA will be working with the industry to develop the software to collect this process information as described in the following section. Utilities would use the data collection software to input the process data once

at the beginning of the monitoring period with monthly updates of the operating data and any treatment modifications.

EPA requests comments on the completeness of Table III.6 to describe treatment plant configurations and the specific design parameters for the unit processes that would be relevant to Stage 2 D/DBP rule development and future model development for predicting DBPs. Is all the requested information essential? Are more efficient mechanisms available than those proposed herein for obtaining the desired information? Will the treatment plant information requested be adequate for developing models by which to predict the ability of utilities to achieve various potential regulatory criteria under Stage 2 (e.g., DBP and TOX occurrence levels in the distribution system)? Will the treatment plant information required for systems serving 100,000 or more people be adequate for developing predictive models of DBP formation for systems serving less than 100,000 people? What additional information, if any, would be important to obtain to predict the formation of DBPs in systems serving less than 10,000 people? If additional information is needed, what mechanisms should be used for obtaining it? For example, would any survey techniques of representative systems be useful for obtaining this information?

Data collection software design. Since the collection of DBP occurrence data and source water quality data must be combined with information about the treatment processes, EPA proposes using data collection software as a mechanism for obtaining the monitoring data and treatment plant process information necessary for developing the Stage 2 D/DBP Rule. The software would capture information about source water quality, treatment plant design, unit processes, chemical dosages, and the monitoring results listed in Tables III.1–III.6. EPA would provide technical assistance for use of the data collection software.

To capture both water quality data and process information from each plant, the data collection software and database would be designed to handle various treatment configurations including split flow, process parameters relevant to each configuration, and water quality monitoring data described in earlier sections.

EPA would provide each utility a diskette containing the data collection software. The software would generate screen driven data entry forms that are customized for the water utility depending on the treatment process configuration entered by the utility. The water quality parameters listed in Tables III.1 through III.5 and the results of the microbiological monitoring would also be entered by the utility. The water utility would only enter monitoring results pertinent to its system. Table III.6 lists the unit process choices that would be used to develop the process train for a given water treatment plant. The computer program would be designed to prompt the user for the process parameters based on the process choices selected. For example, a plant using only chlorine for disinfection would not see prompts for chlorine dioxide residual, bromate, or chlorite on its data entry screen.

The software will determine such details as where sampling points should generally be located and which water quality parameters should be measured. The user would have the option of printing a series of data forms to be used as a guide in identifying sample point locations, requesting laboratory analysis, and gathering design and operation parameters. The software will be designed in data segments and will save data to a monthly data file on a hard drive or diskette. The utility will send data to EPA as described in the following section.

4. Database Development

The proposed procedure would entail each PWS collecting the data on a computer diskette provided by EPA using the data collection software, sending the data via modem or by diskette to a database coordinator, having the data reviewed for correctness by an engineer or scientist familiar with water treatment, loading the data into a master database, having the data analyzed periodically throughout the monitoring period, generating interim reports, and having the database in final usable form for Stage 2 D/DBP Rule development shortly after the conclusion of the sixth quarter monitoring period. Any interested party would have access to the data at various points in time during the collection period. EPA would provide technical assistance throughout the data collection and reporting process.

EPA proposes that a personal computer with an MS-DOS operating system be used for data entry. EPA would provide the ICR data collection software to the utilities for data collection. The utilities would provide the personal computer. The software will have many built in features to guide the user through the process train configuration and data input. In addition, EPA intends to make technical assistance available, if needed, to help assure the quality of information provided.

The output from the data collection software would be monthly data files in ASCII format. Data files on diskette would be mailed to EPA and transferred to the master data base. Data files transferred via modem would be sent using telecommunication software supplied by the utility. EPA requests comment on the use of diskettes, modem or other means for data reporting.

Design of the database, its input/output mechanisms, and its output formats would be considered before start-up of the monitoring effort. The output would target the requirements being considered for the Stage 2 D/DBP Rule and the Enhanced SWTR. Examples of the *many* questions the output would address are: (1) What is the national distribution of bromide, TOC, etc., i.e., the factors that affect DBP formation? (2) What is the distribution of HAAs, chloral hydrate, etc. in distribution system waters? (3) What treatment processes and operating conditions are associated with minimum DBP levels? (4) What levels of bromate form in ozonation plants under different conditions?

Testing data collection and transfer. Before monitoring begins, EPA would need to beta test the ICR data collection software for transferring data from the utility to a master database to identify unforeseen problems with the data collection procedure. Therefore, the Agency's schedule for beta testing must have enough lead time to modify the process, if needed, before monitoring begins. EPA intends to conduct the data collection software beta testing with the cooperation of a small number of utilities with diverse characteristics. The master database and its data manipulation and output procedures would also be beta tested to identify unforeseen problems with the data handling procedures after the data are reported to EPA.

Frequency of reporting. EPA would require systems to submit data to the Agency two months after monitoring begins and thereafter monthly. Periodic reporting would allow EPA to review the data and resolve problems associated with data collection and submission, and also to quicken the pace of regulatory development of the interim and long-term ESWTRs.

Data availability. EPA would make raw (unanalyzed) data available to interested organizations and individuals periodically throughout the monitoring period via electronic transfer. EPA proposes that the data be made available after the first two quarters' raw data

have been verified, and for every 6 months of data thereafter following the verification of that data until the conclusion of the monitoring period. This access would be a "read only" mode.

EPA would make analyzed data available in summary form. The analyzed data would be grouped by source water type, utility size, type of treatment, distribution of DBPs, distribution of TOC, treatment effectiveness, etc. These data would be used in developing the interim and long-term ESWTR and the Stage 2 D/DBP rule.

5. Analytical Methods

Approved methods. Analytical methods that are currently approved for monitoring purposes under other drinking water regulations would be approved for use under this rule. These include the parameters: (1) pH; (2) alkalinity; (3) turbidity; (4) temperature; (5) calcium hardness; (6) free residual chlorine; (7) total residual chlorine; (8) chlorine dioxide residual; (9) ozone residual; (10) chloroform; (11) bromodichloromethane; (12) dibromochloromethane; and (13) bromoform.

Analytical methods for several of the above named parameters have also been updated in the 18th edition of Standard Methods for the Examination of Water and Wastewater for the Examination of Water and Wastewater. These include: (1) pH; (2) alkalinity; (3) turbidity; (4) temperature; (5) calcium hardness; (6) free residual chlorine; (7) total residual chlorine; (8) chlorine dioxide residual; and (9) ozone residual. The updated versions of these methods would also be approved for compliance monitoring under this rule.

In addition to the methods currently approved for monitoring purposes under other drinking water regulations and their most recent versions, approved methods for the remainder of the parameters that must be measured for this rule are listed in Table III.7. The methods are published and contain descriptions of the methodology and information on the precision and accuracy of the methods.

EPA is proposing one new method (EPA Method 551) for trihalomethane (chloroform, bromodichloromethane, dibromochloromethane, and bromoform) monitoring under this rule. EPA is also soliciting comment on whether use of this method should also be approved for compliance with the monitoring requirements under the Trihalomethane rule [44 FR 68264, November 29, 1979].

Monitoring for the six haloacetic acids (HAAs) would be done using EPA Method 552.1 or an expanded version of Method 6233 B which is published in the 18th edition of Standard Methods. Bromochloroacetic acid is not listed as an analyte in the published version of Method 6233 B, because an analytical standard was not commercially available when the method was first developed. The feasibility of including it in Method 6233 B has been demonstrated (Barth and Fair, 1992), and it will be added to the method during the next revision.

Method 6233 B is undergoing revision for the 19th edition of Standard Methods, so EPA proposes that a draft version be made available to laboratories performing HAA analyses for this monitoring rule.

EPA would require laboratories to use EPA Method 551 for measuring trichloroacetonitrile, dichloroacetonitrile, bromochloroacetonitrile, dibromoacetonitrile, 1,1-dichloropropanone, 1,1,1-trichloropropanone, and chloropicrin. The use of pentane instead of methyl-tertiary-butyl ether (MTBE), the solvent described in the method, would be permissible when analyzing for these analytes and for the THMs.

Chloral hydrate (CH) would also be measured using EPA Method 551, but its concentration would be determined by analyzing a separate sample from the one collected for the other 551 analytes. CH requires a different dechlorinating agent than the other DBPs included in the method. The THMs can also be measured in the chloral hydrate sample. MTBE must be used as the extracting solvent when measuring CH.

EPA Method 551 specifies that the pH of the sample be adjusted to between 4.5 and 5.0 when the sample is collected, to prevent base-catalyzed hydrolysis of several of the analytes. Sample stability has been demonstrated for 14 days when this technique is used in the laboratory. However, field application of this preservation technique (i.e., titration) has not been tested and may not be practical. EPA proposes that the samples be collected without adjusting the pH and that the laboratories be required to extract the samples within 24–48 hours of sample collection. This requirement would result in a negative bias in the data for several of the analytes, with the bias increasing as the pH of the samples increases. EPA solicits comments on this approach or suggestions on alternative approaches.

Chlorate, chlorite, bromide, and bromate would be measured using EPA Method 300.0. Laboratories would be permitted to use alternate eluents (e.g., borate eluent) or sample cleanup or concentration techniques in order to lower the detection limit for bromate, as long as the quality assurance criteria specified in the method are met.

EPA is aware that the above method may not be sensitive enough to provide quantitative data for bromate at concentrations <10 μg/L. Some laboratories may be able to detect bromate in samples at concentrations as low as 5 μg/L, but the data will not be precise enough to be used for making decisions on how treatment practices and source water characteristics influence bromate formation. Since the Stage 1 D/DBP Rule may propose a maximum contaminant level goal (MCLG) of zero for bromate, it is important to extend the quantitation for bromate to as low a concentration as possible during this information collection process.

One of EPA's laboratories has the capability to measure bromate at concentrations of <1 μg/L using a selective anion concentration technique prior to ion chromatography analysis (Hautman, D.P., Nov. 1992). EPA does not think this new technique could be readily transferred to laboratories doing routine analyses, because the required instrumentation is not commercially available and the technique is complex and time consuming. Therefore, in order to obtain low level bromate measurements, EPA is proposing that utilities be required to collect duplicate samples and to send one sample from each duplicate set to EPA. EPA could then obtain more sensitive quantitation to better characterize bromate formation as a function of water quality treatment characteristics. EPA would use the data generated by utilities to evaluate the ability of laboratories to accurately and precisely measure bromate near the anticipated MCL of 10 μg/l in the Stage 1 D/DBP rule that was agreed to by the Negotiating Committee. EPA would be responsible for obtaining the required analyses using the new technique. EPA solicits comments on this approach for obtaining low level bromate measurements.

Cyanogen chloride (CNCl) concentrations would be monitored using a modified version of EPA Method 524.2. This compound is not listed in the method, but feasibility has been demonstrated (Flesch and Fair, 1988). Cyanogen chloride is unstable, so laboratories would be required to perform the analysis within 24–48 hours of sample collection. Samples for CNCl analysis must be dechlorinated using ascorbic acid.

EPA is aware of one other technique for measuring CNCl. A headspace analytical technique using gas chromatography with electron capture detection was recently described in the literature (Xie and Reckhow, 1993). It can also be used to measure cyanogen bromide which may be preferentially formed when the source water contains bromide ion. EPA solicits comments on whether this technique should be used to generate data for this monitoring rule. Use of the technique would be contingent upon preparation of a written protocol for performing the analysis including specific quality control requirements. The protocol would be published in the ICR DBP Analytical Methods Guidance Manual.

A method for the analysis of aldehydes in source water and drinking water is being written for the 19th edition of Standard Methods. The methodology involves the use of *O*-(2,3,4,5,6-pentafluorobenzyl)-hydroxylamine (PFBHA) as a derivatizing agent. PFBHA reacts with low molecular weight carbonyl compounds, including aldehydes, in aqueous solutions to form the corresponding oximes. These derivatives are extractable with organic solvents and can be measured using gas chromatography with either electron capture (ECD) or selective ion monitoring-mass spectrometry (SIM-MS) detection (Glaze et al., 1989; Cancilla et al., 1992). EPA proposes that the draft version of the method be used by laboratories performing aldehyde analyses for this monitoring rule.

Analyses for aldehydes are usually begun immediately or within 24 to 48 hours after sample collection, because a preservation technique has not been demonstrated. EPA proposes that all aldehyde analyses for this rule be initiated within 48 hours of sample collection. EPA solicits comments on alternative approaches.

Total organic halide (TOX) would be monitored using Standard Method 5320 B. All samples for this monitoring rule would be dechlorinated and acidified at the time of collection.

Total organic carbon (TOC) would be monitored using Standard Method 5310 C (persulfate-ultraviolet oxidation) or 5310 D (wet-oxidation). The samples must not be filtered prior to analysis. Turbid samples would be diluted using organic free water in order to remove interferences from high concentrations of particulate matter.

EPA is aware of recent advances in the measurement of TOC using high temperature catalytic oxidation (Benner and Hedges, 1993; Kaplan, 1992). The instrumentation is commercially available and is being used in some drinking water laboratories. Published data suggest the new technique may be slightly more effective than the proposed methods in oxidizing refractory organic material. If this is true, then results produced using the new technique would indicate higher TOC levels than would be measured using the proposed methods, when samples contained refractory organic material. The methodology has not been evaluated by EPA and it is not published in a reference text such as Standard Methods or an EPA Methods Manual. EPA solicits comments on whether (or under what conditions) the use of this new oxidation technique should be permitted for monitoring under this rule.

No written method exists for measuring ultraviolet absorbance at 254 nm (UV_{254}). EPA proposes that a protocol be developed by a workgroup composed of persons familiar with techniques currently being used to study precursor removal. The protocol would be distributed to all laboratories that generate UV_{254} data for this rule and its use would be required. The protocol would also be published in the ICR DBP Analytical Methods Guidance Manual. The protocol will specify sample filtration and pH adjustment procedures.

Simulated distribution system (SDS) samples would be incubated at the same temperature and pH as the distribution system for a reaction time comparable to the estimated detention time of the distribution system sampling point selected for comparison purposes. The general protocol is described in the 18th edition of Standard Methods under Method 5710 E. Exact details of how the SDS samples would be handled will be specified in the ICR DBP Analytical Methods Guidance Manual. Since the temperature and incubation time of the SDS samples will be utility specific, EPA will recommend that the utility incubate the sample for the specified time period. The pH and disinfectant residual would be measured at the end of the incubation period. The sample would then be poured into sample bottles containing the appropriate dechlorinating agents and preservatives and sent to the laboratory for analysis. This procedure would alleviate concern over laboratory logistics in dealing with many SDS samples requiring different incubation temperatures and times. The SDS sample would be analyzed for chloroform, bromodichloromethane, dibromochloromethane, bromoform, monochloroacetic acid, dichloroacetic acid, trichloroacetic acid, monobromoacetic acid, dibromoacetic acid, bromochloroacetic acid, chloral hydrate, trichloroacetonitrile, dichloroacetonitrile, bromochloroacetonitrile, dibromoacetonitrile, 1,1-dichloropropanone, 1,1,1-trichloropropanone, chloropicrin, total organic halide, pH, and disinfectant residual.

TABLE III.7—ANALYTICAL METHODS APPROVED FOR MONITORING RULE

Analyte	Methodology		
	40 CFR reference [1]	EPA method	Standard method [2]
pH	141.74(a)(7), 141.89(a)		4500–H+
Alkalinity	141.89(a)		2320 B
Turbidity	141.22(a), 141.74(a)(4)	180.1 [3]	2130 B
Temperature	141.74(a)(6), 141.89(a)		2550 B
Calcium hardness	141.89(a)	200.7 [4]	3111 B, 3120 B, 3500–Ca D
Free residual chlorine	141.74(a)(5)		4500–Cl D, 4500–Cl F, 4500–Cl G, 4500–Cl H
Total residual chlorine	141.74(a)(5)		4500–Cl D, 4500–Cl E, 4500–Cl F, 4500–Cl G, 4500–Cl I
Chlorine dioxide residual	141.74(a)(5)		4500–ClO_2 C, 4500–ClO_2 D, 4500–ClO_2 E
Ozone residual	141.74(a)(5)		4500–O_3 B

TABLE III.7—ANALYTICAL METHODS APPROVED FOR MONITORING RULE—Continued

Analyte	Methodology		
	40 CFR reference [1]	EPA method	Standard method [2]
Chloroform	141 Subpt C, App. C	502.2 [5], 524.2 [5,6], 551 [7,8]	
Bromodichloromethane	141 Subpt C, App. C	502.2 [5], 524.2 [5,6], 551 [7,8]	
Dibromochloromethane	141 Subpt C, App. 3	502.2 [5], 524.2 [5,6], 551 [7,8]	
Bromoform	141 Subpt C, App. C	502.2 [5], 524.2 [5,6], 551 [7,8],	
Monochloroacetic acid		552.1 [6]	6233 B
Dichloroacetic acid		552.1 [6]	6233 B
Trichloroacetic acid		552.1 [6]	6233 B
Monobromoacetic acid		552.1 [6]	6233 B
Dibromoacetic acid		552.1 [6]	6233 B
Bromochloroacetic acid		552.1 [6]	6233 B [9]
Chloral Hydrate		551 [7]	
Trichloroacetonitrile		551 [7,8]	
Dichloroacetonitrile		551 [7,8]	
Bromochloroacetonitrile		551 [7,8]	
Dibromoacetonitrile		551 [7,8]	
1,1-Dichloropropanone		551 [7,8]	
1,1,1-Trichloropropanone		551 [7,8]	
Chloropicrin		551 [7,8]	
Chlorite		300.0 [10]	
Chlorate		300.0 [10]	
Bromide		300.0 [10]	
Bromate		300.0 [10]	
Cyanogen Chloride		524.2 [6]	
Aldehydes			draft method submitted to 19th Edition
Total Organic Halide (TOX).			5320 B
Total Organic Carbon			5310 C, 5310 D
UV absorbance at 254 nm (method described in preamble—protocol will be developed).			
Simulated Distribution System Test (SDS).			5710 E
Total Hardness			2340 B, 2340 C
Ammonia			4500–NH_3 D, 4500–NH_3 F
Oxidant Demand/Requirement (optional).			2350 B, 2350 C, 2350 D
AOC/BDOC (optional)			9217 B/

[1] Currently approved methodology for drinking water compliance monitoring is listed in Title 40 of the Code of Federal Regulations in the sections referenced in this column.

[2] *Standard Methods* for the Examination of Water and Wastewater, 18th ed., American Public Health Association, American Water Works Association, Water Pollution Control Federation, 1992.

[3] "Methods of Chemical Analysis of Water and Wastes," EPA Environmental Monitoring Systems Laboratory, Cincinnati, OH EPA–600/4–79–020, Revised March 1983.

[4] Methods for the Determination of Metals in Environmental Samples. Available from National Technical Information Service (NTIS), U.S. Department of Commerce, Springfield, Virginia, PB91–231498, June 1991.

[5] USEPA, "Methods for the Determination of Organic Compounds in Drinking Water," EPA/600/4–88/039, PB91–231480, National Technical Information Service (NTIS), December 1988 (revised July 1991).

[6] USEPA, "Methods for the Determination of Organic Compounds in Drinking Water—Supplement II," EPA/600/R–92/129, PB92–207703, NTIS, August 1992.

[7] USEPA, "Methods for the Determination of Organic Compounds in Drinking Water—Supplement I," EPA/600/4–90–020, PB91–146027, NTIS, July 1990.

[8] Pentane may be used as the extraction solvent for this analyte, if the quality control criteria of the method are met.

[9] This analyte is not currently included in the method. However, Barth and Fair (1992) present data demonstrating it can be added to the method. The method is being revised for the 19th edition of *Standard Methods* and it will include this analyte.

[10] USEPA, "Methods for the Determination of Inorganic Substances in Environmental Samples," EPA/600/R/93/100–, August 1993.

Laboratory approval. EPA recognizes that the usefulness of the data generated as the result of this rule depends on the ability of laboratories to reliably analyze the disinfectants, disinfection by-products and other parameters. EPA has a laboratory certification program for drinking water analyses. All laboratories that analyze drinking water samples to determine compliance with drinking water regulations must be certified by EPA or the State, as specified by 40 CFR 142.10(b)(4) and 141.28. Under this program, EPA certifies the principal State Laboratory and, with certain exceptions (see 40 CFR 142.10), each State certifies drinking water laboratories within the State.

Laboratories currently certified to perform analyses using EPA Methods 501.1, 501.2, 502.2 or 524.2 for TTHMs or volatile organic compound (VOC) would be approved to analyze for chloroform, bromodichloromethane, dibromochloromethane, and bromoform using the same analytical method under the ICR without further action. In addition, all persons or laboratories already approved by EPA or the State for analyzing alkalinity, pH,

temperature, turbidity, disinfectant residual, and calcium hardness analyses would be approved to perform these measurements under the ICR without further action. Parties approved by a State for calcium hardness analyses using Standard Methods 3500–Ca D would also be approved for total hardness measurements using Standard Method 2340 C under this rule. Parties approved by a State for calcium hardness analyses using Standard Methods 3111 B or 3120 B would also be approved for total hardness measurements using Standard Methods 2340 B under this rule. Parties approved by a State for pH measurements using Standard Methods 4500–H^+ would also be approved for ammonia measurements using Standard Method 4500–NH_3 F under this rule.

For other parameters to be monitored under this rule, EPA proposes to develop a separate laboratory evaluation process apart from the drinking water laboratory certification program. A new process is being proposed for several reasons: 1) few States and EPA Regions are currently able to certify laboratories for the new analytes of interest in this rule and it is unlikely that they could develop the capacity in the time frame to implement this rule; 2) the short-term nature of the monitoring period may not warrant a full certification program, since monitoring would not be required for many of the analytes after the 18 month monitoring period; and 3) large numbers of laboratories are not needed to perform the DBP-related monitoring, because the monitoring requirements only affect approximately 300 systems.

Under the new process, EPA would require laboratories to meet specific criteria (described below) before approving them to perform monitoring of the new analytes covered in the DBP portion of the ICR. Laboratories would be approved on a method-by-method basis.

Laboratory approval criteria would consist of the following elements:

(1) The laboratory would be required to contact ICR Laboratory Coordinator, USEPA, Office of Ground Water and Drinking Water, Technical Support Division, 26 West Martin Luther King Drive Cincinnati, Ohio, 45268, for an application form to initiate the approval process. The form would request information on the laboratory personnel, facilities, analytical methods/protocols in use for ICR analyses, current State certification status, and laboratory capacity to process DBP/ICR samples. The laboratory could submit a copy of the most recent application form it had filed with the State and the most recent copy of the State's on-site visit report, in lieu of completing portions of the EPA form. The laboratory could also provide EPA with copies of its PE data for ICR analytes in the three most recent PE studies. The PE data must have been generated using the methods for which the laboratory is seeking approval.

(2) EPA would require the laboratory to use the analytical methods or protocols specified in this rule and contained in the ICR DBP Analytical Methods Guidance Manual. A laboratory that desires to use EPA Method 551 for trihalomethane analyses under this rule would have to apply for approval under this process, even though it may be certified for THM compliance monitoring using a different method.

(3) EPA would require the laboratory to have a Quality Assurance (QA) Manual specific to this rule. Guidance for preparing this manual will be provided in the ICR DBP Analytical Methods Guidance Manual. (Examples of the types of information that should be included in the QA Manual are: (1) Laboratory organization; (2) sampling handling procedures; (3) analytical method references and quality control; and (4) data handling and reporting procedures. The QA manual would also include or reference the standard operating procedure (SOP) for each analytical method/protocol in use for ICR analyses.) The QA manual must be available for review, if requested.

(4) EPA would require the laboratory to conduct an initial demonstration of capability (IDC) and method detection limit (MDL) determinations for each analysis for which it requests approval for this monitoring rule, and submit these data to the Agency. EPA would require laboratories to determine the MDL according to the procedure outlined in 40 CFR part 136 Appendix B, with additional guidance being given in the ICR DBP Analytical Methods Guidance Manual. The manual will also outline minimum requirements for performing the IDC determinations. Minimum performance criteria for each method IDC and MDL would also be specified in the ICR DBP Analytical Methods Guidance Manual based on what is feasible to achieve and what is necessary to obtain the data quality objectives of this rule. (EPA is proposing that the minimum performance criteria for IDCs and MDLs be based on IDC and MDL data obtained from a minimum of three laboratories that are experienced in conducting each specific analysis.)

(5) If the laboratory does not have a history of successfully analyzing PE samples for the ICR analytes using the methods specified in this rule, then EPA would require the laboratory to satisfactorily analyze two PE samples, if available, for each of the methods it uses to generate data for this monitoring rule. Historical performance in PE studies could be applied toward meeting this requirement if the laboratory had satisfactory performance on at least two of three PE samples analyzed by the method in question and the last PE sample was satisfactorily analyzed. EPA proposes that satisfactory performance on PE samples be defined as achieving within ±40% of the study mean concentration for this rule. EPA considers this criteria as reasonable relative to what laboratories should be able to achieve in order to meet the objectives of the rule.

PE samples are currently available for THMs, six HAAs, chloral hydrate, bromate, chlorite, and chlorate. EPA plans to conduct special PE studies for the ICR which will also include trichloroacetonitrile, dichloroacetonitrile, bromochloroacetonitrile, dibromoacetonitrile, 1,1-dichloropropanone, and 1,1,1-trichloropropanone, bromide, TOC, TOX and UV_{254} PE samples. A PE sample for chloropicrin will not be required because laboratory performance using EPA Method 551 can be assessed using the data from the other method analytes.)

EPA is considering using a third party (independent organization) to review the application form, IDC, MDL, and PE study data and conduct an on-site inspection, if necessary. Based upon the third party's assessment of the laboratory, EPA would approve laboratories. EPA solicits comment on this process or other options such as laboratories paying for the review by a third party.

Implementation of the laboratory approval process would begin upon promulgation of the ICR and it would extend until the end of the first quarter period of monitoring, following the beginning effective date of this rule, but possibly later, if EPA determines that insufficient laboratories through that date had been approved. No additional laboratories would be evaluated after this period unless there was not adequate laboratory capacity to handle the monitoring required by the DBP ICR. If additional capacity was required, then new laboratories would be evaluated until the necessary capacity was reached.

EPA proposes that a list of "approved" laboratories be made available to all the utilities required to monitor for DBPs, their precursors and surrogates. The list would be distributed directly to the utilities, as well as to

each EPA Regional Office and State Primacy Agency. The list would also be available for public distribution from EPA.

EPA would monitor the performance of "approved" laboratories throughout the ICR monitoring period by requiring the laboratories to: (1) periodically (either quarterly or semiannually, depending on feasibility) analyze PE samples; and (2) report specific quality control (QC) data with the analytical results from the monitoring samples. Maintaining laboratory "approval" throughout the ICR monitoring period would be contingent upon successfully meeting the acceptance criteria for the PE samples and the quality control data. The required QC data and performance criteria would be included in the ICR DBP Analytical Methods Guidance Manual. (An overview is presented in Section 6 of this preamble under Analytical Data.) Laboratories that do not pass a PE sample would receive another PE sample before the next regularly scheduled EPA PE study, to demonstrate successful completion of corrective action. EPA, either directly or by third party, would provide technical assistance to laboratories that had initially been "approved" and then develop problems, if the operation of such laboratories is necessary to maintain the lab capacity to fulfill the requirements of this rule.

Laboratory capacity. EPA recognizes that obtaining the necessary laboratory capacity to complete the DBP monitoring required by this rule may be difficult. For this reason, as for pathogen monitoring, EPA is proposing a period within which monitoring could be initiated and completed. Systems would be required to conduct microbial and DBP monitoring simultaneously, beginning as soon as EPA approved laboratories could be identified for conducting both analysis. However, TOC monitoring would not be delayed because these data are required to assess which systems would need to do bench or pilot scale testing of precursor removal technologies. Therefore, all TOC monitoring must begin by [insert date 3 months following the promulgation of this rule]. EPA also proposes to delay or omit the monitoring of certain analytes, if their inclusion would cause undue delay in the start of monitoring for the remainder of the analytes. Monitoring would not be omitted for the following parameters: (1) Trihalomethanes; (2) haloacetic acids; (3) bromate; (4) chlorite; (5) chlorate; (6) total organic halide; (7) total organic carbon; and (8) bromide. EPA requests comments on this issue.

EPA is concerned about the feasibility of developing laboratory capacity for measuring cyanogen chloride (CNCL) and aldehydes. In addition, EPA is concerned about its ability to evaluate laboratories that may develop capabilities for measuring these analytes, because PE samples will not be available. These issues are described below.

EPA has several concerns about the measurement of CNCl. The first issue is one of safety. Analytical standards must be prepared from pure CNCl, because pure CNCl is the only commercially available material. The worker who prepares the stock liquid CNCl standards must be experienced in the preparation of liquid standards from gases. Due to the toxicity of the compound, special precautions must be taken to ensure the safety of the worker. Few laboratories that specialize in analyses of drinking water are equipped to prepare CNCl standards from pure gas.

One solution to the safety issue would be for EPA to provide liquid CNCl standards to laboratories that perform this analysis for the ICR. EPA is not certain that development of liquid CNCl standards is feasible within the time frame of this rule. In addition, EPA is concerned about the ability to evaluate the performance of laboratories that conduct this analysis.

EPA does not have the resources to develop performance evaluation (PE) samples for CNCl or aldehydes in time to meet the requirements of this regulation. An alternative approach to compare laboratory performance would be to conduct round robin interlaboratory studies using whole volume samples. Due to issues concerning the stability of CNCl and aldehydes and limited data on the intralaboratory performance of the methods, the results from round robin interlaboratory studies would be very difficult to interpret.

One of EPA's laboratories has the capability to measure CNCl in water using EPA Method 524.2 and to measure aldehydes using the PFBHA methodology. Utilities could be required to send all samples for CNCl and aldehyde analyses to EPA. Having one laboratory perform all these analyses for the ICR would eliminate the data variability that results from multiple laboratory analyses, thus producing more precise data. Greater precision would make it easier to determine how treatment practices and source water characteristics influence CNCl and aldehyde formation. EPA solicits comment on this approach for obtaining CNCl and aldehyde measurements.

6. Quality Assurance

The integrity of the DBP monitoring database is contingent upon accurate and precise analytical data from the samples, accurate plant process information from each utility, and correct input of the data into the database. EPA proposes that each utility prepare a Quality Assurance Project Plan (QAPP) specific for the ICR monitoring. The QAPP would cover the entire project starting with the objectives of the project, through the sampling strategy and procedures, laboratory procedures and analytical methods and finally, the data handling and reporting processes. Guidance for preparing it would be provided in an ICR Guidance Manual.

Sampling. The sampling for this rule would primarily be done by the system. Each system has its own sampling regime and protocol for the currently regulated contaminants. Sampling for the unregulated DBPs is more complex, and will require greater coordination with the analytical laboratory. As a result, EPA intends to develop a sampling guidance manual to describe the proper sampling techniques for use in complying with this rule. The manual would describe: (1) Sample containers; (2) sampling techniques; (3) required preservatives and dechlorinating agents; (4) sample shipping conditions; and (5) sample holding times and conditions. Samplers would be required to follow the specifications outlined in the manual. EPA solicits comments concerning alternative mechanisms for ensuring consistency in the sampling aspects of the study.

Analytical data. The analytical data for this rule may be generated by many laboratories. As a result, the data will have variable characteristics such as: (1) Detection level; (2) precision; and (3) bias. As a first step to ensuring data comparability, EPA would require laboratories to use the specific analytical methods or protocols outlined in the ICR and described in the ICR DBP Analytical Methods Guidance Manual. An additional technique that may be employed to assist in data comparability is to require all laboratories to obtain their primary standards (i.e., standards which laboratories use to calibrate their instruments) from the same source. EPA is evaluating the cost of providing primary standards for the major ICR analytes to laboratories "approved" for performing analyses for the ICR.

In addition, EPA proposes that minimum quality control acceptance criteria be established for all data that are entered into the DBP database. A workgroup will establish acceptance

criteria for each parameter being measured based on the data quality objectives necessary for successfully completing the monitoring study objectives. These criteria will be included in the ICR DBP Analytical Methods Guidance Manual. The performance of the method as it is routinely used in laboratories currently doing the same analysis will be used as a guide for determining feasibility in meeting the data quality objectives. Laboratories will be required to: (1) Demonstrate the absence of interferences from background contamination by analyzing method and/or shipping blanks, depending upon the method at a specified frequency; (2) achieve quantitative recovery of surrogate standards that are spiked into samples for some analytical methods; (3) achieve quantitative recovery of the internal standard when its use is specified in the method/protocol; (4) perform a specified minimum number of duplicate analyses and analyses of fortified samples (or reagent water, depending upon the analysis) with each batch of samples processed through the analytical procedure; (5) achieve a specified level of precision and accuracy for each batch of samples. Where appropriate, calibration will require a specified number of procedural standards, as well as periodic verification of quantitation at the minimum reporting level. The ICR Analytical Methods Guidance Manual will contain specific criteria for: (1) The quality control (QC) procedures that must be followed with each analytical method or protocol; (2) the minimum reporting level for each method/protocol and a method for demonstrating it (The minimum reporting level, which is the level at which laboratories will be able to accurately and precisely measure the analyte, will be higher than the method detection limit [MDL]); and (3) data quality acceptance criteria for each method/protocol. The QC procedures and acceptance criteria may be more stringent than the specifications in the current versions of the methods based on ICR data quality objectives. Concentrations below the minimum reporting level specified for each method/protocol will be reported as "zero" in the database. EPA requests comments on the use of zero in the database to indicate concentrations below the reporting level, or whether data should be reported as low as the MDL level.

EPA would require laboratories to include the above mentioned QC data with the analytical results for the samples in the reports they send to the systems. The Agency would provide systems guidance on how to evaluate the QC data. Monitoring data that meet the minimum QC acceptance criteria (as specified in the ICR DBP Analytical Methods Manual) would be reported to EPA along with a subset of the associated QC data. The utility would send the QC information and identification of the laboratories to EPA using the same mechanism as it uses to report plant process and monitoring data. In some cases, the QC data for a batch of samples will be shared by two or more utilities (e.g., analyses of laboratory fortified blanks). EPA would require both the laboratory and utility to report to EPA the extraction and analysis dates for each batch of samples.

The QC data would be entered into the DBP database along with the analytical data. Computer algorithms will be used to determine if the data meet the specified QC criteria and the data will be classified as acceptable or marginally acceptable. Systems would not submit to EPA data that do not meet the minimum QC criteria. Instead, the utility will notify EPA of the reason for losing the sample (i.e, breakage, sample holding time exceeded, laboratory QC out of control, etc.). When the laboratory fails to consistently meet performance criteria, EPA would assist the system in finding an alternate laboratory for future monitoring. EPA would also provide technical assistance, upon request, either directly or through a contractor, to laboratories who develop technical difficulties in measuring critical ICR analytes, to maintain the necessary laboratory capacity and capability to complete the ICR monitoring. EPA requests comments on the QA/QC criteria for data entry into the database.

Treatment plant process data. To maintain quality and integrity of data input, EPA would undertake some level of review of system data. The Agency would screen the data for proper use of the input software, proper electronic transfer of data, submission of all required data and plant operating information, reasonableness and completeness of the data, consistency with previous reports, etc. EPA requests comment on how the data review should be conducted.

7. Bench/Pilot Scale Testing

During the negotiation of the D/DBP rule, the Negotiating Committee agreed to require surface water systems serving greater than 100,000 people and ground water systems serving greater than 50,000 people to conduct bench or pilot studies on DBP precursor removal, using either GAC or membrane filtration, unless these systems met certain water quality conditions or already had such full scale treatment in place. The purpose of this requirement was twofold: (a) To obtain more information on the cost effectiveness of GAC and membrane technology for removing DBP precursors and reducing DBP levels, and (b) to accelerate the time that systems would need to install such full scale technology if they were required to do so under the Stage 2 D/DBP rule. The proposed rule would require each system to complete the study, including a report describing the results and conclusion of the study, by September 1997.

The Negotiating Committee also considered whether these objectives could be met without all systems conducting the studies, and if so, how resources that would otherwise be devoted to bench/pilot scale testing could be used to fill other possible data gaps. EPA is exploring alternatives to the proposed regulations if it is determined that not all systems need to undertake the studies in order to fulfill the objectives of these requirements. One possibility is for the final rule to provide that some systems that would otherwise conduct the studies could instead pool their resources (in an amount equivalent to the cost of such studies) to contribute to funding key research identified during the negotiated rule-making process. EPA is exploring an arrangement with a third party organization to use those pooled resources to undertake such efforts. Such a project would be conducted under the guidance of an advisory group representing the participants in the negotiated rule-making. EPA solicits comments on the approach and which criteria could be used in the final rule for determining which systems could participate in this alternative. EPA also solicits comments on other means for accomplishing the objective of maximizing data collection resources.

The Negotiating Committee agreed that systems using surface water would not have to conduct the bench pilot scale studies if they met either of the following conditions: (1) System uses chlorine as the primary and residual disinfectant and had an annual average of less than 40 μg/l for total trihalomethanes and less than 30 μg/l for total haloacetic acids (HAAS), or (2) the TOC level in the raw water before disinfection is less than 4.0 mg/l, based on an average of monthly measurements for one year beginning [insert 3 months following the promulgation date of this rule]. Systems using ground water would not have to conduct a study if the TOC in the finished water is less than 2.0 mg/l, based on an average of

monthly measurements for one year beginning [insert 3 months following the promulgation date of this rule].

EPA is proposing that the treatment studies be designed to yield representative performance data and allow the development of treatment cost estimates for different levels of organic disinfection byproduct control. The treatment study would be conducted with the effluent from treatment processes already in place that remove disinfection byproduct precursors and TOC. Depending upon the type of treatment study that is made, the study would be conducted in accordance with the following criteria.

Bench scale testing. Bench-scale testing would be defined as continuous flow tests: (1) Rapid small scale column test (RSSCT) for GAC (Crittenden et al. 1991; Sontheimer et al. 1988; Summers et al. 1992; Cummings et al., 1992); and (2) reactors with a configuration that yield representative flux loss assessment for membranes. Both the RSSCT and membrane system test can be adversely affected by the presence of particles. Therefore, both tests would be preceded by particle removal processes, such as microfiltration.

GAC bench-scale testing would include the following information on each RSSCT: Pretreatment conditions, GAC type, GAC particle diameter, height and dry weight (mass) of GAC in the RSSCT column, RSSCT column inner diameter, volumetric flow rate, and operation time at which each sample is taken. EPA would require the testing of at least two empty bed contact times (EBCTs) using the RSSCT. The Agency would require these RSSCT EBCTs to be designed to represent a full-scale EBCT of 10 min and a full-scale EBCT of 20 min. Additional EBCTs could be tested. The RSSCT testing would include the water quality parameters and sampling frequency listed in Table III.8. The RSSCT would be run until the effluent TOC concentration is 75% of the average influent TOC concentration or a RSSCT operation time that represents the equivalent of one year of full-scale operation, whichever is shortest. The average influent TOC would be defined as the running average of the influent TOC at the time of effluent sampling. RSSCTs would be conducted quarterly over one year to obtain the seasonal variation. Thus a total of four RSSCTs at each EBCT is required. If, after completion of the first quarter RSSCTs, the system finds that the effluent TOC reaches 75% of the average influent TOC within 20 full-scale equivalent days on the EBCT=10 min test and within 30 full-scale equivalent days on the EBCT=20 min test, then the last three quarterly tests would be conducted using membrane bench-scale testing with only one membrane, as described in Section 141.142 (b)(1)(B). (Crittenden et al. 1991; Sontheimer et al. 1988; Summers et al. 1992; Cummings et al. 1992)

TABLE III.8.—SAMPLING OF GAC BENCH-SCALE SYSTEMS

Sampling point	Analyses	Sample frequency
GAC influent	Alkalinity, total & calcium hardness, ammonia and bromide.	Two samples per batch of influent evenly spaced over the RSSCT run.
GAC influent	pH, turbidity, temperature, TOC and UV_{254}. SDS[1] for THMs, HAA6, TOX, and chlorine demand.	Three samples per batch of influent evenly spaced over the RSSCT run.
GAC effluent @ EBCT=10 min (scaled).	pH, temperature, TOC and UV_{254}. SDS[1] for THMs, HAA6, TOX, and chlorine demand.	A minimum of 12 samples. One after one hour, and thereafter at 5% to 8% increments of the average influent TOC.
GAC effluent @ EBCT=20 min (scaled).	pH, temperature, TOC and UV_{254}. SDS[1] for THMs, HAA6, TOX, and chlorine demand.	A minimum of 12 samples. One after one hour, and thereafter at 5% to 8% increments of the average influent TOC.

[1] SDS conditions are defined in Section 141.142 (b)(4).

(B) EPA would require the membrane bench-scale testing to include the following information: pretreatment conditions, membrane type, membrane area, configuration, inlet pressure and volumetric flow rate, outlet (reject) pressure and volumetric flow rate, permeate pressure and volumetric flow rate, recovery, and operation time at which each sample is taken. A minimum of two different membrane types with nominal molecular weight cutoffs of less than 1000 would be investigated. The membrane test system would need to be designed and operated to yield a representative flux loss assessment. The system would conduct membrane tests quarterly over one year to obtain the seasonal variation. Thus, the system would run a total of four membrane tests with each membrane. The membrane bench-scale testing would include the water quality parameters and sampling frequency, as listed in Table III.9.

TABLE III. 9.—SAMPLING OF BENCH-SCALE MEMBRANE SYSTEMS

Sampling point	Analyses	Sample frequency[2]
Membrane influent	Alkalinity, total dissolved solids, total & calcium hardness and bromide.	Two samples per batch of influent evenly spaced over the membrane run. If a continuous flow (non-batch) influent is used then samples are taken at the same time as the membrane effluent samples.
Membrane influent	pH, turbidity, temperature, HPC, TOC and UV_{254}. SDS[1] for THMs, HAA6, TOX, and chlorine demand.	Three samples per batch of influent evenly spaced over the membrane run. If a continuous flow (non-batch) influent is used then samples are taken at the same time as the membrane effluent samples.
Membrane permeate for each membrane tested.	pH, alkalinity, total dissolved solids, turbidity, temperature, total & calcium hardness, bromide, HPC, TOC and UV_{254}. SDS[1] for THMs, HAA6, TOX, and chlorine demand.	A minimum of 8 samples evenly spaced over the membrane run.

[1] SDS conditions are defined in Section 141.142(b)(4).

[2] More frequent monitoring of flow rate and pressure would be required to accurately assess flux loss.

Pilot-scale testing. Under the proposal, EPA defines pilot-scale testing as continuous flow tests: (1) Using GAC of particle size representative of that used in full-scale practice, a pilot GAC column with a minimum inner diameter of 2.0 inches, and hydraulic loading rate (volumetric flow rate/column cross-sectional area) representative of that used in full-scale practice, and (2) using membrane modules with a minimum of a 4.0 inch diameter for spiral wound membranes or equivalent membrane area if other configurations are used.

GAC pilot-scale testing would include the following information on the pilot plant: Pretreatment conditions, GAC type, GAC particle diameter, height and dry weight (mass) of GAC in the pilot column, pilot column inner diameter, volumetric flow rate, and operation time at which each sample is taken. If pilot scale testing were conducted, at least two EBCTs would be required to be tested, EBCT=10 min and EBCT=20 min, using the pilot-scale plant. Additional EBCTs could be tested. The pilot testing would include the water quality parameters listed in Table III.10. The pilot tests would be run until the effluent TOC concentration is 75% of the average influent TOC concentration, with a maximum run length of one year. The average influent TOC would be defined as the running average of the influent TOC at the time of sampling. The pilot-scale testing should be sufficiently long to determine the seasonal variation.

TABLE III.10.—Sampling of GAC Pilot-scale Systems

Sampling point	Analyses	Sample frequency
GAC influent	pH, alkalinity, turbidity, temperature, total & calcium hardness, ammonia, bromide, TOC and UV_{254}. SDS[1] for THMs, HAA6, TOX, and chlorine demand.	A minimum of 15 samples taken at the same time as the samples for GAC effluent at EBCT=20 min.
GAC effluent @ EBCT=10 min.	pH, turbidity, temperature, ammonia,[2] TOC and UV_{254}. SDS[1] for THMs, HAA6, TOX, and chlorine demand.	A minimum of 15 samples. One after one day, and thereafter at 3% to 7% increments of the average influent TOC.
GAC effluent @ EBCT=20 min.	pH, turbidity, temperature, ammonia,[2] TOC and UV_{254}. SDS[1] for THMs, HAA6, TOX, and chlorine demand.	A minimum of 15 samples. One after one day, and thereafter at 3% to 7% increments of the average influent TOC.

[1] SDS conditions are defined in Section 141.142 (b.4).
[2] If present in the influent.
Note: More frequent effluent monitoring may be necessary in order to predict the 3% to 7% increments of average influent TOC.

If membrane pilot-scale testing were conducted it would include the following information on the pilot plant: pretreatment conditions, membrane type, configuration, staging, inlet pressure and volumetric flow rate, outlet (reject) pressure and volumetric flow rate, permeate pressure and volumetric flow rate, recovery, operation time at which each sample is taken, recovery, cross flow velocity, recycle flow rate, backwashing and cleaning conditions, and characterization and ultimate disposal of the reject stream. The membrane test system would be designed to yield a representative flux loss assessment. The pilot-scale testing shall be sufficient in length, and conducted throughout the year in order to capture the seasonal variation, with a maximum run length of one year. The pilot testing would include the water quality parameters as listed in Table III.11.

TABLE III.11.—Sampling of Pilot-scale Membrane Systems

Sampling point	Analyses	Sample frequency[3]
Membrane influent	pH, alkalinity, total dissolved solids, turbidity, temperature, total & calcium hardness, ammonia, bromide, HPC, TOC and UV_{254}. SDS[1] for THMs, HAA6, TOX, and chlorine demand.	A minimum of 15 samples to be taken at the same time as the membrane effluent samples.
Membrane permeate	pH, alkalinity, total dissolved solids, turbidity temperature, total & calcium hardness, ammonia[2], bromide, HPC, TOC and UV_{254}. SDS[1] for THMs, HAA6, TOX, and chlorine demand.	A minimum of 15 samples evenly spaced over the membrane run.

[1] SDS conditions are defined in Section 141.142(b)(4).
[2] If present in the influent.
[3] More frequent monitoring of flow rate and pressure will be required to accurately assess flux loss.

Pretreatment analysis. EPA would require that influent water to either bench- or pilot-scale tests be taken at a point before the addition of any oxidant or disinfectant that forms chlorinated disinfection byproducts. If the oxidant or disinfectant addition precedes any full-scale treatment process that removes disinfection byproduct precursors, then bench- or pilot-scale treatment processes that simulate this full-scale treatment process would be required prior to the GAC or membrane process.

Simulated distribution system analysis. EPA would require the use of simulated distribution system (SDS) conditions with chlorine before the measurement of THMs, HAA6, TOX and chlorine demand. These conditions would be based on the site-specific SDS sample, as defined in Section 141.141(c) (Table 1) with regard to holding time, temperature, and chlorine residual. If chlorine is not used as the final disinfectant in practice, then a chlorine dose should be set to yield a free

chlorine residual of 0.2 mg/l after a holding time equal to the longest period of time the water is expected to remain in the distribution system or seven days, whichever is shortest. The holding time prior to analysis of THMs, HAA6, TOX and chlorine demand would be required to remain as that of the SDS sample as defined in § 141.141(c) (Table 1).

Systems with multiple source waters. For systems with multiple source waters, bench-or pilot scale testing would be required for each treatment plant that serves a population greater than 100,000 (surface water supplies) or 50,000 (ground water supplies) and uses a significantly different source water. EPA would provide guidance for making such determinations.

EPA would require a groundwater system with multiple wells from the same aquifer to monitor TOC from one sampling point to determine if a bench or pilot scale study is required. A ground water system with multiple wells from different aquifers must sample TOC from at least two wells from each of the aquifers with the highest TOC concentrations, as determined from at least one sample from each aquifer.

Reporting. Under this rule, EPA would require all systems conducting bench or pilot scale studies to report to the Agency the additional information in Table 6 of § 141.141, as appropriate, for source water and treatment processes that precede the bench/pilot systems. This information is to be reported for full-scale pretreatment processes and for pilot- or bench-scale pretreatment processes where appropriate.

Selection of bench versus pilot scale and membrane versus GAC studies. Bench-scale GAC studies (RSSCTs) are less expensive than pilot studies and produce information based on the ability of GAC to adsorb TOC. Pilot-scale studies of GAC produce information more representative of TOC removal at full-scale.

Removal of TOC by GAC in full-scale water treatment plants is a function of two processes that occur simultaneously: adsorption on the surface of GAC and biological degradation. Pilot scale studies are the most economical way to demonstrate both processes on a continuous flow basis.

By their nature, RSSCT studies are of short duration and designed to measure adsorption of organic compounds. Biological activity is discouraged through various means and if biological degradation does occur, the RSSCT results are invalid.

Pilot-scale GAC studies produce a time-averaged result of the influent TOC, whereas RSSCT studies are run on batches of water (50–100 gallons) collected at discrete time periods. Pilot-scale GAC effluent data will reflect large spikes of influent TOC concentrations which can degrade the process performance. The RSSCT procedure cannot duplicate this process, and can only reflect higher than normal influent TOC concentrations if the batch sample collects the TOC spike.

Bench-scale membrane studies would only generate limited data on DBP removal, primarily TOC removal. Moreover, what data is generated would be constrained by limited membrane flux information that is critical for generating membrane cost data. Consequently, EPA recommends that membrane performance and cost data for DBP control be generated by pilot-scale studies rather than bench studies.

Most large systems may choose GAC for DBP removal studies, rather than membrane technology, due to the economies of scale associated with full-scale GAC treatment. However, systems with very poor source waters may more easily achieve low TOC levels in the treated water with membrane technology. A goal of this portion of the ICR is to obtain data from a number of pilot-scale studies for both membrane and GAC technologies as input to Stage 2 rule development. Without EPA specifically requiring that these pilot-scale studies be conducted, it remains unclear whether an adequate number of such studies will be done. A major issue is how to equitably encourage utilities to produce these studies.

Table III.12 is a summary of the type and number of pilot studies expected to be needed for Stage 2 Rule development as discussed by the Negotiating Committee during the rule negotiation process.

TABLE III.12.—Number of Pilot Studies Needed for Stage 2 Organized by TOC Category

Pilot study type	TOC concentrations, mg/L			
	>4 to 8	>8 to 12	•12 to 16	•16
GAC	10	10	10	XXXXXXXXXX
Membrane	2	2	2	2

EPA does not recommend GAC studies at very high TOC concentrations, due to the rapid breakthrough of TOC at empty bed contact times (EBCTs) of 10 and 20 minutes. The Agency believes that to ensure that the categories in Table III.12 are properly covered, the Agency would need to tell individual systems which concentration category to use. The water system representatives on the Negotiating Committee agreed to conduct a survey of systems serving more than 100,000 people, in conjunction with EPA, to identify which systems have a pilot plant suitable for running GAC studies in the post-filter adsorber mode or intend to build one in the near future. These systems will also be asked if they are willing to conduct pilot-scale membrane studies.

EPA would also request systems to provide limited water quality data to enable EPA to assess a TOC concentration range and, if possible, a TOC "type" to the water to be tested. If the nature of the TOC cannot be classified, EPA would select waters from different sections of the country to cover the matrix in Table III.12.

Based on the results of the survey, EPA may request systems with pilot plants to perform GAC or membrane pilot studies instead of an RSSCT. Systems with pilot plants in place should be able to perform GAC pilot studies at a fraction of the cost of having to build one from scratch. The cost should not be much greater than running an RSSCT.

EPA developed the above described survey approach with follow up voluntary pilot plant studies among candidate utilities to encourage a wide range of studies for different types of waters and DBP precursors needed to be studied. The Negotiating Committee also discussed the advisability of requiring Subpart H systems to perform a pilot-scale study if (1) the systems have a raw water TOC concentration greater than 4.0 mg/L and serve more than 500,000 people, or (2) the systems have a raw water TOC concentration

above a specified concentration and serve more than 100,000 people.

The Negotiating Committee developed all of the above options because of the uncertainty of the distribution of TOC concentrations in the source waters for large systems and the desire to produce useful data for developing the Stage 2 D/DBP Rule. EPA solicits comment on how to ensure an adequate number of pilot scale studies for both membranes and GAC technology. If EPA finds that an insufficient number of systems are willing to conduct pilot-scale testing as a follow-up to the survey, what should the Agency require to ensure that the desired number of studies indicated in Table III.12 are done? Should EPA select the sites for GAC and membrane pilot studies, according to system size, TOC concentration, or both? Also, how can the site selection process ensure that membranes are used in some of the pilot studies?

C. Dates

EPA is proposing to require systems serving 100,000 or more people to begin to monitor microbial (for Subpart H systems only), chemical, and treatment process parameters no earlier than [insert date three months following promulgation date of this rule] and no later than October 1995. The exception to this is for TOC monitoring which must begin [insert first day of month three months following promulgation date]. Once monitoring has begun, these systems would be required to monitor for 18 consecutive months and would have to be finished no later than March 31, 1997.

Systems required to monitor both microbiological (under § 141.140) and chemical parameters would have to conduct both types of monitoring concurrently for 18 consecutive months. This monitoring regimen would allow for evaluation of both treatment efficacy and DBP formation.

Systems serving between 10,000 and 99,999 people would begin to monitor microbial and treatment process parameters no earlier [insert month three months following promulgation date] and no later than April 1996. Once monitoring has begun, these systems would be required to monitor every other month for 12 consecutive months and would have to be finished no later than March 31, 1997.

Subpart H systems serving 100,000 or more people and ground water systems serving 50,000 or more people would begin bench- or pilot-scale studies no later than [insert month 18 months after promulgation of rule] and be required to complete the studies by September 1997, unless the system met one of the criteria to avoid studies.

Prior to the start of monitoring, systems must arrange to have samples analyzed by an EPA approved laboratory. If systems serving greater than 100,000 people are not able to arrange to have samples analyzed by such a laboratory by [insert date six months after publication of the final rule in the **Federal Register**], they are required to notify EPA. If systems serving between 10,000 and 100,000 people are not able to arrange to have samples analyzed by such a laboratory by [insert date nine months after publication of the final rule in the **Federal Register**], they are required to notify EPA. EPA will then provide a list of approved labs or other necessary guidance.

In summary of what has been stated previously in parts, the purpose of the monitoring under this rule is to (a) determine if an ESWTR is necessary, and if so, to support the development of appropriate criteria in both the interim and long-term ESWTR, (b) assist utilities in the implementation of the interim ESWTR if such a rule becomes necessary, and (c) support the development of the Stage 2 D/DBP Rule.

The above monitoring schedules, albeit tight, were agreed to by the Negotiating Committee as part of the regulation negotiation process. The schedules for compiling monitoring data are tight because the Negotiating Committee placed a time limit of December 1996 for promulgating an interim ESWTR and a Stage 1 D/DBP Rule. For this schedule to be realized a large number of utilities will need to initiate monitoring beginning shortly after October 1994 so that EPA can analyze the data and consider them in promulgating the interim ESWTR. EPA is making every possible effort to ensure that enough laboratories can be approved to generate the necessary data within the desired time frame. Systems are encouraged to generate data as quickly as possible so that their data will be considered in the interim ESWTR. Data generated after the time EPA believes it has sufficient data to promulgate the interim ESWTR will be used to develop the long-term ESWTR, and assist utilities in the implementation of the interim ESWTR.

Before promulgating the interim ESWTR, EPA intends to issue a Notice of Availability to: (a) Discuss the pertinent data collected under the ICR rule, (b) discuss additional research that would influence determination of appropriate regulatory criteria, (c) discuss criteria EPA considered appropriate to promulgate in the interim ESWTR (which would be among the regulatory options of the proposed interim ESWTR) and (d) solicit public comment on the intended criteria to be promulgated. Following consideration of public comments received, EPA would promulgate the interim ESWTR and the Stage 1 D/DBP rule at the same time to reduce the possibility that a system might unduly compromise its control of pathogens while complying with the Stage 1 D/DBP rule. Table III.13 indicates the anticipated schedule by which the various rules would be proposed, promulgated and become effective. Even though the December 1993 date has not been met, EPA is hopeful that other dates will not slip commensurately.

TABLE III.13.—Proposed Time Frame of D/DBP, ESWTR, ICR Rule Development

Time line	Stage 1 D/DBP rule	Stage 2 D/DBP rule	ESWTR
12/93		Propose information collection requirements for systems >100k.	Propose information collection requirements for systems >10k.
3/94	Propose enhanced coagulation requirement for systems with conventional treatment; MCLs for TTHMs = 80 µg/l, HAAs = 60 µg/l. MCLs for bromate, chlorite, limits for disinfectants for all systems.except TNCWSs.	Propose Stage 2. MCLs for TTHMs = 40 µg/l, THAAs = 30 µg/l, BAT as precursor removal with chlorination.	Propose interim ESWTR for systems >10k.
6/94		Promulgate ICR	Promulgate ICR.
8/94	Close of public comment period		Close of public comment period to proposed ESWTR.
10/94		Systems >100,000 begin ICR monitoring	Systems begin ICR monitoring.

TABLE III.13.—Proposed Time Frame of D/DBP, ESWTR, ICR Rule Development—Continued

Time line	Stage 1 D/DBP rule	Stage 2 D/DBP rule	ESWTR
10/95		SW systems >100k and GW systems >50k begin bench/pilot studies unless source water quality criteria met..	
11/95			Notice of availability on monitoring data and direction of interim ESWTR.
1/96			Close of public comment period to NOA.
12/96	Promulgate Stage 1		Promulgate interim ESWTR systems >10k.
3/97		Systems complete ICR monitoring	Systems complete ICR monitoring.
6/97		Notice of availability for Stage 2 reproposal.	Propose long-term ESWTR for systems <10k, possible changes for systems >10k.
10/97		Complete and submit results of bench/pilot studies.	
12/97		Initiate reproposal—begin with 3/94 proposal.	
6/98	Effective. Effective for SW systems serving greater >10k, extended compliance date for GAC or membrane technology.	Close of public comment period	Interim ESWTR effective for systems >10k 1994, 1995, 1996 monitoring data used for level of treatment determination.
12/98		Propose for all CWSs, NTNCWSs	Promulgate long-term ESWTR.
6/00	Stage 1 limits effective for surface water systems <10k, and ground water systems >10k.	Promulgate Stage 2 for all CWSs, NTNCWSs.	Long-term ESWTR effective for all system sizes.
1/02	Stage 1 limits effective for GW systems <10k unless Stage 2 criteria supersede.	Effective lower MCLs or other criteria, extended compliance to 2004 for GAC or membranes.	

EPA believes it will need about one year of microbial monitoring data from a large number of utilities to determine candidate regulatory criteria for discussion in the Notice of Availability concerning the interim ESWTR. EPA also believes it will need about one year, following the issuance of the NOA, to promulgate the interim ESWTR. Microbial and DBP monitoring are required at the same time to facilitate data management and to allow comparisons to be made concerning simultaneous control of both pathogens and DBPs.

EPA requests comment on the feasibility of the schedule for the monitoring requirements proposed under this ICR. EPA also solicits comments on alternative microbial monitoring schemes, that would need less laboratory capacity and would still provide the requisite data for developing the interim ESWTR, as well as providing adequate data by which systems could implement such a rule.

EPA requests comment on a proposed alternative to require those systems serving 100,000 or more persons to initiate all microbial, chemical, and treatment process monitoring requirements (not including TOC monitoring which would begin [insert date three months following promulgation date of this rule]) within the first 3 months of the proposed 30 month monitoring period, and that those systems serving between 10,000 and 100,000 people complete all monitoring requirements during the last 12 months of the 30 month monitoring period. Systems serving between 10,000 and 100,000 people that desire and are able to initiate monitoring through an EPA approved laboratory before their required start date would be given credit toward meeting the requirements of this rule. EPA believes that this proposed alternative monitoring schedule may facilitate the generation of more microbial data within a shorter time, thereby increasing the likelihood of meeting the schedule for promulgating the interim ESWTR. This alternative schedule would also increase efficiencies of available EPA resources to manage and track data, and to provide technical assistance to utilities as they attempt to comply with this rule.

EPA also requests comments on the appropriateness of separating the final ICR rule into two separate rules: one for data collection to support the development and implementation of the interim ESWTR, and another for data collection to support the development of the Stage 2 D/DBP and ESWTR rules. The purpose of such a strategy would be to promulgate the microbial data collection requirements sooner than otherwise might be possible to avoid undue delay in developing and promulgating the interim ESWTR, as well as the Stage 1 D/DBP rule.

D. Reporting Requirements

Under this rule, systems would provide the monitoring data and other indicated information directly to EPA. States, as well as the public, would have access to all the reported data via a national electronic data base. The Agency is using this approach to avoid increasing the implementation burden to the States and to obtain and analyze the data more quickly to meet the accelerated schedule of future rulemakings agreed to by the Negotiating Committee negotiating the DBP Rule.

Under this ICR rule, systems serving more than 100,000 people would be required to provide the requisite data beginning [insert date 6 months following the promulgation date of this rule], and every three months thereafter until completion of the required monitoring. Systems serving between 10,000 and 100,000 people would be required to provide the requisite data beginning four months after starting monitoring and every 2 months thereafter, until completion of the required monitoring. With this approach, a substantial amount of the data should become available in time for consideration in evaluating different regulatory options for the interim ESWTR. The initial data submissions will allow EPA to screen the data for problems and begin entering it into a national data base which would be accessible by the public. Systems would

need to report the required physical and engineering information on the initial submission only, unless this information changes. To assist EPA in processing quickly the large amount of data anticipated, the Agency requests that systems serving more than 100,000 people submit data either electronically or on computer diskettes, and that systems serving between 10,000 and 100,000 people do so if possible.

To assist the systems and facilitate EPA's effort to screen the data and enter it into a computer, the Agency has developed specific forms for data and information entry as previously described. These forms include the EPA address where the system should send data and the other required information.

EPA requests comment on the feasibility of the above reporting schedule. The Agency also requests comment on alternative approaches that might be as, or more, efficient than the one above.

E. List of Systems Required To Submit Data

Between now and the time of promulgation EPA will attempt to determine which systems would appropriately be required to meet the different requirements of the ICR. Appendix B of this preamble includes a preliminary list of candidate systems in the three main size categories that would be required to submit data to EPA to fulfill the requirements of this rule. However, systems which exclusively purchase water from other systems, and do not further disinfect, are not required to do any monitoring and are not intended to be included in these lists. Some systems are both wholesalers and retailers and are included in the lists. The intent of the ICR is for the requirements to pertain to systems which treat water for populations equivalent to more than 100,000 people or between 10,000 and 100,000 people.

The intent of the first list (Appendix B–1 of this preamble) is to provide a tabulation of all systems using ground water or surface water and which produce treated drinking water for populations equivalent to serving 100,000 or greater. Systems using ground water in this size category would be required to monitor for DBPs and other water quality indicators, provide specific physical and engineering data, and conduct bench or pilot scale studies depending upon their water quality (see section III.B.7). Systems using surface water in this size category would also be required to submit this data, as well as microbial occurrence data.

Data in Appendix B–1 of this preamble includes classification of populations serving retail and wholesale populations under two different data bases: The Federal Reporting Data System (FRDS) and the Water Industry Data Base (WIDB). Since there may be errors or incomplete data in either data base, data from both data bases are listed. Also included are data on the average daily production of water in millions of gallons per day (MGD). Based on data included in the WIDB, 95% of the time the average daily flow production associated with a population of 100,000 or greater is > 9 MGD. Therefore, systems with average daily flows (assuming the flows reported are correct) significantly greater than 9 MGD, although not necessarily listed with populations above 100,000, are included on the list should be considered candidates for regulation.

The intent of the second list (Appendix B–2 of this preamble), generated from FRDS, is to provide a tabulation of all systems using surface water and which produce treated drinking water equivalent to serving populations between 10,000 and 100,000 people. These systems, if appropriately classified, would only be required to submit data on microbial occurrence in the source water and provide treatment plant data regarding microbial treatment.

The intent of the third list (Appendix B–3 of this preamble), generated from FRDs, is to provide a tabulation of all systems using ground water and serving between 50,000 and 100,000 people. A portion of these systems would be required to monitor for TOC, and depending upon the TOC level in their ground water (see Section III. B.7), could be required to conduct bench or pilot scale studies for DBP precursor removal using GAC or membrane technology. No other data collection requirements pertain to these systems under this rule.

EPA solicits comment on whether the three lists of systems included in Appendix B of this preamble accurately reflect the appropriate systems which would be required to comply with the requirements of this rule. Which systems should be added or deleted from the list and on what basis?

IV. State Implementation

The Agency would not set requirements for States to obtain primary enforcement responsibility or require the States to enforce this rule. Rather, EPA would enforce the provisions of this rule, which is an information collection requirement only. EPA requests comment on this approach.

V. Cost of Rule

The Information Collection Rule will result in total costs of between $118 and $149 million dollars to be expended over a three-and-a-half year period. Since this cost does not exceed 100 million dollars per year, it does not qualify as a "major rule" for purposes of Executive Order 12866. EPA has prepared an economic impact analysis which establishes that this action would not be a major rule within the meaning of the Executive Order. This analysis has been submitted to the Office of Management and Budget for review. The following is a summary of cost estimates for implementation of this rule.

The estimated cost is indicated in the third column of Table V.1. There are five elements contributing to the total cost estimates. The first cost element is start-up activities, estimated to cost a total of $515,000. These activities consist of reading and understanding the requirements of the rule. Start-up costs will be spread across 1,560 non-purchased community water systems, resulting in an average cost of $330 per system.

EPA would specify two types of monitoring requirements in the rule: microbial monitoring and DBP monitoring. The microbial monitoring applies to 1,725 plants in 1395 community surface water systems serving more than 10,000 persons. Microbial monitoring is estimated to cost a total of $11.76 million nationally, $9.21 million in systems serving more than 100,000 persons and $2.55 million in systems serving between 10,000 and 100,000 persons. The average cost per plant will be $21,000 in systems serving more than 100,000 persons and $2,000 in systems serving between 10,000 and 100,000 persons.

The DBP monitoring applies to 292 non-purchased surface and ground water community systems serving more than 100,000 persons. The DBP monitoring is estimated to cost $56.53 million, averaging $26,500 to $50,000 per treatment site. The associated labor burden is estimated to be 421,227 hours nationally, averaging 199 to 373 hours per treatment site. Detailed calculations are presented in Tables V.2 through V.7.

The fourth cost element of the Information Collection Rule is a requirement for reporting of various process parameters of surface water treatment processes related to microbial treatment (1,725 plants in 1395 non-purchased systems serving more than 10,000 persons) and related to DBP formation (440 plants in 233 non-

purchased systems serving more than 100,000 persons). The total cost is estimated to be $3.88 million nationally, averaging $2,250 per plant.

The fifth cost element is a requirement for pilot and bench scale testing. With some exceptions, this requirement applies to all surface water treatment plants in systems serving more than 100,000 persons that have an influent TOC concentration greater than 4 mg/l. It also applies to all groundwater systems serving more than 50,000 persons that have a treated effluent TOC concentration greater than 2 mg/l. The total national cost of this testing requirement is estimated to be between $45 and $76 million. The cost per facility is estimated to be between $150,000 per bench-scale test and $750,000 per pilot test. The low end cost estimate assumes that 200 bench scale studies (at $150,000 per study assumed to be GAC) and 20 pilot scale studies (at $750,000 per study) will be conducted for surface supplies and that 33 bench scale studies (at $250,000 per study—assumed to be membrane filtration) will be conducted for ground water supplies. The high end cost estimate assumes that 162 bench scale studies (at $150,000 per study) and 58 pilot scale studies (at $750,000 per study) will be conducted for surface supplies and that 27 bench scale studies (at $150,000 per study) and 6 pilot scale studies (at $750,000 per study) will be conducted for ground water supplies. At this time EPA cannot predict with any certainty the numbers of the different types of studies that will be conducted.

TABLE V–1.—TOTAL COST AND BURDEN ESTIMATES FOR INFORMATION COLLECTION RULE*

	Respondents affected	Cost (K$)		Burden (hrs.)	
		All respondents	Per respondent	All respondents	Per respondent
Compliance Activities:					
Start-Up Activities:					
1395 Surface Water Systems > 10K	1,725 plants	468	0.27	14,579	8.4
165 Ground Water Systems > 50k	165 systems	47	0.29	1,485	9.0
Subtotal		515		16,064	
Microbial Monitoring:					
1395 Surface Water Systems > 10K	1,725 plants	11,761	7	200,205	116
DBP Monitoring:					
233 Surface Water Systems > 100K	440 plants	22,126	50	163,967	373
59 Ground Water Systems > 100K	1,295 treat.sites	34,402	27	257,260	199
Subtotal		56,529		421,227	
Process Data Reporting:					
1395 Surface Water Systems > 10K	1,725 plants	3,881	2	124,200	72
Pilot Studies					
233 Surface Water Systems > 100K	178 plants**	48,300	271	322,000	1,809
165 Ground Water Systems > 50K	33 systems**	8,550	259	57,000	1,727
Subtotal		56,850		379,000	
Total		129,536		1,140,696	

*Total costs and burden over 18 months, except for pilot studies which extend over two and one-half years.
**Surface water treatment plants with influent TOC >4 mg/l; ground water treatment plants with effluent TOC >2 mg/l.

TABLE V–2.—SUMMARY

[Cost and burden estimates for DBP monitoring under the information collection rule]

Analyte	Tot. surface number of samples	Tot. ground number of samples	Total number of samples	Unit cost per sample in dollars	Unit burden per sample in minutes	Surface cost in dollars	Ground cost in dollars	Surface burden in hours	Ground burden in hours	Total cost in dollars	Total burden in hours
Aldehydes	756	0	756	$250	120	$189,000	0	1,512	0	$189,000	1,512
Alkalinity	38,886	54,504	93,390	21	6	816,606	1,144,584	3,889	5,450	1,961,190	9,339
Ammonia	8,676	25,058	33,734	25	15	216,900	626,456	2,169	6,265	843,356	8,434
AOC/BDOC	756	0	756	175	220	132,300	0	2,772	0	132,300	2,772
Bromate	756	0	756	100	20	75,600	0	252	0	75,600	252
Bromide	8,676	23,310	31,986	40	15	347,040	932,400	2,169	5,828	1,279,440	7,997
Ca. Hardness	31,284	54,504	85,788	16	14	500,544	872,064	7,300	12,718	1,372,608	20,017
Chloral Hydrate	12,288	15,540	27,828	275	50	3,379,200	4,273,500	10,240	12,950	7,652,700	23,190
Chlorate	2,358	3,096	5,454	100	20	235,800	309,600	786	1,032	545,400	1,818
Chlorine	23,130	47,652	70,782	20	10	462,600	953,040	3,855	7,942	1,415,640	11,797
Chlorine Dioxide	1,188	0	1,188	20	10	23,760	0	198	0	23,760	198
Chlorite	1,512	0	1,512	125	20	189,000	0	504	0	189,000	504
Chloropicrin	12,288	15,540	27,828	66	57	804,864	1,017,870	11,674	14,763	1,822,734	26,437
Chloropropanones	12,288	15,540	27,828	30	60	368,640	466,200	12,288	15,540	834,840	27,828
CNCl	1,182	852	2,034	250	60	295,500	213,000	1,182	852	508,500	2,034

TABLE V–2.—SUMMARY—Continued

[Cost and burden estimates for DBP monitoring under the information collection rule]

Analyte	Tot. surface number of samples	Tot. ground number of samples	Total number of samples	Unit cost per sample in dollars	Unit burden per sample in minutes	Surface cost in dollars	Ground cost in dollars	Surface burden in hours	Ground burden in hours	Total cost in dollars	Total burden in hours
H_2S, Fe, Mn, etc.	?	?	?	?	?	?	?	?	?	?	?
HAA	12,288	15,540	27,828	200	50	2,457,600	3,108,000	10,240	12,950	5,565,600	23,190
HAN	12,288	15,540	27,828	150	60	1,843,200	2,331,000	12,288	15,540	4,174,200	27,828
Ozone	324	0	324	20	30	6,480	0	162	0	6,480	162
pH	39,924	55,536	95,460	11	10	439,164	610,896	6,654	9,256	1,050,060	15,910
SDS	2,640	7,770	10,410	957	387	2,025,160	7,432,005	17,028	50,117	9,957,165	67,145
Temperature	39,330	55,536	94,866	4	4	157,320	222,144	2,622	3,702	379,464	6,324
THM	12,288	15,540	27,828	100	30	1,228,800	1,554,000	6,144	7,770	2,782,800	13,914
TOC	32,040	54,504	86,544	55	30	1,762,200	2,997,720	16,020	27,252	4,759,920	43,272
Tot. Hardness	38,292	54,504	92,796	32	10	1,225,344	1,744,128	6,382	9,084	2,969,472	15,466
TOX	12,288	15,540	27,828	105	60	1,290,240	1,631,700	12,288	15,540	2,921,940	27,828
Turbidity	32,040	54,504	86,544	11	10	352,440	599,544	5,340	9,084	951,984	14,424
UV 254	32,040	54,504	86,544	25	15	801,000	1,362,600	8,010	13,626	2,163,600	21,636
Total	.....	.....	.....	.....	.....	$22,126,302	$34,402,451	163,967	257,260	$56,528,753	421,227

Total number of Surface Plants: 440
Total number of Ground Trt. Sites: 1,295

TABLE V–3.—REQUIREMENTS FOR ALL SYSTEMS SERVING >100,000

[Cost and Burden Estimates for DBP Monitoring under the Information Collection Rule]

Analyte	Sampling requirements for treatment sites				Surface	Ground	Sampling requirements for distribution systems		Surface	Ground
	Surface Systems=233 Treatement sites		Ground Systems=59 Treatment sites		Total number of samples for treatment sites	Total number of samples for treatment sites	Number of samples per system	Total number of samples for dist. systems	Combined total number of samples	Combined total number of samples
	W/Filt. 429	W/O Filt. 11	W/Filt. 219	W/O Filt. 1076						
No. of Samples/month/trt. site:										
pH	4	2	4	2	31,284	54,504	4	7,008	38,292	54,504
Alkalinity	4	2	4	2	31,284	54,504	4	7,008	38,292	54,504
Turbidity	4	2	4	2	31,284	54,504	.....	0	31,284	54,504
Temperature	4	2	4	2	31,284	54,504	4	7,008	38,292	54,504
Ca. Hardness	4	2	4	2	31,284	54,504	.....	0	31,284	54,504
Tot. Hardness	4	2	4	2	31,284	54,504	4	7,008	38,292	54,504
TOC	4	2	4	2	31,284	54,504	.....	0	31,284	54,504
UV 254	4	2	4	2	31,284	54,504	.....	0	31,284	54,504
Bromide	1	1	1	1	7,920	23,310	.....	0	7,920	23,310
Ammonia*	1.1	1.1	1.1	1.1	8,514	25,058	.....	0	8,514	25,058
Dis. Resid.	2	2	2	2	15,840	46,620	4	7,008	22,848	46,620
H_2S, Fe, Mn, etc.	1	1	1	1	?	.....	.....	?	?	?
Occurrence to be determined).										
No. of Samples/quarter/trt. site:										
THM	2	2	2	2	5,280	15,540	4	7,008	12,288	15,540
HAA	2	2	2	2	5,280	15,540	4	7,008	12,288	15,540
HAN	2	2	2	2	5,280	15,540	4	7,008	12,288	15,540
Chloropicrin	2	2	2	2	5,280	15,540	4	7,008	12,288	15,540
Chloropropanones	2	2	2	2	5,280	15,540	4	7,008	12,288	15,540
Chloral Hydrate	2	2	2	2	5,280	15,540	4	7,008	12,288	15,540
TOX	2	2	2	2	5,280	15,540	4	7,008	12,288	15,540
SDS	1	1	1	1	2,640	7,770	.....	0	2,640	7,770

*Number of samples is a weighted average to take into account the number of systems using air stripping for VOC removal.

TABLE V–4.—ADDITIONAL REQUIREMENTS FOR SYSTEMS USING CHLORAMINES SERVING >100,000

[Cost and Burden Estimates for DBP Monitoring under the Information Collection Rule]

Analyte	Sampling requirements for treatment sites				Sampling requirements for distribution systems		Surface	Ground
	Surface Systems=66 Sites=125	Ground Systems=6 Sites=142	Surface total number of samples for treatment sites	Ground total number of samples for treatment sites	Number of samples per system	Total number of samples for dist. systems	Combined total number of samples	Combined total number of samples
Number of samples/quarter/site:								
CNCl	1	1	750	852	1	432	1,182	852

TABLE V–5.—ADDITIONAL REQUIREMENTS FOR SYSTEMS USING HYPOCHLORITE SERVING >100,000

Analyte	Sampling requirements for treatment sites				Sampling requirements for distribution systems		Surface	Ground
	Surface Systems=25 Sites=47	Ground Systems=8 Sites=172	Surface total number of samples for treatment sites	Ground total number of samples for treatment sites	Number of samples per system	Total number of samples for dist. systems	Combined total number of samples	Combined total number of samples
Number of samples/quarter/site:								
Chlorate	3	3	846	3,096	0	0	846	3,096
pH	1	1	282	1,032	0	0	282	1,032
Temperature	1	1	282	1,032	0	0	282	1,032
Free Cl	1	1	282	1,032	0	0	282	1,032

TABLE V–6.—ADDITIONAL REQUIREMENTS FOR SYSTEMS USING CHLORINE DIOXIDE SERVING > 100,000

[Cost and Burden Estimates for DBP Monitoring under the Information Collection Rule]

Analyte	Sampling requirements for treatment sites				Sampling requirements for distribution systems		Surface	Ground
	Surface systems=18 sites=33	Ground systems=0 sites=0	Surface total number of samples for treatment sites	Ground total number of samples for treatment sites	Number of samples per system	Total number of samples for dist. systems	Combined total number of samples	Combined total number of samples
Number of samples/month/site:								
pH	2	2	1,188	0	.....	0	1,188	0
Alkalinity	1	1	594	0	.....	0	594	0
Turbidity	1	1	594	0	.....	0	594	0
Temperature	1	1	594	0	.....	0	594	0
TOC	1	1	594	0	.....	0	594	0
UV 254	1	1	594	0	.....	0	594	0
Bromide	1	1	594	0	.....	0	594	0
C1O2	2	2	1,188	0	.....	0	1,188	0
Chloride	2	2	1,188	0	3	324	1,512	0
Chlorate	2	2	1,188	0	3	324	1,512	0
Bromate	1	1	594	0	.....	0	594	0
Number of samples/quarter/site:								
Aldehydes	3	3	594	0	.....	0	594	0
AOC/BDOC	3	3	594	0	.....	0	594	0

TABLE V–7.—ADDITIONAL REQUIREMENTS FOR SYSTEMS USING OZONE SERVING > 100,000

[Cost and Burden Estimates for DBP Monitoring under the Information Collection Rule]

Analyte	Sampling requirements for treatment sites				Sampling requirements for distribution systems		Surface	Ground
	Surface sites=9	Ground sites=0	Surface total number of samples for treatment sites	Ground total number of samples for treatment sites	Number of samples per system	Total number of samples for dist. systems	Combined total number of samples	Combined total number of samples
Number of samples/month/site:								
pH	1	1	162	0	.....	0	162	0
Alkalinity	1	1	162	0	.....	0	162	0
Turbidity	1	1	162	0	.....	0	162	0
Temperature	1	1	162	0	.....	0	162	0
TOC	1	1	162	0	.....	0	162	0
UV 254	1	1	162	0	.....	0	162	0
Bromide	1	1	162	0	.....	0	162	0
Ammonia	1	1	162	0	.....	0	162	0
Ozone	2	2	342	0	.....	0	342	0
Bromate	1	1	162	0	.....	0	162	0
Number of samples/quarter/site:								
Aldehydes	3	3	162	0	.....	0	162	0
AOC/BDOC	3	3	162	0	.....	0	162	0

VI. Other Statutory Comments

A. Executive Order 12866

Under Executive Order 12866, (58 FR 51735 (October 4, 1993)) the Agency must determine the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact or entitlements, grants, user fees, or loan programs or the rights and obligations of the recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This rule was reviewed by OMB under Executive Order 12866.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act requires EPA to explicitly consider the effect of proposed regulations on small entities. The Act requires EPA to consider regulatory alternatives if there is any economic impact on any number of small entities. The Small Business Administration defines a small water utility as one which serves fewer than 3,300 people.

The proposed rule is consistent with the objectives of the Regulatory Flexibility Act because it will not have any economic impact on any small entities. The proposed rule would only apply to systems serving more than 10,000 people; thus, systems serving fewer than 10,000 people would not be affected. Therefore, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Administrator certifies that this rule will not have an economic impact on a number of small entities.

C. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C 3501 et seq. An Information Collection Request document has been prepared by EPA (ICR No. 270.31) and a copy may be obtained from Sandy Farmer, Information Policy Branch; EPA; 401 M St., SW. (PM–223); Washington, DC 20460 or by calling (202) 260–2740.

Public reporting burden for this collection of information, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information is estimated to total 1.1 million hours over the three year clearance period. As shown in Table V.1., there are five elements contributing to the total burden estimate. The total burden associated with start-up activities is estimated to be 16,064 hours, an average of 10 hours per system. The total burden estimated for the microbial monitoring is 200,205 hours, averaging 295 hours per plant in systems serving more than 100,000 persons, and 55 hours per plant in systems serving between 10,000 and 100,000 persons. Total burden for DBP monitoring is 421,000 hours, averaging 370 hours per plant for surface water systems serving more than 100,000 persons, and 200 hours per plant in ground water systems serving more than 100,000 persons. The total burden for data reporting is estimated to be 124,200 hours, an average of 72 hours per plant. The per plant impact of this requirement on systems serving between 10,000 and 100,000 persons will be significantly less than these estimates due to less extensive data processing requirements relating to DBPs in this system size range. The total burden estimate for bench and pilot scale testing is estimated to be approximately 379,000 hours. The labor burden per facility is estimated to be between 1,000 hours for bench-scale tests and 5,000 hours for pilot tests.

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 the office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked

"Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

D. Science Advisory Board, National Drinking Water Advisory Council, and Secretary of Health and Human Services

In accordance with section 1412(d) and (e) of the Safe Drinking Water Act, the Agency has submitted this proposed rule to the Science Advisory Board, National Drinking Water Advisory Council, and the Secretary of Health and Human Services for their review. The Agency will take their comments into account in developing the final rule.

VII. Request for Public Comments

To ensure that EPA can read, understand and therefore properly respond to comments, the Agency would prefer for commenters to type or print comments in ink, and to cite where possible, the paragraph(s) in this proposed regulation (e.g., 141.140(a)) to which each comment refers. Commenters should use a separate paragraph for each issue discussed.

EPA solicited public comments and requested suggestions on specific issues earlier in the ICR preamble and welcomes comments on other specific issues. For convenience the comment topics and requested suggestions are listed below.

• (III.A.2) Collection of data for EPA evaluation of water treatment efficiencies

—Assessment of microbial concentrations in small systems (other than the three approaches given)
—Whether to allow systems to submit previously collected data
—Criteria for admissibility of previously collected data
—Feasibility and utility of archiving samples to develop data evaluations

• (III.A.2) Particle size count data

—Under what circumstances should particle size count data within treatment plant be allowed in lieu of finished water monitoring for *Giardia* and *Cryptosporidium*
—What particle size ranges and sample volumes should be monitored
—What criteria should be specified to ensure particle size measurements collected from different systems could be appropriately compared and would be most representative of removal of *Giardia* and *Cryptosporidium*
—Should other monitoring by other methods, such as Microscopic Particulate Analysis (MPA) be included as condition for avoiding finished water monitoring of *Giardia* and *Cryptosporidium*

• (III.A.3) Monitoring pathogens and indicators

—Requirements for monitoring *Giardia* and *Cryptosporidium*
—Requirements for monitoring total culturable viruses
—Requirements for monitoring bacterial pathogens
—Requirements for monitoring total coliforms, fecal coliforms or *E. coli*.
—Requirements for monitoring *Clostridium perfringens*
—Requirements for monitoring coliphage

• (III.A.5) Need to Report physical data and engineering information

—Nature of source water (surface-ground, combination)
—Treatment processes (type of disinfectant, dosage, pH, contact time, type of filter process, media size, depth hydraulic loading rate)
—Whether additional reporting requirements are warranted
—Require fewer systems to submit data in size category 10,000-100,000

• (III.A.6) Appropriateness of analytical methods

—EC medium supplemented with 50 µg/ml of 4-methylumbelliferyl-beta-D-glucuronide (MUG), as specified in 141.21 (f)(6)(i) for total coliforms, fecal coliforms and *E. coli*
—Nutrient agar supplemented with 100 µg/ml of MUG, as specified in 141.21(f)(6)(ii). *E. coli* colonies to be counted
—Minimal Medium ONPG-MUG test (Colilert test), as specified in 141.74 (a)(2) (coliform-positive tubes to be examined with UV light
—Method for *Giardia/Cryptosporidium* as described in Appendix C of the rule.
—Feasibility of other methods for analysis of protozoa
—Method for viruses as described in Appendix D of the rule
—Method for *Clostridium perfringens*.
—Method for coliphage as described in Appendix D of the rule

• (III.B.2) Monitoring of Source Water Quality

—Definition of high oxidant demand water
—Types of measurements necessary to characterize high oxidant demand water

• (III.B.3) Specific Process Information

—Design to be reported for ozone contact basins
—Operating parameters to be reported for ozone contact basins
—Completeness of Table III.6 (Treatment Plant Information) in describing treatment plant configurations and specific design parameters for the unit processes relevant to ESWTR and DBP Stage 2 development
—Completeness of Table III.6 in describing treatment plant configurations and specific design parameters relevant to future model development for predicting DBPs

• (III.B.4) Database development

—Use of diskettes and/or modem for data reporting, use of Windows based software

• (III.B.5) Analytical methods

—Sample collection without adjusting pH and laboratories required to extract samples within 24–48 hours of sample collection
—Suggestions on alternative approaches to collecting sample without adjusting pH and laboratories extracting sample within 24–48 hours
—Alternative approaches to all aldehyde analyses being initiated within 48 hours of sample collection
—Proposal to drop or delay monitoring of certain analytes, if including them causes undue delay in other monitoring
—Proposal that any monitoring delay would not be cancelled or postponed for: (1) trihalomethanes; (2) haloacetic acids; (3) bromate; (4) chlorite; (5) chlorate; (6) total organic halide; (7) total organic carbon; and (8) bromide

• (III.B.6) Quality Assurance

—Alternative mechanisms (other than following specifications outlined in manual to be developed) for ensuring consistency in sampling
—The use of zero in the database to indicate concentrations below the reporting level
—The QA/QC criteria for data entry into the database as presented in the text

• (III.B.7) Selection of bench versus pilot scale and membrane versus GAC studies

—How to ensure an adequate number of pilot scale studies for both membranes and GAC technology to ensure quality results
—What specific requirements could be made to ensure that the necessary number of studies (as indicated in Table III.12) are done, if an insufficient number of volunteers are identified as willing to do pilot scale testing
—Should selection of sites for GAC and membrane pilot studies be required according to system size, TOC concentration, or both
—How the site selection process can ensure that some of the pilot studies use membranes

• (III.C) Dates for completing data development monitoring requirements

—Feasibility of schedule for monitoring requirements

• (III.E) List of systems required to submit data

—Whether the list of systems accurately represents the systems required to comply with the ICR, should other systems be included, others deleted

In addition to the specific comments solicited previously in this preamble, EPA solicits comments on the following: Are other mechanisms or procedures available than those proposed herein by which the desired information could be obtained more efficiently? What mechanisms might be available for transferring some of the resource commitments that large utilities have made during the D/DBP negotiated rulemaking, to fund other research in support of the development of the ESWTR or stage 2 D/DBP rule?

VII. References

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APPENDICES TO THE PREAMBLE

Appendix A—Sample Reporting Sheet for Particle Size Count Data

Name of Utility _____
Address _____

Name of Person Completing Form _____
Phone Number _____
Source Water Type (example: river, lake) —

Microorganism count:

Giardia ____ Cryptosporidium____
Virus _____ Coliform _____
Presedimentation process _____

Presedimentation effluent particle size distribution:

>2 um____ >5 um____ >10 um____

Microorganism count (optional):

Giardia ____ Cryptosporidium ____
Virus _____ Coliform _____
Clarification/sedimentation process _____

Clarification/sedimentation effluent particle size distribution:

>2 um____ >5 um____ >10 um____

Microorganism count (optional):

Giardia ____ Cryptosporidium ____
Virus _____ Coliform _____
Roughing filter process _____

Roughing filter effluent particle size distribution:

>2 um____ >5 um____ >10 um____

Microorganism count (optional):

Giardia ____ Cryptosporidium ____
Virus _____ Coliform _____
Filtration process _____

Filter effluent particle size distribution:

>2 um____ >5 um____ >10 um____

Microorganism count (optional):

Giardia ____ Cryptosporidium ____
Virus _____ Coliform _____

Clearwell effluent

Clearwell effluent particle size distribution:

>2 um____ >5 um____ >10 um____

Microorganism count (optional):

Giardia ____ Cryptosporidium ____
Virus _____ Coliform _____

APPENDIX B–1.—CLASSIFICATION OF CANDIDATE SYSTEMS USING GROUND OR SURFACE WATER WHICH MAY BE SUBJECT TO REQUIREMENTS PERTAINING TO SYSTEMS SERVING 100,000 OR MORE PEOPLE

PWS–ID	WIDB I.D.	Region	State	City	Utility	FRDS retail pop.	WIDB Population served			FRDS Avg. day prod. (MGD)	WIDB Avg. day flow (MGD)		
							Retail	Wholesale	Total		Prod.	Purch.	Total
EPA Region—1													
CT0150011	90*1620	1	CT	Bridgeport.	Bridgeport Hydraulic Co.	367,577	382,300	10,000	392,300	66.2	57.6	1.2	58.8
CT0640011	90*1624	1	CT	Hartford ..	The Metropolitan District.	391,250	400,000	8,000	408,000	53.1	63.0	0.0	63.0
CT0890011	90*1626	1	CT	New Britain.	City of New Britain Water Dept.	90,677	80,000	20,000	100,000	11.9	11.0	0.0	11.0
CT0930011	90*1627	1	CT	New Haven.	So Central Conn Reg Water Auth.	380,000	397,500	34,200	431,700	62.0	58.9	0.0	58.9
CT1350011	90*1628	1	CT	Stamford	Stamford Water Company.	85,000	85,500	19,500	105,000	14.6	16.0	0.8	16.8
CT1510011	90*1629	1	CT	Waterbury.	City of Waterbury Bur of Water.	103,800	107,000	17,000	124,000	#N/A	18.7	0.0	18.7
	90*1144	1	MA	Boston ...	MA Water Resources Authority.	#N/A	0	2,170,000	2,170,000	#N/A	323.4	0.0	323.4
MA4044000	.....	1	MA	Brockton	Brockton Water Dept.	135,000	.....	.....	.....	10.6	.....	.....	.....
MA1281000	90*1163	1	MA	Springfield.	Springfield Water Dept.	240,000	170,000	250,000	420,000	39.5	45.6	0.0	45.6
MA2348000	90*1166	1	MA	Worcester.	City of Worcester ...	200,000	165,000	5,000	170,000	26.8	27.0	0.0	27.0
ME0091300	90*1175	1	ME	Portland .	Portland Water District.	132,000	160,000	200	162,000	22.0	24.0	0.0	24.0
NH1471010	90*1270	1	NH	Manchester.	Manchester Water Works.	104,750	103,000	13,000	116,000	14.0	15.5	0.0	15.5
RI1592021 .	.....	1	RI	Cumberland.	Pawtucket, City Of .	108,000	.....	.....	.....	14.5	.....	.....	.....
RI1592024 .	.....	1	RI	Scituate ..	Providence, City Of	286,923	.....	.....	.....	64.4	.....	.....	.....
EPA Region—2													
NJ1605002	90*1280	2	NJ	Clifton	Passaic Valley Water Comm.	270,000	600,000	400,000	1,000,000	#N/A	52.0	32.2	84.2
NJ2004001	.....	2	NJ	Elizabeth	Elizabeth W Dept, City O.	112,000	.....	.....	.....	13.7	.....	.....	.....
NJ0418001	90*1286	2	NJ	Haddon Heights.	NJ-American Water Co.	209,402	349,910	0	349,910	21.5	34.2	0.0	34.2
NJ0238001	90*1288	2	NJ	Harrington Park.	United Water Resources.	713,737	722,000	21,000	743,000	102.0	102.4	0.6	103.0
NJ1225001	90*1290	2	NJ	Iselin	Middlesex Water Co.	207,640	210,000	200,000	410,000	25.4	30.0	4.0	34.0
NJ0906001	.....	2	NJ	Jersey City.	Dept of Water Jersey Cit.	290,618	.....	.....	.....	49.7	.....	.....	.....
NJ0119002	91*3411	2	NJ	Linwood .	NJ-American Water Co.	#N/A	128,000	0	128,000	#N/A	11.2	0.0	11.2
NJ0714001	.....	2	NJ	Newark ..	Newark Water Dept	275,221	.....	.....	.....	0.1	.....	.....	.....
NJ0712001	90*1312	2	NJ	Short Hills.	NJ-American Water Co.	183,199	198,500	0	198,500	34.7	21.0	18.0	39.0
NJ1345001	90*1314	2	NJ	Shrewsbury.	NJ-American Water Co.	302,491	307,334	0	307,334	30.0	39.0	0.0	39.0

APPENDIX B–1.—CLASSIFICATION OF CANDIDATE SYSTEMS USING GROUND OR SURFACE WATER WHICH MAY BE SUBJECT TO REQUIREMENTS PERTAINING TO SYSTEMS SERVING 100,000 OR MORE PEOPLE—Continued

PWS–ID	WIDB I.D.	Region	State	City	Utility	FRDS retail pop.	WIDB Population served			FRDS Avg. day prod. (MGD)	WIDB Avg. day flow (MGD)		
							Retail	Wholesale	Total		Prod.	Purch.	Total
NJ1111001	.....	2	NJ	Trenton ..	Trenton Water Department.	225,000	.....	.....	.....	31.2	.....	.....	.....
NJ1613001	90*1320	2	NJ	Wanaque	No Jersey Dist Wtr Supply Comm.	200,902	0	800,000	800,000	98.5	97.9	0.0	97.9
NJ2004002	90*1324	2	NJ	Westfield	Elizabethtown Water Company.	576,000	700,000	400,000	1,100,000	131.0	124.8	0.2	125.0
NY0000189	90*1340	2	NY	Albany	Albany Water Dept	101,082	100,000	5,000	105,000	21.1	19.0	0.0	19.0
NY0000443	90*1346	2	NY	Buffalo ...	Erie County Water Auth.	402,180	391,616	80,000	471,616	61.0	60.7	0.0	60.7
NY0000422	.....	2	NY	Buffalo ...	Buffalo City Division of Water.	345,974	.....	.....	.....	100.1	.....	.....	.....
NY0002830	90*1362	2	NY	Lake Success.	Jamaica Water Supply Co.	130,000	650,000	0	650,000	12.2	42.0	26.0	68.0
NY0003444	.....	2	NY	Larchmont.	New Rochelle Water Co.	137,640	.....	.....	.....	21.2	.....	.....	.....
NY0002835	90*1366	2	NY	Lynbrook	Long Island Water Corp.	238,594	238,500	0	238,500	26.6	29.6	0.0	29.6
NY0002840	.....	2	NY	Merrick ...	New York Water Service Corp.	170,000	.....	.....	.....	13.4	.....	.....	.....
NY0003493	90*1378	2	NY	New York	Dept Environmental Protection.	6,552,718	6,810,000	1,350,000	8,160,000	1,500.0	1,582.1	0.0	1,582.1
NY0010526	.....	2	NY	Oakdale .	Suffolk County Water Authority.	941,000	.....	.....	.....	124.6	.....	.....	.....
NY0001047	90*1386	2	NY	Rochester.	Monroe County Water Auth.	222,503	349,645	168,373	518,018	60.0	62.0	13.0	75.0
NY0004518	90*1387	2	NY	Rochester.	City of Rochester Water Bureau.	231,636	250,000	50,000	300,000	36.8	21.5	33.0	54.5
NY0004336	90*1391	2	NY	Syracuse	Onondaga County Water Auth.	185,000	165,000	70,000	235,000	15.9	16.7	26.2	42.9
NY0004334	.....	2	NY	Syracuse	Syracuse City	192,000	.....	.....	.....	50.1	.....	.....	.....
NY0002411	90*1394	2	NY	Utica	City of Utica	120,000	135,000	3,062	138,062	21.0	22.2	0.0	22.2
NY0003673	90*1395	2	NY	West Nyack.	Spring Valley Water Co.	225,000	240,000	5,000	245,000	27.6	27.0	0.1	27.1
NY0003465	90*1396	2	NY	Yonkers .	City of Yonkers Water Bureau.	188,082	194,500	0	194,500	30.2	32.6	0.0	32.6
PR0003293	.....	2	PR	Aguadilla	Aguadilla	129,142	.....	.....	.....	10.0	.....	.....	.....
PR0002652	.....	2	PR	Arecibo ..	Arecibo Urbano	102,796	.....	.....	.....	#N/A	.....	.....	.....
PR0005066	.....	2	PR	Caguas ..	Caguas Urbano	156,588	.....	.....	.....	7.5	.....	.....	.....
PR0003283	.....	2	PR	Mayaguez.	Mayaguez	123,891	.....	.....	.....	15.0	.....	.....	.....
PR0005386	.....	2	PR	Naguabo	Rio Blan, Vieq, Hum, La.	127,428	.....	.....	.....	13.7	.....	.....	.....
PR0003824	.....	2	PR	Ponce	Ponce Urbano	187,732	.....	.....	.....	24.0	.....	.....	.....
PR0002591	.....	2	PR	San Juan	Metropolitano	1,120,536	.....	.....	.....	115.7			
EPA Region—3													
DC0000001	90*1631	3	DC	Washington.	Washington Aqueduct.	0	0	1,100,000	1,100,000	200.0	200.0	0.0	200.0
DE0000552	90*1633	3	DE	Newark ..	Artesian Water Co Inc.	171,800	166,000	0	166,000	11.0	11.5	3.4	14.8
DE0000663	90*1634	3	DE	Wilmington.	City of Wilmington	140,000	150,000	200,000	350,000	28.0	29.0	0.0	29.0
DE0000564	90*1632	3	DE	Wilmington.	Wilmington Suburban Water Corp.	93,000	100,000	20,000	120,000	22.0	22.3	1.1	23.4
MD0300002	.....	3	MD	Baltimore	Balt. City—Montebello.	1,359,148	.....	.....	.....	120.0	.....	.....	.....
MD0130002	.....	3	MD	Baltimore City & Co..	Elkridge-Howard Co. Dpw.	161,000	.....	.....	.....	#N/A	.....	.....	.....
MD0150005	90*1173	3	MD	Laurel	Washington Sub Sanitation Comm.	1,500,000	1,400,000	15,000	1,415,000	120.0	169.9	0.0	169.9
PA3390024	90*1431	3	PA	Allentown	Allentown Munic Water System.	105,200	107,000	23,000	130,000	22.2	23.9	0.0	23.9
PA5650032	.....	3	PA	Apollo	Westmoreland Mun Au Beaver Run.	130,000	.....	.....	.....	18.0	.....	.....	.....
PA3480046	90*1434	3	PA	Bethlehem.	City of Bethlehem ..	110,268	100,500	8,100	108,600	25.6	26.5	0.0	26.5
PA1150163	90*1435	3	PA	Bryn Mawr.	Philadelphia Suburban Water Co.	#N/A	850,000	870,000	1,720,000	#N/A	82.3	6.0	88.3
PA7210029	90*1448	3	PA	Camp Hill	PA-American Water Co.	74,816	125,100	0	125,100	10.0	14.5	0.2	14.7
PA1230004	90*1436	3	PA	Chester ..	Chester Water Authority.	110,000	105,000	50,000	155,000	30.7	30.0	0.0	30.0

APPENDIX B–1.—CLASSIFICATION OF CANDIDATE SYSTEMS USING GROUND OR SURFACE WATER WHICH MAY BE SUBJECT TO REQUIREMENTS PERTAINING TO SYSTEMS SERVING 100,000 OR MORE PEOPLE—Continued

PWS–ID	WIDB I.D.	Region	State	City	Utility	FRDS retail pop.	WIDB Population served			FRDS Avg. day prod. (MGD)	WIDB Avg. day flow (MGD)		
							Retail	Wholesale	Total		Prod.	Purch.	Total
PA6250028	90"1437	3	PA	Erie	City of Erie, Bureau of Water.	190,000	230,000	10,000	240,000	40.0	42.3	0.0	42.3
PA4110014	90"1442	3	PA	Johnstown.	Greater Johnstown Water Auth.	65,000	62,000	67,000	129,000	8.3	8.5	0.0	8.5
PA7360058	90"1443	3	PA	Lancaster	City of Lancaster	108,000	110,000	6,400	116,400	16.1	17.2	0.0	17.2
PA1510001	90"1456	3	PA	Philadelphia.	Philadelphia Water Dept.	1,755,000	1,700,000	160,000	1,860,000	217.8	351.6	0.0	351.6
PA5020039	90"1706	3	PA	Pittsburgh	PA-American Water Co.	615,543	500,000	250,000	750,000	67.9	69.0	2.9	71.9
PA5020038	90"1458	3	PA	Pittsburgh	City of Pittsburgh	400,000	500,000	0	500,000	74.7	69.0	0.0	69.0
PA5020043	90"1460	3	PA	Pittsburgh	Municipal Auth/ Boro West View.	200,000	140,000	25,000	165,000	19.1	20.0	0.0	20.0
PA5020056	.....	3	PA	Verona	Wilkinsburg-Penn Joint Water A.	150,000	.....	.....	.....	26.4	.....	.....	.....
PA2359008	90"1708	3	PA	Wilkes-Barre.	Pennsylvania Gas & Water Co.	57,984	425,000	3,000	428,000	1.5	73.8	0.0	73.8
PA7670100	90"1468	3	PA	York	The York Water Company.	139,305	137,200	0	137,200	19.2	19.3	0.0	19.3
.....	90"1549	3	VA	Chesterfield.	Chesterfield County Utils Dept.	#N/A	200,000	0	200,000	#N/A	9.6	10.0	19.6
VA6059501	90"1554	3	VA	Merrifield	Fairfax County Water Auth.	150,000	578,000	275,000	853,000	#N/A	101.9	1.4	103.3
VA4041845	.....	3	VA	Midlothian.	Swift Creek Water Plant.	150,000	.....	.....	.....	3.7	.....	.....	.....
VA3700500	90"1555	3	VA	Newport News.	Newport News Waterworks.	350,000	350,000	0	350,000	56.0	43.2	0.0	43.2
VA3710100	90"1556	3	VA	Norfolk	Norfolk Dept of Utilities.	295,000	290,000	405,000	695,000	35.6	73.9	0.0	73.9
VA4041035	91"2190	3	VA	Petersburg.	Appomattox River Water Auth.	#N/A	0	200,000	200,000	#N/A	21.2	0.0	21.2
VA3740600	90"1557	3	VA	Portsmouth.	City of Portsmouth	120,000	111,000	14,000	125,000	16.3	16.7	0.0	16.7
VA4760100	90"1559	3	VA	Richmond	City of Richmond	209,000	217,700	210,553	428,253	44.7	59.4	0.0	59.4
VA2770650	.....	3	VA	Roanoke	Roanoke City Water Department.	158,000	.....	.....	.....	16.4	.....	.....	.....
VA6153600	.....	3	VA	Woodbridge.	Occoquan-Woodbridge-Dum-Tri.	102,440	.....	.....	.....	2.9	.....	.....	.....
WV3302016	90"1594	3	WV	Charleston.	WV-American Water Co.	131,913	174,074	0	174,074	#N/A	26.6	0.0	26.6
EPA Region—4													
AL0000738	90"1451	4	AL	Birmingham.	The Water Works & Sewer Board.	528,000	900,000	40,000	940,000	105.0	110.0	0.0	110.0
AL0000882	90"1463	4	AL	Huntsville	Huntsville Utilities	138,000	167,000	0	167,000	30.0	27.0	0.0	27.0
AL0001005	.....	4	AL	Mobile	Mobile Water Service System.	279,000	.....	.....	.....	40.0	.....	.....	.....
AL0001070	90"1209	4	AL	Montgomery.	Water Works/Sanitary Sewer Bd.	195,000	200,000	0	200,000	33.5	30.0	0.0	30.0
AL0001313	90"1211	4	AL	Tuscaloosa.	City of Tuscaloosa	107,655	80,000	46,000	126,000	17.4	20.0	0.0	20.0
FL4500130	90"1635	4	FL	Boca Raton.	City of Boca Raton	107,284	109,042	0	109,042	40.0	43.8	0.0	43.8
FL6411132	90"1637	4	FL	Bradenton.	Manatee County Public Works.	187,501	130,000	120,000	250,000	27.3	33.0	0.0	33.0
FL6521405	90"1639	4	FL	Clearwater.	Pinellas County Water System.	374,078	353,167	148,408	501,575	35.1	35.6	37.5	73.1
FL3050223	.....	4	FL	Cocoa	Cocoa, City Of	177,324	.....	.....	.....	5.7	.....	.....	.....
FL4060486	.....	4	FL	Ft Lauderdale.	Fort Lauderdale, City Of.	235,001	.....	.....	.....	52.0	.....	.....	.....
FL2010946	.....	4	FL	Gainesville.	Gainesville (Murphee Wtp).	135,000	.....	.....	.....	#N/A	.....	.....	.....
FL4130604	.....	4	FL	Hialeah	Hialeah, City Of	142,000	.....	.....	.....	0.1	.....	.....	.....
FL4060642	.....	4	FL	Hollywood.	Hollywood, City Of	142,705	.....	.....	.....	17.0	.....	.....	.....
FL2161327	90"1022	4	FL	Jacksonville.	City of Jacksonville	406,635	415,000	0	415,000	41.7	66.5	0.0	66.5
EPA Region—4													
FL4134357	90"1024	4	FL	Key West	Florida Keys Aqueduct Auth.	80,500	110,000	0	110,000	6.0	11.5	0.0	11.5

APPENDIX B–1.—CLASSIFICATION OF CANDIDATE SYSTEMS USING GROUND OR SURFACE WATER WHICH MAY BE SUBJECT TO REQUIREMENTS PERTAINING TO SYSTEMS SERVING 100,000 OR MORE PEOPLE—Continued

PWS–ID	WIDB I.D.	Region	State	City	Utility	FRDS retail pop.	WIDB Population served			FRDS Avg. day prod. (MGD)	WIDB Avg. day flow (MGD)		
							Retail	Wholesale	Total		Prod.	Purch.	Total
FL3484093	.....	4	FL	Lake Buena Vista.	Wdw-Central	136,500	.....	.....	.....	#N/A	.....	.....	.....
FL6531014	90*1025	4	FL	Lakeland	City of Lakeland	133,000	116,345	0	116,345	17.7	24.5	0.0	24.5
FL3051447	.....	4	FL	Melbourne.	Melbourne, City of	149,986	.....	.....	.....	9.4	.....	.....	.....
FL4130871	90*1029	4	FL	Miami	Miami-Dade Water & Sewer Auth.	1,705,156	1,000,000	500,000	1,500,000	#N/A	292.6	7.4	300.0
FL6511361	90*1663	4	FL	New Port Richey.	Pasco County	99,548	120,000	40,000	160,000	#N/A	11.0	0.0	11.0
FL4131618	.....	4	FL	North Miami Beach.	North Miami Beach	160,000	.....	.....	.....	15.0	.....	.....	.....
FL3480962	90*1033	4	FL	Orlando	Orlando Utilities Commission.	356,041	390,000	5,000	395,000	#N/A	73.2	0.0	73.2
FL1170525	90*1036	4	FL	Pensacola.	Escambia County Utilities Auth.	269,545	220,000	10,000	230,000	0.3	31.0	0.0	31.0
FL4060162	90*1037	4	FL	Pompano Beach.	Broward County	#N/A	173,888	32,324	206,212	#N/A	28.0	3.0	31.0
FL6521715	90*1042	4	FL	St. Petersburg.	City of St. Petersburg.	277,655	306,366	20,843	327,209	31.7	28.6	10.0	38.6
FL1370655	90*1043	4	FL	Tallahassee.	City of Tallahassee	162,750	152,000	0	152,000	25.2	23.4	0.0	23.4
FL6290327	90*1045	4	FL	Tampa	Tampa Water Department.	471,000	460,000	0	460,000	50.0	75.7	0.0	75.7
FL6290787	.....	4	FL	Tampa	Hcpud/South Central.	134,741	.....	.....	.....	#N/A	.....	.....	.....
FL4501047	90*1047	4	FL	West Palm Beach.	Palm Beach County	#N/A	210,000	0	210,000	#NA	26.3	0.0	26.3
GA0950000	90*1050	4	GA	Albany	Water, Gas & Light Commission.	85,000	90,000	10,000	100,000	#NA	19.1	0.0	19.1
GA1210001	90*1052	4	GA	Atlanta	City of Atlanta, Bureau of Wtr.	649,836	700,000	200,000	900,000	#NA	109.3	0.0	109.3
GA1350004	90*1057	4	GA	Buford	Gwinnett County	296,281	307,530	100,130	407,660	#NA	48.0	0.0	48.0
GA2150000	90*1054	4	GA	Columbus	Columbus Water Works.	175,000	185,000	250	185,250	#NA	32.0	0.0	32.0
GA0210001	90*1058	4	GA	Macon	Macon Water Authority.	143,810	160,000	0	160,000	#NA	27.0	0.0	27.0
GA0670002	90*1060	4	GA	Marietta	Cobb Co Marietta Water Auth.	425,000	0	494,500	494,500	#NA	73.0	0.0	73.0
GA0630000	90*1061	4	GA	Morrow	Clayton County Water Auth.	164,081	151,100	28,700	179,800	#NA	16.3	0.0	16.3
GA0510003	90*1062	4	GA	Savannah	City of Savannah	150,558	200,000	0	200,000	#NA	64.5	0.0	64.5
GA0890001	90*1064	4	GA	Stone Mountain.	DeKalb County Public Works.	553,277	550,000	0	550,000	#NA	75.5	0.0	75.5
KY0590220	90*1122	4	KY	Edgewood.	Kenton County Water Dist No. 1.	115,500	112,000	63,000	175,000	6.6	17.0	7.0	24.0
KY0340250	90*1124	4	KY	Lexington	KY-American Water Co.	248,289	228,000	7,000	235,000	27.1	36.9	0.0	36.9
KY0560258	90*1125	4	KY	Louisville	Louisville Water Company.	718,182	695,000	37,500	732,500	121.2	113.5	0.0	113.5
MS0250008	90*1230	4	MS	Jackson	City of Jackson Water Works.	205,895	250,000	0	250,000	28.0	35.0	0.0	35.0
					EPA Region—4								
NC0111010	.....	4	NC	Asheville	Asheville Wtr Trtmt Fac.	110,000	.....	.....	.....	21.0	.....	.....	.....
NC0160010	90*1240	4	NC	Charlotte	Charlotte-Mecklenburg Utils.	400,000	450,000	0	450,000	61.8	61.9	0.0	61.9
NC0332010	90*1242	4	NC	Durham	City of Durham	150,000	155,000	42,000	197,000	22.0	22.1	0.0	22.1
NC0326010	90*1244	4	NC	Fayetteville.	Fayetteville Public Works Comm.	125,000	110,000	10,000	120,000	18.6	18.4	0.0	18.4
NC0241010	90*1248	4	NC	Greensboro.	City of Greensboro	207,680	210,000	0	210,000	36.0	30.0	0.0	30.0
NC0229025	90*1254	4	NC	Lexington	Davidson Water Inc	91,003	99,000	6,000	105,000	6.5	6.0	0.0	6.0
NC0392010	90*1256	4	NC	Raleigh	City of Raleigh	222,455	230,000	50,000	280,000	32.6	40.0	0.0	40.0
NC0234010	90*1258	4	NC	Winston-Salem.	Winston-Salem Utility Comm.	205,000	190,000	10,000	200,000	32.0	39.6	0.0	39.6
SC1010001	90*1475	4	SC	Charleston.	Charleston Comm of Pub Works.	#N/A	350,000	50,000	400,000	#N/A	50.0	0.0	50.0
SC4010001	90*1476	4	SC	Columbia	City of Columbia	#N/A	250,000	0	250,000	#N/A	47.0	0.0	47.0

APPENDIX B–1.—CLASSIFICATION OF CANDIDATE SYSTEMS USING GROUND OR SURFACE WATER WHICH MAY BE SUBJECT TO REQUIREMENTS PERTAINING TO SYSTEMS SERVING 100,000 OR MORE PEOPLE—Continued

PWS–ID	WIDB I.D.	Region	State	City	Utility	FRDS retail pop.	WIDB Population served			FRDS Avg. day prod. (MGD)	WIDB Avg. day flow (MGD)		
							Retail	Wholesale	Total		Prod.	Purch.	Total
SC2310001	90*1477	4	SC	Greenville	Greenville Water System.	#N/A	300,000	6,000	306,000	#N/A	49.0	0.0	49.0
SC4210001	90*1478	4	SC	Spartanburg.	Spartanburg Water System.	#N/A	102,000	78,000	180,000	#N/A	31.0	0.0	31.0
TN0000107	90*1481	4	TN	Chattanooga.	TN-American Water Co.	149,467	200,000	8,000	208,000	35.5	38.9	0.0	38.9
TN0000368	90*1486	4	TN	Knoxville	Knoxville Utilities Board.	168,405	225,000	1,200	226,200	31.6	32.0	0.0	32.0
TN0000450	90*1487	4	TN	Memphis	Memphis Light, Gas & Water Div.	703,727	800,000	100,000	900,000	146.3	137.3	0.0	137.3
TN0000494	90*1488	4	TN	Nashville	City of Nashville	690,000	288,452	0	288,452	91.9	85.9	0.0	85.9
EPA Region—5													
IL1974151 ..	91*3278	5	IL	Addison ..	Citizens Utils Co of Illinois.	#N/A	100,000	0	100,000	#N/A	6.6	0.5	7.1
IL0195300 ..	90*1082	5	IL	Champaign.	Northern Illinois Water Corp.	121,200	110,000	1,000	111,000	15.0	18.2	0.0	18.2
IL0316000 ..	90*1083	5	IL	Chicago	City of Chicago, Dept of Water.	3,000,000	3,009,530	1,533,979	4,543,509	780.0	1,043.0	0.0	1,043.0
IL1635040 ..	90*1673	5	IL	East St. Louis.	IL-American Water Co.	139,200	350,000	0	350,000	54.7	40.8	0.0	40.8
IL0915030 ..	90*1091	5	IL	Kankakee	Consumers Illinois Water Co.	55,000	70,000	50,000	120,000	10.4	11.5	0.5	12.0
IL1435030 ..	90*1674	5	IL	Peoria	IL-American Water Co.	158,564	143,214	2,240	145,454	19.4	19.6	0.0	19.6
IL2010300 ..	90*1098	5	IL	Rockford	City of Rockford Water Dept.	139,700	132,500	0	132,500	27.4	27.5	0.0	27.5
IL1671200 ..	90*1101	5	IL	Springfield.	City Water, Light & Power.	126,600	130,000	15,000	145,000	21.0	21.0	0.0	21.0
IN5253002 .	90*1105	5	IN	Bloomington.	City of Bloomington Utilities.	51,870	83,000	50,000	133,000	10.0	13.8	0.0	13.8
IN5282002 .	.....	5	IN	Evansville	Evansville Water Dept.	129,670	.....	.....	.....	25.0	.....	.....	.....
IN5202020 .	90*1107	5	IN	Fort Wayne.	Fort Wayne Water Department.	180,000	210,000	16,000	226,000	29.2	32.0	0.0	32.0
IN5245015 .	90*1108	5	IN	Gary	Gary-Hobart Water Corp.	230,000	200,000	63,000	263,000	31.0	34.8	0.0	34.8
IN5249004 .	90*1110	5	IN	Indianapolis.	Indianapolis Water Company.	678,000	732,000	5,000	737,000	95.0	120.0	0.0	120.0
IN5271014 .	90*1115	5	IN	South Bend.	South Bend City Water Works.	108,170	120,000	4,000	124,000	0.0	24.0	0.0	24.0
EPA Region—5													
MI0000220 .	90*1176	5	MI	Ann Arbor.	Ann Arbor Utilities Dept.	109,592	117,000	1,500	118,500	#N/A	16.4	0.0	16.4
MI0001800 .	.....	5	MI	Detroit	Detroit	1,027,974	.....	.....	.....	#N/A	.....	.....	.....
MI0002790 .	90*1182	5	MI	Grand Rapids.	City of Grand Rapids.	197,649	220,000	40,000	260,000	#N/A	47.6	0.0	47.6
MI0003520 .	90*1183	5	MI	Kalamazoo.	Kalamazoo Public Utilities.	79,722	120,000	0	120,000	#N/A	19.0	0.0	19.0
MI0003760 .	90*1184	5	MI	Lansing ..	Lansing Board of Water & Light.	131,546	142,000	0	142,000	#N/A	21.0	0.0	21.0
MI0003930 .	.....	5	MI	Livonia ...	Livonia	100,850	.....	.....	.....	#N/A	.....	.....	.....
MI0005850 .	90*1193	5	MI	Saginaw .	Saginaw Water Treatment Plant.	69,512	190,000	0	190,000	#N/A	30.0	0.0	30.0
MI0006385 .	.....	5	MI	Sterling Heights.	Sterling Heights	117,810	.....	.....	.....	#N/A	.....	.....	.....
MI0006900 .	.....	5	MI	Warren ...	Warren	144,864	.....	.....	.....	#N/A	.....	.....	.....
MI0007220 .	90*1201	5	MI	Wyoming	Wyoming Utilities Dept.	63,891	63,000	154,830	217,830	#N/A	27.2	0.0	27.2
MN1270024	.....	5	MN	Minneapolis.	Minneapolis Water Supply.	473,073	.....	.....	.....	66.2	.....	.....	.....
MN1620026	90*1210	5	MN	Saint Paul.	Saint Paul Water Utility.	385,000	328,500	54,000	382,500	53.8	55.0	0.0	55.0
OH7700011	90*1397	5	OH	Akron	City of Akron	223,019	245,000	105,000	350,000	43.0	46.0	0.0	46.0
OH3100411	90*1400	5	OH	Cincinnati	Cincinnati Water Works.	669,500	762,000	41,000	803,000	127.0	135.8	0.0	135.8
OH1800311	90*1401	5	OH	Cleveland	City of Cleveland ...	567,680	1,500,000	165,000	1,665,000	93.4	300.0	0.0	300.0
OH2500411	90*1403	5	OH	Columbus	City of Columbus ...	201,840	715,000	82,000	797,000	28.8	124.0	0.0	124.0
OH5700722	90*1405	5	OH	Dayton ...	City of Dayton, Dept of Water.	115,000	180,000	220,000	400,000	46.3	82.7	0.0	82.7
OH0901022	90*1694	5	OH	Hamilton	City of Hamilton	50,400	64,000	55,000	119,000	14.7	15.7	0.0	15.7

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PWS–ID	WIDB I.D.	Region	State	City	Utility	FRDS retail pop.	WIDB Population served			FRDS Avg. day prod. (MGD)	WIDB Avg. day flow (MGD)		
							Retail	Wholesale	Total		Prod.	Purch.	Total
OH4801411	90*1416	5	OH	Toledo	Toledo Water Treatment Plant.	388,000	391,000	63,000	454,000	63.9	84.3	0.0	84.3
WI1130224	90*1585	5	WI	Madison .	Madison Water Utility.	191,262	190,000	5,000	195,000	#N/A	32.9	0.0	32.9
WI2410100	90*1586	5	WI	Milwaukee.	City of Milwaukee Water Works.	709,537	661,000	162,000	823,000	#N/A	147.7	0.0	147.7
WI2520062	90*1588	5	WI	Racine ...	Racine Water Utility	93,400	115,000	10,000	125,000	#N/A	26.4	0.0	26.4
					EPA Region—6								
AR00004 65	90*1215	6	AR	Little Rock.	Little Rock Munic Water Works.	194,629	210,000	128,770	338,770	#N/A	54.6	0.0	54.6
LA103300 5	90*1129	6	LA	Baton Rouge.	The Baton Rouge Water Co.	340,896	350,000	0	350,000	34.5	43.0	0.0	43.0
LA105100 1	90*1135	6	LA	Harahan .	Jefferson Parish Water Dept.	308,362	468,509	0	468,509	36.5	76.3	0.0	76.3
LA105501 7	90*1136	6	LA	Lafayette	Lafayette Utilities ...	115,000	110,000	4,000	114,000	10.0	16.5	0.0	16.5
LA107100 1	90*1140	6	LA	New Orleans.	New Orleans Water/Sewer Board.	56,707	550,000	0	550,000	8.5	115.0	0.0	115.0
LA107100 9	.....	6	LA	New Orleans.	New Orleans—Carrolton Ww.	440,229	.....	.....	.....	125.0	.....	.....	.....
LA101703 1	.....	6	LA	Shreveport.	Shreveport Water System.	210,000	.....	.....	.....	29.5	.....	.....	.....
NM35107 01.	.....	6	NM	Albuquerque.	Albuquerque Water System.	417,279	.....	.....	.....	110.0	.....	.....	.....
OK10113 03	.....	6	OK	Lawton ...	Lawton	110,880	.....	.....	.....	#N/A	.....	.....	.....
OK10208 02	90*1423	6	OK	Oklahoma City.	City of Oklahoma City.	276,000	540,000	60,000	600,000	#N/A	74.8	0.0	74.8
OK10204 18	90*1424	6	OK	Tulsa	City of Tulsa	160,000	360,000	24,000	384,000	#N/A	90.0	2.0	92.0
TX221000 1	90*1489	6	TX	Abilene ...	City of Abilene Water Utils.	106,400	108,386	12,850	121,236	18.9	21.7	0.0	21.7
TX188000 1	.....	6	TX	Amarillo ..	Amarillo Municipal Water System.	159,000	.....	.....	.....	35.5	.....	.....	.....
TX220000 1	90*1491	6	TX	Arlington	Arlington Water Utilities.	266,212	254,100	14,450	268,550	39.7	40.7	0.0	40.7
TX227000 1	90*1492	6	TX	Austin	City of Austin	474,715	459,000	75,000	534,000	104.5	100.0	0.0	100.0
TX123000 1	.....	6	TX	Beaumont.	Beaumont City of—Water Util Dept.	114,000	.....	.....	.....	18.5	.....	.....	.....
TX031000 1	90*1496	6	TX	Brownsville.	Brownsville Public Util Board.	98,000	91,111	11,049	102,160	17.7	17.4	0.0	17.4
TX178000 3	90*1499	6	TX	Corpus Christi.	City of Corpus Christi.	274,476	275,000	150,000	425,000	88.3	77.7	0.0	77.7
TX057000 4	90*1500	6	TX	Dallas	Dallas Water Utilities.	974,000	960,850	556,000	1,516,850	306.0	337.9	7.2	345.1
TX071000 2	.....	6	TX	El Paso ..	El Paso Water Utilities-Pub Serv B.	620,000	.....	.....	.....	101.5	.....	.....	.....
TX220001 2	90*1503	6	TX	Ft. Worth	Fort Worth Water Department.	477,000	450,000	200,000	650,000	90.5	131.6	0.0	131.6
TX057001 0	.....	6	TX	Garland ..	Garland City of	182,861	.....	.....	.....	36.0	.....	.....	.....
TX101001 3	90*1508	6	TX	Houston .	City of Houston	#N/A	825,313	135,467	960,780	#N/A	315.7	0.0	315.7
	90*1510	6	TX	Killeen	Bell County WCID #1.	#N/A	350	170,000	170,350	#N/A	20.2	0.0	20.2
TX240000 1	90*1512	6	TX	Laredo ...	City of Laredo	127,544	110,000	10,000	120,000	23.0	23.0	0.0	23.0
TX152000 2	90*1514	6	TX	Lubbock .	City of Lubbock Water Utils.	186,200	190,000	1,515	191,515	35.5	36.0	0.0	36.0
TX165000 1	90*1517	6	TX	Midland ..	City of Midland Utilities.	89,443	100,00	0	100,000	19.5	19.5	0.0	19.5
TX068000 2	90*1519	6	TX	Odessa ..	City of Odessa	100,108	100,000	0	100,000	20.1	10.8	8.6	19.4
TX101029 3	.....	6	TX	Pasadena	Pasadena City of ...	117,000	.....	.....	.....	14.0	.....	.....	.....
TX043000 7	.....	6	TX	Plano	Plano City of	140,000	.....	.....	.....	27.4	.....	.....	.....
TX015001 8	90*1526	6	TX	San Antonio.	San Antonio Water System.	925,910	881,782	23,700	905,482	159.6	169.8	0.0	169.8
TX155000 8	.....	6	TX	Waco	Waco City of	107,450	.....	.....	.....	21.2	.....	.....	.....
TX243000 1	90*1533	6	TX	Wichita Falls.	City of Wichita Falls	96,250	92,000	30,000	122,000	21.3	22.0	0.0	22.0
TX043004 4	90*1534	6	TX	Wylie	North Texas Munic Water Dist.	582	0	800,000	800,000	118.3	125.0	0.0	125.0

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PWS–ID	WIDB I.D.	Region	State	City	Utility	FRDS retail pop.	WIDB Population served			FRDS Avg. day prod. (MGD)	WIDB Avg. day flow (MGD)		
							Retail	Wholesale	Total		Prod.	Purch.	Total
EPA Region—7													
IA5715093	90*1068	7	IA	Cedar Rapids.	Cedar Rapids Water Dept.	110,243	110,000	0	110,000	N/A	26.0	0.0	26.0
IA8222001	90*1070	7	IA	Davenport.	IA-American Water Co.	139,850	170,000	0	170,000	N/A	22.9	0.0	22.9
IA7727031	90*1071	7	IA	Des Moines.	Des Moines Water Works.	193,187	208,000	52,000	260,000	N/A	40.0	0.0	40.0
KS2020906	90*1116	7	KS	Kansas City.	Board of Public Utilities.	149,767	168,000	300	168,300	32.0	31.9	0.0	31.9
KS2009110	90*1118	7	KS	Mission	Water Dist No. 1 Johnson Cnty.	225,300	261,000	82,000	343,000	22.4	47.6	0.3	47.9
KS2017701	90*1120	7	KS	Topeka	City of Topeka Water Div.	119,883	130,000	20,000	150,000	21.0	24.0	0.0	24.0
KS2017308	90*1121	7	KS	Wichita	City of Wichita	308,058	300,000	50,000	350,000	33.9	50.0	0.0	50.0
MO1010399	90*1218	7	MO	Independence.	City of Independence.	125,000	115,000	130,510	245,510	10.2	22.7	0.0	22.7
MO1010415	90*1220	7	MO	Kansas City.	Kansas City Water Dept.	450,000	460,000	140,000	600,000	84.9	105.0	0.0	105.0
MO5010754	90*1222	7	MO	Springfield.	City Utilities of Springfield.	149,237	162,422	0	162,422	22.5	22.1	0.0	22.1
MO6010716	90*1224	7	MO	St. Louis	St. Louis Cty Water Co.	1,000,000	901,411	129,134	1,030,545	121.7	170.2	0.0	170.2
MO6010715	90*1226	7	MO	St. Louis	City of St. Louis	437,500	450,000	60,000	510,000	152.0	160.0	0.0	160.0
NE3110926	90*1264	7	NE	Lincoln	Lincoln Water System.	192,500	189,600	0	189,600	32.1	35.6	0.0	35.60
NE3105507	90*1266	7	NE	Omaha	Metropolitan Utils Dist.	450,000	400,000	50,000	450,000	75.0	96.9	0.0	96.9
EPA Region—8													
CO0103005	90*1609	8	CO	Aurora	City of Aurora	225,000	230,000	0	230,000	N/A	38.7	0.0	38.7
CO0107152	90*1610	8	CO	Boulder	City of Boulder	105,000	100,600	0	100,600	N/A	18.6	0.0	18.6
CO0121150	90*1611	8	CO	Colorado Springs.	City of Colorado Springs.	320,000	292,000	12,000	304,000	N/A	65.0	0.0	65.0
CO0116001	90*1612	8	CO	Denver	Denver Water Dept	1,000,000	704,000	300,000	1,004,000	N/A	215.1	0.0	215.1
CO0151500	90*1617	8	CO	Pueblo	Board of Water Works of Pueblo.	100,000	106,000	0	106,000	N/A	23.0	0.0	23.0
SD4600294	90*1480	8	SD	Sioux Falls.	Sioux Falls Utils—Water Dept.	100,814	100,000	2,500	102,500	N/A	17.2	0.0	17.2
UT4900512	90*1535	8	UT	Layton	Weber Basin Wtr Conserv Dist.	95,000	0	200,000	200,000	N/A	31.4	0.0	31.4
UT4900392	90*1540	8	UT	Salt Lake City.	Metro Wtr Dist Salt Lake City.	700,000	0	700,000	700,000	N/A	43.0	0.0	43.0
UT4900390	90*1541	8	UT	Salt Lake City.	Salt Lake City Public Utils.	285,258	286,740	0	286,740	N/A	89.0	0.0	89.0
UT4900391	90*1543	8	UT	West Jordan.	Salt Lake Co Wtr Conserv Dist.	400,000	72,000	378,000	450,000	N/A	45.2	6.6	51.8
EPA Region—9													
AZ0407090	.....	9	AZ	Chandler	Chandler, Munic Wtr Dept.	104,004	.....	.....	.....	4.7	.....	.....	.....
AZ0407093	90*1221	9	AZ	Glendale	City of Glendale	131,000	146,000	0	146,000	22.0	27.0	0.0	27.0
AZ0407095	.....	9	AZ	Mesa	Mesa, Munic Water Dept.	220,000	.....	.....	.....	48.5	.....	.....	.....
AZ0407025	90*1227	9	AZ	Phoenix	City of Phoenix	907,930	985,000	200,000	1,185,000	193.0	302.7	0.3	303.0
AZ0407098	90*1233	9	AZ	Scottsdale.	City of Scottsdale	140,000	118,000	0	118,000	11.8	28.9	14.3	43.2
AZ0407100	90*1235	9	AZ	Tempe	City of Tempe	145,000	145,000	0	145,000	33.8	36.0	0.0	36.0
AZ0410112	90*1237	9	AZ	Tucson	Tucson Water	478,641	555,467	0	555,467	55.6	88.2	0.0	88.2
CA3010001	90*1243	9	CA	Anaheim	City of Anaheim	273,600	246,000	0	246,000	#N/A	44.0	20.0	64.0
	90*1839	9	CA	Bakersfield.	California Water Service Co.	#N/A	175,000	0	175,000	#N/A	40.0	14.7	54.7
CA1510040	.....	9	CA	Bakersfield.	Kern County Water Agency.	189,000	.....	.....	.....	#N/A	.....	.....	.....
CA1910041	.....	9	CA	Claremont.	Three Valleys Mwd	535,000	.....	.....	.....	#N/A	.....	.....	.....
CA3310001	90*1255	9	CA	Coachella	Coachella Valley Water Dist.	155,655	200,000	0	200,000	#N/A	56.0	0.0	56.0
CA0710003	90*1259	9	CA	Concord	Contra Costa Water District.	225,000	195,000	0	195,000	#N/A	34.6	0.0	34.6
CA3310037	90*1646	9	CA	Corona	City of Corona Util Svcs Dept.	100,000	70,000	0	70,000	#N/A	21.1	0.0	21.1
CA2110002	90*1261	9	CA	Corte Madera.	Marin Municipal Water Dist.	170,000	168,000	0	168,000	#N/A	25.0	4.0	29.0

APPENDIX B–1.—CLASSIFICATION OF CANDIDATE SYSTEMS USING GROUND OR SURFACE WATER WHICH MAY BE SUBJECT TO REQUIREMENTS PERTAINING TO SYSTEMS SERVING 100,000 OR MORE PEOPLE—Continued

PWS–ID	WIDB I.D.	Region	State	City	Utility	FRDS retail pop.	WIDB Population served			FRDS Avg. day prod. (MGD)	WIDB Avg. day flow (MGD)		
							Retail	Wholesale	Total		Prod.	Purch.	Total
CA3610018	90*1265	9	CA	Cucamonga.	Cucamonga County Water Dist.	125,000	110,000	0	110,000	#N/A	28.9	0.0	28.9
CA1910039	90*1271	9	CA	El Monte	San Gabriel Valley Water Co.	146,514	155,555	0	155,555	#N/A	40.9	0.1	41.0
CA3710006	90*1273	9	CA	Escondido.	City of Escondido ..	107,000	65,000	25,000	90,000	#N/A	30.0	15.0	45.0
	90*1281	9	CA	Fountain Valley.	Orange County Water District.	#N/A	0	1,800,000	1,800,000	#N/A	15.0	0.0	15.0
CA0110001	90*1283	9	CA	Fremont .	Alameda County Water Dist.	275,000	255,000	0	255,000	#N/A	30.4	9.8	40.2
CA1010007	90*1285	9	CA	Fresno ...	City of Fresno	390,350	360,765	0	360,765	#N/A	89.9	0.0	89.9
CA3010010	90*1287	9	CA	Fullerton .	City of Fullerton	115,563	111,000	0	111,000	#N/A	18.7	12.3	31.0
CA3010062	90*1289	9	CA	Garden Grove.	City of Garden Grove.	131,500	134,144	0	134,144	#N/A	17.5	7.5	25.0
CA3010053	90*1299	9	CA	Huntington Beach.	City of Huntington Beach.	185,000	198,000	0	198,000	#N/A	26.0	7.0	33.0
CA3710010	90*1305	9	CA	LaMesa ..	Helix Water District	229,969	226,000	40,700	266,700	#N/A	41.0	5.5	46.5
CA1910174	90*1649	9	CA	LaPuente	Suburban Water Systems.	51,255	200,000	0	200,000	#N/A	38.8	10.3	49.1
CA1910065	90*1313	9	CA	Long Beach.	Long Beach Water Department.	425,000	416,000	0	416,000	#N/A	24.1	43.4	67.5
	90*1317	9	CA	Los Angeles.	Metro Water Dist of So Calif.	#N/A	0	14,700,000	14,700,000	#N/A	1,665.0	0.0	1,665.0
CA1910067	90*1315	9	CA	Los Angeles.	City of Los Angeles	3,400,000	3,427,000	0	3,427,000	#N/A	413.8	207.3	621.1
CA5010010	90*1321	9	CA	Modesto .	City of Modesto	126,333	100,000	0	100,000	#N/A	45.0	0.0	45.0
CA5010038	.....	9	CA	Modesto .	Modesto Irrigation District.	200,000	.....	.....	.....	#N/A	.....	.....	.....
CA2710004	90*1652	9	CA	Monterey	CA-American Water Co.	114,441	103,000	0	103,000	#N/A	15.5	0.0	15.5
CA1910048	.....	9	CA	Newhall ..	Castaic Lake Water Agency.	150,000	.....	.....	.....	#N/A	.....	.....	.....
CA0110005	90*1337	9	CA	Oakland .	East Bay Munic Utility Dist.	1,300,000	1,100,000	0	1,100,000	#N/A	213.0	0.0	213.0
CA3710014	.....	9	CA	Oceanside.	Oceanside—City of	135,000	.....	.....	.....	#N/A	.....	.....	.....
CA3610034	.....	9	CA	Ontario ...	Ontario—City of	135,000	.....	.....	.....	#N/A	.....	.....	.....
CA3010027	90*1343	9	CA	Orange ...	City of Orange Water Dept.	113,700	110,000	0	110,000	#N/A	18.9	8.1	27.0
CA3310005	90*1347	9	CA	Palm Springs.	Desert Water Agency.	63,010	125,000	0	125,000	#N/A	6.5	0.0	6.5
CA1910124	90*1351	9	CA	Pasadena	Pasadena Water & Power Dept.	154,675	158,366	0	158,366	#N/A	10.1	24.6	34.7
CA0110010	.....	9	CA	Pleasanton.	Zone 7 Water Agency.	140,000	.....	.....	.....	#N/A	.....	.....	.....
CA1910126	90*1353	9	CA	Pomona	City of Pomona Water Dept.	120,000	119,800	0	119,800	#N/A	25.3	0.0	25.3
CA3610094	.....	9	CA	Rancho Cucamonga.	Chino Basin Mwd ..	300,000	.....	.....	.....	#N/A	.....	.....	.....
CA1910134	.....	9	CA	Redondo Beach.	Cal. Water Service Co.-Hermosa/Redondo.	118,200	.....	.....	.....	#N/A	.....	.....	.....
CA3310031	90*1359	9	CA	Riverside	City of Riverside	245,000	203,000	3,000	206,000	#N/A	52.7	0.0	52.7
CA3410021	90*4586	9	CA	Roseville	San Juan Suburban, Water Dist.	#N/A	16,500	200,000	216,500	#N/A	49.0	0.0	49.0
CA3410020	90*1363	9	CA	Sacramento.	City of Sacramento	374,600	347,000	0	347,000	#N/A	102.0	0.0	102.0
.....	90*1832	9	CA	Salinas ...	California Water Service Co.	#N/A	100,000	0	100,000	#N/A	12.0	0.0	12.0
CA3610039	.....	9	CA	San Bernardino.	San Bernardino City.	129,317	.....	.....	.....	#N/A	.....	.....	.....
CA3710020	90*1367	9	CA	San Diego.	City of San Diego ..	1,200,000	1,000,000	0	1,000,000	#N/A	192.4	25.3	217.7
CA1910155	.....	9	CA	San Dimas.	So. Cal. Water Co.-Southwest.	178,512	.....	.....	.....	#N/A	.....	.....	.....
CA3810001	90*1369	9	CA	San Francisco.	San Francisco Water Dept.	648,000	732,000	1,305,000	2,037,000	#N/A	281.0	0.0	281.0
CA3310009	.....	9	CA	San Jacinto.	Eastern Mwd-San Jacinto.	24,664	.....	.....	.....	#N/A	.....	.....	.....
CA4310027	90*1381	9	CA	San Jose	Santa Clara Valley Water Dist.	750,000	0	1,400,000	1,400,000	#N/A	82.4	0.0	82.4

APPENDIX B–1.—CLASSIFICATION OF CANDIDATE SYSTEMS USING GROUND OR SURFACE WATER WHICH MAY BE SUBJECT TO REQUIREMENTS PERTAINING TO SYSTEMS SERVING 100,000 OR MORE PEOPLE—Continued

PWS–ID	WIDB I.D.	Region	State	City	Utility	FRDS retail pop.	WIDB Population served			FRDS Avg. day prod. (MGD)	WIDB Avg. day flow (MGD)		
							Retail	Wholesale	Total		Prod.	Purch.	Total
CA4310011	90*1379	9	CA	San Jose	San Jose Water Company.	755,000	745,000	0	745,000	#N/A	76.0	59.0	135.0
CA3910001	.....	9	CA	San Jose	California Water Service—Stockton.	166,100	.....	.....	.....	#N/A	.....	.....	.....
CA4110008	.....	9	CA	San Mateo.	California Water Service.	109,000	.....	.....	.....	#N/A	.....	.....	.....
EPA Region—9													
CA3010038	90*1385	9	CA	Santa Ana.	City of Santa Ana ..	293,742	225,000	0	225,000	#N/A	26.5	18.5	45.0
CA4210010	90*1001	9	CA	Santa Barbara.	City of Santa Barbara.	90,000	80,000	25,000	105,000	#N/A	21.7	0.0	21.7
CA5610046	.....	9	CA	Santa Paula.	United Wtr Conserv Dist.	165,000	.....	.....	.....	#N/A	.....	.....	.....
CA4910020	.....	9	CA	Santa Rosa.	Sonoma County Water Agency.	400,000	.....	.....	.....	#N/A	.....	.....	.....
CA3910006	.....	9	CA	Stockton .	Stockton East Water District.	225,000	.....	.....	.....	#N/A	.....	.....	.....
CA4310014	.....	9	CA	Sunnyvale.	City of Sunnyvale ..	120,000	.....	.....	.....	#N/A	.....	.....	.....
CA5610050	.....	9	CA	Thousand Oaks.	Calleguas Municipal Wtr Dist.	475,000	.....	.....	.....	#N/A	.....	.....	.....
CA3610006	.....	9	CA	Upland ...	Water Facilities Authority-Jpa.	338,660	.....	.....	.....	#N/A	.....	.....	.....
CA4810007	.....	9	CA	Vallejo	City of Vallejo	121,600	.....	.....	.....	#N/A.	.....	.....	.....
HI0000331 .	90*1066	9	HI	Honolulu	Honolulu Board of Water Supply.	645,741	735,860	0	735,860	74.3	148.0	1.0	149.0
HI0000335 .	.....	9	HI	Waianae, Oahu.	Waipahu-Ewa-Waianae.	122,166	.....	.....	.....	4.7	.....	.....	.....
NV0000289	90*1692	9	NV	Boulder City.	Southern Nevada Water System.	500,000	0	650,000	650,000	125.0	222.0	0.0	222.0
NV0000090	90*1334	9	NV	Las Vegas.	Las Vegas Valley Water Dist.	500,000	570,400	0	570,400	12.7	34.0	139.0	173.0
NV0000190	90*1338	9	NV	Sparks ...	Westpac Utilities	132,000	155,000	20,000	175,000	37.7	52.0	2.2	54.2
EPA Region—10													
AK0221090	90*1445	10	AK	Anchorage.	Anchorage Water & Wastewater.	#N/A	180,000	0	180,000	#N/A	24.0	0.0	24.0
ID4010016 .	90*1076	10	ID	Boise	Boise Water Corporation.	144,000	126,000	0	126,000	23.0	31.3	0.0	31.3
OR4100287	90*1426	10	OR	Eugene ..	Eugene Water & Electric Board.	135,000	100,000	50,000	150,000	#N/A	28.0	0.0	28.0
OR4100657	90*1429	10	OR	Portland .	Portland Bureau of Water Works.	402,000	390,000	330,000	720,000	#N/A	120.0	0.0	120.0
OR4100731	.....	10	OR	Salem	Salem Public Works.	116,000	.....	.....	.....	#N/A	.....	.....	.....
WA5377050	90*1575	10	WA	Seattle ...	Seattle Water Dept	572,000	546,000	585,000	1,131,000	179.4	165.0	0.0	165.0
WA5383100	90*1576	10	WA	Spokane	City of Spokane	182,000	175,000	3,000	178,000	62.3	67.0	0.0	67.0
WA5386800	90*1578	10	WA	Tacoma ..	Tacoma Water Division.	262,500	213,500	5,000	218,500	76.3	80.5	0.0	80.5
WA5391200	.....	10	WA	Vancouver.	Vancouver, City Of	103,896	.....	.....	.....	20.4	.....	.....	.....

APPENDIX B–2.—CLASSIFICATION OF CANDIDATE SYSTEMS USING SURFACE WATER WHICH MAY BE SUBJECT TO REQUIREMENTS PERTAINING TO SYSTEMS SERVING BETWEEN 10,000–100,000 PEOPLE

[By Region, State, Public Water System ID #, Name of Utility, City, and Population]

Reg.	St.	PWS ID	Name	City	Population
1	CT	CT0020021	BIRMINGHAM UTILITIES, INC.	ANSONIA	32000
1	CT	CT0170011	BRISTOL WATER DEPT	BRISTOL	52328
1	CT	CT0473011	CONNECTICUT WATER CO., WESTERN SYSTEM	WAREHOUSE POINT	62000
1	CT	CT0350011	CT–AM WATER CO NOROTON DISTRICT	DARIEN	24967
1	CT	CT0570011	CT–AM WATER CO, GREENWICH DIST	GREENWICH	57161
1	CT	CT1370011	CT–AMER W.C., MYSTIC VALLEY DIV	MYSTIC	11515
1	CT	CT0608011	CTWC, SHORELINE REG, GUILFORD	GUILFORD	48221
1	CT	CT0340011	DANBURY WATER DEPT	DANBURY	48000
1	CT	CT0590011	GROTON WATER DEPT	GROTON	29500

APPENDIX B–2.—CLASSIFICATION OF CANDIDATE SYSTEMS USING SURFACE WATER WHICH MAY BE SUBJECT TO REQUIREMENTS PERTAINING TO SYSTEMS SERVING BETWEEN 10,000–100,000 PEOPLE—Continued

[By Region, State, Public Water System ID #, Name of Utility, City, and Population]

Reg.	St.	PWS ID	Name	City	Population
1	CT	CT0770021	MANCHESTER WATER DEPT	MANCHESTER	48173
1	CT	CT0800011	MERIDEN WATER DEPT	MERIDEN	58000
1	CT	CT0830011	MIDDLETOWN WATER DEPT	MIDDLETOWN	40500
1	CT	CT0880011	NAUGATUCK DIV CONN WATER CO	NAUGATUCK	25900
1	CT	CT0890011	NEW BRITAIN WATER DEPT	NEW BRITAIN	90677
1	CT	CT0950011	NEW LONDON WATER DEPT	NEW LONDON	45000
1	CT	CT1030011	NORWALK FIRST TAXING DISTRICT	NORWALK	41800
1	CT	CT1030021	NORWALK SECOND TAX DISTRICT WATER	NORWALK	35108
1	CT	CT1040011	NORWICH WATER DEPT	NORWICH	35000
1	CT	CT1100011	PLAINVILLE WATER CO	PLAINVILLE	19159
1	CT	CT1310011	SOUTHINGTON WATER DEPT	SOUTHINGTON	35256
1	CT	CT1350011	STAMFORD WATER CO	STAMFORD	85000
1	CT	CT1430011	TORRINGTON WATER CO	TORRINGTON	29000
1	CT	CT1480011	WALLINGFORD WATER DEPT	WALLINGFORD	39360
1	CT	CT1520071	WATERFORD WATER & SEWER AUTH	WATERFORD	13757
1	CT	CT1630011	WINDHAM WATER WORKS	WINDHAM	16240
1	MA	MA4001000	ABINGTON–ROCKLAND JOINT WATER WORKS	ROCKLAND	29635
1	MA	MA1005000	AGAWAM WATER SUPPLY	AGAWAM	28572
1	MA	MA3007000	AMESBURY WATER DIVISION	AMESBURY	14056
1	MA	MA1008000	AMHERST WATER DIVISION D.P.W	AMHERST	33000
1	MA	MA3009000	ANDOVER WATER DEPT	ANDOVER	29154
1	MA	MA3010000	ARLINGTON WATER DEPT	ARLINGTON	44347
1	MA	MA2015000	ATHOL WATER DIVISION	ATHOL	10321
1	MA	MA4016000	ATTLEBORO WATER DEPT	ATTLEBORO	33000
1	MA	MA3023000	BEDFORD WATER DEPT	BEDFORD	12500
1	MA	MA3026000	BELMONT WATER DEPT	BELMONT	27600
1	MA	MA3030000	BEVERLY DEPT OF PUBLIC WORKS	BEVERLY	37000
1	MA	MA3031000	BILLERICA WATER DEPT	NO. BILLERICA	37029
1	MA	MA3040000	BRAINTREE WATER DEPARTMENT	BRAINTREE	36000
1	MA	MA3046000	BROOKLINE WATER DEPT	BROOKLINE	59202
1	MA	MA3048000	BURLINGTON WATER DISTRICT	BURLINGTON	22560
1	MA	MA3049000	CAMBRIDGE WATER DEPARTMENT	CAMBRIDGE	90290
1	MA	MA3050000	CANTON WATER DIVISION–D.P.W	CANTON	18000
1	MA	MA3057000	CHELSEA WATER DEPT	CHELSEA	25000
1	MA	MA1061000	CHICOPEE WATER DEPT	CHICOPEE	53325
1	MA	MA2064000	CLINTON WATER DEPT	CLINTON	14000
1	MA	MA3067000	CONCORD WATER DIV	CONCORD	16295
1	MA	MA3071000	DANVERS WATER DEPT	DANVERS	27500
1	MA	MA4072000	DARTMOUTH WATER & SEWER DIV	NORTH DARTMOUTH	27000
1	MA	MA3079000	DRACUT WATER SUPPLY DISTRICT	DRACUT	18000
1	MA	MA1085000	EAST LONGMEADOW WATER DEPT	EAST LONGMEADOW	13000
1	MA	MA3093000	EVERETT WATER DEPT	EVERETT	35000
1	MA	MA4095000	FALL RIVER WATER DEPT	FALL RIVER	100000
1	MA	MA4096000	FALMOUTH WATER DEPT	FALMOUTH	26500
1	MA	MA2097000	FITCHBURG WATER DEPARTMENT	FITCHBURG	39580
1	MA	MA3100000	FRAMINGHAM WATER DIVISION	FRAMINGHAM	62000
1	MA	MA2103000	GARDNER WATER DEPARTMENT	GARDNER	18000
1	MA	MA3107000	GLOUCESTER WATER DEPT	GLOUCESTER	36969
1	MA	MA1114000	GREENFIELD WATER DEPT	GREENFIELD	19000
1	MA	MA3128000	HAVERHILL WATER DIVISION–D.P.W	HAVERHILL	45000
1	MA	MA3131000	HINGHAM WATER CO	HINGHAM	31875
1	MA	MA3133000	HOLBROOK WATER DEPT	HOLBROOK	11100
1	MA	MA1137000	HOLYOKE WATER WORKS	HOLYOKE	40000
1	MA	MA3144000	IPSWICH WATER DIVISION–D.P.W	IPSWICH	12000
1	MA	MA3149000	LAWRENCE WATER DEPT	LAWRENCE	55000
1	MA	MA2153000	LEOMINSTER WATER DIV	LEOMINSTER	35000
1	MA	MA3155000	LEXINGTON WATER & SEWER DIV	LEXINGTON	30255
1	MA	MA1159000	LONGMEADOW WATER DEPT	20 WILLIAMS ST	16600
1	MA	MA3160000	LOWELL WATER DEPT	LOWELL	100000
1	MA	MA1161000	LUDLOW WATER DEPT	LUDLOW	18000
1	MA	MA3163000	LYNN WATER & SEWER COMMISSION	LYNN	78500
1	MA	MA3165000	MALDEN WATER DIVISION	MALDEN	51000
1	MA	MA3168000	MARBLEHEAD W&S COMM	MARBLEHEAD	20209
1	MA	MA2170000	MARLBORO PUBLIC WORKS	MARLBORO	40000
1	MA	MA3176000	MEDFORD WATER DEPT	MEDFORD	56000
1	MA	MA3178000	MELROSE WATER DEPARTMENT	MELROSE	27692
1	MA	MA3181000	METHUEN WATER DEPT	METHEUN	38000
1	MA	MA3189000	MILTON WATER DEPT	MILTON	25794
1	MA	MA3198000	NATICK WATER DEPT	NATICK	31000

APPENDIX B–2.—CLASSIFICATION OF CANDIDATE SYSTEMS USING SURFACE WATER WHICH MAY BE SUBJECT TO REQUIREMENTS PERTAINING TO SYSTEMS SERVING BETWEEN 10,000–100,000 PEOPLE—Continued

[By Region, State, Public Water System ID #, Name of Utility, City, and Population]

Reg.	St.	PWS ID	Name	City	Population
1	MA	MA3199000	NEEDHAM WATER DIVISION	NEEDHAM	28728
1	MA	MA4201000	NEW BEDFORD WATER DEPT	NEW BEDFORD	100000
1	MA	MA3206000	NEWBURYPORT WATER DEPT	NEWBURYPORT	17500
1	MA	MA3207000	NEWTON WATER DEPARTMENT	NEWTONCENTRE	82011
1	MA	MA1209000	NORTH ADAMS WATER DEPT	NORTH ADAMS	16000
1	MA	MA3210000	NORTH ANDOVER PUBLIC WORKS	NORTH ANDOVER	21450
1	MA	MA1214000	NORTHAMPTON WATER DEPARTMENT	NORTHAMPTON	33000
1	MA	MA2215000	NORTHBORO WATER DEPT	NORTHBORO	11600
1	MA	MA3220000	NORWOOD WATER DEPT	NORWOOD	29464
1	MA	MA3229000	PEABODY WATER DEPT	PEABODY	46500
1	MA	MA1236000	PITTSFIELD WATER DEPT	PIHSFIELD	50000
1	MA	MA4239000	PLYMOUTH WATER DEPT	PLYMOUTH	44928
1	MA	MA3243000	QUINCY WATER DEPT	QUINCY	88000
1	MA	MA3244000	RANDOLPH WATER DEPT	RANDOLPH	30000
1	MA	MA3248000	REVERE WATER DEPT	REVERE	44000
1	MA	MA3252000	ROCKPORT WATER DIVISION	ROCKPORT	20000
1	MA	MA3030001	SALEM AND BEVERLY W.S. BOARD	BEVERLY	78000
1	MA	MA3258000	SALEM WATER DEPT	SALEM	38510
1	MA	MA3262000	SAUGUS WATER DEPT	SAUGUS	25000
1	MA	MA4264000	SCITUATE WATER DIVISION	GREENBUSH	18003
1	MA	MA4273000	SOMERSET WATER DEPARTMENT	SOMERSET	18500
1	MA	MA3274000	SOMERVILLE WATER DEPARTMENT	SOMERVILLE	74096
1	MA	MA1275000	SOUTH HADLEY FIRE DISTRICT #1	S. HADLEY	13000
1	MA	MA2278000	SOUTHBRIDGE WATER DEPARTMENT	SOUTHBRIDGE	17000
1	MA	MA3284000	STONEHAM WATER DEPT	STONEHAM	22500
1	MA	MA3291000	SWAMPSCOTT WATER DEPT	SWAMPSCOTT	14000
1	MA	MA4293000	TAUNTON WATER DEPT	LAKEVILLE	49800
1	MA	MA3295000	TEWKSBURY WATER DEPT	TEWKSBURY	28209
1	MA	MA2134000	TOWN OF HOLDEN	HOLDEN	14767
1	MA	MA2141000	TOWN OF HUDSON, D.P.W.	HUDSON	16000
1	MA	MA3305000	WAKEFIELD WATER DEPT	WAKEFIELD	23889
1	MA	MA3308000	WALTHAM WATER DIVISION	WALTHAM	58350
1	MA	MA3314000	WATERTOWN WATER DIVISION	WATERTOWN	32194
1	MA	MA1325000	WEST SPRINGFIELD WATER DIV	WEST SPRINGFIEL D	25642
1	MA	MA2328000	WESTBORO WATER DEPT	WESTBORO	13000
1	MA	MA3333000	WESTON WATER DEPT	WESTON	10920
1	MA	MA3336000	WEYMOUTH WATER DEPT	WEYMOUTH	58226
1	MA	MA4338000	WHITMAN WATER DIVISION DPW	WHITMAN	13600
1	MA	MA3344000	WINCHESTER WATER & SEWER DIVIS	WINCHESTER	21800
1	MA	MA3346000	WINTHROP WATER DEPT	WINTHROP	18298
1	MA	MA3347000	WOBURN WATER DEPT	WOBURN	35835
1	ME	ME0090070	AUBURN WATER DISTRICT	AUBURN	24500
1	ME	ME0090080	AUGUSTA WATER DISTRICT	AUGUSTA	25000
1	ME	ME0090110	BANGOR WATER DISTRICT	BANGOR	31800
1	ME	ME0090130	BATH WATER DISTRICT	BATH	11732
1	ME	ME0090170	BIDDEFORD AND SACO WATER CO	BIDDEFORD	45000
1	ME	ME0090300	CAMDEN & ROCKLAND WATER CO	ROCKLAND	22900
1	ME	ME0090750	KENNEBEC WATER DISTRICT	WATERVILLE	25500
1	ME	ME0090760	KENNEBUNK, KENNEBUNKPORT+WELLS	KENNEBUNK	28923
1	ME	ME0090790	KITTERY WATER DISTRICT	KITTERY	16500
1	ME	ME0090830	LEWISTON WATER DEPARTMENT	LEWISTON	42500
1	NH	NH0231010	BERLIN WATER WORKS	BERLIN	12501
1	NH	NH0461010	CLAREMONT WATER DEPARTMENT	CLAREMONT	10000
1	NH	NH0501010	CONCORD DEPT/WATER RESOURCES	CONCORD	30000
1	NH	NH1241010	KEENE WATER DEPARTMENT	KEENE	25000
1	NH	NH1281010	LACONIA WATER WORKS	LACONIA	12000
1	NH	NH1621010	PENNICHUCK WATER WORKS	NASHUA	80000
1	NH	NH1951010	PORTSMOUTH WATER WORKS	PORTSMOUTH	33000
1	NH	NH2001010	ROCHESTER WATER DEPARTMENT	ROCHESTER	25000
1	NH	NH2051010	SALEM WATER DEPARTMENT	SALEM	16378
1	NH	NH0691010	UNH/DURHAM WATER WORKS	DURHAM	14235
1	RI	RI1647515	BRISTOL COUNTY WATER AUTHORITY	WARREN	50000
1	RI	RI1647530	CUMBERLAND—TOWN OF	CUMBERLAND	19550
1	RI	RI1615610	EAST PROVIDENCE—CITY OF	EAST PROVIDENCE	52000
1	RI	RI1559511	KENT COUNTY WATER AUTHORITY	WEST WARWICK	84000
1	RI	RI1858423	LINCOLN—TOWN OF	LINCOLN	16896
1	RI	RI1592010	NEWPORT—CITY OF	NEWPORT	50000
1	RI	RI1592022	PORTSMOUTH WATER & FIRE DIST	PORTSMOUTH	14000
1	RI	RI1000016	UNITED STATES NAVY—NEWPORT	NEWPORT	11463

APPENDIX B–2.—CLASSIFICATION OF CANDIDATE SYSTEMS USING SURFACE WATER WHICH MAY BE SUBJECT TO REQUIREMENTS PERTAINING TO SYSTEMS SERVING BETWEEN 10,000–100,000 PEOPLE—Continued

[By Region, State, Public Water System ID #, Name of Utility, City, and Population]

Reg.	St.	PWS ID	Name	City	Population
1	RI	RI1615627	WARWICK—CITY OF	WARWICK	77111
1	RI	RI1559518	WOONSOCKET—CITY OF	WOONSOCKET	54000
1	VT	VT0005254	BARRE CITY WATER SYSTEM	BARRE CITY	14000
1	VT	VT0005016	BENNINGTON WATER DEPT	BENNINGTON	13000
1	VT	VT0005290	BRATTLEBORO WATER DEPT	BRATTLEBORO	12000
1	VT	VT0005053	BURLINGTON WATER RES	BURLINGTON	47521
1	VT	VT0005229	RUTLAND CITY WATER DEPT	RUTLAND CITY	18500
1	VT	VT0005091	SO. BURLINGTON W D	SOUTH BURLINGTON	12675
2	NJ	NJ0102001	ATLANTIC CITY MUA	ATLANTIC CITY	37000
2	NJ	NJ0901001	BAYONNE W DEPT	BAYONNE	61100
2	NJ	NJ0701001	BELLEVILLE WATER DEPT	BELLEVILLE	32000
2	NJ	NJ0702001	BLOOMFIELD WATER DEPT	BLOOMFIELD	45136
2	NJ	NJ1506001	BRICK TOWNSHIP	MUA BRICK TWP	67057
2	NJ	NJ0704001	CEDAR GROVE WATER DEPT	CEDAR GROVE TWP	14000
2	NJ	NJ1204001	EAST BRUNSWICK WATER DEP	EAST BRUNSWICK	43000
2	NJ	NJ1205001	EDISON W DEPT	EDISON TWP	36000
2	NJ	NJ0211001	ELMWOOD PARK WATER DEPT	ELMWOOD PARK	18700
2	NJ	NJ0217001	FAIRLAWN WATER DEPT	FAIRLAWN	30548
2	NJ	NJ1808001	FRANKLIN TWP DEPT PUBLIC	FRANKLIN TWP	44000
2	NJ	NJ1316001	FREEHOLD TWP WATER DEPT	FREEHOLD TWP	22000
2	NJ	NJ0221001	GARFIELD W DEPT	GARFIELD	26000
2	NJ	NJ1326001	GORDON'S CORNER WATER CO	MANALAPAN TWP	37101
2	NJ	NJ2108001	HACKETTSTOWN MUA	HACKETTSTOWN	16000
2	NJ	NJ1603001	HALEDON WATER DEPT	NORTH HALEDON	11400
2	NJ	NJ0904001	HARRISON W DEPT	HARRISON	11800
2	NJ	NJ1207001	HIGHLAND PARK W DEPT	HIGHLAND PARK	14000
2	NJ	NJ0905001	HOBOKEN W DEPT	HOBOKEN	39000
2	NJ	NJ0907001	KEARNY W DEPT	KEARNY	34874
2	NJ	NJ1416001	LINCOLN PARK WATER DEPT	LINCOLN PARK	10740
2	NJ	NJ0231001	LODI WATER DEPT	LODI	23000
2	NJ	NJ0232001	LYNDHURST W DEPT	LYNDHURST TWP	19800
2	NJ	NJ1811001	MANVILLE W DEPT	MANVILLE	11500
2	NJ	NJ1328002	MARLBORO MUA	MARLBORO TWP	18072
2	NJ	NJ1213002	MONROE TWP MUA	MONROE TWP	17000
2	NJ	NJ0713001	MONTCLAIR WATER BUREAU	MONTCLAIR	38000
2	NJ	NJ1214001	NEW BRUNSWICK W DEPT	NEW BRUNSWICK	50000
2	NJ	NJ1605001	NJ AMERICAN W CO LITTLE	LITTLE FALLS	12269
2	NJ	NJ1352005	NJ WATER SUPPLY AUTH MAN	CLINTON	40001
2	NJ	NJ0239001	NORTH ARLINGTON W DEPT	NORTH ARLINGTON	16000
2	NJ	NJ1215001	NORTH BRUNSWICK W DEPT	N BRUNSWICK TWP	22000
2	NJ	NJ0716001	NUTLEY WATER DEPT	NUTLEY	29000
2	NJ	NJ1209002	OLD BRIDGE MUA	OLD BRIDGE TWP	53000
2	NJ	NJ0717001	ORANGE WATER DEPT	ORANGE	32000
2	NJ	NJ2013001	RAHWAY W DEPT	RAHWAY	26600
2	NJ	NJ0257001	SADDLE BROOK WATER DEPT	SADDLE BROOK	13294
2	NJ	NJ1219001	SAYREVILLE W DEPT	SAYREVILLE	39000
2	NJ	NJ1339001	SHORELANDS WATER CO., INC	HAZLET TWP	30000
2	NJ	NJ1424001	SOUTHEAST MORRIS COUNTY	MORRISTOWN	65000
2	NJ	NJ1612001	TOTOWA W DEPT	TOTOWA	10291
2	NJ	NJ0325001	U S ARMY FORT DIX	NEW HANOVER TWP	22000
2	NJ	NJ0720001	VERONA MUA	VERONA	13579
2	NJ	NJ1352003	WALL TWP WATER DEPT	WALL TWP	18900
2	NJ	NJ0265001	WALLINGTON WATER DEPT	WALLINGTON	11000
2	NJ	NJ1614001	WAYNE TWP DIVISION OF WA	WAYNE	52000
2	NJ	NJ0721001	WEST CALDWELL W DEPT	WEST CALDWELL	10422
2	NY	NY0000136	AMSTERDAM CITY WATER WORKS	AMSTERDAM	21872
2	NY	NY0001710	AUBURN	AUBURN	32548
2	NY	NY0000544	BATAVIA CITY	BATAVIA	16703
2	NY	NY0002760	BEACON CITY	BEACON	19000
2	NY	NY0000191	BETHLEHEM WD NO. 1	DELMAR	27500
2	NY	NY0001651	BINGHAMTON CITY	BINGHAMTON	55860
2	NY	NY0002860	BOWLING GREEN WATER DISTRICT	EAST MEADOW	12000
2	NY	NY0001039	BROCKPORT VILLAGE	BROCKPORT	10800
2	NY	NY0004309	CAMILLUS CONSOLIDATED WO	CAMILLUS	24000
2	NY	NY0001150	CANANDAIGUA CITY	CANANDAIGUA	10700
2	NY	NY0004381	CANTON VILLAGE	CANTON	10000
2	NY	NY0004342	CICERO WD'S	SYRACUSE	14108
2	NY	NY0020767	CLARENCE, TOWN WATER DEPT.	CLARENCE CENTER	15000
2	NY	NY0004344	CLAY WD'S	CLAY	16000

APPENDIX B–2.—CLASSIFICATION OF CANDIDATE SYSTEMS USING SURFACE WATER WHICH MAY BE SUBJECT TO REQUIREMENTS PERTAINING TO SYSTEMS SERVING BETWEEN 10,000–100,000 PEOPLE—Continued

[By Region, State, Public Water System ID #, Name of Utility, City, and Population]

Reg.	St.	PWS ID	Name	City	Population
2	NY	NY0000192	COHOES CITY	COHOES	16825
2	NY	NY0017686	CORNELL UNIVERSITY	ITHACA	25000
2	NY	NY0003423	CORTLANDT CONSOLIDATED WD	CROTON ON HUDSO	28000
2	NY	NY0004343	DEWITT WD'S—SOUTH	DEWITT	17800
2	NY	NY0000360	DUNKIRK CITY	DUNKIRK	15310
2	NY	NY0020549	ELMA WATER DISTRICT NO. 1	ELMA	10287
2	NY	NY0001008	ELMIRA WATER BOARD	ELMIRA	62660
2	NY	NY0000364	FREDONIA VILLAGE	FREDONIA	10384
2	NY	NY0001156	GENEVA CITY	GENEVA	14200
2	NY	NY0000104	GLENS FALLS CITY	GLENS FALLS	17000
2	NY	NY0000018	GLOVERSVILLE CITY WATER WORKS	GLOVERSVILLE	17986
2	NY	NY0000451	GRAND ISLAND TOWN WATER DEPT.	GRAND ISLAND	20000
2	NY	NY0001044	GREECE CONSOLIDATED WD	ROCHESTER	70000
2	NY	NY0003429	GREENBURGH CONSOLIDATED WD NO 1	ELMSFORD	39530
2	NY	NY0000205	GUILDERLAND WD (WESTMERE WD)	GUILDERLAND	25000
2	NY	NY0004527	HENRIETTA WD #1	HENRIETTA	38000
2	NY	NY0001215	HORNELL CITY	HORNELL	10234
2	NY	NY0002307	ILION VILLAGE	ILION	10464
2	NY	NY0004416	ITHACA CITY	ITHACA	28000
2	NY	NY0004419	ITHACA TOWN WD	ITHACA	13000
2	NY	NY0010142	KENMORE VILLAGE	KENMORE	18474
2	NY	NY0003374	KINGSTON CITY	WOODSTOCK	24000
2	NY	NY0000507	LANCASTER VILLAGE	LANCASTER	13056
2	NY	NY0000198	LATHAM WATER DISTRICT	NEWTONVILLE	73000
2	NY	NY0000561	LEWISTON WATER IMPROVEMENTAREA	LEWISTON	13000
2	NY	NY0000564	LOCKPORT CITY	LOCKPORT	25000
2	NY	NY0000563	LOCKPORT WD #3	LOCKPORT	12460
2	NY	NY0004390	MASSENA VILLAGE	MASSENA	12851
2	NY	NY0015672	MCWA UPLAND SYSTEM	ROCHESTER	27656
2	NY	NY0003534	MIDDLETOWN CITY	MIDDLETOWN	25440
2	NY	NY0003441	MOUNT VERNON WATER DISTRICT #1	MOUNT VERNON	67153
2	NY	NY0003442	NEW CASTLE/STANWOOD W.D.	CHAPPAQUA	16000
2	NY	NY0002414	NEW HARTFORD WATER IMPROV. DIST	NEW HARTFORD	13050
2	NY	NY0003580	NEW WINDSOR CONSOLIDATED WD	NEW WINDSOR	17200
2	NY	NY0001232	NEWARK VILLAGE	NEWARK	10017
2	NY	NY0003549	NEWBURGH CITY	NEWBURGH	27000
2	NY	NY0003578	NEWBURGH CONSOLIDATED WD	NEWBURGH	13730
2	NY	NY0000568	NIAGARA FALLS CITY	NIAGARA FALLS	63000
2	NY	NY0000572	NORTH TONAWANDA CITY	NORTH TONAWANDA	34879
2	NY	NY0001745	NORWICH CITY	NORWICH	12000
2	NY	NY0003666	NYACK VILLAGE	NYACK	14700
2	NY	NY0004394	OGDENSBURG CITY	OGDENSBURG	12375
2	NY	NY0000345	OLEAN CITY	OLEAN	18000
2	NY	NY0002381	ONEIDA CITY	ONEIDA	12000
2	NY	NY0000154	ONEONTA CITY	ONEONTA	17450
2	NY	NY0003451	OSSINING WATER DEPARTMENT	OSSINING	30000
2	NY	NY0004361	OSWEGO CITY	OSWEGO	28793
2	NY	NY0003452	PEEKSKILL CITY	PEEKSKILL	20000
2	NY	NY0000217	PLATTSBURG CITY	PLATTSBURGH	21057
2	NY	NY0003455	PLEASANTVILLE WATER DISTRICT	PLEASANTVILLE	10000
2	NY	NY0004397	POTSDAM VILLAGE	POTSDAM	10635
2	NY	NY0002774	POUGHKEEPSIE CITY WTP	POUGHKEEPSIE	30000
2	NY	NY0002812	POUGHKEEPSIE TOWNWIDE WD	POUGHKEEPSIE	37000
2	NY	NY0000114	QUEENSBURY WATER DISTRICT	QUEENSBURY	20000
2	NY	NY0002405	ROME CITY	ROME	37000
2	NY	NY0004346	SALINA WD'S	LIVERPOOL	17500
2	NY	NY0000168	SARATOGA SPRINGS CITY	SARATOGA SPRING	25675
2	NY	NY0003457	SCARSDALE WATER DEPARTMENT	SCARSDALE	22337
2	NY	NY0005656	SMITHTOWN WD	SMITHTOWN	18150
2	NY	NY0003266	ST JAMES WD	ST. JAMES	12500
2	NY	NY0003675	SUFFERN VILLAGE	SUFFERN	12000
2	NY	NY0003461	TARRYTOWN WATER SUPPLY	TARRYTOWN	11000
2	NY	NY0000538	TONAWANDA CITY	TONAWANDA	18678
2	NY	NY0004557	TONAWANDA CON. WATER DISTRICT	KENMORE	69795
2	NY	NY0004556	TONAWANDA, TOWN WATER DEPT.	KENMORE	72795
2	NY	NY0000050	TROY CITY PWS	TROY	55328
2	NY	NY0020536	UNION TOWN WATER SYSTEM NO. 1	ENDWELL	21000
2	NY	NY0001674	VESTAL CONSOLIDATED W.D. #1	VESTAL	20937
2	NY	NY0002346	WATERTOWN CITY	WATERTOWN	27861

APPENDIX B–2.—CLASSIFICATION OF CANDIDATE SYSTEMS USING SURFACE WATER WHICH MAY BE SUBJECT TO REQUIREMENTS PERTAINING TO SYSTEMS SERVING BETWEEN 10,000–100,000 PEOPLE—Continued

[By Region, State, Public Water System ID #, Name of Utility, City, and Population]

Reg.	St.	PWS ID	Name	City	Population
2	NY	NY0010127	WATERVLIET CITY	WATERVLIET	13500
2	NY	NY0003435	WESTCHESTER JOINT WATER WORKS	MAMARONECK	47933
2	NY	NY0000585	WHEATFIELD WD	NORTH TONAWANDA	10000
2	NY	NY0003464	WHITE PLAINS CITY	WHITE PLAINS	48718
2	NY	NY0003469	YORKTOWN WATER STORAGE & DIST	YORKTOWN HEIGHT	33000
2	NY	NY0003456	25 WILLET AVE	PORT CHESTER	46648
2	PR	PR0005046	AGUAS BUENAS URBANO	AGUAS BUENAS	20828
2	PR	PR0004545	AIBONITO URBANO	AIBONITO	32332
2	PR	PR0004605	BARRANQUITAS URBANO	BARRANQUITAS	23368
2	PR	PR0004635	CAYEY URBANO	CAYEY	64440
2	PR	PR0002752	CIALES URBANO	CIALES	11844
2	PR	PR0004695	CIDRA URBANO	CIDRA	30512
2	PR	PR0003914	COAMO URBANO	COAMO	32472
2	PR	PR0004705	COMERIO URBANO	COMERBO	12940
2	PR	PR0005487	COROZAL URBANO	COROZAL	27296
2	PR	PR0005306	FAJARDO CEIBA	FAJARDO CEIBA	60000
2	PR	PR0004645	GUAVATE	CAYEY	10840
2	PR	PR0004745	GUAYAMA URBANO	GUAYAMA	45204
2	PR	PR0002662	HATILLO-CAMUY	HATILLO	28988
2	PR	PR0002672	ISABELA	ISABELA	45408
2	PR	PR0004034	JUANA DIAZ URBANO	JUANA DBAZ	27908
2	PR	PR0005166	JUNCOS URBANO	JUNCOS	41916
2	PR	PR0003343	LAJAS	LAJAS	30321
2	PR	PR0002692	LARES URBANO	LARES	24324
2	PR	PR0005316	LUQUILLO URBANO	LUQUILLO	28076
2	PR	PR0002762	MOROVIS URBANO	MOROVIS	21904
2	PR	PR0005507	NARANJITO URBANO	NARANJITO	31416
2	PR	PR0004044	OROCOVIS URBANO	OROCOVIS	13484
2	PR	PR0004835	PATILLAS URBANO	PATILLAS	15108
2	PR	PR0004324	PEFUELAS	PEEUELAS	18936
2	PR	PR0002872	QUEBRADA	HATILLO	10316
2	PR	PR0002682	QUEBRADILLAS URBANO	QUEBRADILLAS	32952
2	PR	PR0003333	SABANO GRANDE	SABANA GRANDE	17702
2	PR	PR0003323	SAN GERMAN	SAN GERMAN	15654
2	PR	PR0005106	SAN LORENZO URBANO	SAN LORENZO	21044
2	PR	PR0003303	SAN SEBASTIAN	SAN SEBASTIAN	32459
2	PR	PR0002702	UTUADO URBANO	UTUADO	17752
2	PR	PR0002772	VEGA BAJA URBANO	VEGA BAJA	47404
2	PR	PR0003924	VILLALBA URBANO	VILLALBA	13400
2	PR	PR0005196	YABUCOA URBANO	YABUCOA	18000
2	PR	PR0004314	YAUCO	YAUCO	34216
2	VI	VI0000097	V.I. WAPA STX (GOVT)	CSTED, ST CROIX	11000
3	DE	DE0000564	WILMINGTON SUBURBAN	WILMINGTON	93000
3	MD	MD0120002	ABERDEEN PROVING GROUND	ABERDEEN	11000
3	MD	MD0160021	ANDREWS AIR FORCE BASE	ANDREWS AIR FORCE BASE.	17000
3	MD	MD0020038	BALTO CITY AP PUBLIC WORKS	GLEN BURNIE	14000
3	MD	MD0010008	CUMBRLND-EVITTS CRK BEDFORD PA	CUMBERLAND	35000
3	MD	MD0100015	FREDERICK	FREDERICK	35000
3	MD	MD0010011	FROSTBURG	FROSTBURG	11000
3	MD	MD0020012	FT GEORGE MEADE	FT MEADE	30000
3	MD	MD0210010	HAGERSTOWN	HAGERSTOWN	70000
3	MD	MD0120016	HARFORD COUNTY DPW	BEL AIR	60000
3	MD	MD0120012	HAVRE DE GRACE MUN UTIL COMM	HAVRE DE GRACE	10000
3	MD	MD0120003	MD-AMERICAN WATER CO.	BEL AIR	10200
3	MD	MD0150003	ROCKVILLE FILTRATION PLANT	ROCKVILLE	40000
3	MD	MD0060015	WESTMINSTER	WESTMINSTER	17000
3	PA	PA4070023	ALTOONA CITY AUTHORITY	ALTOONA	62500
3	PA	PA5040008	AMBRIDGE WATER AUTHORITY	AMBRIDGE	28000
3	PA	PA5040012	BEAVER FALLS MUNICIPAL AUTH	EASTVALE BORO	53632
3	PA	PA1090078	BENSALEM TOWNSHIP	BENSALEM	58200
3	PA	PA4190008	BLOOMSBURG WATER COMPANY	BLOOMSBURG	20000
3	PA	PA3480055	BLUE MTN CON WATER CO	WIND GAP	19474
3	PA	PA6420014	BRADFORD CITY WATER AUTHORITY	BRADFORD	12000
3	PA	PA1090001	BRISTOL BORO WATER/SEWER AUTH	BRISTOL	30000
3	PA	PA2359001	BROWNELL WTP	CARBONDALE TWP	18756
3	PA	PA1090079	BUCKS CO WATER AND SEWER AUTH	WARRIBGTON	15000
3	PA	PA7210002	CARLISLE WATER TREATMENT PLANT	CARLISLE	21500
3	PA	PA2409002	CEASETOWN RESERVOIR PA GAS & W	HUNLOCK CREEK	26285

APPENDIX B–2.—CLASSIFICATION OF CANDIDATE SYSTEMS USING SURFACE WATER WHICH MAY BE SUBJECT TO REQUIREMENTS PERTAINING TO SYSTEMS SERVING BETWEEN 10,000–100,000 PEOPLE—Continued

[By Region, State, Public Water System ID #, Name of Utility, City, and Population]

Reg.	St.	PWS ID	Name	City	Population
3	PA	PA7280005	CHAMBERSBURG BORO WATER SYSTEM	FAYETTEVILLE	17500
3	PA	PA5630039	CHARLEROI MUNICIPAL AUTHORITY	CHARLEROI	30484
3	PA	PA1150166	CITIZENS UTILITIES HOME WATER	SPRING CITY	13507
3	PA	PA1150106	CITY OF COATESVILLE AUTHORITY	WEST CALN	13000
3	PA	PA3480050	CITY OF EASTON-BUREAU OF WATER	EASTON	26276
3	PA	PA4180048	CITY OF LOCK HAVEN-WATER DEPT	LOCK HAVEN	11000
3	PA	PA3060059	CITY OF READING	READING	85905
3	PA	PA6170008	CLEARFIELD MUNICIPAL AUTH	CLEARFIELD	14500
3	PA	PA7360123	COLUMBIA WATER COMPANY	COLUMBIA	18000
3	PA	PA5100094	CRANBERRY TWP SEWER AND WATER	MARS	14000
3	PA	PA2409003	CRYSTAL LAKE PG&W	MOUNTAINTOP	10190
3	PA	PA7220015	DAUPHIN CONSOLIDATED WATER CO	HARRISBURG	23000
3	PA	PA3480064	EASTON SUBURBAN WATER AUTHORIT	EASTON	30000
3	PA	PA7360124	ELIZABETHTOWN BOROUGH WATER	ELIZABETHTOWN	11000
3	PA	PA7360045	EPHRATA JOINT AUTHORITY	EPHRATA	14300
3	PA	PA5020040	FOX CHAPEL AUTHORITY	PITTSBURGH	18500
3	PA	PA7010019	GETTYSBURG MUNICIPAL AUT	GETTYSBURG	11000
3	PA	PA4110014	GREATER JOHNSTOWN WATER AUTHOR	JOHNSTOWN	65000
3	PA	PA5020061	HAMPTON TOWNSHIP MUN AUTHORITY	ALLISON PARK	21462
3	PA	PA7670076	HANOVER MUNICIPAL WATER WORKS	HANOVER	33000
3	PA	PA7220049	HARRISBURG AUTHORITY	HARRISBURG	65000
3	PA	PA5020108	HARRISON TOWNSHIP WATER AUTH	NATRONA HEIGHTS	11763
3	PA	PA2408001	HAZLETON CITY AUTH WATER DEPT	PACKER TWP	38022
3	PA	PA4110017	HIGHLAND SEWER & WATER AUTH	JOHNSTOWN	27100
3	PA	PA4310012	HUNTINGDON BOROUGH WATER DEPT	HUNTINGDON	12000
3	PA	PA5650060	LATROBE MUNICIPAL AUTHORITY	LATROBE	22800
3	PA	PA7380010	LEBANON WATER AUTHORITY	LEBANON	43320
3	PA	PA4440010	LEWISTOWN BORO MUNICIPAL AUTH	LEWISTOWN	21576
3	PA	PA1090026	LOWER BUCK CO. JOINT MIUN AUTH	TULLYTOWN (LEVITTOWN)	85000
3	PA	PA1230011	MEDIA BOROUGH WATER COMPANY	MEDIA	45000
3	PA	PA1090024	MIDDLETOWN TWP	LEVITOWN	16500
3	PA	PA6250076	MILLCREEK TWP WATER AUTH	ERIE	12000
3	PA	PA5020027	MONROEVILLE WATER AUTHORITY	MONROEVILLE	33000
3	PA	PA1090037	MORRISVILLE MWW	MORRISVILLE	12000
3	PA	PA4490007	MUNICIPAL AUTHORITY SUNBURY	SUNBURY	13000
3	PA	PA5650070	NEW KENSINGTON MUNIC AUTHORITY	NEW KENSINGTON	47350
3	PA	PA1090043	NEWTOWN ARTESIAN WATER CO	NEWTOWN	24675
3	PA	PA5260019	NORTH FAYETTE COUNTY MUN AUTH	DUNBAR	30540
3	PA	PA5020030	NORTH VERSAILLES TWP AUTHORITY	NORTH VERSAILLES	10647
3	PA	PA3480057	NORTHAMPTON BORO MUN AUTH	WHITEHALL	36000
3	PA	PA1090089	NORTHAMPTON BUCKS CO. MUN AUTH	RICHBORO	27750
3	PA	PA5020036	OAKMONT BORO MUNIC AUTHORITY	OAKMONT	40688
3	PA	PA2359008	P G AND W LAKE SCRANTON ARCH B	WILKES BARRE	57984
3	PA	PA4140087	PA AMER WATER CO.-MOSHANNON	PHILLIPSBURG	18000
3	PA	PA5100012	PA AMER WATER CO. BUTLER	BUTLER	38000
3	PA	PA6370011	PA AMER WATER CO. ELLWOOD CTY	ELLWOOD CITY	18400
3	PA	PA6370034	PA AMER WATER CO. NEW CASTLE	NEW CASTLE	42000
3	PA	PA3480038	PA AMERICAN BANGOR PLANT	BANGOR	10000
3	PA	PA6160001	PA AMERICAN WATER CO CLARION	CLARION	10000
3	PA	PA5320025	PA AMERICAN WATER CO-INDIANA D	INDIANA	24000
3	PA	PA1460046	PA AMERICAN WATER COMPANY	NORRISTOWN	80900
3	PA	PA6330010	PA AMERICAN WATER PUNXSY	INDIANA	10313
3	PA	PA4490023	PA AMERICAN WHITE DEER	MILTON	38000
3	PA	PA5260022	PA-AMERICAN WATER CO-CONNELLSV	CONNELLSVILLE	16800
3	PA	PA5260020	PA-AMERICAN WATER-UNIONTOWN	UNIONTOWN	31000
3	PA	PA5260005	PA-AMERICAN WATER-BROWNSVILLE	BROWNSVILLE	20000
3	PA	PA2350022	PENN AMERICAN—ABINGTON DIST	CLARKS SUMMIT	11000
3	PA	PA7210029	PENN AMERICAN WATER CO WEST	MECHANICSBURG	74816
3	PA	PA7220017	PENN AMERICAN WATER COMPANY	HUMMELSTOWN	27700
3	PA	PA1090074	PENNA. AMERICAN WATER CO	YARDLEY	28400
3	PA	PA2409004	PG&W GARDNER-MILL CREEK	JENKINS	58179
3	PA	PA2409005	PG&W HUNTSVILLE HF	WILKES BARRE	18982
3	PA	PA2409010	PG&W NESBITT	WILKES-BARRE	59039
3	PA	PA1150077	PHOENIXVILLE WATER DEPT	PHOENIXVILLE	24000
3	PA	PA5020041	PLUM BOROUGH MUNICIPAL AUTHORI	PITTSBURGH	25000
3	PA	PA1460037	POTTSTOWN BOROUGH WATER AUTH	STOWE	36000
3	PA	PA4490024	ROARING CREEK WATER COMPANY	SHAMOKIN	51000
3	PA	PA5020045	ROBINSON TWP MUNICIPAL AUTH	CORAOPOLIS	10500
3	PA	PA3540038	SCHUYLKILL CO MUN. AUTH	POTTSVILLE	31850

APPENDIX B–2.—CLASSIFICATION OF CANDIDATE SYSTEMS USING SURFACE WATER WHICH MAY BE SUBJECT TO REQUIREMENTS PERTAINING TO SYSTEMS SERVING BETWEEN 10,000–100,000 PEOPLE—Continued

[By Region, State, Public Water System ID #, Name of Utility, City, and Population]

Reg.	St.	PWS ID	Name	City	Population
3	PA	PA6430054	SHENANGO VALLEY WATER COMPANY	SHARON	37260
3	PA	PA3060067	SHILLINGTON BOROUGH	SHILLINGTON	11000
3	PA	PA7210043	SHIPPENSBURG BORO WATER	SHIPPENSBURG	13500
3	PA	PA5260024	SOUTHWESTERN PA WATER AUTH	RONCO	27605
3	PA	PA6240016	ST MARY'S AREA JOINT WATER AU	ST MARY'S	20100
3	PA	PA2450034	STROUDSBURG MUNICIPAL AUTHORIT	STROUDSBURG	11000
3	PA	PA3390065	SWTA—MAIN SYSTEM	ALLENTOWN	14220
3	PA	PA5630045	TRI-COUNTY JOINT MUN AUTHORITY	MILLSBORO	10000
3	PA	PA1090022	TWP. OF FALLS AUTHORITY	FALLSINGTON	24130
3	PA	PA1090063	UPPER SOUTHAMPTON MUN AUTH	SOUTHAMPTON	13800
3	PA	PA1090069	WARMINSTER MUNICIPAL AUTHORITY	WARMINSTER	40000
3	PA	PA2409011	WATRES RESERVOIR PG&W	SPRINGBROOK TWP	14688
3	PA	PA7280032	WAYNESBORO BOROUGH AUTHORITY	WAYNESBORO	13000
3	PA	PA1150098	WEST CHESTER AREA MUNIC AUTH	WEST CHESTER	27800
3	PA	PA5020025	WEST CO MUN AUTH—MCKEESPORT	MCKEESPORT	32478
3	PA	PA3060066	WESTERN BERKS WATER AUTHORITY	SINKING SPRING	25000
3	PA	PA3390081	WHITEHALL TWP. AUTHORITY	WHITEHALL TOWNSHIP	10800
3	PA	PA4410173	WILLIAMSPORT MUNICIPAL AUTH	WILLIAMSPORT	55000
3	VA	VA6179775	ABEL LAKE WATER TREAT PLANT	STAFFORD	20000
3	VA	VA5009250	AMHERST CO SERVICE AUTHORITY	MADISON HEIGHTS	13300
3	VA	VA1121057	B'BURG-C'BURG-VPI WATER AUTH	BLACKSBURG	15000
3	VA	VA3650350	BASE BIO-ENVIRONMENTAL ENG	LANGLEY AIR FORCE BASE	10800
3	VA	VA1520070	BRISTOL VA FILTER PLANT	ABINGDON	20000
3	VA	VA1121090	CHRISTIANSBURG, TOWN OF	CHRISTIANSBURG	15004
3	VA	VA2540500	CITY OF CHARLOTTESVILLE	CHARLOTTESVILLE	45000
3	VA	VA3550050	CITY OF CHESAPEAKE WEST BR	CHESAPEAKE	21000
3	VA	VA5590100	CITY OF DANVILLE—WATER TREAT P	DANVILLE	53056
3	VA	VA6600100	CITY OF FAIRFAX	FAIRFAX	38000
3	VA	VA2660345	CITY OF HARRISONBURG WATER DEP	HARRISONBURG	30000
3	VA	VA5680200	CITY OF LYNCHBURG	PO BOX 60 CITY HALL LYNCHBURG.	76000
3	VA	VA6685100	CITY OF MANASSAS—WATER PLANT	GAINSVILLE	15000
3	VA	VA5690400	CITY OF MARTINSVILLE	MARTINSVILLE	19000
3	VA	VA3730750	CITY OF PETERSBURG	PETERSBURG	39386
3	VA	VA1750100	CITY OF RADFORD WTP	RADFORD	15940
3	VA	VA3830850	CITY OF WMSBG WATER PLANT	WILLIAMSBURG	16300
3	VA	VA6630050	CITY WATERWORKS	FREDERICKSBURG	20750
3	VA	VA3570150	COLONIAL HEIGHTS-KURT E ANKROM	COLONIAL HEIGHTS	17000
3	VA	VA6179100	COUNTY OF STAFFORD	STAFFORD	14680
3	VA	VA4087270	EUBANKS-HECHLER SYSTEM	RICHMOND	24000
3	VA	VA3700100	FORT EUSTIS	FORT EUSTIS	12538
3	VA	VA3149247	FORT LEE ATTN LT COL W MUNSON	FORT LEE	11594
3	VA	VA3710050	NAVY PUBLIC WORKS CENTER	BLDG P–71 NORFOLK	49723
3	VA	VA6177300	NI RIVER WTP RT 627	SPOTSYLVANIA	24500
3	VA	VA6153675	QUANTICO MARINE BASE—MAINSIDE	QUANTICO	16500
3	VA	VA2775300	SALEM WTP #1—J W GRAHAM—SUPT	SALEM	23900
3	VA	VA2015575	SOUTH RIVER SANITATION DIST	FISHERSVILLE	15000
3	VA	VA2790600	STAUNTON WATER PLANT	STAUNTON	21857
3	VA	VA3800805	SUFFOLK CITY OF	SUFFOLK	36433
3	VA	VA1121052	TOWN OF BLACKSBURG	BLACKSBURG	34590
3	VA	VA2187406	TOWN OF FRONT ROYAL	FRONT ROYAL	10900
3	VA	VA6059550	TOWN OF HERNDON—TOWN MANAGER	HERNDON	11500
3	VA	VA6107300	TOWN OF LEESBURG	LEESBURG	16700
3	VA	VA1173481	TOWN OF MARION C/O BOB MASON	MARION	12500
3	VA	VA1155635	TOWN OF PULASKI	PULASKI	10000
3	VA	VA5089852	UPPER SMITH RIVER WTP-HCPSA	BASSETT	11590
3	VA	VA2003053	URBAN AREA—ALBE CO SERV AUTH	CHARLOTTESVILLE	87960
3	VA	VA3670800	VIRGINIA-AMERICAN WATER CO	HOPEWELL	40331
3	VA	VA1191883	WASHINGTON COUNTY SERVICE AUTH	ABINGDON	45000
3	VA	VA2840500	WINCHESTER, CITY OF—J W GIVENS	WINCHESTER	29165
3	WV	WV3304104	BECKLEY WATER COMPANY	BECKLEY	44353
3	WV	WV3304902	BUCKHANNON WATER BOARD	BUCKHANNON	10000
3	WV	WV3302502	CITY OF FAIRMONT	FAIRMONT	45000
3	WV	WV3303516	CITY OF WHEELING	WHEELING	39558
3	WV	WV3301705	CLARKSBURG WATER BOARD	CLARKSBURG	23454
3	WV	WV3304203	COMMUNITY OF ELKINS	ELKINS	10000
3	WV	WV3303111	MORGANTOWN WATER COMMISSION	MORGANTOWN	48125
3	WV	WV3304011	SOUTH PUTNAM PSD	SCOTT DEPOT	10960
3	WV	WV3302031	ST. ALBANS WATER	ST ALBANS	16740

APPENDIX B–2.—CLASSIFICATION OF CANDIDATE SYSTEMS USING SURFACE WATER WHICH MAY BE SUBJECT TO REQUIREMENTS PERTAINING TO SYSTEMS SERVING BETWEEN 10,000–100,000 PEOPLE—Continued

[By Region, State, Public Water System ID #, Name of Utility, City, and Population]

Reg.	St.	PWS ID	Name	City	Population
3	WV	WV3302839	WV WATER—PRINCETON DISTRICT	PRINCETON	13527
3	WV	WV3300608	WVAWC—HUNTINGTON DIST	HUNTINGTON	76771
3	WV	WV3301030	WVAWC—OAK HILL DISTRICT	OAK HILL	12857
4	AL	AL0000933	ALBERTVILLE UTILITIES BOARD	ALBERTVILLE	22095
4	AL	AL0001265	ALEXANDER CITY WATER DEPARTMENT	ALEX CITY	22254
4	AL	AL0000133	ANNISTON WATER & SEWER BOARD	ANNISTON	58500
4	AL	AL0000934	ARAB WATER WORKS BOARD	ARAB	25500
4	AL	AL0000824	ATHENS WATER DEPARTMENT	ATHENS	19050
4	AL	AL0000804	AUBURN WATER WORKS	AUBURN	30735
4	AL	AL0000737	BESSEMER WATER SERVICE	BESSEMER	72795
4	AL	AL0000131	CALHOUN COUNTY WATER & FIRE PR AUTHORITY	ALEXANDRIA	20457
4	AL	AL0000547	CENTRAL ELMORE WATER AUTHORITY	WETUMPKA	17964
4	AL	AL0000213	CLANTON WATER DEPARTMENT	CLANTON	10000
4	AL	AL0000394	CULLMAN COUNTY COMMISSION	CULLMAN	33150
4	AL	AL0000398	CULLMAN UTILITIES BOARD	CULLMAN	22072
4	AL	AL0001432	CURRY WATER AUTHORITY	JASPER	12009
4	AL	AL0001084	DECATUR UTILITIES	DECATUR	55938
4	AL	AL0000940	DOUGLAS WATER & FIRE PRO AUTH	DOUGLAS	11145
4	AL	AL0000174	EAST ALABAMA WATER & FIRE PRO AUTHORITY	VALLEY	11550
4	AL	AL0000783	FLORENCE WATER & SEWER BOARD	FLORENCE	48105
4	AL	AL0001493	FORT MCCLELLAN	FT MCCLELLAN	12181
4	AL	AL0000509	FORT PAYNE WATER WORKS BOARD	FORT PAYNE	18600
4	AL	AL0000577	GADSDEN WATER WORKS	GADSDEN	52500
4	AL	AL0000943	GUNTERSVILLE WATER WORKS & SEWER BOARD	GUNTERSVILLE	10005
4	AL	AL0001086	HARTSELLE UTILITY BOARD	HARTSELLE	15600
4	AL	AL0001336	JASPER UTILITIES BOARD	JASPER	19500
4	AL	AL0000833	LIMESTONE COUNTY WATER SYSTEM	ATHENS	24063
4	AL	AL0000888	MADISON COUNTY WATER DEPT	HUNTSVILLE	42615
4	AL	AL0000885	MADISON WATER WORKS & SEWER	MADISON	27756
4	AL	AL0000321	MUSCLE SHOALS WATER DEPARTMENT	MUSCLE SHOALS	13500
4	AL	AL0001422	NORTHEAST ALABAMA WATER SYSTEM	FORT PAYNE	17100
4	AL	AL0001088	NORTHEAST MORGAN COUNTY WATER AUTH	LACEY SPRINGS	15786
4	AL	AL0001307	NORTHPORT WATER WORKS	NORTHPORT	21300
4	AL	AL0000103	ONEONTA UTILITIES BOARD	ONEONTA	10932
4	AL	AL0000816	OPELIKA WATER WORKS BOARD	OPELIKA	26760
4	AL	AL0000162	OXFORD WATER WORKS & SEWER BOARD	OXFORD	15885
4	AL	AL0001142	PHENIX CITY UTILITIES	PHENIX CITY	27600
4	AL	AL0001015	PRICHARD WATER WORKS BOARD	PRICHARD	42000
4	AL	AL0000899	REDSTONE ARSENAL	REDSTONE ARSENAL	26636
4	AL	AL0001145	RUSSELL COUNTY WATER AUTHORITY	PHENIX CITY	12948
4	AL	AL0000610	RUSSELLVILLE WATER WORKS	RUSSELLVILLE	10770
4	AL	AL0000729	SCOTTSBORO WATER WORKS	SCOTTSBORO	18000
4	AL	AL0000728	SECTION-DUTTON WATER SYSTEM	RAINSVILLE	21600
4	AL	AL0000327	SHEFFIELD UTILITIES DEPARTMENT	SHEFFIELD	14733
4	AL	AL0000820	SMITHS WATER AUTHORITY	SMITH	13527
4	AL	AL0001258	SYLACAUGA UTILITIES BOARD	SYLACAUGA	23100
4	AL	AL0001260	TALLADEGA WATER & SEWER BOARD	TALLADEGA	17100
4	AL	AL0000331	TUSCUMBIA WATER WORKS	TUSCUMBIA	11799
4	AL	AL0000870	TUSKEGEE UTILITIES BOARD	TUSKEGEE	14289
4	AL	AL0000413	V.A.W WATER SYSTEM, INC	VINEMONT	12000
4	AL	AL0000763	WARRIOR RIVER WATER AUTHORITY	BESSEMER	11269
4	AL	AL0000801	WEST LAWRENCE WATER CO-OP	MT HOPE	11100
4	AL	AL0001092	WEST MORGAN WATER & FIRE PRO AUTHORITY	DECATUR	16623
4	FL	FL6588002	ATLANTIC UTILITIES OF SARASOTA	SARASOTA	10922
4	FL	FL1030050	BAY COUNTY WATER SYSTEM	PANAMA CITY	18529
4	FL	FL4500105	BELLE GLADE WATERWORKS	BELLE GLADE	25000
4	FL	FL6410182	BRADENTON CITY OF	BRADENTON	40000
4	FL	FL1030141	CALLAWAY, CITY OF WATER SYSTEM	CALLAWAY	10504
4	FL	FL5084100	CHARLOTTE COUNTY UTILITIES PORT	CHARLOTTE	76000
4	FL	FL5260053	CITY OF CLEWISTON	CLEWISTON	10570
4	FL	FL6582295	FLORIDA CITIES WATER CO	SARSOTA	15000
4	FL	FL5360170	LEE COUNTY UTILITIES—OLGA	ALVA	36300
4	FL	FL6580651	NORTH PORT UTILITIES	NORTH PORT	20475
4	FL	FL4470257	OKEECHOBEE, CITY OF	OKEECHOBEE	17000
4	FL	FL1030517	PANAMA CITY WATER SYSTEM	PANAMA CITY	38000
4	FL	FL6080051	PUNTA GORDA, CITY OF	PUNTA GORDA	19500
4	FL	FL6581591	SARASOTA CO SPECIAL UTIL DIST	SARASOTA	53000
4	FL	FL6581641	SIESTA KEY UTILITIES AUTHORITY	SARASOTA	25880
4	FL	FL6588003	SOUTHGATE UTILITIES	SARASOTA	17809

APPENDIX B–2.—CLASSIFICATION OF CANDIDATE SYSTEMS USING SURFACE WATER WHICH MAY BE SUBJECT TO REQUIREMENTS PERTAINING TO SYSTEMS SERVING BETWEEN 10,000–100,000 PEOPLE—Continued

[By Region, State, Public Water System ID #, Name of Utility, City, and Population]

Reg.	St.	PWS ID	Name	City	Population
4	FL	FL5110183	SSU/MARCO ISLAND	MARCO ISLAND	20000
4	FL	FL6411098	TOWN OF LONGBOAT KEY	LONGBOAT KEY	10000
4	FL	FL4501559	WEST PALM BEACH, CITY OF	WEST PALM BEACH	67643
4	GA	GA0590000	ATHENS-CLARKE CO WATER SYSTEM	ATHENS	80000
4	GA	GA2450000	AUGUSTA	AUGUSTA	92000
4	GA	GA0090000	BALDWIN COUNTY	MILLEDEGVILLE	15200
4	GA	GA0150001	BARTOW COUNTY	CARTERSVILLE	22000
4	GA	GA1290000	CALHOUN	CALHOUN	28400
4	GA	GA0450001	CARROLL COUNTY	CARROLLTON	14422
4	GA	GA0450002	CARROLLTON	CARROLLTON	19000
4	GA	GA0150002	CARTERSVILLE	CARTERSVILLE	17245
4	GA	GA2130000	CHATSWORTH	CHATSWORTH	10111
4	GA	GA0570002	CHEROKEE COUNTY	CANTON	59883
4	GA	GA1210002	COLLEGE PARK	COLLEGE PARK	20457
4	GA	GA0730000	COLUMBIA COUNTY	MARTINEZ	44857
4	GA	GA2470000	CONYERS	CONYERS	45355
4	GA	GA2170001	COVINGTON	COVINGTON	13380
4	GA	GA1170000	CUMMING	CUMMING	13380
4	GA	GA0830000	DADE COUNTY	TRENTON	13050
4	GA	GA3130000	DALTON UTILITIES	DALTON	66274
4	GA	GA0970000	DOUGLASVILLE-DOUGLAS CO AUTH	DOUGLASVILLE	70070
4	GA	GA1750002	DUBLIN	DUBLIN	17000
4	GA	GA1210003	EAST POINT	EAST POINT	34332
4	GA	GA1130001	FAYETTE COUNTY	FAYETTEVILLE	38592
4	GA	GA0630001	FOREST PARK	FOREST PARK	17550
4	GA	GA1390001	GAINESVILLE	GAINESVILLE	64900
4	GA	GA2550000	GRIFFIN	GRIFFIN	39265
4	GA	GA1510001	HENRY COUNTY WATER AUTHORITY	MCDONOUGH	20100
4	GA	GA2950002	LAFAYETTE	LAFAYETTE	13020
4	GA	GA2850001	LAGRANGE	LAGRANGE	36920
4	GA	GA0670005	MARIETTA	MARIETTA	61600
4	GA	GA0090001	MILLEDGEVILLE	MILLEDGEVILLE	13300
4	GA	GA2970001	MONROE	MONROE	12001
4	GA	GA0770002	NEWNAN	NEWNAN	17477
4	GA	GA2170004	NEWTON COUNTY	COVINGTON	11180
4	GA	GA1210005	NORTH FULTON COUNTY	ATLANTA	60000
4	GA	GA2230002	PAULDING COUNTY WATER AUTH	DALLAS	25796
4	GA	GA0670006	POWDER SPRINGS	POWDER SPRINGS	10400
4	GA	GA1150002	ROME	ROME	48072
4	GA	GA0670007	SMYRNA	SMYRNA	33300
4	GA	GA2950004	TENNESSEE AMERICAN WATER CO	CHATTANOOGA	13450
4	GA	GA2930000	THOMASTON	THOMASTON	13126
4	GA	GA2570001	TOCCOA	TOCCOA	18265
4	GA	GA2150002	USA-FORT BENNING	FORT BENNING	44000
4	GA	GA2450028	USA-FORT GORDON	FORT GORDON	24000
4	GA	GA2950003	WALKER COUNTY WATER AUTHORITY	FLINTSTONE	19256
4	GA	GA2970008	WALTON CO. WATER & SEWER AUTH	LOGANVILLE	10000
4	GA	GA0130002	WINDER	WINDER	19000
4	KY	KY0070282	AQUA KWS INC/MIDDLESBORO	MIDDLESBORO	17741
4	KY	KY0100011	ASHLAND WATER WORKS	ASHLAND	49500
4	KY	KY0610016	BARBOURVILLE WATER & ELECTRIC	BARBOURVILLE	14995
4	KY	KY0900017	BARDSTOWN MUNICIPAL WATER DEPT	BARDSTOWN	18889
4	KY	KY0760030	BEREA COLLEGE WATER DEPARTMENT	BEREA	10220
4	KY	KY0080034	BOONE CO WATER/SEWER DIST	BURLINGTON	25000
4	KY	KY1140038	BOWLING GREEN MUN UTILITIES	BOWLING GREEN	45728
4	KY	KY0190057	CAMPBELL COUNTY WATER DIST	COLD SPRING	62479
4	KY	KY1090060	CAMPBELLSVILLE MUN WATER SYS	CAMPBELLSVILLE	20807
4	KY	KY1000403	CITY OF SOMERSET WATER SERVICE	SOMERSET	24278
4	KY	KY1180085	CORBIN UTILITIES COMMISSION	CORBIN	16467
4	KY	KY0110097	DANVILLE CITY WATER WORKS	DANVILLE	19367
4	KY	KY0470990	DIR ENGINEERING & HOUSING	FT KNOX	42400
4	KY	KY0310114	EDMONSON CO WATER DISTRICT	BROWNSVILLE	10890
4	KY	KY0470118	ELIZABETHTOWN WATER DEPT	ELIZABETHTOWN	20257
4	KY	KY0080135	FLORENCE WATER/SEWER COMM	FLORENCE	24830
4	KY	KY0370143	FRANKFORT ELEC & WTR PLNT BD	FRANKFORT	41372
4	KY	KY1070144	FRANKLIN WATER WORKS	FRANKLIN	12032
4	KY	KY1050157	GEORGETOWN MUN WATER SERVICE	GEORGETOWN	17074
4	KY	KY0050929	GLASGOW WATER CO	GLASGOW	25867
4	KY	KY0500166	GREEN RIVER VALLEY WATER DIST	CAVE CITY	14520

APPENDIX B–2.—CLASSIFICATION OF CANDIDATE SYSTEMS USING SURFACE WATER WHICH MAY BE SUBJECT TO REQUIREMENTS PERTAINING TO SYSTEMS SERVING BETWEEN 10,000–100,000 PEOPLE—Continued

[By Region, State, Public Water System ID #, Name of Utility, City, and Population]

Reg.	St.	PWS ID	Name	City	Population
4	KY	KY0470393	HARDIN CO WD #1	RADCLIFF	27762
4	KY	KY0470175	HARDIN COUNTY WATER DIST #2	ELIZABETHTOWN	26070
4	KY	KY0840180	HARRODSBURG MUN WATER DEPT	HARRODSBURG	10890
4	KY	KY0970184	HAZARD WATER DEPARTMENT	HAZARD	13500
4	KY	KY0510189	HENDERSON COUNTY WATER DIST	HENDERSON	14853
4	KY	KY0510188	HENDERSON MUN WATER/SWR DEPT	HENDERSON	29568
4	KY	KY0240201	HOPKINSVILLE SWR/WTR WKS COMM	HOPKINSVILLE	35769
4	KY	KY0630238	LAUREL CO WATER DIST #2	LONDON	11658
4	KY	KY0030239	LAWRENCEBURG WATER/SEWER DEPT	LAWRENCEBURG	10055
4	KY	KY0540936	MADISONVILLE LIGHT/WATER	MADISONVILLE	28713
4	KY	KY0810275	MAYSVILLE UTILITY COMMISSION	MAYSVILLE	14520
4	KY	KY0740276	MCCREARY COUNTY WATER DIST	WHITLEY CITY	14850
4	KY	KY1030480	MOREHEAD STATE UNIVERSITY WTP	MOREHEAD	10000
4	KY	KY1030292	MOREHEAD UTILITY PLANT BD	MOREHEAD	10415
4	KY	KY0980575	MOUNTAIN WATER DISTRICT	PIKEVILLE	17160
4	KY	KY0870298	MT STERLING WATER WORKS	MT STERLING	12391
4	KY	KY0150300	MT WASHINGTON WATER CO	MT WASHINGTON	10903
4	KY	KY0890302	MUHLENBERG COUNTY WATER DIST	GREENVILLE	14760
4	KY	KY0190313	NEWPORT WATER WORKS	FORT THOMAS	22110
4	KY	KY0570315	NICHOLASVILLE WATER DEPARTMENT	NICHOLASVILLE	20000
4	KY	KY0920332	OHIO COUNTY WATER DISTRICT	CROMWELL	10725
4	KY	KY0730533	PADUCAH WATER WORKS	PADUCAH	46854
4	KY	KY0580340	PAINTSVILLE MUN WATER WORKS	PAINTSVILLE	15259
4	KY	KY0090343	PARIS WATER WORKS	PARIS	12761
4	KY	KY0070353	PINEVILLE WATER SYSTEM	PINEVILLE	10560
4	KY	KY0360358	PRESTONSBURG WATER CO	PRESTONSBURG	12735
4	KY	KY0170360	PRINCETON WT & WSTEWATER COMM	PRINCETON	11134
4	KY	KY0760370	RICHMOND WATER/GAS/SEWER WORKS	RICHMOND	20790
4	KY	KY1030375	ROWAN WATER INC	MOREHEAD	10900
4	KY	KY0300387	S E DAVIESS CO WATER DIST	OWENSBORO	13645
4	KY	KY1060394	SHELBYVILLE WATER/SEWER COMM	SHELBYVILLE	15107
4	KY	KY0590424	TAYLOR MILL WATER DEPT	COVINGTON	10890
4	KY	KY1200439	VERSAILLES WATER SYSTEM/#1	VERSAILLES	14190
4	KY	KY1140487	WARREN COUNTY WATER DISTRICT	BOWLING GREEN	46032
4	KY	KY0250473	WINCHESTER MUNICIPAL UTILITIES	WINCHESTER	25080
4	KY	KY0630477	WOOD CREEK WATER DIST	LONDON	11566
4	MS	MS0440003	COLUMBUS LIGHT & WATER DEPT	COLUMBUS	23519
4	MS	MS0290019	N. E. MS. REGIONAL W/S	TUPELO	30685
4	MS	MS0410015	TUPELO LIGHT & WATER DEPT	TUPELO	33364
4	NC	NC0184010	ALBEMARLE, CITY OF	ALBEMARLE	17069
4	NC	NC0102015	ALEXANDER CO WATER CORP	STONY POINT	10572
4	NC	NC0276010	ASHEBORO, CITY OF	ASHEBORO	19200
4	NC	NC0136015	BELMONT COVERTING CO WTP	BELMONT	10117
4	NC	NC0195010	BOONE, CITY OF	BOONE	12915
4	NC	NC0410045	BRUNSWICK COUNTY WATER SYSTEM	BRUNSWICK CO	11176
4	NC	NC0201010	BURLINGTON, CITY OF	BURLINGTON	48000
4	NC	NC0392020	CARY, TOWN OF	CARY	48000
4	NC	NC0123055	CLEVELAND CO SANITARY DIST	SHELBY	17306
4	NC	NC0113010	CONCORD, CITY OF	CONCORD	33761
4	NC	NC0279040	DAN RIVER WATER INC	EDEN	10000
4	NC	NC0229025	DAVIDSON WATER INC	LEXINGTON	91003
4	NC	NC0230015	DAVIE COUNTY WATER SYSTEM	COOLEEMEE	15240
4	NC	NC0279010	EDEN, TOWN OF	EDEN	18502
4	NC	NC0470010	ELIZABETH CITY WATER SYSTEM	ELIZABETH CITY	14500
4	NC	NC0326344	FORT BRAGG DIR OF FAC ENGR	FORT BRAGG	65000
4	NC	NC0392025	GARNER, TOWN OF	GARNER	16257
4	NC	NC0136010	GASTONIA WTR TRTMT FAC	GASTONIA	72000
4	NC	NC0496010	GOLDSBORO WATER SYSTEM	GOLDSBORO	35969
4	NC	NC0201015	GRAHAM, CITY OF	GRAHAM/MEBANE	10450
4	NC	NC0474010	GREENVILLE UTILITIES COMM	GREENVILLE	56224
4	NC	NC0377010	HAMLET, CITY OF	HAMLET	10449
4	NC	NC0291010	HENDERSON-KERR LAKE REG WTR	HENDERSON	20000
4	NC	NC0145010	HENDERSONVILLE WTR TRTMT PLT	HENDERSONVILLE	45100
4	NC	NC0118010	HICKORY WTP	HICKORY	40000
4	NC	NC0241020	HIGH POINT, CITY OF	HIGH POINT	69982
4	NC	NC0368015	HILLSBOROUGH, TOWN OF	HILLSBOROUGH	10191
4	NC	NC0180065	KANNAPOLIS, CITY OF	KANNAPOLIS	39151
4	NC	NC0234020	KERNERSVILLE, TOWN OF	KERNERSVILLE	11686
4	NC	NC0285010	KING, CITY OF	KING	15905

APPENDIX B–2.—CLASSIFICATION OF CANDIDATE SYSTEMS USING SURFACE WATER WHICH MAY BE SUBJECT TO REQUIREMENTS PERTAINING TO SYSTEMS SERVING BETWEEN 10,000–100,000 PEOPLE—Continued

[By Region, State, Public Water System ID #, Name of Utility, City, and Population]

Reg.	St.	PWS ID	Name	City	Population
4	NC	NC0114010	LENOIR WTR TRTMT PLT	LENOIR	14597
4	NC	NC0229010	LEXINGTON, TOWN OF	LEXINGTON	19000
4	NC	NC0378010	LUMBERTON, CITY OF	LUMBERTON	20484
4	NC	NC0190010	MONROE, CITY OF	MONROE	17000
4	NC	NC0112015	MORGANTON WTR TRTMT PLTS	MORGANTON	19500
4	NC	NC0118015	NEWTON, CITY OF	NEWTON	11204
4	NC	NC0368010	ORANGE WATER & SEWER AUTHORITY	CARRBORO	60000
4	NC	NC0279020	REIDSVILLE, CITY OF	REIDSVILLE	12966
4	NC	NC0377109	RICHMOND COUNTY WATER SYSTEM	RICHMOND COUNTY	11955
4	NC	NC0442010	ROANOKE RAPIDS SANITARY DIST	ROANOKE RAPIDS	23576
4	NC	NC0377015	ROCKINGHAM, CITY OF	ROCKINGHAM	10304
4	NC	NC0464010	ROCKY MOUNT WATER SYSTEM	ROCKY MOUNT	50000
4	NC	NC0273010	ROXBORO, CITY OF	ROXBORO	12000
4	NC	NC0180010	SALISBURY, CITY OF	SALISBURY	30000
4	NC	NC0353010	SANFORD, CITY OF	SANFORD	23057
4	NC	NC0123010	SHELBY WTR TRTMT PLT	SHELBY	21380
4	NC	NC0363010	SOUTHERN PINES, TOWN OF	SOUTHERN PINES	10723
4	NC	NC0326020	SPRING LAKE, TOWN OF	SPRING LAKE	10848
4	NC	NC0149010	STATESVILLE WTR TRTMT PLT	STATESVILLE	31000
4	NC	NC0433010	TARBORO WATER SYSTEM	TARBORO	10750
4	NC	NC0229020	THOMASVILLE, CITY OF	THOMASVILLE	18000
4	NC	NC0190413	UNION COUNTY WATER SYSTEM	MONROE	27047
4	NC	NC0144010	WAYNESVILLE WTR TRTMT PLT	WAYNESVILLE	10550
4	NC	NC0465010	WILMINGTON WATER SYSTEM	WILMINGTON	57262
4	NC	NC0498010	WILSON WATER SYSTEM	WILSON	40274
4	SC	SC0210001	AIKEN, CITY OF	AIKEN	31540
4	SC	SC0820002	BCWSA-SANGAREE W/D	GOOSE CREEK	17734
4	SC	SC0710001	BEAUFORT, CITY OF	BEAUFORT	17072
4	SC	SC3410001	BENNETTSVILLE, CITY OF	BENNETTSVILLE	12172
4	SC	SC2320003	BLUE RIDGE W/D	GREER	13720
4	SC	SC2810001	CAMDEN, CITY OF	CAMDEN	15651
4	SC	SC3210003	CAYCE, CITY OF	CAYCE	11340
4	SC	SC1220002	CHESTER METRO	FT LAWN	14840
4	SC	SC3910006	CLEMSON UNIVERSITY	CLEMSON	19982
4	SC	SC3910004	CLEMSON, TOWN OF	CLEMSON	13174
4	SC	SC3010002	CLINTON, CITY OF	CLINTON	10582
4	SC	SC2610008	CONWAY, CITY OF	CONWAY	15890
4	SC	SC0410002	DUKE POWER WATER CPW	ANDERSON	40916
4	SC	SC3910002	EASLEY COMBINED UTILITY	EASLEY	24377
4	SC	SC1920001	EDGEFIELD CO. W/S AUTH	EDGEFIELD	18023
4	SC	SC4010501	FORT JACKSON	FORT JACKSON	24000
4	SC	SC1110001	GAFFNEY BPW	GAFFNEY	21430
4	SC	SC0810004	GOOSE CREEK, CITY OF	GOOSE CREEK	15176
4	SC	SC2620004	GRAND STRAND W&SA	CONWAY	51304
4	SC	SC2410001	GREENWOOD CPW	GREENWOOD	37478
4	SC	SC2310005	GREER CPW	GREER	18535
4	SC	SC4220002	INMAN-CAMPOBELLO W/D	INMAN	18231
4	SC	SC4220010	L.C.F. WATER DISTRICT	CHESNEE	12678
4	SC	SC2920001	LANCASTER CO WATER	LANCASTER	25987
4	SC	SC2910001	LANCASTER, CITY OF	LANCASTER	11140
4	SC	SC3010001	LAURENS CPW	LAURENS	13386
4	SC	SC2610001	MYRTLE BEACH, CITY OF	MYRTLE BEACH	43858
4	SC	SC3610001	NEWBERRY, CITY OF	NEWBERRY	10134
4	SC	SC0210003	NORTH AUGUSTA, CITY OF	N AUGUSTA	25944
4	SC	SC3810001	ORANGEBURG DPU	ORANGEBURG	51584
4	SC	SC0710501	PARRIS ISLAND	PARRIS ISLAND	10000
4	SC	SC3720001	PIONEER RURAL WATER DIST	WESTMINSTER	10147
4	SC	SC3020001	RABON CREEK RURAL W/D	LAURENS	17562
4	SC	SC4610002	ROCK HILL, CITY OF	ROCK HILL	53058
4	SC	SC0420002	SALUDA-POWDERSVILLE W/D	EASLEY	16731
4	SC	SC3710002	SENECA, CITY OF	SENECA	20368
4	SC	SC4220006	SJWD WATER DISTRICT	LYMAN	29320
4	SC	SC4210001	SPARTANBURG WATER SYSTEM	SPARTANBURG	92841
4	SC	SC1810003	SUMMERVILLE, TOWN OF	SUMMERVILLE	42502
4	SC	SC4410001	UNION CPW	UNION	11718
4	SC	SC3710004	WALHALLA, TOWN OF	WALHALLA	13304
4	SC	SC0420006	WEST ANDERSON W/D	ANDERSON	10579
4	SC	SC3210004	WEST COLUMBIA, CITY OF	WEST COLUMBIA	23339
4	SC	SC4220007	WOODRUFF ROEBUCK W/D	WOODRUFF	14906

APPENDIX B–2.—CLASSIFICATION OF CANDIDATE SYSTEMS USING SURFACE WATER WHICH MAY BE SUBJECT TO REQUIREMENTS PERTAINING TO SYSTEMS SERVING BETWEEN 10,000–100,000 PEOPLE—Continued

[By Region, State, Public Water System ID #, Name of Utility, City, and Population]

Reg.	St.	PWS ID	Name	City	Population
4	TN	TN0000007	ALCOA WATER SYSTEM	ALCOA	20378
4	TN	TN0000014	ALPHA-TALBOTT UTILITY DIST	TALBOTT	11008
4	TN	TN0000024	ATHENS UTILITIES BOARD	ATHENS	13895
4	TN	TN0000056	BLOOMINGDALE UTILITY DISTRICT	KINGSPORT	11550
4	TN	TN0000069	BRENTWOOD WATER DEPT	BRENTWOOD	15019
4	TN	TN0000073	BRISTOL DEPT. UTILITIES	BRISTOL	23655
4	TN	TN0000116	CLARKSVILLE WATER DEPARTMENT	CLARKSVILLE	76254
4	TN	TN0000117	CLEVELAND UTILITIES	CLEVELAND	54267
4	TN	TN0000120	CLINTON UTILITY BOARD	CLINTON	13581
4	TN	TN0000128	COLUMBIA WATER DEPT	COLUMBIA	38920
4	TN	TN0000791	CONSOLIDATED UD 1, RUTHERFORD	MURFREESBORO	41964
4	TN	TN0000133	COOKEVILLE WATER DEPT	COOKEVILLE	26805
4	TN	TN0000150	CROSSVILLE WATER DEPT	CROSSVILLE	12857
4	TN	TN0000297	CUMBERLAND UTILITY DISTRICT	HERMITAGE	23220
4	TN	TN0000242	FAYETTEVILLE WATER SYSTEM	FAYETTEVILLE	10302
4	TN	TN0000369	FIRST UTIL DIST OF KNOX COUNTY	KNOXVILLE	41760
4	TN	TN0000820	FORT CAMPBELL WATER SYSTEM	FT CAMPBELL	43000
4	TN	TN0000246	FRANKLIN WATER DEPT	FRANKLIN	27743
4	TN	TN0000253	GALLATIN WATER DEPARTMENT	GALLATIN	21797
4	TN	TN0000273	GREENVILLE WATER/LIGHT	GREENVILLE	23363
4	TN	TN0000280	HALLSDALE POWELL U D	KNOXVILLE	37459
4	TN	TN0000286	HARPETH VALLEY U D	NASHVILLE	20885
4	TN	TN0000294	HENDERSONVILLE U D	HENDERSONVILLE	30705
4	TN	TN0000331	JOHNSON CITY WATER DEPT	JOHNSON CITY	60025
4	TN	TN0000338	JONESBORO WATER DEPT	JONESBORO	14700
4	TN	TN0000349	KINGSPORT WATER DEPT	KINGSPORT	75355
4	TN	TN0000367	KNOX-CHAPMAN UTILITY DISTRICT	KNOXVILLE	17690
4	TN	TN0000374	LA FOLLETTE WATER DEPT	LA FOLLETTE	16828
4	TN	TN0000392	LAWRENCEBURG WATER SYSTEM	LAWRENCEBURG	13624
4	TN	TN0000393	LEBANON WATER SYSTEM	LEBANON	19946
4	TN	TN0000400	LEWISBURG WATER SYSTEM	LEWISBURG	12174
4	TN	TN0000402	LEXINGTON	LEXINGTON	15179
4	TN	TN0000764	LINCOLN CO. BD. P U #1	FAYETTEVILLE	10280
4	TN	TN0000424	MADISON SUBURBAN UD	MADISON	38700
4	TN	TN0000429	MANCHESTER WATER DEPARTMENT	MANCHESTER	10244
4	TN	TN0000438	MARYVILLE DEPT OF WAT QUAL CON	MARYVILLE	27902
4	TN	TN0000423	MCMINNVILLE WATER DEPT	MCMINNVILLE	14613
4	TN	TN0000474	MORRISTOWN WATER SYSTEM	MORRISTOWN	27689
4	TN	TN0000491	MURFREESBORO WATER DEPARTMENT	MURFREESBORO	39703
4	TN	TN0000500	NEWPORT UTILITIES BOARD	NEWPORT	16346
4	TN	TN0000515	NORTHEAST KNOX U D	CORRYTON	11171
4	TN	TN0000522	OAK RIDGE DEPT OF PUBLIC WORKS	OAK RIDGE	29700
4	TN	TN0000617	SEVIERVILLE WATER DEPARTMENT	SEVIERVILLE	10449
4	TN	TN0000628	SHELBYVILLE WATER SYSTEM	SHELBYVILLE	17330
4	TN	TN0000639	SMYRNA WATER SYSTEM	SMYRNA	14295
4	TN	TN0000643	SOUTH BLOUNT UTILITY DISTRICT	MARYVILLE	17005
4	TN	TN0000666	SPRINGFIELD WATER SYSTEM	SPRINGFIELD	21317
4	TN	TN0000715	TULLAHOMA BOARD OF UTILITIES	TULLAHOMA	19696
4	TN	TN0000818	WARREN COUNTY UTILITY DISTRICT	MCMINNVILLE	13580
4	TN	TN0000371	WEST KNOX UTILITY DISTRICT	KNOXVILLE	33880
4	TN	TN0000743	WEST WILSON UTILITY DISTRICT	MT JULIET	25774
4	TN	TN0000745	WHITE HOUSE UTILITY DISTRICT	WHITE HOUSE	47319
4	TN	TN0000754	WINCHESTER WATER SYSTEM	WINCHESTER	14362
5	IL	IL0430050	ADDISON	ADDISON	32058
5	IL	IL0310030	ALSIP	ALSIP	18000
5	IL	IL0314030	ARLINGTON HEIGHTS	ARLINGTON HEIGHTS	75000
5	IL	IL0894070	AURORA	AURORA	90000
5	IL	IL0314120	BARTLETT	BARTLETT	19373
5	IL	IL0434140	BENSENVILLE	BENSENVILLE	17000
5	IL	IL0310210	BERWYN	BERWYN	45426
5	IL	IL0430100	BLOOMINGDALE	WESTON	16614
5	IL	IL1130200	BLOOMINGTON	BLOOMINGTON	54566
5	IL	IL0310240	BLUE ISLAND	BLUE ISLAND	21203
5	IL	IL0310270	BRIDGEVIEW	BRIDGEVIEW	14402
5	IL	IL0310330	BROOKFIELD	BROOKFIELD	18876
5	IL	IL0314180	BUFFALO GROVE	BUFFALO GROVE	36427
5	IL	IL0310390	CALUMET CITY	CALUMET CITY	40000
5	IL	IL0570250	CANTON	CANTON	13600
5	IL	IL0770150	CARBONDALE	CARBONDALE	26414

APPENDIX B–2.—CLASSIFICATION OF CANDIDATE SYSTEMS USING SURFACE WATER WHICH MAY BE SUBJECT TO REQUIREMENTS PERTAINING TO SYSTEMS SERVING BETWEEN 10,000–100,000 PEOPLE—Continued

[By Region, State, Public Water System ID #, Name of Utility, City, and Population]

Reg.	St.	PWS ID	Name	City	Population
5	IL	IL0430200	CAROL STREAM	CAROL STREAM	33800
5	IL	IL1630250	CASEYVILLE	CASEYVILLE	13600
5	IL	IL1214220	CENTRALIA	CENTRALIA	16500
5	IL	IL0290100	CHARLESTON	CHARLESTON	14014
5	IL	IL0310450	CHICAGO HEIGHTS	CHICAGO HEIGHTS	33072
5	IL	IL0310480	CHICAGO RIDGE	CHICAGO RIDGE	14576
5	IL	IL0310510	CICERO	CICERO	61000
5	IL	IL1635030	COMMONFIELDS OF CAHOKIA PWD	CENTREVILLE TWP	15200
5	IL	IL0915030	CONSUMERS IL WTR-KANKAKEE DIV	KANKAKEE	55000
5	IL	IL0310540	COUNTRY CLUB HILLS	COUNTRY CLUB HILS	15341
5	IL	IL0310600	CRESTWOOD	CRESTWOOD	10783
5	IL	IL0430270	DARIEN	DARIEN	18639
5	IL	IL1150150	DECATUR	DECATUR	83885
5	IL	IL0974340	DEERFIELD	DEERFIELD	17800
5	IL	IL0310630	DES PLAINES	DES PLAINES	53223
5	IL	IL0310690	DOLTON	DOLTON	24766
5	IL	IL0430300	DOWNERS GROVE	DOWNERS GROVE	45000
5	IL	IL1610250	EAST MOLINE	EAST MOLINE	20907
5	IL	IL0490250	EFFINGHAM	EFFINGHAM	11851
5	IL	IL0894380	ELGIN	ELGIN	77010
5	IL	IL0314400	ELK GROVE VILLAGE	ELK GROVE	33429
5	IL	IL0430350	ELMHURST	ELMHURST	42029
5	IL	IL0310780	ELMWOOD PARK	ELMWOOD PARK	23206
5	IL	IL0310810	EVANSTON	EVANSTON	73233
5	IL	IL0310840	EVERGREEN PARK	EVERGREEN PARK	20874
5	IL	IL0310900	FOREST PARK	FOREST PARK	15000
5	IL	IL0310960	FRANKLIN PARK	FRANKLIN PARK	18000
5	IL	IL0430450	GLEN ELLYN	GLEN ELLYN	24944
5	IL	IL0430400	GLENDALE HEIGHTS	GLENDALE HEIGHTS	27980
5	IL	IL0311020	GLENVIEW	GLENVIEW	56000
5	IL	IL0975227	GREAT LAKES NAVAL TRG STATION	NORTH CHICAGO	41000
5	IL	IL0970350	GURNEE	GURNEE	15489
5	IL	IL0314480	HANOVER PK	HANOVER PARK	33100
5	IL	IL0311110	HARVEY	HARVEY	29771
5	IL	IL0311170	HAZEL CREST	HAZEL CREST	14000
5	IL	IL1990400	HERRIN	HERRIN	11135
5	IL	IL0311200	HICKORY HILLS	HICKORY HILLS	13775
5	IL	IL0970500	HIGHLAND PARK	HIGHLAND PARK	30575
5	IL	IL0434520	HINSDALE	HINSDALE	17750
5	IL	IL0311290	HOFFMAN ESTS	HOFFMAN ESTATES	46561
5	IL	IL0311350	HOMEWOOD	HOMEWOOD	19750
5	IL	IL1195150	IL AMERICAN WTR CMPNY-ALTON	ALTON	45000
5	IL	IL1195030	IL AMERICAN WTR CMPNY-GRANITEC	GRANITE CITY	35000
5	IL	IL1835120	INTERSTATE WATER CMPY DANVILLE	DANVILLE	38000
5	IL	IL1370200	JACKSONVILLE	JACKSONVILLE	19424
5	IL	IL0315820	JUSTICE-WILLOW SPRGS WTR CMSN	JUSTICE	14700
5	IL	IL0311530	LA GRANGE	LA GRANGE	15683
5	IL	IL0311560	LA GRANGE PARK	LA GRANGE PARK	12861
5	IL	IL0970800	LAKE FOREST	LAKE FOREST	17836
5	IL	IL0311590	LANSING	LANSING	28086
5	IL	IL0315880	LEYDEN TWSP WTR DSTRCT	LEYDEN TWP	16000
5	IL	IL0970900	LIBERTYVILLE	LIBERTYVILLE	19174
5	IL	IL0311650	LINCOLNWOOD	LINCOLNWOOD	11921
5	IL	IL0430551	LISLE	LISLE	14700
5	IL	IL0430600	LOMBARD	LOMBARD	39408
5	IL	IL1090350	MACOMB	MACOMB	19840
5	IL	IL1990550	MARION	MARION	14610
5	IL	IL0311770	MARKHAM	MARKHAM	13136
5	IL	IL0311800	MATTESON	MATTESON	11378
5	IL	IL0290250	MATTOON	MATTOON	21000
5	IL	IL0311830	MAYWOOD	MAYWOOD	28100
5	IL	IL0311860	MELROSE PARK	MELROSE PARK	20895
5	IL	IL0311920	MIDLOTHIAN	MIDLOTHIAN	14372
5	IL	IL1610450	MOLINE	MOLINE	45709
5	IL	IL0311950	MORTON GROVE	MORTON GROVE	22408
5	IL	IL0311980	MOUNT PROSPECT	MOUNT PROSPECT	40750
5	IL	IL0810300	MOUNT VERNON	MOUNT VERNON	18524
5	IL	IL0971150	MUNDELEIN	MUNDELEIN	21400
5	IL	IL0770500	MURPHYSBORO	MURPHYSBORO	11118

APPENDIX B–2.—CLASSIFICATION OF CANDIDATE SYSTEMS USING SURFACE WATER WHICH MAY BE SUBJECT TO REQUIREMENTS PERTAINING TO SYSTEMS SERVING BETWEEN 10,000–100,000 PEOPLE—Continued

[By Region, State, Public Water System ID #, Name of Utility, City, and Population]

Reg.	St.	PWS ID	Name	City	Population
5	IL	IL0434670	NAPERVILLE	NAPERVILLE	90000
5	IL	IL0312010	NILES	NILES	28284
5	IL	IL0312040	NORRIDGE	NORRIDGE	14459
5	IL	IL0971250	NORTH CHICAGO	NORTH CHICAGO	14500
5	IL	IL0314710	NORTH LAKE	NORTH LAKE	12505
5	IL	IL0315350	NORTH SUBURBAN PUBLIC UTL CPY	MAINE TWP	30000
5	IL	IL0312070	NORTHBROOK	NORTHBROOK	32308
5	IL	IL1055030	NORTHERN IL WTR CORP-PONTIAC	PONTIAC	11200
5	IL	IL0995030	NORTHERN IL WTR CORP-STREATOR	STREATOR	21000
5	IL	IL1631100	O FALLON	O FALLON	30500
5	IL	IL0430700	OAK BROOK	OAK BROOK	12148
5	IL	IL0312190	OAK FOREST	OAK FOREST	26203
5	IL	IL0312220	OAK LAWN	OAK LAWN	56182
5	IL	IL0312250	OAK PARK	OAK PARK	54887
5	IL	IL0312310	ORLAND PARK	ORLAND PARK	39021
5	IL	IL0312340	PALATINE	PALATINE	55000
5	IL	IL0312370	PALOS HEIGHTS	PALOS HEIGHTS	13000
5	IL	IL0312400	PALOS HILLS	PALOS HILLS	17803
5	IL	IL0312460	PARK RIDGE	PARK RIDGE	36175
5	IL	IL0010650	QUINCY	QUINCY	43000
5	IL	IL0312610	RIVER FOREST	RIVER FOREST	11669
5	IL	IL0312580	RIVERDALE	RIVERDALE	13200
5	IL	IL1610650	ROCK ISLAND	ROCK ISLAND	42000
5	IL	IL0312730	ROLLING MEADOWS	ROLLING MEADOWS	22591
5	IL	IL0434820	ROSELLE	ROSELLE	19603
5	IL	IL0971550	ROUND LAKE BEACH	ROUND LAKE BEACH	17685
5	IL	IL0314890	SCHAUMBURG	SCHAUMBURG	68586
5	IL	IL0312850	SCHILLER PARK	SCHILLER PARK	11189
5	IL	IL0312880	SKOKIE	SKOKIE	59432
5	IL	IL0312970	SOUTH HOLLAND	SOUTH HOLLAND	22105
5	IL	IL0317370	SOUTH STICKNY SNDST	BURBANK	29000
5	IL	IL0313060	STREAMWOOD	STREAMWOOD	30987
5	IL	IL0210600	TAYLORVILLE	TAYLORVILLE	15000
5	IL	IL0314910	TINLEY PARK	TINLEY PARK	37121
5	IL	IL0971750	VERNON HILLS	VERNON HILLS	15319
5	IL	IL0430800	VILLA PARK	VILLA PARK	23185
5	IL	IL0971900	WAUKEGAN	WAUKEGAN	69392
5	IL	IL0550700	WEST FRANKFORT	WEST FRANKFORT	10052
5	IL	IL0313150	WESTCHESTER	WESTCHESTER	17301
5	IL	IL0430950	WESTMONT	WESTMONT	21228
5	IL	IL0431050	WHEATON	WHEATON	51464
5	IL	IL0314970	WHEELING	WHEELING	29911
5	IL	IL0313300	WILMETTE	WILMETTE	26690
5	IL	IL0313330	WINNETKA	WILMETTE	12174
5	IL	IL0431200	WOOD DALE	WOOD DALE	11000
5	IL	IL0431250	WOODRIDGE	WOODRIDGE	26256
5	IL	IL0313360	WORTH	WORTH	11500
5	IL	IL0972000	ZION	ZION	19500
5	IN	IN5247001	BEDFORD WATER WORKS	BEDFORD	14390
5	IN	IN5253002	BLOOMINGTON WATER DEPT	BLOOMINGTON	51870
5	IN	IN5245012	EAST CHICAGO WATER WORKS	EAST CHICAGO	39800
5	IN	IN5245019	GRIFFITH WATER DEPARTMENT	GRIFFITH	17230
5	IN	IN5245020	HAMMOND WATER WORKS DEPARTMENT	HAMMOND	93440
5	IN	IN5245021	HIGHLAND WATER WORKS	HIGHLAND	23696
5	IN	IN5219009	JASPER MUNICIPAL WATER UTILITY	JASPER	11340
5	IN	IN5234007	KOKOMO DISTRICT-INDIANA AMERICAN WATER	KOKOMO	62895
5	IN	IN5209006	LOGANSPORT MUNICIPAL UTILITIES	LOGANSPORT	16812
5	IN	IN5246020	MICHIGAN CITY DEPARTMENT OF WATER WORKS	MICHIGAN CITY	36250
5	IN	IN5218012	MUNCIE DISTRICT, INDIANA AMERICAN WATER	MUNCIE	74100
5	IN	IN5245031	MUNSTER WATER COMPANY	MUNSTER	19949
5	IN	IN5222005	NEW ALBANY-INDIANA CITIES WATER	JEFFERSONVILLE	41000
5	IN	IN5289012	RICHMOND DIST; IND.-AMER	RICHMOND	45000
5	IN	IN5245041	SCHERERVILLE WATER DEPARTMENT	SCHERERVILLE	19926
5	IN	IN5236005	SEYMOUR DISTRICT; INDIANA-AMERICAN WATER	SEYMOUR	16000
5	IN	IN5249008	SPEEDWAY WATER WORKS	SPEEDWAY	13000
5	IN	IN5272002	STUCKER FORK WATER UTILI	SCOTTSBURG	11110
5	IN	IN5284012	TERRE HAUTE, IND.-AMER.W	TERRE HAUTE	61020
5	IN	IN5264029	VALPARAISO DEPT OF WATER	VALPARAISO	22120
5	MI	MI0000040	ADRIAN	ADRIAN	20400

APPENDIX B–2.—CLASSIFICATION OF CANDIDATE SYSTEMS USING SURFACE WATER WHICH MAY BE SUBJECT TO REQUIREMENTS PERTAINING TO SYSTEMS SERVING BETWEEN 10,000–100,000 PEOPLE—Continued

[By Region, State, Public Water System ID #, Name of Utility, City, and Population]

Reg.	St.	PWS ID	Name	City	Population
5	MI	MI0000130	ALLEN PARK	ALLEN PARK	31092
5	MI	MI0000160	ALPENA	ALPENA	11800
5	MI	MI0005450	AUBURN HILLS	PONTIAC	17076
5	MI	MI0000390	BANGOR TOWNSHIP	BAY CITY	14000
5	MI	MI0000470	BAY CITY	BAY CITY	38936
5	MI	MI0000530	BEDFORD TOWNSHIP	MONROE	11368
5	MI	MI0000600	BENTON HARBOR	BENTON HARBOR	14612
5	MI	MI0000630	BERKLEY	BERKLEY	16960
5	MI	MI0000690	BEVERLY HILLS	BIRMINGHAM	10610
5	MI	MI0000710	BIG RAPIDS	BIG RAPIDS	12601
5	MI	MI0000730	BIRMINGHAM	BIRMINGHAM	19997
5	MI	MI0000790	BLOOMFIELD TOWNSHIP	BLOOMFIELD HILLS	41773
5	MI	MI0000840	BRIDGEPORT TOWNSHIP	BRIDGEPORT	12000
5	MI	MI0000940	BROWNSTOWN TWP	TRENTON	18800
5	MI	MI0001010	BURTON	BURTON	12000
5	MI	MI0001100	CANTON TWP	CANTON	52000
5	MI	MI0001390	CHESTERFIELD TOWNSHIP	CHESTERFIELD TWP	19788
5	MI	MI0001440	CLAWSON	CLAWSON	13874
5	MI	MI0001480	CLINTON TOWNSHIP	MT CLEMENS	80000
5	MI	MI0001730	DEARBORN	DEARBORN	89286
5	MI	MI0001740	DEARBORN HEIGHTS	DEARBORN HEIGHTS	60838
5	MI	MI0001960	EAST GRAND RAPIDS	GRAND RAPIDS	10807
5	MI	MI0001950	EAST POINTE	EAST POINTE	35283
5	MI	MI0002050	ECORSE	ECORSE	12180
5	MI	MI0002170	ESCANABA	ESCANABA	13659
5	MI	MI0002230	FARMINGTON	FARMINGTON	10132
5	MI	MI0002240	FARMINGTON HILLS	FARMINGTON HILLS	73332
5	MI	MI0002280	FERNDALE	FERNDALE	25084
5	MI	MI0002320	FLINT TOWNSHIP	FLINT	15400
5	MI	MI0002460	FRASER	FRASER	13899
5	MI	MI0002500	FRENCHTOWN TOWNSHIP	MONROE	12410
5	MI	MI0002527	GAINES TOWNSHIP	GRAND RAPIDS	10800
5	MI	MI0002550	GARDEN CITY	GARDEN CITY	31846
5	MI	MI0002615	GENESEE COUNTY DRAIN COMM	FLINT	32000
5	MI	MI0002620	GEORGETOWN TOWNSHIP	JENISON	25000
5	MI	MI0002750	GRAND HAVEN	GRAND HAVEN	12000
5	MI	MI0002820	GRANDVILLE	GRANDVILLE	15624
5	MI	MI0002890	GROSSE POINTE FARMS	GROSSE PTE FARMS	10092
5	MI	MI0002900	GROSSE POINTE PARK	GROSSE PTE PARK	12857
5	MI	MI0002920	GROSSE POINTE WOODS	GROSSE PTE WOODS	17715
5	MI	MI0002960	HAMPTON TOWNSHIP	ESSEXVILLE	11000
5	MI	MI0002970	HAMTRAMCK	HAMTRAMCK	18372
5	MI	MI0003020	HARPER WOODS	HARPER WOODS	14903
5	MI	MI0003040	HARRISON TOWNSHIP	MT CLEMENS	23000
5	MI	MI0003100	HAZEL PARK	HAZEL PARK	20051
5	MI	MI0003140	HIGHLAND PARK	HIGHLAND PARK	20121
5	MI	MI0003190	HOLLAND	HOLLAND	30745
5	MI	MI0003195	HOLLAND TOWNSHIP	HOLLAND	17523
5	MI	MI0003320	HURON TWP	NEW BOSTON	10400
5	MI	MI0003360	INKSTER	INKSTER	30772
5	MI	MI0003520	KALAMAZOO	KALAMAZOO	79722
5	MI	MI0003620	KENTWOOD	KENTWOOD	37826
5	MI	MI0003870	LINCOLN PARK	LINCOLN PARK	41832
5	MI	MI0003990	MACOMB TOWNSHIP	MT CLEMENS	17031
5	MI	MI0004000	MADISON HEIGHTS	MADISON HEIGHTS	32196
5	MI	MI0004120	MARQUETTE	MARQUETTE	21977
5	MI	MI0004220	MELVINDALE	MELVINDALE	11216
5	MI	MI0004370	MIDLAND	MIDLAND	38053
5	MI	MI0004450	MONROE	MONROE	22902
5	MI	MI0004455	MONROE SOUTH COUNTY SYSTEM	MONROE	17159
5	MI	MI0004510	MOUNT CLEMENS	MOUNT CLEMENS	18405
5	MI	MI0004570	MUSKEGON	MUSKEGON	40823
5	MI	MI0004580	MUSKEGON HEIGHTS	MUSKEGON HEIGHTS	14611
5	MI	MI0004845	NORTHVILLE TOWNSHIP	NORTHVILLE	10000
5	MI	MI0004850	NORTON SHORES	NORTON SHORES	22025
5	MI	MI0004870	NOVI	NOVI	19306
5	MI	MI0004880	OAK PARK	OAK PARK	30462
5	MI	MI0005420	PLYMOUTH TWP	PLYMOUTH	16000
5	MI	MI0005440	PONTIAC	PONTIAC	71166

APPENDIX B–2.—CLASSIFICATION OF CANDIDATE SYSTEMS USING SURFACE WATER WHICH MAY BE SUBJECT TO REQUIREMENTS PERTAINING TO SYSTEMS SERVING BETWEEN 10,000–100,000 PEOPLE—Continued

[By Region, State, Public Water System ID #, Name of Utility, City, and Population]

Reg.	St.	PWS ID	Name	City	Population
5	MI	MI0005480	PORT HURON	PORT HURON	33694
5	MI	MI0005640	REDFORD TWP	DETROIT	54387
5	MI	MI0005690	RIVER ROUGE	RIVER ROUGE	11314
5	MI	MI0005710	RIVERVIEW	RIVERVIEW	13894
5	MI	MI0000325	ROCHESTER HILLS	ROCHESTER	61281
5	MI	MI0005785	ROMULUS	ROMULUS	22897
5	MI	MI0005820	ROSEVILLE	ROSEVILLE	51412
5	MI	MI0005830	ROYAL OAK	ROYAL OAK	65410
5	MI	MI0005850	SAGINAW	SAGINAW	69512
5	MI	MI0005860	SAGINAW TOWNSHIP	SAGINAW	37684
5	MI	MI0005950	SAULT STE MARIE	SAULT STE MARIE	14689
5	MI	MI0006010	SHELBY TOWNSHIP	SHELBY TOWNSHIP	40000
5	MI	MI0006160	SOUTHFIELD	SOUTHFIELD	75118
5	MI	MI0006170	SOUTHGATE	SOUTHGATE	30771
5	MI	MI0006280	ST CLAIR SHORES	ST. CLAIR SHORES	68107
5	MI	MI0006315	ST JOSEPH TOWNSHIP	ST JOSEPH	10973
5	MI	MI0006490	SUPERIOR TOWNSHIP	YPSILANTI	10000
5	MI	MI0006545	TAYLOR	TAYLOR	70811
5	MI	MI0006580	THOMAS TOWNSHIP	SAGINAW	10500
5	MI	MI0006640	TRAVERSE CITY	TRAVERSE CITY	15155
5	MI	MI0006650	TRENTON	TRENTON	20586
5	MI	MI0006690	TROY	TROY	72884
5	MI	MI0006770	VAN BUREN TWP	BELLEVILLE	19800
5	MI	MI0006860	WALKER	WALKER	17279
5	MI	MI0006950	WAYNE	WAYNE	19899
5	MI	MI0006975	WEST BLOOMFIELD TOWNSHIP	WEST BLOOMFIELD	26500
5	MI	MI0007040	WESTLAND	WAYNE	84724
5	MI	MI0007180	WOODHAVEN	WOODHAVEN	11631
5	MI	MI0007210	WYANDOTTE	WYANDOTTE	30938
5	MI	MI0007220	WYOMING	WYOMING	63891
5	MN	MN1620001	ARDEN HILLS	ARDEN HILLS	10920
5	MN	MN1270001	BLOOMINGTON	BLOOMINGTON	83780
5	MN	MN1020016	COLUMBIA HEIGHTS MUNICIPAL	COLUMBIA HEIGHTS	20000
5	MN	MN1270008	CRYSTAL MUNC. WATER SUPPLY	CRYSTAL	28000
5	MN	MN1560014	FERGUS FALLS MUNI WATER SUPPLY	FERGUS FALLS	12600
5	MN	MN1270014	GOLDEN VALLEY MINICIPAL SUPPLY	GOLDEN VALLEY	24200
5	MN	MN1140008	MOOORHEAD MUNC WATER SUPPLY	MOORHEAD	32100
5	MN	MN1270040	NEW HOPE	NEW HOPE	23500
5	MN	MN1620013	ROSEVILLE MUNI WATER SUPPLY	ROSEVILLE	35800
5	OH	OH7600011	ALLIANCE, CITY OF	ALLIANCE	25000
5	OH	OH4700003	AMHERST WATER DEPARTMENT	AMHERST	10644
5	OH	OH4700311	AVON LAKE WATER DEPARTMENT	AVON LAKE	16500
5	OH	OH7700411	BARBERTON, CITY OF	BARBERTON	28600
5	OH	OH1800003	BEDFORD WATER DEPARTMENT	BEDFORD	14800
5	OH	OH1800111	BEREA WATER DEPARTMENT	BEREA	19500
5	OH	OH2500103	BEXLEY WATER DEPARTMENT	COLUMBUS	13900
5	OH	OH8700311	BOWLING GREEN WATER DEPARTMENT	BOWLING GREEN	30000
5	OH	OH1700011	BUCYRUS WATER DEPARTMENT	BUCYRUS	13651
5	OH	OH3000111	CAMBRIDGE WATER DEPARTMENT	CAMBRIDGE	17500
5	OH	OH1800403	CLEVELAND HEIGHTS, CITY OF	CLEVELAND HEIGHTS	53500
5	OH	OH0400411	CONNEAUT WATER DEPARTMENT	CONNEAUT	13500
5	OH	OH2000111	DEFIANCE WATER DEPARTMENT	DEFIANCE	17000
5	OH	OH2100221	DEL-CO WATER CO/ALUM CR PLANT	DELAWARE	12500
5	OH	OH2100211	DEL-CO WATER CO/OLENTANGY PLNT	DELAWARE	11800
5	OH	OH2100311	DELAWARE WATER DEPARTMENT	DELAWARE	21000
5	OH	OH1800503	EAST CLEVELAND WATER DEPT	EAST CLEVELAND	36000
5	OH	OH1500811	EAST LIVERPOOL WATER DEPT	EAST LIVERPOOL	13400
5	OH	OH4700411	ELYRIA WATER DEPARTMENT	LORAIN	56746
5	OH	OH2200603	ERIE CO PERKINS DIST	SANDUSKY	15116
5	OH	OH3200111	FINDLAY, CITY OF	FINDLAY	40000
5	OH	OH7400411	FOSTORIA WATER DEPARTMENT	FOSTORIA	15062
5	OH	OH2501003	FRANKLIN CO, SANITARY DIST 4	COLUMBUS	11200
5	OH	OH7200311	FREMONT WATER TREATMENT PLANT	FREMONT	20500
5	OH	OH2501303	GAHANNA WATER DEPARTMENT	GAHANNA	25000
5	OH	OH1700211	GALION WATER DEPARTMENT	GALION	11859
5	OH	OH7801103	GIRARD WATER DEPARTMENT	GIRARD	15000
5	OH	OH1900714	GREENVILLE WATER DEPARTMENT	GREENVILLE	13200
5	OH	OH3600514	HIGHLAND COUNTY WATER CO., INC	BAINBRIDGE	22747
5	OH	OH4400711	IRONTON WATER DEPARTMENT	IRONTON	12643

APPENDIX B–2.—CLASSIFICATION OF CANDIDATE SYSTEMS USING SURFACE WATER WHICH MAY BE SUBJECT TO REQUIREMENTS PERTAINING TO SYSTEMS SERVING BETWEEN 10,000–100,000 PEOPLE—Continued

[By Region, State, Public Water System ID #, Name of Utility, City, and Population]

Reg.	St.	PWS ID	Name	City	Population
5	OH	OH4302911	LAKE CO. EAST WATER SUBDISTRICT	PAINESVILLE	21615
5	OH	OH4302411	LAKE COUNTY WEST WATER SUBDIST	WILLOUGHBY	80800
5	OH	OH1801003	LAKEWOOD WATER DEPARTMENT	LAKEWOOD	58000
5	OH	OH0200811	LIMA WATER DEPARTMENT	LIMA	70000
5	OH	OH4700711	LORAIN WATER DEPARTMENT	LORAIN	71000
5	OH	OH7002914	MANSFIELD WATER DEPARTMENT	MANSFIELD	51000
5	OH	OH8000314	MARYSVILLE, CITY OF	MARYSVILLE	11000
5	OH	OH4800603	MAUMEE, CITY OF	MAUMEE	17000
5	OH	OH5201903	MEDINA CO/NORTHWEST WATER DIST	MEDINA	11700
5	OH	OH5200514	MEDINA WATER DEPARTMENT	MEDINA	20500
5	OH	OH4502314	NEWARK WATER DEPARTMENT	NEWARK	45000
5	OH	OH7802403	NILES WATER DEPARTMENT	NILES	23500
5	OH	OH4700803	NORTH RIDGEVILLE WATER SYSTEM	NORTH RIDGEVILLE	21500
5	OH	OH3901111	NORWALK WATER DEPARTMENT	NORWALK	14800
5	OH	OH3101703	NORWOOD WATER DEPARTMENT	NORWOOD	26000
5	OH	OH2400714	OHIO WATER SER/WASH CH	WASHINGTON C.H.	14000
5	OH	OH4301511	OHIO WATER SERVICE MENTOR	MENTOR	81000
5	OH	OH0400803	OHIO WATER SERVICE, LEE DIST	GENEVA	20000
5	OH	OH5001611	OHIO WATER SERVICE, STRUTHERS	STRUTHERS	41850
5	OH	OH0400711	OHIO-AMER. WATER CO, ASHTABULA	ASHTABULA	27500
5	OH	OH4400803	OHIO-AMER. WATER CO, LAWRENCE CO	CHESAPEAKE	10000
5	OH	OH7400614	OHIO-AMER. WATER CO, TIFFIN DIST	TIFFIN	21000
5	OH	OH5100414	OHIO-AMERICAN WATER CO. MARION	MARION	45500
5	OH	OH4800911	OREGON WATER DEPARTMENT	OREGON	23840
5	OH	OH4301611	PAINESVILLE, CITY OF	PAINESVILLE	23000
5	OH	OH8701803	PERRYSBURG WATER DEPARTMENT	PERRYSBURG	20200
5	OH	OH5501211	PIQUA WATER DEPARTMENT	PIQUA	20500
5	OH	OH7300111	PORTSMOUTH WATER DEPARTMENT	PORTSMOUTH	44000
5	OH	OH6703211	RAVENNA WATER DEPARTMENT	RAVENNA	15000
5	OH	OH2503203	REYNOLDSBURG WATER DEPARTMENT	REYNOLDSBURG	25415
5	OH	OH4701803	RURAL LORAIN CO. WATER AUTH	LAGRANGE	39000
5	OH	OH1502011	SALEM WATER DEPARTMENT	SALEM	18500
5	OH	OH2201411	SANDUSKY WATER DEPARTMENT	SANDUSKY	29900
5	OH	OH7501214	SIDNEY WATER DEPARTMENT	SIDNEY	18710
5	OH	OH4102411	STEUBENVILLE WATER DEPT	STEUBENVILLE	24300
5	OH	OH7704503	SUMMIT CO, STOW SERVICE AREA	AKRON	21663
5	OH	OH4801303	SYLVANIA WATER DEPARTMENT	SYLVANIA	18007
5	OH	OH7704703	TALLMADGE WATER DEPARTMENT	TALLMADGE	10800
5	OH	OH7803203	TRUMBULL CO/SOUTHEAST W.DIST	WARREN	12100
5	OH	OH7901711	TWIN CITY WATER & SEWER DIST	URICHSVILLE	11000
5	OH	OH8100611	VAN WERT WATER DEPARTMENT	VAN WERT	11000
5	OH	OH2201511	VERMILION WATER DEPARTMENT	VERMILION	11000
5	OH	OH7803811	WARREN, CITY OF	WARREN	70000
5	OH	OH2503411	WESTERVILLE WATER DEPT	WESTERVILLE	31000
5	OH	OH1401211	WILMINGTON WATER DEPARTMENT	WILMINGTON	11199
5	WI	WI4450333	APPLETON WATERWORKS	APPLETON	59032
5	WI	WI2410556	BROWN DEER WATERWORKS	BROWN DEER	12236
5	WI	WI2410169	CUDAHY WATERWORKS	CUDAHY	18659
5	WI	WI2410168	GLENDALE WATERWORKS	GLENDALE	13426
5	WI	WI4050356	GREEN BAY WATERWORKS	GREEN BAY	96466
5	WI	WI2410571	GREENDALE WATERWORKS	GREENDALE	16928
5	WI	WI2300046	KENOSHA WATERWORKS	KENOSHA	81848
5	WI	WI4360364	MANITOWOC WATERWORKS	MANITOWOC	33430
5	WI	WI4380395	MARINETTE WATERWORKS	MARINETTE	12696
5	WI	WI4710334	MENASHA ELEC & WATER UTIL	MENASHA	14728
5	WI	WI2410778	MILWAUKEE COUNTY GROUNDS	MILWAUKEE	15163
5	WI	WI4710348	NEENAH WATERWORKS	NEENAH	23272
5	WI	WI2413515	NORTH SHORE WATER COMMISSION	GLENDALE	36875
5	WI	WI2410172	OAK CREEK WATERWORKS	OAK CREEK	19549
5	WI	WI4710457	OSHKOSH WATERWORKS	OSHKOSH	54000
5	WI	WI2520062	RACINE WATERWORKS	RACINE	93400
5	WI	WI4600354	SHEBOYGAN WATERWORKS	SHEBOYGAN	48085
5	WI	WI2410607	SHOREWOOD WATERWORKS	SHOREWOOD	14327
5	WI	WI2410144	SOUTH MILWAUKEE WATERWORKS	SOUTH MILWAUKEE	20512
5	WI	WI8160147	SUPERIOR WATER LIGHT&POWER	SUPERIOR	29571
5	WI	WI4360436	TWO RIVERS WATERWORKS	TWO RIVERS	13354
5	WI	WI2410596	WAUWATOSA WATERWORKS	WAUWATOSA	49366
5	WI	WI2410595	WEST ALLIS WATERWORKS	WEST ALLIS	63240
5	WI	WI2410597	WHITEFISH BAY WATERWORKS	WHITEFISH BAY	15800

APPENDIX B–2.—CLASSIFICATION OF CANDIDATE SYSTEMS USING SURFACE WATER WHICH MAY BE SUBJECT TO REQUIREMENTS PERTAINING TO SYSTEMS SERVING BETWEEN 10,000–100,000 PEOPLE—Continued

[By Region, State, Public Water System ID #, Name of Utility, City, and Population]

Reg.	St.	PWS ID	Name	City	Population
6	WI	AR0000085	ARKADELPHIA WATERWORKS	ARKADELPHIA	10725
6	AR	AR0000250	BATESVILLE WATER UTILITIES	BATESVILLE	11691
6	AR	AR0000039	BELLA VISTA P.O.A	BELLA VISTA	11904
6	AR	AR0000484	BENTON WATERWORKS	BENTON	22600
6	AR	AR0000041	BENTONVILLE WATERWORKS	BENTONVILLE	10825
6	AR	AR0000404	CAMDEN WATERWORKS	CAMDEN	15356
6	AR	AR0000119	CONWAY CO. REGIONAL WATER DIST	MORRILTON	12642
6	AR	AR0000189	CONWAY WATER SYSTEM	CONWAY	29100
6	AR	AR0000569	FAYETTEVILLE WATERWORKS	FAYETTEVILLE	42811
6	AR	AR0000507	FORT SMITH WATERWORKS	FORT SMITH	75000
6	AR	AR0000062	HARRISON WATERWORKS	HARRISON	15309
6	AR	AR0000104	HEBER SPRINGS WATER SYSTEM	HEBER SPRINGS	10560
6	AR	AR0000230	HOPE WATER & LIGHT COMM	HOPE	10274
6	AR	AR0000209	HOT SPRINGS WATERWORKS	HOT SPRINGS	60000
6	AR	AR0000466	JACKSONVILLE WATER DEPT	JACKSONVILLE	25840
6	AR	AR0000025	MOUNTAIN HOME WATERWORKS	MOUNTAIN HOME	11858
6	AR	AR0000055	ROGERS WATERWORKS	ROGERS	25750
6	AR	AR0000446	RUSSELLVILLE WATERWORKS	RUSSELLVILLE	19600
6	AR	AR0000590	SEARCY WATERWORKS	SEARCY	17340
6	AR	AR0000575	SPRINGDALE WATERWORKS	SPRINGDALE	33982
6	AR	AR0000360	TEXARKANA WATER UTILITIES	TEXARKANA	21131
6	AR	AR0000142	VAN BUREN WATERWORKS	VAN BUREN	15000
6	LA	LA1007001	ASSUMPTION PAR WW DIST 1	NAPOLEONVILLE	25624
6	LA	LA1075001	BELLE CHASSE WATER DIST	BELLE CHASSE	11807
6	LA	LA1101002	BERWICK-BAYOU VISTA WW C	BERWICK	12135
6	LA	LA1015004	BOSSIER CITY WATER SYS.	BOSSIER CITY	55000
6	LA	LA1101003	CITY OF FRANKLIN WS	FRANKLIN	10001
6	LA	LA1109001	CITY OF HOUMA WATER SYS	HOUMA	30000
6	LA	LA1051003	GRETNA WATERWORKS	GRETNA	24160
6	LA	LA1057001	LAFOURCHE WATER DIST #1	LOCKPORT	86000
6	LA	LA1073031	MONROE WATER SYSTEM	MONROE	60000
6	LA	LA1101005	MORGAN CITY WATER SYSTEM	MORGAN CITY	25000
6	LA	LA1069007	NATCHITOCHES W. SYSTEM	NATCHITOCHES	19000
6	LA	LA1071001	NEW ORLEANS-ALGIERS WW	NEW ORLEANS	56707
6	LA	LA1075006	PORT SULPHUR WATER DIST	BELLE CHASSE	12076
6	LA	LA1087001	ST BERNARD WW DIST	CHALMETTE	72164
6	LA	LA1089001	ST CHARLES WATER DIST #1	LULING	21743
6	LA	LA1089002	ST CHARLES WATER DIST #2	LULING	20694
6	LA	LA1093005	ST JAMES WATER DIST #2	VACHERIE	12000
6	LA	LA1095003	ST JOHN WATER DIST #1	GARYVILLE	36500
6	LA	LA1109002	TERREBONNE DIST NO 1	HOUMA	74592
6	LA	LA1109003	TERREBONNE DIST NO 2	HOUMA	37000
6	LA	LA1057003	THIBODAUX WATERWORKS	THIBODAUX	15810
6	LA	LA1051005	WESTWEGO WATERWORKS	WESTWEGO	11218
6	NM	NM3513319	ALAMOGORDO DOMESTIC WATER SYSTEM	ALAMOGORDO	24024
6	NM	NM3510224	FARMINGTON WATER SYSTEM	FARMINGTON	37180
6	NM	NM3518025	LAS VEGAS WATER SUPPLY SYSTEM	LAS VEGAS	16000
6	NM	NM3505126	SANGRE DE CRISTO WATER COMPANY	SANTA FE	50000
6	OK	OK1011501	ALTUS	ALTUS	23600
6	OK	OK1010814	ARDMORE	ARDMORE	24000
6	OK	OK1021401	BARTLESVILLE	BARTLESVILLE	34900
6	OK	OK1021508	BROKEN ARROW WTP	BROKEN ARROW	58000
6	OK	OK1010821	CHICKASHA	CHICKASHA	16000
6	OK	OK1021512	CLAREMORE	CLAREMORE	12000
6	OK	OK1010828	CLINTON	FOSS	10005
6	OK	OK1020805	DEL CITY WP	DEL CITY	22690
6	OK	OK1010809	DUNCAN	DUNCAN	22000
6	OK	OK1010601	DURANT	DURANT	13000
6	OK	OK1020723	EDMOND PWA (LK ARCADIA)	EDMOND	53000
6	OK	OK1010829	FOSS RESERVOIR MCD	FOSS	10000
6	OK	OK3001601	FT SILL	FT. SILL	16900
6	OK	OK1020903	GUTHRIE	GUTHRIE	12000
6	OK	OK1020609	MCALESTER PWA	MCALESTER	18000
6	OK	OK1020806	MIDWEST CITY	MIDWEST CITY	50000
6	OK	OK1021607	MUSKOGEE	MUSKOGEE	37708
6	OK	OK1020801	NORMAN	NORMAN	60000
6	OK	OK1020502	OKC OVERHOLSER	OKLAHOMA CITY	46000
6	OK	OK1020708	OKMULGEE PWS	OKMULGEE	17000
6	OK	OK1020910	OSU WATER PLANT	STILLWATER	23000

APPENDIX B–2.—CLASSIFICATION OF CANDIDATE SYSTEMS USING SURFACE WATER WHICH MAY BE SUBJECT TO REQUIREMENTS PERTAINING TO SYSTEMS SERVING BETWEEN 10,000–100,000 PEOPLE—Continued

[By Region, State, Public Water System ID #, Name of Utility, City, and Population]

Reg.	St.	PWS ID	Name	City	Population
6	OK	OK1020616	PITTSBURG CO WATER AUTHORITY	MCALESTER	10000
6	OK	OK1021202	PONCA CITY MUN WATER	PONCA CITY	29000
6	OK	OK1020420	SAND SPRINGS	SAND SPRINGS	17000
6	OK	OK1020404	SAPULPA	SAPULPA	19000
6	OK	OK1020504	SHAWNEE WTP	SHAWNEE	27500
6	OK	OK1021313	SKIATOOK PWA	SKIATOOK	10000
6	OK	OK1021220	STILLWATER WATER PLANT	STILLWATER	20000
6	OK	OK3007304	WAGONER CO RWD #4	BROKEN ARROW	10500
6	TX	TX1110007	ACTON MUNICIPAL UTILITY DISTRICT	GRANBURY	10278
6	TX	TX1250001	ALICE CITY OF	ALICE	19788
6	TX	TX0430025	ALLEN CITY OF	ALLEN	20000
6	TX	TX0200002	ANGLETON CITY OF	ANGLETON	16170
6	TX	TX1090068	AQUILLA WATER SUPPLY DISTRICT	HILLSBORO	12000
6	TX	TX1070005	ATHENS CITY OF	ATHENS	12267
6	TX	TX1010003	BAYTOWN CITY OF	BAYTOWN	70000
6	TX	TX2200003	BEDFORD CITY OF	BEDFORD	48000
6	TX	TX0130001	BEEVILLE CITY OF	BEEVILLE	14780
6	TX	TX0140002	BELTON CITY OF	BELTON	10660
6	TX	TX2200029	BENBROOK WATER & SEWER AUTHORITY	BENBROOK	19512
6	TX	TX1140001	BIG SPRING CITY OF	BIG SPRING	22857
6	TX	TX0140162	BLUEBONNET WATER SUPPLY CORP	TEMPLE	17706
6	TX	TX1170001	BORGER MUNICIPAL WATER SYSTEM	BORGER	15615
6	TX	TX2390001	BRENHAM CITY OF	BRENHAM	11990
6	TX	TX0250014	BROWN COUNTY WID NO 1	BROWNWOOD	36000
6	TX	TX0310001	BROWNSVILLE PUBLIC UTILITY DIST	BROWNSVILLE	98000
6	TX	TX0250002	BROWNWOOD CITY OF	BROWNWOOD	18262
6	TX	TX2430005	BURKBURNETT CITY OF	BURKBURNETT	10145
6	TX	TX1260002	BURLESON CITY OF	BURLESON	16800
6	TX	TX1910001	CANYON MUNICIPAL WATER SYSTEM	CANYON	11500
6	TX	TX0570034	CARROLLTON CITY OF	CARROLLTON	85000
6	TX	TX1160018	CASH WATER SUPPLY CORPORATION	GREENVILLE	10197
6	TX	TX0570036	CEDAR HILL CITY OF	CEDAR HILL	21313
6	TX	TX2460009	CEDAR PARK CITY OF	CEDAR PARK	10000
6	TX	TX1010056	CLEAR LAKE CITY WATER AUTHORITY	HOUSTON	45969
6	TX	TX1260003	CLEBURNE CITY OF	CLEBURNE	23000
6	TX	TX2200043	COLLEYVILLE CITY OF	COLLEYVILLE	15000
6	TX	TX0610081	COLONY CITY OF	THE COLONY	22113
6	TX	TX1130012	CONSOLIDATED WATER SUPPLY CORP	LATEXO	11574
6	TX	TX0570040	COPPELL CITY OF	COPPELL	17500
6	TX	TX0500001	COPPERAS COVE CITY OF	COPPERAS COVE	24079
6	TX	TX1750002	CORSICANA CITY OF	CORSICANA	22951
6	TX	TX0570032	DALLAS COUNTY WCID NO 6	BALCH SPRINGS	17750
6	TX	TX1010007	DEER PARK CITY OF	DEER PARK	27000
6	TX	TX0910003	DENISON CITY OF	DENISON	23800
6	TX	TX0610002	DENTON CITY OF	DENTON	66470
6	TX	TX0570006	DESOTO CITY OF	DESOTO	33006
6	TX	TX1080002	DONNA CITY OF	DONNA	13376
6	TX	TX0570007	DUNCANVILLE CITY OF	DUNCANVILLE	35206
6	TX	TX1620001	EAGLE PASS CITY OF	EAGLE PASS	23469
6	TX	TX0670019	EASTLAND CO WATER SUPPLY DIST NO 1	RANGER	10651
6	TX	TX1080004	EDINBURG CITY OF	EDINBURG	32214
6	TX	TX0710154	EL PASO CO LOWER VALLEY WTR DIS AU	EL PASO	17000
6	TX	TX0700001	ENNIS CITY OF	ENNIS	14200
6	TX	TX2200031	EULESS CITY OF	EULESS	40000
6	TX	TX0570047	FARMERS BRANCH CITY OF	FARMERS BRANCH	24250
6	TX	TX0610023	FLOWER MOUND TOWN OF	FLOWER MOUND	17201
6	TX	TX2200011	FOREST HILL CITY OF	FT WORTH	11000
6	TX	TX0200005	FREEPORT CITY OF	FREEPORT	13296
6	TX	TX0840002	FRIENDSWOOD CITY OF	FRIENDSWOOD	26964
6	TX	TX0840003	GALVESTON CITY OF	GALVESTON	61692
6	TX	TX0840001	GALVESTON COUNTY WCID NO 1	DICKINSON	21403
6	TX	TX0500002	GATESVILLE CITY OF	GATESVILLE	11492
6	TX	TX2460001	GEORGETOWN CITY OF	GEORGETOWN	19566
6	TX	TX0570048	GRAND PRAIRIE CITY OF	GRAND PRAIRIE	99616
6	TX	TX2200013	GRAPEVINE CITY OF	GRAPEVINE	29202
6	TX	TX0940020	GREEN VALLEY SPECIAL UTILITY DIST	MARION	11307
6	TX	TX1160004	GREENVILLE CITY OF	GREENVILLE	23071
6	TX	TX1230012	GROVES CITY OF	GROVES	18015
6	TX	TX2200014	HALTOM CITY CITY OF	HALTOM CITY	32800

APPENDIX B–2.—CLASSIFICATION OF CANDIDATE SYSTEMS USING SURFACE WATER WHICH MAY BE SUBJECT TO REQUIREMENTS PERTAINING TO SYSTEMS SERVING BETWEEN 10,000–100,000 PEOPLE—Continued

[By Region, State, Public Water System ID #, Name of Utility, City, and Population]

Reg.	St.	PWS ID	Name	City	Population
6	TX	TX0140023	HARKER HEIGHTS CITY OF	HARKER HEIGHTS	12841
6	TX	TX0310002	HARLINGEN WATER WORKS SYSTEM	HARLINGEN	48775
6	TX	TX1130010	HOUSTON COUNTY WCID NO 1	CROCKETT	22455
6	TX	TX2360001	HUNTSVILLE CITY OF	HUNTSVILLE	27925
6	TX	TX2200054	HURST CITY OF	HURST	33574
6	TX	TX0340005	INTERNATIONAL PAPER COMPANY	TEXARKANA	10850
6	TX	TX0370002	JACKSONVILLE CITY OF	JACKSONVILLE	12722
6	TX	TX1260018	JOHNSON COUNTY RURAL WATER SUPPLY	CLEBURNE	20000
6	TX	TX2200096	KELLER CITY OF	KELLER	18735
6	TX	TX1330001	KERRVILLE CITY OF	KERRVILLE	21069
6	TX	TX0920003	KILGORE CITY OF	KILGORE	11066
6	TX	TX0140006	KILLEEN CITY OF	KILLEEN	63535
6	TX	TX1080022	LA JOYA WATER SUPPLY CORPORATION	LA JOYA	16200
6	TX	TX0840006	LA MARQUE CITY OF	LAMARQUE	18129
6	TX	TX0200006	LAKE JACKSON CITY OF	LAKE JACKSON	23000
6	TX	TX1390015	LAMAR COUNTY WSD	BROOKSTON	15000
6	TX	TX0580001	LAMESA CITY OF	LAMESA	11838
6	TX	TX0570013	LANCASTER CITY OF	LANCASTER	22100
6	TX	TX1010018	LAPORTE CITY OF	LA PORTE	23000
6	TX	TX0840007	LEAGUE CITY CITY OF	LEAGUE CITY	30159
6	TX	TX1100002	LEVELLAND CITY OF	LEVELLAND	13931
6	TX	TX0610004	LEWISVILLE CITY OF	LEWISVILLE	47509
6	TX	TX1870129	LIVINGSTON REGIONAL WATER SUPPLY	HUNTSVILLE	10000
6	TX	TX0920004	LONGVIEW CITY OF	LONGVIEW	73737
6	TX	TX2200018	MANSFIELD CITY OF	MANSFIELD	15700
6	TX	TX1020002	MARSHALL CITY OF	MARSHALL	23682
6	TX	TX1080006	MCALLEN CITY OF	MCALLEN	97092
6	TX	TX0430039	MCKINNEY CITY OF	MCKINNEY	23990
6	TX	TX1080007	MERCEDES CITY OF	MERCEDES	12539
6	TX	TX1650001	MIDLAND CITY OF	MIDLAND	89443
6	TX	TX1080067	MILTARY HIGHWAY WATER SUPPLY CORP	PROGRESO	30120
6	TX	TX1820001	MINERAL WELLS CITY OF	MINERAL WELLS	18000
6	TX	TX1080008	MISSION CITY OF	MISSION	32346
6	TX	TX2250001	MT PLEASANT CITY OF	MT PLEASANT	13491
6	TX	TX1740003	NACOGDOCHES CITY OF	NACOGDOCHES	30872
6	TX	TX1230006	NEDERLAND CITY OF	NEDERLAND	18012
6	TX	TX0460001	NEW BRAUNFELS UTILITIES	NEW BRAUNFELS	32661
6	TX	TX1080029	NORTH ALAMO WATER SUPPLY CORP	EDINBURG	49805
6	TX	TX1380009	NORTH CENTRAL TX MUNICIPAL WTR AUT	MUNDAY	12000
6	TX	TX2200063	NORTH RICHLAND HILLS CITY OF	NORTH RICHLAND HILLS	68704
6	TX	TX1580065	NORTHEAST TEXAS MUNICIPAL WTR DIST	HUGHES SPRING	10503
6	TX	TX1780005	NUECES COUNTY WCID NO 3	ROBSTOWN	13400
6	TX	TX0010001	PALESTINE CITY OF	PALESTINE	18060
6	TX	TX0900003	PAMPA MUNICIPAL WATER SYSTEM	PAMPA	19959
6	TX	TX1390002	PARIS CITY OF	PARIS	24699
6	TX	TX1080009	PHARR CITY OF	PHARR	33767
6	TX	TX0950004	PLAINVIEW MUNICIPAL WATER SYSTEM	PLAINVIEW	20000
6	TX	TX1230009	PORT ARTHUR CITY OF	PORT ARTHUR	58700
6	TX	TX0290002	PORT LAVACA CITY OF	PORT LAVACA	13000
6	TX	TX1230010	PORT NECHES CITY OF	PORT NECHES	14502
6	TX	TX2050005	PORTLAND CITY OF	PORTLAND	14000
6	TX	TX0570015	RICHARDSON CITY OF	RICHARDSON	78000
6	TX	TX0700033	ROCKETT SPECIAL UTILITY DISTRICT	RED OAK	16785
6	TX	TX0040002	ROCKPORT CITY OF	ROCKPORT	13986
6	TX	TX1990001	ROCKWALL CITY OF	ROCKWALL	11100
6	TX	TX2140007	ROMA CITY OF	ROMA	12432
6	TX	TX2460003	ROUND ROCK CITY OF	ROUND ROCK	36000
6	TX	TX0570056	ROWLETT CITY OF	ROWLETT	23000
6	TX	TX2260001	SAN ANGELO CITY OF	SAN ANGELO	82000
6	TX	TX0310007	SAN BENITO CITY OF	SAN BENITO	23500
6	TX	TX1080010	SAN JUAN CITY OF	SAN JUAN	11164
6	TX	TX1010062	SEABROOK CITY OF	SEABROOK	11703
6	TX	TX0940002	SEGUIN CITY OF	SEGUIN	17880
6	TX	TX1080033	SHARYLAND WATER SUPPLY CORPORATION	MISSION	23202
6	TX	TX2430007	SHEPPARD AIR FORCE BASE	SHEPPARD AIR FORCE BASE.	13000
6	TX	TX2080001	SNYDER CITY OF	SNYDER	12000
6	TX	TX0140107	SOUTH FORT HOOD	FORT HOOD	38461
6	TX	TX1010294	SOUTH HOUSTON CITY OF	SOUTH HOUSTON	11400

APPENDIX B–2.—CLASSIFICATION OF CANDIDATE SYSTEMS USING SURFACE WATER WHICH MAY BE SUBJECT TO REQUIREMENTS PERTAINING TO SYSTEMS SERVING BETWEEN 10,000–100,000 PEOPLE—Continued

[By Region, State, Public Water System ID #, Name of Utility, City, and Population]

Reg.	St.	PWS ID	Name	City	Population
6	TX	TX2140018	STARR COUNTY W C I D NO 2	RIO GRANDE CITY	11454
6	TX	TX1120002	SULPHUR SPRINGS CITY OF	SULPHUR SPRINGS	17592
6	TX	TX1770002	SWEETWATER CITY OF	SWEETWATER	11500
6	TX	TX0140005	TEMPLE CITY OF	TEMPLE	46109
6	TX	TX1290006	TERRELL CITY OF	TERRELL	12490
6	TX	TX0190004	TEXARKANA WATER UTILITY	TEXARKANA	62688
6	TX	TX0840008	TEXAS CITY CITY OF	TEXAS CITY	41000
6	TX	TX2120004	TYLER CITY OF	TYLER	80000
6	TX	TX0570061	UNIVERSITY PARK CITY OF	DALLAS	23000
6	TX	TX0470015	UPPER LEON R MUNICIPAL WATER DIST	COMANCHE	11820
6	TX	TX0700008	WAXAHACHIE CITY OF	WAXAHACHIE	18169
6	TX	TX1840005	WEATHERFORD CITY OF	WEATHERFORD	15000
6	TX	TX1080011	WESLACO CITY OF	WESLACO	21551
6	TX	TX1070190	WEST CEDAR CREEK MUNICIPAL UTILITY	KEMP	10935
6	TX	TX2200081	WHITE SETTLEMENT CITY OF	WHITE SETTLEMENT	16000
6	TX	TX2430001	WICHITA FALLS CITY OF	WICHITA FALLS	96250
7	IA	IA2909053	BURLINGTON MUNICIPAL WATERWORKS	BURLINGTON	27208
7	IA	IA7820080	COUNCIL BLUFFS WATER WORKS	COUNCIL BLUFFS	54315
7	IA	IA5131033	FAIRFIELD WATER SUPPLY	FAIRFIELD	11000
7	IA	IA525062	FT MADISON MUNI WATER WORKS	FORT MADISON	11618
7	IA	IA5225079	IOWA CITY WATER DEPARTMENT	IOWA CITY	60000
7	IA	IA5640019	KEOKUK MUNICIPAL WATER WORKS	KEOKUK	12451
7	IA	IA9083012	OTTUMWA WATER WORKS	OTTUMWA	24488
7	IA	IA0400900	RATHBUN REGIONAL WATER ASSN	CENTERVILLE	49500
7	IA	IA7780042	URBANDALE WATER DEPARTMENT	URBANDALE	23500
7	IA	IA9000742	WAPELLO RURAL WATER ASSOC	OTTUMWA	10003
7	KS	KS2003509	CITY OF ARKANSAS CITY	ARKANSAS CITY	12762
7	KS	KS2000506	CITY OF ATCHISON	ATCHISON	10656
7	KS	KS2012513	CITY OF COFFEYVILLE	COFFEYVILLE	12917
7	KS	KS2001511	CITY OF EL DORADO	EL DORADO	11504
7	KS	KS2011105	CITY OF EMPORIA	EMPORIA	25512
7	KS	KS2004503	CITY OF LAWRENCE	LAWRENCE	65608
7	KS	KS2010317	CITY OF LEAVENWORTH	LEAVENWORTH	38495
7	KS	KS2009115	CITY OF OLATHE	OLATHE	63352
7	KS	KS2005906	CITY OF OTTAWA	OTTAWA	10667
7	KS	KS2009914	CITY OF PARSONS	PARSONS	11924
7	KS	KS2016914	CITY OF SALINA	SALINA	42303
7	KS	KS2003513	CITY OF WINFIELD	WINFIELD	11931
7	KS	KS2004513	UNIVERSITY OF KANSAS	LAWRENCE	29500
7	MO	MO1010061	BELTON	BELTON	15200
7	MO	MO4010136	CAPE GIRARDEAU	CAPE GIRARDEAU	39500
7	MO	MO6010282	FLORISSANT	FLORISSANT	38046
7	MO	MO2010344	HANNIBAL	HANNIBAL	18800
7	MO	MO1024275	JACKSON CO PWSD #1	GRANDVIEW	22368
7	MO	MO3010409	JEFFERSON CITY	JEFFERSON CITY	34000
7	MO	MO6024292	JEFFERSON CO PWSD #1	ARNOLD	17375
7	MO	MO6024293	JEFFERSON CO PWSD #2	HIGH RIDGE	14500
7	MO	MO6024294	JEFFERSON CO PWSD #3	ARNOLD	14000
7	MO	MO2010429	KIRKSVILLE	KIRKSVILLE	17130
7	MO	MO6010430	KIRKWOOD	KIRKWOOD	28000
7	MO	MO1010459	LEES SUMMIT	LEES SUMMIT	43000
7	MO	MO2024363	MACON CO PWSD #1	MACON	10200
7	MO	MO2010533	MOBERLY	MOBERLY	14050
7	MO	MO4010656	POPLAR BLUFF	POPLAR BLUFF	18000
7	MO	MO1010676	RAYTOWN WATER COMPANY	RAYTOWN	16200
7	MO	MO3010728	SEDALIA	SEDALIA	20500
7	MO	MO1010714	ST JOSEPH	ST. JOSEPH	77000
7	MO	MO6010845	WEBSTER GROVES	WEBSTER GROVES	23000
8	CO	CO0130001	ARVADA, CITY OF	ARVADA	89000
8	CO	CO0107155	BROOMFIELD, CITY OF	BROOMFIELD	16425
8	CO	CO0122100	CANON CITY, CITY OF	CANON CITY	20000
8	CO	CO0118015	CENTENNIAL W&SD/HIGHLANDS RNCH	HIGHLANDS RANCH	19127
8	CO	CO0162122	CENTRAL WELD WD	GREELEY	15000
8	CO	CO0139180	CLIFTON WD	CLIFTON	17000
8	CO	CO0130020	CONSOLIDATED MUT./ MAPLE GROVE	LAKEWOOD	17000
8	CO	CO0101040	D-CRESTVIEW W&SD	DENVER	17000
8	CO	CO0134150	DURANGO, CITY OF	DURANGO	14000
8	CO	CO0135233	EAST LARIMER COUNTY WD (ELCO)	FT. COLLINS	10240
8	CO	CO0103045	ENGLEWOOD, CITY OF	ENGLEWOOD	29387

APPENDIX B–2.—CLASSIFICATION OF CANDIDATE SYSTEMS USING SURFACE WATER WHICH MAY BE SUBJECT TO REQUIREMENTS PERTAINING TO SYSTEMS SERVING BETWEEN 10,000–100,000 PEOPLE—Continued

[By Region, State, Public Water System ID #, Name of Utility, City, and Population]

Reg.	St.	PWS ID	Name	City	Population
8	CO	CO0135292	FT. COLLINS-LOVELAND WD	FT. COLLINS	13408
8	CO	CO0135291	FT. COLLINS, CITY OF	FT. COLLINS	76135
8	CO	CO0130040	GOLDEN, CITY OF	GOLDEN	13000
8	CO	CO0139321	GRAND JUNCTION, CITY OF	GRAND JUNCTION	30000
8	CO	CO0162321	GREELEY, CITY OF	LOVELAND	65000
8	CO	CO0107473	LAFAYETTE, CITY OF	LAFAYETTE	14448
8	CO	CO0135477	LITTLE THOMPSON WD	BERTHOUD	14000
8	CO	CO0135476	LITTLE THOMPSON/CNTRL WELD FP	BERTHOUD	29000
8	CO	CO0107485	LONGMONT, CITY OF	LONGMONT	54500
8	CO	CO0107487	LOUISVILLE, TOWN OF	LOUISVILLE	12500
8	CO	CO0135485	LOVELAND, CITY OF	LOVELAND	39020
8	CO	CO0143518	MONTROSE, CITY OF (P7)	MONTROSE	10005
8	CO	CO0101115	NORTHGLENN, CITY OF	NORTHGLENN	31100
8	CO	CO0143621	PROJECT 7 WATER AUTHORITY (P7)	MONTROSE	35000
8	CO	CO0151500	PUEBLO, BOARD OF WATER WORKS	PUEBLO	100000
8	CO	CO0121775	SECURITY W&SD	COLORADO SPRING S	10007
8	CO	CO0135718	SOLDIER CANYON FP	FT. COLLINS	32000
8	CO	CO0101150	THORNTON, CITY OF	THORNTON	50000
8	CO	CO0139791	UTE WCD	GRAND JUNCTION	50000
8	CO	CO0101170	WESTMINSTER, CITY OF	WESTMINSTER	76000
8	CO	CO0121900	WIDEFIELD HOMES WC	COLORADO SPRING S	12300
8	MT	MT0000153	BILLINGS CITY OF	BILLINGS	81151
8	MT	MT0000155	BILLINGS HEIGHTS CO WATER DIST	BILLINGS	10000
8	MT	MT0000161	BOZEMAN CITY OF	BOZEMAN	22660
8	MT	MT0000170	BUTTE SILVER BOW WATER DEPT	BUTTE	33336
8	MT	MT0000525	GREAT FALLS CITY OF	GREAT FALLS	55097
8	MT	MT0000524	HAVRE CITY OF	HAVRE	10201
8	MT	MT0000241	HELENA WATER DEPARTMENT	HELENA	24569
8	ND	ND0800080	BISMARCK CITY OF	BISMARCK	49256
8	ND	ND4500242	DICKINSON CITY OF	DICKINSON	16097
8	ND	ND0900336	FARGO CITY OF	FARGO	74111
8	ND	ND1800410	GRAND FORKS CITY OF	GRAND FORKS	49425
8	ND	ND3000596	MANDAN CITY OF	MANDAN	15177
8	ND	ND5100660	MINOT CITY OF	MINOT	34544
8	ND	ND5301012	WILLISTON CITY OF	WILLISTON	13131
8	SD	SD4600020	ABERDEEN	ABERDEEN	24918
8	SD	SD4680004	ELLSWORTH AIR FORCE BASE	ELLSWORTH AFB	10000
8	SD	SD4600169	HURON	HURON	12448
8	SD	SD4600214	MITCHELL	MITCHELL	13798
8	SD	SD4600406	RAPID CITY	RAPID CITY	54273
8	SD	SD4600356	WATERTOWN MUNICIPAL UTILITIES	WATERTOWN	17592
8	SD	SD4601089	WEB WATER DEVELOPMENT ASSOCIATION	ABERDEEN	13950
8	SD	SD4600423	YANKTON	YANKTON	12703
8	UT	UT4900345	BONA VISTA WATER DISTRICT	OGDEN,	17500
8	UT	UT4900101	BOUNTIFUL CITY	BOUNTIFUL,	36961
8	UT	UT4900115	CENTERVILLE CITY	CENTERVILLE	11516
8	UT	UT4903012	CENTRAL UTAH WCD—UTAH VAL	OREM,	70000
8	UT	UT4900125	CLEARFIELD CITY	CLEARFIELD,	20623
8	UT	UT4900193	GRANGER—HUNTER IMP DIST	WEST VALLEY,	85000
8	UT	UT4900214	HOLLIDAY WATER CO	SALT LAKE,	15000
8	UT	UT4900233	KAYSVILLE CITY	KAYSVILLE,	13868
8	UT	UT4900235	KEARNS IMPROVEMENT DIST	KEARNS,	32000
8	UT	UT4900254	LAYTON WATER SYSTEM	LAYTON,	41497
8	UT	UT4900272	MAGNA WATER CO & IMP DI	MAGNA,	21500
8	UT	UT4900286	MIDVALE CITY WATER SYSTEM	MIDVALE,	10142
8	UT	UT4900328	OGDEN CITY	OGDEN,	63900
8	UT	UT4900332	OREM CITY	OREM,	65000
8	UT	UT4900375	RIVERTON CITY WATER SYS	RIVERTON,	12000
8	UT	UT4900381	ROY	ROY,	25000
8	UT	UT4900398	SANDY CITY WATER SYSTEM	SANDY,	83400
8	UT	UT4900408	SOUTH JORDAN CITY	SO JORDAN,	14000
8	UT	UT4900409	SOUTH OGDEN CITY	SO OGDEN,	12500
8	UT	UT4900382	ST GEORGE CITY	ST GEORGE,	31600
8	UT	UT4900429	TAYLORSVILLE-BENNION WID	SALT LAKE,	48000
8	UT	UT4900512	WEBER BASIN WCD WEBER CO	LAYTON,	95000
8	UT	UT4900463	WEST JORDAN CITY WTR SYS	WEST JORDAN	45000
8	UT	UT4900465	WHITE CITY WATER CO	SANDY,	11500
8	WY	WY5600011	CHEYENNE BOARD PUB UTILITIES	CHEYENNE	64000
8	WY	WY5600150	EVANSTON, CITY OF	EVANSTON	12177

APPENDIX B–2.—CLASSIFICATION OF CANDIDATE SYSTEMS USING SURFACE WATER WHICH MAY BE SUBJECT TO REQUIREMENTS PERTAINING TO SYSTEMS SERVING BETWEEN 10,000–100,000 PEOPLE—Continued

[By Region, State, Public Water System ID #, Name of Utility, City, and Population]

Reg.	St.	PWS ID	Name	City	Population
8	WY	WY5601181	GREEN RIVER, CITY OF	GREEN RIVER	12000
8	WY	WY5600029	LARAMIE, CITY OF	LARAMIE	25000
8	WY	WY5601182	ROCK SPRINGS, CITY OF	ROCK SPRINGS	19000
8	WY	WY5600052	SHERIDAN, CITY OF	SHERIDAN	15500
8	WY	WY5601198	SHOSHONE MUNICIPAL PIPELINE	CODY	16250
9	AZ	AZ0403008	FLAGSTAFF MUNICIPAL WATER	FLAGSTAFF	44500
9	AZ	AZ0403083	NORTHERN ARIZONA UNIVERSI	FLAGSTAFF	15000
9	AZ	AZ0414024	YUMA—MUNICIPAL WATER DEP	YUMA	58000
9	CA	CA1910045	ANTELOPE VALLEY—EAST KERN WATER AGENCY	QUARTZ HILLS	70000
9	CA	CA3410001	ARCADE WD,—TOWN & COUNTRY	SACRAMENTO	70700
9	CA	CA1210001	ARCATA, CITY OF	ARCATA	16740
9	CA	CA1610002	AVENAL, CITY OF	AVENAL	11073
9	CA	CA4510014	BELLA VISTA WATER DISTRICT	REDDING	12000
9	CA	CA4110001	BELMONT COUNTY WATER DISTRICT	BELMONT, CA	27000
9	CA	CA1310001	BRAWLEY, CITY OF	BRAWLEY	20089
9	CA	CA1910104	CAL. WATER SERVICE CO, PALOS VERDES	SAN JOSE	96100
9	CA	CA1310002	CALEXICO, CITY OF	CALEXICO	21000
9	CA	CA4010830	CALIFORNIA MENS COLONY	SAN LUIS OBISPO	15000
9	CA	CA4110007	CALIFORNIA WATER SERVICE	SAN JOSE	39000
9	CA	CA4110006	CALIFORNIA WATER SERVICE	ATHERTON	66000
9	CA	CA0110003	CALIFORNIA WATER SERVICE CO	LIVERMORE	47500
9	CA	CA5610016	CALIFORNIA WATER SERVICE CO–WESTLAKE	WESTLAKE VILLAGE	26500
9	CA	CA3710001	CALIFORNIA–AMERICAN WATER CO	IMPERIAL BEACH	80000
9	CA	CA3710005	CARLSBAD MWD	CARLSBAD	52500
9	CA	CA3410004	CARMICHAEL WATER DISTRICT	CARMICHAEL	38700
9	CA	CA5610024	CASITAS MUNICIPAL WATER DIST	OAKVIEW	60000
9	CA	CA0510016	CCWD EBBETTS PASS	SAN ANDREAS	11500
9	CA	CA0710001	CITY OF ANTIOCH	ANTIOCH	64442
9	CA	CA1910206	CITY OF BELLFLOWER	BELLFLOWER	93500
9	CA	CA4810001	CITY OF BENICIA	BENICIA	25541
9	CA	CA3010002	CITY OF BREA	BREA	33000
9	CA	CA4110003	CITY OF BURLINGAME	BURLINGAME	27700
9	CA	CA4810003	CITY OF FAIRFIELD	FAIRFIELD	72000
9	CA	CA3010018	CITY OF LA HABRA	LA HABRA	51500
9	CA	CA0110011	CITY OF LIVERMORE	LIVERMORE	14000
9	CA	CA0710006	CITY OF MARTINEZ	MARTINEZ	28500
9	CA	CA4110017	CITY OF MENLO PARK	MENLO PARK	10400
9	CA	CA3010023	CITY OF NEWPORT BEACH	NEWPORT BEACH	66643
9	CA	CA4910006	CITY OF PETALUMA	PETALUMA	45080
9	CA	CA0710008	CITY OF PITTSBURG	PITTSBURG	48700
9	CA	CA4110022	CITY OF REDWOOD CITY	REDWOOD CITY	71551
9	CA	CA4010009	CITY OF SAN LUIS OBISPO WD	SAN LUIS OBISPO	42136
9	CA	CA2310003	CITY OF UKIAH	UKIAH	15000
9	CA	CA4810008	CITY OF VACAVILLE	VACAVILLE	76200
9	CA	CA4410011	CITY OF WATSONVILLE	WATSONVILLE	47000
9	CA	CA3610114	CLAWA WHOLESALE	CRESTLINE	18000
9	CA	CA4110011	COASTSIDE COUNTY WATER DIST	HALF MOON BAY	13100
9	CA	CA3310037	CORONA—CITY OF	CORONA	100000
9	CA	CA1910128	COVINA IRRIGATING CO	COVINA	28000
9	CA	CA3310005	DESERT WATER AGENCY	PALM SPRINGS	63010
9	CA	CA2410950	DWR—SAN LUIS DIVISION O&M	SANTA NELLA	50000
9	CA	CA1510006	EAST NILES COMM SERV DIST	BAKERSFIELD	21382
9	CA	CA3010093	EAST ORANGE COUNTY WD	ORANGE	90000
9	CA	CA3610064	EAST VALLEY WATER DISTRICT	SAN BERNARDINO	50000
9	CA	CA1310004	EL CENTRO—CITY OF	EL CENTRO	34517
9	CA	CA0910001	EL DORADO ID—MAIN	PLACERVILLE	10740
9	CA	CA0910020	EL DORADO IRRIGATION DISTRICT	PLACERVILLE	21573
9	CA	CA3010079	EL TORO WATER DISTRICT	EL TORO	50528
9	CA	CA3310012	ELSINORE VALLEY MWD	LAKE ELSINORE	20491
9	CA	CA4110021	ESTERO MUNI IMPROVEMENT DIST	FOSTER CITY	30661
9	CA	CA1210004	EUREKA, CITY OF	EUREKA	27829
9	CA	CA3410032	FOLSOM PRISON	REPRESA	10000
9	CA	CA3410030	FOLSOM, CITY OF—ASHLAND	FOLSOM	25674
9	CA	CA3410014	FOLSOM, CITY OF—MAIN	FOLSOM	25674
9	CA	CA1910032	FOOTHILL MUNICIPAL WATER DIST	LA CANADA-FLINT R	80000
9	CA	CA4210004	GOLETA WATER DISTRICT	GOLETA	73000
9	CA	CA4110016	HILLSBOROUGH WATER DEPT	HILLSBOROUGH	11500
9	CA	CA1210013	HUMBOLDT BAY MWD	EUREKA	60000
9	CA	CA3310021	JURUPA CSD	RIVERSIDE	30000

APPENDIX B–2.—CLASSIFICATION OF CANDIDATE SYSTEMS USING SURFACE WATER WHICH MAY BE SUBJECT TO REQUIREMENTS PERTAINING TO SYSTEMS SERVING BETWEEN 10,000–100,000 PEOPLE—Continued

[By Region, State, Public Water System ID #, Name of Utility, City, and Population]

Reg.	St.	PWS ID	Name	City	Population
9	CA	CA3010017	LAGUNA BEACH COUNTY WD	LAGUNA BEACH	24000
9	CA	CA3310022	LAKE HEMET MWD	HEMET	43365
9	CA	CA1910225	LAS VIRGENES MWD	CALABASAS	62000
9	CA	CA4010022	LOPEZ PROJECT	SAN LUIS OBISPO	100000
9	CA	CA1910204	LOS ANGELES CO WW DIST 29 & 80—MALIBU	ALHAMBRA	30553
9	CA	CA1210016	MCKINLEYVILLE COMM SER DIST	MCKINLEYVILLE	11347
9	CA	CA4210007	MONTECITO WATER DIST	SANTA BARBARA	11000
9	CA	CA2810003	NAPA-CITY	NAPA	62000
9	CA	CA4110025	NORTH COAST COUNTY WATER DIST	PACIFICA	38520
9	CA	CA2110003	NORTH MARIN WATER DISTRICT	NOVATO	55000
9	CA	CA3110001	NORTH TAHOE PUD—MAIN	TAHOE VISTA,	10000
9	CA	CA0710007	OAKLEY WATER DISTRICT	OAKLEY	15600
9	CA	CA3710029	OLIVENHAIN MWD	ENCINITAS	35000
9	CA	CA3410016	ORANGEVALE WATER COMPANY	ORANGEVALE	25000
9	CA	CA1910101	ORCHERD DALE WATER DISTRICT	WHITTIER	20000
9	CA	CA3710034	OTAY WD	SPRING VALLEY	100000
9	CA	CA0410006	OWID—MINERS RANCH	OROVILLE	20600
9	CA	CA1910102	PALMDALE WATER DIST	PALMDALE	90000
9	CA	CA0410007	PARADISE IRRIGATION DISTRICT	PARADISE	26657
9	CA	CA3310029	PERRIS—CITY OF	PERRIS	27275
9	CA	CA3110005	PLACER CWA—AUBURN/BOWMAN	AUBURN	11500
9	CA	CA3110025	PLACER CWA—FOOTHILL	AUBURN	30500
9	CA	CA5510002	PONDEROSA WATER COMPANY	TUOLUMNE	16978
9	CA	CA3710015	POWAY—CITY OF	POWAY	45500
9	CA	CA3810700	PRESIDIO OF SAN FRANCISCO	PRESIDIO OF SAN FRANCISCO.	12300
9	CA	CA3710016	RAINBOW MWD	FALLBROOK	14662
9	CA	CA3710019	RAMONA MWD	RAMONA	34000
9	CA	CA4510005	REDDING, CITY OF	REDDING	72777
9	CA	CA3610037	REDLANDS CITY MUD-WATER DIV	REDLANDS	69300
9	CA	CA3610038	RIALTO-CITY	RIALTO	50072
9	CA	CA3710018	RINCON DEL DIABLO MWD	ESCONDIDO	25350
9	CA	CA1510018	ROSAMOND COMMUNITY SERV DIST	ROSAMOND	12000
9	CA	CA3110008	ROSEVILLE, CITY OF	ROSEVILLE	47000
9	CA	CA1910194	ROWLAND WATER DISTRICT	ROWLAND HEIGHTS	52000
9	CA	CA5610030	RUSSELL VALLEY MWD	WESTLAKE VILLAGE	15000
9	CA	CA3710021	SAN DIEGUITO WD	ENCINITAS	35154
9	CA	CA3610041	SAN GABRIEL VALLEY WC-FONTANA	FONTANA	29284
9	CA	CA3410021	SAN JUAN SUBURBAN WATER DISTRICT	ROSEVILLE	45000
9	CA	CA4410014	SAN LORENZO VALLEY WTR DIST	BOULDER CREEK	20000
9	CA	CA3010039	SANTA ANA HEIGHTS WC	SANTA ANA	10000
9	CA	CA4210010	SANTA BARBARA WATER DEPARTMENT	SANTA BARBARA	90000
9	CA	CA4410010	SANTA CRUZ WATER DEPARTMENT	SANTA CRUZ	80000
9	CA	CA3710023	SANTA FE I.D.	RANCHO SANTA FE	25000
9	CA	CA3010101	SANTA MARGARITA WATER DISTRICT	MISSION VIEJO	81000
9	CA	CA4510006	SHASTA DAM AREA PUD	CENTRAL VALLEY	14000
9	CA	CA1910150	SOMERSET MUTUAL WATER CO	BELLFLOWER	15000
9	CA	CA0510012	SOUTH CAMANCHE SHORE	VALLEY SPRINGS	66000
9	CA	CA3010042	SOUTH COAST WATER DISTRICT	LAGUNA BEACH	19000
9	CA	CA0910002	SOUTH TAHOE PUD—MAIN	SOUTH LAKE TAHOE	46900
9	CA	CA3410015	SOUTHERN CA WATER CO—CORDOVA WATER SRV	SAN DIMAS	41840
9	CA	CA0710002	SOUTHERN CALIFORNIA WATER CO	PITTSBURG	17884
9	CA	CA5610059	SOUTHERN CALIFORNIA WATER COMPANY—SIMI	SIMI VALLEY	47532
9	CA	CA4810005	SUISUN SOLANO WATER AUTHORITY	VACAVILLE	22985
9	CA	CA5610020	THOUSAND OAKS WATER DEPT	THOUSAND OAKS	40200
9	CA	CA3910011	TRACY, CITY OF	TRACY	38000
9	CA	CA3010071	TRI-CITIES MUNICIPAL WD	SAN CLEMENTE	51000
9	CA	CA3610050	UPLAND CITY OF	UPLAND	64973
9	CA	CA3710002	VALLECITOS WD	SAN MARCOS	39000
9	CA	CA5610017	VENTURA WATER DEPARTMENT	VENTURA	97000
9	CA	CA3710027	VISTA I.D.	VISTA	84042
9	CA	CA1910014	WEST COVINA-CITY, WATER DEPT	WEST COVINA	20050
9	CA	CA5710003	WEST SACRAMENTO, CITY OF	WEST SACRAMENTO	45000
9	CA	CA4110027	WESTBOROUGH COUNTY WATER DIST	SOUTH SAN FRANCISCO	11000
9	CA	CA3310049	WESTERN MWD	RIVERSIDE	41549
9	CA	CA5110002	YUBA CITY, CITY OF	YUBA CITY	30200
9	CA	CA3610055	YUCAIPA VALLEY CWD ID—A&2	YUCAIPA	32600
9	GU	GU0000006	PUBLIC UTILITY AGENCY OF GUAM	AGANA	61750
9	GU	GU0000003	PUBLIC UTILITY AGENCY OF GUAM	AGANA	11165

APPENDIX B–2.—CLASSIFICATION OF CANDIDATE SYSTEMS USING SURFACE WATER WHICH MAY BE SUBJECT TO REQUIREMENTS PERTAINING TO SYSTEMS SERVING BETWEEN 10,000–100,000 PEOPLE—Continued

[By Region, State, Public Water System ID #, Name of Utility, City, and Population]

Reg.	St.	PWS ID	Name	City	Population
9	GU	GU0000010	U S NAVY		14300
9	HI	HI0000213	DWS MAKAWAO	MAKAWAO, MAUI	16375
9	HI	HI0000130	DWS SOUTH KOHALA	KAMUELA	11344
9	NV	NV0000011	BOULDER CITY WATER COMPANY	BOULDER CITY	12500
9	NV	NV0000015	CARSON CITY WATER	CARSON CITY	27060
9	NV	NV0000076	CITY OF HENDERSON WATER CO	HENDERSON	57000
9	NV	NV0000158	INCLINE VILLAGE GID	INCLINE VILLAGE	12735
9	NV	NV0003004	LAS VEGAS WASH RESORT	BOULDER CITY	23000
9	NV	NV0000175	NORTH LAS VEGAS UTILITIES	NO LAS VEGAS	75900
9	NV	NV0000211	SUN VALLEY WATER AND SAN DIST	SPARKS	10000
9	TT	TT3007035	DEPARTMENT OF PUBLIC WORKS	KOLONIA, PONAPE, E.C.I	10000
10	AK	AK2110342	CITY OF JUNEAU	JUNEAU	23965
10	AK	AK2212039	US ARMY FT RICHARDSON SHIP CRK	FT RICHARDSON	11500
10	AK	AK2211423	USAF ELMENDORF AFB	ELMENDORF AFB	13100
10	ID	ID2350014	LEWISTON CITY OF	LEWISTON	14052
10	ID	ID5420058	TWIN FALLS CITY OF	TWIN FALLS	28400
10	OR	OR4100012	ALBANY, CITY OF	ALBANY	35000
10	OR	OR4100047	ASHLAND WATER DEPARTMENT	ASHLAND	16500
10	OR	OR4100055	ASTORIA, CITY OF	ASTORIA	12300
10	OR	OR4100081	BEAVERTON, PUBLIC WORKS DEPT	BEAVERTON	48974
10	OR	OR4100100	BEND WATER DEPARTMENT	BEND	22000
10	OR	OR4100187	CLACKAMAS WATER DISTRICT	CLACKAMAS	22060
10	OR	OR4100594	CLAIRMONT WATER DISTRICT	OREGON CITY	15000
10	OR	OR4100205	COOS BAY-NORTH BEND WATER BD	COOS BAY	27000
10	OR	OR4100225	CORVALLIS, CITY OF	CORVALLIS	42000
10	OR	OR4100236	COTTAGE GROVE, CITY OF	COTTAGE GROVE	10000
10	OR	OR4100305	FOREST GROVE, CITY OF	FOREST GROVE	11900
10	OR	OR4100342	GRANTS PASS, CITY OF	GRANTS PASS	16200
10	OR	OR4100357	GRESHAM PWO-WATER SECTION	GRESHAM	33000
10	OR	OR4100379	HILLSBORO, FOREST GROVE, BEAVER-	HILLSBORO	38722
10	OR	OR4100457	LAKE OSWEGO MUNICIPAL WATER	WEST LINN	26985
10	OR	OR4100473	LEBANON, CITY OF	LEBANON	10400
10	OR	OR4100483	LINCOLN CITY WATER DISTRICT	LINCOLN CITY	10300
10	OR	OR4100497	MCMINNVILLE WATER & LIGHT	MCMINNVILLE	17500
10	OR	OR4100513	MEDFORD WATER COMMISSION	MEDFORD	60429
10	OR	OR4100528	MILWAUKIE, CITY OF	PORTLAND	17900
10	OR	OR4100580	OAK LODGE WATER DISTRICT	MILWAUKIE	25000
10	OR	OR4100591	OREGON CITY—SOUTH FORK W B	OREGON CITY	14500
10	OR	OR4100666	POWELL VALLEY ROAD WATER DIST.	PORTLAND	24215
10	OR	OR4100668	ROCKWOOD WATER DISTRICT	PORTLAND	35000
10	OR	OR4100720	ROSEBURG, CITY OF—WINCHESTER	ROSEBURG	24000
10	OR	OR4100768	SUBURBAN EAST SALEM WATER DIST	SALEM	11000
10	OR	OR4100869	THE DALLES, (WATER TREATMENT)	THE DALLES	11800
10	OR	OR4100878	TIGARD WATER DISTRICT	TIGARD	30324
10	OR	OR4100944	WEST LINN, CITY OF	WEST LINN	12600
10	OR	OR4100660	WEST SLOPE WATER DISTRICT	PORTLAND	12000
10	WA	WA5300050	ABERDEEN WATER DEPARTMENT	ABERDEEN	19500
10	WA	WA5302200	ANACORTES, CITY OF	MT VERNON	12110
10	WA	WA5305600	BELLINGHAM-WATER DIVISION, CITY OF	BELLINGHAM	55684
10	WA	WA5308200	BREMERTON MUNICIPAL UTILITIES	BREMERTON	52000
10	WA	WA5312200	CENTRALIA WATER DEPT., CITY OF	CENTRALIA	14000
10	WA	WA5324050	EVERETT PUBLIC WORKS DEPT. CITY OF	EVERETT	72480
10	WA	WA5348100	LONGVIEW WATER DEPARTMENT	LONGVIEW	37815
10	WA	WA5363450	OLYMPIA WATER SYSTEM, CITY OF	OLYMPIA	39949
10	WA	WA5363600	OLYMPIC VIEW WATER DISTRICT	EDMONDS	13082
10	WA	WA5366400	PASCO WATER DEPARTMENT	PASCO	25015
10	WA	WA5369000	PORT TOWNSEND, CITY OF	PORT TOWNSEND	10500
10	WA	WA5372250	RICHLAND, CITY OF	RICHLAND	32600
10	WA	WA5379500	SKAGIT COUNTY PUD #1—JUDY RES	MT VERNON	38921
10	WA	WA5392500	WALLA WALLA WATER DIVISION	WALLA WALLA	28130
10	WA	WA5399150	YAKIMA WATER DEPT, CITY OF	YAKIMA	42860

APPENDIX B–3.—CLASSIFICATION OF CANDIDATE SYSTEMS USING GROUND WATER WHICH MAY BE SUBJECT TO REQUIREMENTS PERTAINING TO SYSTEMS SERVING BETWEEN 50,000 AND 99,999 PEOPLE

PWS ID	PWS NAME	POPULATION
REGION II:		

APPENDIX B–3.—CLASSIFICATION OF CANDIDATE SYSTEMS USING GROUND WATER WHICH MAY BE SUBJECT TO REQUIREMENTS PERTAINING TO SYSTEMS SERVING BETWEEN 50,000 AND 99,999 PEOPLE—Continued

PWS ID	PWS NAME	POPULATION
New Jersey:		
NJ0251001	RIDGEWOOD WATER DEPT RINGWOOD TWP	60,100
NJ0327001	NJ AMERICAN W CO DELAWAR PALMYRA	60,727
NJ0408001	CAMDEN CITY WATER DEPT CAMDEN CITY	50,000
NJ0705001	EAST ORANGE WATER DEPT EAST ORANGE	73,552
NJ1507005	TOMS RIVER WATER COMPANY DOVER TWP	78,840
New York		
NY0000070	SCHENECTADY CITY WATER WKS SCHENECTADY	67,972
NY0002819	EAST MEADOW WATER DISTRICT EAST MEADOW	50,000
NY0002831	JERICHO WATER DISTRICT SYOSSET	58,000
NY0002832	LEVITTOWN WATER DISTRICT EAST MEADOW	50,000
NY0003263	SOUTH HUNTINGTON WD HUNTINGTON STAT	60,800
REGION III:		
Maryland:		
MDMD00200	16 DORSEY ROAD GLEN BURNIE	65,000
MD0020034	SEVERNDALE-ANNE ARUNDEL DPW SEVERNDALE	60,000
Pennsylvania		
PA1460034	NORTH PENN WATER AUTHORITY LANSDALE	69,072
PA1460048	NORTH WALES WATER AUTHORITY, NORTH WALES	53,000
REGION IV:		
Alabama:		
AL0000681	DOTHAN WATER DEPARTMENT DOTHAN	60,825
Florida:		
FL1460506	OKALOOSA CO. WTR. & SWR. SYSTEM FORT WALTON BEACH	64,351
FL2161344	CITY OF JAX-MANDARIN GRID JACKSONVILLE	60,875
FL3481482	WINTER PARK, CITY OF WINTER PARK	75,404
FL3484132	OCPU/EASTERN WATER SYSTEM ORLANDO	76,373
FL3590159	CASSELBERRY, CITY OF, N, S, HP CASSELBERRY	54,600
FL3640275	DAYTONA BEACH, CITY OF DAYTONA BEACH	79,664
FL3640287	SOUTHERN STATES UTIL/DELTONA DELTONA	71,400
FL4060163	BCOES 2A POMPANO BEACH	72,350
FL4060167	BCOES 1A LAUDERDALE LAKES	50,100
FL4060787	LAUDERHILL, CITY OF LAUDERHILL	50,500
FL4060845	MARGATE, CITY OF MARGATE	50,400
FL4061083	PEMBROKE PINES PEMBROKE PINES	64,100
FL4061121	PLANTATION, CITY OF PLANTATION	75,425
FL4061129	POMPANO BEACH, CITY OF POMPANO BEACH	90,100
FL4061410	SUNRISE #1, CITY OF SUNRISE	66,500
FL4130977	NORTH MIAMI, CITY OF NORTH MIAMI	65,903
FL4134357	FKAA FLORIDA CITY PLANT FLORIDA CITY	80,500
FL4500145	BOYNTON BEACH WTP BOYTON BEACH	61,125
FL4500351	DELRAY BEACH WATER DEPARTMENT DELRAY BEACH	56,000
FL4501124	SEACOAST UTILITY (HOOD RD. WTP) PALM BEACH GARDENS	54,695
FL5110198	NAPLES WATER DEPT NAPLES	52,000
FL5114069	COLLIER COUNTY REGIONAL WTP NAPLES	86,000
FL5360102	FORT MYERS WATER DEPARTMENT FORT MYERS	52,500
FL5360313	FLA. CITIES WATER-GREEN MEADOWSFORT MYERS	61,500
FL5360325	CAPE CORAL, CITY OF CAPE CORAL	79,800
FL5364048	LEE COUNTY UTILITIES—SOUTH FORT MYERS	58,000
FL6271696	SPRING HILL UTILITIES SPRING HILL	51,000
FL6511361	PCUD-WEST NEW PORT RICHEY	99,548
FL6580326	SARASOTA-CITY OF SARASOTA	52,000
Georgia:		
GA0950000	ALBANY ALBANY	85,000
GA2450004	RICHMOND COUNTY AUGUSTA	80,000
Kentucky:		
KY0300336	OWENSBORO MUNICIPAL UTILITIES OWENSBORO	57,695
North Carolina:		
NC0467035	ONSLOW COUNTY WATER SYSTEM ONSLOW CO	57,716
South Carolina:		
SC2110001	FLORENCE, CITY OF FLORENCE	58,569
REGION IV:		
Tennessee:		
TN0000299	JACKSON WATER SYSTEM JACKSON	61,769
REGION V:		
Illinois:		
IL1970450	JOLIET JOLIET	78,000
Indiana:		
IN5248002	ANDERSON WATER DEPT ANDERSON	62,148

APPENDIX B–3.—CLASSIFICATION OF CANDIDATE SYSTEMS USING GROUND WATER WHICH MAY BE SUBJECT TO REQUIREMENTS PERTAINING TO SYSTEMS SERVING BETWEEN 50,000 AND 99,999 PEOPLE—Continued

PWS ID	PWS NAME	POPULATION
IN5279013	LAFAYETTE WATER WORKS LAFAYETTE	50,525
Michigan:		
MI0000450	BATTLE CREEK—VERONA SYSTEM BATTLE CREEK	51,600
MI0001995	E LANSING MERIDIAN TWP WAUTH EAST LANSING	75,500
MI0004340	MICHIGAN STATE UNIVERSITY EAST LANSING	50,000
MI0006910	WATERFORD TOWNSHIP WATERFORD	66,692
Minnesota:		
MN1550010	ROCHESTER MUNC WATER SUPPLY ROCHESTER	64,800
MN1690011	DULUTH MUNICIPAL WATER SUPPLY DULUTH	87,000
Ohio:		
OH0901022	HAMILTON/SOUTH WATER PLANT HAMILTON	50,400
OH0901712	MIDDLETOWN WATER DEPARTMENT MIDDLETOWN	60,000
OH1204412	SPRINGFIELD WATER PLANT SPRINGFIELD	69,800
OH1300412	CLERMONT COUNTY WATER, PUB BATAVIA	64,152
OH3100422	CINCINNATI, CITY OF-BOLTON PLANT CINCINNATI	92,500
OH5700712	DAYTON, CITY OF-MIAMI PLANT DAYTON	67,000
OH7601032	CANTON SUGARCREEK WTP CANTON	70,000
OH7604512	OHIO WATER SERVICE-MASSILLON MASSILLON	67,000
Wisconsin:		
WI1540127	JANESVILLE WATER UTILITY JANESVILLE	52,133
WI2680238	WAUKESHA WATER UTILITY WAUKESHA	56,985
WI6180230	EAU CLAIRE WATERWORKS EAU CLAIRE	65,000
WI6320309	LA CROSSE WATERWORKS LA CROSSE	51,000
REGION VI:		
Arkansas:		
AR0000272	PB/GENERAL WATERWORKS COMPANY PINE BLUFF	63,114
Louisiana:		
LA1019029	LAKE CHARLES WATER CO. LAKE CHARLES	80,000
LA1033019	PARISH WATER CO., INC. BATON ROUGE	78,200
LA1079001	ALEXANDRIA, CITY OF ALEXANDRIA	65,000
New Mexico:		
NM3511707	LAS CRUCES MUNICIPAL WATER SYSTEM LAS CRUCES	63,000
Texas:		
TX0150249	BEXAR METRO WTR DIST—S SANTONIO SAN ANTONIO	82,257
TX0210001	BRYAN CITY OF BRYAN	55,502
TX0210017	TEXAS A & M UNIV/MAIN CAMPUS COLLEGE STATION	50,000
TX2350002	VICTORIA CITY OF VICTORIA	55,000
REGION VII:		
Indiana:		
IA0790074	WATERLOO WATER WORKS WATERLOO	66,467
IA3126052	DUBUQUE WATER WORKS DUBUQUE	57,546
IA9778054	SIOUX CITY WATER SUPPLY SIOUX CITY	80,505
Missouri:		
MO3010181	COLUMBIA COLUMBIA	64,000
REGION VIII:		
Utah:		
UT4900359	PROVO CITY PROVO	86,000
Wyoming:		
WY5600009		54,500
REGION IX:		
Arizona:		
AZ0407096	PEOPIA, CITY OF PEORIA	50,618
California:		
CA0110008	CITY OF PLEASANTON PLEASANTON	52,528
CA0310300	LSP INDIAN GRINDING ROCKS.P. ARNOLD	51,000
CA0410002	CAL—WATER SERVICE CO.—CHICO CHICO	76,700
CA1010003	CLOVIS, CITY OF CLOVIS	60,004
CA1910001	ALHAMBRA—CITY, WATER DEPT. ALHAMBRA	82,110
CA1910019	CITY OF CERRITOS CERRITOS	53,300
CA1910026	COMPTON—CITY, WATER DEPT. COMPTON	69,000
CA1910034	CITY OF DOWNEY DOWNEY	91,444
CA1910036	CAL. WATER SERVICE CO.—EAST L.A. MONTEBELLO	86,800
CA1910049	HUNTINGTON PARK—CITY HUNTINGTON PARK	52,000
CA1910070	LOS ANGELES CO WW DIST 4 & 34—LANCASTER ALHAMBRA	93,879
CA1910079	LYNWOOD—CITY, WATER DEPT. LYNWOOD	61,945
CA1910092	MONTEREY PARK—CITY, WATER DEPT. MONTEREY PARK	58,000
CA1910146	SANTA MONICA—CITY, WATER DIVISION SANTA MONICA	86,900
CA1910152	SOUTH GATE—CITY, WATER DEPT. SOUTH GATE	79,170

APPENDIX B–3.—CLASSIFICATION OF CANDIDATE SYSTEMS USING GROUND WATER WHICH MAY BE SUBJECT TO REQUIREMENTS PERTAINING TO SYSTEMS SERVING BETWEEN 50,000 AND 99,999 PEOPLE—Continued

PWS ID	PWS NAME	POPULATION
CA1910174	SUBURBAN WATER SYSTEMS—WHITTER LA PUENTE	51,255
CA1910179	BURBANK—CITY, WATER DEPT. BURBANK	94,489
CA1910199	CAL. DOMESTIC WATER CO. WHITTER	54,000
CA1910205	SUBURBAN WATER SYSTEMS—SAN JOSE LA PUENTE	91,700
CA1910211	PARK WC—BELLFLOWER, NORWALK DOWNEY	67,739
CA1910239	CITY OF LAKEWOOD LAKEWOOD	58,845
CA2410009	MERCED, CITY OF MERCED	60,187
CA2710010	CWS—SALINAS SAN JOSE	90,400
CA3010003	CITY OF BUENA PARK BUENA PARK	68,800
CA3010004	MESA CONSOLIDATED WD COSTA MESA	97,000
CA3010037	YORBA LINDA WATER DISTRICT YORBA LINDA	70,000
CA3010064	CITY OF WESTMINSTER WESTMINSTER	78,803
CA3010069	CITY OF FOUNTAIN VALLEY FOUNTAIN VALLEY	53,691
CA3410006	CITRUS HEIGHTS IRRIGATION DISTRICT CITRUS HEIGHTS	68,189
CA3410024	NORTHRIDGE WATER DISTRICT SACRAMENTO	72,400
CA3610012	CHINO—CITY OF CHINO	56,000
CA3610024	HESPERIA WATER DISTRICT HESPERIA	53,200
CA3910004	LODI, CITY OF LODI	53,186
CA3910012	STOCKTON, CITY OF STOCKTON	92,000
CA4110009	CALIFORNIA WTR SERV CO SOUTH SAN FRANCISCO	56,200
CA4110013	CITY OF DALY CITY DALY CITY	92,311
CA4210011	SANTA MARIA WATER DEPARTMENT SANTA MARIA	55,000
CA4310001	CALIFORNIA WTR SERV CO SAN JOSE	71,300
CA4310005	CITY OF MILPITAS MILPITAS	51,576
CA4310007	CITY OF MOUNTAIN VIEW MOUNTAIN VIEW	67,460
CA4310009	CITY OF PALO ALTO PALO ALTO	56,000
CA4310012	CITY OF SANTA CLARA SANTA CLARA	93,600
CA4310020	CITY OF SAN JOSE—EVERGREEN/EDENVALE SAN JOSE	70,000
CA4310022	GREAT OAKS WATER CO INC SAN JOSE	62,853
CA5410016	VISALIA—CALIF. WTR SERVICE CO VISALIA	92,700
CA5610023	WATERWORKS DISTRICT NO. 8—SIMI VALLEY 500 W. LOS ANGELES AVE	72,344
Hawaii:		
HI0000360	PEARL HARBOR PEARL HARBOR	73,000
REGION X:		
Washington:		
WA5341997	FEDERAL WAY WATER & SEWER DISTRICT FEDERAL WAY	89,000

List of Subjects in 40 CFR Part 141

Chemicals, Intergovernmental relations, Reporting and Recordkeeping requirements, Water supply.

Dated: January 24, 1994.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, part 141 of title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 141—NATIONAL PRIMARY DRINKING WATER REGULATIONS

1. The authority citation for Part 141 continues to read as follows:

Authority: 42 U.S.C. 300f, 300g–1, 300g–2 300g–3, 300g–4, 300g–5, 300g–6, 300j–4, 300j–9.

2. Section 141.2 is proposed to be amended by adding a definition for "Subpart H systems" to read as follows:

§ 141.2 Definitions.

* * * * *

Subpart H systems means public water systems using surface water or ground water under the direct influence of surface water as a source that are subject to the requirements of subpart H of this part.

* * * * *

3. Section 141.74 is proposed to be amended by adding paragraphs (a)(8), (9), and (10) to read as follows:

§ 141.74 Analytical and monitoring requirements.

(a) * * *

(8) *Giardia* and *Cryptosporidium*—ICR Protozoan Method, as described in Appendix D. The minimum sample volume must be 140 liters for source water and 1,400 liters for treated water.

(9) Total Culturable Viruses—ICR Virus Method, as described in Appendix E. The minimum sample volume must be 120 liters for source water and 1,200 liters for treated water.

(10) *E. coli*—EC medium supplemented with 50 µg/ml of 4-methylumbelliferyl-beta-D-glucuronide (MUG), as specified in § 141.21(f)(6)(i) (In this method, a total coliform-positive broth culture from the Multiple Tube Fermentation (MTF) Technique (§ 141.74(a)(2)) or each total coliform-positive colony from the Membrane Filter Technique (§ 141.74(a)(2)) is transferred to at least 10 ml of EC + MUG); or Nutrient agar supplemented with 100 µg/ml of MUG, as specified in § 141.21(f)(6)(ii), except that *E. coli* colonies are counted; or Minimal Medium ONPG–MUG Test, often referred to as the Colilert Test, as specified in § 141.21(f)(6)(iii), using a five or ten tube Most Probable Number test.

* * * * *

4. A new Subpart M is added to read as follows:

Subpart M—Information Collection Requirements (ICR) for Public Water Systems

§ 141.140 Microbiological ICR monitoring and reporting requirements for Subpart H systems serving 10,000 or more persons.

(a) *Applicability.* (1) The requirements of this section apply to subpart H systems that serve 10,000 or more persons.

(2) *Consecutive systems.* If a system supplies water to other systems, only the supplier, which uses raw water as a source, must comply with this section. In determining population served, the supplier must include the population of its system and those for all consecutive systems that do not further disinfect the water.

(b) *Schedule.* Systems required to monitor under the provisions of § 141.141 (Disinfection Byproduct ICR Monitoring) must begin monitoring for this section and § 141.141 in the same month.

(1) Subpart H systems serving 100,000 or more people must begin monitoring no earlier than three months after publication of the final rule in the **Federal Register** and no later than October 1995. Prior to the start of monitoring, systems must arrange to have samples analyzed by a laboratory which meets the standards specified in paragraph (d) of this section. If systems are not able to arrange to have samples analyzed by a laboratory which meets the standards specified in paragraph (c) of this section by six months after publication of the final rule in the **Federal Register**, they are required to notify Technical Support Division, ATTN: ICR Laboratory Coordinator (Micro), OGWDW, USEPA, 26 West Martin Luther King Drive, Cincinnati, OH 45268. EPA will then provide a list of approved labs or other necessary guidance. Once a system has begun monitoring, it must continue to monitor for 18 consecutive months. All monitoring must be completed no later than March 31, 1997.

(2) Subpart H systems serving at least 10,000, but less than 100,000 people, must begin monitoring no earlier than three months after publication of the final rule in the **Federal Register** and no later than April 1996. Prior to the start of monitoring, systems must arrange to have samples analyzed by a laboratory which meets the standards specified in paragraph (c) of this section. If systems are not able to arrange to have samples analyzed by a laboratory which meets the standards specified in paragraph (d) of this section by nine months after publication of the final rule in the **Federal Register**, they are required to notify Technical Support Division, ATTN: ICR Laboratory Coordinator (Micro), OGWDW, USEPA, 26 West Martin Luther King Drive, Cincinnati, OH 45268. EPA will then provide a list of approved labs or other necessary guidance. Once a system has begun monitoring, it must continue to monitor for 12 consecutive months. All monitoring must be completed no later than March 31, 1997.

(c) *Monitoring Requirements*—(1) *Parameters.* Except as allowed below, systems must sample for the following parameters for the period specified in paragraph (b) of this section and at the frequency and location specified in this paragraph, using the analytical methods specified in this paragraph. For each sample, systems must determine the concentration of total coliforms, fecal coliforms or *Escherichia coli, Giardia,* and *Cryptosporidium.* In addition, subpart H systems serving 100,000 or more people must determine the concentration of total culturable viruses.

(2) *Frequency and sample location.* (i) Subpart H systems serving 100,000 or more people must collect one sample per month of the source water at the intake of each plant within that system. Subpart H systems serving at least 10,000 but less than 100,000 people must collect one sample every other month of the source water at the intake of each plant within that system. The "intake" is defined as a point subsequent to surface water runoff, as determined by the system, but before the first treatment step used to comply with the *Giardia*/virus removals required by the Surface Water Treatment Rule (40 CFR 141, subpart H). If a plant has several sources or intakes of water, the system must sample the blended water from all sources; if the system determines that this is not possible because of the plant configuration, the system must sample the source with the expected highest pathogen concentrations.

(ii) Systems serving 100,000 or more people that (A) detect one or more *Giardia* cyst, *Cryptosporidium* oocyst, or total culturable virus in one liter of water during the first twelve months of monitoring, or (B) calculate a numerical value of the pathogen concentration equal to or greater than 1.00 per liter, must also collect one sample per month of the finished water, beginning in the first calendar month after the system learns of such a result. (E.g., if the numerical value is <1.00, the system does not have to monitor finished water; if the value is ≥1.00, the system must monitor finished water.) For each finished water sample, systems must determine the density of total coliforms, fecal coliforms or *E. coli, Giardia, Cryptosporidium,* and total culturable viruses. Systems must continue finished water monitoring monthly until 18 months of source water monitoring has been completed.

(iii) Systems required to monitor total culturable viruses under this section that do not detect total culturable viruses during the first 12 months of monitoring are not required to monitor for total culturable viruses during the last six months of monitoring.

(iv) Systems required to monitor total culturable viruses under this section that have tested the source water at each plant for either total coliforms or fecal coliforms at least five times per week between four months before publication of this final rule in the **Federal Register** and two months after publication need not monitor for total culturable viruses if: (A) The density of total coliforms is less than 100 colonies/100 ml for at least 90 percent of the samples, or (B) the density of fecal coliforms is less than 20 colonies/100 ml for at least 90 percent of the samples. Coliform monitoring data must be reported as required in paragraph (d) of this section. Systems may use monitoring conducted under the provisions of § 141.71(a)(1) to meet this requirement. Systems that elect to use such monitoring must submit separate monitoring reports to meet the requirements under both subpart H and this section.

(3) *Analytical methods.* Methods for total coliforms, fecal coliforms, *Giardia* and *Cryptosporidium,* total culturable viruses, and *E. coli* are specified in § 141.74(a) (1), (2), (8), (9) and (10), respectively. Analysis under this section for microbiological contaminants shall be conducted by laboratories that have received approval from EPA to perform sample analysis for compliance with this rule.

(d) *Reporting.* (1) In addition to reporting specified in § 141.141, systems serving 100,000 or more people must report data and information in the format described in appendix A using an EPA-specified computer readable format beginning four months after starting monitoring and monthly thereafter. Systems serving between at least 10,000 but fewer than 100,000 people must report raw water data and information (except for viruses) in the format described in appendices A and B beginning four months after starting monitoring and every two months thereafter.

(2) Systems that wish to avoid monitoring for total culturable viruses under the provisions of § 141.140(c)(2)(iv) must report the dates and results of all total coliform and/or fecal coliform monitoring not later than three months after ICR promulgation.

(3) All reports required by this paragraph will be submitted to _____. Coordination for electronic reports will be made through _____.

§ 141.141 Disinfection Byproduct ICR Monitoring.

(a) *Applicability.* (1) All community and nontransient noncommunity water systems that serve a population of 100,000 or more people must comply with the requirements in this section. Community and nontransient noncommunity water systems that use only ground water not under the direct influence of surface water and serve a population between 50,000 and 99,999 people, must only comply with the total organic carbon (TOC) monitoring requirements at the entry point to the distribution system as indicated in Table 1; no other monitoring in this section is required for these systems.

(2) *Consecutive systems.* (i) Systems that receive only some of their water from a supplier must comply with all requirements of this section.

(ii) Systems that receive all their water from a supplier and further disinfect this water must comply with the monitoring requirements in this section associated with sampling locations at and subsequent to the entry point to the distribution system.

(iii) Systems that receive all their water from a supplier and do not further disinfect this water need not comply with the requirements in this section.

(3) In determining population served, systems must include their own population and populations for all consecutive systems.

(b) *Schedule.* Systems required to monitor under the provisions of § 141.140 (Microbiological ICR Monitoring) must begin monitoring for this section and § 141.140 in the same month, except as noted in paragraph (b)(2) of this section.

(1) Except as required by paragraph (b)(2), systems must begin monitoring no earlier than [three months after publication of the final rule in the **Federal Register**] and no later than October 1995. Prior to the start of monitoring, systems must arrange to have samples analyzed by a laboratory which meets the standards specified in paragraph (c) of this section. If systems are not able to arrange to have samples analyzed by a laboratory which meets the standards specified in paragraph (c) of this section by [six months after publication of the final rule in the **Federal Register**], they are required to notify Technical Support Division, ATTN: ICR Laboratory Coordinator (Chem), OGWDW, USEPA, 26 West Martin Luther King Drive, Cincinnati, OH 45268. EPA will then provide a list of approved labs or other necessary guidance. Once a system has begun monitoring, it must continue to monitor for 18 consecutive months. All monitoring must be completed no later than March 31, 1997.

(2) Subpart H systems must begin monitoring for source water TOC [three months after publication of the final rule in the **Federal Register**] and continue this monitoring until all other monitoring required by this section is complete. Community and nontransient noncommunity water systems that use only ground water not under the direct influence of surface water and serve 100,000 or more people must begin monitoring for finished water TOC [three months after publication of the final rule in the **Federal Register**] and continue this monitoring until all other monitoring required by this section is complete. Community and nontransient noncommunity water systems that use only ground water not under the direct influence of surface water and serve at least 50,000 but fewer than 100,000 people must begin monitoring for finished water TOC [three months after publication of the final rule in the **Federal Register**] and continue this monitoring for 12 months.

(c) *Monitoring requirements.* All systems must obtain representative samples at the frequency and location noted in Table 1 of this section.

(1) *Additional requirements for systems using chloramines.* Systems that use chloramines for treatment must also conduct the additional sampling identified in Table 2 of this section.

(2) *Additional requirements for systems using hypochlorite solutions.* Systems that use hypochlorite solutions for treatment must also conduct the additional sampling identified in Table 3 of this section.

(3) *Additional requirements for systems using ozone.* Systems that use ozone for treatment must also conduct the additional sampling identified in Table 4 of this section.

(4) *Additional sampling requirements for systems using chlorine dioxide.* Systems that use chlorine dioxide for treatment must also conduct the additional sampling identified in Table 5 of this section.

(5) *Additional information reporting requirements for all systems serving at least 100,000 people.* Such systems must also report the applicable information in Table 6 of this section.

(6) *Analytical methods.* Systems must use the methods identified in Table 7 of this section for conducting analyses required by this section. Analysis under this section for disinfection byproducts shall be conducted by laboratories that have received approval from EPA to perform sample analysis for compliance with this rule.

(d) *Reporting.* (1) Systems serving 100,000 or more people must report the required data and information in Tables 1–6 to EPA, using an EPA-specified computer readable format, beginning two months after starting monitoring, and every month thereafter. At the time of the first report, subpart H systems must submit the results of monthly source water TOC monitoring to date and subsequent monthly results as part of subsequent monthly reports. At the time of the first report, systems that use only ground water not under the direct influence of surface water and serve at least 100,000 people must submit the results of monthly finished water TOC monitoring to date and subsequent monthly results as part of subsequent monthly reports. Systems that use only ground water not under the direct influence of surface water and serve between 50,000 and 99,999 people must submit the results of 12 months of finished water TOC monitoring not later than [date 17 months after ICR promulgation].

(2) All reports required by this paragraph will be submitted to _____. Coordination for electronic reports will be made through _____.

§ 141.142 Disinfection Byproduct Precursor Removal ICR.

(a)(1) *Applicability.* Except for systems meeting one or more criteria in paragraphs (a) (2) through (4) of this section, the following community and nontransient noncommunity water systems must conduct a disinfection byproduct precursor removal study (treatment study):

(i) Subpart H systems that serve a population of 100,000 or more; and

(ii) Systems that serve a population of 50,000 or more that use only ground water not under the direct influence of surface water and add a disinfectant to the water at any point in the treatment process.

(2) Systems that use chlorine as the primary and residual disinfectant and have, as an annual average of four quarterly averages (quarterly averages are the arithmetic average of the four distribution system samples collected under the requirements of § 141.141(c)), levels of less than 40 μg/l for total THMs and less than 30 μ/l of HAA5, are not required to conduct a treatment study.

(3) Subpart H systems that do not exceed a TOC level of 4.0 mg/l in the treatment plant influent, measured in accordance with § 141.141(c) and calculated by averaging the initial 12 monthly TOC samples, are not required to conduct a treatment study.

(4) Groundwater systems that do not exceed a TOC level of 2.0 mg/l in the treated water at the entry point to the distribution system, measured in accordance with § 141.141(c) and calculated by averaging the initial 12 monthly TOC samples, are not required to conduct a treatment study.

(5) For systems that already use full scale GAC or membrane technology, full scale plant data must be submitted along with copies of any prior bench/pilot studies. Systems meeting criteria for avoiding treatment studies must continue to monitor as prescribed in § 141.141.

(b) The treatment study shall consist of bench- and/or pilot-scale systems for at least one of the two appropriate candidate technologies (GAC or membrane processes) for the reduction of organic DBP precursors. The treatment studies shall be designed to yield representative performance data and allow the development of treatment cost estimates for different levels of organic disinfection byproduct control. The treatment study shall be conducted with the effluent from treatment processes already in place that remove disinfection byproduct precursors and TOC. Depending upon the type of treatment study, the study shall be conducted in accordance with the following criteria.

(1) Bench-scale testing shall be defined as continuous flow tests using: (i) Rapid small scale column test (RSSCT) for GAC; and (ii) Reactors with a configuration that yield representative flux loss assessment for membranes. Tests shall be preceded by particle removal processes, such as microfiltration.

(A) GAC bench-scale testing shall include the following information on each RSSCT: pretreatment conditions, GAC type, GAC particle diameter, height and dry weight (mass) of GAC in the RSSCT column, RSSCT column inner diameter, volumetric flow rate, and operation time at which each sample is taken. At least two empty bed contact times (EBCTs) shall be tested using the RSSCT. These RSSCT EBCTs must be designed to represent a full-scale EBCT of 10 min and a full-scale EBCT of 20 min. Additional EBCTs may be tested. The RSSCT testing shall include the water quality parameters and sampling frequency listed in Table 8. The RSSCT shall be run until the effluent TOC concentration is 75% of the average influent TOC concentration or a RSSCT operation time that represents the equivalent of one year of full-scale operation, whichever is shortest. The average influent TOC is defined as the running average of the influent TOC at the time of effluent sampling. RSSCTs shall be conducted quarterly over one year in order to determine the seasonal variation. Thus, a total of four RSSCTs at each EBCT is required. If, after completion of the first quarter RSSCTs, the system finds that the effluent TOC reaches 75% of the average influent TOC within 20 full-scale equivalent days on the EBCT=10 min test and within 30 full-scale equivalent days on the EBCT=20 min test, then the last three quarterly tests shall be conducted using membrane bench-scale testing with only one membrane, as described in § 141.142 (b)(1)(B).

(B) Membrane bench-scale testing shall include the following information: Pretreatment conditions, membrane type, membrane area, configuration, inlet pressure and volumetric flow rate, outlet (reject) pressure and volumetric flow rate, permeate pressure and volumetric flow rate, recovery, and operation time at which each sample is taken. A minimum of two different membrane types with nominal molecular weight cutoffs of less than 1000 must be investigated. The membrane test system must be designed and run to yield a representative flux loss assessment. Membrane tests must be conducted quarterly over one year to determine the seasonal variation. Thus, a total of four membrane tests with each membrane must be run. The membrane bench-scale testing shall include the water quality parameters and sampling frequency listed in Table 9 of this section.

(2) Pilot-scale testing shall be defined as continuous flow tests: (i) Using GAC of particle size representative of that used in full-scale practice, a pilot GAC column with a minimum inner diameter of 2.0 inches, and hydraulic loading rate (volumetric flow rate/column cross-sectional area) representative of that used in full-scale practice; and (ii) using membrane modules with a minimum of a 4.0 inch diameter for spiral wound membranes or equivalent membrane area if other configurations are used.

(A) GAC pilot-scale testing shall include the following information on the pilot plant: Pretreatment conditions, GAC type, GAC particle diameter, height and dry weight (mass) of GAC in the pilot column, pilot column inner diameter, volumetric flow rate, and operation time at which each sample is taken. At least two EBCTs shall be tested, EBCT=10 min and EBCT=20 min, using the pilot-scale plant. Additional EBCTs may be tested. The pilot testing shall include the water quality parameters listed in Table 10 of this Section. The pilot tests shall be run until the effluent TOC concentration is 75% of the average influent TOC concentration, with a maximum run length of one year. The average influent TOC is defined as the running average of the influent TOC at the time of sampling. The pilot-scale testing shall be sufficiently long to capture the seasonal variation.

(B) Membrane pilot-scale testing shall include the following information on the pilot plant: Pretreatment conditions, membrane type, configuration, staging, inlet pressure and volumetric flow rate, outlet (reject) pressure and volumetric flow rate, permeate pressure and volumetric flow rate, recovery, operation time at which each sample is taken, recovery, cross flow velocity, recycle flow rate, backwashing and cleaning conditions, and characterization and ultimate disposal of the reject stream. The membrane test system must be designed to yield a representative flux loss assessment. The pilot-scale testing shall be sufficient in length and conducted throughout the year in order to capture the seasonal variation, with a maximum run length of one year. The pilot testing shall include the water quality parameters listed in Table 11.

(3) For either the bench- or pilot-scale tests, systems must collect influent water samples at a location before the first point at which oxidants or disinfectants that form chlorinated disinfection byproducts are added. If the use of these oxidants or disinfectants precedes any full-scale treatment process that removes disinfection byproduct precursors, then bench- and pilot-scale treatment processes that represent these full-scale treatment processes are required prior to the GAC or membrane process.

(4) Simulated distribution system (SDS) conditions with chlorine will be used prior to the measurement of THMs, haloacetic acids (six) (HAA6), TOX, and chlorine demand. These conditions should be based on the site specific SDS sample as defined in § 141.141(c) (Table 1) with regards to holding time, temperature, and chlorine residual. If chlorine is not used as the final disinfectant in practice, then a chlorine dose should be set to yield a free chlorine residual of at least 0.2 mg/l after a holding time equal to the longest period of time the water is expected to remain in the distribution system or 7 days, whichever is shortest. The holding time prior to analysis of THMs, HAA6, TOX, and chlorine demand shall remain as that of the SDS sample as defined in § 141.141(c) (Table 1).

(5) For systems with multiple source waters, bench- or pilot scale testing

shall be required for each treatment plant that serves a population greater than that set forth in § 141.142(a) and use other source waters that exceed the TOC criteria set forth in § 141.142(a)(1) unless the source waters are of similar water quality.

(Note: Guidance Manual will specify)

(6) All systems conducting bench or pilot scale studies must report the additional information in Table 6 of § 141.141 as appropriate for source water and treatment processes that precede the bench/pilot systems. This information is to be reported for full-scale pretreatment processes and for pilot- or bench-scale pretreatment processes where appropriate.

(c) *Schedule.* Systems must begin the disinfection byproduct precursor removal study not later than [date 18 months following promulgation] and submit the report(s) of the completed study to EPA not later than September 30, 1997.

TABLE 1.—SAMPLING POINTS FOR ALL SYSTEMS

Sampling point	Analyses [1]	Frequency
Treatment Plant Influent [5]	pH, Alkalinity, Turbidity, Temperature, Calcium and Total Hardness, TOC, UV_{254}, Bromide, and Ammonia.	Monthly.
Treatment Plant Influent (optional for waters with high oxidant demand due to the presence of inorganics).	Optional oxidant demand test	Monthly.
Treatment Plant Influent	TOX	Quarterly.
After Air Stripping	Ammonia	Monthly.
Before and After Filtration	pH, Alkalinity, Turbidity, Temperature, Calcium and Total Hardness, TOC, and UV_{254}.	Monthly.
At each Point of Disinfection [2]	pH, Alkalinity, Turbidity, Temperature, Calcium and Total Hardness, TOC, and UV_{254}.	Monthly.
At End of Each Process in which Chlorine is Applied	Disinfectant Residual [3]	Monthly.
After Filtration (If Chlorine Is Applied Prior to Filtration)	THMs, HAAs(6), HANs, CP, HK, CH, and TOX	Quarterly.
Entry Point to Distribution System	pH, Alkalinity, Turbidity, Temperature, Calcium and Total Hardness, TOC, UV_{254}, and Disinfectant Residual [3].	Monthly.
Entry Point to Distribution System	THMs, HAAs(6), HANs, CP, HK, CH, TOX, and SDS [4]	Quarterly.
4 THM Compliance Monitoring Points in Distribution System (1 sample point will be chosen to correspond to the SDS sample [4], 1 will be chosen at a maximum detention time, and the remaining 2 will be representative of the distribution system).	THMs, HAAs (6), HANs, CP, HK, CH, TOX, pH, Temperature, Alkalinity, Total Hardness and Disinfectant Residual [3].	Quarterly.

[1] TOC: total organic carbon. UV_{254}: absorbance of ultraviolet light at 254 nanometers. THMs: chloroform, bromodichloromethane, dibromochloromethane, and bromoform. HAAs(6): mono-, di-, and trichloroacetic acid; mono-, and di- bromoacetic acid; and bromochloroacetic acid. HANs: dichloro-, trichloro-, bromochloro-, and dibromo- acetonitrile. CP: chloropicrin. HK: 1,1-dichloropropanone and 1,1,1-trichloropropanone. CH: chloral hydrate. TOX: total organic halide. SDS: simulated distribution system test.

[2] For utilities using ozone or chlorine dioxide, Tables 4 and 5, respectively, show additional monitoring requirements at this sampling point.

[3] Free chlorine residual will be measured in systems using free chlorine as the residual disinfectant; total chlorine residual will be measured in systems using chloramines as the residual disinfectant.

[4] The simulated distribution system test sample will be stored in such a manner that it can be compared to the results from one of the distribution system sampling points. This distribution system sampling point will be selected using the following criteria: 1) No additional disinfectant added between it and the treatment plant; 2) Approximate detention time of water is available; and 3) No blending with water from other sources. The SDS sample will be analyzed for THMs, HAAs(6), HANs, CP, HK, CH, TOX, pH and disinfectant residual.

[5] A ground water system with multiple wells from the same aquifer is only required to monitor TOC from one sampling point. A ground water system with multiple wells from different aquifers must collect at least one sample from each aquifer and determine which two aquifers have the highest TOC concentrations; thereafter, the system must sample TOC from these two aquifers.

TABLE 2.—Additional Sampling Required of Systems Using Chloramines

Sampling point	Analyses	Frequency
Entry Point to Distribution System	Cyanogen Chloride	Quarterly.
One THM Compliance Monitoring Sample Point Representing a Maximum Detention Time in Distribution System.	Cyanogen Chloride	Quarterly.

TABLE 3.—Additional Sampling Required of Systems Using Hypochlorite Solutions

Sampling point	Analyses	Frequency
Treatment Plant Influent	Chlorate	Quarterly.
Hypochlorite Stock Solution	pH, Temperature, Free Residual Chlorine, and Chlorate.	Quarterly.
Entry Point to Distribution System	Chlorate	Quarterly.

TABLE 4.—ADDITIONAL SAMPLING REQUIRED OF SYSTEMS USING OZONE

Sampling point	Analyses	Frequency
Ozone Contactor Influent	pH, Alkalinity, Turbidity, Temperature, Calcium and Total Hardness, TOC, UV_{254}, Bromide, and Ammonia.	Monthly.
Ozone Contactor Influent	Aldehydes [1] and AOC/BDOC [2]	Quarterly.

TABLE 4.—ADDITIONAL SAMPLING REQUIRED OF SYSTEMS USING OZONE—Continued

Sampling point	Analyses	Frequency
Ozone Contactor Effluent	Ozone Residual	Monthly.
Ozone Contactor Effluent	Aldehydes[1] and AOC/BDOC[2]	Quarterly.
Before Filtration	Ozone Residual	Monthly.
Entry Point to Distribution System	Bromate	Monthly.
Entry Point to Distribution System	Aldehydes[1] and AOC/BDOC[2]	Quarterly.

[1] The aldehydes to be included in this analysis are: formaldehyde, acetaldehyde, butanal, propanal, pentanal, glyoxal, and methyl glyoxal. Measurement of other aldehydes is optional.
[2] Analysis or submission of data for assimilable organic carbon (AOC) or biodegradeable organic carbon (BDOC) is optional.

TABLE 5.—ADDITIONAL SAMPLING REQUIRED OF SYSTEMS USING CHLORINE DIOXIDE

Sampling point	Analyses	Frequency
Treatment Plant Influent	Chlorate	Quarterly.
Before each Chlorine Dioxide Application	pH, Alkalinity, Turbidity, Temperature, Calcium and Total Hardness, TOC, UV_{254}, and Bromide.	Monthly.
Before First Chlorine Dioxide Application	Aldehydes[1] and AOC/BDOC[2]	Quarterly.
Before Application of Ferrous Salts, Sulfur Reducing Agents, or GAC.	pH, Chlorine Dioxide Residual, Chlorite, Chlorate	Monthly.
Before Downstream Chlorine/Chloramine Application	Aldehydes[1] and AOC/BDOC[2]	Quarterly.
Entry Point to Distribution System	Chlorite, Chlorate, Chlorine Dioxide Residual, Bromate	Monthly.
Entry Point to Distribution System	Aldehydes[1] and AOC/BDOC[2]	Quarterly.
3 Distribution System Sampling Points (1 near first customer, 1 in middle of distribution system, and 1 at a maximum detention time in the system).	Chlorite, Chlorate, Chlorine Dioxide Residual, pH, and Temperature.	Monthly.

[1] The aldehydes to be included in this analysis are: formaldehyde, acetaldehyde, butanal, propanal, pentanal, glyoxal, and methyl glyoxal. Measurement of other aldehydes is optional.
[2] Analysis or submission of data for AOC or BDOC is optional.

TABLE 6.—TREATMENT PLANT INFORMATION

Utility Information:
- Utility Name
- Mailing Address
- Contact Person & Phone Number
- Public Water Supply Identification Number FRDS (PWSID)
- Population Served

Plant Information:
- Name of plant
- Design flow (MGD)
- Annual minimum water temperature (C)
- Annual maximum water temperature (C)
- Hours of operation (hours per day)

Source Water Information:
- Name of source
- Type of source (One of the following)
  - 1 River
  - 2 Stream
  - 3 Reservoir
  - 4 Lake
  - 5 Ground water under the direct influence of surface water
  - 6 Ground water
  - 7 Spring
  - 8 Purchased from Utility Name, FRDS PWSID
  - 9 Other
- Surface water as defined by SWTR (YES/NO)
- Monthly Average Flow of this Source (MGD)
- Upstream sources of microbiological contamination
  - Wastewater plant discharge in watershed (yes/no)
  - Distance from intake (miles)

TABLE 6.—TREATMENT PLANT INFORMATION—Continued

- Monthly average flow of plant discharge (MGD)
- Point source feedlots in watershed (yes/no)
  - Distance of nearest feedlot discharge to intake (miles)
- Non-point sources in watershed
  - Grazing of animals (yes/no)
- Nearest distance of grazing to intake (miles)

Plant Influent: (ICR influent sampling point)
- Monthly average flow (MGD)
- Monthly peak hourly flow (MGD)
- Flow at time of sampling (MGD)

Plant Effluent: (ICR effluent sampling point)
- Monthly average flow (MGD)
- Monthly peak hourly flow (MGD)
- Flow at time of sampling (MGD)

Sludge Treatment:
- Monthly average solids production (lb/day)
- Installed design sludge handling capacity (lb/day)

General Process Parameters:
- The following will be requested for all unit processes.
  - Number of identical parallel units installed.
  - Number of identical parallel units in service at time of sampling.
- The following parameters will be requested for all unit processes except chemical feeders.
  - Design flow per unit (MGD)
  - Liquid volume per unit (gallons)
  - Tracer study flow (MGD)

TABLE 6.—TREATMENT PLANT INFORMATION—Continued

- T50 (minutes)
- T10 (minutes)

Presedimentation Basin:
- Surface loading at design flow (gpm/ft^2)

Chemical Feeder:
- Type of feeder (one of the following)
  - 1 Liquid
  - 2 Gas
  - 3 Dry
- Capacity of each unit (lb/day)
- Purpose (one or more of the following)
  - 1 Coagulation
  - 2 Coagulation aid
  - 3 Corrosion control
  - 4 Dechlorination
  - 5 Disinfection
  - 6 Filter aid
  - 7 Fluoridation
  - 8 Oxidation
  - 9 pH adjustment
  - 10 Sequestration
  - 11 Softening
  - 12 Stabilization
  - 13 Taste and odor control
  - 14 Other

Chemical Feeder Chemicals: (one of the following)
- Alum
- Anhydrous ammonia
- Ammonium hydroxide
- Ammonium sulfate
- Calcium hydroxide
- Calcium hypochlorite
- Calcium oxide
- Carbon dioxide

TABLE 6.—TREATMENT PLANT INFORMATION—Continued

- Chlorine dioxide—acid chlorite
- Chlorine dioxide—chlorine/chlorite
- Chlorine gas
- Ferric chloride
- Ferric sulfate
- Ferrous sulfate
- Ozone
- Polyaluminum chloride
- Sodium carbonate
- Sodium chloride
- Sodium fluoride
- Sodium hydroxide
- Sodium hypochlorite
- Sodium hexametaphosphate
- Sodium silicate
- Sulfuric acid
- Zinc orthophosphate
- Other

Notes:

1. The above list is intended to be a comprehensive list of chemicals used at water treatment plants. If the name of a chemical does not appear in the list then "Other Chemical" information will be requested.
2. Formulas and feed rate units will be included in data reporting software.

Monthly average feed rate based on inventory (mg/L)
Feed rate at time of sampling (mg/L)

Other Chemical:
Note: In addition to Chemical Feeder information the following will be requested for any chemical not included in the Chemical Feeder list of chemicals.
Trade name of chemical
Formula
Manufacturer

Rapid Mix:
Type of mixer (one of the following)
1 Mechanical
2 Hydraulic jump
3 Static
4 Other
If mechanical: horsepower of motor
If hydraulic: head loss (ft)
If static: head loss (ft)

Flocculation Basin:
Type of mixer (one of the following)
1 Mechanical
2 Hydraulic
3 Other
If mechanical: Mixing power (HP)
If hydraulic: head loss (ft)

Sedimentation Basin:
Loading at Design Flow (gpm/ft^2)
Dept (ft)

Filtration:
Loading at Design Flow (gpm/ft^2)
Media Type (one or more of the following)
1 Anthracite
2 GAC
3 Garnet
4 Sand
5 Other
Depth of top media (in)
If more than 1 media: Depth of second media (in)

TABLE 6.—TREATMENT PLANT INFORMATION—Continued

If more than 2 media: Depth of third media (in)
If more than 3 media: Depth of fourth media (in)
If GAC media: Carbon replacement frequency (months):
Water depth to top of media (ft)
Depth from top of media to bottom of backwash trough (ft)
Backwash Frequency (hours)
Backwash volume (gallons)

Contact Basin: (Stable liquid level)
Baffling Type (one of the following as defined in SWTR guidance manual)
1 Unbaffled (mixed tank)
2 Poor (inlet/outlet only)
3 Average (Inlet/Outlet and intermediate)
4 Superior (Serpentine)
5 Perfect (Plug flow)

Clearwell: (Variable liquid level)
Baffling Type (one of the following as defined in SWTR guidance manual)
1 Unbaffled (mixed tank)
2 Poor (inlet/outlet only)
3 Average (Inlet/Outlet and intermediate)
4 Superior (Serpentine)
5 Perfect (Plug flow)
Minimum liquid volume (gallons)
Liquid volume at time of tracer study (gallons)

Ozone Contact Basin:
Basin Type
1 Over/Under (Diffused O_3)
2 Mixed (Turbine O_3)
Number of Stages
CT (min mg/L)
EPA requests comments on the design and operating paramenters to be reported for ozone contact basins.

Tube Settler:
Surface loading at design flow (gpm/ft^2)
Tube angle from horizontal (degrees)

Upflow Clarifier:
Design horse power of turbine mixer (HP)
Surface loading at design flow (gpm/ft^2)
Special Equipment (none, one, or more of the following)
1 Lamella plates
2 Tubes

Plate Settler:
Surface loading at design flow (gpm/ft^2)

DE Filter:
Surface loading at design flow (gpm/ft^2)
Precoat (1b/ft^3)
Bodyfeed (mg/L)
Run length (hours)

Granular Activated Carbon:
Empty bed contact time at design flow (minutes)
Design regeneration frequency (days)
Actual regeneration frequency (days)

Membranes:
Type (one of the following)

TABLE 6.—TREATMENT PLANT INFORMATION—Continued

1 Reverse osmosis
2 Nanofiltration
3 Ultrafiltration
4 Microfiltration
5 Electrodialysis
6 Other
Name of other type
Membrane type (one of the following)
1 Cellulose acetate and derivatives
2 Polyamides
3 Thin-film composite
4 Other
Name of other membrane type
Molecular weight cutoff (gm/mole)
Configuration (one of the following)
1 Spiral wound
2 Hollow fiber
3 Tube
4 Plate and frame
5 Other
Name of other configuration
Design flux (gpd/ft^2)
Design pressure (psi)
Purpose of membrane unit (one or more of the following)
1 Softening
2 Desalination
3 Organic removal
4 Other
5 Contaminant removal—name of contaminant
Percent recovery (%)
Operating pressure (psi)

Air Stripping:
Packing height (ft)
Design liquid loading (gpm/ft^2)
Design air to water ratio
Type of packing (name)
Nominal size of packing (inch)
Operating air flow (SCFM)

Adsorption Clarifier:
Surface loading at design flow (gpm/ft^2)

Dissolved Air Flotation:
Surface loading at design flow (gmp/ft^2)

Slow Sand Filtration:
Surface loading at design flow (gpd/ft^2)

Ion Exchange:
Purpose (one or more of the following)
1 Softening
2 Contaminant removal
Contaminant name
Media type (Name)
Design exchange capacity (equ/ft^3)
Surface loading at design flow (gpm/ft^2)
Bed depth (ft)
Regenerant Name (one of the following)
1 Sodium Chloride (NaCl)
2 Sulfuric Acid (H_2SO_4)
3 Sodium Hydroxide (NaOH)
4 Other
If other: Name and formula
Operating regeneration frequency (hr)
Regenerant concentration (%)
Regenerant Used (lb/day)

Other treatment:
Name

TABLE 6.—TREATMENT PLANT INFORMATION—Continued

Purpose
Design Parameters

TABLE 7.—ANALYTICAL METHODS APPROVED FOR MONITORING RULE

Analyte	Methodology		
	40 CFR reference [1]	EPA method	Standard method [2]
pH	141.74(a)(7), 141.89(a)		4500–H^+
Alkalinity	141.89(a)		2320 B
Turbidity	141.22(a), 141.74(a)(4)	180.1 [3]	2130 B
Temperature	141.74(a)(6), 141.89(a)		2550 B
Calcium Hardness	141.89(a)	200.7 [4]	3111 B, 3120 B, 3500–Ca D
Free Residual Chlorine	141.74(a)(5)		4500–Cl D, 4500–Cl F, 4500–Cl G, 4500–Cl H
Total Residual Chlorine	141.74(a)(5)		4500–Cl D, 4500–Cl E, 4500–Cl F, 4500–Cl G, 4500–Cl I
Chlorine Dioxide Residual	141.74(a)(5)		4500–ClO_2 C, 4500–ClO_2 D, 4500–ClO_2 E
Ozone Residual	141.74(a)(5)		4500–O_3 B
Chloroform	141 Subpt C, App. C	502.2 [5], 524.2 [5,6], 551 [7,8]	
Bromodichloromethane	141 Subpt C, App. C	502.2 [5], 524.2 [5,6], 551 [7,8]	
Dibromochloromethane	141 Subpt C, App. C	502.2 [5], 524.2 [5,6], 551 [7,8]	
Bromoform	141 Subpt C, App. C	502.2 [5], 524.2 [5,6], 551 [7,8]	
Monochloroacetic Acid		55.1 [6]	6233 B
Dichloroacetic Acid		552.1 [6]	6233 B
Trichloroacetic Acid		552.1 [6]	6233 B
Monobromoacetic Acid		552.1 [6]	6233 B
Dibromoacetic Acid		552.1 [6]	6233 B
Bromochloroacetic Acid		552.1 [6]	6233 B [9]
Chloral Hydrate		551 [7]	
Trichloroacetonitrile		551 [7,8]	
Dichloroacetonitrile		551 [7,8]	
Bromochloroacetonitrile		551 [7,8]	
Dibromoacetonitrile		551 [7,8]	
1,1-Dichloropropanone		551 [7,8]	
1,1,1,-Trichloropropanone		551 [7,8]	
Chloropicrin		551 [7,8]	
Chlorite		300.0 [10]	
Chlorate		300.0 [10]	
Bromide		300.0 [10]	
Bromate		300.0 [10]	
Cyanogen Chloride		524.2 [6]	
Aldehydes			Draft method submitted to 19th Edition
Total Organic Halide (TOX)			5320 B
Total Organic Carbon			5310C, 5310 D
UV absorbance at 254 nm (method described in preamble—protocol will be developed).			
Simulated Distribution System Test (SDS)			5710 E
Total Hardness			2340 B, 2340 C
Ammonia			4500–NH_3 D, 4500–NH_3 F
Oxidant Demand/Requirement (optional)			2350 B, 2350 C, 2350 D
AOC/BDOC (optional)			9217 B/

[1] Currently approved methodology for drinking water compliance monitoring is listed in Title 40 of the Code of Federal Regulations in the sections referenced in this column.

[2] *Standard Methods* for the Examination of Water and Wastewater, 18th ed., American Public Health Association, American Water Works Association, Water Pollution Control Federation, 1992.

[3] "Methods of Chemical Analysis of Water and Wastes," EPA Environmental Monitoring Systems Laboratory, Cincinnati, OH EPA–600/4–79–020, Revised March 1983.

[4] Methods for the Determination of Metals in Environmental Samples. Available from National Technical Information Service (NTIS), U.S. Department of Commerce, Springfield, Virginia, PB91–231498, June 1991.

[5] USEPA, "Methods for the Determination of Organic Compounds in Drinking Water," EPA/600/4–88/039, PB91–231480, National Technical Information Service (NTIS), December 1988 (revised July 1991).

[6] USEPA, "Methods for the Determination of Organic Compounds in Drinking Water—Supplement II," EPA/600/R–92/129, PB92–207703, NTIS, August 1992.

[7] USEPA, "Methods for the Determination of Organic Compounds in Drinking Water—Supplement I," EPA/600/4–90–020, PB91–146027, NTIS, July 1990.

[8] Pentane may be used as the extraction solvent for this analyte, if the quality control criteria of the method are met.

[9] Although this analyte is not currently included in the method, EPA has reviewed data demonstrating it can be added to the method. The method is being revised and will be included in the 19th edition of *Standard Methods*.

[10] USEPA, "Methods for the Determination of Inorganic Substances in Environmental Samples," EPA/600/R/93/100-Draft, June 1993.

TABLE 8.—Sampling of GAC Bench-scale Systems

Sampling point	Analyses	Sample frequency
GAC Influent	Alkalinity, total & calcium hardness, ammonia and bromide	Two samples per batch of influent evenly spaced over the RSSCT run.
GAC Influent	pH, turbidity, temperature, TOC and UV_{254}. SDS[1] for THMs, HAA6, TOX, and chlorine demand.	Three samples per batch of influent evenly spaced over the RSSCT run.
GAC Effluent @ EBCT=10 min (scaled).	pH, temperature, TOC, and UV_{254}. SDS[1] for THMs, HAA6, TOX, and chlorine demand.	A minimum of 12 samples. One after one hour, and thereafter at 5% to 8% increments of the average influent TOC.
GAC Effluent @ EBCT=20 min (scaled).	pH, temperature, TOC and UV_{254}. SDS[1] for THMs, HAA6, TOX, and chlorine demand.	A minimum of 12 samples. One after one hour, and thereafter at 5% to 8% increments of the average influent TOC.

[1]—SDS conditions are defined in § 141.142(b)(4).

TABLE 9.—SAMPLING OF BENCH-SCALE MEMBRANE SYSTEMS

Sampling point	Analyses	Sample frequency[2]
Membrane Influent	Alkalinity, total dissolved solids, total & calcium hardness and bromide.	Two samples per batch of influent evenly spaced over the membrane run. If a continuous flow (non-batch) influent is used then samples are taken at the same time as the membrane effluent samples.
Membrane Influent	pH, turbidity, temperature, HPC, TOC and UV_{254}. SDS[1] for THMs, HAA6, TOX, and chlorine demand.	Three samples per batch of influent evenly spaced over the membrane run. If a continuous flow (non-batch) influent is used then samples are taken at the same time as the membrane effluent samples.
Membrane Permeate for each membrane tested.	pH, alkalinity, total dissolved solids, turbidity, temperature, total & calcium hardness, bromide, HPC, TOC and UV_{254}. SDS[1] for THMs, HAA6, TOX, and chlorine demand.	A minimum of 8 samples evenly spaced over the membrane run.

[1]—SDS conditions are defined in § 141.142(b)(4).

[2]—More frequent monitoring of flow rate and pressure will be required to accurately assess flux loss.

TABLE 10.—SAMPLING OF GAC PILOT-SCALE SYSTEMS

Sampling point	Analyses	Sample frequency
GAC Influent.	pH, alkalinity, turbidity, temperature, total & calcium hardness, ammonia, bromide, TOC and UV_{254}. SDS[1] for THMs, HAA6, TOX, and chlorine demand.	A minimum of 15 samples taken at the same time as the samples for GAC effluent at EBCT=20 min.

TABLE 10.—SAMPLING OF GAC PILOT-SCALE SYSTEMS—Continued

Sampling point	Analyses	Sample frequency
GAC Effluent EBCT=10 min.	pH, turbidity, temperature, ammonia[2], TOC and UV_{254}. SDS[1] for THMs, HAA6, TOX, and chlorine demand.	A minimum of 15 samples. One after one day, and thereafter at 3% to 7% increments of the average influent TOC.

TABLE 10.—SAMPLING OF GAC PILOT-SCALE SYSTEMS—Continued

Sampling point	Analyses	Sample frequency
GAC Effluent @ EBCT=20 min.	pH, turbidity, temperature, ammonia[2], TOC and UV_{254}. SDS[1] for THMs, HAA6, TOX, and chlorine demand.	A minimum of 15 samples. One after one day, and thereafter at 3% to 7% increments of the average influent TOC.

[1]—SDS conditions are defined in § 141.142(b)(4).

[2]—If present in the influent.

Note: More frequent effluent monitoring may be necessary to predict the 3% to 7% increments of average influent TOC.

TABLE 11.—SAMPLING OF PILOT-SCALE MEMBRANE SYSTEMS

Sampling point	Analyses	Sample frequency [3]
Membrane Influent.	pH, alkalinity, total dissolved solids, turbidity, temperature, total & calcium hardness, ammonia, bromide, HPC, TOC and UV_{254}. SDS [1] for THMs, HAA6, TOX, and chlorine demand..	A minimum of 15 samples to be taken at the same time as the membrane effluent samples.
Membrane Permeate.	pH, alkalinity, total dissolved solids, turbidity, temperature, total & calcium hardness, ammonia [2], bromide, HPC, TOC and UV_{254}. SDS [1] for THMs, HAA6, TOX, and chlorine demand..	A minimum of 15 samples evenly spaced over the membrane run.

[1]—SDS conditions are defined in §141.142(b.4).

[2]—If present in the influent.

[3]—More frequent monitoring of flow rate and pressure will be required to accurately assess flux loss.

APPENDIX A TO SUBPART M—MONITORING SCHEME FOR MICROORGANISMS

Data needed	Source water	Finished water	Source water	Finished water	Source water	etc.
Sample collection date. Plant id.						
Giardia and Cryptosporidium						
Sample analysis date. Sample volume collected (liters). Sample volume examined (liters).						
Giardia						
Presumptive count [1]. Total density/100 liter [2] (based on presumptive count). Confirmed count [1]. Density/100 liters [2] (confirmed count).						
Cryptosporidium						
Presumptive count [1]. Total density/100 liter [2] (based on presumptive count). Confirmed count [1]. Density/100 liters [2] (confirmed count).						
Total culturable viruses (systems >100,000 people)						
Sample analysis date. Sample volume collected. % of total volume of concentrate examined. MPN density/liter [2]. Upper 95% confidence bound (of MPN). Lower 95% confidence bound (of MPN).						
Total Coliforms						
Confirmed or validated counts per 100 ml.						
Fecal Coliforms/E. coli						
Counts per 100 ml.						

[1] Alternate terms being considered are "total count" for "presumptive count" and "count with internal structures" for "confirmed count". "Presumptive" and "total count" are semantic equals. However, "confirmed" *Giardia* cysts, unlike *Cryptosporidium* oocysts, require demonstration of two internal structures, while "count with internal structures only requires the identification of one internal structure in *Giardia* cysts.

[2] If organism is not detected, report data as < the detection limit per volume examined. For example, if no organism is detected in 200 L, report as < 0.5/100L. If no organism is detected in 50L, report as < 2/100L.

Appendix B to SubPart M—Treatment process information for systems serving at least 10,000 but less than 100,000 population

Instructions:

Unit Processes

1. Indicate existing treatment process(es) and corresponding hydraulic loading rates at design flow in gallons per minute per square foot.

2. Indicate liquid volume in gallons.

3. Indicate baffling type, and T_{10}/T during average flow if known, as defined in Appendix C of the guidance manual to the Surface water Treatment Rule.[1]

Chemical Additions

1. Indicate the name of chemical coagulants and disinfectants and the applied dose in mg/L.

2. If a chemical is not added at an indicated step then enter "None" for the chemical name.

1. Plant Information:
   Design Flow _____ (MGD)
   Average Monthly Flow _____ (MGD)
   Maximum Daily Flow _____ (MGD)
   Average Water Temperature _____ (C)
   Minimum Water Temperature _____ (C)
2. Chemical Addition:
   Name _____
   Dose _____ (mg/L)
3. Presedimentation Processes
   Design Liquid Loading _____ (gpm/ft2)
   Liquid Volume _____ (gallons)
   Baffling (Check one of the following)
   _____ Unbaffled ____ Poor ____ Average ____ Superior ____ Perfect
   Ratio of T_{10}/T _____ during average flow
4. Chemical Addition:
   Name _____ Dose _____ (mg/L)
5. Clarification/Sedimentation Processes
   Design Liquid Loading _____ (gpm/ft2)
   Liquid Volume _____ (gallons)
   Baffling (Check one of the following)
   ____ Unbaffled ____ Poor ____ Average ____ Superior ____ Perfect
   Ratio of T_{10}/T _____ during average flow
   Check all that apply:
   ____ Gravity Settling Basin
   ____ Upflow Solids Contact Basin
   ____ Adsorption Clarification
   ____ Dissolved Air Flotation
   ____ Tubes Installed
   ____ Lamella Plates Installed
6. Chemical Addition:
   Name _____ Dose _____ (mg/L)
7. Filtration
   Design Liquid Loading _____ (gpm/ft2)
   Liquid Volume _____ (gallons)
   Baffling (Check one of the following)
   ____ Unbaffled ____ Poor ____ Average ____ Superior ____ Perfect
   Ratio of T_{10}/T _____ during average flow
   Filter Type. Check one of the following:
   ____ Rapid Sand Filter
   ____ Direct Filtration
   ____ Roughing Filter
   ____ Slow Sand Filtration
   ____ Diatomaceous Earth
   ____ Membrane Filtration
   Media Type. Check all that apply
   ____ Sand
   ____ Anthracite
   ____ Garnet
   ____ Granular Activated Carbon
8. Chemical Addition:
   Name _____ Dose _____ (mg/L)
9. Contact Tank and/or Clearwell
   Liquid Volume _____ (gallons)
   Baffling (Check one of the following)
   ____ Unbaffled ____ Poor ____ Average ____ Superior ____ Perfect
   Ratio of T_{10}/T _____ during average flow

[1] U.S.Environmental Protection Agency. 1991. *Guidance manual for compliance with the filtration and disinfection requirements for public water systems using surface water sources.* Office of Ground Water and Drinking Water, Washington, DC.

Appendix C to Subpart M—Proposed ICR Protozoan Method for Detecting Giardia Cysts and Cryptosporidium Oocysts in Water by a Fluorescent Antibody Procedure

1. *Scope*

1.1 This test method describes the detection and enumeration of *Giardia* cysts and *Cryptosporidium* oocysts in ground, surface, and finished waters by a fluorescent antibody procedure. These pathogenic intestinal protozoa occur in domestic and wild animals as well as in humans. The environment may become contaminated through direct deposit of human and animal feces or through sewage and wastewater discharges to receiving waters. Ingestion of water containing these organisms may cause the disease.

1.2 It is the user's responsibility to ensure the validity of this test method for waters of untested matrices. Results obtained by this method should be interpreted with extreme caution. Samples with high turbidity are not recommended with this procedure. A negative count and low detection limit does not ensure pathogen-free water.

1.3 *This method does not purport to address all of the safety problems associated with its use. It is the responsibility of the user of this method to establish appropriate safety and health practices and determine the applicability of regulatory limitations prior to use.*

2. *Terminology*

2.1 Description of Terms Specific to this Method:

2.1.1 axoneme—an internal flagellar structure which occurs in some protozoa, e.g., *Giardia, Spironucleus,* and *Trichomonas.*

2.1.2 cyst—a phase or a form of an organism produced either in response to environmental conditions or as a normal part of the life cycle of the organism. It is characterized by a thick and environmentally-resistant cell wall.

2.1.3 median bodies—prominent, dark-staining, paired organelles consisting of microtubules and found in the posterior half of *Giardia*. In *G. lamblia* (from humans), these structures often have a claw-hammer shape while in *G. muris* (from mice), the median bodies are round.

2.1.4 oocyst—the encysted zygote of some Sporozoa, e.g., *Cryptosporidium*. This is a phase or a form of the organism produced either in response to environmental conditions or as a normal part of the life cycle of the organism. It is characterized by a thick and environmentally-resistant cell wall.

2.1.5 sporozoite—a motile, infective, asexual stage of certain sporozoans, e.g., *Cryptosporidium*. There are four sporozoites in each *Cryptosporidium* oocyst, and they are generally banana-shaped.

2.1.6 nucleus—a prominent internal structure seen both in *Giardia* cysts and *Cryptosporidium* oocysts. Sometimes 2 to 4 nuclei can be seen in *Giardia* cysts. In *Cryptosporidium* oocysts there is one nucleus per sporozoite.

3. *Summary of Test Method*

3.1 Pathogenic intestinal protozoa are concentrated from a large volume of water sample by retention on a yarn-wound filter. Retained particulates are eluted from the filter with a eluting solution and are concentrated by centrifugation. *Giardia* cysts and *Cryptosporidium* oocysts are separated to some extent from other particulate debris by flotation on a Percoll-sucrose solution with a specific gravity of 1.1. A monolayer of the water layer/Percoll-sucrose interface is placed on a membrane filter, indirectly stained with fluorescent antibody, and examined under a microscope. Cysts and oocysts are classified as presumptive and confirmed,[1] according to specific criteria (immunofluorescence, size, shape, and

[1] Alternate terms being considered are "total count" and "count with internal structures", respectively. "Presumptive" and "total count" are semantic equals. However, "confirmed" *Giardia* cysts, unlike *Cryptosporidium* oocysts, require demonstration of 2 internal structures, while "count with internal structures" only requires the identification of 1 internal structure in *Giardia* cysts.

internal morphological characteristics), and the results are reported in terms of the number per 100 L. The confirmed number of cysts and/or oocysts is a subset of the presumptive number of cysts and/or oocysts.

4. *Significance and Use*

4.1 This test method will provide a quantitative indication of the level of contamination in raw and treated drinking waters with the environmentally resistant stages of two genera of pathogenic intestinal protozoa: *Giardia* and *Cryptosporidium*.

4.2 This test method will not identify the species of protozoa, it will not identify the host species of origin, it cannot determine the viability status, nor can it determine the infectivity status of detected cysts and oocysts.

4.3 This test method may be useful in determining the source or sources of contamination of water supplies, the occurrence and distribution of protozoa in water supplies, and in evaluating the effectiveness of treatment practices.

5. *Interferences*

5.1 Turbidity due to inorganic and organic debris and other organisms, can interfere with the concentration, purification and examination of the sample for *Giardia* cysts and *Cryptosporidium* oocysts.

5.2 Inorganic and organic debris may be naturally-occurring, e.g., clays and algae, or may be added to water in the treatment process, e.g., iron and alum coagulants and polymers.

5.3 Organisms and debris that autofluoresce or demonstrate non-specific fluorescence, e.g., algal and yeast cells and *Spironucleus (Hexamita)* sp.[2], when examined by epifluorescent microscopy could interfere with the detection of cysts and oocysts and contribute to false positive values.

5.4 Chlorine compounds, and perhaps other chemicals used to disinfect or treat drinking water and wastewater, may interfere with the visualization of internal structures of *Giardia* cysts and *Cryptosporidium* oocysts.

5.5 Freezing filter samples, eluates or concentrates could interfere with the detection and/or identification of cysts and oocysts originally present in the sample.

6. *Apparatus*

6.1 *Sample Collection.*

6.1.1 *Filter and filter holder*, a 25.4 cm (10 in.) long 1 µm nominal porosity, yarn-wound polypropylene cartridge Commercial honeycomb fFilter tube (M39R10A; Commercial Filters Parker H annifin Corp., P.O. Box 1300, Lebanon, IN) or Filterite (Filterite Corporation, Timmonium, MD), with VIH # 10 Clear w/pr (with pressure relief) (Ametek part # 150163; Ametek, Plymouth Products Division, P.O. Box 1047, Sheboygan, WI) should be used.

6.1.2 *Water meter.*

6.1.3 *Fluid proportioner* (or proportioning injector) for chlorinated water.

6.1.4 *Flow control valve*, 4 L/min.

6.1.5 *Pump*, electric or gasoline powered.

6.1.6 *Ice chest* or cooler.

6.2 *Sample Processing.*

6.2.1 *Centrifuge*, with swinging bucket rotors having a capacity of 15 to 250 mL per conical tube or bottle.

6.2.2 *Mixer*, vortexer.

6.2.3 *Vacuum source.*

6.2.4 *Membrane filter holder*, Hoefer manifold, model FH 225V,[3] 10 place holder for 25 mm diameter filters.

6.2.5 *Slide warming tray*, or incubator, 37°C.

6.2.6 *pH meter.*

6.2.7 *Rubber policeman.*

6.3 *Sample Examination.*

6.3.1 Microscope, capable of epifluorescence and D.I.C. or Hoffman modulation® optics, with stage and ocular micrometers and 20X (N.A. = 0.6) to 100X (N.A. = 1.3) objectives. Equip the microscope with appropriate excitation and band pass filters for examining fluorescein isothiocyanate-labeled specimens (exciter filter: 450–490 nm; dichroic beam-splitting mirror: 510 nm; barrier or suppression filter: 515–520 nm).

7. *Reagents and Materials*

7.1 *Purity of Reagents*—Reagent grade chemicals shall be used in all tests. Unless otherwise indicated, it is intended that all reagents shall conform to the specifications of the committee on Analytical Reagents of the American Chemical Society where such specifications are available.[4]

7.2 *Preparation of Reagents*—Prepare reagents as specified by the formulations.

7.3 *Purity of Water*—Use distilled deionized or double distilled water.

7.4 *Sample Collection.*

7.4.1 Sodium Thiosulfate Solution (0.5 %)—Dissolve 0.5 g of sodium thiosulfate ($Na_2S_2O_3 \bullet 5H_2O$) in 50 mL water and then adjust to a final volume of 100 mL.

7.5 *Sample Processing.*

7.5.1 Neutral Buffered Formalin Solution (10 %)—Dissolve 0.762 g disodium hydrogen phosphate (Na_2HPO_4), 0.019 g sodium dihydrogen phosphate (NaH_2PO_4), and 100 mL formalin in water to a final volume of 1 L.

7.5.2 Phosphate Buffered Saline (PBS)—Prepare a 10X stock solution by dissolving 80 g sodium chloride (NaCl), 2 g potassium dihydrogen phosphate (KH_2PO_4), 29 g hydrated disodium hydrogen phosphate ($Na_2HPO_4 \bullet 12\ H_2O$) and 2 g potassium chloride (KCl) in water to a final volume of 1 L. The 10X solution is used to prepare 1X PBS by diluting one volume of the 10X solution with 9 volumes of water and adjust the pH with a pH meter to 7.4 with 0.1 N HCl or 0.1 N NaOH before use.

7.5.3 Sodium Dodecyl Sulfate Stock Solution (1%)—Prepare solution by dissolving 1.0 g of sodium dodecyl sulfate (SDS) in water to a final volume of 100 mL.

7.5.3 Tween 80 Stock Solution (1%)—Mix 1.0 mL of polyoxyethylenesorbitan monooleate 80 (Tween 80) stock solution with 99 mL of water.

7.5.4 Eluting Solution (Buffered Detergent Solution)—Prepare solution by mixing 100 mL 1% SDS, 100 mL 1% Tween 80, 100 mL 10X PBS, and 0.1 mL Sigma Antifoam A with 500 mL water. Adjust the pH to 7.4 using a pH meter. Adjust the final volume to 1 L with additional water. Use within one week of preparation.

7.5.5 Sucrose Solution (2.5 M)—Dissolve 85.58 g of sucrose in 40 mL prewarmed water then adjust the final volume to 100 mL with water.

7.5.6 Percoll-Sucrose Flotation Solution, Sp. Gr. 1.10—Mix 45 mL Percoll (sp. gr. 1.13; Sigma), 45 mL water and 10 mL 2.5 M sucrose solution. Check the specific gravity with a hydrometer. The specific gravity should be between 1.09 and 1.10 (do not use if less than 1.09). Store at 4°C and use within a week. Allow to reach room temperature before use.

7.6 *Sample Examination*

7.6.1 Meridian Hydrofluor-Combo kit[5] (cat. no. 240025) for detecting *Giardia* cysts and *Cryptosporidium* oocysts in water samples. The expiration date for the reagents is printed on the Hydroflour-Combo kit label. Discard the kit once the expiration date is reached. Store the kit at 2–8°C and return it promptly to this temperature range after each use. The labeling reagent should be protected from exposure to light. Do not freeze any of the reagents in this kit. Diluted, unused working reagents should be discarded after 48 hours.

7.6.2 Ethanol, (95%).

7.6.3 Glycerol.

7.6.4 Ethanol/Glycerol Series—Prepare a series of solutions according to the following table:

95% ethanol	Glycerol	Reagent water	Final volume	Final % ethanol
10 mL	5 mL	80 mL	95 mL	10
20 mL	5 mL	70 mL	95 mL	20
40 mL	5 mL	50 mL	95 mL	40
80 mL	5 mL	10 mL	95 mL	80
95 mL	5 mL	0 mL	95 mL	95

7.6.5 DABCO-Glycerol Mounting Medium (2%)—Prewarm 95 mL glycerol using a magnetic stir bar on a heating stir plate. Add 2 g 1,4 diazabicyclo [2.2.2] octane (DABCO, Sigma #D–2522) to the warm glycerol with continuous stirring until it dissolves. (*CAUTION*: hygroscopic; causes burns; avoid inhalation, as well as skin and eye contact.) Adjust the final volume to 100 mL with additional glycerol. Store at room temperature and discard after 6 months.

7.6.6 Bovine Serum Albumin (1%)—Sprinkle 1.0 g bovine serum albumin (BSA) crystals over 85 mL 1X PBS, pH 7.4. Allow crystals to fall before stirring into solution

[2] Januschka, M.M., et al. 1988. A Comparison of *Giardia microti* and *Spironucleus muris* cysts in the vole: an immunocytochemical, light, and electron microscopic study. Journal of Parasitology 74(3):452–458

[3] Hoefer Scientific Instruments, 654 Minnesota Street, Box 77387, San Francisco, California 94107.

[4] "Reagent Chemicals, American Chemical Society Specifications," American Chemical Society, Washington, DC. For suggestion on the testing or reagents not listed by the American Chemical Society, see "Analar Standards for Laboratory Chemicals," BDH, Poole, Dorset, U.K. and the "United States Pharmacopeia."

[5] Meridian Diagnostics, Inc., 3471 River Hills Drive, Cincinnati, Ohio 45244.

with a magnetic stir bar. After the BSA is dissolved, adjust the volume to 100 mL with PBS. For prolong storage, sterilize by filtering through a 0.22 µm membrane filter into a sterile tube or bottle. Store at 4°C and discard after 6 months.

7.7 *Sample Collection Materials.*

7.7.1 *Filters*, a 25.4 cm (10 in.) long 1 µm nominal porosity, yarn-wound polypropylene cartridge commercial Honeycomb Filter Tube (M39R10A) or Filterite (Filterite Corporation, Timmonium, MD).

7.7.2 *Garden hose and connectors.*

7.7.3 *Whirl-pak or zip-loc bags*, 15 in. (38 cm) x 15 in (38 cm).

7.7.4 *Cold packs* or wet ice.

7.8 *Sample Processing Materials.*

7.8.1 *Pans or trays*, stainless steel or glass trays, approx. 16.5 in. (41.91 cm) x 10 in. (25.4 cm) x 2 in. (5.08 cm) deep.

7.8.2 *Knife/cutting tool*, for cutting the polypropylene filter fibers off filter core.

7.8.3 *Hydrometer*, for liquids heavier than water (range: 1.000–1.225), for adjusting specific gravity of flotation solutions.

7.9 *Sample Examination Materials.*

7.9.1 *Slides*, glass microscope, 1 in. (2.54 cm.) x 3 in. (7.62 cm) or 2 in. (5.08 cm.) x 3 in. (7.62 cm.).

7.9.2 *Cover slips*, 25 mm², No. 1½.

7.9.3 *Filters*, Sartorius brand cellulose acetate, either 0.45 or 0.2 µm pore size, 25 mm diameter.

7.9.4 *Support Filters*, ethanol-compatible membrane, any pore size, 25 mm.

7.9.5 *Fingernail polish*, clear or clear fixative (cat. no. 60–4890; PGC Scientifics).

7.9.6 *Splinter forceps*, fine tip.

7.9.7 *Blunt-end filter forceps.*

8. *Precautions.*

8.1 The analyst/technician must know and observe the normal safety procedures required in a microbiology laboratory while preparing, using and disposing of sample concentrates, reagents and materials and while operating sterilization equipment.

8.2 Do not mouthpipet in any portion of this procedure.

9. *Sampling.*

9.1 *Sampling Apparatus Preparation and Assembly.*

9.1.1 The sampling apparatus (Fig. 1) consists of an inlet hose, filter holder, a 1 µm nominal porosity filter, an outlet hose, a water meter, and a flow control valve or device (4 L/min). A pump will be needed for unpressurized sources and a fluid proportioner or proportioning injector will be needed for chlorinated or other disinfectant treated waters.

9.1.2 The sampling apparatus does not have to be sterile but it must be clean and uncontaminated by cysts and/or oocysts. Thoroughly clean the apparatus, including filter holder, hoses and pumps, and rinse between samples. If multiple samples are to be collected with the same apparatus (but using different filters and, preferably, different filter holders), arrange the sampling sequence to begin with the least contaminated water (e.g., treated drinking water) and end with the most contaminated water (e.g., source water). If field conditions preclude complete disassembly and thorough cleaning of apparatus components between samples, thoroughly rinse all surfaces that will come in contact with the water with at least 50 gal (190 L) of the water to be sampled prior to the installation of the filter cartridge.

9.1.3 *Filter Holder.*

9.1.3.1 Thoroughly wash the filter holder with a stiff brush in hot water containing detergent.

9.1.3.2 Rinse the filter holder with tap water until the soap residue is gone. Follow with a thorough rinse in reagent water and air dry.

9.1.3.3 Attach a water-resistant label containing the following information to the filter holder:

Start Time: _____ Meter Reading: _____
Turbidity: _____
Stop Time: _____ Meter Reading: _____
Turbidity: _____
Operator's Name: _____ Total Volume Filtered: _____
Date: _____ Sampling Location: _____

9.1.3.4 The turbidity value should be recorded, if available.

9.1.4 *Hoses.*

9.1.4.1 Inlet and outlet hoses for the filter holder consist of standard garden hoses and fittings. It is helpful to use different colors for inlet and outlet hoses.

9.1.4.2 Outlet hoses may be used repeatedly without washing but inlet hoses are considered contaminated after one use. *Use the shortest length of inlet hose necessary for collecting the sample and discard the inlet hose after use.* If this is not practical, rinse the inlet hose thoroughly with at least 50 gal (190 L) of the water to be sampled prior to connecting the filter holder.

9.1.5 *Pump.*

9.1.5.1 If a pump must be used to collect the sample, it is recommended that the pump be installed on the outlet end of the sampling apparatus. In this manner, the sample will be pulled through the filter and the pump may be used repeatedly without the fear of contamination and without the need for washing.

9.1.5.2 If the pump is installed on the inlet side of the sampling apparatus, thoroughly clean and rinse all parts that come in contact with the sampled water prior to collection of the next sample. If pump disassembly is not practical between samples, rinse thoroughly with at least 50 gal (190 L) of the water to be sampled prior to connecting the filter holder.

9.1.6 *Fluid Proportioner or Proportioning Injector.*

9.1.6.1 If the water to be sampled is chlorinated or disinfected by any other chemicals, the disinfectant must be neutralized during sample collection. While the assay system allows detection of disinfected cysts and oocysts, exposure to disinfectant may interfere with the visualization of internal morphologies of these organisms.

9.1.6.2 Use sodium thiosulfate solution to neutralize the disinfectant in water samples. Add the sodium thiosulfate solution to the water during sample collection with a mechanical fluid proportioner pump or an in-line Venturi-operated injector.[6]

9.2 *Sample Collection.*

9.2.1 Connect inlet end of sampling apparatus to a pressurized water tap or follow pump manufacturer's instructions for priming the pump if an unpressurized source is being sampled.

9.2.2 Use a water-resistant marking pen to record the start time, meter reading, name of person collecting the sample, turbidity, date and sampling location on the filter holder label.

9.2.3 Start water flow through the filter. The flow rate should not exceed 4 L/min.

9.2.4 A minimum sample size of 140 L of raw water and 1400 L of finished water is required.

9.2.5 If the water must be neutralized, add sodium thiosulfate solution via the proportioner system to produce a final concentration in the sampled water of 50 mg/L. One L of 0.5% sodium thiosulfate solution will be needed for each 100 L of water sampled. Periodically check a sample of effluent to be certain that no residual chlorine remains after the addition of the thiosulfate. Measure chlorine using Test Method D1253.[7]

9.2.6 After the required volume of water has passed through the filter, shut off the water flow, record the stop time, final meter reading and turbidity of the water at the end of filtration on the filter holder label.

9.2.7 Disconnect sampling apparatus while maintaining the inlet hose level above the level of the opening on the outlet hose in order to prevent backwashing and the loss of particulate matter from the filter.

9.2.8 Pour the residual water remaining in the filter holder into a 15 in. (38 cm.) x 15 in. (38 cm.) whirl pack or zip-lock bag.

9.2.9 Aseptically remove the filter from the holder and transfer the filter to the bag containing the residual water.

9.2.10 Seal the bag and place it inside a second 15 in. (38 cm.) x 15 in. (38 cm.) whirl pack or zip-lock bag. Transfer the label or label information from the filter holder to the outside of this second bag.

9.2.11 Transport the sample to the laboratory on wet ice or cold packs and refrigerate at 2–5 °C. *Do not freeze during transport or storage.*

10. *Procedure*

10.1 *Filter Elution.* The initiation of sample collection and elution from the collection filter must be performed within 96 hrs. Two approaches to eluting the particulates from the filter may be used: either washing by hand or using a stomacher.

10.1.1 *Handwashing.*

10.1.1.1 Pour the residual solution in the bag into a beaker, rinse the bag with eluting solution, add the rinse solution to the beaker and discard the bag.

10.1.1.2 Using a razor knife or other appropriate cutting instrument, cut the filter

[6] Details on the operation and use of proportioner pumps and injectors can be found in *Standard Methods for the Examination Water and Wastewater*, Section 9510C, "Virus Concentration from Large Sample Volumes by Adsorption to and Elution from Microporous Filters (PROPOSED)," 18th ed., 1989, pp. 9–105 to 9–109.

[7] *Annual Book of ASTM Standards*, Vol. 11.01.

fibers lengthwise down to the core. Divide the filter fibers into a minimum of three equal portions with one-third consisting of those cleanest fibers nearest the core; the second one-third being the middle layer of fibers, and the final one-third consisting of the outer-most filter fibers (the dirtiest fibers).

10.1.1.3 Beginning with the cleanest fibers (the one-third nearest the core), hand wash the fibers in three consecutive 1.0 L volumes of eluting solution. Wash the fibers by kneading them in the eluting solution contained either in a beaker or a plastic bag. Wring the fibers to express as much of the liquid as possible before discarding. Maintain the three 1.0 L volumes of eluate separate throughout the washing procedure.

10.1.1.4 Using the three 1.0 L volumes of eluate used in the above section (11.1.4), repeat the washing procedure on the middle one-third layer of fibers and then on the final outer one-third layer of fibers.

10.1.1.5 The minimum total wash time of fibers should be 30 min. After all the fibers have been washed, combine the three 1.0 L volumes of eluate with the residual filter water obtained in 10.1.1 and discard the fibers.

10.1.2 *Stomacher Washing.*

10.1.2.1 Use a stomacher with a bag capacity of 3500 mL. Using a razor knife or other appropriate cutting instrument, cut the filter fibers lengthwise down to the core.

10.1.2.2 After loosening the fibers, place all the filter fibers in a stomacher bag. To insure against bag breakage and sample loss, place the filter fibers in the first stomacher bag into a second stomacher bag.

10.1.2.3 Add 1.75 L of eluting solution to the fibers. Homogenenize for 2 five minute intervals. Between each homogenization period, hand kneed the filter material to redistribute the fibers in the bag.

10.1.2.4 Wring the fibers out to express as much of the liquid as possible before discarding.

10.1.3 Concentrate the combined eluate and residual water into a single pellet by centrifugation at 1,050 x g for 10 min using a swinging bucket rotor and plastic conical centrifuge bottles. Carefully aspirate and discard the supernatant fluid and resuspend the pellet by vortexing. After pooling the particulates in one conical bottle, record the packed pellet volume. Resuspend the packed pellet in an equal volume of 10% neutral buffered formalin solution. If the packed pellet volume is less than 0.5 mL, add enough buffered formalin solution to bring the resuspended pellet volume to 1.0 mL.

10.1.4 All raw water sample particulates must be archived. A minimum of 25% or a maximum of 5 ml packed pellet volume of the raw water sample should be transferred to 15 ml conical, plastic centrifuge tube. The tube size is manditory due to storage considerations. Attach a water resistant label containing the following information to the tube:

Start Time: _____ Meter Reading: _____
Turbidity: _____
Stop Time: _____ Meter Reading: _____
Turbidity: _____
Operator's Name: _____ Total Volume Filtered: _____
Date: _____ Sampling Location: _____

10.2 *Flotation Purification.*

10.2.1 In a clear plastic 50 mL conical centrifuge tube(s), vortex a volume of resuspended pellet equivalent to not more than 1 mL of packed pellet volume with a sufficient volume of eluting solution to make a final volume of 20 mL.

10.2.2 Using a 50 mL syringe and 14 gauge cannula, underlay the 20 mL vortexed suspension of particulates with 30 mL Percoll-sucrose floatation solution (sp. gr. 1.1). An alternate procedure would be to overlay the 30 mL of Percoll-sucrose floatation solution with the 20 mL of suspended particulates.

10.2.3 Without disturbing the pellet suspension/Percoll-sucrose interface, centrifuge the preparation at 1,050 x g for 10 min using a swinging bucket rotor. Slowly accelerate the centrifuge over a 30-sec interval up to the speed where the tubes are horizontal in order to avoid disrupting the interface. Similarly, at the end of centrifugation, decelerate slowly. *DO NOT USE THE BRAKE.*

10.2.4 Using a polystyrene 25 mL pipet rinsed with eluting solution, draw off the top 20 mL particulate suspension layer, the interface, and 5 mL of the Percoll-sucrose below the interface. Place all these volumes in a plastic 50 mL conical centrifuge tube.

10.2.5 Add additional eluting solution to the plastic conical centrifuge tube (10.2.4) to a final volume of 50 mL. Centrifuge at 1,050 x g for 10 min.

10.2.6 Aspirate and discard the supernatant fluid down to 5 mL (plus pellet). Resuspend the pellet by vortexing and save this suspension for further processing with fluorescent antibody reagents.

10.2.7 At this point, a break may be inserted if the procedure is not going to progress immediately to the Indirect fluorescent Antibody procedure (10.3) below. If a break is inserted, then the pellet from 10.2.6 should be washed with eluting solution to ensure eliminating osmotic stress to cysts and oocysts from residual Percoll-sucrose floatation solution. Wash the pellet two or more times by resuspending it in 50 mL of eluting solution, centrifuging at 1,050 X g for 10 min, and aspirating the supernatant down to 5 mL above the pellet. Store the pellet at 4 °C.

10.3 *Indirect Fluorescent Antibody (IFA) Procedure.*

10.3.1 *Determining Sample Volume per Filter.*

10.3.1.1 *Determine the volume of sample concentrate (from 10.2.7) that may be applied to each 25-mm diameter membrane filter used in the IFA assay.*

10.3.1.2 Vortex the sample concentrate and apply 40 µL to one 5-mm diameter well of a 12-well red heavy teflon-coated slide.[8]

10.3.1.3 Allow the sample to sit approximately 2 min at room temperature.

10.3.1.4 Examine the flooded well at 200X total magnification. If the particulates are distributed evenly over the well surface area and are not crowded or touching, then apply 1 mL of the undiluted sample to a 25-mm diameter membrane filter in 10.3.4.6.

10.3.1.5 Adjust the volume of the sample accordingly if the particulates are too dense or are widely spread. Retest on another well. Always adjust the sample concentrate volume so that the density of the particulates is just a little sparse. If the layer of sample particulates on the membrane filters is too dense, any cysts or oocysts present in the sample may be obscured during microscopic examination. Make sure the dilution factor, if any, from this step is recorded.

10.3.2 *Preparing the Filtration Manifold.*

10.3.2.1 See Fig. 2 for a diagram of the filtration manifold assembly.

10.3.2.2 Connect the filtration manifold to the vacuum supply using a vacuum tube containing a "T"-shaped tubing connector. Attach a Hoffman screw clamp to 4–6 cm of latex tubing and then attach the latex tubing to the stem of the "T" connector. The screw clamp is used as a bleeder valve to regulate the vacuum to 2–4 in Hg.

10.3.2.3 Close all the manifold valves and open the vacuum all the way. Using the bleeder valve on the vacuum tubing, adjust the applied vacuum to 2–4 in. of Hg. Once adjusted, do not readjust the bleeder valve during filtration. If necessary, turn the vacuum on and off during filtration at the vacuum source.

10.3.3 *Membrane Filter Preparation.*

10.3.3.1 One Sartorius 25 mm diameter cellulose acetate filter, 0.2–0.45 µm pore size[9] and one 25-mm diameter ethanol compatible membrane support filter,[10] any porosity, are required for each 1 mL of adjusted suspension obtained in 10.3.1.5. Soak the required number of each type of filter separately in Petri dishes filled with 1X PBS. Drop the filters, handling them with blunt-end filter forceps, one by one flat on the surface of the buffer. Once the filters are wetted, push the filters under the fluid surface with the forceps. Allow filters to soak for a minimum of 1 min before use.

10.3.3.2 Turn the filtration manifold vacuum source on. Leaving all the manifold well support valves closed, place one support filter on each manifold support screen. This filter ensures even distribution of sample.

10.3.3.3 Place one Sartorius 25-mm diameter cellulose acetate filter on top of each support filter. Use a rubber policeman to adjust the cellulose acetate filter, if necessary. Open the manifold well support valves to flatten the filter membranes. Make sure that no bubbles are trapped and that there are no creases or wrinkles on any of the filter membranes.

10.3.3.4 Use as many filter positions as there are sample volumes to be assayed. Record the number of sample 25-mm membrane filters prepared and the volume of floated pellet (10.3.1) represented by these membranes. In addition, include at least one positive control for *Giardia* cysts and *Cryptosporidium* oocysts and one negative control each time the manifold is used.

10.3.3.5 Position the 1 lb (454 g) stainless steel wells firmly over each filter.

[8] Cel-line Associates, Inc., 33 Gorgo Lane, Newfield, NJ 08344, Cat. #10–111.

[9] Sartorius Corp., Filter div., 30940 San Clemente, Hayward, CA 94544.

[10] Nitrocellulose, 8 µm porosity, Cat. No. SCWP 025, Millipore Corp., Bedford, MA, or equivalent.

10.3.3.6 Label each sample and control well appropriately with little pieces of tape on the top of the stainless steel wells.

10.3.4 *Sample Application.*

10.3.4.1 Open the manifold support valve for each well containing filters.

10.3.4.2 Rinse the inside of each stainless steel well and membrane filter with 2 mL 1% BSA applied with a Pasteur pipet. Drain the BSA solution completely from the membrane.

10.3.4.3 Close the manifold valves under each membrane filter.

10.3.4.4 For the positive controls, add 500–1000 *Giardia lamblia* cysts and 500–1000 *Cryptosporidium parvum* oocysts or use the Meridian diagnostic positive control antigen as specified in the kit to a well.

10.3.4.5 For a negative control, add 1.0 mL 1X PBS to one well.

10.3.4.6 Add 1.0 mL of vortexed, adjusted water sample from 10.3.1.5 to a well.

10.3.4.7 Open the manifold valve under each membrane filter to drain the wells. Rinse each stainless steel well with 2 mL 1% BSA. *Do not touch the pipet to the membrane filter or to the well.* Close the manifold valve under each membrane filter.

10.3.5 *Indirect Fluorescent Antibody Staining.*

10.3.5.1 Dilute the primary antibody mixture and labeling reagent according to the manufacturer's instructions using 1X PBS.

10.3.5.2 Pipet 0.5 mL of the diluted primary antibody mixture onto each membrane and allow to remain in contact with the filter for 25 min at room temperature.

10.3.5.3 At the end of the contact period, open the manifold valve to drain the antisera.

10.3.5.4 Rinse each well and filter 5 times with 2 mL 1X PBS. *Do not touch the tip of the pipet to the membrane filter or to the stainless steel wells.* Close all manifold valves after the last wash is completed.

10.3.5.5 Pipet 0.5 mL labeling reagent onto each membrane and allow to remain in contact with the filter for 25 min at room temperature. Cover all wells with aluminum foil to shield the reagents from light and to prevent dehydration and crystallization of the fluorescein isothiocyanate dye during the contact period.

10.3.5.6 At this point start the 10.3.6. procedure.

10.3.5.7 At the end of the contact period, open the manifold valves to drain the labeling reagent.

10.3.5.8 Rinse each well and filter 5 times with 2 mL 1X PBS. *Do not touch the tip of the pipet to the membrane filter or to the stainless steel wells.* Close all manifold valves after the last wash is completed.

10.3.5.9 Dehydrate the membrane filters in each well by sequentially applying 1.0 mL of 10, 20, 40, 80 and 95% ethanol solutions containing 5% glycerol. Allow each solution to drain thoroughly before applying the next in the series.

10.3.6 *Filter Mounting.*

10.3.6.1 Label glass slides for each filter and place them on a slide warmer or in an incubator calibrated to 37 °C.

10.3.6.2 Add 75 µL 2% DABCO-glycerol mounting medium to each slide on the slide warmer or in the incubator and allow to warm for 20–30 min.

10.3.6.3 Remove the top cellulose acetate filter with fine-tip forceps and layer it over the correspondingly labeled DABCO-glycerol mounting medium prepared slide. *Make sure the sample application side is up.* If the entire filter is not wetted by the DABCO-glycerol mounting medium, pick up the membrane filter with the same forceps and add a little more DABCO-glycerol mounting medium to the slide under the filter.

10.3.6.4 Use a clean pair of forceps to handle each membrane filter. Soak used forceps in a beaker of diluted detergent cleaning solution.

10.3.6.5 After a 20 min clearing period on the slide warmer, the filter should become transparent and appear drier. After clearing, if the membrane starts to turn white, apply a small amount of DABCO-glycerol mounting medium *under* the filter.

10.3.6.6 After the 20 min clearing period, apply 20 µL DABCO-glycerol mounting medium to the center of each membrane filter and cover with a 25 mm x 25 mm cover glass. Tap out air bubbles with the handle end of a pair of forceps. Wipe off excess DABCO-glycerol mounting medium from the edge of each cover glass with a slightly moistened Kimwipe.

10.3.6.7 Seal the edge of each cover glass to the slide with clear fingernail polish.

10.3.6.8 Store the slides in a "dry box". A dry box can be constructed from a covered Tupperware container to which a thick layer of Drierite has been added. Cover the dessicant with paper towels and the slides should be laid flat on the top of the paper towels. Place the lid on the dry box and store at 4 °C.

10.3.6.9 Examine the slides microscopically as soon as possible but within 5 days of preparation, because they may become opaque if stored longer, and D.I.C. or Hoffman modulation® optical examination would then no longer be possible.

10.4 *Microscopic Examination.*

10.4.1 *General*—Microscopic work by a single analyst should not exceed 4 hours/day nor more than 5 consecutive days/week. Intermittent rest periods during the 4 hours/day are encouraged.

10.4.1.1 Remove the dry box from 4 °C storage and allow it to warm to room temperature before opening.

10.4.1.2 Adjust the microscope to assure that the epifluorescence and Hoffman modulation® or differential interference contrast optics are in optimal working order. Make sure that the fluorescein isothiocyanate cube is in place in the epifluorescent portion of the microscope (see 6.3.1). Detailed procedures required for adjusting and aligning the microscope are found in appendix X4.

10.4.2 *Assay Controls.*

10.4.2.1 The purpose of these controls is to assure that the assay reagents are functioning, that the assay procedures have been properly performed, and that the microscope has been adjusted and aligned properly.

10.4.2.2 *Assay Giardia/Cryptosporidium Control*

(a) Using epifluorescence, scan the positive control slide at no less than 200X total magnification for apple-green fluorescence of *Giardia* cyst and *Cryptosporidium* oocyst shapes. Background fluorescence of the membrane should be either very dim or non-existent.

(b) If no apple-green fluorescing *Giardia* cyst or *Cryptosporidium* oocyst shapes are observed, then the fluorescent staining did not work or the positive control cyst preparation was faulty. Do not examine the water sample slides for *Giardia* cysts and *Cryptosporidium* oocysts. Recheck reagents and procedures to determine the problem.

(c) If apple-green fluorescing cyst and oocyst shapes are observed, change the microscope from epifluorescence to the 100X oil immersion Hoffman modulation® or differential interference contrast objective.

(d) At no less than 1000X total oil immersion magnification, examine *Giardia* cyst shapes and *Cryptosporidium* oocyst shapes for internal morphology.

(e) The *Giardia* cyst internal morphological characteristics include 1–4 nuclei, axonemes, and median bodies. *Giardia* cysts should be measured to the nearest 0.5 µm with a calibrated ocular micrometer. Record the length and width of cysts. Also record the morphological characteristics observed. Continue until at least 3 *Giardia* cysts have been detected and measured in this manner.

(f) The *Cryptosporidium* oocyst internal morphological characteristics include 1–4 sporozoites. Examine the *Cryptosporidium* oocyst shapes for sporozoites and measure the oocyst diameter to the nearest 0.5 µm with a calibrated ocular micrometer. Record the size of the oocysts. Also record the number, if any, of the sporozoites observed. Sometimes a single nucleus is observed per sporozoite. Continue until at least 3 oocysts have been detected and measured in this manner.

10.4.2.3 *Assay Negative Control.*

(a) Using epifluorescence, scan the negative control membrane at no less than 200X total magnification for apple-green fluorescence of *Giardia* cyst and *Cryptosporidium* oocyst shapes.

(b) If no apple-green fluorescing cyst or oocyst shapes are found, and if background fluorescence of the membrane is very dim or non-existent, continue with examination of the water sample slides.

(c) If apple-green fluorescing cyst or oocyst shapes are found, discontinue examination since possible contamination of the other slides is indicated. Clean the equipment (see Appendix X1), recheck the reagents and procedure and repeat using additional aliquots of the sample.

10.4.3 *Sample Examination.*

10.4.3.1 *Scanning Technique.*

(a) Scan each membrane in a systematic fashion beginning with one edge of the mount and covering the entire membrane. An up-and-down or a side- to-side scanning pattern may be used. See Fig. 3 for an illustration of 2 alternatives for systematic slide scanning.

10.4.3.2 *Presumptive Count and Confirmed Count*

(a) When appropriate responses have been obtained for the positive and negative controls, use epifluorescence to scan the entire membrane from each sample at not

less than 200X total magnification for apple-green fluorescence of cyst and oocyst shapes.

(b) When brilliant apple-green fluorescing round to oval objects (8 to 18 µm long by 5 to 15 µm wide) are observed, switch the microscope to either Hoffman modulation® or differential interference contrast optics. Look for external or internal morphological characteristics atypical of *Giardia* cysts (e.g., spikes, stalks, appendages, pores, one or two large nuclei filling the cell, red fluorescing chloroplasts, crystals, spores, etc.). If these atypical structures are not observed, then identify such apple-green fluorescing objects of the aforementioned size and shape as presumptive *Giardia* cysts. Record the shape and measurements (to the nearest 0.5 µm at 1000X) for each such object as the part of the presumptive count. If two or more internal morphological structures are observed at this point, record this as a comfirmed *Giardia* cyst as well. Counts with internal structures must be confirmed by a senior analyst.

(c) When brilliant apple-green fluorescing ovoid or spherical objects (3 to 7 µm in diameter) are observed, switch the microscope to either Hoffman modulation® or differential interference contrast optics. Look for external or internal morphological characteristics atypical of *Cryptosporidium* oocyst (e.g., spikes, stalks, appendages, pores, one or two large nuclei filling the cell, red fluorescing chloroplasts, crystals, spores, etc.). If these atypical structures are not observed, then identify such apple-green fluorescing objects of the aforementioned size and shape as presumptive *Cryptosporidium* oocysts. Record the shape and measurements (to the nearest 0.5 µm at 1000X) for each such object as part of the presumptive count. Although not a defining characteristic, surface oocyst folds may be observed in some specimens. If one or more sporozoites are observed at this point, record this as a comfirmed *Cryptosporidium* oocyst as well. Counts with internal structures must be confirmed by a senior analyst.

11. *Calculation*

11.1 Percentage of Floated Sample Examined.

11.1.1 Record the percentage of floated sediment examined microscopically. [Calculate this value from the total volume of floated pellet obtained (10.1.8), the number of 25-mm membrane filters prepared together with the volume of floated pellet represented by these membrane filters (10.3.1.6), and the number of membrane filters examined.]

11.2 The following values are used in calculations:

V=volume (liters) of original water sample (9.2.2 and 9.2.6)

P=eluate packed pellet volume (10.1.8), (mL),

F=fraction of eluate packed pellet volume (P) subjected to flotation, determined as

$$\frac{\text{mL P subjected to flotation}}{\text{P}} \quad (10.2.1)$$

R=Percentage (expressed as a decimal) of floated sediment examined (11.1.1)

PRG=Presumptive no. of *Giardia* cysts detected (10.4.3.2b)

PRC=Presumptive no. of *Cryptosporidium* oocysts detected (10.4.3.2c)

CG=Confirmed number of *Giardia* cysts detected with internal structures (10.4.3.2b)

CC=Confirmed number of *Cryptosporidium* oocysts detected with internal structures (10.4.3.2c)

11.3 For positive samples, calculate the number of cysts or oocysts per 100 liters of sample as follows:

$$X/100L = \frac{(\text{PRG or PRC or CG or CC})(100)}{\text{FVR}}$$

A sample calculation is shown in Appendix X2.

11.4 For samples in which no cysts or oocysts are detected, (PRG or PRC or CG or CC) = <1. Calculate the detection limit as follows:

$$< X/100L = \frac{(<1)(100)}{\text{FVR}}$$

A sample calculation is shown in Appendix X2.

11.5 *Reporting.*

11.5.1 Report results as presumptive count and confirmed count for *Giardia* cysts or *Cryptosporidium* oocysts per 100 L of sample. Report negative results in terms of the detection limit. Representative reporting forms are given in Appendix X3.

11.5.2 Enter all data into the computer spreadsheet provided with this protocol.

12. *Water Sample Controls*

12.1 *Water Sample Negative Control.*

12.1.1 This control is a check on equipment, materials, reagents and technique. It involves collecting a sample from water known to be free of cysts and oocysts and processing and examining that sample as if it were an unknown. Every 10th sample processed in the laboratory should be a negative control.

12.1.2 Using the procedures detailed in 10.2 through 10.4, collect, process, and examine a 40 L (10 gal) or larger sample of reagent water or tap water that has first been passed through a filter of not more than 1 µm absolute porosity.

12.1.3 The entire concentrate from this sample should be examined. If any cysts or oocysts are detected, do not process any unknown samples until the source of the contamination is located and corrected.

12.2 *Water Sample Positive Control.*

12.2.1 The purpose of this control is to assure that the laboratory can recover cysts and oocysts when they are spiked into a sample at a known level.

12.2.2 It is recommended that, once every three months, or when a sample outside the norm is encountered, the eluate packed pellet (10.1.8) from an actual sample be split in half.

12.2.3 One half should be processed as an unknown; the second half should be spiked with 1,000 cysts and 1,000 oocysts/ mL of eluate packed pellet. Process and examine the sample using the procedures detailed in 10.2 through 10.4.

12.2.4 Calculate the recovery efficiency in the spiked aliquot after substracting any cysts and oocysts observed in the unspiked aliquot. If cysts and oocysts are not recovered in the spiked sample, do not process any more unknown samples until the laboratory can demonstrate recovery in spiked samples.

13. *Education, Training and Proficiency*

To be added at a later date.

14. *Key Words*

14.1 Antibody, *Cryptosporidium*, cysts, fluorescence, *Giardia*, immunoassay, oocysts, protozoa.

Appendices

X1. *Cleaning the Manifold and Stainless Steel Wells*

X1.1 *Manifold*

X1.1.1 After all the membrane filters have been mounted on glass slides (10.3.6), remove the support filters and discard them.

X1.1.2 Open all the manifold valves and increase the vacuum pressure to the manifold by closing the bleeder valve associated with the vacuum tubing.

X1.1.3 Rinse each manifold filter support screen with 10–20 mL of 0.01% Tween 80 solution.

X1.1.4 Rinse each manifold filter support screen with 10–20 mL water.

X1.1.5 Disconnect the manifold from the vacuum and wash the cover and fluid collection box in warm detergent solution. Rinse with tap water and reagent water.

X1.2 *Stainless Steel Wells*

X1.2.1 Place a cloth on the bottom of an autoclavable container which is large enough to accommodate all 10 stainless steel wells in a single layer.

X1.2.2 Put the stainless steel wells top side down on the cloth. The rim on the underside of the well is fragile. Care must be taken to avoid scratching and denting the rim.

X1.2.3 Add enough reagent water containing detergent to cover the stainless steel wells by an inch or more.

X1.2.4 Autoclave the stainless steel container with the stainless steel wells for 15 min at 15 lbs/in^2 and 121 °C. Use the slow exhaust mode at the completion of the autoclave cycle.

X1.2.5 Transfer the wells to a pan of hot detergent cleaning solution.

X1.2.6 Individually scrub the inside and bottom of stainless steel wells with a sponge.

X1.2.7 Rinse each well with tap water followed by reagent water. Drain and air dry the wells.

X1.2.8 Always check the bottom ridge of each stainless steel well for dents and scratches.

X1.2.9 If dents or scratches are found on the bottom of a stainless steel well, do not use it until it is properly reground.

X2. *Sample Calculation*

X2.1 *Positive Samples*

X2.1.1 Assume that a 100 gal (380 L) water sample was collected. The sample was eluted resulting in 5 mL of sediment. Fifty percent (2.5 mL) of the sediment was purified by Percoll-sucrose flotation. Forty percent of the floated material was examined microscopically. A total of 8 presumptive and 3 confirmed *Giardia* cysts were found. No presumptive or confirmed *Cryptosporidium* oocysts were observed. Using the formula in 12.1:

$$V = 380L$$

$$P = 5mL$$

$$F = 2.5/5 = 0.5$$

$$R = 40\% = 0.4$$

$$PRG = 8$$

$$CG = 3$$

$$\frac{\text{Presumptive } \textit{Giardia} \text{ cysts}}{100\text{ L}} = \frac{(PRG)(100)}{FVR} = \frac{(8)(100)}{(0.5)(380)(0.4)} = 10.5$$

$$\frac{\text{Confirmed } \textit{Giardia} \text{ cysts}}{100\text{ L}} = \frac{(CG)(100)}{FVR} = \frac{(3)(100)}{(0.5)(380)(0.4)} = 4$$

X2.2 *Negative Samples*

X2.2.1 Using the description given in X2.1.1, no *Cryptosporidium* oocysts were observed. The calculated detection limit per 100 liters would be:

$$\frac{\text{Presumptive } \textit{Cryptosporidium oocysts}}{100\text{ L}} = \frac{(PRC)(100)}{FVR}$$

$$= \frac{(<1)(100)}{(0.5)(380)(0.4)}$$

$$=<1.3$$

$$\frac{\text{Confirmed } \textit{Cryptosporidium oocysts}}{100\text{ L}} = \frac{(CC)(100)}{FVR}$$

$$= \frac{(<1)(100)}{(0.5)(380)(0.4)}$$

$$=<1.3$$

X3.1 *Giardia* Report Form

Slide prepared by: _____ Analyst: _____
Date prepared: _____ Date analyzed: _____

Object located by IFA No.	Shape (oval or round)	Size LxW (µm)	Morphological Characteristics			Presumptive Count (√)	Confirmed Count (√)
			Nucleus (#)	Median body (√)	Axonemes (√)		
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
15							
Total							

Calculated number of presumptive cysts/100 liters _____

Calculated number of confirmed cysts/100 liters _____

Slide prepared by: _____
Date prepared: _____
Analyst: _____
Date analyzed: _____

X3.2 *Cryptosporidium* Report Form

Object located by IFA No.	Shape (oval or round)	Size LxW (µm)	Morphological characteristic	Presumptive count (√)	Confirmed count (√)
			Sporozoite (#)		
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
Total					

Calculated number of presumptive oocysts/100 liters _____

Calculated number of confirmed oocysts/100 liters _____

X4. Microscope Adjustments [12]

The microscopic portion of this procedure depends upon very sophisticated optics. Without proper alignment and adjustment of the microscope the instrument will not function at maximal efficiency and the probability of obtaining the desired image (information) will not be possible. Consequently, it is imperative that all portions of the microscope from the light sources to the oculars are properly adjusted.

While microscopes from various vendors are configured somewhat differently, they all operate on the same general physical principles. Therefore, slight deviations or adjustments may be required to make these guidelines work for the particular instrument at hand.

X4.1. *Adjustment of the Epifluorescent Mercury Bulb and Transmitted Light Bulb Filament.* The sole purpose of these procedures is to insure even field illumination.

X4.1.1 *Mercury Bulb Adjustment.* This section assumes that you have successfully replaced the mercury bulb in your particular lamp socket and reconnected the lamp socket to the lamp house. These instructions also assume the condenser has been adjusted to produce Köhler illumination. *Make sure that you have not touched any glass portion of the mercury bulb with your bare fingers while installing it.* **Warning:** *Never look at the ultraviolet light coming out of the mercury lamp house or the ultraviolet light image without a barrier filter in place.*

X4.1.1.1. Usually there is a diffuser lens between the lamp and the microscope which either must be removed or swung out of the light path.

X4.1.1.2. Using a prepared microscope slide, adjust the focus so the image in the oculars is sharply defined.

X4.1.1.3. Replace the slide with a business card or a piece of lens paper.

X4.1.1.4. Close the field diaphragm (iris diaphragm in the microscope base) so only a small point of light is visible on the card. This dot of light tells you where the center of the field of view is.

X4.1.1.5. Mount the mercury lamp house on the microscope without the diffuser lens in place and turn on the mercury bulb.

X4.1.1.6. Remove the objective in the light path from the nosepiece. You should see a primary (brighter) and secondary image (dimmer) of the mercury bulb arc on the card after focusing the image with the appropriate adjustment.

X4.1.1.7. Using the other lamp house adjustments, adjust the primary and secondary mercury bulb images so they are side by side (parallel to each other) with the transmitted light dot in between them.

X4.1.1.8. Reattach the objective to the nosepiece.

X4.1.1.9. Insert the diffuser lens into the light path between the mercury lamp house and the microscope.

X4.1.1.10. Turn off the transmitted light, remove the card from the stage, and replace it with a slide of fluorescent material. Check the field for even fluorescent illumination. Adjustment of the diffuser lens will most likely be required. Additional slight adjustments as in step 6 above may be required.

X4.1.1.11. Maintain a log of the number of hours the U.V. bulb has been used. Never use the bulb for longer than it has been rated. Fifty watt bulbs should not be used longer than 100 hours; 100 watt bulbs should not be used longer than 200 hours.

X4.1.2. *Transmitted Bulb Adjustment.* This section assumes that you have successfully replaced the transmitted bulb in your particular lamp socket and reconnect the lamp socket to the lamp house. *Make sure that you have not touched any glass portion of the transmitted light bulb with your bare fingers while installing it.* These instructions also assume the condenser has been adjusted to produce Köhler illumination.

X4.1.2.1. Usually there is a diffuser lens between the lamp and the microscope which either must be removed or swung out of the light path. Reattach the lamp house to the microscope.

X4.1.2.2. Using a prepared microscope slide and a 40X objective (or similar), adjust the focus so the image in the oculars is sharply defined.

X4.1.2.3. Without the ocular or Bertrand optics in place the pupil and filament image inside can be seen at the bottom of the tube.

X4.1.2.4. Focus the lamp filament image with the appropriate adjustment on your lamp house.

X4.1.2.5. Similarly, center the lamp filament image within the pupil with the appropriate adjustment(s) on your lamp house.

X4.1.2.6. Insert the diffuser lens into the light path between the transmitted lamp house and the microscope.

X4.2. *Adjustment of Interpupillary Distance and Oculars for Each Eye.* These adjustments are necessary, so eye strain is reduced to a minimum. These adjustment must be made for each individual using the microscope. This section assumes the use of a binocular microscope.

X4.2.1. *Interpupillary Distance.* The spacing between the eyes varies from person to person and must be adjusted for each individual using the microscope.

X4.2.1.1. Place a prepared slide on the microscope stage, turn on the transmitted light, and focus the specimen image using the course and fine adjustment knobs.

X4.2.1.2. Using both hands, adjust the oculars in and out until a single circle of light is observed while looking through the two oculars with both eyes.

X4.2.2. *Ocular Adjustment for Each Eye.* This section assumes a focusing ocular(s). This adjustment can be made two ways, depending upon whether or not the microscope is capable of photomicrography and whether it is equipped with a photographic frame which can be seen through the binoculars. Precaution: *Persons with astigmatic eyes should always wear their contact lenses or glasses when using the microscope.*

X4.2.2.1. *For microscopes not capable of photomicrography.* This section assumes only the right ocular is capable of adjustment.

(a) Place a prepared slide on the microscope stage, turn on the transmitted light, and focus the specimen image using the course and fine adjustment knobs.

(b) Place a card between the right ocular and eye keeping both eyes open. Using the fine adjustment, focus the image for the left eye to its sharpest point.

(c) Now transfer the card to between the left eye and ocular. *Without touching the course or fine adjustment* and with keeping both eyes open, bring the image for the left eye into sharp focus by adjusting the ocular collar at the top of the ocular.

X4.2.2.2. *For microscopes capable of viewing a photographic frame through the viewing binoculars.* This section assumes both oculars are adjustable.

(a) Place a prepared slide on the microscope stage, turn on the transmitted light, and focus the specimen image using the course and fine adjustment knobs.

(b) After activating the photographic frame, place a card between the right ocular and eye keeping both eyes open. Using the correction (focusing) collar on the left ocular focus the left ocular until the double lines in the center of the frame are as sharply focused as possible.

(c) Now transfer the card to between the left eye and ocular. Again keeping both eyes open, bring the image of the double lines in the center of the photographic frame into as sharp a focus for the right eye as possible by adjusting the ocular

[12] Smith, R.F. 1982. Microscopy and Photomicrography: A Practical Guide. Appelton-Century-Crofts, New York.

correction (focusing) collar at the top of the right ocular.

X4.3. *Calibration of an Ocular Micrometer*[13]—This section assumes that an ocular reticle has been installed in one of the oculars by a microscopy specialist and that a stage micrometer is available for calibrating the ocular micrometer (reticle). Once installed the ocular reticle should be left in place. The more an ocular is manipulated the greater the probability is for it to become contaminated with dust particles. This calibration should be done for each objective in use on the microscope. If there is an optivar[14] on the microscope, then the calibration procedure must be done for the respective objective at each optivar setting.

X4.3.1. Place the stage micrometer on the microscope stage, turn on the transmitted light, and focus the micrometer image using the course and fine adjustment knobs for the objective to be calibrated. Continue adjusting the focus on the stage micrometer so you can distinguish between the large (0.1 mm) and the small (0.01 mm) divisions.

X4.3.2. Adjust the stage and ocular with the micrometer so the 0 line on the ocular micrometer is exactly superimposed on the 0 line on the stage micrometer.

X4.3.3. Without changing the stage adjustment, find a point as distant as possible from the two 0 lines where two other lines are exactly superimposed.

X4.3.4. Determine the number ocular micrometer spaces as well as the number of millimeters on the stage micrometer between the two points of superimposition.

For example: Suppose 48 ocular micrometer spaces equal 0.6 mm.

X4.3.5. Calculate the number of mm/ocular micrometer space.

For example: 0.6 mm/48 ocular micrometer spaces = 0.0125 mm/ocular micrometer space

X4.3.6. Since most measurements of microorganisms are given in µm rather than mm, the value calculated above must be converted to µm by multiplying it by 1000 µm/mm.

For example:

$$\frac{0.0125\ \text{mm}}{\text{ocular micrometer space}} \times \frac{1000\ \mu\text{m}}{\text{mm}} = 12.5\ \mu\text{m/ocular micrometer space}$$

X4.3.7. Follow steps A through F for each objective. It is helpful to record this information in a tabular format, like the example below, which can be kept near the microscope.

Item #	Obj. power	Description	Ocular microm. space	Stage microm. space (mm)[1]	µm/Ocular micrometer space[2]
1	10X	N.A.[3] =			
2	20X	N.A. =			
3	40X	N.A. =			
4	100X	N.A. =			

[1] 1000 µm/mm
[2] Stage micrometer length in mm X 1000/# of Ocular Micrometer Spaces
[3] N.A. stands for numerical aperture. The numerical aperture value is engraved on the barrel of the objective.

[13] Melvin, D.M. and M.M. Brooke. 1982. Laboratory Procedures for the Diagnosis of Intestinal Parasites. U.S. Department of Health and Human Services, HHS Publication No. (CDC) 82-8282.

[14] A device between the objectives and the oculars that is capable of adjusting the total magnification.

X4.4. *Köhler Illumination.* This section assumes that Köhler illumination will be established for only the 100X oil differential interference contrast or Hoffman modulation® objective which will be used to identify internal morphological characteristics in *Giardia* cysts and *Cryptosporidium* oocysts. If by chance more than one objective is to be used for either differential interference contrast or Hoffman modulation® optics, then each time the objective is changed, Köhler illumination must be reestablished for the new objective lens. Previous sections have adjusted oculars and light sources. This section aligns and focuses the light going through the condenser underneath the stage at the specimen to be observed. If Köhler illumination is not properly established, then differential interference contrast or Hoffman modulation® optics will not work to their maximal potential. These steps need to become second nature and must be practiced regularly until they are a matter of reflex rather than a chore.

X4.4.1. Place a prepared slide on the microscope stage, place oil on the slide, move the 100X oil objective into place, turn on the transmitted light, and focus the specimen image using the coarse and fine adjustment knobs.

X4.4.2. At this point both the radiant field diaphragm in the microscope base and the aperture diaphragm in the condenser should be wide open. Now close down the radiant field diaphragm in the microscope base until the lighted field is reduced to a small opening.

X4.4.3. Using the condenser centering screws on the front right and left of the condenser, move the small lighted portion of the field to the center of the visual field.

X4.4.4. Now look to see whether the leaves of the iris field diaphragm are sharply defined (focused) or not. If they are not sharply defined, then they can be focused distinctly by changing the height of the condenser up and down with the condenser focusing knob while you are looking through the binoculars. Once you have accomplished the precise focusing of the radiant field diaphragm leaves, open the radiant field diaphragm until the leaves just disappear from view.

X4.4.5. The aperture diaphragm of the condenser is adjusted now to make it compatible with the total numerical aperture of the optical system. This is done by removing an ocular, looking into the tube at the rear focal plane of the objective, and stopping down the aperture diaphragm iris leaves until they are visible just inside the rear plane of the objective.

X4.4.6. After completing the adjustment of the aperture diaphragm in the condenser, return the ocular to its tube and proceed with the adjustments required to establish either differential interference contrast or Hoffman modulation® optics.

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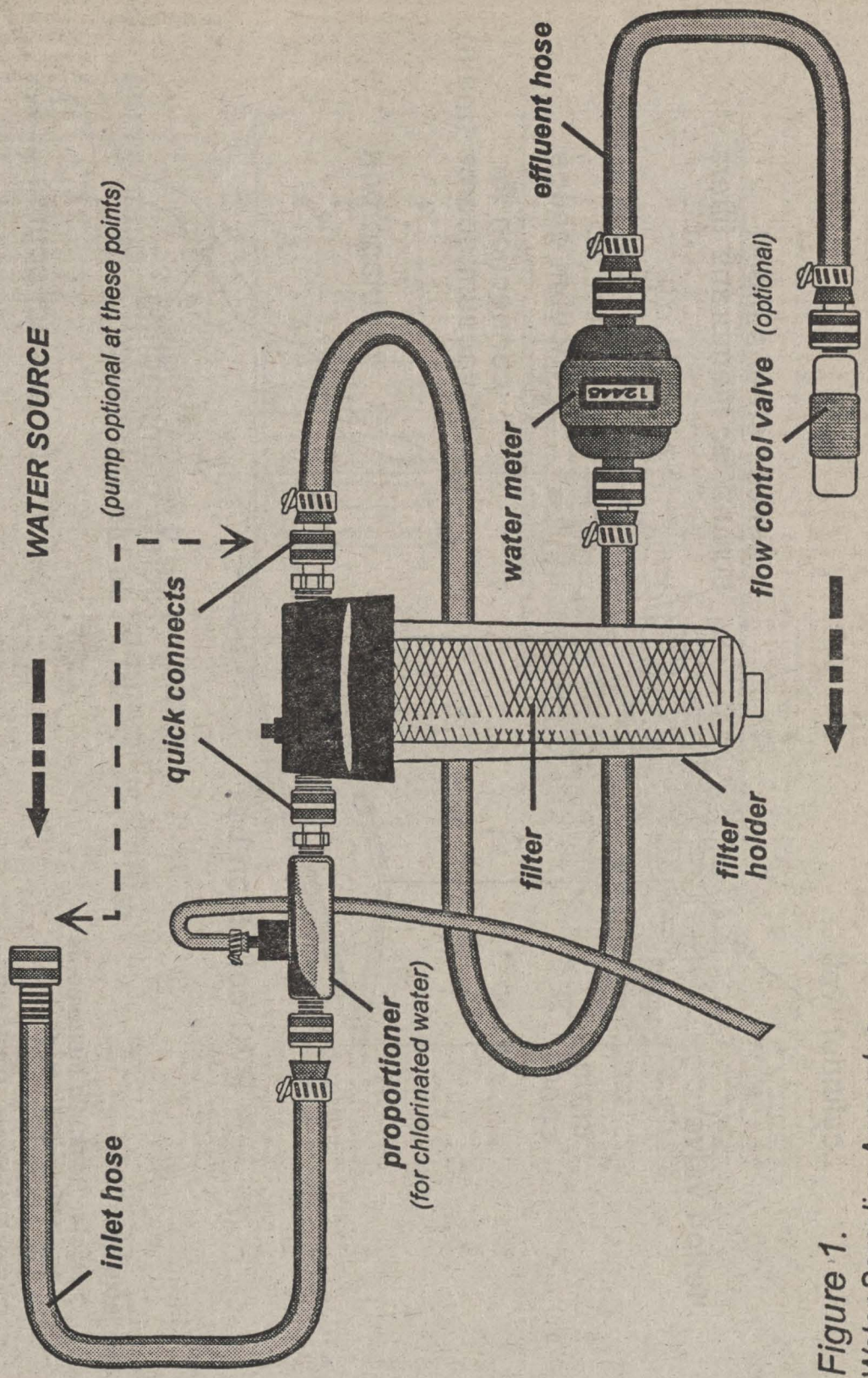
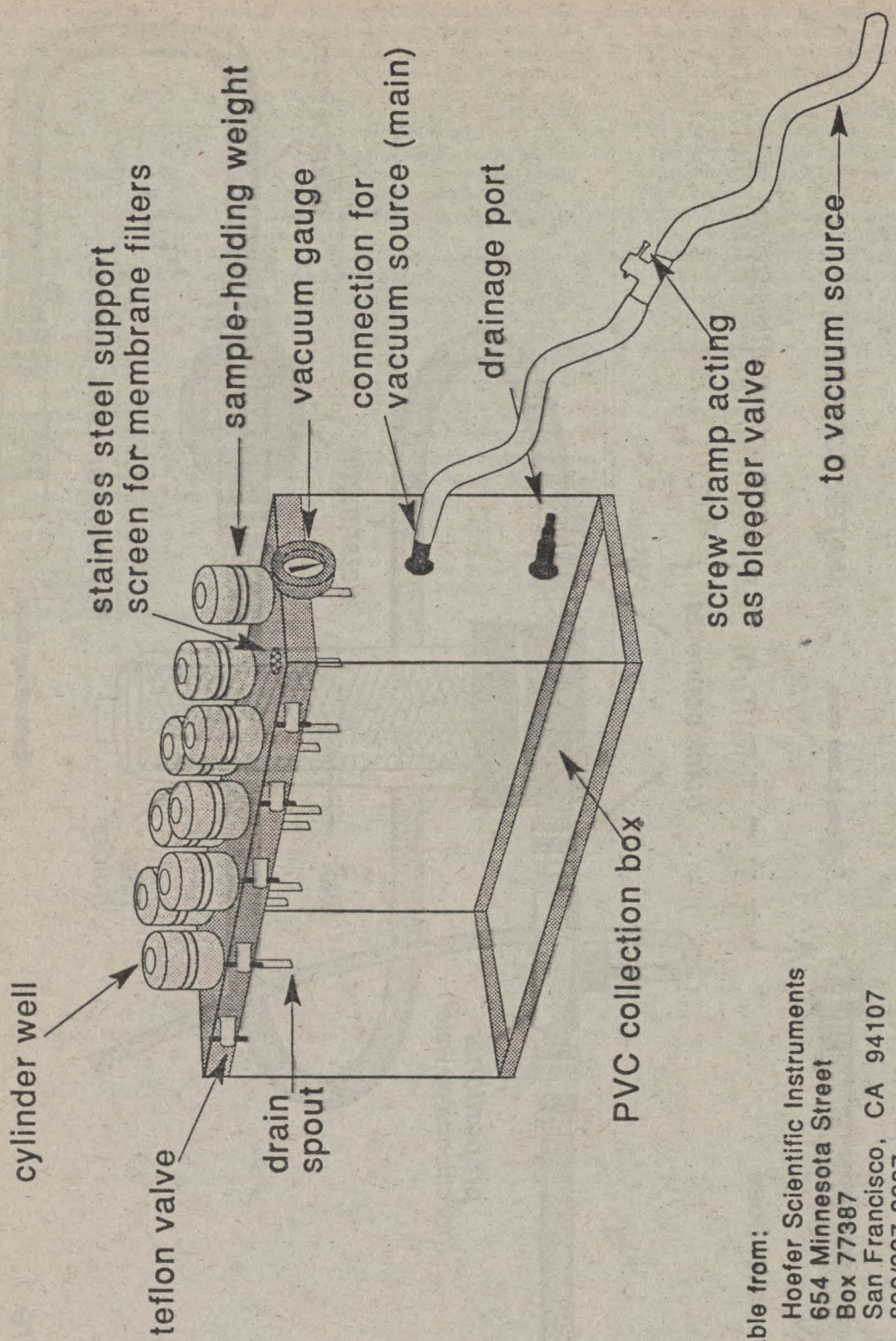


Figure 1.
Water Sampling Apparatus

Figure 2. Ten-place Manifold with Stainless Steel Wells (Hoefer, Model FH 225V or equivalent)



Available from:
Hoefer Scientific Instruments
654 Minnesota Street
Box 77387
San Francisco, CA 94107
800/227-2307

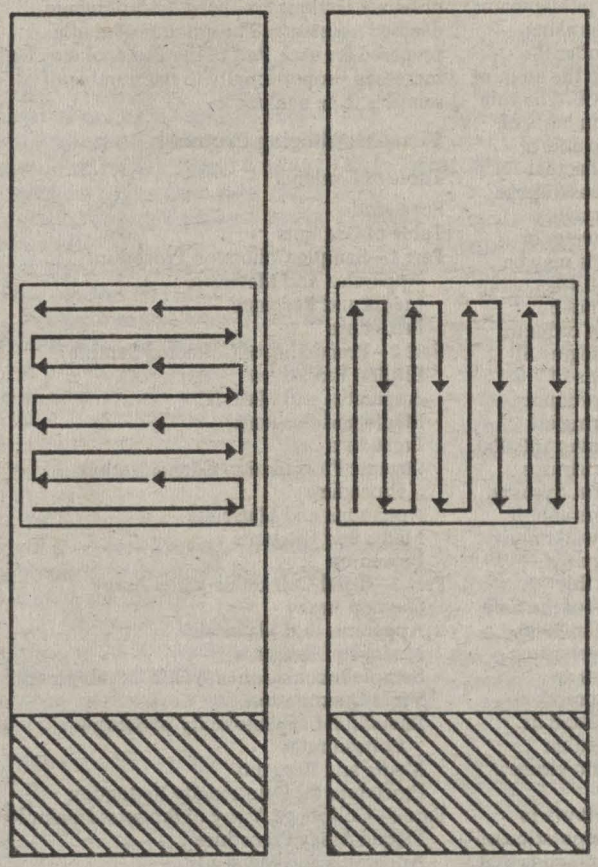


Figure 3. Methods for Scanning Water Filter Membrane Mounted on a Glass Slide

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Appendix D to Subpart M—Proposed Virus Monitoring Protocol

Foreword

The surface water treatment rule (40 CFR part 141) established the maximum contamination level for enteric virus in public water systems by requiring that systems using surface water or ground water under the influence of surface water reduce the amount of virus in source water by 99.99%. The rule requirements are currently met on basis of treatment alone (i.e., disinfection and/or filtration), and thus the degree of actual protection against waterborne viral disease depends upon the source water quality. Utilities using virus-free source water or source water with low virus levels may be overtreating their water, while utilities using highly contaminated water may not be providing adequate protection. In order to more adequately determine the degree of protection and to reduce the levels of disinfection and disinfection byproducts, where appropriate, EPA is requiring all utilities serving a population of over 100,000 to monitor their source water for viruses monthly for a period of 18 months. Systems finding greater than one infectious enteric virus particle per liter of source water must also monitor their finished water on a monthly basis. The authority for this requirement is Section 1445(a)(1) of the Safe Drinking Water Act, as amended in 1986.

The presence of coliphage in water in temperate climates is perceived as an indicator of fecal pollution, as a practical model to be applied in the evaluation of treatment processes, and as a possible indicator of the presence of enteric viruses. As a secondary approach in the establishment of water quality criteria in public water systems serving a population of over 100,000, the U.S. EPA recommends that coliphage be surveyed along with human enteric viruses. These studies are to generate and provide specific monitoring data and other information characterizing water utilities.

This protocol was developed by virologists at the U.S. Environmental Protection Agency and modified to reflect the consensus agreements from national experts attending a Virus Monitoring Workshop held in Cincinnati, Ohio, on August 12, 1993. The protocol was subsequently revised to reflect comments obtained from many of the Workshop attendees in light of the consensus agreements. The procedures contained herein do not preclude the use of additional tests for research purposes (e.g., polymerase chain reaction-based detection methods for non-cytopathic viruses).

The concentrated water samples to be monitored may contain pathogenic human enteric viruses. Laboratories performing virus and coliphage analyses are responsible for establishing an adequate safety plan and must rigorously follow the guidelines on sterilization and aseptic techniques given in Part 5.

Analytical Reagent or ACS grade chemicals (unless specified otherwise) and deionized, distilled water (dH_2O) should be used to prepare all media and reagents. The dH_2O must have a resistance of greater than 0.5 megohms-cm, but water with a resistance of 18 megohms-cm is preferred. Water and other reagent solutions may be available commercially. For any given section of this protocol only apparatus, materials, media and reagents which are not described in previous sections are listed, except where deemed necessary. The amount of media prepared for each Part of the Protocol may be increased proportionally to the number of samples to be analyzed.

Virus Monitoring Protocol

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Part 1—Sample Collection Procedure

Apparatus and Materials

It is recommended that apparatus and materials be provided to sample collectors by the approved laboratory contracted to analyze samples for viruses. Several configurations are given below for the assembly of filter apparatus. Combinations of these configurations can be prepared by combining the directions of two or more configurations.

1. Standard filter apparatus containing 1MDS positively charged filter (see Figure 1).

a. Parts needed:

i. BR—Backflow Regulator (Watts Regulator[1] Product Series 8—¾" Hose Connection Vacuum Breaker).

ii. SF—Swivel Female insert with garden hose threads (United States Plastic Product No. 63003).

iii. BT—Braided Tubing, ½" clear (Fisher Scientific Product No. 14–169–10C).

iv. HC—Hose Clamp (Cole-Parmer Product No. G–06403–20).

v. HF1—Hose Fitting, nylon, ¾" male NPT×½" tubing ID (United States Plastic Product No. 61143).

vi. CH—Cartridge Housing (Cuno Product No. AP11T).

vii. FC—Filter Cartridge, positively charged 1MDS, ZetaPor Virosorb (Cuno Product No. 45144–01–1MDS).

viii. WM—Water Meter (Neptune Equipment Product No. ⅝" Trident 10). Meters are normally rated in cubic feet (a cubic foot of water is 7.481 gallons or 28.316 liters).

b. Apparatus assembly (to be performed by the approved laboratory contracted to analyze samples for viruses)—in order, as shown in Figure 1, connect the backflow regulator (BR) to a swivel female insert (SF). Clamp a 6–18" piece of tubing (BT) onto the tubing connector of the insert using a hose clamp (HC). Attach the other end onto a ¾×½" fitting (HF1) connected with the inlet of the cartridge housing (CH). Attach another ¾×½" fitting to the outlet of the housing. The entire assembly to this point should be sterilized with chlorine as described in Part 5. Presterilize a 1MDS filter cartridge (FC) as described in Part 5 and place into the housing using aseptic technique. Seal the openings into the apparatus with sterile aluminum foil. Prepare the discharge portion of the assembly by attaching a swivel female insert to another piece of tubing and

[1] See Part 7 for addresses of the vendors listed. The vendors listed in this protocol represents one possible source for required products. Other vendors may supply the same or equivalent products.

connecting the insert to the inlet of the water meter (WM). Attach another swivel female insert to the outlet of the meter and connect a piece of tubing for discharge. This discharge portion does not have to be sterilized and should be attached to the filter housing after flushing of the system.

Teflon tape (Cole Parmer Product No. G–08782–27) must be used on all fittings.

2. Filter apparatus for waters exceeding 100 NTU (see Figure 2).

a. Additional parts needed: PP—10 µm Polypropylene Prefilter (Parker Hannifin Product No. M19R10–A).

b. Apparatus assembly—connect a second cartridge housing to the standard apparatus by connecting a short piece of tubing between the two housings via additional HF1 hose fittings and clamps. Add a presterilized prefilter (see Part 5) using aseptic technique.

3. Filter apparatus for water pressures exceeding 50 psi (see Figure 3).

a. Additional parts needed:

i. HF2—Hose Fitting, nylon, ⅜" male NPT×½" tubing ID (United States Plastic Product No. 61141).

ii. PR—Pressure Regulator (Watts Regulator Product No. ⅜" 26A, Suffix C).

iii. PN—PVC Nipple, ⅜"×2" (Ryan Herco Product No. 3861–057).

iv. TE—PVC TEE with ⅜" female NPT ports (Ryan Herco Product No. 3805–003).

v. RB—Reducing Bushing, ⅜" NPT(M)×¼" NPT(F) (Cole Parmer Product No. G–06349–32).

vi. PG—Pressure Gauge 0–30 psi (Cole Parmer Product No. G–68004–03).

b. Apparatus assembly—assemble as described for the standard apparatus, except clamp the other end of the tubing with the backflow regulator and swivel female insert to a ⅜"×½" fitting (HF2). Screw the fitting into the inlet of the pressure regulator (PR). Connect the outlet of the pressure regulator to the PVC TEE (TE) via the 2" nipple (PN). Connect the pressure gauge (PG) to the top of the TEE using the bushing (RB). Attach a ⅜"×½" fitting to the other end of the TEE. Clamp a piece of tubing to the fitting and connect the other end to the HF1 fitting on the cartridge housing.

4. Filter apparatus for finished waters requiring dechlorination (see Figure 4).[2]

a. Additional parts needed:

i. IN—In-line INjector (DEMA Engineering Product No. 204B ½" NPT).

ii. HF3—Hose Fitting, nylon, ½" male NPT × ½" tubing ID (United States Plastic Product No. 62142).

b. Apparatus assembly—assemble as described for the standard apparatus, except clamp the other end of the tubing with the backflow regulator and swivel female insert to a ½"×½" fitting (HF3). Attach the water inlet of the injector (IN) to the HF3 fitting. Attach another ½"×½" fitting to the outlet of the injector and connect this fitting to the inlet of the cartridge housing with a short piece of tubing. Connect a piece of sterile standard Tygon tubing (TT) to the injection port of the injector.

5. Portable pH probe (Omega Product No. PHH–1X).

6. Portable temperature probe (Omega Product No. HH110).

7. Commercial ice packs (Cole Parmer Product No. L–06346–85).

8. 1 liter polypropylene wide-mouth bottles (Nalge Product No. 2104–0032).

9. 17"×17"×13" styrofoam shipping box with carrying strap (Cole Parmer Product No. L–03748–00 and L–03742–30).

10. Miscellaneous—aluminum foil, data card (see Part 8), surgical gloves, screwdriver or pliers for clamps, waterproof marker.

11. Chemical resistant pump and appropriate connectors (if a garden hose-type pressurized faucets for the source or finished water to be monitored are unavailable).

Media and Reagents

1. 10% sodium thiosulfate ($Na_2S_2O_3$)—dissolve 100 g of $Na_2S_2O_3$ in a total of 1000 ml dH_2O to prepare a stock solution. Autoclave for 15 minutes at 121°C.

Procedure

Operators must wear surgical gloves and avoid conditions which can contaminate a sample with virus.

Step 1. Purge the water tap to be sampled for at least one minute prior to connecting the filter apparatus.

Surface water sampling must be conducted at the plant intake, prior to impoundment or any other treatment. Finished water sampling must be conducted at the point of entry into the distribution system.

Step 2. Remove the foil and connect the backflow regulator of the inlet hose to the tap. Loosen the clamp on the tubing at the inlet side of the cartridge housing (1MDS filter housing or, if used, the inlet side of the prefilter housing). Remove the housing(s) and cover the inlet with sterile foil. Place the tubing removed from the housing into a 1 liter plastic bottle. Flush the system for at least ten minutes with the water to be sampled. While the system is being flushed, measure and record onto the Sample Data Sheet (see Part 8) the pH and temperature values from the water collecting in and overflowing from the 1 liter plastic bottle. The pH meter should be calibrated prior to each use for the pH range of the water to be sampled.

Step 3. After flushing the system, turn off the flow of water at the sample tap and reconnect the filter housing to the inlet hose. Connect the discharge hose (with water meter) to the filter housing outlet.

Step 4. Record the sample number, location, date, time of day and initial cubic feet (or gallon) reading from the water meter onto the sample data sheet.

A consistent system for assigning unique utility-specific sample numbers will be developed prior to the start of the monitoring period.

Step 5. Slowly turn on the water with the filter housing placed in an upright position, while pushing the red vent button on top of the filter housing to expel air. When the air is totally expelled from the housing, release the button, and open the sample tap completely.

For taps with pressures exceeding 50 psi, use an apparatus with a pressure regulator (Figure 3) and adjust the pressure to below 50 psi.

For sampling chlorinated finished water place the sterile end of the tubing from the injection port of the injector into a graduated container containing the 10% sodium thiosulfate solution and adjust the injector to add thiosulfate at a rate of 0.5 ml per liter of water sample. Alternatively, place the water sample into a sterile calibrated polyethylene (e.g., garbage container) or polypropylene container, add 0.5 ml per liter thiosulfate, mix and pump the dechlorinated solution through a standard apparatus.

Step 6. Sample a minimum volume for surface water of 200 liters (7.1 ft^3, 52.9 gallons) and for finished water of 1200 liters (42.4 ft^3, 317.0 gallons). For surface water the flow rate and the total amount of sample that can be passed before the filter clogs will depend upon water quality and will have to be determined from experience.

It may be convenient to start the sampling in the afternoon and sample overnight so that the sample can be shipped to the testing laboratory during the morning. Sampling should not be performed throughout the night if experience shows that the filters may clog during the collection period, unless it can be monitored.

Step 7. Turn off the flow of water at the sample tap at the end of the sampling period and record the date, time of day, and cubic feet (or gallon)

[2] The standard filter apparatus may be used as an alternative to the apparatus described here if thiosulfate is added to a water sample in a calibrated container as described in Step 5 of the Sample Collection Procedure.

reading from the water meter onto the Sample Data Sheet.

Step 8. Disconnect the filter housing(s) from the inlet and outlet hoses. Turn the filter housing(s) upside down and allow excess water to flow out as waste water. Turn the housing(s) upright and cover completely with aluminum foil, making sure to cover the inlet and outlet ports.

Step 9. Pack the filter housing(s) and all apparatus components prior to the housing(s) into an insulated shipping box. Add refrigerated ice packs to keep the sample cool in transit (the number of ice packs may have to be adjusted based upon experience to ensure that the samples remain cold). Place the Sample Data Sheet (protected with a closable plastic bag) in with the sample and ship by overnight mail to the contracted, approved laboratory for virus analysis. Notify the laboratory by phone upon the shipment of sample.

The approved laboratory will elute virus from the 1MDS filter (and prefilter, if appropriate) and analyze the eluates as described in Parts 2, 3, and 4. After removing the filter, the laboratory will sterilize the apparatus components with chlorine and dechlorinate with sodium thiosulfate as described in Part 5. After flushing with sterile dH_2O, a new 1MDS cartridge (and prefilter, if appropriate) will be added, the openings sealed with sterile aluminum foil, and the apparatus returned to the utility for the next sample. The discharge hoses with water meter can be stored at the utility between samplings. Openings should be covered with aluminum foil during storage.

Part 2—Processing of Collected Sample

The cartridge filters must arrive at the approved laboratory in a refrigerated, but not frozen, condition. The arrival condition should be recorded on the Sample Data Sheet (Part 8). Filters should be refrigerated upon arrival and eluted within 72 hours of the start of the sample collection.

Elution Procedure

Apparatus and Materials

1. Positive pressure air or nitrogen source equipped with a pressure gauge.

If the pressure source is a laboratory air line or pump, it must be equipped with an oil filter.

2. Dispensing pressure vessels—5 or 20 liter capacity (Millipore Corp. Product No. XX67 00P 05 and XX67 00P 20).

3. pH meter, measuring to an accuracy of at least 0.1 pH unit, equipped with a combination-type electrode.

4. Autoclavable inner-braided tubing with screw clamps for connecting tubing to equipment.

5. Magnetic stirrer and stir bars.

Media and Reagents

1. Sodium hydroxide (NaOH)—prepare 1 M and 5 M solutions by dissolving 4 or 20 g of NaOH in a final volume of 100 ml of dH_2O, respectively.

NaOH solutions may be stored for several months at room temperature.

2. Beef extract V powder (BBL Microbiology Systems Product No. 97531) prepare buffered 1.5% beef extract by dissolving 30 g of beef extract powder and 7.5 g of glycine (final glycine concentration = 0.05 M) in 1.9 liters of dH_2O. Adjust the pH to 9.5 with 1 or 5 M NaOH and bring the final volume to 2 liters with dH_2O. Autoclave at 121°C for 15 min and use at room temperature.

When used in the organic flocculation concentration step, each beef extract lot must be screened prior to use to determine adequate virus recoveries (mean recovery of 50% with poliovirus in 3 trials). Beef extract solutions may be stored for one week at 4°C or for longer periods at −20°C. A 3% beef extract solution may be prepared by doubling the amount of beef extract and used if the 1.5% solution fails the proficiency testing.

Procedure

Step 1. Attach sections of inner-braided tubing (sterilized on inside and outside surfaces with chlorine and dechlorinated with thiosulfate as described in Part 5) to the inlet and outlet ports of a cartridge filter housing containing a 1MDS filter to be tested for viruses. If a prefilter was used, keep the prefilter and 1MDS housing connected and attach the tubing to the inlet of the prefilter housing and to the outlet of the 1MDS housing.

Step 2. Place the sterile end of the tubing connected to the outlet of the 1MDS housing into a sterile 2 liter glass or polypropylene beaker.

Step 3. Connect the free end of the tubing from the inlet port of the filter housing to the outlet port of a sterile pressure vessel and connect the inlet port of the pressure vessel to a positive air pressure source.

Sterile tubing and a peristaltic pump may be used as an alternative to the pressure vessel.

Step 4. Remove the top of the pressure vessel and pour 1000 mL of buffered 1.5% beef extract (pH 9.5) into the vessel.

Step 5. Replace the top of the pressure vessel and close its vent/relief valve.

Step 6. Open the vent/relief valve(s) on the cartridge filter housing(s). Apply sufficient pressure to purge the trapped air from the filter housing(s). Close the vent/relief valve(s) as soon as the buffered beef extract solution begins to flow from it.

Wipe up spilled liquid with laboratory disinfectant.

Step 7. Increase the pressure to force the buffered beef extract solution through the filter(s).

The solution should pass through the cartridge filter(s) slowly to maximize the elution contact period. When air enters the line from the pressure vessel, elevate and invert the filter housing to permit complete evacuation of the solution from the filters.

Step 8. Turn off the pressure at the source and open the vent/relief valve on the pressure vessel. Place the buffered beef extract from the 2 liter beaker back into the pressure vessel. Repeat Steps 5–7.

Step 9. Thoroughly mix the eluate and adjust the pH to 7.0–7.5 with 1 N HCl. Measure and record the volume of the eluate onto the Virus Data Sheet. Remove exactly one tenth of the eluate, freeze at −70°C and ship to the laboratory designated for archiving. Remove 40 ml of the eluate for coliphage analysis as described in Part 4.

Proceed to the organic flocculation concentration procedure immediately. If the concentration of enteric virus cannot be undertaken immediately, store the eluate for up to 24 hours before concentration at 4°C or for longer periods at −70°C.

Organic Flocculation Concentration Procedure

Apparatus and Materials

1. Refrigerated centrifuge capable of attaining 2,500–10,000 × g and screw-capped centrifuge bottles with 100 to 1000 ml capacity.

Each bottle must be rated for the relevant centrifugal force.

Media and Reagents:

1. Hydrochloric acid (HCl)—Prepare 1 and 5 M solutions by mixing 10 or 50 ml of concentrated HCl with 90 or 50 ml of dH_2O, respectively.

2. Sodium phosphate, dibasic ($Na_2HPO_4 \bullet 7H_2O$)—0.15 M.

Dissolve 40.2 g of sodium phosphate in a final volume of 1000 ml. The pH should be checked to ensure that it is between 9.0–9.5 and adjusted with NaOH, if necessary. Autoclave at 121°C for 15 minutes.

Procedure

Step 1. Place a sterile stir bar into the beaker containing the buffered beef extract eluate from the cartridge filter(s). Place the beaker onto a magnetic stirrer, and stir at a speed sufficient to develop a vortex.

To minimize foaming (which may inactivate viruses), do not mix faster than necessary to develop a vortex.

Step 2. Insert a combination-type pH electrode into beef extract eluate. Add 1 M HCl to the flask slowly until pH of beef extract reaches 3.5 ± 0.1. Continue to stir slowly for 30 minutes at room temperature.

The pH meter must be standardized at pH 4 and 7. Electrodes must be sterilized before and after each use as described in Part 5.

A precipitate will form. If pH is accidentally reduced below 3.4, add 1 M NaOH to bring it back to 3.5 # 0.1. Exposure to a pH below 3.4 may result in some virus inactivation.

Step 3. Remove the electrode from the beaker, and pour the contents of the beaker into a centrifuge bottle. Cap the bottle and centrifuge the precipitated beef extract suspensions at 2,500 × *g* for 15 minutes at 4°C. Remove and discard the supernatant.

To prevent the transfer of the stir bar into a centrifuge bottle, hold another stir bar or magnet against the bottom of the beaker when decanting the contents. The beef extract suspension will usually have to be divided into several centrifuge bottles.

Step 4. Place a stir bar into the centrifuge bottle that contains the precipitate. Add 30 ml of 0.15 M sodium phosphate. Place the bottle onto a magnetic stirrer, and stir slowly until the precipitate has dissolved completely.

Support the bottle as necessary to prevent toppling. Avoid foaming, which may inactivate or aerosolize viruses. The precipitate may be partially dissipated with a spatula before or during the stirring procedure or may be dissolved by repeated pipetting in place of stirring. When the centrifugation was performed in more than one bottle, dissolve the precipitates in a total of 30 ml and combine into one bottle. If the precipitate is not completely dissolved before proceeding, significant virus loss may occur in Step 5. Virus loss may also occur by prolonged exposure to pH 9.0–9.5, thus, for some samples it may be beneficial to resuspend the precipitate initially in 0.15 M sodium phosphate that has been adjusted to pH 7.5 with 1 M HCl. After the precipitate is completely dissolved, the pH should be adjusted to 9.0–9.5 with 1 M NaOH and mixed for 10 minutes at room temperature before proceeding to Step 5.

Step 5. Check the pH and readjust to 9.0–9.5 with 1 M NaOH, as necessary. Remove the stir bar and centrifuge the dissolved precipitate at 4,000 − 10,000 × *g* for 10 minutes at 4°C. Remove the supernatant and discard the pellet. Adjust the pH of the supernatant (designated the final concentrated sample from this point on) to 7.0–7.5 with 1 M HCl and record the final volume on the Virus Data Sheet (see Part 8).

Step 6. Refrigerate the final concentrated sample immediately and hold at 4°C until it is assayed in accordance with the instructions given below. If the virus assay cannot be undertaken within 24 hours, store at −70°C.

Final concentrated samples processed to this point by a laboratory not doing the virus assay must be frozen at −70°C immediately and then shipped on dry ice to the laboratory approved for virus assay.

Part 3—Total Culturable Virus Assay

Quantal Assay

Apparatus and Materials

1. Incubator capable of maintaining the temperature of cell cultures at 36.5 ± 1°C.

2. Sterilizing filter—0.22 µm (Costar Product No. 140666).

Always pass about 10 ml of 1.5% beef extract adjusted to pH 7.0–7.5 through the filter just prior to use to minimize virus adsorption to the filter.

Media and Reagents

1. Prepare BGM cell culture test vessels using standard procedures.

BGM cells are a continuous cell line derived from African Green monkey kidney cells and are highly susceptible to many enteric viruses (Dahling et al., 1984; Dahling and Wright, 1986). The characteristics of this line were described by Barron et al. (1970). The use of BGM cells for recovering viruses from environmental samples was described by Dahling et al. (1974). For laboratories with no experience with virus recovery from environmental samples, the media described by Dahling and Wright (1986) is recommended for maximum sensitivity.

The U.S. Environmental Protection Agency will supply an initial culture of BGM cells to all laboratories seeking approval. Upon receipt, laboratories must prepare an adequate supply of frozen BGM cells using standard procedures to replace working cultures that become contaminated or lose virus sensitivity. BGM cells have been held at −70°C for more than 15 years with a minimum loss in cell viability.

Sample Inoculation and CPE Development

Cell cultures used for virus assay are generally found to be at their most sensitive level between the third and sixth days after their most recent passage. Those older than seven days should not be used.

Step 1. Identify cell culture test vessels by coding them with an indelible marker. Return the cell culture test vessels to a 36.5 ± 1°C incubator and hold at that temperature until the cell monolayer is to be inoculated.

Step 2. Thaw the final concentrated sample from Step 6 of the Organic Flocculation Concentration Procedure in Part 2, if frozen, and hold at 4°C for no more than 4 hours. Warm the sample to room temperature just prior to inoculation.

Step 3. Decant and discard the medium from cell culture test vessels.

Do not disturb the cell monolayer.

Step 4. Inoculate each BGM cell monolayer with a volume of the final concentrated sample appropriate for the cell surface area of the cell culture test vessels used.

Inoculum volume should be no greater than 0.04 ml/cm^2 of surface area.

Avoid touching either the cannula or the pipetting device to the inside rim of the cell culture test vessels to avert the possibility of transporting contaminants to the remaining culture vessels.

a. Inoculate one or more BGM cultures with an appropriate volume of 0.15 M $Na_2HPO_4 \bullet 7H_2O$ (see the Media and Reagents section in the Organic Flocculation Concentration Procedures in Part 2) preadjusted to pH 7.0–7.5. These cultures will serve as negative controls.

b. Inoculate one or more BGM cultures with an appropriate volume of 0.15 M $Na_2HPO_4 \bullet 7H_2O$ preadjusted to pH 7.0–7.5 and spiked with 20–40 PFU of the Lederle Fox strain of poliovirus type 3. These cultures will serve as a positive control for the quantal assay. Additional positive control samples may be prepared by adding virus to a small portion of the final concentrated sample and/or by using additional virus types.

c. Using the same volume of inoculum per cell culture vessel, inoculate a portion of the final concentrated sample that represents at least 100 liters of surface water or 1,000 liters of finished water. Calculate the total amount of the original water sample assayed by multiplying the sample volume (in liters) from the Sample Data Sheet (Part

8) by the fraction of the total final concentrated sample inoculated. Record this value on the Virus Data Sheet (Part 8).

It is advisable to inoculate a small subsample several days before inoculating the remaining samples as a control for cytotoxicity.

The volume of the final concentrated sample that represents 100 or 1,000 liters may be inoculated onto cultures at the same time or, preferably, inoculated in aliquots (i.e., a second half of the sample inoculated onto cultures that are at least one passage higher than the first half). If the latter approach is taken, the sample should be aliquoted before being frozen at −70°C and the inoculation of the second half should not be done until it is clear from the results of the first inoculation that cytotoxicity is not a problem.

Sufficient cultures must be inoculated to obtain the most probable number of infectious total culturable viruses (MPN) with acceptable 95% confidence limits. In order to demonstrate a total culturable virus level in source water of one per liter with an acceptable 95% confidence range, it is suggested that at least 20 cultures each be inoculated at the beginning of the monitoring period and during the Summer months with undiluted final concentrated sample and final concentrated sample diluted 1:5 and 1:25 in 0.15 M sodium phosphate, pH 7.0–7.5. If the initial monitoring results demonstrate virus levels of less than 1.5 MPN units per liter, then the inoculation of 40 cultures with only undiluted final concentrated sample should be sufficient for the remaining non-Summer collection periods. Since finished waters should contain little or no virus, the inoculation of 20 cultures with only undiluted final concentrated sample from finished waters should be sufficient.

Step 5. Rock the inoculated cell culture test vessels gently to achieve uniform distribution of inoculum over the surface of the cell monolayers. Place the cell culture test vessels on a level stationary surface at room temperature (22–25°C) or at 36.5 ± 1°C so that the inoculum will remain distributed evenly over the cell monolayer.

Step 6. Continue incubating the inoculated cell cultures for 80–120 minutes to permit viruses to adsorb onto and infect cells.

It may be necessary to rock the vessels every 15–20 min or to keep them on a mechanical rocking platform during the adsorption period to prevent cell death in the middle of the vessels from dehydration.

Step 7. Add liquid maintenance medium and incubate at 36.5 ± 1°C.

To reduce thermal shock to cells, warm the maintenance medium to 36.5 ± 1°C before placing on the cell monolayer.

To prevent disturbing cells with the force of liquid against the cell monolayer, add the medium to the side of the cell culture vessel opposite the cell monolayer. Also, if used, avoid touching either the cannula or syringe needle of the pipette or the pipetting device to the inside rim of the cell culture vessel to avert the possibility of transporting contaminants to the remaining culture vessels.

Step 8. Examine each culture microscopically for the appearance of cytopathic effects (CPE) daily for the first three days and then every couple of days for a total of 14 days.

CPE may be identified as cell disintegration or as changes in cell morphology. Rounding-up of infected cells is a typical effect seen with enterovirus infections. However, uninfected cells round-up during mitosis and a sample should not be considered positive unless there are significant clusters of rounded-up cells over and beyond what is observed in the uninfected controls. Photomicrographs demonstrating CPE appear in the reference by Malherbe and Strickland-Cholmley (1980).

Step 9. Freeze cultures at −70°C when more than 75% of the monolayer shows signs of CPE. Freeze all remaining negative cultures, including controls, after 14 days.

Step 10. In order to confirm the results of the previous passage, thaw all the cultures. Filter at least 20% of the medium from each vessel through a 0.22 µm sterilizing filter. Inoculate another BGM culture with a volume that represents 20% of the medium from the previous passage for each vessel. Repeat Steps 7 to 8.

Confirmation passages may be performed in small vessels or multiwell trays, however, it may be necessary to distribute the inoculum into several vessels or wells to insure that the inoculum volume is less than or equal to 0.04 ml/cm^2 of surface area.

Step 11. Score cultures that developed CPE in both the first and second passages as confirmed positives. Cultures that show CPE in only the second passage must be passaged a third time along with the negative controls according to Steps 9–10. Score cultures that develop CPE in both the second and third passages as confirmed positives.

Cultures with confirmed CPE may be stored in a −70°C freezer for research purposes or for optional identification tests.[3]

Virus Quantitation

Step 1. Determine the total number of confirmed positive and negative cultures and the volume which represents the amount of the original final concentrated sample for each dilution inoculated (e.g., if vessels are inoculated with 1 ml each of undiluted sample, sample diluted 1:5 and sample diluted 1:25, the volumes of the original final concentrated sample are 1 ml/vessel for undiluted sample, 0.2 ml/vessel for the 1:5 dilution and 0.04 ml/vessel for the 1:25 dilution). Record the values on the Virus Data Sheet (Part 8).

Step 2. Calculate the MPN/ml value and 95% confidence limits using a computer program to be supplied by the U.S. Environmental Protection Agency. Calculate the MPN/liter value of the original water sample by multiplying the MPN/ml value by the total number of milliliters of the final concentrated sample (S) inoculated onto cultures and then dividing by the volume in liters of the original sample assayed (D). Record the value onto the Virus Data Sheet (Part 8).

MPN values for samples assayed using several sample dilutions can be confirmed using the formula from Thomas: $MPN/ml = P/(NQ)^{0.5}$, where P equals the total number of confirmed positive samples for all dilutions, N equals the total volume of the original final concentrated sample (in ml) inoculated for all dilutions, and Q equals the total volume (in ml) of sample inoculated onto cultures that remained CPE negative. Calculate the MPN/liter value of the original water sample as above. MPN values for the assay of undiluted samples can be confirmed with the formula: $MPN = -\ln(q/n)$, where q equals the number of CPE negative cultures and n equals the total number of cultures. Calculate the MPN/liter value of the original water sample by multiplying the MPN value by the number of milliliters of the final concentrated sample inoculated per culture, multiplying this value by S, and then dividing by D.

Step 3. Calculate the upper and lower 95% confidence limit per liter values for each virus sample by multiplying the limit values obtained from the computer program by S and dividing by D. Record the limit per liter values on the Virus Data Sheet. Finished water must be tested for viruses following surface water samples which give a value of 1 or more per liter falling anywhere

[3] For more information see Chapter 12 (May 1988 revision) of Berg *et al.* (1984).

within the range of the 95% confidence limits.

Reduction of Cytotoxicity in Sample Concentrates

The procedure described in this Section may result in a significant titer reduction and should be applied only to inocula known to be or expected to be toxic.

Media and Reagents

1. Washing solution.

a. To a flask containing a stir bar and an appropriate volume of dH_2O, add NaCl to a final concentration of 0.85% (weight/volume; e.g., 0.85 g in 100 ml). Mix the contents of the flask on a magnetic stirrer at a speed sufficient to dissolve the salt. Remove the stir bar and autoclave the solution at 121°C for 15 min. Cool to room temperature.

The volume of the NaCl washing solution required will depend on the number of bottles to be processed and the cell surface area of the vessels used for the quantal assay.

b. Add 2% (volume/volume, e.g., 2 ml per 100 ml) serum to the sterile salt solution. Mix thoroughly and store at 4°C.

Although the washing solution may be stored at 4°C for an extended time period, it is advisable to prepare the solution on a weekly basis or to store it at −20°C.

Procedure for Cytotoxicity Reduction

Step 1. Decant and save the inoculum from inoculated cell culture vessels after the adsorption period (Step 6 of Sample Inoculation and CPE Development). Add 0.25 ml of the washing solution for each cm_2 of cell surface area into each vessel.

To reduce thermal shock to cells, warm the washing solution to 36.5 ± 1°C before placing on cell monolayer.

To prevent disturbing cells with the force of liquid against the cell monolayer, add washing solution to the side of the cell culture vessel opposite the cell monolayer. Also, if used, avoid touching either the cannula or syringe needle of the pipette or the pipetting device to the inside rim of the cell culture vessel to avert the possibility of transporting contaminants to the remaining culture vessels.

The inocula saved after the adsorption period should be stored at −70°C for subsequent treatment and may be discarded when cytotoxicity is successfully reduced.

Step 2. Rock the washing solution gently across the cell monolayer a minimum of two times. Decant and discard the spent washing solution in a manner that will not disturb the cell monolayer.

It may be necessary to gently rock the washing solution across the monolayer more than twice if sample is oily and difficult to remove from the cell monolayer surface.

Step 3. Continue with Step 7 of the procedure for Sample Inoculation and CPE Development.

If this procedure fails to reduce cytotoxicity with a particular type of water sample, backup samples may be diluted 1:2 to 1:4 before repeating the procedure. This dilution requires that two to four times more culture vessels be used. Dilution alone may sufficiently reduce cytotoxicity of some samples without washing. Alternatively, the changing of liquid maintenance medium at the first signs of cytotoxicity may prevent further development.

Determine cytotoxicity from the initial daily macroscopic examination of the appearance of the cell culture monolayer by comparing the negative and positive controls from Steps 6a and 6b of the procedure for Sample Inoculation and CPE Development with the test samples from Step 6c). Cytotoxicity should be suspected when the cells in the test sample develop CPE prior to its development on the positive control.

Part 4—Coliphage Assay of Processed Sample

Plaque Assay Procedure

This section outlines the procedures for coliphage detection by plaque assay. It should be noted that the samples to be analyzed may contain pathogenic human enteric viruses. Laboratories performing the coliphage analysis are responsible for establishing an adequate safety plan and must rigorously follow the guidelines on sterilization and aseptic techniques given in Part 5.

Apparatus and Materials

1. Sterilizing filter—0.45 µm (Costar Product No. 140667).

Always pass about 10 ml of 3% beef extract through the filter just prior to use to minimize phage adsorption to the filter.

2. Water bath set at 44.5 ± 1°C.

3. Incubator set at 36.5 ± 1°C.

Media and Reagents

1. Saline-calcium solution—dissolve 8.5 g of NaCl and 0.22 g of $CaCl_2$ in a total of 1 liter of dH_2O. Dispense in 9 ml aliquots in 16 x 150 mm screw-capped test tubes (Baxter Product No. T1356–6A) and sterilize by autoclaving at 121°C for 15 min.

2. Tryptone-yeast extract agar slants—add 1.0 g tryptone (Difco Product No. 0123), 0.1 g yeast extract (Difco Product No. 0127), 0.1 g glucose, 0.8 g NaCl, 0.022 g $CaCl_2$, and 1.2 g of Bacto-agar (Difco Product No. 0140) to a total volume of 100 ml of dH_2O in a 250 ml flask. Dissolve by autoclaving at 121°C for 20 minutes and dispense 8 ml aliquots into 16 x 150 mm test tubes with tube closures (Baxter Product Nos. T1311–16XX and T1291–16). Prepare slants by allowing the agar to solidify with the tubes at about a 20° angle. Slants may be stored at 4°C for up to two months.

3. Tryptone-yeast extract bottom agar—Prepare one day prior to sample analysis using the ingredients and concentrations listed for tryptone-yeast extract agar slants, except use 1.5 g of Bacto-agar. After autoclaving, pipet 15 ml aliquots aseptically into sterile 100 x 15 mm petri plates and allow the agar to harden. Store the plates at 4°C overnight or for up to one week in a sealed plastic bag and warm to room temperature for one hour before use.

4. Tryptone-yeast extract top agar—Prepare the day of sample analysis using the ingredients and concentrations listed for tryptone-yeast extract agar slants, except use 0.7 g of Bacto-agar. Autoclave and place in the 44.5 ± 1°C water bath.

5. Tryptone-yeast extract broth—Prepare as for tryptone-yeast extract agar slants, except without agar.

Sample Processing

Step 1. Filter the 40 ml eluate sample from Step 9 of the Elution Procedure through a 0.45 µm sterilizing filter and store at 4°C.

Step 2. Assay ten 1 ml volumes each for somatic and male-specific coliphage within 24 hours of elution. Store the remaining eluate at 4°C. This will serve as a reserve in the event of sample contamination or high coliphage densities. If the coliphage density is expected or demonstrated to be greater than 100 PFU/ml, dilute the original or remaining eluate with a serial 1:10 dilution series into saline-calcium solutions. Assay the dilutions which will result in plaque counts of 100 or less.

Storage of *E. coli* C Host Culture for Somatic Coliphage Assay

1. For short term storage inoculate a *Escherichia coli* C (American Type Culture Collection Product No. 13706) host culture onto tryptone-yeast extract agar slants with a sterile inoculating loop by spreading the inoculum evenly over entire slant surface. Incubate the culture overnight at 36.5 ± 1°C. Store at 4°C for up to 2 weeks.

2. For long term storage inoculate a 5–10 ml tube of tryptone-yeast extract broth with the host culture. Incubate the broth culture overnight at 36.5 ± 1°C. Add 1/10th volume of sterile glycerol. Dispense into 1 ml aliquots in cryovials (Baxter Product No. T4050–8) and store at −70°C.

Preparation of Host for Somatic Coliphage Assay

Step 1. Inoculate 5 ml of tryptone-yeast extract broth with *E. coli* C from a slant with an inoculating loop and incubate for 16 hours at 36.5 ± 1°C.

Step 2. Transfer 1.5 ml of the 16 hour culture to 30 ml of tryptone-yeast extract broth in a 125 ml flask and incubate for 4 hours at 36.5 ± 1°C with gentle shaking. The volume of inoculum and broth used in this step can be proportionally altered according to need.

Preparation of ϕX174 Positive Control

Step 1. Rehydrate a stock culture of ϕX174 (American Type Culture Collection Product No. 13706–B1) and store at 4°C.

Step 2. Prepare a 30 ml culture of *E. coli* C as described in section titled Preparation of Host for Somatic Coliphage Assay. Incubate for 2 hours at 36.5 ± 1°C with shaking. Add 1 ml of rehydrated phage stock and incubate for an additional 4 hours at 36.5 ± 1°C.

Step 3. Filter the culture through a 0.45 µm sterilizing filter.

Step 4. Prepare 10^{-7}, 10^{-8} and 10^{-9} dilutions of the filtrate using saline-calcium solution tubes.

These dilutions should be sufficient for most ϕX174 stocks. Some stocks may require higher or lower dilutions.

Step 5. Add 1 ml of the 10^{-9} dilution into each of five 16 x 150 mm test tubes. Using the same pipette, add 1 ml of the 10^{-8} dilution into each of five additional tubes and then 1 ml of the 10^{-7} dilution into five tubes. Label the tubes with the appropriate dilution.

Step 6. Add 0.1 ml of the host culture into each of the 15 test tubes from Step 5.

Step 7. Add 3 ml of the melted tryptone-yeast extract top agar held in the 44.5 ± 1°C water bath to one test tube at a time. Mix and immediately pour the contents of the tube over the bottom agar of a petri dish labeled with sample identification information. Rotate the dish to spread the suspension evenly over the surface of the bottom agar and place it onto a level surface to allow the agar to solidify.

An alternative order of the procedural steps here and in the assay procedures described below is to add the top agar to the tubes first, then the host culture, followed by the sample.

Step 8. Incubate the inoculated plates at 36.5 ± 1°C overnight and examine for plaques the following day.

Step 9. Count the number of plaques on each of the 15 plates (don't count plates giving plaque counts significantly more than 100). The five plates from one of the dilutions should give plaque counts of about 20 to 100 plaques. Average the plaque counts on these five plates and multiply the result by the reciprocal of the dilution to obtain the titer of the undiluted stock.

Step 10. Dilute the filtrate to 30 to 80 PFU/ml in tryptone-yeast extract broth for use in a positive control in the coliphage assay. Store the original filtrate and the diluted positive control at 4°C.

Before using the positive control for the first time, place 1 ml each into ten 16 x 150 mm test tubes and assay using Steps 6–8. Count the plaques on all plates and divide by 10. If the result is not 30 to 80, adjust the dilution of the positive control sample and assay again.

Procedure for Somatic Coliphage Assay

Step 1. Add 1 ml of the water eluate to be tested to each of ten 16 x 150 mm test tubes and 1 ml of the diluted ϕX174 positive control to another tube.

Step 2. Add 0.1 ml of the host culture to each test tube containing eluate or positive control.

Step 3. Add 3 ml of the melted tryptone-yeast extract top agar held in the 44.5 ± 1°C water bath to one test tube at a time. Mix and immediately pour the contents of the tube over the bottom agar of a petri dish labeled with sample identification information. Tilt and rotate the dish to spread the suspension evenly over the surface of the bottom agar and place it onto a level surface to allow the agar to solidify.

Step 4. Incubate the inoculated plates at 36.5 ± 1°C overnight and examine for plaques the following day.

Step 5. Somatic coliphage enumeration.

a. For each eluate sample count the total number of plaques on the ten plates receiving the water eluate and calculate the somatic coliphage titer (V_s) in PFU per liter according to the formula: $V_s = ((P/I) \times D \times E)/C$, where P is the total number of plaques in all test vessels for each sample, I is the volume (in ml) of the eluate sample assayed, D is the reciprocal of the dilution made on the inoculum before plating (D = 1 for undiluted samples), E is the total volume of eluate recovered (from the Virus Data Sheet) and C is the amount of water sample filtered in liters (from the Sample Data Sheet). Record the value of V_s on the Virus Data Sheet.

b. Count the plaques on the positive control plate. Record the plaque count onto the Virus Data Sheet as a check on the virus sensitivity of the *E. coli* C host. Assay any water eluate samples again where the positive control counts are more than one log below their normal average.

Storage of *E. coli* C–3000 Host Culture for Male-Specific Coliphage Assay:[4]

1. For short term storage inoculate a *Escherichia coli* C–3000 (American Type Culture Collection Product No. 15597) host culture onto tryptone-yeast extract agar slants with a sterile inoculating loop by spreading the inoculum evenly over entire slant surface. Incubate the culture overnight at 36.5 ± 1°C. Store at 4°C for up to 2 weeks.

2. For long term storage inoculate a 5–10 ml tube of tryptone-yeast extract broth with the host culture. Incubate the broth culture overnight at 36.5 ± 1°C. Add 1/10 volume of sterile glycerol. Dispense into 1 ml aliquots in cryovials (Baxter Product No. T4050–8) and store at −70°C.

Preparation of Host for Male-Specific Coliphage Assay:

Step 1. Inoculate 5 ml of tryptone-yeast extract broth with *E. coli* C–3000 from a slant with an inoculating loop and incubate for 16 hours at 36.5 ± 1#C.

Step 2. Transfer 1.5 ml of the 16 hour culture to 30 ml of tryptone-yeast extract broth in a 125 ml flask and incubate for 4 hours at 36.5 ± 1#C with gentle shaking. The amount of inoculum and broth used in this step can be proportionally altered according to need.

Preparation of MS2 Positive Control:

Step 1. Rehydrate a stock culture of MS2 (American Type Culture Collection Product No. 15597–B1) and store at 4°C.

Step 2. Prepare a 30 ml culture of *E. coli* C–3000 as described in section titled Preparation of Host for Male-Specific Coliphage Assay. Incubate for 2 hours at 36.5 ± 1°C with shaking. Add 1 ml of rehydrated phage stock and

[4] The term "male-specific" refers to bacteriophages whose receptor sites are located on the bacterial F-pilus. In addition to *E. coli* C–3000, *E. coli* Famp and strains of *Salmonella* which contain the F gene are considered suitable as alternative hosts. However, all three of these hosts will support the replication of strain-specific somatic bacteriophages in addition to the male-specific types. In addition, genetically modified *Salmonella* strains have the potential to support the replication of phages whose receptor is on other types of pili normally produced by *Salmonella* species.

incubate for an additional 4 hours at 36.5 ± 1°C.

Step 3. Filter the culture through a 0.45 µm sterilizing filter.

Step 4. Prepare 10^{-7}, 10^{-8} and 10^{-9} dilutions of the filtrate using saline-calcium solution tubes.

These dilutions should be sufficient for most MS2 stocks. Some stocks may require higher or lower dilutions.

Step 5. Add 1 ml of the 10^{-9} dilution into each of five 16 x 150 mm test tubes. Using the same pipette, add 1 ml of the 10^{-8} dilution into each of five additional tubes and then 1 ml of the 10^{-7} dilution into five tubes. Label the tubes with the appropriate dilution.

Step 6. Add 0.1 ml of the host culture into each of the 15 test tubes from Step 5.

Step 7. Add 3 ml of the melted tryptone-yeast extract top agar held in the 44.5 ±1°C water bath to one test tube at a time. Mix and immediately pour the contents of the tube over the bottom agar of a petri dish labeled with sample identification information. Rotate the dish to spread the suspension evenly over the surface of the bottom agar and place it onto a level surface to allow the agar to solidify.

Step 8. Incubate the inoculated plates at 36.5 ±1°C overnight and examine for plaques the following day.

Step 9. Count the number of plaques on each of the 15 plates (don't count plates giving plaque counts significantly more than 100). The five plates from one of the dilutions should give plaque counts of about 20 to 100 plaques. Average the plaque counts on these five plates and multiply the result by the reciprocal of the dilution to obtain the titer of the undiluted stock.

Step 10. Dilute the filtrate to 30 to 80 PFU/ml in tryptone-yeast extract broth for use in a positive control in the coliphage assay. Store the original filtrate and the diluted positive control at 4°C.

Before using the positive control for the first time, place 1 ml each into ten 16 x 150 mm test tubes and assay using Steps 6–8. Count the plaques on all plates and divide by 10. If the result is not 30 to 80, adjust the dilution of the positive control sample and assay again.

Procedure for Male-Specific Coliphage Assay:

Step 1. Add 1 ml of the water eluate to be tested to each of ten 16 x 150 mm test tubes and 1 ml of the diluted MS2 positive control to another tube.

Step 2. Add 0.1 ml of the host culture to each test tube containing eluate or positive control.

Step 3. Add 3 ml of the melted tryptone-yeast extract top agar held in the 44.5 ±1°C water bath to one test tube at a time. Mix and immediately pour the contents of the tube over the bottom agar of a petri dish labeled with sample identification information. Tilt and rotate the dish to spread the suspension evenly over the surface of the bottom agar and place it onto a level surface to allow the agar to solidify.

Step 4. Incubate the inoculated plates at 36.5 ±1°C overnight and examine for plaques the following day.

Step 5. Coliphage enumeration.

a. For each eluate sample count the total number of plaques on the ten plates receiving the water eluate and calculate the male specific phage titer (V_m) in PFU per liter according to the formula: $V_m = ((P/I) \times D \times E)/C$, where P is the total number of plaques in all test vessels for each sample, I is the volume (in ml) of the eluate sample assayed, D is the reciprocal of the dilution made on the inoculum before plating (D = 1 for undiluted samples), E is the total volume of eluate recovered (from the Virus Data Sheet) and C is the total number of liters of water sample filtered (from the Sample Data Sheet). Record this value on the Virus Data Sheet.

b. Count the plaques on the positive control plate. Record the plaque count onto the Virus Data Sheet as a check on the virus sensitivity of the *E. coli* C–3000 host. Assay any water eluate samples again where the positive control counts are more than one log below their normal average.

Part 5—Sterilization and Disinfection

General Guidelines

1. Use aseptic techniques for handling test waters, eluates and cell cultures.

2. Sterilize apparatus and containers that will come into contact with test waters, all solutions that will be added to test waters unless otherwise indicated, and all eluants.

3. Sterilize all contaminated materials before discarding.

4. Disinfect all spills and splatters.

Sterilization Techniques

Solutions:

1. Sterilize all solutions, except those used for cleansing, standard buffers, hydrochloric acid (HCl), sodium hydroxide (NaOH), and disinfectants by autoclaving them at 121°C for 15 minutes.

The HCl and NaOH solutions and disinfectants used are self-sterilizing. When autoclaving buffered beef extract, use a vessel large enough to accommodate foaming.

Autoclavable Glassware, Plasticware, and Equipment:

Water speeds the transfer of heat in larger vessels during autoclaving and thereby speeds the sterilization process. Add dH_2O to vessels in quantities indicated in Table 1. Lay large vessels on sides in autoclave, if possible, to facilitate displacement of air in vessels by flowing steam.

1. Cover the openings into autoclavable glassware, plasticware, and equipment loosely with aluminum foil before autoclaving. Autoclave at 121°C for one hour.

Glassware may also be sterilized in a dry heat oven at a temperature of 170°C for at least one hour.

2. Sterilize stainless steel vessels (dispensing pressure vessel) in an autoclave at 121°C for 30 minutes.

Vent-relief valves on vessels so equipped must be open during autoclaving and closed immediately when vessels are removed from autoclave.

3. Presterilize 1MDS filter cartridges and prefilter cartridges by wrapping the filters in Kraft paper and autoclaving at 121°C for 30 minutes.

4. Sterilize working instruments, such as scissors and forceps, by immersing them in 95% ethanol and flaming them between uses.

Table 1. Quantity of Water to be Added to Vessels during Autoclaving.

Vessel size (liter)	Quantity of dH_2O (ml)
2 and 3	25
4	50
8	100
24	500
54	1000

Chlorine Sterilization:

Sterilize plasticware (filter housings) and tubing that cannot withstand autoclaving or vessels that are too large for the autoclave by chlorination. Prefilters, but not 1MDS filters may be presterilized with chlorine as an alternative to autoclaving.

1. Media and Reagents

a. 0.1% chlorine (HOCl)—add 19 ml of household bleach (Clorox, The Clorox Co., or equivalent) to 981 ml of dH_2O and adjust the pH of the solution to 6–7 with 1 M HCl.

2. Procedures

Ensure that the solutions come in full contact with all surfaces when performing these procedures.

a. Sterilize the filter apparatus and tubing by recirculating or immersing in 0.1% chlorine for 30 minutes. Drain the chlorine solution from objects being sterilized. Dechlorinate using a solution

containing 0.5 ml of 10% sterile sodium thiosulfate per liter of dH_2O. Rinse with sterile dH_2O.

b. Sterilize pH electrodes before and after each use by immersing the tip of the electrode in 0.1% chlorine for one min. Dechlorinate and rinse the electrode as in Step 2a above.

Procedure for Verifying Sterility of Liquids

Do not add antibiotics to media or medium components until after sterility of the antibiotics, media and medium components has been demonstrated. The BGM cell line used should be checked every six months for mycoplasma contamination according to test kit instructions. Cells that are contaminated should be discarded.

Media and Reagents:

1. Mycoplasma testing kit (Irvine Scientific Product No. T500–000). Use as directed by the manufacturer.

2. Thioglycollate medium (Difco Laboratories Product No. 0257–01–9). Prepare broth medium as directed by the manufacturer.

Verifying Sterility of Small Volumes of Liquids:

Step 1. Inoculate 5 ml of the material to be tested for sterility into 5 ml of thioglycollate broth. Shake the mixture and incubate at 36.5 ± 1°C.

Step 2. Examine the inoculated broth daily for seven days to determine whether growth of contaminating organisms has occurred.

Containers holding the thioglycollate medium must be tightly sealed before and after the medium is inoculated.

Visual Evaluation of Media for Microbial Contaminants:

Step 1. Incubate either the entire stock of prepared media or aliquots taken during preparation which represent at least 5% of the final volume at 36.5 ± 1°C for at least one week prior to use.

Step 2. Visually examine and discard any media that lose clarity.

A clouded condition that develops in the media indicates the occurrence of contaminating organisms.

Contaminated Materials

1. Autoclave contaminated materials for 30 minutes at 121°C. Be sure that steam can enter contaminated materials freely.

2. Many commercial disinfectants do not adequately kill enteric viruses. To ensure thorough disinfection, disinfect spills and other contamination on surfaces with either a solution of 0.5% iodine in 70% ethanol (5 g I_2 per liter) or 0.1% chlorine. The iodine solution has the advantage of drying more rapidly on surfaces than chlorine, but may stain some surfaces.

Part 6—Biblography and Suggested Reading

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Part 7—Vendors

The vendors listed below represents one possible source for required products. Other vendors may supply the same or equivalent products.

American Type Culture Collection, 12301 Parklawn Dr., Rockville, MD 20852, (800) 638–6597

Baxter Diagnostics, Scientific Products Div., 1430 Waukegan Rd., McGaw Park, IL 60085, (800) 234–5227

Becton Dickonson Microbiology Systems, 250 Schilling Circle, Cockeysville, MD 21030, (410) 771–0100 (Ask for a local distributor)

Cole-Parmer Instrument Co., 7425 N. Oak Park Ave., Niles, IL 60714, (800) 323–4340,

Costar Corp., 7035 Commerce Circle, Pleasanton, CA 94588, (800) 882–7711

Cuno, Inc., 400 Research Parkway, Meriden, CT 06450, (800) 243–6894

DEMA Engineering Co., 10014 Big Bend Blvd., Kirkwood, MO 63122, (800) 325–3362

Difco Laboratories, P.O. Box 331058, Detroit, MI 48232, (800) 521–0851 (Ask for a local distributor)

Fisher Scientific, 711 Forbes Ave., Pittsburgh, PA 15219, (800) 766–7000

Millipore Corp., 397 Williams St., Marlboro, MA 01752, (800) 225–1380

Nalge Co., P.O. Box 20365, Rochester, NY 14602, (716) 586–8800 (Ask for a local distributor)

Neptune Equipment Co., 520 W. Sharon Rd., Forest Park, OH 45240, (800) 624–6975

OMEGA Engineering, Inc., P.O. Box 4047, Stamford, CT 06907, (800) 826–6342

Parker Hannifin Corp., Commercial Filters Div., 1515 W. South St., Lebanon, IN 46052, (317) 482–3900

Ryan Herco, 2509 N. Naomi St., Burbank, CA 91504, (800) 848–1141

United States Plastic Corp., 1390 Neubrecht Rd., Lima, OH 45801, (800) 537–9724

Watts Regulator, Box 628, Lawrence, MA 01845 , (508) 688–1811

Part 8—Data Sheets

Sample Data Sheet

Sample Number: _____
Water System Name: _____
System Location: _____
Sampler's Name: _____
Water pH: _____ Water Temperature: _____ °C
Initial Meter Reading: _____ (check units)
_____ ft^3 _____ gallons
Date: _____ Time: _____
Final Meter Reading: _____ (check units)
_____ ft^3 _____ gallons
Date: _____ Time: _____
Total sample volume: _____ liters
(Final—Initial meter readings x 28.316 (for readings in ft^3 or x 7.481 (for readings in gallons))
Sample arrival condition: _____
Comments:

Virus Data Sheet

Sample Number: _____
Water System Name: _____
System Location: _____
Date Sample collected: _____
Eluate volume recovered: _____
Date eluted: _____
Date concentrated: _____
Final concentrated sample volume: _____ ml
Date(s) assayed by CPE: _____
Original water sample volume assayed:
_____ Liters
Coliphage Quantitation:
Date Assayed: _____
Somatic Coliphage Titer: _____
No. Control plaques PFU/l _____
Male-Specific phage titer: _____
PFU/l _____
Comments:

TOTAL CULTURABLE VIRUS QUANTITATION

Sample	Total No. cultures	No. of negative cultures	Volume on negative cultures	No. of positive cultures	Volume on positive cultures	MPN/l[a]	95% confidence limits	
							Upper	Lower
1st Passage:								
Negative Control						NA[b]	NA	NA
Positive Control						NA	NA	NA
Undiluted						NA	NA	NA
1:5 Dilution						NA	NA	NA
1:25 Dilution						NA	NA	NA
2nd Passage:[c]								
Negative Control						NA	NA	NA
Positive Control						NA	NA	NA
Undiluted								
1:5 Dilution								
1:25 Dilution								
3rd Passage:[d]								
Negative Control						NA	NA	NA
Positive Control						NA	NA	NA

TOTAL CULTURABLE VIRUS QUANTITATION—Continued

Sample	Total No. cultures	No. of negative cultures	Volume on negative cultures	No. of positive cultures	Volume on positive cultures	MPN/l[a]	95% confidence limits	
							Upper	Lower
Undiluted								
1:5 Dilution								
1:25 Dilution								

[a] Compute MPN of confirmed samples only according to the Virus Quantitation Section of Part 3.
[b] Not applicable.
[c] A portion of medium from each 1st passage vessel, including controls, must be repassaged for conformation. The terms "Undiluted," "1:5 Dilution" and "1:25 Dilution" under the 2nd and 3rd Passage headings refer to the original sample dilutions for the 1st passage.
[d] Samples that were negative on the first passage and positive on the 2nd passage must be passaged a third time for conformation. If a third passage is required, all controls must be passaged again.

BILLING CODE 6560-50-P

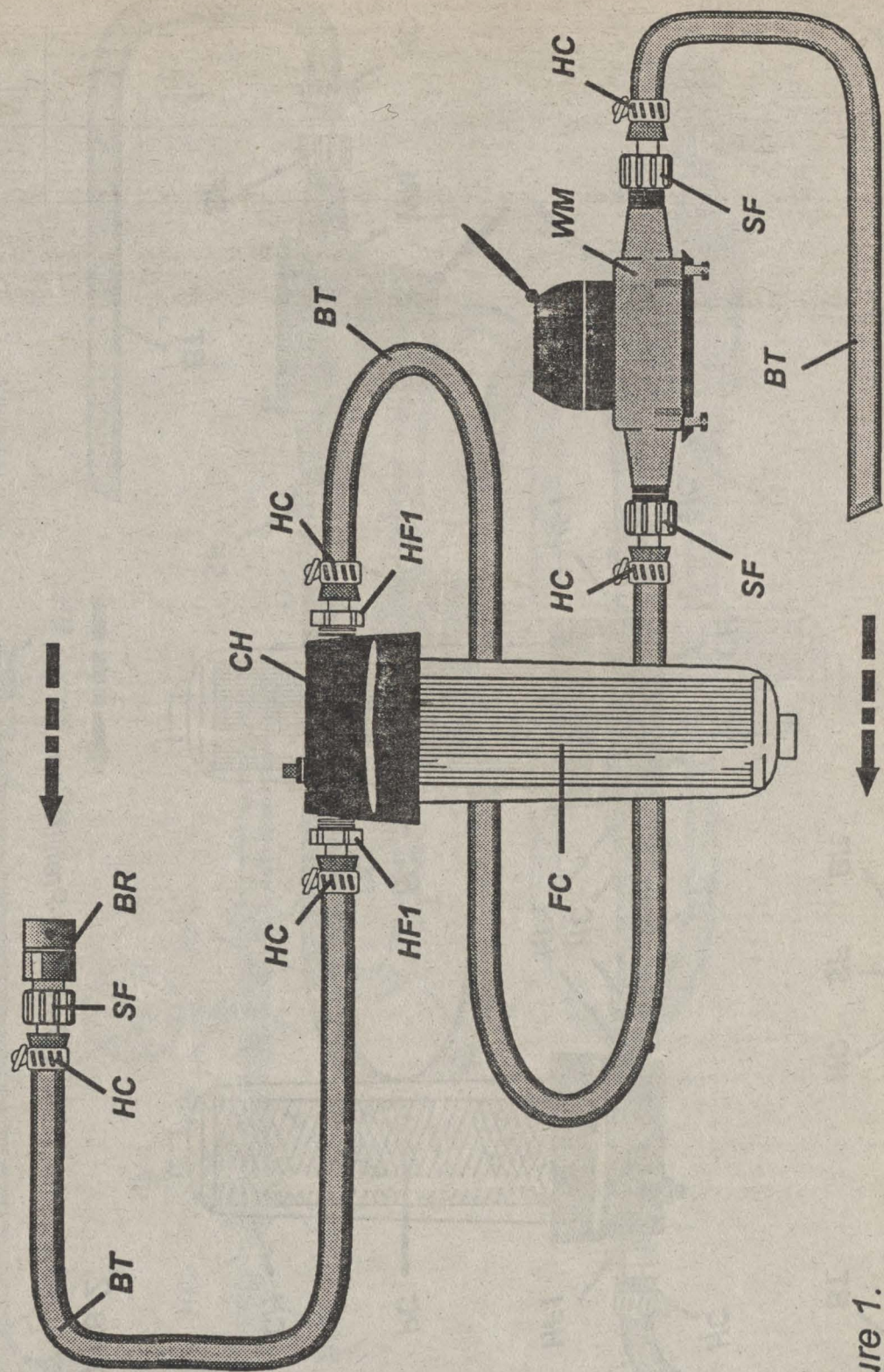

Figure 1.
Standard Filter Apparatus

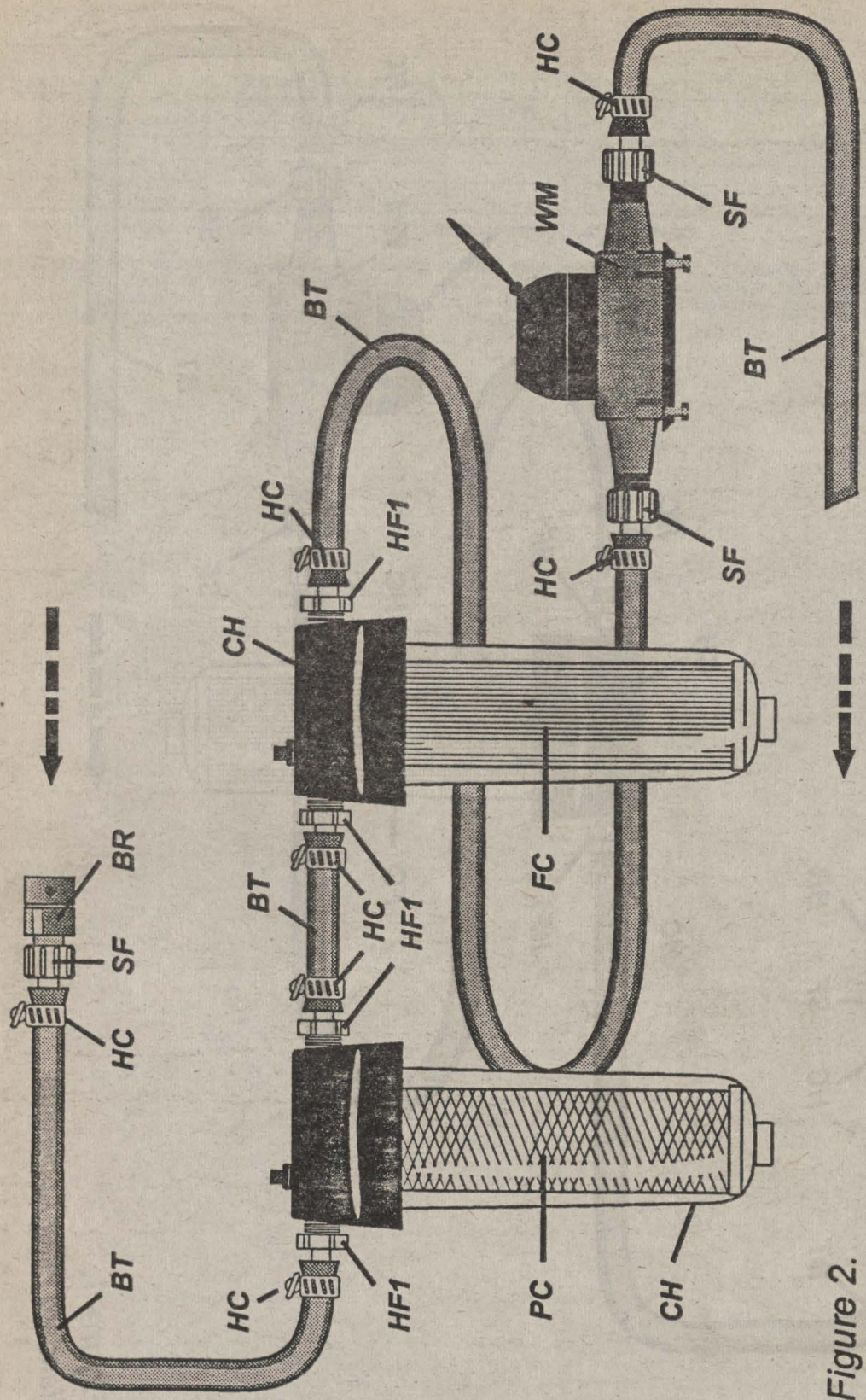

Figure 2.
Filter Apparatus for Waters Requiring Prefiltration

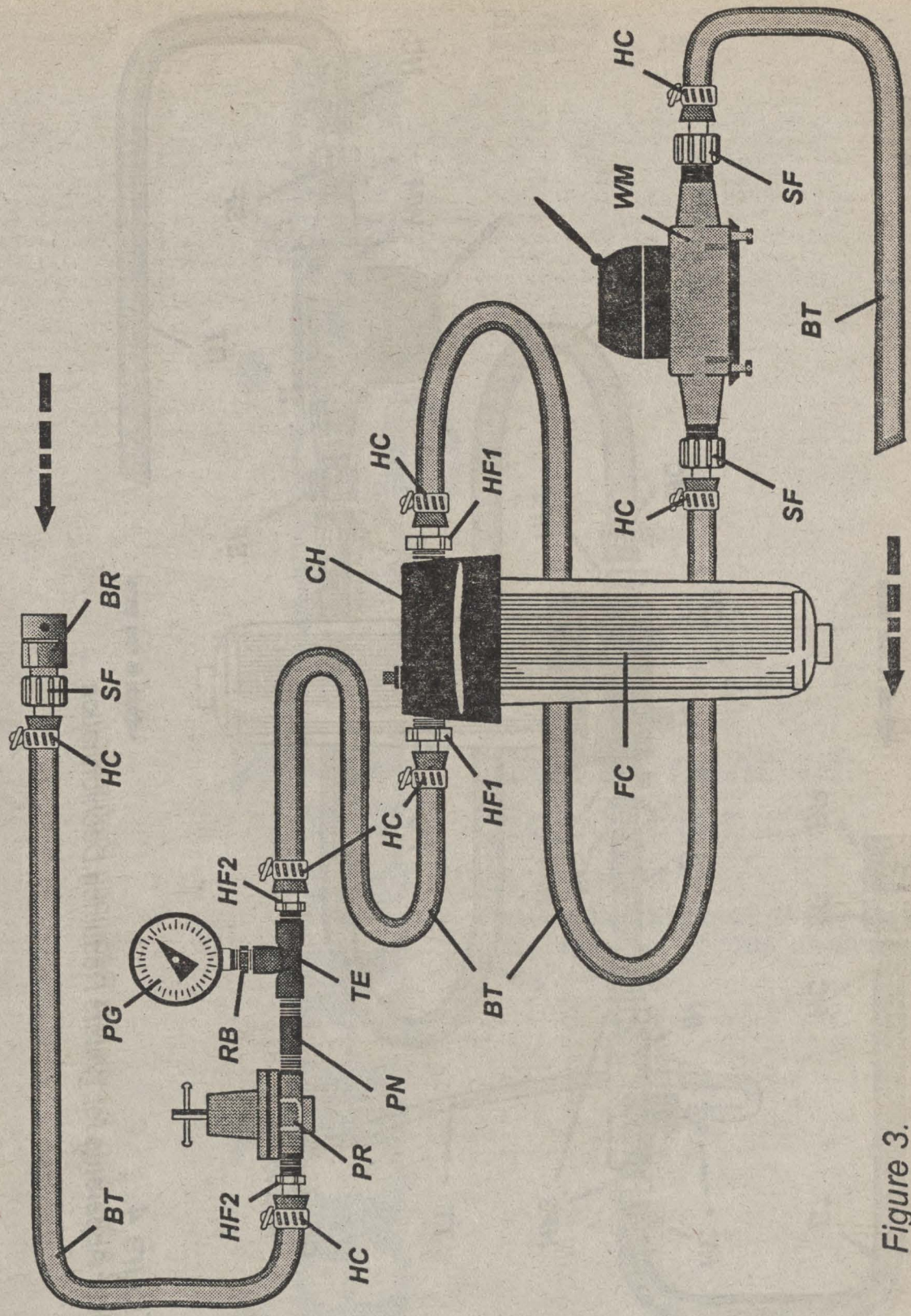

Figure 3.
Filter Apparatus for Water Pressures > 50 psi

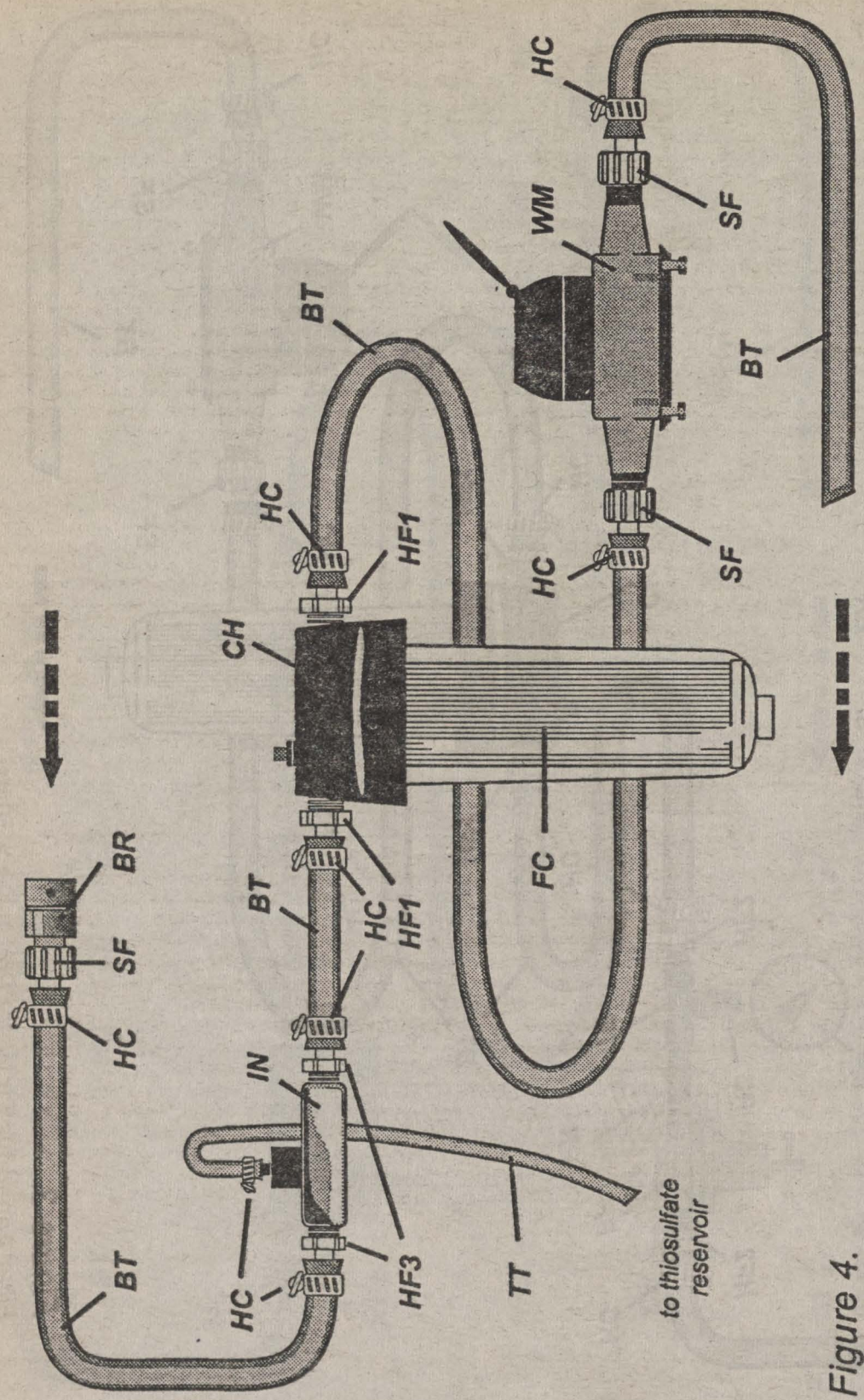

Figure 4.
Filter Apparatus for Waters Requiring Dechlorination

[FR Doc. 94–2587 Filed 2–9–94; 8:45 am]
BILLING CODE 6560–50–C

federal register

Thursday
February 10, 1994

Part III

Department of Education

30 CFR Part 600

Institutional Eligibility Under the Higher Education Act of 1965, as Amended; Proposed Rule

DEPARTMENT OF EDUCATION

34 CFR Part 600

RIN 1840-AB87

Institutional Eligibility Under the Higher Education Act of 1965, as Amended

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations governing institutional eligibility under the Higher Education Act of 1965, as amended (HEA). The proposed regulations would implement new HEA statutory provisions that were added by the Higher Education Amendments of 1992 and the Higher Education Technical Amendments of 1993. In general, these new statutory provisions tightened the eligibility requirements for institutions participating in the student financial assistance programs authorized under Title IV of the HEA (Title IV, HEA programs). The proposed regulations also would clarify existing provisions, and, in keeping with the statutory changes, tighten procedures governing institutional eligibility determinations.

DATES: Comments must be received on or before March 14, 1994.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Cheryl Leibovitz, U.S. Department of Education, 400 Maryland Avenue, SW. (Regional Office Building 3, room 4318), Washington, DC 20202-5346.

A copy of any comments that concern 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: Cheryl Leibovitz. Telephone: (202) 708-7888. 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: The Higher Education Amendments of 1992, Public Law 102-325 and the Higher Education Technical Amendments of 1993, Public Law 103-208, amended the HEA in several areas relating to institutional eligibility. These areas include, among others: The definition and treatment of a "branch campus," a "correspondence course," and a "telecommunications course;" the enrollment of incarcerated students and ability-to-benefit students; the percentage of its revenues that an eligible proprietary institution of higher education can derive from Title IV, HEA program funds; and the filing of an institution for bankruptcy. The Secretary discusses each of these subjects in more detail later in the preamble.

These proposed regulations were subject to a regulations negotiation process as required by section 492 of the HEA. Under that process, the Secretary convened four regional meetings to obtain public involvement in the development of these proposed regulations. These meetings were held in San Francisco, Atlanta, New York, and Kansas City. At these meetings, the Secretary provided attendees with a list of issues that needed to be addressed in these proposed regulations. A summary of the responses of the attendees is contained in Appendix A to these proposed regulations.

Groups that attended the regional meetings nominated individuals to participate in regulation negotiations. The Secretary selected regulation negotiators from the names nominated and chose negotiators to reflect all the groups that participate in the Title IV, HEA programs, such as students, student financial aid administrators, and various types of eligible institutions.

In accordance with section 492(b) of the HEA, the Secretary prepared draft proposed regulations and negotiated the provisions of that draft with the negotiators. Consensus was reached regarding § 600.7(c)(3)(ii), the proposed requirement for a degree-granting institution to demonstrate a 50% completion rate for incarcerated students enrolled in the institution's nonassociate or nonbachelor degree programs if the institution wishes to qualify those programs for a waiver from the provision that limits an institution's enrollment of incarcerated regular students to less than 25 percent. This and other related provisions are discussed in greater detail in the discussion on § 600.7. The remaining regulatory provisions reflect the agreement of the great majority of the negotiators.

The following discussion reflects proposed significant changes to the existing Institutional Eligibility regulations. Proposed changes are discussed in the order in which they appear in the proposed regulations text. If a provision applies to more than one section or is included in more than one section, it is discussed the first time it appears with an appropriate reference to its other appearances.

Section 600.2 Definitions

"Award year." The Secretary proposes to this definition to these regulations from the Student Assistance General Provisions regulations because the term "award year" now applies to these regulations as well.

"Branch campus." Section 498(j) of the HEA directs the Secretary to define this term. For consistency, the Secretary proposes to adopt the existing definition set forth in 34 CFR 607.7(b) of the Strengthening Institutions Program regulations authorized under Title III, Part A, of the HEA.

"Correspondence course" and *"telecommunications course."* The definition of a telecommunications course essentially restates the statutory definition contained in section 484(m)(4) of the HEA. As provided in section 484(m)(1) of the HEA, as a general rule a telecommunications course is not considered a correspondence course. However, as further indicated in that section, a telecommunications course offered at an institution would be considered a correspondence course if the sum of telecommunications courses and correspondence courses offered by the institution equals or exceeds 50 percent of the total courses offered at the institution.

In addition, as reflected in section 484(m)(4) of the HEA, a home study course that is offered by an institution through video cassette or video disc recordings in an award year would qualify as a telecommunications course rather than a correspondence course only if the institution also delivers the instruction on the cassettes or discs to students in person, i.e., to students physically attending classes at the institution, during that same award year.

If a course is part residential and part correspondence, the Secretary considers the course to be a correspondence course. This straightforward interpretation eliminates the need for the Secretary to address all the troublesome issues involving the quantity of education that an institution claims to provide in a correspondence program.

"Educational program." Under the HEA, a community college may qualify as an eligible institution of higher education if it offers a two-year educational program that is acceptable for full credit toward a bachelor's degree at a four-year institution. Therefore, the Secretary wishes to clarify that under the definition of an educational program, which requires that such a program lead to a degree, certificate, or

other educational credential, the Secretary considers that a transcript that a student receives for successfully completing the two-year program is a recognized educational credential.

"Incarcerated student." The Secretary proposes to define this term to mean a student who is confined in a correctional facility. However, the Secretary proposes that students who are in less formal arrangements, such as half-way houses, home detention, or sentenced to serve only weekends, would not be considered incarcerated. (Incarcerated students have limited costs of attendance under the Title IV, HEA programs, they are ineligible to receive loans under Title IV of the HEA, their enrollment may affect the eligibility of an institution if more than 25 percent of that institution's enrollment consists of incarcerated students, and certain incarcerated students are ineligible for Federal Pell Grants.)

In general, if incarcerated students attend an institution of higher education, they attend under a specific arrangement between the institution and the facility in which they are incarcerated. Thus, institutions are aware of the identity and number of enrolled incarcerated students. By being so aware, institutions will be able to abide by the limitations imposed on those students when awarding Title IV, HEA program funds, and the institutions themselves will be able to avoid becoming ineligible as a result of admitting too many incarcerated students.

By defining incarcerated students to exclude students in halfway houses and home detention, or serving weekend sentences, the admission of those students would not affect an institution's eligibility, and the students would not be subject to the special conditions described above. Thus, the Secretary's proposed definition would eliminate a burden on institutions of identifying these students as incarcerated students and would allow the students access to Federal Pell Grant funds and loans under Title IV of the HEA. However, if an institution is aware that a student is living in a halfway house, is under home detention or is serving a weekend sentence, and believes it is inappropriate for that student to obtain a FFEL program loan, the institution is free to refrain from certifying the FFEL program application of the student.

"One-academic-year training program." The Secretary proposes to revise the definition of a "one-year training program" to be consistent with the definition of an "academic year" in section 481(d) of the HEA. Under the statutory definition, an academic year must include at least "30 weeks of instructional time." The Secretary will more fully define an "academic year" in proposed regulations to be published shortly after these regulations.

"Recognized equivalent of a high school diploma." Under the Secretary's current policy, this term includes (1) the academic transcript of a student who has successfully completed at least a two-year program that is acceptable for full credit toward a bachelor's degree; or (2) documentation that a student has excelled academically in high school and has met the formalized, written admission policies of the institution. This latter criterion addresses the "academically gifted" early admission student at a college or university. The Secretary proposes to amend the regulatory definition of a recognized equivalent of a high school diploma to include those criteria. Based on negotiated rulemaking, the Secretary is considering requiring that a student be in at least the upper quartile of his or her high school class to have "excelled academically in high school".

Section 600.3 Special Conditions

The Secretary proposes to delete this section because it is no longer needed. The requirements contained in paragraphs (a) and (b) are no longer needed because institutions offering only correspondence courses are no longer eligible institutions. The requirement that an institution be legally authorized to provide postsecondary education in the State in which it is physically located is now contained in §§ 600.4, 600.5, and 600.6.

The Secretary proposes to delete paragraph (c)(1) because that paragraph restates the requirement in section 1201(a)(2) of the HEA, i.e. an institution must be legally authorized to provide postsecondary education in its State, that is made applicable to proprietary institutions of higher education under section 481(b)(2) of the HEA, and made applicable to postsecondary vocational institutions by section 481(c)(2) of the HEA. Institutions are required to abide by those statutory requirements regardless of whether they are repeated in regulations. Thus, the Secretary wishes to reiterate that it is the Secretary's view that if the State in which an institution is physically located requires an institution to provide its programs in clock hours in order to be legally authorized to provide postsecondary education in that State, that institution satisfies section 1201(a)(2) of the HEA only if it provides its programs in clock hours. The elimination of § 600.3(c)(1) does not affect that result.

The Secretary proposes to delete paragraph (d)(1) in view of the regulations published in the **Federal Register** of July 23, 1993 (58 FR 39618–39623) that established a relationship between credit hours and clock hours for Title IV, HEA program purposes. The Secretary proposes to delete paragraphs (c)(2) and (d)(2) because "vocational schools" are no longer eligible institutions under the HEA.

Section 600.4 Institution of Higher Education

Section 496(e) of the HEA provides that the Secretary may not recognize the accreditation or preaccreditation of an institution unless the institution agrees to submit any dispute involving the final denial, withdrawal, or termination of its accreditation to arbitration before initiating any other legal action. The Secretary, in this section and §§ 600.5 and 600.6, proposes that the referenced arbitration be binding arbitration so that any legal action after arbitration would be limited to whether the arbitrator's decision was arbitrary or capricious. The Secretary believes that this approach best carries out the purpose of section 496(e) by limiting, to the maximum extent possible, litigation in this area. This same provision is also included in §§ 600.5 and 600.6.

The Higher Education Amendments of 1992 removed the transfer-of-credit alternative to accreditation from the definition of an institution of higher education in section 1201(a) of the HEA. However, section 2(n) of the Higher Education Technical Amendments of 1993 provides that unaccredited institutions that lost their institutional eligiblity because the transfer-of-credit alternative was removed from section 1201(a) of the HEA may regain that institutional eligibility, for a limited time, provided they meet certain conditions. Because section 2(n) affects only a dozen institutions and the provision for regaining eligibility is only temporary, the Secretary proposes to remove the references to the transfer-of-credit alternative to accreditation in this section. Under section 2(n), an unaccredited institution that satisfied the transfer-of-credit alternative to accreditation on July 22, 1992 will be considered to meet the requirements of section 1201(a)(5) of the HEA (concerning accreditation or preaccreditation) if—

(1) By February 18, 1994, the institution has applied for accreditation to a nationally recognized accrediting agency or association;

(2) By December 20, 1995, the institution is fully accredited by that accrediting agency or association or, if not so fully accredited, is preaccredited by that agency or association if that agency or association has been recognized by the Secretary to grant preaccreditation status; and

(3) The institution otherwise satisfies the requirements of section 1201 (a)(1) through (a)(4).

The Higher Education Technical Amendments of 1991 (Pub. L. 102–26, enacted on April 9, 1991) amended the requirements for admitting students who do not have a high school diploma or its recognized equivalent. As a result of Public Law 102–26, to maintain its eligibility an institution is no longer required to demonstrate that a student who does not possess a high school diploma or its recognized equivalent has met certain requirements. Any references to these previous requirements have been removed from this section and also from §§ 600.5 and 600.6.

Currently, the regulations provide that an institution is not eligible to participate in the Part B loan programs if the institution uses or employs commissioned salespersons to promote the availability of Part B loan program loans at that institution. The Higher Education Amendments of 1992 added several provisions to the institutional program participation agreement. One of these provisions is that, with the exception of recruiting foreign students residing in foreign countries who are not eligible for Title IV, HEA program assistance, an institution may not pay a commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to a person or entity engaged in recruiting, admission, or making decisions regarding student financial assistance.

As a result of this new program participation agreement requirement (which is broader in nature than the provision in current regulations), the Secretary proposes to remove all references in this section to commissioned salespersons in the current regulations. Instead, provisions pertaining to the use of commissioned salespersons will be proposed when the Secretary publishes, shortly after these proposed regulations, a notice of proposed rulemaking for the Student Assistance General Provisions regulations that deal with the program participation agreement.

Section 600.5 Proprietary Institution of Higher Education

The statute requires that in order for an educational institution to qualify as a proprietary institution of higher education, it must have been in existence for at least two years. Under current regulations, the Secretary considers an institution to have been in existence for two years only if it has been legally authorized to provide, and has provided, during the 24 months (except for normal vacation periods) preceding the date of application for eligibility, a continuous training program to prepare students for gainful employment in a recognized occupation. The Secretary is proposing to make two changes to this provision. Conforming proposals are also included in §§ 600.6 and 600.7.

Under the first proposed change, during the two-year period preceding the institution's date of application, the institution will not be penalized if it failed to provide training because it temporarily closed due to a natural disaster that affected the institution or its students. This proposed change represents the Secretary's current policy.

The purpose of the two-year rule is to have an institution establish that it is a viable institution that offers quality educational programs for which students will pay their own money before students can receive Title IV, HEA Program funds to enroll in those programs. The Secretary believes that this purpose is strengthened if the programs that the institution offers when it applies for institutional eligibility are substantially the same as the programs that the institution offered during the preceding two-year period. The Secretary further believes that this purpose is not served if an institution merely offers one very short program for two years and then applies for institutional eligibility offering a host of much longer and substantially different programs. Therefore, under the second proposed change, the Secretary has proposed that to satisfy the two-year rule, an institution must offer over the two-year period a training program that is substantially the same in subject matter and length of program as the training program it offers at the time of application.

Section 481(b)(6) of the HEA adds a new eligibility criterion to the definition of a proprietary institution of higher education. That section requires that a proprietary institution must derive at least fifteen percent of its revenues from non-Title IV, HEA program funds. Put another way, the section prohibits a proprietary institution of higher education from deriving more than 85 percent of its revenues from Title IV, HEA program funds. Using this latter approach, the Secretary proposes the fraction contained in § 600.5(d)(1) to measure this criterion, i.e., the "85 percent rule."

In proposing this rule, the Secretary had to interpret the term "revenue." In general, at least three interpretations are possible. One interpretation would limit revenues to those funds received by the institution from tuition and fees; the second would allow an institution to include revenues received by the institution from any source for any purpose; the third would limit revenues to tuition and fees plus revenues from other activities carried out by the institution that are necessary to the education or training programs offered by the institution.

These three interpretations are illustrated in the following example. A cosmetology institution owns several beauty salons. In one of the salons, students perform all the hair cutting as part of their program of training. Under the first interpretation, the only revenues that the institution could count would be the tuition and fees it charged its students. Under the second interpretation, the institution could count all revenues it received from all its beauty salons plus the tuition and fees it charged to its students. Under the third interpretation, the institution could count the tuition and fees it charged plus revenues it received from the one beauty salon at which the students performed the service.

The Secretary believes that the purpose of the new statutory criterion is to require proprietary institutions to attract students based upon the quality of their programs, not solely because the institutions offer Federal student financial assistance. Thus, under the statute, these institutions must attract students who will pay for their programs with funds other than Title IV, HEA program funds. On the other hand, the Secretary recognizes that many institutions, because of their locations, provide educational opportunities to students in low-income areas who cannot attend postsecondary education without Title IV, HEA program funds. The Secretary considered these two factors, as well as the fact that the criterion relates to whether an institution qualifies as an educational institution, in selecting his proposed interpretation of the term "revenue."

The Secretary believes that counting only the income received from students' tuition and fees is too limiting; on the other hand, the Secretary believes it is

inappropriate to count as revenues income from businesses that are owned and operated by the institution, regardless of the relationship between the educational institution and the businesses. The Secretary chose the third interpretation because the permitted revenues generated by the institution relate to the purpose of the institution, providing training to students, and are generated as a necessary part of that training. The Secretary recognizes that the third interpretation will make the rule more difficult to administer because it will be necessary for an institution to determine which of its revenue-producing activities are "necessary" for its students' education or training.

In proposed § 600.5(d)(2)(vi), the Secretary has listed criteria that would have to be satisfied to make a determination that activities are necessary for students' education or training. Examples of revenue-producing activities provided by an institution that are necessary for its students' education or training are provided below:

- Revenues produced by a restaurant that is owned and operated by a culinary institution where the institution's students purchase the food, cook the meals, or wait on the tables.
- Revenues produced by a theater that is owned and operated by an institution that provides training in acting, music, or dance where the artistic endeavors that produce the revenues are performed by the institution's students or where the theater is run by the institution's students.
- Revenues produced by an auto mechanic shop that is owned and operated by an institution providing auto mechanic training where the institution's students repair vehicles.

To avoid inappropriate manipulation of information under the 85 percent rule, the Secretary proposes special rules regarding the calculation of the correct percentage. Thus, Title IV, HEA program funds provided to a student would be considered to be used to pay that student's institutional charges regardless of whether the institution credits the student's account with those funds or provides those funds directly to the student. Of course, Title IV, HEA program funds would be considered to satisfy a student's institutional charges only to the extent of those charges. Thus, if total institutional charges are $5,000, and the student received $6,000 of Title IV, HEA program funds, only $5,000 would be considered to be used to satisfy institutional charges. In addition, the Title IV, HEA program funds included in the numerator and the revenue described in the denominator would not include any refunds paid to or on behalf of students under the institution's refund policy since the institution does not have access to these funds.

The Secretary proposes two exceptions to the first rule. The Secretary wishes to encourage proprietary institutions to obtain non-Federal, non-loan student aid funds from independent outside sources. As a result, under the first exception, the Secretary would not consider that Title IV, HEA program funds were used to satisfy institutional charges to the extent that those charges were satisfied by grant funds received from non-Federal public agencies or from private sources that are independent of the institution.

For example, if total institutional charges are $5,000, and the student received $5,000 of Title IV, HEA program funds and a $1,000 scholarship from a local business, only $4,000 of the Title IV, HEA program funds would be considered to be used to satisfy institutional charges.

Under the second exception, the Secretary proposes that Federal Work-Study (FWS) and State Student Incentive Grant (SSIG) program funds not be counted as Title IV, HEA program funds. The Secretary proposes to exclude FWS Program funds because (1) the Federal share of FWS Program payments to students must be paid directly to the student and cannot be applied to a student's account for institutional charges; (2) not all FWS Program earnings are necessarily applied to a student's cost of attendance, i.e., there may be job-related costs; and (3) FWS Program earnings are derived from Federal, institutional, and other sources. The Secretary proposes to exclude SSIG Program funds because a significant portion of SSIG Program awards come from State funds, and in many cases, an institution will not be able to determine the portion that comes from Federal sources.

Finally, the Secretary proposes to determine whether an institution satisfies the 85 percent rule, as well as the requirements contained in § 600.7(a)(1)(i), by evaluating an institution over a period of time rather than at one particular point in time. Title IV, HEA program funds, other than FFEL program funds, are generally measured over an award year (July 1 of one year through June 30 of the next year). Thus, with regard to the numerator of the fraction contained in § 600.5(d)(1), the Title IV, HEA program funds that would have to be reported are those funds that were used to pay institutional charges over a complete award year.

Under accounting principles, revenues received by an institution are reported on a "financial statement" that is prepared on a fiscal year basis. Therefore, in order to audit the revenue that an institution includes in the denominator of the fraction in § 600.5(d)(1), it is necessary to have those revenues reported on a fiscal year basis.

The Secretary proposes not to require an institution to change its fiscal year to coincide with an award year. As a result, if an institution's fiscal year is not on a July 1 to June 30 basis, and the institution chooses not to change its fiscal year, the reporting period for the numerator in § 600.5(d)(1) would not be same as the reporting period for the denominator. Consequently, the Secretary proposes special rules to address this possibility.

Each year, an institution would have to determine the revenues it received for its latest fiscal year, and would have to determine the Title IV, HEA program funds it received for institutional charges for the award year that most closely corresponds to that fiscal year. For example, if an institution's fiscal year runs from October 1, 1993 through September 30, 1994, that fiscal year overlaps two award years: October 1, 1993 through June 30, 1994 is in the 1993–94 award year, and July 1, 1994 through September 30, 1994 is in the 1994–95 award year. Since nine months of the institution's fiscal year are in the 1993–94 award year, that is the award year that would be used to determine the amount in the numerator. Moreover, the institution would have to determine the Title IV, HEA program funds that were used to pay institutional charges for that entire award year, including the period of July 1, 1993 to September 30, 1993. Similarly, if an institution's fiscal year runs from May 1, 1994 through April 30, 1995, the institution would use the Title IV, HEA program funds it received during the 1994–95 award year because 10 months of that award year, July 1, 1994 through April 30, 1995 fell in that institution's fiscal year.

If the institution's fiscal year is January through December, the fiscal year would fall equally into two award years, i.e., a fiscal year of January 1, 1993 through December 31, 1993 would have six months in the 1992–93 award year (January 1, 1993 through June 30, 1993) and six months in the 1993–94 award year (July 1, 1993 through December 31, 1993). In such a case, the Secretary intends the institution to initially elect to be counted in either the earlier or later award year, and that

election would be permanent for future years.

The Secretary also proposes reporting requirements to accommodate the different reporting periods. In the first example where the institution's fiscal year runs from October 1, 1993 through September 30, 1994, the appropriate award year, 1993–94, would be completed before the institution's fiscal year. Under this circumstance, the Secretary proposes that the institution would have to report to the Secretary within 60 days from the end of its fiscal year, e.g., November 29, 1994, if it derived more than 85 percent of its revenues from Title IV, HEA program funds. A 60-day reporting period would be allowed in this instance to provide time for the institution to submit an audited financial statement.

In the second example, where the institution's fiscal year runs from May 1, 1994 through April 30, 1995, the fiscal year would be completed before the award year was completed. Under this circumstance, the Secretary proposes that the institution would have to report to the Secretary within 31 days from the end of the relevant award year i.e., July 31, 1995, if it derived more than 85 percent of its revenues from Title IV, HEA program funds. As institutions are tracking their use of Title IV funds throughout the award year, they should be prepared to have year-end data available shortly after the end of the award year.

An institution that determines that its Title IV, HEA Program revenues did not exceed 85 percent of its revenues for the relevant periods need not report that information to the Secretary. However, it must have the certified public accountant who performs its annual audited financial statement certify to the accuracy of the information used in that calculation and the calculation itself, and have the accountant submit that certification to ED with the audited financial statement.

Under § 600.41, *Loss of eligibility*, the Secretary proposes that if an institution derived more than 85 percent of its revenues from Title IV, HEA program funds, it would become ineligible on the last day of the award year used in the institution's calculation, if the award year is completed after the fiscal year used in that calculation. The institution would become ineligible on the last day of the fiscal year used in that calculation if the award year used in that calculation was completed on or before the fiscal year. Thus, in the first example, the loss of eligibility would be effective on September 30, 1994, while in the second example, the loss of eligibility would be effective on June 30, 1995. As a result, because the institution would generally be considered eligible until the end of the applicable award or fiscal year, the institution would not be liable for the Title IV, HEA program funds it disbursed or delivered during that year. However, the Secretary expects an institution to keep track of its revenues at all times. Therefore, the institution would be liable for the Title IV, HEA program funds it disbursed or delivered after the relevant award or fiscal year.

The Secretary proposes that if an institution loses its eligibility as a result of failing to satisfy the 85 percent rule, to regain its eligibility it would have to demonstrate that it satisfied all the relevant eligibility requirements for a complete award year if it became ineligible on the last day of an award year, or for a complete fiscal year if it became ineligible on the last day of its fiscal year.

The Secretary proposes that an institution initially self-report that it derived more than 85 percent of its revenues from Title IV, HEA program funds. If the Secretary determines that an institution made little or no effort to comply with this requirement over the reporting period, the Secretary anticipates imposing a fine on the institution.

If the institution does not report that its Title IV, HEA program revenues exceeded 85 percent of its revenues for the relevant period, and the Secretary learns of this situation when the audited financial statement is submitted or through other means, the Secretary anticipates terminating the institution's eligibility and imposing a fine on the institution. The Secretary requests comments on the manner in which the fine amount should be determined, including whether the fine should equal the Title IV, HEA Program funds the institution received after the date it should have notified the Secretary that the Title IV, HEA program funds exceeded 85 percent of its revenues.

Section 600.7 Conditions of Institutional Ineligibility

Section 481(a)(3) of the HEA provides that an otherwise eligible institution loses that eligibility if certain conditions are met. One of those conditions relates to the type of courses that the institution offers. The other three conditions relate to the type of students the institution admits.

With regard to the first condition, an otherwise eligible institution loses that eligibility if more than 50 percent of its courses are correspondence courses. With regard to the latter three conditions, an otherwise eligible institution loses its eligibility if 50 percent or more of its students are enrolled in correspondence courses, 25 percent or more of its students are incarcerated students, or, for an institution that does not offer programs for which at least an associate or bachelor's degree is offered, 50 percent or more of its students are "ability to benefit" students. However, if an institution satisfies the provisions of section 521(4)(C) of the Perkins Act, it does not lose its eligibility if more than 50 percent of its courses are correspondence courses or if 50 percent or more of the students are correspondence students.

As indicated in the discussion regarding the 85 percent rule for proprietary institutions, the Secretary proposes to determine whether an institution becomes ineligible under these conditions by evaluating an institution over a period of time rather than at one particular point in time. The period of time the Secretary proposes for these additional conditions is a complete award year. Moreover, as with the 85 percent rule for proprietary institutions, institutions would be required to report to the Secretary if these conditions rendered them ineligible. Furthermore, each institution's compliance with these provisions would be confirmed through the institution's required compliance audit.

The Secretary proposes that institutions report to the Secretary by July 31 following the end of each award year if they have failed to meet one of the conditions listed in this section. For purposes of these conditions, if as a result of an institution's calculations, any of the resulting percentages is within 10 percent of the applicable percentage, the institution would have to have performed, for the applicable award year or fiscal year, a financial and compliance audit of its Title IV, HEA programs. The certified public accountant who prepares the audit would have to certify the accuracy of the institution's calculations. The institution would have to retain the report of that audit and all relevant supporting documentation in accordance with 34 CFR 668.23(h) (governing the establishment and maintenance of an institution's records). The institution would only have to submit the report to the Secretary if the certified public accountant determined that the institution had failed to meet any of the allowable percentages.

If an institution loses its eligibility under one of these conditions, to regain its eligibility it would have to demonstrate that it did not fall within

one of these conditions for a subsequent complete award year. The institution would also have to demonstrate that it has appropriately revised its administrative policies and procedures to prevent the institution from meeting one of these conditions in the future.

If an institution becomes ineligible as a result of one of the conditions in this section, the Secretary proposes that the date of ineligibility be the last day of the award year for which the calculation resulting in that condition is used. As a result, the institution would not generally be liable for the Title IV, HEA program funds it disbursed or delivered during the applicable award year but it would be responsible for any funds it disbursed or delivered during any subsequent award year. Furthermore, the Secretary anticipates imposing a fine on the institution if it is determined that the institution made no or little effort to comply with these provisions during the relevant award year.

With regard to whether more than 50 percent of an institution's courses are correspondence courses, the Secretary proposes special rules dealing with telecommunications courses and the number of courses an institution offers. The rule dealing with telecommunications courses is derived from section 484(m)(1) of the HEA, and provides that if the sum of correspondence and telecommunications courses equals or exceeds 50 percent of the total courses offered by the institution for an award year, the telecommunications courses would be considered correspondence courses.

As a result of the 1993 Technical Amendments, the Secretary may waive the requirement that an institution may not have 50 percent or more of its students enrolled in correspondence students, for an institution that offers a 2-year associate-degree or 4-year bachelor's-degree program or both, for good cause. The Secretary solicits comments from the public as to what should be considered "good cause".

With regard to the counting of students, the Secretary proposes that institutions should count only "regular students," and should count those students on the basis of a "head count," rather than on the basis of full-time equivalency. Thus, if an institution enrolls 500 regular full-time students and 500 regular half-time students, the number of regular students considered enrolled would be 1,000. Moreover, the Secretary proposes that institutions count a student only once during an award year regardless of the number of times he or she enrolls or reenrolls during that period.

Section 481(a)(3)(C) of the HEA authorizes the Secretary to waive the 25 percent incarcerated student provision for public or nonprofit private institutions that offer two- or four-year programs that result in an associate or bachelor's degree. The Secretary proposes to exercise this waiver authority under the following circumstances: If the institution requesting the waiver only offers two- or four-year programs leading to an associate, bachelor's or more advanced degree, the Secretary would waive the "incarcerated student" provision for the entire institution. However, based on negotiated rulemaking, if the institution also offers other educational programs, the Secretary would grant the waiver for the two- or four-year programs that result in associate, bachelor's, or more advanced degrees, but would grant a waiver for those other educational programs only if the incarcerated students enrolled in those other programs have at least a 50 percent completion rate. The Secretary proposes a formula for calculating that completion rate in § 600.7(d)(1)(iii).

Section 481(a)(3)(D) of the HEA, as amended by the Higher Education Technical Amendments of 1993, allows the Secretary to waive the limitation on the percentage of students without a high school diploma or its recognized equivalent enrolled at a nondegree institution if the institution is a nonprofit institution that demonstrates to the satisfaction of the Secretary that it exceeds the limitation because it serves, through contracts with Federal, State, or local government agencies, significant numbers of those students. The Secretary requests comments regarding the conditions under which the Secretary will grant this waiver. Issues for which comments are requested are: the purpose of the referenced contracts, what constitutes a "significant" number of students, and the duration of a waiver.

Section 481(a)(4) of the HEA provides that an institution loses its eligibility if it files for bankruptcy, or if its owner or chief executive officer is convicted of or pleads guilty to a crime involving the acquisition, use, or expenditure of Title IV, HEA program funds, or has been judicially determined to have committed fraud involving Title IV, HEA program funds.

With regard to bankruptcy, the Secretary proposes to define a filing institution for purposes of this provision to include—(1) any entity affiliated with the institution that seeks protection in a bankruptcy court against an actual or prospective action against the institution by the Secretary, a State, an accrediting agency or a guaranty agency under the FFEL programs; and (2) any entity whose resources were provided to the Secretary to enable the Secretary to certify that the institution was financially responsible and administratively capable. The Secretary proposes this expansive definition of a filing institution to prevent an institution from indirectly obtaining bankruptcy protection while avoiding the consequences under the HEA of filing for bankruptcy.

Section 600.8 Treatment of a Branch Campus

Under section 498(j) of the HEA, as amended by the 1993 Technical Amendments, the Secretary is charged with defining a "branch campus." Moreover, under that section, a branch campus has to be certified by the Secretary before it may participate as part of the institution in a Title IV, HEA program. A branch of a proprietary institution or a postsecondary vocational institution does not have to satisfy the "two-year rule." However, such a branch campus is required to be in existence for at least two years before it may seek certification as a main campus or free-standing institution.

Section 600.9 Written Agreements Between an Eligible Institution and Another Institution or Organization

This section has been revised to reflect the fact that as of October 1, 1992, institutions that are not accredited or preaccredited are no longer eligible institutions under the HEA.

The Secretary proposes to add a provision to this section that would prevent an eligible institution from entering into an agreement with an ineligible institution if that ineligible institution had its eligibility terminated by the Secretary. The purpose of this proposal is to prevent an institution that has lost its eligibility from continuing to participate in the Title IV, HEA programs through a contractual relationship with an eligible institution.

Section 600.10 Date, Extent, Duration, and Consequence of Eligibility

If an institution wishes to participate in the Title IV, HEA programs, it has to satisfy the definitional requirements of an eligible institution, and also has to satisfy the standards of financial responsibility and administrative capability required for that participation. In the past, the Secretary made separate, independent determinations with regard to those two requirements. However, the Secretary is now proposing to merge the procedures

under which those determinations are made.

Accordingly, the Secretary proposes that if an institution applies to participate in the Title IV, HEA programs, the date on which the institution would be eligible to so participate is the date on which the Secretary signs that institution's program participation agreement required under section 487 of the HEA. The execution of that agreement represents the Secretary's determination that the institution satisfies both the institutional eligibility requirements and the standards of financial responsibility and administrative capability contained in 34 CFR, part 668, subpart B. In other words, on the date that the Secretary signs an institution's program participation agreement, the institution becomes both eligible for and a full participant in the applicable Title IV, HEA programs.

With regard to an HEA program other than a Title IV, HEA program, the Secretary would continue the current practice of designating an institution as an eligible institution as of the date the Secretary receives all the information necessary to make that determination. However, designation as an eligible institution does not make the institution a participant in any non-Title IV, HEA program. Instead, that eligibility designation would continue to mean that the institution is eligible *to apply* to participate in non-Title IV, HEA programs.

Under § 600.10(b) of the current regulations, if an institution adds a location after the institution received its eligibility designation from the Secretary, that new location is not included within that designation. The Secretary proposes to amend that provision so that a location added after the institution receives its eligibility designation, or an existing location not previously included in that designation, would be considered part of that eligibility designation if the institution offers less than 50 percent of an educational program at that location.

Under § 600.10(c) of the current regulations, an institution may add an educational program and have that program included in the institution's eligibility without notifying the Secretary. Further, the institution may provide Title IV, HEA program funds to students enrolled in that program based upon the institution's determination that the program qualified as an eligible program under applicable statutes and regulations.

In view of the expanded certification requirements contained in title IV, part H, subpart 3, of the HEA, the Secretary proposes that, except as provided below, an institution would have to notify the Secretary each time it adds an educational program and would have to have that program designated as an eligible program by the Secretary before students enrolled in that program may receive Title IV, HEA program funds.

The exceptions proposed by the Secretary would allow an institution to add an educational program, without notice and approval by the Secretary, if (1) the program leads to an associate, bachelor's, or more advanced degree; or (2) the program prepares students for gainful employment in the same or related recognized occupation as a previously designated eligible program at that institution, and the program is at least 8 semester or trimester hours, 12 quarter hours, or 600 clock hours. In effect, under these proposed regulations, an institution will have to get approval from the Secretary only for two types of new vocational programs. One type includes new vocational programs that are not similar to the vocational programs already offered by the institution; the other type includes vocational programs that are similar to the vocational programs already offered by the institution but provide between 300 and 599 clock hours of instruction. These latter programs are the ones described in section 481(e)(2) of the HEA. For them to become eligible programs, the institution must demonstrate that students enrolled in those programs have a 70 percent completion rate and a 70 percent placement rate. Moreover, if the institution can make those demonstrations, students enrolled in those programs are eligible only for loans under the FFEL programs. In a future NPRM, the Secretary will propose regulations implementing the provisions governing eligible programs as defined in section 481(e) of the HEA, including provisions governing the calculation of placement and completion rates.

However, there will be no change with regard to an institution's incorrect determination of program eligibility. Under this circumstance, the institution continues to be liable for all Title IV, HEA program funds received by the institution or its students for attendance in that ineligible program.

The changes in § 600.10 (d) and (e) will be discussed with the changes in § 600.20, 600.21, and 600.30.

In accordance with section 498(g) of the HEA, § 600.11(d) provides that an institution's period of eligibility expires four years after the date that the Secretary determines that the institution is eligible, except that the Secretary may specify a shorter period of time.

The Secretary proposes changes to § 600.21, "*Eligibility notice,*" that are necessary to reflect these proposed changes.

Section 600.11 Special Rules Regarding Institutional Accreditation

The provisions of this section would paraphrase sections 496(h) through 496(j) of the HEA. Thus, the Secretary will not recognize an institution's change of accrediting agency unless the institution provides the Secretary with a reasonable basis for making the change. The Secretary also will not recognize accreditation or preaccreditation by more than one accrediting agency unless the institution demonstrates the need for multiple accreditation or preaccreditation, and the institution will have to choose one agency to be used to establish its eligibility under the HEA.

If an accrediting agency terminates an institution's accreditation or preaccreditation for cause, or if an institution voluntarily withdraws its accreditation or preaccreditation under a show cause or suspension order, the institution will be considered ineligible for 24 months unless the accrediting agency that terminated the institution for cause or issued the show cause or suspension order rescinds its action. Finally, if an institution loses its accreditation or preaccreditation for religious reasons, the Secretary will consider that institution to be otherwise eligible for an additional 18 months, during which time the institution may obtain alternative accreditation or preaccreditation. If the institution does not obtain that alternative accreditation or preaccreditation during that 18-month period, it would lose its eligibility under the HEA because of its lack of accreditation or preaccreditation at the end of that 18-month period.

The Secretary proposes the 18-month period for obtaining alternative accreditation or preaccrediation under the religious provision to be consistent with section 498(h)(2) of the HEA that has a maximum 18-month period for an institution to obtain alternative accreditation or preaccreditation when the institution's accrediting agency has its recognition withdrawn by the Secretary.

Section 600.31 Change in Ownership Resulting in a Change in Control

This section would be revised to reflect changes required by section 498(i) of the HEA. Section 498(i) of the HEA adopted the list in current regulations of examples of changes of control. The statute went one step further, however, in allowing the

Secretary to exclude from treatment as changes of control certain changes, including a change resulting from the death of an owner of an institution, if the owner's ownership interest is sold or transferred to either a family member or a current stockholder in the corporation that owns the institution. Similarly, the Secretary could exclude from that treatment a change that the Secretary determines to be the result of a routine business practice. The Secretary proposes to add these options to these regulations without elaboration.

Section 498(i) of the HEA requires an eligible institution that undergoes a change in ownership that results in a change of control to be treated, for purposes of establishing its eligibility, as if it were a new institution. A new institution, of course, is not an eligible institution until it demonstrates to the Secretary that it satisfies eligibility requirements and has the requisite administrative and financial capability to merit certification to participate in the Title IV, HEA programs. Thus, two consequences of the statutory change are that (1) an eligible institution loses its eligibility and its participation in any HEA program on the date that the institution undergoes the change of ownership that results in a change in control, and (2) the provisions of current § 600.31(a) allowing the institution to be treated as the same institution, provided that the new owner satisfies the conditions contained therein, are superseded by the requirement that an institution may not participate in a Title IV, HEA program after it undergoes a change in ownership and control until it reestablishes its eligibility.

Therefore, the Secretary would remove current paragraphs (a)(1) through (a)(6) of § 600.31, that provide that for an eligible institution to be treated as the same institution, the new owner has to agree to be liable, or the old and new owners have to agree to be jointly and severally liable, for HEA program funds received and improperly used before the change in ownership resulting in a change of control.

Also, under those provisions of current regulations, which are being deleted from these regulations, the new owner is required to honor all student enrollment contracts in effect before the date of the change; the institution is required to submit to the Secretary financial information on the new owner and on the institution for its most recent complete fiscal year together with other financial information that the Secretary might request; the institution is required to provide for the retention of records relevant to the institution's eligibility for and participation in HEA programs; and, for an institution that divided into two or more institutions, all resulting institutions are required to submit jointly to the Secretary a statement designating the successor to the original institution.

Because under section 498(i) of the HEA an eligible institution that changes ownership resulting in a change of control must reestablish its eligibility, that institution would have to satisfy all the applicable requirements of this part after that change, including the applicable institutional definition or definitions and the requirement to reapply for eligibility. Section 498(i) exempts the institution, in qualifying to meet the definition of a proprietary institution of higher education or a postsecondary vocational institution, from the requirement to be in existence for at least two years, unless the institution was in existence as a branch campus for less than two years. Paragraph (a)(2) of § 600.31 would reflect the exemption from the "two-year rule."

Because under section 498(i) the eligibility of an institution that changes ownership resulting in a change of control and the institution's certification for participation in any Title IV, HEA program lapse on the date of the change, the Secretary cannot, in entering into a new program participation agreement with the new owner for any program, continue to make the agreement effective on the date of the change, as has been past practice. Under the new law, the institution becomes eligible and able to participate in a Title IV, HEA program only when a new agreement is executed after a change of ownership. In a separate NPRM, the Secretary will propose a revision to 34 CFR 668.12 to reflect this change in the controlling statute.

Current regulations authorize a substantial, if limited, degree of continued Title IV, HEA funding for students enrolled at an institution that has undergone a change of ownership resulting in a change of control. Under 34 CFR 668.25 (governing loss of participation in a Title IV, HEA program), an institution that does not close may continue to deliver or disburse Title IV, HEA program funds to students who were enrolled on the date of the end of participation and who had received commitments of Title IV, HEA program aid or, under the FFEL programs, the proceeds of an initial FFEL program disbursement prior to that date. This provision reduces the negative impact of the lapse of eligibility that occurs on the date of the change of ownership. Students enrolled after the change of ownership takes place, however, qualify for Title IV, HEA program funds only if they are still enrolled on the date on which the institution receives a new program participation agreement and regains its status as an eligible, participating institution.

The Secretary recognizes that it may be desirable to clarify in the regulations the standards for identifying the "parent" of an institution, and for determining what constitutes a change in "control," within the meaning of section 498(i). The Secretary invites comment on what those standards should be. Some institutions owned by publicly traded corporations are already subject to, and presumably conversant with, Securities and Exchange Commission (SEC) rules that rely on regulatory definitions of "control" and "parent" at 17 CFR 230.405; those definitions could prove useful to adopt generally in these and related Title IV, HEA program regulations. For those institutions that are owned by closely held corporations, the Secretary invites comment on whether the Secretary should by regulation treat the acquisition of, or relinquishment of, a 50 percent ownership interest in the corporation as the bright line for recognizing a change of ownership and control of that entity. For those institutions owned or controlled by corporations that are not closely held or institutions not owned by publicly traded corporations required to be registered with the SEC, the Secretary invites comment on whether the acquisition of, or relinquishment of, a 25 percent interest in the respective corporations together with control of the corporation should be viewed as a change of ownership and control within the meaning of this section of the regulations, in the same way it is viewed in 34 CFR 668.13(d)(3). The Secretary also invites comment on whether a change in organization from for-profit to nonprofit status should be regarded as a change of ownership that results in a change of control within the meaning of section 498(i).

Section 498(h) of the statute authorizes the Secretary to provisionally certify an institution that undergoes a change in ownership for participation in a Title IV, HEA program for not more than three award years. The implementation of that provision will be discussed in another NPRM. The Secretary notes that in many, if not most, changes of ownership and control, the successor institution remains liable for financial obligations incurred under the prior ownership, whether or not the institution formally assumed or reaffirmed its liability. This continued

obligation follows as a matter of course in those instances in which the change of ownership occurs in a transaction such as a sale of a controlling interest in the stock of the corporation that owns the institution. In those instances in which the change of ownership occurs through an asset sale by the corporate owner of the institution, the Secretary regards the purchaser as liable for the financial obligations associated with the institution prior to the change of ownership when there is a continuity of management, personnel, facilities, and general business operations of the institution through the sale, and the seller effectively ceases business operations as a school after the sale. However, for purposes of this discussion, it should be noted that if an institution of sound reputation undergoes a change of ownership and demonstrates a full and persuasive commitment to honor all obligations and liabilities incurred under the prior ownership (including those commitments currently provided for in paragraph (a) (1) through (6) of § 600.31), the Secretary may use that provisional certification to permit that institution to resume participation after an accelerated Department review.

A consequence of this provisional certification is that an institution that is certified is not entitled to the procedural advantages of section 487(c)(1)(F) of the HEA, which would otherwise apply to administrative action to terminate the participation in a Title IV, HEA program of the institution. Thus, the Secretary would provide an opportunity for an institution that has changed ownership to minimize the interruption between its loss of eligibility and participation under the old ownership and its new eligibility and participation under the new ownership in exchange for the institution's agreeing to be provisionally certified.

Section 600.32 Eligibility of Additional Locations

The Secretary proposes to add to this section the requirement that an "acquiring" institution be responsible for the payment of refunds of the institution it is acquiring. This addition is consistent with the treatment of this situation in the Student Assistance General Provisions regulations, 34 CFR part 668.

Section 600.40 Loss of Eligibility

The Secretary proposes to revise this section to indicate the date on which an institution loses its eligibility if it loses that eligibility under the 85 percent rule in § 600.5 or under the conditions contained in § 600.7(a)(1)(i). The rules for each of those circumstances were discussed previously and are clearly stated in the proposed regulations. The section makes explicit that an institution loses its eligibility as a result of its violation of the provisions of § 600.5 or § 600.7, regardless of its status on the date a hearing is held to terminate that eligibility.

Section 600.41 Termination and Emergency Action Proceedings

The Secretary proposes a simpler, faster show-cause procedure for terminating an institution's eligibility if the loss of eligibility results from: statutory changes that made a previously eligible institution ineligible; the loss of accreditation, preaccreditation, or State legal authority to provide postsecondary education; or the provisions of § 600.5(a)(8) or § 600.7(a). The Secretary proposes this simpler, faster show-cause proceeding because neither the facts nor the law would be in dispute in the proceeding.

If an institution no longer qualifies as an eligible institution because it is in violation of a statutory or regulatory provision governing institutional eligibility, or its type of eligibility designation has been repealed, its status as an eligible institution would be terminated. Moreover, since the institution itself would report to the Secretary that it was not in compliance with the applicable eligibility requirements of § 600.5 or § 600.7, there would also be no question of fact in dispute. Similarly, there would be no dispute that an institution lost its State license or its accreditation since that status would be confirmed by a written statement by the State or the accrediting agency.

Under the show-cause procedures, the Secretary would inform the institution that it is no longer an eligible institution and the reason for that loss of eligibility. If the institution wished to contest that determination, it would have to provide the Secretary with documentation supporting its continuing eligibility. In general, the Secretary would base a final decision on written submissions. The institution could request an oral evidentiary hearing, but the Secretary would grant that request only if the institution could demonstrate that its eligibility could not be decided by written submissions. However, given the matter at issue in this type of proceeding, the Secretary anticipates that a request for an oral evidentiary hearing would rarely be justified.

The 1993 Technical Amendments amended section 487(c)(1)(F). Before the amendment, the Secretary was required to provide a hearing before terminating "the eligibility for any (Title IV, HEA program) of any otherwise eligible institution * * *" After the amendment, section 487(c)(1)(F) provides that the Secretary must provide a hearing before terminating the "participation in any [Title IV, HEA program] of an eligible institution * * *" As a result of this change, the Secretary requests comments as to whether he should remove an institution's designation of eligibility solely through a show-cause proceeding.

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 institutions of postsecondary education. These regulations make a number of modifications and reduce potential abuse in the Title IV, HEA programs. These changes will result in a minimal increase in the recordkeeping burden. However, these changes would not significantly increase institutions' workloads or costs associated with administering the Title IV, HEA programs and therefore would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act of 1980

Sections 600.4, 600.5, 600.7, 600.8, 600.10, 600.20, 600.30, and 600.31, 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 proposed regulations contain records that would affect postsecondary institutions that wish to participate in the Title IV, HEA programs. An estimate of the total annual reporting and recordkeeping burden that would result from the collection of the information is 15,900 burden hours for this package.

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.

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 4318, Regional Office Building 3, 7th and D Streets, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

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 in 34 CFR Part 600

Administrative practice and procedure, Colleges and universities, Consumer protection, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Student aid.

Dated: February 2, 1994.

Richard W. Riley,

Secretary of Education.

(Catalog of Federal Domestic Assistance Number: does not apply)

The Secretary proposes to amend title 34 of the Code of Federal Regulations by revising part 600 to read as follows:

PART 600—INSTITUTIONAL ELIGIBILITY UNDER THE HIGHER EDUCATION ACT OF 1965, AS AMENDED

Subpart A—General

Sec.
600.1 Scope.
600.2 Definitions.
600.3 [Reserved].
600.4 Institution of higher education.
600.5 Proprietary institution of higher education.
600.6 Postsecondary vocational institution.
600.7 Conditions of institutional ineligibility.
600.8 Treatment of a branch campus.
600.9 Written agreement between an eligible institution and another institution or organization.
600.10 Date, extent, duration, and consequence of eligibility.
600.11 Special rules regarding institutional accreditation or preaccreditation.

Subpart B—Procedures for Establishing Eligibility

600.20 Application procedures.
600.21 Eligibility notification.

Subpart C—Maintaining Eligibility

600.30 Institutional notification requirements.
600.31 Change in ownership resulting in a change of control.
600.32 Eligibility of additional locations.

Subpart D—Loss of Eligibility

600.40 Loss of eligibility.
600.41 Termination and emergency action proceedings.

Authority: 20 U.S.C. 1088, 1091, 1094, 1099b, 1099c, and 1141, unless otherwise noted.

Subpart A—General

§ 600.1 Scope.

This part establishes the rules and procedures that the Secretary uses to determine whether an educational institution qualifies in whole or in part as an eligible institution under the Higher Education Act of 1965, as amended (HEA). An eligible institution may apply to participate in programs authorized by the HEA (HEA programs).

(Authority: 20 U.S.C. 1088, 1094, 1099b, 1099c, and 1141)

§ 600.2 Definitions.

The following definitions apply to terms used in this part:

Accredited: The status of public recognition that a nationally recognized accrediting agency grants to an institution or educational program that meets certain established qualifications and educational standards.

Award year: The period of time from July 1 of one year through June 30 of the following year.

Branch Campus: A location of an institution that is geographically apart and independent of the main campus of the institution. The Secretary considers a location of an institution to be independent of the main campus if the location—

(1) Is permanent in nature;

(2) Offers courses in educational programs leading to a degree, certificate, or other recognized educational credential;

(3) Has its own faculty and administrative or supervisory organization; and

(4) Has its own budgetary and hiring authority.

Clock hour: A period of time consisting of—

(1) A 50- to 60-minute class, lecture, or recitation in a 60-minute period;

(2) A 50- to 60-minute faculty-supervised laboratory, shop training, or internship in a 60-minute period; or

(3) Sixty minutes of preparation in a correspondence course.

Correspondence course: (1) A "home study" course provided by an institution under which the institution provides instructional materials, including examinations on the materials, to students who are not physically attending classes at the institution. When students complete a portion of the instructional materials, the students take the examinations that relate to that portion of the materials, and return the examinations to the institution for grading.

(2) A home study course that provides instruction in whole or in part through the use of video cassettes or video discs in an award year is a correspondence course unless the institution also delivers the instruction on the cassette or disc to students physically attending classes at the institution during the same award year.

(3) A course at an institution that may otherwise satisfy the definition of a "telecommunications course" is a correspondence course if the sum of telecommunications and other correspondence courses offered by that institution equals or exceeds 50 percent of the total courses offered at that institution.

(4) If a course is part correspondence and part residential training, the Secretary considers the course to be a correspondence course.

Educational program: A legally authorized postsecondary program of organized instruction or study that leads to an academic or professional degree, vocational degree or certificate, or other recognized educational credential. However, the Secretary does not consider that an institution provides an educational program if the institution does not provide instruction itself (including a course of independent study), but merely gives credit for one or more of the following: instruction provided by other institutions or schools; examinations provided by agencies or organizations; or other accomplishments such as "life experience."

Eligible institution: An institution that—(a) Is one or more of the following:

(1) An institution of higher education, as defined in § 600.4.

(2) A proprietary institution of higher education, as defined in § 600.5.

(3) A postsecondary vocational institution, as defined in § 600.6; and

(b) Meets all the other applicable provisions of this part.

Federal Family Education Loan (FFEL) programs: The loan programs (formerly called the Guaranteed Student Loan (GSL) Programs) authorized by Title IV–B of the HEA, including the Federal Stafford Loan, Federal PLUS, Federal Supplemental Loans for Students (Federal SLS), and Federal Consolidation Loan programs, in which lenders use their own funds to make loans to enable students or their parents to pay the costs of the student's attendance at eligible institutions. The Federal Stafford Loan, Federal PLUS,

Federal Supplemental Loans for Students (Federal SLS), and Federal Consolidation Loan programs are defined in 34 CFR part 668.

Incarcerated student: A student who is serving a criminal sentence in a Federal, State, or local penitentiary, prison, jail, reformatory, work farm, or other similar correctional institution. A student is not considered incarcerated if that student is in a half-way house or home detention or is sentenced to serve only weekends.

Legally authorized: The legal status granted to an institution through a charter, license, or other written document issued by the appropriate agency or official of the State in which the institution is physically located.

Nationally recognized accrediting agency: An agency or association that the Secretary recognizes as a reliable authority to determine the quality of education or training offered by an institution or a program offered by an institution. The Secretary recognizes these agencies and associations under the provisions of 34 CFR part 602 and publishes a list of the recognized agencies in the **Federal Register**.

Nonprofit institution: An institution that—

(1) Is owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which benefits any private shareholder or individual;

(2) Is legally authorized to operate as a nonprofit organization by each State in which it is physically located; and

(3) Is determined by the U.S. Internal Revenue Service to be an organization to which contributions are tax deductible in accordance with section 501(c)(3) of the Internal Revenue Code.

One-academic-year training program: An educational program that is at least one academic year as defined under section 481(d)(2) of the HEA.

Preaccredited: A status that a nationally recognized accrediting agency or association, recognized by the Secretary to grant that status, has accorded an unaccredited public or private nonprofit institution that is progressing toward accreditation within a reasonable period of time.

Recognized equivalent of a high school diploma:

(1) A General Education Development Certificate (GED);

(2) A State certificate received by a student after the student has passed a State authorized examination that the State recognizes as the equivalent of a high school diploma;

(3) An academic transcript of a student who has successfully completed at least a two-year program that is acceptable for full credit toward a bachelor's degree; or

(4) For a person who is seeking enrollment in an educational program that leads to at least an associate degree or its equivalent and who has not completed high school but who excelled academically in high school, documentation that the student excelled academically in high school and has met formalized, written admission policies of the institution.

Recognized occupation: An occupation that is—

(1) Listed in an "occupational division" of the latest edition of the *Dictionary of Occupational Titles,* published by the U.S. Department of Labor; or

(2) Determined by the Secretary in consultation with the Secretary of Labor to be a recognized occupation.

Regular student: A person who is enrolled or accepted for enrollment at an institution for the purpose of obtaining a degree, certificate, or other recognized educational credential offered by that institution.

Secretary: The Secretary of the Department of Education or an official or employee of the Department of Education acting for the Secretary under a delegation of authority.

State: A State of the Union, American Samoa, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Trust Territory of the Pacific Islands (Palau), the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

Telecommunications course: A course offered in an award year principally through the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, computer conferencing, or video cassettes or discs. The term does not include a course that is delivered using video cassettes or disc recordings unless that course is delivered to students physically attending classes at an institution providing the course during the same award year. If the course does not qualify as a telecommunications course it is considered to be a correspondence course, as provided for in paragraph (3) of the definition of correspondence course in this section.

Title IV, HEA program: Any of the student financial assistance programs listed in 34 CFR 668.1(c).

(Authority: 20 U.S.C. 1071 *et seq.*; 1078–2, 1085, 1088, 1099b, 1099c, and 1141 and 26 U.S.C. 501(c))

§ 600.3 [Reserved]

§ 600.4 Institution of higher education.

(a) An institution of higher education is a public or private nonprofit educational institution that—

(1) Is in a State, or for purposes of the Federal Pell Grant, Federal Supplemental Educational Opportunity Grant, Federal Work-Study, and Federal TRIO programs may also be located in the Federated State of Micronesia or the Marshall Islands;

(2) Admits as regular students only persons who—

(i) Have a high school diploma;

(ii) Have the recognized equivalent of a high school diploma; or

(iii) Are beyond the age of compulsory school attendance in the State in which the institution is physically located;

(3) Is legally authorized to provide an educational program beyond secondary education in the State in which the institution is physically located;

(4) Provides an educational program—

(i) For which it awards an associate, baccalaureate, graduate, or professional degree;

(ii) That is at least a two-academic-year program acceptable for full credit toward a baccalaureate degree; or

(iii) That is at least a one-academic-year training program that leads to a certificate, degree, or other recognized educational credential and prepares students for gainful employment in a recognized occupation; and

(5) Is—

(i) Accredited or preaccredited; or

(ii) Approved by a State agency listed in the **Federal Register** in accordance with 34 CFR part 603, if the institution is a public postsecondary vocational educational institution that seeks to participate only in Federal assistance programs.

(b) An institution is physically located in a State if it has a campus or other instructional site in that State.

(c) The Secretary does not recognize the accreditation or preaccreditation of an institution unless the institution agrees to submit any dispute involving the final denial, withdrawal, or termination of accreditation to binding arbitration before initiating any other legal action.

(Authority: 20 U.S.C. 1094 and 1141(a))

§ 600.5 Proprietary institution of higher education.

(a) A proprietary institution of higher education is an educational institution that—

(1) Is not a public or private nonprofit educational institution;

(2) Is in a State;

(3) Admits as regular students only persons who—

(i) Have a high school diploma;

(ii) Have the recognized equivalent of a high school diploma; or

(iii) Are beyond the age of compulsory school attendance in the State in which the institution is physically located;

(4) Is legally authorized to provide an educational program beyond secondary education in the State in which the institution is physically located;

(5) Provides an eligible program of training, as defined in 34 CFR 668.8, to prepare students for gainful employment in a recognized occupation;

(6) Is accredited;

(7) Has been in existence for at least two years; and

(8) Has no more than 85 percent of its revenues derived from Title IV, HEA program funds, as determined under paragraph (d) of this section.

(b)(1) The Secretary considers an institution to have been in existence for two years only if it has been legally authorized to provide, and has provided, during the 24 months (except for normal vacation periods and periods when the institution temporarily closes due to a natural disaster that affects the institution or the institution's students) preceding the date of application for eligibility, a continuous training program to prepare students for gainful employment in a recognized occupation that is substantially the same in length and subject matter as the educational program it is currently providing.

(2) In determining whether an applicant institution satisfies the requirement contained in paragraph (b)(1) of this section, the Secretary does not count any period during which the applicant institution was a part of another eligible proprietary institution of higher education, postsecondary vocational institution, or vocational school.

(c) An institution is physically located in a State if it has a campus or other instructional site in that State.

(d)(1) An institution satisfies the requirement contained in paragraph (a)(8) of this section by examining its revenues under the following formula:

Title IV, HEA program funds the institution used to satisfy tuition, fees, and other institutional charges to students.

Revenue generated by the institution from tuition, fees, and other institutional charges, plus revenue generated by the institution from other activities conducted by the institution, to the extent not included in tuition, fees, or other institutional charges, that are necessary for its students' education or training.

(2) Under the fraction contained in paragraph (d)(1) of this section—

(i) The revenue included in the denominator is from the institution's last complete fiscal year;

(ii) The Title IV, HEA program funds included in the numerator are from the award year that most closely corresponds to the fiscal year reported in the denominator and do not include State Student Incentive Grant (SSIG) and Federal Work-Study program funds. (The SSIG and FWS programs are defined in 34 CFR 668.2);

(iii) The Title IV, HEA program funds in the numerator and the revenue described in the denominator do not include any refunds paid to or on behalf of students under the institution's refund policy;

(iv) The amount charged for books, supplies, and equipment is not included in the numerator or the denominator unless the amount is included in tuition, fees, or other institutional charges;

(v) With regard to the numerator, any Title IV, HEA program funds disbursed or delivered to or on behalf of a student shall be presumed to be used to pay the student's tuition, fees, or other institutional charges, to the extent that those tuition, fees, and other charges were not satisfied by grant funds provided by non-Federal public agencies or private sources independent of the institution, regardless of whether the institution credits those funds to the student's account or pays those funds directly to the student; and

(vi) With regard to the denominator, revenue generated by the institution from other activities conducted by the institution that are necessary for its students' education or training includes only revenue for those activities that—

(A) Are conducted on campus or at a facility under the control of the institution;

(B) Are performed under the supervision of a member of the institution's faculty; and

(C) Are required to be performed by all students in a specific educational program at the institution.

(3) Notwithstanding paragraph (d)(2) of this section, for the 1992–93 award year, the institution may not include in the numerator or denominator of the fraction contained in paragraph (d)(1) of this section, the Title IV, HEA program funds it disbursed or delivered to its students before October 1, 1992.

(e) For purposes of the calculation required in paragraph (a)(8) of this section, the institution shall substantiate the required calculations by having the certified public accountant who prepares its audited financial statement required under 34 CFR 668.23 certify the accuracy of the institution's calculation, and include that certification as part of the audited financial statement.

(f) An institution shall notify the Secretary if it fails to satisfy the requirement contained in paragraph (a)(8) of this section by the later of—

(1) Sixty days following the end of the fiscal year used in the fraction contained in paragraph (d) of this section, if the award year used in the fraction was completed on or before the end of that fiscal year; or

(2) Thirty-one days following the end of the award year used in the fraction contained in paragraph (d) of this section, if that award year was completed after the fiscal year used in the fraction.

(g) If an institution loses its eligibility because it failed to satisfy the requirement contained in paragraph (a)(8) of this section, to regain its eligibility it must demonstrate compliance with all eligibility requirements—

(1) For at least the fiscal year following the fiscal year used in the fraction contained in paragraph (d) of this section, if the award year used in that fraction was completed on or before the end of that fiscal year; or

(2) For at least one award year following the award year used in the fraction contained in paragraph (d) of this section, if the award year was completed after the fiscal year used in that fraction.

(h) The Secretary does not recognize the accreditation or preaccreditation of an institution unless the institution agrees to submit any dispute involving the final denial, withdrawal, or termination of accreditation to binding arbitration before initiating any other legal action.

(Authority: 20 U.S.C. 1088)

§ 600.6 Postsecondary vocational institution.

(a) A postsecondary vocational institution is a public or private nonprofit educational institution that—

(1) Is in a State;

(2) Admits as regular students only persons who—

(i) Have a high school diploma;

(ii) Have the recognized equivalent of a high school diploma; or

(iii) Are beyond the age of compulsory school attendance in the State in which the institution is physically located;

(3) Is legally authorized to provide an educational program beyond secondary education in the State in which the institution is physically located;

(4) Provides an eligible program of training, as defined in 34 CFR 668.8, to prepare students for gainful

employment in a recognized occupation;

(5) Is—

(i) Accredited or preaccredited; or

(ii) Approved by a State agency listed in the **Federal Register** in accordance with 34 CFR part 603, if the institution is a public postsecondary vocational educational institution that seeks to participate only in Federal assistance programs; and

(6) Has been in existence for at least two years.

(b)(1) The Secretary considers an institution to have been in existence for two years only if it has been legally authorized to provide, and has provided, during the 24 months (except for normal vacation periods and periods when the institution temporarily closes due to a natural disaster that directly affects the institution or the institution's students) preceding the date of application for eligibility, a continuous training program to prepare students for gainful employment in a recognized occupation that is substantially the same in length and subject matter as the educational program it is currently providing.

(2) In determining whether an applicant institution satisfies the requirement contained in paragraph (b)(1) of this section, the Secretary—

(i) Counts any period during which the applicant institution qualified as an eligible institution of higher education;

(ii) Counts any period during which the applicant institution was part of another eligible institution of higher education, provided that the applicant institution continues to be part of an eligible institution of higher education; and

(iii) Does not count any period during which the applicant institution was a part of another eligible proprietary institution of higher education or postsecondary vocational institution.

(c) An institution is physically located in a State if it has a campus or instructional site in that State.

(d) The Secretary does not recognize the accreditation or preaccreditation of an institution unless the institution agrees to submit any dispute involving the final denial, withdrawal, or termination of accreditation to binding arbitration before initiating any other legal action.

(Authority: 20 U.S.C. 1088 and 1094(c)(3))

§ 600.7 Conditions of institutional ineligibility.

(a) *General rule.* (1) For purposes of Title IV of the HEA, an educational institution that otherwise satisfies the requirements contained in §§ 600.4, 600.5, or 600.6 nevertheless does not qualify as an eligible institution under this part if—

(i) For its latest complete award year—

(A) More than 50 percent of the institution's courses were correspondence courses as calculated under paragraph (b) of this section;

(B) Fifty percent or more of the institution's enrolled regular students were enrolled in correspondence courses;

(C) Twenty-five percent or more of the institution's regular enrolled students were incarcerated;

(D) Fifty percent or more of its enrolled regular students had neither a high school diploma nor the recognized equivalent of a high school diploma, and the institution did not provide a four-year or two-year educational program for which it awards a bachelor's degree or associate degree, respectively;

(ii) The institution, or an affiliate of an institution that has the power, by contract or ownership interest, to direct or cause the direction of the management or policies of the institution, files for bankruptcy; or

(iii) The institution, its owner, or its chief executive officer—

(A) Has pled guilty to, has pled *nolo contendere* to, or is found guilty of, a crime involving the acquisition, use, or expenditure of Title IV, HEA program funds; or

(B) Has been judicially determined to have committed fraud involving Title IV, HEA program funds.

(2) For purposes of paragraph (a)(1)(ii) of this section—

(i) The institution includes any entity affiliated with the institution if that entity seeks specific judicial relief in a bankruptcy court with regard to an action taken or to be taken against the institution by the Secretary, a State agency, an accrediting agency, or a lender or guaranty agency under the FFEL programs; and

(ii) The institution includes all the entities whose financial resources were presented to the Secretary, either through a combined or consolidated balance sheet or other document, to demonstrate that the institution was financially responsible and administratively capable under the standards contained in 34 CFR part 668, subpart B.

(b) *Special provisions regarding correspondence courses and students*—(1) *Treatment of telecommunications courses.* For purposes of paragraphs (a)(1)(i) (A) and (B) of this section, the Secretary considers a telecommunications course to be a correspondence course if the sum of telecommunications courses and other correspondence courses the institution provided during that award year equaled or exceeded 50 percent of the total number of courses it provided during that year.

(2) *Calculating the number of courses.* For purposes of paragraphs (a)(1)(i) (A) and (B) of this section—

(i) A correspondence course may be a complete educational program offered by correspondence, or one course provided by correspondence in an on-campus (residential) educational program;

(ii) A course must be considered as being offered once during an award year regardless of the number of times it is offered during that year; and

(iii) A course that is offered both on campus and by correspondence must be considered two courses for the purpose of determining the total number of courses the institution provided during an award year.

(3) *Exception.* The provisions contained in paragraphs (a)(1)(i) (A) and (B) of this section do not apply to an institution that qualifies as a "technical institute or vocational school used exclusively or principally for the provision of vocational education to individuals who have completed or left high school and who are available for study in preparation for entering the labor market" under section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act.

(c) *Special provisions regarding incarcerated students*—(1) *Exception.* The Secretary may waive the prohibition contained in paragraph (a)(1)(i)(C) of this section, upon the application of an institution, if the institution is a nonprofit institution that provides four-year or two-year educational programs for which it awards bachelor's or associate degrees, respectively.

(2) If the nonprofit institution that applies for a waiver consists solely of four-year or two-year educational programs for which it offers bachelor's or associate degrees, respectively, or both types of programs, the Secretary waives the prohibition contained in paragraph (a)(1)(i)(C) of this section for the entire institution.

(3) If the nonprofit institution that applies for a waiver does not consist solely of four-year or two-year educational programs for which it offers bachelor's or associate degrees, respectively, or both types of programs, the Secretary waives the prohibition contained in paragraph (a)(1)(iii) of this section—

(i) For the four-year and two-year programs that lead, respectively, to bachelor's and associate degrees; and

(ii) For the other programs the institution offers, if the incarcerated regular students enrolled in those other programs have a completion rate of 50 percent or greater.

(d) *Special provisions for students who do not have a high school diploma or the recognized equivalent.* The Secretary may waive the limitation contained in paragraph (a)(1)(ii)(D) of this section if a nonprofit institution demonstrates to the satisfaction of the Secretary that it exceeds that limitation because it serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a high school diploma or its recognized equivalent.

(e) *Special provisions.* (1) For purposes of paragraph (a)(1)(i) of this section, when counting regular students, the institution shall—

(i) Count each regular student without regard to the full-time or part-time nature of the student's attendance (i.e., "head count" rather than "full-time equivalent");

(ii) Count a regular student once regardless of the number of times the student enrolls during an award year; and

(iii) Determine the number of regular students who enrolled in the institution during the relevant award year by—

(A) Calculating the number of regular students who enrolled during that award year; and

(B) Excluding from the number of students in paragraph (d)(1)(iii)(A) of this section, the number of regular students who enrolled but subsequently withdrew or were expelled from the institution and were entitled to receive a 100 percent refund of their tuition and fees less any administrative fee that the institution is permitted to keep under its fair and equitable refund policy;

(2) For the purpose of calculating a completion rate under paragraph (c)(3)(ii) of this section, the institution shall—

(i) Determine the number of regular incarcerated students who enrolled in the other programs during the last completed award year;

(ii) Exclude from the number of regular incarcerated students determined in paragraph (d)(2)(i) of this section, the number of those students who enrolled but subsequently withdrew or were expelled from the institution and were entitled to receive a 100 percent refund of their tuition and fees, less any administrative fee the institution is permitted to keep under the institution's fair and equitable refund policy;

(iii) Exclude from the total obtained in paragraph (d)(2)(ii) of this section, the number of those regular incarcerated students who remained enrolled in the programs at the end of the applicable award year; and

(iv) From the total obtained in paragraphs (d)(2)(iii) of this section, determine the number of regular incarcerated students who received, during the applicable award year, the degree, certificate, or other recognized educational credential awarded for successful completion of the program;

(v) Divide the total obtained in paragraph (d)(2)(iv) of this section by the total obtained in paragraph (d)(2)(iii) of this section and multiply by 100.

(3)(i) For purposes of paragraph (a)(1)(i) of this section, the institution shall substantiate the required calculations by having the certified public accountant who prepares its audit report required under 34 CFR 668.23 certify to the accuracy of the institution's calculations. That certification must be included with the institution's audit report.

(ii) For purposes of paragraph (a)(1)(i) of this section, notwithstanding 34 CFR 668.23, as a result of the institution's calculation, if the resulting percentage is within 10 percent of the applicable percentage specified in paragraph (a)(1)(i) of this section, the institution shall have performed for the applicable award year or fiscal year, a financial and compliance audit of its Title IV, HEA programs. The certified public accountant who prepares the audit shall certify the accuracy of the institution's calculation. The institution shall retain the report of that audit and all relevant supporting documentation in accordance with 34 CFR 668.23(h) (governing the establishment and maintenance of an institution's records) but, except in accordance with paragraph (g) of this section, need not submit the report to the Secretary.

(f) *Notice to the Secretary.* An institution shall notify the Secretary—

(1) By July 31 following the end of an award year if it falls within one of the prohibitions contained in paragraph (a)(1)(i) of this section; or

(2) Within 10 days if it falls within one of the prohibitions contained in paragraphs (a)(1)(ii) or (iii) of this section.

(g) *Regaining eligibility.* (1) If an institution loses its eligibility because of one of the prohibitions contained in paragraph (a)(1)(i) of this section, to regain its eligibility, it must demonstrate—

(i) Compliance with all eligibility requirements;

(ii) That it did not fall within any of the prohibitions contained in paragraph (a)(1) of this section for at least one award year; and

(iii) That it changed its administrative policies and practices to ensure that it will not fall within any of the prohibitions contained in paragraph (a)(1)(i) of this section.

(2) If an institution loses its eligibility because of one of the prohibitions contained in paragraphs (a)(1)(ii) or (iii) of this section, this loss is permanent. The institution's eligibility cannot be reinstated.

(Authority: 20 U.S.C. 1088 and 1091)

§ 600.8 Treatment of a branch campus.

To obtain eligibility under this part, a branch campus of an institution shall satisfy, in its own right, all the applicable institutional eligibility requirements except the "two-year" rule contained in § 600.5(a)(7) or 600.6(a)(6).

(Authority: 20 U.S.C. 1099c)

§ 600.9 Written agreement between an eligible institution and another institution or organization.

(a) Without losing its eligibility under this part, an eligible institution may enter into a written agreement with another institution or organization under which the latter provides all or a part of the educational program of students enrolled in the eligible institution if—

(1) The eligible institution gives credit to students enrolled in that program on the same basis as if it provided that program itself; and

(2) The other provisions of this section are satisfied.

(b) If an eligible institution enters into a written agreement with another eligible institution, there is no limit on the portion of a student's educational program that may be provided under the agreement.

(c) If an eligible institution enters into an agreement with an institution or organization that is not an eligible institution—

(1) The ineligible institution or organization may provide up to 25 percent of the educational program of a student enrolled in the eligible institution; or

(2) The ineligible institution or organization may provide more than 25 percent but not more than 50 percent of the educational program of a student enrolled in the eligible institution if—

(i) The eligible institution and the ineligible institution or organization are not owned or controlled by the same individual, partnership, or corporation;

(ii) The eligible institution's accrediting agency, or if the institution is a public postsecondary vocational educational institution, state agency listed in the **Federal Register** in accordance with 34 CFR part 603, specifically determines that the institution's agreement meets the agency's standards for the contracting out of educational services; and

(iii) The ineligible institution has not had its eligibility terminated by the Secretary.

(Authority: 20 U.S.C. 1094)

§ 600.10 Date, extent, duration, and consequence of eligibility.

(a) *Date of eligibility.* (1) If the Secretary determines that an applicant institution satisfies all the statutory and regulatory eligibility requirements, the Secretary considers the institution to be an eligible institution as of the date—

(i) For purposes of participating in any Title IV, HEA program, the Secretary has signed the institution's program participation agreement described in 34 CFR part 668, subpart B; and

(ii) For purposes other than participating in any Title IV, HEA program, the Secretary has received all the information necessary to make that determination.

(2) If an eligible institution seeks eligibility, for purposes of a Title IV, HEA program, for a location or educational program not previously designated eligible, and the Secretary determines that the location or educational program satisfies all the statutory and regulatory eligibility requirements, the Secretary considers the location or program to be eligible to participate in that Title IV, HEA program as of the date the Secretary certifies that location or program to so participate.

(b)(1) *Extent of eligibility.* If the Secretary determines that the entire applicant institution, including all its locations and all its educational programs, satisfies the applicable requirements of this part, the Secretary extends eligibility to all educational programs and locations identified on the institution's application for eligibility.

(2) If the Secretary determines that only certain educational programs or certain locations of an applicant institution satisfy the applicable requirements of this part, the Secretary extends eligibility only to those educational programs and locations that meet those requirements and identifies the eligible educational programs and locations in the eligibility notice sent in accordance with § 600.21.

(3) Eligibility does not extend to any location that an institution establishes after it receives its eligibility designation if the institution provides at least 50 percent of an educational program at that location.

(c) *Subsequent additions of educational programs.* (1) Except as provided in paragraph (c)(2) of this section, if an eligible institution adds an educational program after it has been designated as an eligible institution by the Secretary, the institution must apply to the Secretary to have that additional program designated as an eligible program of that institution.

(2) An eligible institution that adds an educational program after it has been designated as an eligible institution by the Secretary does not have to apply to the Secretary to have that additional program designated as an eligible program of that institution if the additional program—

(i) Leads to an associate, baccalaureate, professional or graduate degree; or

(ii)(A) Prepares students for gainful employment in the same or related recognized occupation as an educational program that has previously been designated as an eligible program by the Secretary; and

(B) Is at least 8 semester hours, 12 quarter hours, or 600 clock hours.

(3) If an institution incorrectly determines under paragraph (a)(2) of this section that an educational program satisfies the applicable statutory and regulatory eligibility provisions without applying to the Secretary for approval, the institution is liable to repay to ED all the student financial assistance and other ED program funds it or its students received who were enrolled in that educational program.

(d) *Duration of eligibility.* (1) If an institution participates in a Title IV, HEA program, the Secretary's designation of the institution as an eligible institution under the HEA expires when the institution's program participation agreement, as described in 34 CFR part 668, subpart B, expires.

(2) If an institution does not participate in any Title IV, HEA program, the Secretary's designation of the institution as an eligible institution under the HEA does not expire as long as the institution continues to satisfy the statutory and regulatory requirements governing its eligibility.

(e) *Consequence of eligibility.* (1) If, as a part of its institutional eligibility application, an institution indicates that it wishes to participate in the Title IV, HEA programs and the Secretary determines that the institution satisfies the applicable statutory and regulatory requirements governing institutional eligibility, the Secretary will determine whether the institution satisfies the standards of administrative capability and financial responsibility contained in 34 CFR part 668, subpart B.

(2) If, as part of its institutional eligibility application, an institution indicates that it does not wish to participate in any Title IV, HEA program and the Secretary determines that the institution satisfies the applicable statutory and regulatory requirements governing institutional eligibility, the institution is eligible to apply to participate in any HEA program listed by the Secretary in the eligibility notice it receives under § 600.21. However, the institution is not eligible to participate in those programs, or receive funds under those programs, merely by virtue of its designation as an eligible institution under this part.

(Authority: 20 U.S.C. 1088 and 1141)

§ 600.11 Special rules regarding institutional accreditation or preaccreditation.

(a) *Change of accrediting agencies.* For purposes of §§ 600.4(a)(5)(i), 600.5(a)(6), and 600.6(a)(5)(i), the Secretary does not recognize the accreditation or preaccreditation of an otherwise eligible institution if that institution is in the process of changing its accrediting agency, unless the institution provides to the Secretary—

(1) All materials related to its prior accreditation or preaccreditation; and

(2) Materials demonstrating reasonable cause for changing its accrediting agency.

(b) *Multiple accreditation.* The Secretary does not recognize the accreditation or preaccreditation of an otherwise eligible institution if that institution is accredited or preaccredited as an institution by more than one accrediting agency, unless the institution—

(1) Provides to each such accrediting agency and the Secretary the reasons for that multiple accreditation or preaccreditation;

(2) Demonstrates to the Secretary reasonable cause for that multiple accreditation or preaccreditation; and

(3) Designates to the Secretary which agency's accreditation or preaccreditation the institution uses to establish its eligibility under this part.

(c) *Loss of accreditation or preaccreditation.* (1) An institution may not be considered eligible for 24 months after it has had its accreditation or preaccreditation withdrawn, revoked, or otherwise terminated for cause, unless the accrediting agency that took that action rescinds that action.

(2) An institution may not be considered eligible for 24 months after it has withdrawn from its accreditation or preaccreditation voluntarily under a show-cause or suspension order issued by an accrediting agency, unless that agency rescinds its order.

(d) *Religious exception.* (1) If an institution loses its accreditation or preaccreditation, the Secretary permits the institution to be considered eligible for purposes of complying with the provisions of §§ 600.4, 600.5, and 600.6 if the Secretary determines that its loss of accreditation or preaccreditation—

(i) Is related to the religious mission or affiliation of the institution; and

(ii) Is not related to its failure to satisfy the accrediting agency's standards.

(2) If the Secretary permits an unaccredited institution to be considered eligible under the provisions of paragraph (d)(1) of this section, the Secretary considers that unaccredited institution to be eligible for a period sufficient to allow the institution to obtain alternative accreditation or preaccreditation, except that period may not exceed 18 months.

(Authority: 20 U.S.C. 1099b)

Subpart B—Procedures for Establishing Eligibility

§ 600.20 Application procedures.

(a) An institution that wishes to establish its eligibility to apply to participate in any program authorized by the HEA must first apply to the Secretary for a determination that it qualifies as an eligible institution.

(b) A previously designated eligible institution must apply to the Secretary for a determination that the institution continues to meet the standards in this subpart upon the request of the Secretary or if the institution wishes to—

(1) Continue to be eligible beyond the scheduled expiration of the institution's current of eligibility designation;

(2) Include in the institution's eligibility—

(i) A branch campus that is not currently included in the institution's eligibility; or

(ii) A location that is not currently included in the institution's eligibility, if—

(A) The institution at that location offers 100 percent of an educational program; or

(B) The institution at that location offers at least 50 percent of an educational program and the Secretary requires the institution to apply for eligibility under § 600.30(c)(2);

(3) Continue to be eligible following a change in its name, location, or address of the institution or continue to include in the institution's eligibility—

(i) A branch campus that has changed its name, location, or address; or

(ii) Another location that has changed its name, location, or address, if—

(A) That location offers 100 percent of an educational program; or

(B) The Secretary requires the institution to apply for eligibility under § 600.30(c)(2)(ii)(B); or

(4) Reestablish eligibility following a change in ownership that results in a change in control according to the provisions of § 600.31.

(c) An institution applying for designation as an eligible institution shall—

(1) Apply on the form prescribed by the Secretary; and

(2) Provide all the information and documentation requested by the Secretary to make a determination of its eligibility.

(Authority: 20 U.S.C. 1088 and 1141)

§ 600.21 Eligibility notification.

(a) The Secretary notifies an institution in writing—

(1) Whether the applicant institution qualifies in whole or in part as an eligible institution under the appropriate provisions in §§ 600.4, 600.5, 600.6 and 600.7;

(2) Whether the institution is certified to participate in the Title IV, HEA programs if the institution applied to participate in those programs; and

(3) Of the HEA programs in which it is eligible to participate, and the HEA programs for which it is eligible to apply to participate.

(b) If only a portion of the applicant qualifies as an eligible institution, the Secretary specifies in the notice the locations or educational programs that qualify as the eligible institution.

(c) If the Secretary receives a notice from an institution as a result of § 600.30(a)(3), the Secretary—

(1) Notifies the institution that the location is an eligible location of that institution, identifies the HEA programs in which the institution may participate without further action, and that the extension of eligibility and participation is effective on the date that the Secretary received the institution's notice; or

(2) Notifies the institution that the institution must apply for eligibility of that location under § 600.20.

(d) In making the determination under paragraph (c) of this section, the Secretary takes into account the institution's ability adequately to provide education or training at the location, including such factors as—

(1) The percentage of an educational program offered at the location; and

(2) The financial and administrative capability of the institution.

(Authority: 20 U.S.C. 1088, 1099c, and 1141)

Subpart C—Maintaining Eligibility

§ 600.30 Institutional notification requirements.

(a) Except as provided in paragraph (b) of this section, an eligible institution shall notify the Secretary in writing, at an address specified by the Secretary in a notice published in the **Federal Register**, no later than 10 days after the change occurs, of any change in the following information provided in the institution's eligibility application:

(1) Its name.

(2) Its address.

(3) The name, number, and address of locations other than the main campus at which it offers at least 50 percent of an educational program and the percentages of the educational program that it provides at each location.

(4) The way the institution measures program length (e.g. a change from clock hours to credit hours).

(5) Its ownership, if that ownership change results in a change in control of the institution.

(6) Its status, as a proprietary, nonprofit, or public institution.

(7) The exercise of a person's substantial control over the institution, if the person did not previously exercise that control. The Secretary generally considers a person to exercise substantial control over an institution if the person—

(i) Directly or indirectly holds at least a 25 percent ownership interest in the institution;

(ii) Holds, together with another member or other members of his or her family, at least a 25 percent ownership interest in the institution;

(iii) Represents, either alone or together with other persons, under a voting trust, power of attorney, proxy, or similar agreement one or more persons who hold either individually or in combination with the other persons represented or the person representing them, at least a 25 percent ownership in the institution;

(iv) Is a member of the board of directors, the chief executive officer, or other executive officer of—

(A) The institution; or

(B) An entity that holds at least a 25 percent ownership interest in the institution.

(b) An eligible institution that is owned by a publicly traded corporation shall notify the Secretary in writing, at an address specified by the Secretary in

a notice published in the Federal Register, of any change in the information that is described in paragraphs (a) (5) through (7) of this section at the same time that the institution notifies the institution's accrediting agency, but no later than 10 days after the corporation learns of the change.

(c) The Secretary notifies the institution in writing if any reported change affects the institution's eligibility, and the effective date of that change.

(d) The institution's failure to inform the Secretary of the information described in paragraph (a) of this section within the time period stated in that paragraph may result in adverse action against it, including its loss of eligibility.

(e)(1) For the purposes of this section, an *ownership interest* is a share of the legal or beneficial ownership or control of, or a right to share in the proceeds of the operation of, an institution or institution's parent corporation.

(2) The term *ownership interest* includes, but is not limited to—

(i) An interest as tenant in common, joint tenant, or tenant by the entireties;

(ii) A partnership; and

(iii) An interest in a trust.

(3) The term *ownership interest* does not include any share of the ownership or control of, or any right to share in the proceeds of the operation of—

(i) A mutual fund that is regularly and publicly traded;

(ii) An institutional investor; or

(iii) A profit-sharing plan, provided that all employees are covered by the plan.

(f) For the purposes of this section, the Secretary considers a member of a person's family to be a parent, sibling, spouse or child; spouse's parent or sibling; or sibling's or child's spouse.

(Authority: 20 U.S.C. 1088 and 1141)

§ 600.31 Change in ownership resulting in a change of control.

(a)(1) If an eligible institution undergoes a change of ownership that results in a change in control, the institution shall reestablish its status as an eligible institution after the change.

(2) To establish its status as an eligible institution under this part, an institution that undergoes a change of ownership and control must satisfy all the applicable requirements contained in §§ 600.4, 600.5, and 600.6, except that if the institution is a proprietary institution of higher education or postsecondary vocational institution, it need not have been in existence for two years before seeking eligibility, unless it was in existence as a branch campus for less than two years.

(b) For the purposes of this part, a change in ownership of an institution that results in a change of control means any action by which a person or corporation obtains new authority to control the actions of that institution. That action may include, but is not limited to—

(1) The sale of the institution or the majority of its assets;

(2) The transfer of the controlling interest of stock of the institution or its parent corporation;

(3) The merger of two or more eligible institutions;

(4) The division of one institution into two or more institutions;

(5) The transfer of the controlling interest of stock or assets of the institution to its parent corporation; or

(6) The transfer of the liabilities of an institution to its parent corporation.

(c) Except as provided in paragraph (d) of this section, an action that may be treated as not resulting in a change in control includes, but is not limited to—

(1) The death or retirement of an owner of an institution, when the owner's interest is sold or transferred to either a family member or a current stockholder of the corporation; or

(2) Another action determined by the Secretary to be a routine business practice.

(Authority: 20 U.S.C. 1099c)

§ 600.32 Eligibility of additional locations.

(a) Except as provided in paragraphs (b) and (c) of this section, to qualify as an eligible location, an additional location of an eligible institution must satisfy the applicable requirements of this section and §§ 600.4 through 600.6.

(b) To qualify as an eligible location, an additional location is not required to satisfy the two-year requirement of §§ 600.5(a)(7) or 600.6(a)(6), unless—

(1) The location was a facility of another institution that has closed or ceased to provide educational programs for a reason other than a normal vacation period or a natural disaster that directly affects the institution or the institution's students;

(2) The applicant institution acquired, either directly from the institution that closed or ceased to provide educational programs, or through an intermediary, the assets at the location; and

(3) The institution from which the applicant institution acquired the assets of the location—

(i) Owes a liability for a violation of an HEA program requirement; and

(ii) Is not making payments in accordance with an agreement to repay that liability.

(c) Notwithstanding paragraph (b) of this section, an additional location is not required to satisfy the two-year requirement of §§ 600.5(a)(7) or 600.6(a)(6) if the applicant institution agrees—

(1) To be liable for all improperly expended or unspent HEA program funds received by the institution that has closed or ceased to provide educational programs;

(2) To be liable for all unpaid refunds owed to students who received Title IV, HEA program funds; and

(3) To abide by the policy of the institution that has closed or ceased to provide educational programs regarding refunds of institutional charges to students in effect before the date of the acquisition of the assets of the additional location for the students who were enrolled before that date.

(d) For purposes of this section, an "additional location" is a location of an institution that was not designated as an eligible location in the eligibility notification provided to an institution under § 600.21.

(Authority: 20 U.S.C. 1088 and 1141)

Subpart D—Loss of Eligibility

§ 600.40 Loss of eligibility.

(a)(1) Except as provided in paragraphs (a) (2) and (3) of this section, an institution or a location or educational program of an institution loses its eligibility on the date that—

(i) The institution, location, or educational program fails to meet any of the eligibility requirements of this part;

(ii) The institution or location permanently closes; or

(iii) The institution or location ceases to provide educational programs, for a reason other than a normal vacation period or a natural disaster that directly affects the institution or a location or the students of the institution or location.

(iv) The institution's period of participation, as specified under § 668.13, expires, or the institution's provisional certification is revoked under § 668.13; or

(v) The Secretary receives a notice from the appropriate State Postsecondary Review Entity designated under Subpart 1 of Part H of Title IV of the HEA that the institution's participation should be withdrawn.

(2) If an institution loses its eligibility because it violated the requirements of § 600.5(a)(8), as evidenced by the determination under provisions contained in § 600.5(d), it loses its eligibility—

(i) On the last day of the fiscal year used in the fraction contained in

§ 600.5(d), if the award year used in the fraction was completed on or before the end of that fiscal year; or

(ii) On the last day of the award year used in the fraction contained in § 600.5(d), if that award year was completed after the fiscal year used in the fraction.

(3) If an institution loses its eligibility under the provisions of § 600.7(a)(1)(i), it loses its eligibility on the last day of the award year being evaluated under that provision.

(b) If the Secretary undertakes to terminate the eligibility of an institution because it violated the provisions of § 600.5(a)(8) or 600.7(a), the presiding official, if a hearing is requested, must terminate the institution's eligibility if it violated those provisions, notwithstanding its status at the time of the hearing.

(c)(1) If the Secretary designates an institution or any of its educational programs or locations as eligible on the basis of inaccurate information or documentation, the Secretary's designation is void from the date the Secretary made the designation, and the institution or program or location, as applicable, never qualified as eligible.

(2) If an institution closes its main campus or stops providing any educational programs on its main campus, it loses its eligibility as a whole, or for the programs no longer offered at its main campus, respectively, at all its locations on the date it closes that campus or stops providing any educational program at that location.

(d) Except as otherwise provided in this part, if an institution ceases to satisfy any of the requirements for eligibility under this part—

(1) It must notify the Secretary within 30 days of the date that it ceases to satisfy that requirement; and

(2) It becomes ineligible to continue to participate in any HEA program as of the date it ceases to satisfy any of the requirements.

(Authority: 20 U.S.C. 1085, 1088, and 1141)

§ 600.41 Termination and emergency action proceedings.

(a) If the Secretary believes that a previously designated eligible institution as a whole, or at one or more of its locations, does not satisfy the statutory or regulatory requirements that define that institution as an eligible institution, the Secretary may—

(1) Terminate the institution's eligibility designation in whole or as to a particular location—

(i) Under the procedural provisions applicable to terminations contained in 34 CFR 668.81, 668.83, 668.86, 668.87, 668.88, 668.89, 668.90(a)(1), (a)(4), and (c)–(f), and 668.91; or

(ii) Under a show-cause hearing, if the institution's loss of eligibility results from—

(A) Its previously qualifying as an eligible vocational school;

(B) Its previously qualifying as an eligible institution, notwithstanding its unaccredited status, under the transfer-of-credit alternative to accreditation (as that alternative existed in 20 U.S.C. 1085, 1098, and 11412 and § 600.8 until July 23, 1992);

(C) Loss of accreditation or preaccreditation;

(D) Loss of legal authority to provide postsecondary education in the State in which it is physically located; or

(E) Violations of the provisions contained in § 600.5(a)(8) or 600.7(a);

(2) Limit, under the provisions of 34 CFR 668.86, the authority of the institution to disburse, deliver, or cause the disbursement or delivery of funds under one or more Title IV, HEA programs as otherwise provided under 34 CFR 668.25 for the benefit of students enrolled at the ineligible institution or location prior to the loss of eligibility of that institution or location; and

(3) Initiate an emergency action under the provisions contained in 34 CFR 668.83 with regard to the institution's participation in one or more Title IV, HEA programs.

(b) If the Secretary believes that an educational program offered by an institution that was previously designated by the Secretary as an eligible institution under the HEA does not satisfy relevant statutory or regulatory requirements that define that educational program as part of an eligible institution, the Secretary may in accordance with the procedural provisions described in paragraph (a) of this section—

(1) Undertake to terminate that educational program's eligibility under one or more of the Title IV, HEA programs under the procedural provisions applicable to terminations described in paragraph (a) of this section;

(2) Limit the institution's authority to deliver, disburse, or cause the delivery or disbursement of funds provided under that Title IV, HEA program to students enrolled in that educational program, as otherwise provided in 34 CFR 668.25; and

(3) Initiate an emergency action under the provisions contained in 34 CFR 668.83 with regard to the institution's participation in one or more Title IV, HEA programs with respect to students enrolled in that educational program.

(c)(1) An action to terminate and limit the eligibility of an institution as a whole or as to any of its locations or educational programs is initiated in accordance with 34 CFR 668.86(b) and becomes final 20 days after the Secretary notifies the institution of the proposed action, unless the designated department official receives by that date a request for a hearing or written material that demonstrates that the termination and limitation should not take place.

(2) Once a termination under this section becomes final, the termination is effective with respect to any commitment, delivery, or disbursement of funds provided under an applicable Title IV, HEA program by the institution—

(i) Made to students enrolled in the ineligible institution, location, or educational program; and

(ii) Made on or after the date of the act or omission that caused the loss of eligibility as to the institution, location, or educational program.

(3) Once a limitation under this section becomes final, the limitation is effective with regard to any commitment, delivery, or disbursement of funds under the applicable Title IV, HEA program by the institution—

(i) Made after the date on which the limitation became final; and

(ii) Made to students enrolled in the ineligible institution, location, or educational program.

(d) After a termination under this section of the eligibility of an institution as a whole or as to a location or educational program becomes final, the institution may not certify applications for, make awards of or commitments for, deliver, or disburse funds under the applicable Title IV, HEA program, except—

(1) In accordance with the requirements of 34 CFR 668.25(c) with respect to students enrolled in the ineligible institution, location, or educational program;

(2) After satisfaction of any additional requirements, imposed pursuant to a limitation under paragraph (a)(2) of this section, which may include the following:

(i) Completion of the actions required by 34 CFR 668.25 (a) and (b).

(ii) Demonstration that the institution has made satisfactory arrangements for the completion of actions required by 34 CFR 668.25 (a) and (b).

(iii) Securing the confirmation of a third party selected by the Secretary that the proposed disbursements or delivery of Title IV, HEA program funds meet the requirements of the applicable program.

(iv) Using institutional funds to make disbursements permitted under this paragraph and seeking reimbursement from the Secretary for those disbursements.

(Authority: 20 U.S.C. 1094)

Appendix A—Summary of Attendees' Responses at Regional Meetings on Part 600—Institutional Eligibility Under the Higher Education Act of 1965, as Amended

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

I. Sections 481(a)(3) and (4) of the HEA provide that an institution is no longer an eligible institution if—

• It offers more than 50 percent of its courses by correspondence, unless the institution is an institution that meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act;

• It enrolls 50 percent or more of its students in correspondence courses (unless the institution meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act);

• More than 25 percent of its students are incarcerated (except that the Secretary may waive this prohibition for a nonprofit institution that provides a 2-year or 4-year degree);

• It admits more than 50 percent of its students under ability-to-benefit provisions in section 484(d) of the HEA and does not provide a 2-year or 4-year degree program;

• The institution has filed for bankruptcy; or

• The institution, its owner, or its chief executive officer committed a crime or fraud involving Title IV, HEA program funds.

Issues that the community was asked to address and the community's views:

1. How should the appropriate percentages be calculated?

• *Offers more than 50 percent of its courses by correspondence.* This issue was only addressed at two of the regional meetings, where the consensus was that the calculation should be made by dividing the number of courses offered at the institution by correspondence by the total number of courses offered at the institution.

• *Enrolls 50 percent or more of its students in correspondence courses.* This issue was only addressed at one of the regional meetings where the consensus was that the calculation should be made by dividing the number of students enrolled in correspondence courses by the number of students enrolled at the institution.

• *More than 25 percent of its students are incarcerated.* This issue was not addressed at any of the regional meetings.

• *Admits more than 50 percent of its students under ability-to-benefit provisions in section 484(d) of the HEA and does not provide a 2-year or a 4-year degree program.* This issue was only addressed at one of the regional meetings, where the consensus was that the calculation should be made by dividing the number of ability-to-benefit students admitted by the total number of students admitted to the institution.

• *What courses should be considered in calculating the correspondence percentages?* This issue was only addressed at two of the regional meetings. At one of the regional meetings, the consensus was that only those courses offered solely by correspondence should be counted for these purposes. At the other regional meeting the consensus was that only courses in an eligible program under Title IV of the HEA should be counted.

2. How should the Department collect this information?

• This issue was only addressed at one of the regional meetings, where the consensus was that a determination of compliance with this provision should be made by the Department during a program review and should be based on information on file at the institution.

3. How often should the percentage be calculated or requested by the Secretary?

• There was a consensus in all four regional meetings that the percentages should be calculated annually.

4. How should "incarcerated students" be defined? Should the definition include residents of halfway houses or those under home restriction?

• There was a consensus in all four regional meetings that an "incarcerated student" should be defined as an individual confined to a penal institution and should not include individuals in halfway houses or in home restriction.

5. What criteria should be used to determine if an institution qualifies for a waiver of the provision governing the percentage of incarcerated students?

• This issue was addressed by three of the four regional meetings, where the consensus appeared to be that the Secretary should not consider waiving this provision for any institution not already covered by the statute.

II. Section 481(b) provides that a proprietary institution must, pursuant to regulations, obtain at least 15 percent of its revenue from non-Title IV, HEA program sources to be an eligible institution.

Issues that the community was asked to address and the community's views:

1. How should the term "revenue" be defined?

• The majority opinion in three of the four regional meetings was that all income should be considered in calculating an institution's revenue. The majority opinion in the fourth regional meeting was that the term revenue should include income derived from educational sources.

2. What process should be used to monitor compliance?

• The consensus in all four regional meetings was that the institution's annual financial statement should be used to monitor compliance with this requirement.

3. How often should the percentage be calculated or requested by the Department?

• The consensus in three of the regional meetings was that the percentage should be calculated and requested annually. The consensus in the fourth regional meeting was that while the percentage should be calculated annually, the determination of whether an institution was in compliance with this provision should be based on a two-year average.

4. How should FFEL program proceeds that have been delivered directly to a student be considered in determining this percentage?

• There was a consensus in all four regional meetings that FFEL program proceeds that have been delivered directly to a student should not be considered as revenue for purposes of this provision.

III. Section 498(i) provides that an institution that undergoes a change in ownership that results in a change in control may not be considered the same institution and must be considered a new institution for the purpose of being certified as eligible to participate in the Title IV programs. However, the new institution is not required to have been in existence for two years prior to seeking that certification, unless the institution was in existence as a branch for less than two years. The statute lists examples of changes of ownership that result in a change in control, and allows certain changes resulting from the death of an owner or changes from routine business practices to be treated as changes in control.

Issues that the community was asked to address and the community's views:

1. Should the Secretary seek by regulations to define circumstances that do or do not constitute a change in control in addition to those listed in the statute, or should the Secretary be permitted to make that decision on a case-by-case basis?

• This issue was only addressed at two of the regional meetings, where the consensus was that the Secretary should not define circumstances that do or do not constitute a change in control in addition to those listed in the statute. Instead, the Secretary should make the decision on a case-by-case basis.

2. What are the "routine business practices" that do not produce a change in control?

• This issue was only addressed at two of the regional meetings. The consensus at one of the regional meetings was that regulations should permit changes of ownership that result because of dissolutions of marriages and any transfers to family members not to be treated as changes in control. At the other regional meeting the consensus was that situations should be reviewed on a case-by-case basis.

IV. Section 498(j) provides that a branch of an eligible institution is a separate institution and shall separately meet all the requirements of Title IV of the HEA, except that the institution may not be required (under sections 481(b)(5) or 481(c)(3) to be in existence for 2 years prior to seeking that certification unless the institution was in existence as a branch for less than 2 years.

Issues that the community was asked to address and the community's views:

1. How should the term "branch" be defined?

• A precise definition was only offered at one of the regional meetings, where a branch campus was defined as a location that contains an administrative staff, student services, and instructional staff, and offers an entire educational program leading to a degree, certificate, or diploma at that site.

2. Should a branch be specifically and separately licensed by the State in which it is located as a branch campus?

• This issue was only addressed at two of the regional meetings, where the consensus was that a branch should be separately licensed by the State in which it is located.

3. Should a branch be specifically accredited by its accrediting agency?

• This issue was addressed at two of the regional meetings, where the consensus was that a branch should be specifically accredited by its accrediting agency.

[FR Doc. 94–2863 Filed 2–9–94; 8:45 am]

BILLING CODE 4000–01–P

federal register

Thursday
February 10, 1994

Part IV

Department of Health and Human Services

Social Security Administration

20 CFR Part 404
Revised Medical Criteria for Determination of Disability, Cardiovascular System; Final Rules

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

[Regulations No. 4]

RIN 0960–AA99

Revised Medical Criteria for Determination of Disability, Cardiovascular System

AGENCY: Social Security Administration, HHS.

ACTION: Final rules.

SUMMARY: These amendments revise the criteria in the Listing of Impairments (the listings) that we use to evaluate cardiovascular impairments for adults and children who claim Social Security or Supplemental Security Income (SSI) benefits based on disability under title II and title XVI of the Social Security Act (the Act). The revisions reflect advances in medical knowledge, treatment, and methods of evaluating cardiovascular impairments.

EFFECTIVE DATE: These rules are effective February 10, 1994.

FOR FURTHER INFORMATION CONTACT: Irving Darrow, Esq., Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 966–0512.

SUPPLEMENTARY INFORMATION: The Act provides, in title II, for the payment of disability benefits to workers insured under the Act. Title II also provides child's insurance benefits for persons who became disabled before age 22 and widow's and widower's insurance benefits based on disability for widows/widowers and surviving divorced spouses of insured individuals. In addition, the Act provides, in title XVI, for SSI payments to persons who are disabled and have limited income and resources. For workers insured under title II, for children of workers insured under title II who become disabled before age 22, for widows/widowers and surviving divorced spouses claiming widow's or widower's insurance benefits based on disability under title II, and for adults claiming SSI benefits based on disability, "disability" means inability to engage in any substantial gainful activity. For eligibility for SSI benefits as a disabled child under age 18, "disability" means that the impairment substantially reduces the child's ability to function independently, appropriately, and effectively in an age-appropriate manner. Under both the title II and title XVI programs, disability must be due to a medically determinable physical or mental impairment or combination of impairments which can be expected to result in death or which has lasted or can be expected to last for a continuous period of at least 12 months.

The listings contained in appendix 1 to subpart P of part 404 are incorporated by reference in subpart I of part 416. The listings are divided into part A and part B. The medical criteria in part A are applied in evaluating impairments of persons age 18 or over. The criteria in part A may also be applied in evaluating impairments in persons under age 18 if the disease processes have a similar effect on adults and younger persons. Part B contains medical criteria for evaluating impairments of persons under age 18 when the criteria in part A do not give appropriate consideration to the particular effects of the disease processes in childhood. In evaluating disability for a person under age 18, we first use the criteria in part B and, if the criteria in part B do not apply, we use the criteria in part A. (See §§ 404.1525 and 416.925.)

When parts of the listings were last revised and published in the **Federal Register** on December 6, 1985 (50 FR 50068), we indicated in the preamble that medical advancements in disability evaluation and treatment and program experience would require that the listings be periodically reviewed and updated. Accordingly, we published termination dates ranging from 4 to 8 years for each of the specific body system listings. These dates currently appear in the introductory paragraphs of the listings; the latest extension for the expiration date for part A of the cardiovascular regulation appeared in the **Federal Register** of July 6, 1993 (58 FR 36133). We are now updating the cardiovascular system listings in 4.00 (part A) and 104.00 (part B) and extending the effective date of these revised listings for 4 years from the date of their publication. Therefore, 4 years after publication of the final rules, these regulations will no longer be effective unless extended by the Secretary or revised and promulgated again.

We published these regulations in the **Federal Register** on July 9, 1991 (56 FR 31266) as a Notice of Proposed Rulemaking (NPRM). Interested persons, organizations, Government agencies, and other groups were given 60 days to comment. The comment period ended September 8, 1991. Twenty-four commenters provided comments on the NPRM. Below we discuss the significant differences between the final rule and the proposed rule, and we also respond to the substantive public comments we received on the NPRM.

Explanation of the Final Rules

We have updated these final rules to provide criteria reflecting state-of-the-art medical science and technology. The basic approach underlying the final listings is to place less emphasis on the diagnosis of disease, and to emphasize the impact of the impairment(s) on a person's ability to perform gainful activity or, in the case of a child under the SSI program, on the child's ability to perform age-appropriate activities.

The listings contain examples of some of the most frequently encountered impairments in the disability program. The criteria include specific symptoms, signs, and laboratory findings that are considered to characterize impairments severe enough to prevent a person from doing work-related activities, or in the case of a child claiming SSI benefits under title XVI of the Act, an impairment severe enough to prevent the child from functioning independently, appropriately, and effectively in an age-appropriate manner. The listings help to ensure that determinations of disability have a sound medical basis, that claimants receive equal treatment through the use of specific criteria, and that people who are disabled can be readily identified and awarded benefits if all other factors of entitlement or eligibility are met.

Claimants may be found disabled based on medical factors alone if their impairment(s) meets or equals one of the sets of medical criteria. If the severity of a claimant's impairment(s) does not meet or equal the severity in the medical listings, we then assess the claimant's residual functional capacity to determine what he or she can still do; or in the case of a child claiming SSI benefits under title XVI of the Act, we perform an individualized functional assessment. Using the residual functional capacity assessment, we determine whether the person retains the capacity to perform past relevant work; if not, we determine his or her capacity to do any other work that exists in the national economy, considering the individual's age, education, and work experience. If the person is a child claiming SSI benefits under title XVI of the Act, we use the individualized functional assessment to determine whether he or she has an impairment(s) of comparable severity to one that would disable an adult. Thus, we do not deny any claim of disability on the sole basis that the individual's impairment(s) does not meet or equal in severity the criteria of a listing.

As in the NPRM, the final rules contain some criteria in the listings for chronic heart failure (4.02) and ischemic heart disease (4.04) based on exercise test results; however, in response to comments, we have removed the general rules requiring the purchase of exercise testing in all cases in which exercise testing poses no significant risk to the individual. A number of commenters, nearly all of whom were not physicians, were concerned with our proposal to expand the use of the exercise test and expressed the view that other evidence, particularly angiography, should be afforded as much consideration. Although we agree with the commenters that cardiac angiography is the best diagnostic test for the presence of coronary atherosclerosis, the angiogram provides only confirmatory anatomic information supporting the diagnosis of coronary atherosclerosis and does not help in any way to quantify functional performance. Moreover, even angiography has some limitations because of inter-observer variability.

In these listings, we do not use the exercise test for diagnostic purposes. The purpose of these listings is to subordinate the diagnostic use of the exercise test and to recognize its usefulness as a functional test of aerobic capacity. When viewed in this light, exercise testing is useful for defining the safe limits of exercise, the aerobic exertional threshold of angina pectoris, or left ventricular failure. If a person can exercise to greater than 5 METS without evidence of overt failure, ischemic discomfort, or hypotension, it can be reasonably inferred that this is a safe level of aerobic exertion. Even at less than 5 METS, an exercise test is some evidence of an individual's capacity—or lack of capacity—for aerobic exertion. However, we agree with the commenters that one should not rely solely on the results of an exercise test; as with any evidence, exercise test results must be considered in the context of the entire record.

Even though we have retained in the final rules some criteria for exercise testing, we want to emphasize that we do not deny any individual's claim solely because his or her impairment(s) does not meet or equal in severity any listing. Under the sequential evaluation processes set out in §§ 404.1520, 416.920, and 416.924 of our regulations, we provide every claimant whose severe impairment or combination of impairments does not meet or equal in severity a listing with an individualized assessment of his or her functioning and an opportunity to establish that he or she is disabled. This assessment of functioning considers all relevant evidence.

In response to public comments, we have also deleted all of the references in the listings to the New York Heart Association (NYHA) Functional Criteria, which we had proposed to use in several listings under 4.02, 4.04, and 4.06. Instead, under final listings 4.02 and 4.04, we have replaced the references with narrative criteria that describe the functional classes; in final listing 4.06, we deleted the references to functioning entirely because they were unnecessary. We describe the criteria and our reasons for making these changes later in this preamble.

We made a number of other changes in response to the public comments, which are all described below or in the public comments section of this preamble. In addition, it was apparent to us from some of the comments that it would be helpful and clearer if we used the same or similar language in Parts A and B of the listings when we intended the provisions to be analogous. We have, therefore, made a number of conforming revisions in Parts A and B. In the majority of cases, these changes are not substantive; we describe all of them below in the summary of provisions or in the public comments section of this preamble.

Finally, we have made a number of minor editorial changes throughout the rules to correct errors in the NPRM, to make the rules internally consistent, and to conform the style of these listings to our other listings. For instance, we deleted the word "listing" before all references to specific listings because that is the style throughout appendix 1. We also revised the opening paragraphs of several of the listings in Parts A and B so that they use the same or similar language to introduce the subparagraphs.

The following is a summary of the provisions of the final rules and the changes we have made from both the text of the NPRM and the text of our former rules.

Revisions to Part A (Adult Portion) of Appendix 1

4.00 Preface

4.00A Introduction

We have reorganized the introductory portions of the cardiovascular listings to facilitate their use. Final 4.00A, "Introduction," is a new paragraph that explains the basic approach used in evaluating cardiovascular impairments. It includes general information about the kinds and extent of documentation we generally require, and stresses the importance of a longitudinal clinical record to the assessment of severity and duration, when such a record is available.

We made a number of changes from the NPRM in response to public comments. There are now four paragraphs in the final 4.00A. The first paragraph is a general paragraph based on the first two sentences of the NPRM. We revised the first sentence from the NPRM to make it more listings-specific; that is, to state that the "listings in this section describe impairments resulting from cardiovascular disease." We also changed the word "heart" to "cardiovascular" because it more accurately describes the content of the listings. In the second sentence, we added a clause which says that a longitudinal record of 3 months is not necessary if the claim can be decided favorably based on the current evidence. The third sentence is new. It reaffirms our general policy that all relevant evidence must be considered in assessing disability.

The second and third paragraphs of final 4.00A address issues of treatment. They reorganize and revise the third and fourth sentences from the NPRM, and expand their discussion. The first sentence of the second paragraph, which corresponds to the fourth sentence in the NPRM, now states that many individuals with listing-level impairments will have received the benefit of a medically prescribed therapeutic program; this is in contrast to the NPRM statement that "most" individuals with cardiovascular disease have "usually" received such treatment. In response to comments that asked whether we would consider treating source opinions in our determinations, we added the clause, "in addition to information about the nature and severity of the impairment," to the end of the second sentence, which includes language from our rules on the evaluation of treating source opinions. We expanded the provisions at the end of the second paragraph to state more clearly the reasons why it is important to establish a longitudinal record and document treatment and response.

We added the third paragraph in response to comments which pointed out that some people do not receive treatment, and that some do not have an ongoing relationship with the medical community. The new paragraph provides that it is still important to establish a longitudinal record in these cases unless the case can be decided favorably based on the available evidence. It also explains that, even though individuals who do not receive treatment cannot be found to have impairments that "meet" the criteria of

several of the listings, they may still have impairments that are equivalent in severity to listed impairments, or that are disabling at the last step of the sequential evaluation process. To be consistent with the adult rules, we also added a fifth paragraph to final 104.00A of the preface to the childhood listings; the paragraph contains the same provisions as the adult rules.

The fourth paragraph is a new paragraph that emphasizes the importance of the last point in all cases in which impairments do not meet the criteria of a listing. We added this paragraph in response to many commenters who thought that we would deny claimants whose impairments did not meet the requirements in the listings, or who thought that the listings criteria were the only criteria we considered in the steps of sequential evaluation beyond the listings step. It is a reminder that claimants whose impairments do not "meet" any listing may still be found to have impairments that "equal" a listing, and that the listings can only be used to find a person disabled, never "not disabled." The new paragraph stresses the importance of an individualized residual functional capacity assessment, which may or may not result in a finding of disability, whenever a person's severe impairment(s) does not meet or equal the severity of a listing. To be consistent with the adult rules, we also added a sixth paragraph to 104.00A of the preface to the childhood listings emphasizing the importance of equivalence determinations and individualized functional assessments when childhood impairments do not meet a listing.

We edited slightly and have moved the fifth sentence from proposed 4.00A to final 4.00C2d because it is guidance relevant to the purchase of exercise testing.

4.00B Cardiovascular Impairment

We moved the discussion that was in 4.00A of our former rules to final 4.00B, which we have retitled "Cardiovascular Impairment." We changed the title from "Cardiac Impairment" to "Cardiovascular Impairment" because the section in fact addresses both kinds of impairments. We revised and expanded this discussion of the consequences of heart disease to increase its scope and to conform to current clinical concepts. The discussion now also includes congenital heart disease, because more individuals with this condition are living into adulthood.

The final rule is the same as that proposed in the NPRM except that we added "near syncope" in 4.00B3 in response to a comment and, in a technical correction, we deleted the reference to "extremities (4.11–4.12)" in the paragraph after paragraph 4. Impairment of the extremities does not result in cardiac impairment.

4.00C Documentation

Final 4.00C, "Documentation," consolidates and augments the guides formerly in 4.00F, G, H, and I. We have expanded the discussion in 4.00Clb on the needed descriptions of protocols for various types of exercise tests, including treadmill, bicycle, and arm ergometry.

The final rules in 4.00C1a are the same as those in the NPRM. In 4.00C1b, we made three changes in response to public comments: In final 4.00C1b(1), we changed the word "should" to "must" to state the rule more straightforwardly; in final 4.00C1b(5), we updated the reference to the American Heart Association standards; and in final 4.00C1b(6) we added text which recognizes that information will not always be available in the existing medical evidence about whether an individual supported himself or herself on the handrails or about the Borg scale.

In responding to a comment, we also made a technical correction in 4.00C1b(4), which had inadvertently misstated how hyperventilation studies are performed. The NPRM stated that the posthyperventilation electrocardiogram (ECG)—that is, the ECG taken to assess the effects of hyperventilation—should be deferred until at least 10 minutes after exercise; because hyperventilation is performed before exercise, this would have made the instruction meaningless. We revised the criterion to explain that it is the exercise that should be deferred for 10 minutes after hyperventilation, which is what we intended to state. Finally, we made minor editorial changes in the section, such as substituting "ECG" for the word "electrocardiogram" in 4.00C1b(1) and changing the word "references" to "reference" in the last sentence of the paragraph.

We substantially revised 4.00C2 from the language of the NPRM in response to comments. We changed the heading of the section to "Purchasing exercise tests" in order to narrow the focus of the section. We revised the first sentence of final 4.00C2a to state more accurately that it is well recognized that exercise testing is the best tool currently available for estimating maximal aerobic capacity, instead of the more general statement about the assessment of functional capacity we had proposed. We did this because we agreed with those commenters who pointed out that exercise testing does not assess all kinds of functional capacities, only certain functions. We deleted without replacement the proposed second and third sentences of the paragraph. The proposed second sentence was the sentence which stated that exercise tests are the primary basis for evaluating functional capacity under this listing, which was an inaccurate statement. The third sentence was an absolute requirement to include existing exercise test results in the evidence. Aside from the fact that it was not a rule having to do with the purchase of exercise testing, it also left no leeway for the possibility that we would be unable to obtain the evidence despite diligent efforts; we deleted the sentence (instead of moving it) because inherent in our rules for gathering evidence is the need to make every reasonable effort to obtain any relevant evidence, including exercise test results.

We then revised the remainder of the paragraph to better explain our rules on the purchase of exercise testing and when such purchase could be appropriate. We explain these revisions in more detail, and our reasons for making them, in the public comments section of this preamble. The final rule provides that before purchasing any tests when exercise is involved, a program physician, preferably one experienced in the care of patients with cardiovascular disease, should review the clinical record to determine whether the test presents a significant risk to the individual. This requirement recognizes that technically sophisticated medical reports of record need to be reviewed by a physician to assess potential risk of exercise testing.

Final 4.00C2b replaces former 4.00G2. We have removed the requirement that the targeted heart rate should not be less than 85 percent of maximum predicted heart rate during exercise testing because the listings do not use the exercise test for diagnosis but for functional evaluation.

In a technical change for consistency with final 4.00C1b, we revised final 4.00C2b(1) to state that a purchased exercise test must be performed using a generally accepted protocol, that the protocol that was followed must be reported, and that the test must meet the requirements of 4.00C1b and 4.00C2b. As in final 4.00C1b(6), we deleted the requirement for information about whether an individual supported himself or herself on the handrails and about the Borg scale. We also deleted the proposed requirement for a description of whether the individual was allowed to support himself or herself on the handrails for the reasons

we explained in the comments and responses. In response to a comment, we added a sentence about the significance of isolated systolic hypertension at the end of 4.00C2b(4); and we deleted proposed 4.00C2(5) and renumbered proposed 4.00C2b(6) as final 4.00C2(5). In 4.00C2b(5), we made conforming changes to permit the use of generally accepted standards for the exercise laboratory.

Final 4.00C2c discusses risk factors that will preclude the purchase of exercise testing; it replaces the first paragraph of former 4.00G3. In response to comments, we have expanded the list of risk factors in final 4.00C2c to include several conditions from the prior rules that were not in the NPRM; we have also added cardiomyopathies to the list, and made clear that the risk factors listed are only examples; we changed the word "should" to "will" in the opening clause to make it clear that we will not purchase exercise tests in the situations listed. We removed the example of arterial dissection after coronary angioplasty because it was medically inappropriate. We explain our reason for this change in the public comments section of this preamble. When the risk factors in 4.00C2c are not present, a claimant may still be at risk for exercise testing, and the program physician retains the authority to decide whether a claimant would be at risk. However, we revised and expanded the section to state more plainly that it should be a rare case in which the opinion of a treating physician that a claimant would be at risk to exercise would be overridden and, if it is, that the program physician's reasons for overriding the opinion must be documented. We also expanded the section to indicate that we will purchase an exercise test only if it poses no risk to the individual and the claim cannot otherwise be favorably decided.

The NPRM language of 4.00C2d, which provided guidance for deferral of exercise testing following surgery, is unchanged in the final rule. We did, however, add a cross-reference to 4.00D for clarity. We also edited slightly and moved the fifth sentence of proposed 4.00A into this section, as previously described.

In a technical correction, we moved proposed 4.00C2e and redesignated it as final 4.00C2e(2). The paragraph discusses factors that limit the interpretation of exercise tests. Therefore, we believe that it more logically belongs under the heading of "Evaluation," rather than "Purchasing exercise tests." We describe other changes to the paragraph below, under its new designation of 4.00C2e(2).

Because of the redesignation of proposed 4.00C2e as 4.00C2e(2), we redesignated proposed 4.00C2f as final 4.00C2e(1). Final 4.00C2e(1) provides rules on the evaluation of exercise testing. We made a number of revisions and additions from the NPRM in response to comments. We deleted the parenthetical statement in the first sentence that characterized the work level at which the test becomes abnormal as an "ischemic threshold." We added a new second sentence which provides that the ability or inability to complete an exercise test is not, by itself, evidence that a person is free from ischemic heart disease and that the results of exercise testing must be considered in the context of all of the other evidence in the individual's case record. We also revised the last sentence of the NPRM to place the focus squarely on individuals who are under the care of treating physicians. We now state more clearly the rule from the NPRM that, if the person has a treating physician who has not ordered an exercise test, and there is no apparent reason why the person would be at risk, contact must be made with the source to determine the source's opinion whether exercise testing involves significant risk, or whether there is some other reason why the treating physician did not have the test performed, such as a financial bar. We also deleted references to the "examining physician" in response to a comment that pointed out that the rule was unclear; moreover, after we had published the NPRM, we published final rules entitled, "Standards for Consultative Examinations and Existing Medical Evidence" (56 FR 36932, August 1, 1991), in which we do not include the term "examining physician" in our definitions of "medical sources." We have also added a new sentence that underscores the need to follow the rules in 4.00C2c in those rare situations in which a treating source's opinion is overridden. Finally, we added a sentence setting forth the responsibility of the program physician when an individual does not have a treating physician. We explain all of these changes and additions in the public comments section of this preamble.

Final 4.00C2e(2) (proposed 4.00C2e), which discusses factors that may limit exercise test interpretation, replaces the second and third paragraphs of 4.00G3 of the former listings. In addition to the redesignation of the paragraph, there are two changes from the NPRM. We added a parenthetical example, "(e.g., 2 weeks of bedrest)," to illustrate "prolonged periods of physical inactivity"; this was in response to a comment that asked us to define the term and is an example we use elsewhere in the preface. We also deleted the example of Wolff-Parkinson-White syndrome, which we have instead restored to final 4.00C2c as an example of a risk factor that precludes the purchase of exercise testing.

We have moved the discussion on other studies in former 4.00I to 4.00C3 and have expanded the discussion on the use of echocardiograms and radionuclide studies. Our former criteria stated that the results of these tests are considered but are not determinative. The new final criteria explain that there are several imaging techniques, including two-dimensional echocardiography, which can provide a reliable estimate of ejection fraction. Purchase of these tests is now permitted in selected cases; for example, when the available evidence is not adequate to assess the severity of ventricular dysfunction or myocardial ischemia. In response to a comment, however, we have added a clause to the last sentence of the first paragraph of the section reminding adjudicators that purchase of these tests is permitted only when the claim cannot be favorably decided on any other basis.

In addition to the foregoing new clause, there are two other changes in final 4.00C3 from the NPRM. We added a new second paragraph in response to comments about the value of the measurement of aerobic capacity by oxygen uptake during maximal exercise rather than estimation of aerobic capacity from the level of exercise attained (i.e., speed and grade of treadmill exercise test) without measurement of oxygen consumption. In the third paragraph of the final rule (the second paragraph in the NPRM), we added a reference to "silent" ischemia at the end of the first sentence. We explain our reasons for these revisions in the public comments section of this preamble.

Final 4.00C4, on cardiac catheterization, replaces and updates the rules that were in 4.00H1 of the former listings. There are two technical changes in the final rules from the NPRM. We deleted the parenthetical statement "(by catheter)" from the heading in 4.00C4a because coronary arteriography is always performed by catheter; therefore, the parenthetical statement was redundant and could have been confusing. In the heading of 4.00C4b, we changed the parenthetical statement to "(by angiography)." The language means the same thing as "by catheter" but is more current.

4.00D Treatment and Relationship to Functional Status

We have revised the heading of final 4.00D to, "Treatment and relationship to functional status," so that it has the same title as the corresponding section in part B, 104.00C. The change is nonsubstantive, and it is made only for consistency. This is also true of the deletion of the parenthetical phrase, "medical, surgical, or prescribed program of progressive physical activity," from the heading; the language still appears in the body of 4.00D1 and was, therefore, merely redundant in the heading. As part of our response to several comments that led us to focus the discussions more on the listing level and the need to consider all relevant evidence, we have also incorporated into final 4.00D1 the guidance we proposed in 104.00C of part B.

Final 4.00D also continues to state, as in the NPRM, that evaluation should usually be deferred for a period of up to 3 months to assess the effect of treatment. We added that the 3 months will be from the date of treatment to clarify when the deferral period begins. However, in response to public comments, we have clarified final 4.00D1 to state that evaluation need not be deferred if the claim can be favorably decided based on the available evidence. We deleted the 4.00D2 we had proposed in the NPRM in response to public comments that asked us to remove the absolute requirement for exercise test evidence. In final 4.00D2 (which was designated as 4.00D3 in the NPRM), we expand the criteria formerly in 4.00J for evaluation 3 months after cardiac surgery and provide guides for evaluation postangioplasty.

For the above reasons, we renumbered proposed 4.00D4 as final 4.00D3. In final 4.00D3, which addresses cardiac transplantation, we deleted the second sentence, which would have required us to obtain records of endocardial biopsies performed during the first few months after the transplant. We agreed with commenters who pointed out that, inasmuch as an individual is considered disabled under listing 4.09 for 1 year following transplant, these early records are unnecessary. We have also corrected the cross-reference at the end of the section, which was to § 416.994(c)(1)(i) in the NPRM, to § 416.994(b)(1)(i); there is no longer a § 416.994(c)(1)(i) in our rules.

4.00E Clinical Syndromes

In final 4.00E, we address the clinical syndromes formerly discussed in 4.00B, C, D, E and K. In 4.00E1, we have added a discussion on chronic heart failure with and without congestion. Because congestion (fluid retention) is now often controlled by potent diuretic medications, we eliminated the requirement for the presence of congestion at the time of adjudication. We now clarify that either there is or has been congestion, but it need not be present at the time of adjudication. We also moved the material on "hypertensive vascular disease" formerly in 4.00C to 4.00E2 and updated the terminology to the more comprehensive term, "hypertensive cardiovascular disease." In response to a comment from a physician, we expanded the guidance in final 4.00E1a to indicate that chronic heart failure may be manifested by pulmonary congestion, systemic congestion, or both. There are no other changes from the NPRM in either final 4.00E1 or 4.00E2.

Final 4.00E3, on ischemic heart disease, combines and expands the guides in 4.00D and E of the former listings. The terminology "chest pain of cardiac origin" has been reworded, for clarity, to "discomfort of myocardial ischemic origin." This revision also recognizes that the discomfort may be precipitated by emotion as well as exertion. Descriptions of noncoronary conditions that may cause ischemic discomfort and noncardiac chest conditions that may produce symptoms mimicking that of myocardial ischemia have been added to help in the evaluation of chest discomfort. The final section also indicates that chest discomfort of nonischemic origin may result from other cardiac conditions, such as pericarditis and mitral valve prolapse.

In response to comments, we have made two changes to final 4.00E3 from the NPRM. We added a new 4.00E3d, which consists of a single sentence reminding adjudicators to be alert to the possibility of so-called silent ischemia or that the individual may be symptom-free because of the avoidance of activities that bring on symptoms. In final 4.00E3f, we added "chest wall syndrome" to the list of noncardiac conditions that may produce symptoms mimicking that of myocardial ischemia. Aside from these changes, we made a few minor editorial changes (such as the insertion of commas, combining paragraphs into one paragraph, and the addition of the missing word "and" in the second sentence of 4.00E3f) that do not substantively affect the final rules.

We have moved the discussion of peripheral arterial disease formerly in 4.00K to final 4.00E4. The final rule is the same as the NPRM except that, in response to a public comment, we added a phrase in the second paragraph clarifying that the ankle and brachial blood pressures are taken in the supine position. We also expanded the criteria for the Doppler treadmill exercise test in the third paragraph to permit a 10 percent grade as well as a 12 percent grade. We made a nonsubstantive change in the last sentence of the third paragraph to change the term "contraindicated" to "significant risk" to be consistent with terminology used in these regulations in §§ 404.1519 and 416.919. We explain our reasons for adopting these comments in the public comments section of this preamble.

4.02 Chronic Heart Failure

This listing provides criteria for individuals with chronic heart failure resulting in functional restrictions that equate with NYHA class III or IV despite a regimen of prescribed treatment. Because heart enlargement is a major component of these listings, we have defined cardiac enlargement. We have also changed the word "congestive," which was in the title of former listing 4.02, to "chronic" heart failure because the conditions covered under this listing are not necessarily required to be associated with congestion. The final rule, unlike the former rule, also requires that the individual be on a treatment regimen prescribed by a treating source. Because overt fluid retention is now often medically controlled at rest, even in the presence of chronic failure, we have removed the requirement that peripheral or pulmonary edema be present on physical or laboratory examination. We have also added a listing (final listing 4.02B) that may be met with marked exercise intolerance, as demonstrated by inability to exercise on a treadmill at a workload equivalent of 5 METS or less due to symptoms of chronic heart failure, or the need to terminate exercise because of certain clinical findings, together with functional restrictions equivalent to the NYHA class III level.

We have revised final listing 4.02, largely in response to public comments on the NPRM. In the opening paragraph of final listing 4.02, we have deleted the phrase, "any specified etiology," in order to include idiopathic chronic heart failure under the listing. We also added a cross-reference to 4.00A for those individuals who do not have a regimen of prescribed treatment. As we have stated above, we removed the references to the NYHA functional classifications in listings 4.02A and B and replaced them with narrative descriptions of the criteria. We also reorganized the listings so that the

objective medical criteria are presented first, followed by the functional criteria, consistent with other listings in appendix 1; this does not change the content of the listings, only their order of presentation. In listing 4.02A, we replaced the cross-reference to 4.00C3, which does not define cardiomegaly but only discusses appropriate imaging techniques, with more explicit examples of how cardiomegaly can be demonstrated on x-ray or two-dimensional echocardiography.

In the opening paragraph of final listing 4.02B, we replaced the phrase, "reduced global ejection fraction," with the phrase, "left ventricular ejection fraction of 30 percent or less." The phrase "global ejection fraction" is outdated medical terminology which means the same thing as "left ventricular ejection fraction." The requirement of 30 percent or less removes any uncertainty about the criterion and is the same criterion as in listing 4.04B. In final listing 4.02B1, we revised the language that was in listing 4.02B2 of the NPRM in response to comments that demonstrated to us that it was unclear; the revisions are not a substantive change, but a clarification of the proposed rules. This includes the replacement of the phrase "markedly symptomatic exercise intolerance" with a clearer statement explicitly requiring the inability to exercise at the 5–MET level or less on an exercise test because of symptoms or specific clinical findings. We also added a criterion for three or more multiform beats in final listing 4.02B1a in response to a comment.

Final listing 4.02C is the same as in the NPRM, except that we redesignated it as paragraph C of the listing. The designation as paragraph D in the NPRM was an error, inasmuch as there were only three paragraphs in the listing.

4.03 Hypertensive Cardiovascular Disease

We have changed the title of this listing from the former, "Hypertensive vascular disease," but have made no change in the content. There is no change from the NPRM.

4.04 Ischemic Heart Disease

The listing 4.04A criteria on evaluating ischemic heart disease when there is a recent exercise test of record have been amended to exclude nonspecific rhythm/conduction disturbance and expanded to include blood pressure response and imaging techniques in current use. When an exercise test has not been performed and cannot be purchased because performance of the test would present a significant risk to the individual, final listings 4.04B and C may apply. Listings 4.04B and C are also descriptive of individuals who may be too impaired to perform exercise, but who are symptomatic on normal activity. The new listing 4.04B and C criteria require demonstration of cardiac functional loss resulting from heart disease.

In response to comments, we have made a number of changes from the NPRM in the final listing. In the opening paragraph of the listing, we deleted the phrase, "occurring repeatedly," because we agreed with a commenter who pointed out that the frequency of chest discomfort should not be a decisive issue inasmuch as many people structure their lives so as to avoid chest discomfort. The relevant issue is their functional limitations; that is, the level of exertion at which they would have chest discomfort if they were to make the attempt. We also added a cross-reference to 4.00A for those individuals who do not have a regimen of prescribed treatment.

As in final listing 4.02, we removed the references to the NYHA functional classifications in listings 4.04B and C and replaced them with narrative descriptions of the criteria. We also reorganized these listings so that the objective medical criteria are presented first, followed by the functional criteria, consistent with the changes in final listing 4.02 and other listings in appendix 1.

There are no substantive changes in final listing 4.04A from the NPRM. The only change is that we corrected the word "unsloping" in listing 4.04A2, to "upsloping." This was only a typographical error.

In addition to the changes already noted, we have revised final listing 4.04B so that its functional criterion is at the level of NYHA functional class III instead of the proposed class IV. In addition, we revised final listing 4.04C so that its objective medical criterion is now only angiography, instead of the proposed angiography and an ejection fraction. We agreed with those commenters who pointed out that proposed listing 4.04C described an unusual fact pattern that would rarely be met and that, for individuals who are at risk for exercise testing, the restrictions associated with NYHA functional class III together with documented chest discomfort and the required objective medical findings should be enough to establish disability at the listing level. There are no other changes from the NPRM in final listings 4.04B and C.

4.05 Recurrent Arrhythmias

Listing 4.05 has been expanded. The new criteria specify that arrhythmias related to reversible causes are excluded from the listing and add a requirement that resting or ambulatory (Holter) electrocardiography demonstrating the arrhythmia be coincident with the occurrence of syncope or near syncope. The only change from the proposed rule is that, in response to a comment, we added "near syncope" to the symptoms that may satisfy the criteria of the listing.

4.06 Symptomatic Congenital Heart Disease

We have added a new listing 4.06 on congenital heart disease because more individuals with this condition are living into adulthood. In response to comments, and for technical reasons described in the public comments section of this preamble, we deleted all specific references to functioning from the final listing. As we explain later, the final criteria are sufficiently severe that the functional limitations are implicit in the listing and need not be stated as separate criteria.

Other changes from the NPRM are in final listings 4.06A2 and 4.06B. To make these listings consistent with the final (and proposed) childhood listing 104.06A1, we have added the criterion in listing 4.06A2 of arterial O_2 saturation of less than 90 percent in room air. In 4.06A2 and 4.06B, we have revised the arterial PO_2 to 60 Torr or less and deleted the altitude adjustments. These criteria are also relevant to the evaluation of cyanotic heart disease in adults. Finally for consistency with the language of part B and for clarity, we added the word "Secondary" to final listing 4.06E to make it the same as final listing 104.06D.

4.07 Valvular Heart Disease or Other Stenotic Defects, or Valvular Regurgitation

The new listing provides references to other listings to be used to evaluate valvular heart disease or other stenotic defects or valvular regurgitation. It replaces former listing 4.09. We expanded the scope of this listing in response to a comment about proposed listing 104.06F in part B (final listing 104.06E) which was also relevant to the adult rules. We explain our reasons for this revision in the public comments section of this preamble.

4.08 Cardiomyopathies

This listing provides references to other listings to be used to evaluate cardiomyopathies. It replaces former

listing 4.09. The final rule is the same as the NPRM.

4.09 Cardiac Transplantation

This is a new listing providing for a finding of disability for 1 year following a heart transplant. We made minor editorial revisions to the NPRM to conform final listings 4.09 and 104.09. These revisions do not substantively change the final rule from the proposed rule but only provide consistency between part A and part B.

4.10 Aneurysm of Aorta or Major Branches

This listing replaces former listing 4.11, and has been broadened to encompass all neurological complications from aneurysm, not just syncopal episodes. We have also added a list of common causes of aneurysms. Except for a minor editorial change, the listing is substantively the same as the proposed rule.

4.11 Chronic Venous Insufficiency

This final listing replaces former listing 4.12 for chronic venous insufficiency of a lower extremity. In response to a comment, we revised the final rule to provide for a finding of "meets" when the individual has chronic venous insufficiency of a lower extremity with incompetency or obstruction of the deep venous system, resulting in either extensive brawny edema (final listing 4.11A), or a combination of superficial varicosities, stasis dermatitis, and recurrent or persistent ulceration which has not healed following at least 3 months of prescribed medical or surgical therapy (final listing 4.11B). We explain our reasons for this revision in the public comments section of this preamble.

4.12 Peripheral Arterial Disease

This final listing replaces former listing 4.13. The final listing describes listing-level disability from peripheral arterial disease as a result of intermittent claudication or amputation at or above the tarsal region. The final rule is the same as the proposed rule except that we added the phrase "at the ankle" in final listing 4.12B2 before the word "and" to clarify the distinction between the tests in listings 4.12B1 and B2. The systolic blood pressure ratio in listing 4.12B1 is based on a comparison of blood pressures taken at the ankle and the arm, whereas the ratio in listing 4.12B2 is based on two ankle readings. This is not a change from the NPRM but a clarification of the meaning of a rule that has been in our listings for many years.

Revisions to Part B (Childhood Portion) of Appendix 1

104.00 Preface

We have revised and expanded the introductory material to improve and facilitate its use. In response to comments, we have made a number of changes in this section, detailed below. Because one general comment expressed a concern that we had not explained our reasons for proposing the changes to this section of the listings, we now provide these explanations. In some instances, while providing these explanations in response to the comments, we realized that the information in 104.00 could be more clearly and comprehensively presented and, in a few instances, that it could be made more consistent with statements in 4.00 of the adult rules; we, therefore, made appropriate revisions. We explain all of these revisions below or in the public comments section.

104.00A Introduction

We have made a number of revisions from the NPRM in final 104.00A in response to comments and to maintain consistency with the adult rules. In the first paragraph, we continue to emphasize that cardiovascular disorders and impairments must be substantiated on the basis of medical evidence. However, we have revised the paragraph to mirror more closely the first paragraph of final 4.00A of the adult rules, primarily by incorporating into the first paragraph statements that were in subsequent paragraphs of the NPRM. The new paragraph incorporates the statement that was in the second sentence of the third paragraph of 104.00A in the NPRM, that the criteria in the listings are based on medical evidence consisting of signs, symptoms, and laboratory test abnormalities, but that it is also important to consider the child's response to treatment. It also includes the second sentence of the fourth paragraph of the NPRM, which requires a longitudinal record of at least 3 months; however, as in the final adult rules, we have added a statement in the final rules that this is unnecessary if the claim can be decided favorably on the basis of the existing evidence. In addition, because of the importance of specialization in childhood cardiovascular disease, we have added a statement that reasonable efforts should be made to ensure review by a program physician specializing in the evaluation of childhood cardiovascular disease or by a qualified pediatrician; this language is adapted from section 5036 of Public Law 101–508, the Omnibus Budget Reconciliation Act of 1990 (now incorporated at section 1614(a)(3)(H) of the Act), and merely reflects our current policy.

Because not all forms of cardiac disease are necessarily disabling, the second paragraph provides examples of congenital and acquired heart conditions that can frequently be associated with disabling impairments during childhood. The second paragraph of final 104.00A is the same as in the NPRM, except that we corrected typographical errors. We deleted the third paragraph of the NPRM because we moved its sentences to other paragraphs: We moved the first sentence, on evidence, to the first paragraph of 104.00B, the section on documentation; as we have already stated, we moved the second sentence, describing the medical basis of the listings, to the first paragraph of 104.00A.

We revised, expanded, and clarified the fourth paragraph of the NPRM (the third paragraph of final 104.00A). We moved the second sentence of the NPRM to the first paragraph. We also expanded the discussion in this paragraph about the adverse effects of cardiovascular impairments on other body systems because it could have been misleading. The paragraph we proposed could have suggested that cardiovascular impairments may affect only growth and development in children or cause mental retardation, when in fact they can have other adverse effects involving other body systems. Our intent in providing this paragraph was to highlight the fact that mental retardation and impairments of growth and development can result from cardiovascular impairments to ensure that these particular manifestations are not overlooked. However, because we are also concerned that other conditions should not be overlooked, we have expanded the paragraph to state that cardiovascular impairments, especially chronic heart failure and congenital heart disease, may result in impairments in other body systems including, but not limited to, growth, neurological, and mental; therefore, evaluation should include a consideration of the adverse effects of cardiovascular impairment in all relevant body systems. We then continue to highlight the importance of considering the effects on a child's growth and development or mental functioning, as described under the growth impairment (100.00), neurological (111.00), and mental retardation (112.05) listings.

In the final rules, we have also added three paragraphs to make the preface to the childhood listings consistent with

the preface to the adult listings, and to minimize the need to cross-refer to the adult rules. The fourth and fifth paragraphs of final 104.00A emphasize the importance of establishing a longitudinal treatment record when possible, or of creating a longitudinal record when there has not been any treatment. In the fourth paragraph, we have used much of the same language that is in the second paragraph of final 4.00A of the adult rules, but have not included discussions of factors (such as cardiac insult) that are generally not relevant to children. The new final sixth paragraph emphasizes the importance of considering equivalence and, if necessary when there is a claim for SSI benefits under title XVI, performing an individualized functional assessment whenever a child does not have an impairment that meets or equals a listing. This paragraph replaces the fifth paragraph of the NPRM, which we deleted in response to a public comment.

104.00B Documentation

Final 104.00B addresses documentation requirements, with emphasis on obtaining medical evidence from sources experienced in providing pediatric cardiac services. Reference is made to obtaining results of studies which may have been performed using technologies, e.g., two-dimensional and Doppler echocardiography, exercise testing, and radionuclide ventriculograms, for evaluating the presence and severity of cardiovascular disorders. We also state explicitly that we will not purchase cardiac catheterization studies; this is because such procedures involve risk to the claimant. However, we emphasize the importance of requesting data and reports of cardiac catheterization and other tests, when they are available.

We revised the heading of this section from the NPRM (which said, "Documentation and Evaluation") so that it is the same as the corresponding heading in the adult rules and because this section does not, in fact, discuss evaluation. For consistency with the adult rules, we also deleted the proposed first sentence and replaced it with the sentence we had proposed as the first sentence of the third paragraph of 104.00A, slightly revised for context and to be consistent with the language of the adult rules. We also added a cross-reference to part A, 4.00C1 at the end of the first paragraph to indicate that the same basic evidentiary requirements apply to ECG tracings for children as for adults. We had inadvertently omitted this cross-reference in the NPRM, and its addition merely makes the paragraph consistent with the format we follow in the second paragraph of the section.

In response to a comment, we have also added a new second sentence to the second paragraph of final 104.00B, "Documentation," providing procedural guidance on when the purchase of an ambulatory ECG may be appropriate. Also in response to a comment, we have added a third paragraph that discusses generally when exercise testing may be useful in evaluating children with arrhythmias or chronic heart failure. The new paragraph provides that exercise testing for children, while increasingly used, is still less frequently indicated in children than in adults and can rarely be performed on children who are under 6 years of age. It may only be purchased if the case cannot be decided based on the available evidence and, if it is purchased, must be performed at a specialty center for pediatric cardiology or other facility qualified to perform exercise testing for children. We also included a paragraph for consistency with the adult rules that indicates that purchased exercise tests should be performed using a generally accepted protocol consistent with the prevailing state of medical knowledge and clinical practice; that risk should be assessed for children; and that the same general guidelines on risk factors for adults in 4.00C2c apply to children.

104.00C Treatment and Relationship to Functional Status; 104.00D Congenital Heart Disease

Final 104.00 C and D provide guidelines to be used in the evaluation of infants and children with congenital heart disease under final listing 104.06H, as well as general guidance on the relationship of treatment to functional status. Final listing 104.06H was proposed listing 104.06A. We explain our reasons for moving it to the end of the listing under the summary of provisions to listing 104.06, below. For the same reasons given under the summary of provisions for 4.00D of part A, we revised the heading of final 104.00C from that in the NPRM so that it is identical to 4.00D of the adult rules. We also incorporated the provisions of 4.00D1 into the first paragraph of final 104.00C to make clear that this important information about the need to establish a longitudinal record also applies to children, unless a favorable decision is possible based on the available evidence. Because we added the exception for decisions favorable to the claimant, we deleted the word, "however," from the beginning of the first sentence of the second paragraph for context.

In response to comments we have received, we also expanded the discussions in final 104.00C and D to clarify their meaning. In the second paragraph of final 104.00C, we state our original intent that "the most life-threatening forms of congenital heart disease and cardiac impairment" are exemplified by the conditions named in 104.00D; therefore, these conditions, or conditions of equivalent severity, are the kinds of conditions contemplated by final listing 104.06H. We also make clear that these are conditions for which life-saving surgery must be performed within the first year of life. We then provide more detail about why these conditions are disabling under the listing. This is because they are so severe that, even with surgery, we would expect them to continue to be disabling for a period of at least 12 months, as required by the Act, because of residual impairment after surgery, the recovery time after surgery, or a combination of both factors. We do not intend any of these revisions to be a substantive change from the rules we proposed.

In the third paragraph of final 104.00C, we replaced the ambiguous references to the "specified period" of time, with the actual time periods set forth in final listings 104.06H and 104.09. We also revised the last sentence of the paragraph because it contained inaccurate and incorrect information. We revised the general statement about continuing disability evaluation because it was an inaccurate statement of our medical improvement review standard in § 416.994a, which requires a finding of medical improvement based on symptoms, signs, and laboratory findings, and a finding whether any medical improvement is "related to the ability to work" before consideration of whether the residual impairment is still disabling. The revised language now more closely follows the statement in final 4.00D4 of the adult rules that, "continuing disability evaluation will be based upon residual impairment as shown by symptoms, signs, and laboratory findings," and then cross-refers to the appropriate rules for continuing disability review.

We also revised the cross-references at the end of 104.00C because they were incorrect. The appropriate rule for evaluating continuing disability in children will usually be § 416.994a; moreover, there is no longer a § 416.994(c)(1)(i) in our current rules. We have, therefore, revised the cross-references to refer more generally to the three rules that might apply: §§ 416.994a, 404.1594, and 416.994. The

last two rules usually apply to adults, but there will be cases in which our continuing disability review occurs when the person is over age 18. Also, even though these listings apply to all people under age 18, the continuing disability review process in § 404.1594 applies to children seeking child's insurance benefits based on disability under title II.

We deleted the first paragraph of proposed 104.00D because it was redundant of the discussions in 104.00C. In the first and second paragraphs of final 104.00D (which were the second and third paragraphs in the NPRM), we made minor editorial changes to clarify that the named conditions are only examples of the kinds of conditions discussed in final 104.00C and final listing 104.06H. We also added the modifier "listing-level" before the word "impairment" in the opening clause of the first paragraph. Clearly, there are less severe impairments than the life-threatening conditions named in 104.00D which would cause impairment; therefore, the addition of the phrase only corrects an ambiguous use of the word "impairment." For the same reason, we added the same modifier before the word "impairment" in the second and third sentences of the third paragraph of final 104.00D (the fifth paragraph in the NPRM). We also broadened the scope of the final second paragraph of the section to encompass up-to-date treatment modalities. We now indicate that the conditions named may require multiple surgical interventions (as in the NPRM), but that they may also involve only one surgery but require other significant treatments after surgery, such as multiple cardiac catheterization procedures, which are now being used more frequently in infants.

We deleted the proposed fourth paragraph, regarding patent ductus arteriosus, in response to a comment which pointed out that the condition is not of the level of severity contemplated by final listing 104.06H; this comment also led us to clarify final 104.00C and D to indicate more clearly the kinds of conditions that are contemplated. Finally, in the third sentence of the third paragraph of the final rule (the fifth paragraph of the NPRM) we added a parenthetical statement clarifying that the guidance about lower levels of pulmonary artery pressure "in the absence of such a defect" refers to primary pulmonary hypertension, or to some connective tissue disorders with cardiopulmonary involvement and pulmonary vascular destruction, such as systemic lupus erythematosus.

104.00E Chronic Heart Failure

Final 104.00E, "Chronic heart failure," emphasizes the clinical and laboratory findings that document the existence of chronic heart failure, and describes symptoms of the impairment in infants and children. The use of imaging techniques is cited in demonstrating the presence of cardiomegaly or ventricular dysfunction.

We made a number of changes and additions in response to public comments. We expanded the first paragraph of the section to restore mention of some of the symptoms from former listing 104.02 and to include some of the guidance we had originally proposed for inclusion in listing 104.02. In the second paragraph, we also deleted our reference to radionuclide studies (formerly in the last sentence of the proposed rule), which are rarely performed on children, and replaced the examples with references to two-dimensional or Doppler echocardiography, two common imaging techniques, and added a reference to standards for measuring cardiomegaly using echocardiography. We also restored the rule that was in former 104.00C regarding the use of roentgenography (x-rays) to determine cardiomegaly, which we had proposed to delete because it is now an uncommon practice for this purpose and below the modern standard of care for children with chronic heart failure. For this reason, we also now require that findings of cardiomegaly on chest x-ray also be accompanied by other findings demonstrating chronic heart failure; we have also provided a reference for the evaluation of enlargement using appropriate imaging techniques and have made minor revisions to update the rules. We explain our reasons for these changes in more detail in the public comments section of this preamble.

In addition, we made two nonsubstantive, editorial revisions in the section for clarity. In the first sentence of the section, we added the phrase "in infants and children" to make clear that the guidance in that sentence applies to all children, not just infants. Inasmuch as the other two sentences in the paragraph are about infants, we were concerned that people understand that we had not overlooked older children. In the first sentence of the second paragraph (which was the last sentence of the proposed section in the NPRM), we deleted the phrase, "can be," because it was ambiguous. Our intent was to give examples of kinds of imaging techniques that could be used to demonstrate manifestations of chronic heart failure, not to state that imaging techniques were only one alternative for demonstrating the manifestations.

104.00F Valvular Heart Disease

Final 104.00F, "Valvular heart disease," describes the circumstances under which a listing-level impairment is likely to be present and the necessary documentation requirements. In the first sentence, we added the phrase "or other source of record," after "treating source." This is a technical correction that is required because of final rules we published after we published this NPRM ("Standards for Consultative Examinations and Existing Medical Evidence," 56 FR 36932, August 1, 1991). Under §§ 404.1502 and 416.902, the term "source of record" is a more inclusive term that includes both treating sources and other sources, such as hospitals, clinics, or other medical sources that have provided an individual with treatment or evaluation. If the results of angiography are available from such sources, we will, of course, try to get them.

As in final 104.00C and D, we added the phrase "listing-level" before the word "impairment" in the second sentence of the section. We also added "arrhythmias" to the list of possible outcomes of valvular heart disease that could result in listing-level impairments. This, too, is a technical correction, inasmuch as arrhythmias are included in the listing that corresponds to this section, final listing 104.07. For clarity, we deleted the qualifying reference to "prepubertal children, age 16 years or less" that was at the end of the proposed paragraph. In fact, this guidance applies to all children, up to age 18. Finally, for consistency with the adult rules, we have added the same guidance that appears in the first sentence of final 4.00D2, that the usual time for adequate assessment of the results of treatment after valvular surgery is 3 months.

104.00G Rheumatic Heart Disease

This section renumbers and retitles former 104.00E on rheumatic fever. We made two changes from the NPRM language. We deleted the phrase "as used in this section," because it is superfluous; the deletion does not change the meaning of the sentence at all, and is, therefore, only editorial. We also deleted the specific reference to the 1965 Jones criteria for guidance in the diagnosis of rheumatic fever. This is because we have recently become aware that a new revision is forthcoming and we want the listings to be as up-to-date

as possible. We replaced the reference with a general requirement to use the "current" Jones criteria.

104.01 Category of Impairments, Cardiovascular

The revisions to the part B cardiovascular listings maintain structural and content comparability with part A to the extent applicable. As in the sections of 104.00, there were a few instances in which we were able to incorporate language from the adult rules into the listings language we proposed in the NPRM or to make the same or similar revisions in both parts for even greater consistency between parts A and B.

104.02 Chronic Heart Failure

As in the adult rules, we have removed the term "congestive" from the heading of listing 104.02 and replaced it with "chronic." Because of pharmacological and clinical advances in the control of overt pulmonary and systemic congestion (fluid retention), heart failure can be present despite the absence of congestive signs.

The criteria under final listing 104.02 stress the importance of demonstrating functional impairment. However, we also require the presence of either cardiomegaly or ventricular dysfunction, as described in 104.00E, to demonstrate the presence of chronic heart failure.

We have revised listing 104.02 of the proposed rules in response to public comments. Final listing 104.02A is now a criterion for persistent tachycardia at rest, and final listing 104.02B includes persistent tachypnea at rest or markedly decreased exercise tolerance, as defined in 104.00E of the preface; in response to the comments, we also included the tables for resting tachycardia and tachypnea from the prior rules. Final listing 104.02C now lists recurrent arrhythmias under listing 104.02 in lieu of the cross-reference to listing 104.02 we had proposed to provide in the listing for arrhythmias, 104.05. The addition of these three rules also required us to redesignate the paragraphs we had proposed in the NPRM.

In addition, in response to comments which demonstrated that the rules could be made clearer for lay readers, we moved some of the requirements of proposed listing 104.02A, which discussed symptomatology and severity, into the prefatory discussion in 104.00E and expanded that discussion. We explain all of these changes and our reasons for them in the public comments section of the preamble.

Final listing 104.02D (proposed listings 104.02B and 104.02C) provides for the evaluation of the infant and young child whose major manifestation of chronic heart failure is a growth disturbance. In a technical correction, we revised final listings 104.02D1 and D2 because proposed listing 104.02B was unclear and illustrated a level of severity that was above listing-level. We revised final listings 104.02D2 and D3 to provide criteria for the evaluation of involuntary weight loss or failure to gain weight at an appropriate rate. In this way, we not only include children who have stopped gaining weight or lose weight, but also children who do not gain enough weight. We also explicitly provide for the possibility that a child will actually lose weight. Final listing 104.02D3 (proposed listing 104.02C) provides a reference to the listing on growth impairment. It has been included to permit evaluation of height and growth failure under the cardiovascular listing. In a technical clarification, we changed the reference in final listing 104.02D3 from a specific reference to listings 100.02A and B, to a general reference to the listings in section 100.00. In this way, listing 104.02D3 will remain current when we revise the growth impairment listings in the future.

104.03 Hypertensive Cardiovascular Disease

The final listing is essentially the same as the former listing except that we have updated final Table III, "Elevated Blood Pressure," using values currently recommended by the American Academy of Pediatrics (see the definition of "Significant Hypertension" in Table 5 of the "Guidelines of the American Academy of Pediatrics; Report of the 2d Task Force on Blood Pressure Control in Children—1987," "Pediatrics," 1987; 79:1–25). The table was unnumbered in the NPRM because it was the only table in the proposed rules. Now that we have restored the tables for tachycardia at rest and tachypnea at rest to final listing 104.02, we have restored the designation "Table III" in the final rules. In response to a comment, we have also added a statement in the opening paragraph of the listing clarifying that the values in the table are equal to or greater than the 95th percentile for age.

104.05 Recurrent Arrhythmias

We have dropped the criteria in former listing 104.05C for exercise intolerance because, if present, such intolerance would most likely be manifested in association with chronic heart failure as described under final listing 104.02. In response to comments, we have revised the final rule to state more clearly our original intent and to be more consistent with final listing 4.05, the corresponding adult rule. Final listing 104.05 is now a single paragraph which provides that recurrent arrhythmias resulting in uncontrolled repeated episodes of cardiac syncope or near syncope and arrhythmia despite prescribed treatment, including electronic pacemaker, and documented by resting or ambulatory (Holter) electrocardiography coincident with the occurrence of syncope or near syncope will meet the criteria of the listing. As in the adult rule, we now include near syncope among the symptoms that will satisfy the requirements of the listing.

As we explain in more detail in the public comments section of this preamble, we removed the proposed criterion in listing 104.05B for chronic heart failure that meets the requirements of listing 104.02 and instead added a criterion of arrhythmia in final listing 104.02C by which that listing can be met. We also moved the proposed criterion in listing 104.05C, for electronic pacemaker therapy, into the text of the rule; electronic pacemaker therapy is merely a kind of treatment and, therefore, is now included as an example of treatment that must be ineffectual instead of as a separate criterion. Our intent in making this revision from the NPRM is not to raise the severity of the listing but to clarify our original meaning and to ensure that the rule is medically correct.

104.06 Congenital Heart Disease

Final listing 104.06 (former listing 104.04) is renamed "Congenital heart disease" because it is to be used for both cyanotic and acyanotic congenital conditions. The term "palliative" as applied to cardiac impairment or surgical procedures is no longer particularly meaningful in evaluating impairment severity. For this reason, the former listing 104.04A criterion, which referred to palliative surgery, has been omitted from the final listing.

In a nonsubstantive, editorial change from the NPRM, we reorganized the paragraphs of final listing 104.06 to move proposed listing 104.06A to the end of the listing, as final listing 104.06H. We did this because proposed listing 104.06A specifies that it is confined to infants under age 1, but the subsequent listings in the proposed rules did not state that they apply to children of all ages. Therefore, if the listing for infants under age 1 came first, it would not be clear that the subsequent listings (i.e., proposed

listings 104.06B through H) were applicable to all children, regardless of their age. By redesignating proposed listings 104.06B through H as final listings 104.06A through G in the final rules and placing the infant listing last, there will be no possibility of ambiguity or misunderstanding about the applicability of the first seven criteria in the listing.

The criteria under final listing 104.06A (proposed listing 104.06B) represent criteria that were previously included under listings 104.04B and C. Cardiac syncope, formerly in listing 104.07, is in final listings 104.06A3 and 104.05. In keeping with our revisions to ensure comparability between the adult and childhood listings, we revised the NPRM nonsubstantively, to reflect more closely listing 4.06A in part A. We now clarify that final listing 104.06A is for the evaluation of cyanotic heart disease. We also reversed the order of subparagraphs 1 and 2 so that they are in the same order as the corresponding rules in adult listing 4.06A. Because we now include reference to cyanosis in the opening statement of final listing 104.06A, and because this listing includes both cyanotic and noncyanotic heart disease, we replaced the word "cyanosis" with the more medically accurate "hypoxemia" in final listing 104.06A4. Also, in response to a comment about our omission of the former listing 104.08 criterion for hemoptysis in proposed listing 104.06D, we have deleted the criterion for recurrent hemoptysis in final listing 104.06A3. We explain our reasons for this deletion in the public comments section of this preamble.

Final listings 104.06B, C, D, and E are included to maintain content comparability with part A, listing 4.06. In final listing 104.06B (proposed listing 104.06C), we added the phrase, "with evidence of ventricular dysfunction," as in the corresponding adult rule, final listing 4.06C. The former listing for hemoptysis (104.08) has been deleted for reasons we explain in the public comments section of this preamble; this very severe manifestation will be evaluated under final listing 104.06D or other appropriate listings. We also explain why we no longer include the finding of bronchial collaterals in the listing in the public comments section. In response to a comment, we revised final listing 104.06E (proposed listing 104.06F) to include other stenotic defects as well as valvular stenosis and to make the listing consistent with the corresponding adult listing, final listing 4.07. Final listing 104.06F is a new criterion that has been included to evaluate manifestations of symptomatic acyanotic congenital heart disease with ventricular dysfunction; we did not make any changes from the NPRM. In final listing 104.06G, we revised the reference to growth impairment in listing 100.02 to a more general reference to the listings in 100.00 in anticipation of future revisions to those listings.

The revised surgical criterion in final listing 104.06H permits more appropriate evaluation of life-threatening cardiac impairment. In response to a public comment, we have revised the criteria in this section to better express our original intent and to make the listing more equitable. The final rule provides that a child who meets this listing will be considered under a disability for 12 months after surgery; children with impairments that were expected to result in death before age 1, who have not had surgery, and who have, in fact, survived to age 1 will be considered for review at age 1. The rule is confined to infants under 12 months of age because the majority of congenital conditions described are known to result in life-threatening cardiac impairment or death within that time period. Twelve months is an appropriate period of time at which to consider continuing disability review because it allows most infants the necessary postoperative time for stabilization and resumption of expected growth and development patterns for age. Because of this response to the comment, we also made a similar change in listing 104.09, "Cardiac transplantation." We provide a more in-depth explanation of our reasons for these revisions of the proposed rules in the public comments section of this preamble.

104.07 Valvular Heart Disease or Other Stenotic Defects, or Valvular Regurgitation

This new listing provides cross-reference listings for the evaluation of valvular or other stenotic defects, or valvular regurgitation, and a criterion for critical aortic stenosis in infants. The criteria of former listing 104.07 have been moved to final listings 104.05 and 104.06A3. In response to a comment about final listing 104.06E, we expanded the scope of the proposed listing by making it consistent with the revisions to final listings 4.06 and 104.06E.

104.08 Cardiomyopathies

This new category provides criteria for use of the results of imaging techniques and provides references to other relevant listings for evaluating function in cardiomyopathy. The final listing is unchanged from the NPRM.

104.09 Cardiac Transplantation

Children who have had heart transplants will be considered disabled for 1 year after surgery. We deleted the proposed criterion "or until age 24 months, whichever is the later event," for the same reason we revised final 104.06H; i.e., because of the comment which pointed out that the proposed rule was inequitable. We explain our reasons for making this revision in more detail in the public comments section of this preamble. We also made slight revisions to this section in order to parallel the adult rules. These revisions are only editorial.

104.13 Chronic Rheumatic Fever or Rheumatic Heart Disease

This listing was former listing 104.09. We have added a provision for finding a child disabled for 18 months after established onset of the impairment when the specified medical findings are present.

We made two revisions to proposed listing 104.13A. In response to a comment, we restored the example of ECG findings to the listing. We also added a cross-reference to the example of cardiomegaly in 104.00E. The former listing had included such a cross-reference, but it was to the section of the preface that discussed cardiomegaly on x-ray. The NPRM, therefore, did not include the cross-reference because we had proposed to delete that section of the preface. Because we have restored the guidance in 104.00E, we also restored the cross-reference.

104.14 Hyperlipidemia

We have added this new listing because there are forms of this disorder that can result in major organ complications and cause disabling impairment or early death. The final rule is the same as the proposed rule.

104.15 Kawasaki Syndrome

In response to a comment from a major medical organization, we have added a listing for Kawasaki syndrome. The final listing includes major, listing-level cardiovascular manifestations of the disorder.

Public Comments

Following the publication of the NPRM in the **Federal Register**, we received 24 letters containing comments pertaining to the changes we proposed. Ten of these letters came from individuals and Government agencies, both State and Federal, whose responsibilities require them to make

disability determinations involving cardiovascular impairments under titles II and XVI of the Act. Eight of the letters were from legal services organizations or advocacy groups, State and city legal departments, and individual lawyers. The remaining six letters came from medical associations, a hospital, and other medical professionals.

We carefully considered all of the comments and have adopted many of the recommendations made by the commenters. These changes are identified in the following discussion of issues that were raised in the comments.

A number of the comments were quite long and detailed. Of necessity, therefore, we have condensed, summarized, or paraphrased them. However, we have tried to respond adequately to the substantive comments we received.

For ease of reference, we have organized the comments and responses as follows. We first address general comments, i.e., comments that are either about the rules as a whole or that apply to more than one section of the rules. We then address the remaining comments, which pertain to specific sections of the rules. The section references in the headings below refer to the final rules. In those instances in which we changed the section numbers or headings in the final rules, we provide both the NPRM and final references in the text of the comment and response.

General Comments

3-Month Guideline

Comment: We received seven comments about the 3-month guidelines in proposed 4.00A, 4.00C2d, and 4.00D. Four of the commenters thought that this was a "blanket rule" which would require delay in the adjudication of a class of claims or unnecessary delay of many claims. Three of the commenters pointed out that the deferral would have no practical effect in many SSI claims because many SSI claimants will receive little or no treatment; therefore, there will be little or no additional evidence even if we were to wait 3 months. One commenter said that delay in some cases would be unwarranted because 3 months will have already elapsed before the date of adjudication. The same commenter pointed out that deferral would not be necessary in some of the most serious cases because it will be clear that the claimant is disabled. This commenter suggested that we revise the rules to provide that deferral of adjudication is never appropriate without a specific reason particular to the individual's case. One medical organization supported this guideline, stating that it was welcome to "those of us in the field of cardiac rehabilitation."

Response: We have not deleted the 3-month guidelines, but we have clarified the rules in response to the comments. We never intended to create a "class" of claimants who would be treated differently from other claimants. The requirement for a longitudinal record in cardiovascular cases is consistent with our rules for evaluating all types of impairments, not only cardiovascular impairments. We need a longitudinal record to establish the severity and duration of most impairments, especially those that may be amenable to treatment.

We provided a specific time guideline in the cardiovascular rules because many individuals with cardiovascular impairments have sudden onset of their impairments, have undergone surgery, or have impairments that will improve with treatment; in all three instances, they may recover in a relatively short time. We, therefore, must have some indication that the individual will be disabled for 12 months, and we believe that a 3-month recovery period is the minimum amount of time needed to demonstrate whether there will be a significant recovery. We also did not intend to have the 3-month guideline be an invariable rule and accordingly we used qualifying phrases, such as "usually" and "whenever there is such evidence," in the proposed rules.

However, in response to the comments we have clarified 4.00A and 104.00A by stating specifically that the reason we require 3 months of evidence is to establish a longitudinal picture of the individual's impairment(s), in terms of medical severity, functioning, and symptomatology. We also explain that, for the same reasons, a longitudinal record is important even when the individual has not received ongoing treatment. We have also added explicit statements to final 4.00A, 4.00C, and 4.00D in part A, and 104.00A and 104.00C in part B, that it is not necessary to defer issuing a determination or decision on a claim when the available evidence establishes that the claimant is disabled.

The fact that an individual may have no treating source does not mean that we cannot establish a longitudinal clinical record. If necessary, we may purchase a consultative examination for comparison with earlier evidence. However, in response to the comments, we have added a new third paragraph in final 4.00A to address this concern.

Finally, the commenter who noted that many claimants will have already established a 3-month history was correct. For exactly that reason, we do not believe that the 3-month guideline is especially onerous or that it will result in many delays in adjudication. The final rules do not say (nor did the NPRM) that adjudicators should defer claims for an additional 3 months, only that they should establish a 3-month record. Indeed, we expect that even when deferral is necessary, we will rarely have to defer the claim for a full 3 months because some time will necessarily have passed by the time of adjudication.

New York Heart Association Functional Classification

Comment: We received several comments about our use of the New York Heart Association (NYHA) functional criteria in proposed adult listings 4.02, 4.04, and 4.06. One commenter said that the criteria are vague and believed that we would misapply them to the detriment of claimants. Another commenter said that, in the majority of cases, treating sources do not use the NYHA classifications. Another commenter was concerned about how to use the classifications when the individual's impairment fluctuates, saying that it is unrealistic to presume that some patients will remain in one classification. Two commenters were concerned about how we would develop evidence and weigh treating source opinions about the classification.

One commenter said that the criteria were in a publication that has long been out-of-print. This commenter, and several others, thought that, at a minimum, we should include the definitions of the NYHA classification levels in the listings. One commenter, however, pointed out that if the NYHA alters its classification standards in the future, it may become necessary for us to revise the listings that employ those standards.

Finally, two commenters were concerned that the proposed rules failed to include the NYHA "therapeutic classifications." One of these commenters said that the final regulations must at least recognize the concept behind the therapeutic classifications, which is that some individuals must restrict their activities for reasons of medical safety, even though they are technically capable of performing more exercise than is safe or medically appropriate.

Response: We adopted the comments by removing the references to the NYHA functional classifications from final listings 4.02 and 4.04 and replacing them with explicit, descriptive functional criteria based on the NYHA

criteria, and by removing all functional criteria from final listing 4.06. In this way, we have avoided the pitfalls pointed out by the commenters, although we do not believe that our proposed use of the classifications was as problematic as the commenters did.

Cardiologists have used the NYHA functional classifications for many years, and the criteria are well understood by people in the profession; this undoubtedly accounts for the fact that we did not receive any comments from physicians or medical organizations about our proposal to use the criteria. Nevertheless, we agree with the commenters that there are a number of real problems that could arise in an adjudicatory context and, on balance, believe that the most straightforward solution is to simply state exactly what we require in the listings themselves.

As we have explained in the first section of this preamble, the deletion of the references to the NYHA functional criteria also necessitated a reorganization of the rules in final listings 4.02 and 4.04. This is not a substantive change; we merely reorganized the criteria of the proposed rules to place the medical criteria describing the listed medically determinable impairments first—as in all other listings—followed by the explicit functional criteria. This organization is also consistent with the organization of the mental listings in 12.00 and 112.00, as well as several other listings that include disabling functional consequences among their criteria.

We decided to delete the proposed functional criteria from final listing 4.06 for several reasons, chiefly because they were unnecessary. Individuals whose impairments demonstrate the findings in final listings 4.06A, 4.06B, and 4.06E have impairments that will cause at least NYHA functional class III limitations. Individuals whose impairments satisfy the criteria in the reference listings, final listings 4.06C and 4.06D, already have impairments that meet the requirements of other listings. Therefore, the proposed functional requirement for listing 4.06 was at best redundant. Also, the proposed requirement for functional class III "or class IV" was unnecessary for logical reasons: Since functional class III would have been sufficient to establish disability under proposed listing 4.06, a person who had functional limitations equivalent to class IV (i.e., symptoms at rest) would have had an impairment that was more severe than was necessary to meet the requirements of this listing. Finally, some of the provisions of final listing 4.06 are the same as provisions in final childhood listing 104.06, which does not include functional criteria; deletion of the functional criteria in the adult listing makes the corresponding part A and part B listings consistent with each other.

We did not include the NYHA therapeutic classifications in the listings, or explicit criteria based on the therapeutic classifications, because we believe that such considerations are generally more suitable to the assessment of residual functional capacity. However, we want to assure the commenters that the principle illustrated by the therapeutic classifications is a basic principle in all of our disability evaluations. It has long been our policy that valid medical reasons for limiting an individual's level of exertion (or any functioning, including mental functioning) can be sufficient to establish that the individual is in fact limited in that capacity; the individual need not demonstrate this limitation by putting himself or herself at risk in order to demonstrate that there is a limitation.

As to the comment about individuals whose functional status changes and who, thus, might properly be classified in more than one of the NYHA classes at different times, it is our policy that an individual need not be continuously limited to the degree specified in order to be found disabled. This is one of the reasons we repeatedly stress the need for longitudinal evidence, which will permit our adjudicators to draw conclusions about how the individual generally functions, over time. Practically speaking, the fact that an individual's ability to function may briefly improve, only to worsen again, is immaterial to the determination that the individual is unable to work.

Although we have deleted all references to the NYHA classifications as listings criteria, we have retained one reference in the preface to the listings. This is in final 4.00C2c of the preface, in which we list NYHA class IV heart failure as a risk factor militating against the purchase of an exercise test. We believe that in this narrow context the use of the term is sufficiently clear.

Exercise Testing

Comment: Ten commenters strongly opposed our proposals in the NPRM for using exercise testing. In particular, the commenters opposed proposed 4.00D2, which would have required treadmill exercise testing in all cases in which such testing was not medically contraindicated, and proposed in 4.00C2a, which stated that valid exercise tests, although not the exclusive means for assessing the severity of heart disease, should be the "primary basis" for evaluating functional capacity under the listing. One commenter said that the proposed rules would result in exercise testing that was unnecessary, expensive, and dangerous. One commenter said that our statement in proposed 4.00C2a that the utility of exercise testing is "well recognized" would further improperly underscore the importance of exercise testing.

Response: We adopted the comments asking us to delete the reference to the primacy of exercise testing in 4.00C2a and all of proposed 4.00D2. As we have explained above in the explanation of the final rules, final 4.00C2a is now confined to a discussion of when to purchase exercise testing, and limits the circumstances in which purchase will be appropriate.

The commenters offered many arguments for removing the above-mentioned references in proposed 4.00C2a and 4.00D2. Because we have adopted the comments, we have not summarized all of the comments and arguments here. Most of those who commented on this aspect of the final rule pointed out that our statement in proposed 4.00C2c could have been misunderstood, as indeed it was by most of these commenters. The commenters assumed that our statement that treadmill exercise testing would be the "primary basis for evaluating functional capacity under this listing" meant that treadmill testing would be the primary basis for assessing functioning at all steps of the sequential evaluation process. The plain language of the proposed rule, of course, did not say this, but was confined to a discussion of whether a claim could be allowed at the listings step. Nevertheless, the comments do demonstrate that there were misunderstandings, especially because we also proposed to require the purchase of exercise testing in most cases.

We were also persuaded by the arguments that there will be many cases in which it will be evident that the claimant is disabled, obviating the need for—and expense of—exercise testing. We also agreed with the commenter who pointed out that, even though we require consideration of exercise testing in the context of the entire record, the use of the word "primary" in the proposed rules could have been interpreted as an instruction to our adjudicators to automatically give more weight to the results of such testing than to any other evidence; such an

instruction would be contrary to our policy.

In related comments, several commenters suggested that we emphasize in the final rules that exercise testing is merely one tool that physicians use to evaluate the severity of cardiac disease, and that the proper evaluation of a claim for Social Security or SSI benefits based on disability requires consideration of the test results in the context of all the relevant evidence. As we have explained above in the explanation of the final rules, we have adopted the comment by adding a statement to this effect in 4.00A and 4.00C2e(1) of the final rules. Final 4.00A emphasizes the need to consider all of the evidence; the fact that no claim may be denied solely because the claimant's impairment(s) does not meet or equal in severity the requirements of a listing; and the need to provide an individualized assessment in every case. Final 4.00C2e(1) emphasizes the need to consider exercise test results in the context of all of the relevant evidence. We did not add similar statements in 4.00C2a because we revised it to change its focus to the purchase of exercise testing, and there was no longer a context for such a discussion in that section.

We did not agree with the commenter who said that our purchase of exercise tests would be dangerous. We have many safeguards to ensure proper review by an expert physician before we will purchase such testing. We have also provided a detailed methodology for performing the tests safely and in approved facilities, including a requirement for supervision of the test by a physician.

We also did not agree with the comment about our statement of the utility of exercise testing in the first sentence of proposed 4.00C2a; although, we did revise the statement. We agreed with those commenters who referred to the information supplied by the American Medical Association and the American College of Cardiology in the joint amicus curiae brief these organizations filed with the U.S. Court of Appeals in New York in the case of the *State of New York* v. *Sullivan*, 906 F.2d 910 (2d Cir. 1990), that treadmill exercise testing does not assess all types of functioning or functioning in different environments. We, therefore, revised 4.00C2a to state more accurately that it is well recognized by medical experts that exercise testing is the best tool currently available for estimating aerobic capacity.

Comment: Four commenters, quoting or paraphrasing the district court's decision in 1989 in the *State of New York* case, stated that the exercise test is not a valuable tool for assessing disability because the exercise test results in a misdiagnosis of ischemic heart disease more than one-third of the time. They also cited the part of the court's decision that noted that, in certain circumstances, other widely used procedures (e.g., the exercise thallium test, the equilibrium radionuclide angiogram, and angiography) are more reliable in measuring the severity of ischemic heart disease.

Three of these commenters, in identical or similar language, also asserted that the proposed listings authorized adjudicators to deny benefits based on the results of suboptimal exercise tests. Another commenter stated that many exercise tests purchased on a consultative basis are terminated due to detoning or hyperventilation before cardiovascular challenge can occur, thus rendering the exercise test useless for evaluation of cardiac functioning.

Response: We do not use treadmill exercise tests to diagnose the existence of impairments; we use them to estimate the aerobic capacity of individuals and, hence, as a test of a certain kind of functional capacity. Indeed, in the preamble in the NPRM, we stated that we proposed to remove the requirement for a targeted heart rate because "the proposed listings do not use the exercise test for diagnosis but rather for functional evaluation." We made this statement in part because we agree with the commenters that the failure to demonstrate ischemia on an ECG does not by itself establish that the individual's heart is normal; however, it is evidence of the exercise test level that can be safely performed without triggering ischemic ST changes and, hence, is some evidence of aerobic capacity. Even when an exercise test is negative, it still provides some information about the individual's ability to exercise to the level achieved on the test.

Although we agree with the commenters' opinion that the exercise thallium test is the best method for diagnosing the existence of ischemic heart disease, we repeat that the issue in these listings is not one of diagnosis but of functioning. We also agree that the other tests may be useful for evaluating the severity of ischemic heart disease in some circumstances; however, they are not generally more reliable than the exercise test for this purpose. For this reason, we do not agree that they belong in our listings as alternative criteria. The listings are only examples. We do not attempt to state every possible fact pattern in the listings; that is the province of our findings that claimants may have an impairment that is equal in severity to a listed impairment.

In response to the three commenters who asserted that the proposed rules would permit adjudicators to deny benefits based on suboptimal exercise tests, we have stated above that the failure to meet or equal the requirements of a listing is never a basis for denying a claim. We can find nothing in the proposed rules, or in the preamble to the proposed rules, that could have led the commenters to draw this conclusion. The results of suboptimal exercise testing are only one piece of evidence that we must consider in the context of the entire record.

Comment: Another commenter was concerned that the proposed rules would "no longer prohibit adjudicators from relying upon suboptimal exercise tests in determining that the listing for ischemic heart disease is not met." The commenter asserted that the use of suboptimal tests would allow adjudicators to conclude "erroneously" that a listing was not met, and that our statement in the preamble that suboptimal tests are a useful measure of function (56 FR 31267) is contradicted by listing 4.04, which does not permit adjudicators to consider the test as a sign of the claimant's limitations. The commenter said that the listings should be changed to specifically allow adjudicators to consider the inability to complete a test as a ground for establishing that an impairment is of listing-level severity, as is done in listing 4.02, which recognizes that markedly symptomatic exercise intolerance may meet that listing. Alternatively, the commenter recommended that the listing should explicitly state that the inability to complete a test is not evidence that a person is free from ischemic heart disease. A similar comment added that our assurance that those cases that do not meet the listings could be allowed under the rules for equivalence was not persuasive because the commenter had seen many cases in which this had not occurred.

Response: We believe that the commenter who made the first comment misunderstood our prior rules and the statement we made in the preamble to the proposed rules about why we deleted the requirement for attainment of a targeted heart rate. An impairment meets a listing in only one way: by matching exactly the criteria in that listing. Because the results of suboptimal exercise tests have never been criteria in our listings, they cannot be—and never could have been—a *per*

se reason for finding whether a person's impairment met or did not meet a listing. Thus, the listings did not "prohibit" us from using the results of suboptimal exercise tests to find that an impairment did not meet a listing. The only question in any "meets" finding is whether the person has presented evidence that satisfies the specific criteria of the listing.

As we have explained in the preceding response, the failure of a suboptimal test to diagnose coronary disease does not mean that the test results are without use; and it is not a "false negative" in the scientific sense, because we are not using the exercise test for diagnosis. This is not a new policy. We have always required our adjudicators to consider at all steps in the sequential evaluation process all relevant evidence of an individual's functioning, which includes failure to complete an exercise test.

Nor does listing 4.04 prohibit adjudicators from using the results of suboptimal or negative exercise tests as evidence of a person's aerobic functional capacity. It is faulty reasoning to conclude that we do not consider the implications of a person's ability to function on a suboptimal or negative exercise test because we do not include a criterion within the listing for a test that is not "positive." All this means is that a claimant with a suboptimal or negative exercise test cannot have, on the basis of that test, an impairment that "meets" the requirements of those listings that include exercise tests among their criteria.

We did not adopt the suggestion to add a criterion to final listing 4.04 which would permit a finding of "meets" the listing based on markedly symptomatic exercise intolerance. The commenter's comparison with listing 4.02 was inapt. In proposed listing 4.02B, the requirement for "markedly symptomatic exercise intolerance" (the language of which we have now deleted in our clarification of the final rule) had to be associated with objective, demonstrable chronic heart failure, with cardiac enlargement or ventricular dysfunction. In final listing 4.04A, the listing for angina demonstrated by exercise testing, the objective requirement is the ECG abnormality or inability to maintain adequate blood pressure on exercise to support the inference that symptoms alleged at a low level of exercise may be attributed to ischemia; if we were to replace it with an allegation of exercise intolerance, the listing would not have any objective criteria. Again, this does not mean that an individual who is actually limited by his or her ischemic heart disease despite inability to "meet" this listing cannot be found disabled. The person may present evidence demonstrating equivalence to a listing, or by establishing a residual functional capacity which prevents him or her from working at past work and other work. Also, exercise intolerance may be indicative of a noncardiac condition that may alone or in conjunction with a cardiac impairment render a person disabled.

Nevertheless, we find reasonable and helpful the commenter's suggestion that we add a statement to the listing that the ability or inability to complete an exercise test is not evidence that a person is free from ischemic heart disease. We believe, however, that the statement is more appropriate in 4.00C2e(1) of the preface, where we discuss evaluation of the results of exercise testing. We have, therefore, added the statement as a new second sentence in final 4.00C2e.

Comment: Four commenters referred to the amicus curiae brief filed in the case of *State of New York* v. *Sullivan* by the American Medical Association and the American College of Cardiology, in which it was argued that the treadmill exercise test is not a fair measure of stress from heat, cold, humidity, pollution, altitude, psychological pressures, or other work-related stresses in the workplace. The brief also pointed out that in the workplace a person may, for example, be required to perform tasks that require substantial use of the arms, isometric exertion and physical effort that is sudden or prolonged, and these things are not measured by the treadmill exercise test. In identical language, two of the commenters said that the proposed rules demonstrated that we "continue to ignore this medical reality."

Response: These final rules are consistent with the facts presented in the amicus curiae brief. As the commenters noted in their quotes from the brief, the argument presented by the two medical associations discussed the efficacy of the treadmill stress test as the sole or primary basis for establishing a person's ability to work, not the propriety of our use of the treadmill exercise test in our listings. Indeed, we received comments on the NPRM from both medical organizations, and neither of them objected to the proposed rules in this regard—in fact, no physician advised us that he or she objected to this aspect of the proposed rules.

However, as we have explained above, we have revised the final rules to lessen further the likelihood that they can be misinterpreted to mean that the treadmill exercise test is the "primary" basis for assessing "functioning" throughout the sequential evaluation process. We have also revised the final rules to underscore our longstanding policy that when an individual's impairment does not meet a listing, all relevant evidence must be considered to determine whether the individual is disabled. It is in the residual functional capacity assessment that factors are considered such as the effect of heat, cold, humidity, pollution, altitude, psychological pressures, and other work-related stresses.

Comment: Four commenters also opposed the rule that listing 4.04, for cardiac ischemia, could not be "met" without the results of exercise testing unless the individual was at risk for exercise. The commenters said that this rule prevents consideration of other test results, such as echocardiograms and angiograms, under the listings. One of the commenters said that the listings must state that the criteria in listings 4.04B and C (the listings that include echocardiography and angiography among their criteria) can be met even if the claimant can exercise on a treadmill or even if an exercise treadmill test is negative. The same commenter said that 4.00A "instructs adjudicators to disregard" evidence of other tests, the opinions of treating physicians and the claimant's pain, and that the listings do not permit signs or symptoms (such as pain) to be considered as the basis for proving that an impairment actually meets a listing.

Response: We did not adopt the comments, except to the extent that we included language in the new fourth paragraph of final 4.00A which reminds adjudicators that the listings are only examples of common cardiovascular disorders that are disabling. The listings are intended to be a screening device by which we can identify and allow claims filed by the most obviously disabled individuals; they are not an all-inclusive list of disabilities under which all individuals must be found disabled. Even though echocardiography can demonstrate abnormality of cardiac functioning, and coronary angiography is the "gold standard" for ascertaining the presence of coronary atherosclerosis, neither of these tests provides information about whether any discovered disease is directly related to or predictive of functional status in the way that a positive exercise test does.

This does not mean, however, that individuals who are unable to exercise for the requisite time on a treadmill, or individuals who have negative exercise tests will be found not disabled. All it means is that we cannot find that they

have impairments that "meet" the listings. We believe that our revisions to the preface have clarified that such individuals will always receive the benefit of an individualized assessment that considers all of the evidence—including the results of any other tests they may have undergone, their symptoms, and their treating sources' opinions.

With respect to the last comment, we could not find any text in the NPRM in which we instructed our adjudicators to disregard any evidence, nor would we have intentionally written such a rule because it would have been contrary to our policy. Indeed, subsequent to the publication of the NPRM, we published final rules that explicitly address the importance of the role of pain and treating source opinions in our adjudications (see "Standards for Consultative Examinations and Existing Medical Evidence," 56 FR 36932, August 1, 1991; and "Evaluation of Symptoms, Including Pain," 56 FR 57928, November 14, 1991). Again, if the evidence of record, including evidence from a treating physician, and including evidence of pain or other symptoms, establishes that an individual is disabled, the fact that the evidence fails to show that a listing is met or equaled will not prevent a favorable determination. Moreover, listing 4.04 is a listing for cardiac ischemia, which ordinarily describes a kind of chest pain; we do not even consider using this listing unless the individual has the symptom of "chest discomfort," as we state in the opening sentence of the listing.

Comment: One commenter criticized the example of equivalence we had provided in the preamble to the proposed rules (56 FR 31267). The commenter also said that the listings as proposed did not set forth any substantive method for considering nonexercise test evidence in determining equivalence, and the general language in the preface about equaling any listing was insufficient.

Response: We disagree. We did not include the example in the final rules because it is virtually impossible to devise a single example, or even two or three examples, that would illustrate such complex concepts as, for instance, equivalence. Moreover, any example we devised would have to be so clear and unambiguous that it would not provide useful guidance; indeed, this could be a valid criticism of the example we provided in the preamble to the NPRM.

We do not provide methods for determining equivalence in any of the listings sections in part A or part B. We have separate rules in §§ 404.1526, 416.926, and 416.926a for that purpose.

Comment: In addition to those commenters who mentioned that an evaluation of pain should be included as part of the listings, two commenters thought that the proposed rules allowed exercise testing to be used to overcome an individual's allegations of pain. One commenter said that lack of adequate consideration of the limitations imposed by pain associated with ischemia will result in unrealistic functional assessments. The commenter referred to the decision in *Avery* v. *Secretary of HHS*, 797 F.2d 19 (1st Cir., 1987), which requires an individualized assessment of pain in the event of a medically determinable impairment that could cause pain.

Response: We did not intend to give the impression that a single exercise test in and of itself would be sufficient evidence to overcome an allegation of pain. As noted above, in November 1991, we published final rules regarding the evaluation of pain (56 FR 57928). Among other things, these rules require consideration of all relevant evidence, including a number of specific factors that must be considered whenever we consider an allegation of a symptom, such as pain. Our rules also require an individualized assessment of each person's allegations of pain, consistent with the *Avery* decision.

Comment: Several commenters raised issues of treating physician opinion and its relationship to the rules on exercise testing. A number of the commenters questioned the proposed rule in 4.00C2c that permitted a program physician to override a treating physician's opinion as to the advisability of conducting an exercise test under some circumstances. Most stated that we should never permit a program physician to require a claimant to submit to an exercise test against the recommendation of a treating physician. Several commenters thought that the program physician's decision to override a treating source's opinion would be limited to a review of the medical evidence in the claim file without giving proper weight to the treating source's opinion. Three commenters, citing the proposed rule in 4.00C2f (final 4.00C2e(1)) that required us to obtain statements from treating sources before we would decide whether to override their opinions, felt that the rule would create professional relations problems which will be magnified when the treating physician's opinion is overridden. One person suggested that the rules should require the program physician to ask the treating physician his or her opinion on whether the exercise test should be performed and to ask whether an exercise test had been performed in the past year. One commenter felt this policy could interfere with patient/doctor relationships. Another questioned if a statement should be made in the regulations that the facility performing the test should decide whether the test is contraindicated prior to its performance. Three commenters wanted to know what we would do if there is no treating source. One commenter asked whether our use of the term "examining source" meant that we would contact every physician who had examined the claimant, even if the physician was not a treating physician.

Several commenters stated that we were not giving proper weight to the opinion of treating physicians because proposed 4.00D2 required the purchase of an exercise test if a timely exercise test was not available and posed no significant risk to the individual.

Response: In response to the comments, we have made a number of revisions in the preface; however, we did not adopt the comments that asked us to prohibit program physicians from ever overriding the opinions of treating sources. In 4.00C2c of the NPRM we stated that we "will generally give great weight to the treating physicians' opinions and will generally not override them." We also characterized as "limited" the situations in which we would override such an opinion and require a written statement of explanation whenever a source's opinion was overridden. Clearly, therefore, we did not expect program physicians to override the opinions of treating sources except in the rarest of cases.

To make clear what those cases are, and in response to the comments, we first deleted proposed 4.00D2, which required exercise tests in all cases in which such testing posed no significant risk to the individual, thereby sharply limiting the number of cases in which the issue of whether to purchase an exercise test will even arise. Second, we revised final 4.00C2a to provide guidance for when purchase of an exercise test may be appropriate: when there is a question whether an impairment meets or is equivalent in severity to one of the listings, or when there is insufficient evidence in the record to evaluate aerobic capacity, and the claim cannot otherwise be favorably decided. Third, we revised 4.00C2c to state plainly that it will be a rare case in which the program physician would override the opinion of a treating source with respect to the purchase of an exercise test. If the treating source's opinion is overridden, the program

physician must document the file with a rationale setting forth his or her reasons for doing so. We also expanded final 4.00C2c to indicate that an exercise test will only be purchased if it poses no significant risk to the individual and the claim cannot otherwise be favorably decided. Fourth, we revised final 4.00C2e(1) to state even more clearly the rule from the NPRM that, if purchase of an exercise test is contemplated, and the claimant has a treating physician who has not ordered an exercise test, and there is no apparent reason why the person would be at risk, contact must be made with the source to determine the source's opinion whether exercise testing poses a significant risk, or whether there is some other reason why the treating physician did not have the test performed, such as because of a financial bar.

We do not believe that there will be significant professional relations problems from these rules. We believe that physicians will understand that we are contacting them out of concern for their patients' well-being, inasmuch as we will have to contact them when we need to purchase an exercise test and it is not clear why they have not ordered one, or why they think an exercise test poses a significant risk. Also, again, it should be a rare instance when the treating physician's opinion will be overridden.

It has always been the responsibility of the provider performing the exercise test to determine whether there is any risk to the claimant. Also, if there is no treating source, the program physician will be responsible for assessing the risk of exercise to the claimant, as has always been the case in the past. Neither of these policies is new, nor are they unique to the cardiovascular listings. However, in response to the comment that asked whether all "examining" but nontreating sources should be contacted, we have revised the section by deleting the phrase "examining physician." Under the aforementioned "Standards for Consultative Examinations and Existing Medical Evidence," we no longer use the term "examining physician," and our rules requiring recontact with physicians are clearly set out. Whether it will be necessary to contact other sources who may have examined the claimant but who are not treating sources will vary from case to case.

Comment: With regard to general policy on treating source opinions, several commenters said that the rules demonstrated that we do not give appropriate weight to such opinions. One commenter said that we did not provide any instruction in the listings on how to evaluate treating physician opinions about the nature and severity of the claimant's impairment, or which demonstrate that particular exercise test results are questionable, or provide some other basis for establishing disability. Another commenter said that the final rule must make clear that the results of an exercise test do not constitute substantial evidence to override a treating physician's opinion on the severity of the claimant's impairment. One commenter from a State located within the Second Circuit said that an exercise test should not be purchased if the treating physician can determine disability without it. The commenter said that, by purchasing an exercise test, we would not be according proper weight to the opinion of the claimant's treating physician if the treating physician has determined that the test is not necessary to evaluate disability.

Response: We added the clause, "in addition to information about the nature and severity of the impairment," to the end of the second sentence of the second paragraph of final 4.00A (which was the third sentence in proposed 4.00A). This revision reflects §§ 404.1527 and 416.927 of our rules. Otherwise, we did not adopt the comments. We would not provide rules for evaluating treating source opinions in this listing or any other because there are separate rules (§§ 404.1527 and 416.927) for considering the opinions of treating physicians. (See 56 FR 36932, "Standards for Consultative Examinations and Existing Medical Evidence," August 1, 1991.) The rules apply to all impairments.

When a treating physician provides us with evidence that demonstrates that the results of a particular exercise test are questionable, or a treating source provides evidence upon which we could base an allowance, our general rules provide that we will have to determine whether there is a conflict in the evidence. If there is a conflict in the evidence, we are required to resolve it, giving more weight to the treating source's opinion than we would if the opinion had come from a source who was not a treating physician (see §§ 404.1527(d) and 416.927(d)). If necessary to resolve the conflict, we may recontact the treating physician for additional information. Of course, we may be able to resolve the conflict based on the existing evidence, such as when we agree with the treating source that the results of a test are questionable or that the claimant is disabled. Our rules also explain how we decide whether there is substantial evidence to overcome a treating source's opinion. If the treating physician's opinion that a claimant is disabled is well supported by the evidence of record and is not contradicted by the other substantial evidence, we will give it controlling weight.

In response to the last comment, the Act provides that we must determine whether a claimant is disabled, not the treating physician. We are not aware of any decision of the Second Circuit, or any other Federal court, that holds that a treating source may make the determination of disability or decide the sufficiency of the evidence for SSA under the Act.

Comment: Several attorneys opposed the proposed rules, asserting that they were in conflict with the Social Security Act and the decision in the *State of New York* case in which the United States Court of Appeals for the Second Circuit ruled that all relevant evidence must be considered in determining disability and that the results of exercise tests cannot be used to the exclusion of other evidence to deny disability benefits. The commenters offered a number of arguments addressing the proposed policies both in general and as they pertained specifically to the "meets," "equals," and residual functional capacity aspects of our decisions. Two of the commenters cited the United States Supreme Court's decision in *Sullivan* v. *Zebley*, 493 U.S. 521 (1990), in support of the notion that all disability determinations must be based on an individualized consideration of each claim and reflect all relevant medical evidence.

Response: We believe that the revisions we have already described address most of the commenters' concerns, and that these rules are not contrary to the Second Circuit's holding in *State of New York*. We also believe that we have the statutory authority under section 205(a) of the Act (made applicable to title XVI by section 1631(d)(1)) to issue these rules, which have national applicability and which the Second Circuit (or any other court) has not reviewed or found to be invalid.

We also want to emphasize that we consider all of the medical evidence of record at step 3 of the sequential evaluation process, i.e., the listings step. We do this to be certain that the evidence is consistent, to resolve any apparent conflicts in the record, and, if we ultimately rely on a treadmill exercise test to find a claimant disabled under the listings, to be certain that it is a valid test and not a "false-positive" test. Our policy does not permit a finding of "meets" or "equals" in the face of a record that casts doubt on the validity of the test results; plainly, we

must consider the entire record to determine whether the test raises such a doubt. Moreover, at the equivalence stage of step 3, evidence that may not play a role in a finding of "meets" may be decisive in our determination that the claimant is disabled; and, as we have repeatedly stated throughout this preamble, if a claimant is unable to establish that he or she has an impairment that meets or equals the severity of a listing, we will continue the sequential evaluation to determine whether, based on all the evidence of record, the claimant is disabled.

Beyond that, we believe that the Supreme Court ruled in *Zebley* that it is not possible to provide individualized assessments to all claimants under the listings, and that the listings could never be revised to adequately provide for such assessments. For example, in its detailed analysis of the listings as a sole test of disability for children claiming benefits under the SSI program, the Court stated that "the listings obviously do not cover all illnesses and abnormalities that actually can be disabling," that "the listings * * * exclude any claimant whose impairment would not prevent any and all persons from doing any kind of work, but which actually precludes the particular claimant from working, given its actual effects on him—such as pain, consequences of medication, and other symptoms that vary greatly with the individual," that "the equivalence analysis excludes" many claimants, and that "there are several obvious categories of claimants who would not qualify under the listings but who nonetheless would meet the statutory standard." 493 U.S. at 533–34. Even more to the point, the Court stated:

> Even if the listings were set at the same level of severity as the statute, and expanded to cover many more * * * impairments, *no* set of listings could ensure that * * * claimants would receive benefits * * * under the individualized, functional analysis contemplated by the statute * * *. No decision process restricted to comparing claimants' medical evidence to a fixed, finite set of medical criteria can respond adequately to the infinite variety of medical conditions and combinations thereof, the varying impact of such conditions due to the claimant's individual characteristics and the constant evolution of medical diagnostic techniques.

Id. at 539, emphasis in original. The Court's holding in *Zebley*, therefore, was to require an additional step beyond the listings step, at which we would be required to satisfy the statutory criterion in title XVI of the Act of providing an individualized analysis for children based on all the evidence on a case-by-case basis; it was not that we must expand the listings to provide individualized assessments at the listings step. Therefore, we believe that, far from supporting the commenters' contentions, the *Zebley* decision refutes them.

Again, all claimants who are not found disabled at the listings step receive the kind of individualized assessment which considers the effects of pain, the side effects of medication, and the myriad other factors that describe their particular responses to their particular impairments, as required by the law. Much of the new text we have added to the prefaces to Parts A and B of these final rules is intended to underscore these important, longstanding policy principles.

Moreover, the listings step, which is only an allowance mechanism, is not required by the Social Security Act. If we did not have a listings step or if we were precluded from using our listings, it would only work to the detriment of claimants in terms of delaying some allowances, not to their advantage.

Information in the Preamble

Comment: One commenter expressed the view that in a number of instances, and especially in the childhood listings, we had proposed significant changes to our rules that were not mentioned or explained in the preamble. The commenter suggested that this would preclude the public from having a meaningful opportunity to comment on proposed rule changes.

Response: We believe the NPRM did give the public a meaningful opportunity to comment on the proposed rules, and that the detailed nature of the comments we received, which are discussed in this preamble to our final rules, attests to this fact.

The New Listings Will Result in More Denials

Comment: Three commenters thought that the proposed listings would result in our denying more claims for benefits. One commenter said that the new listings would result in denials of benefits to "tens of thousands of seriously impaired adult cardiac disease claimants." The other two commenters said that the proposed listings would result in more denials by the State agencies, and that this would result in more requests for hearings before an administrative law judge. One of these commenters also thought that the proposed listings provided less discretion to the State agencies than the former listings did.

Response: We use the listings only to find people disabled. Failure to have an impairment that meets or equals in severity a listing is never a basis for denying any claim, whether the claim is filed for an adult or a child.

However, it is true that some people whose impairments would have met the criteria of our prior listings will not be found to have impairments that meet these final listings. It is also true that some of these people will not be found disabled. For example, under 4.04B of the prior listings, individuals with chest pain of cardiac origin and an ejection fraction of 30 percent had impairments that met the listing. We now know that an ejection fraction of 30 percent does not reliably establish the severity or functional effects of an impairment; indeed, many people with ejection fractions of 30 percent function normally.

It is, of course, not true that the listings will result in the denial of individuals who are seriously impaired, nor was that our intent. Our only aim in these revisions was to fairly and accurately update the listings consistent with current medical knowledge.

Nevertheless, in response to these and several other comments discussed below, we have revised 4.00A and 104.00A to clarify that the guidance in the prefaces to the listings is primarily for the purpose of deciding whether an impairment meets one of the listings. We have also added new paragraphs to 4.00A and 104.00A (already described above, in the summary of provisions) which remind adjudicators that individuals whose impairments do not meet any listing may still have impairments that are equivalent in severity to a listed impairment, or that may result in a finding of disability as a result of the adult or child sequential evaluation processes based on an individualized assessment of their functioning. We have also added language in several places in the prefaces to state that all evidence in the case must be considered, and that, if the evidence already obtained establishes a favorable decision, the adjudicator should not continue development just to determine whether an impairment meets a listing.

Finally, we do not agree that the rules provide less discretion to the State agencies than the former listings. As the former listings were based almost exclusively on objective, diagnostic medical findings, the revised listings which provide functional criteria as well as medical criteria arguably provide the decisionmaker with more discretion.

4.00 Preface to Part A

4.00A Introduction

Comment: A number of commenters were concerned about the statement in the NPRM that "most individuals usually have received the benefit of a medically prescribed program of progressive physical activity accompanied by relevant educational and psychological support." They said that many of the people who file for title II and SSI disability benefits are outside the mainstream of health care and cannot afford such treatment or do not live where it is available. Three commenters thought that we would deny claims in which the claimants did not undergo treatment; one of these commenters said that the listings indicated that a claimant who did not undergo treatment should be denied. Two commenters were concerned that the rules were related to the rules on failure to follow prescribed treatment. One medical association suggested that the language in 4.00A should be, "Whenever there is such evidence, the clinical record must include a description of the therapy and positive evidence of rehabilitation measures prescribed by the treating source and response." One attorney commenter pointed out that listing 4.04 requires a regimen of prescribed treatment as a prerequisite under that listing, so that a claimant whose impairment satisfies the criteria in listing 4.04A but does not receive treatment still could not be found disabled under that listing.

Response: We adopted the comments by clarifying the final rules. In the second paragraph of final 4.00A, we now indicate that "many" individuals who have "listing-level" impairments will have received the benefit of such treatment. Although we agree that people with impairments of lesser severity than those in the listings may not necessarily receive this kind of therapy, we believe that the listing-level impairments are so severe that many, if not most, individuals with such serious—and in the case of cardiovascular impairments, potentially life-threatening—impairments will be placed on some sort of rehabilitative and supportive program.

However, we also state that, "[w]henever there is such evidence * * *, [i]t is important to document any prescribed therapy and response because this medical management may have improved the individual's functional status," recognizing that there will be cases in which no such treatment was prescribed or instituted. This does not mean that we will find individuals who have not received treatment to be not disabled, only that we cannot find them to have impairments that "meet" the requirements of those listings that require a regimen of therapy, as noted by the last commenter. For instance, an individual whose impairment meets the requirements of final listing 4.04A but does not have any treatment available to him or her, and who can establish duration of 12 months (prospectively or retrospectively) could be found to have an impairment that is equivalent in severity to the listing.

To underscore our policy that we never deny claims because of failure to meet the listings, we added new paragraphs in final 4.00A and 104.00A which stress the necessity for making an equivalence determination when a claimant's impairment(s) does not meet a listing, and for assessing residual functional capacity (or performing an individualized functional assessment) when a claimant's severe impairment(s) neither meets nor equals in severity any listing. We have also added reminders in final 4.00A and 104.00A to consider all relevant evidence whenever there is no evidence of therapy.

Finally, the rules on failure to follow prescribed treatment are quite complex, but have one simple underpinning: They do not come into play unless an individual's treating source has prescribed treatment for the individual which the individual is not following. If the individual's treating source has not prescribed treatment, or the individual does not have a treating source, the principle does not apply.

Comment: Two legal services organizations commented on the statement in 4.00A of the NPRM that individuals who are "deconditioned" may do poorly on exercise testing. The commenters thought that this meant our adjudicators would disregard deconditioning in the determination of disability. One commenter said that the section should instruct adjudicators to consider the effects of deconditioning as a basis for a finding of disability because it is a consequence of a cardiovascular impairment or a side effect of treatment (e.g., bedrest). The same commenter also said that we should include deconditioning as a listing criterion in listing 4.04.

Response: We did not adopt the specific comments, but we have clarified the rules. By "deconditioned," we meant the reversible exercise intolerance that comes from a lack of activity, such as from prolonged hospitalization, but which resolves with therapy. Thus, one of our reasons for requiring a longitudinal clinical record of at least 3 months was to allow time for the individual to become reconditioned; in this way our evaluation would consider the individual in the most stable condition and provide a more accurate picture of expected long-term functioning. We have, therefore, revised the proposed language (now in the second paragraph of final 4.00A) to clarify our original intent that inactivity or bedrest may result in a reversible deconditioned state, and that individuals in such a deconditioned state may do poorly on exercise testing if the testing is performed before they have been reconditioned.

We do not agree that the factor of deconditioning should be added to listing 4.04. Listing 4.04 already includes functional criteria that result from the listed impairment.

4.00B Cardiovascular Impairment

Comment: A national medical association noted that we had included arterial desaturation as one of the consequences of heart disease in 4.00B4. They noted, however, that we had not provided a methodology for quantifying this condition, and suggested that purchase of exercise pulse oximetry in conjunction with exercise testing may be an objective measure of degree of impairment.

Response: We did not adopt the comment. The documentation for arterial desaturation is found in the criteria in 4.06A or B and the methodology can be easily inferred from the criteria. We do not provide for the purchase of pulse oximetry to determine oxygen saturation because it is not as sensitive a measure as arterial blood oxygen tension. Of course, if we obtain it from a treating source, we will consider the results along with all other evidence.

4.00C Documentation

Comment: One commenter thought that the requirement in 4.00C1 for a 12-lead resting ECG rather than a 3-lead test might pose a problem because the 3-lead test is used in smaller facilities and rural areas. Another commenter thought that the statement in 4.00C1 that the tracings of a resting ECG "must be submitted," might be misinterpreted by adjudicators to mean that a resting ECG must be purchased even if the documentation is sufficient to meet a listing that does not require an ECG.

Response: We did not adopt the comments. The provision is substantively the same as the provision in 4.00F of the prior listings, and has not been a problem in the past. We will, of course, accept a 3-lead ECG which is submitted to us by a treating or

examining source, and use it to decide the case if the remaining information in the record is sufficient. If this information is not sufficient for a favorable decision, we may purchase the needed evidence. When we purchase an ECG, it will be a 12-lead test. With regard to the second commenter's point, inasmuch as the language in the final rule is nearly identical to the language in former 4.00F and there was no misunderstanding of that language, we do not believe that these rules will be misinterpreted either.

Comment: Two attorney commenters said that detailed descriptions of ECG findings without the original or legible copies of the tracing should be sufficient documentation, at least in the Second Circuit. The commenters, in nearly identical language, said that this regulatory requirement "frequently results in purchase of a CE with [its] attendant problems."

Response: We require ECG tracings to minimize error in adjudication and to ensure that standardized criteria for interpretation are applied to all claimants. Having the actual tracings, or a copy, also permits us to compare the findings with other evidence in the record—such as ECGs from emergency rooms and other medical sources—which the treating source might not have seen, and permits us to create a longitudinal picture through serial tests. Furthermore, our requirement for the actual tracings or a copy is only consistent with standard medical practice; it is routine to send the tracings along with other medical records whenever referring a patient to another physician, and for this reason it is rare for treating sources to provide the kind of detailed description of the tracing and the methodology in their narrative reports needed to understand the interpretation and methodology. Although it is possible that the physician could provide us with a narrative showing all of the information we would need to resolve any questions we might have, we have found it much simpler and more straightforward to review the tracings.

Under our recently published standards for obtaining consultative examinations, we do not anticipate the purchase of many consultative examinations merely because a treating source failed to submit actual tracings. The rules which are applicable nationwide, including in the Second Circuit, require us to make every reasonable effort to recontact the doctor to try to obtain the missing evidence. If the tracing is for some reason not available, the rules also provide that the treating source is the preferred source for a consultative examination, and that, furthermore, we may restrict the examination only to the evidence we need. Therefore, if it is necessary to complete the record, we may purchase a new ECG from the treating source, without the need for a full-blown, independent consultative examination. We will only purchase examinations from other physicians when we have good reason to do so, primarily because the treating source has been unable or unwilling to provide us with adequate information and is unable or unwilling to perform the consultation for us.

The commenters seemed to have assumed that our rule for obtaining tracings is one that only works to the detriment of the claimant. In fact, because we have specialists in cardiovascular disorders working in our State agencies, and because treating sources are not always specialists, we often find abnormalities on ECGs that were not noted in the treating sources' readings. Without review of the actual tracings by a knowledgeable program physician applying nationally acceptable standards, erroneous decisions could result which adversely affect claimants. The rule can, and does, work both ways.

Comment: A national medical association suggested that we should include a requirement for routine documentation of the effects of hyperventilation under 4.00C1b(4) because it is a necessary part of the examination.

Response: We partially adopted the comment. We could not add a rule requiring documentation of the effects of hyperventilation under 4.00C1b(4) because it is a general section that includes existing medical evidence. Inasmuch as this existing evidence often will not include documentation of the effects of hyperventilation, such a requirement would have little practical effect. However, we can require such testing when we purchase exercise testing on a consultative basis. Therefore, we have added this requirement under final 4.00C2b(1), the methodology section under "Purchasing Exercise Tests." The new language is an almost exact copy of the third and fourth sentences of the first paragraph of 4.00F2 of the former rules.

In addition, the comment made us realize that the statement in proposed 4.00C1b(4) was an inadvertent error. It required posthyperventilation tracings to be deferred for at least 10 minutes after hyperventilation, which is manifestly so long a recovery time that it would defeat the purpose of the hyperventilation study. We have, therefore, corrected the sentence to state what we originally intended—that the exercise test should be deferred for at least 10 minutes after hyperventilation.

Comment: A medical association provided an updated reference for exercise standards to be used in 4.00C1b(5).

Response: Instead of updating the literature citations, we decided to delete the references entirely in favor of a more general requirement to use generally accepted protocols for post-exercise electrocardiograms. In this way, we ensure that the criteria will not again become out-of-date in the future.

Comment: Several commenters asserted that the use of handrails and the Borg scale intensity rating of perceived exertion are not usually reported in the existing medical evidence. The commenters pointed out that, if this information is required for a program acceptable exercise test, it will require frequent recontact with the attending physician. They also said that this information will usually not be available from hospitals.

Response: In response to the comment, we deleted the language on the Borg scale and the use of handrails. We agree with the commenters that these are not usually reported or available.

Comment: One commenter referred to our statement in the third sentence of proposed 4.00C2a that "[e]xercise test reports, when available, must be included in the file." The commenter said that there are occasions when certain exercise tests would not be germane to a decision, e.g., an exercise test performed only a week after an acute event or when chest discomfort is clearly not of coronary ischemic origin.

Response: Although we do not agree with the commenter, we have deleted the sentence in our clarification of final 4.00C2a. Inasmuch as we have revised 4.00C2 to focus only on the purchase of exercise tests, it is no longer relevant to discuss available (i.e., existing) evidence.

Even though we have not retained the sentence, it is still our policy that all relevant, existing evidence must be requested. In the case of a person alleging chest pain, this will include reports of exercise testing. We do not believe that it would be fair, or accurate, to automatically conclude that a person's chest pain is "clearly" not of cardiac origin when a physician has seen fit to order a treadmill test for the individual. Moreover, as we have stated several times in this preamble, the treadmill test provides valuable information about an individual's aerobic capacity which will always be

relevant to determining functional capacity.

4.00C2b Methodology

Comment: An attorney said that we had acknowledged in 4.00C2b(1) that "there is more than a little uncertainty about what constitutes a MET or 5 METS" on an exercise test, and said that there was no universally accepted guideline in the medical community for how many METS a person has completed at a given level of a treadmill test. The commenter suggested, therefore, that we provide a definition in the listings that would serve as the standard for these listings.

Response: We did not adopt the comment. It is universally understood by physicians that the metabolic equivalent, or MET, is a unit of sitting, resting oxygen uptake equal to approximately 3.5 ml of oxygen per kilogram of body weight per minute. Exercise protocols, such as the Bruce protocol, are standardized and have been developed so that each level approximates a workload in multiples of METS; hence, stage I of the Bruce protocol approximates 5 METS. (See, e.g., The American Heart Association Special Report, "Exercise Standards: A Statement for Health Professionals From the American Heart Association," "Circulation," Vol. 82, No. 6, December, 1990, p. 2286; and Schlant, et al., "Guidelines for Exercise Testing: A Report of the Joint American College of Cardiology/American Heart Association Task Force on Assessment of Cardiovascular Procedures (Subcommittee on Exercise Testing)," printed in the "Journal of the American College of Cardiology," Vol. 8, No. 3, September, 1986, p. 725, and "Circulation," Vol. 74, No. 3, September, 1986, p. 653A.) An exact MET level can be determined only by measuring the volume of oxygen uptake directly, but this is rarely done in conjunction with the clinical use of the ECG treadmill exercise test.

We do not believe that there is any reason for us to define the criteria of these listings beyond what is universally understood by physicians. Inasmuch as we use the listings only to find people disabled, the fact that there is some variation from person to person in the actual workload imposed at a given level of an exercise protocol will not disadvantage any claimant. Those claimants who demonstrate the requisite findings of the listings on exercise will be found to have impairments that meet the listings; those who do not will still have the opportunity to demonstrate disability by showing equivalence to the listings or by an individualized assessment of their residual functional capacities.

Comment: A commenter from a national medical association suggested the use of measured oxygen consumption to quantify functional capacity objectively. The commenter said that use of measured oxygen consumption may enhance objectivity of data obtained during exercise testing and strengthen interpretation of exercise test results in cases where effort on the part of the claimant is questionable; while measurement of oxygen consumption is not frequently used in clinical practice, the additional data gathered from this relatively simple, noninvasive technique may allow for more objective interpretation of respiratory or cardiovascular limitation.

Response: Although we agree that exercise testing with measurement of maximal oxygen uptake provides an accurate determination of aerobic capacity, this procedure is not widely utilized and would also increase the cost of impairment evaluation prohibitively. Therefore, we are unable to adopt the comment. However, in response to the comment, we have added a discussion of the efficacy of such testing to final 4.00C3, "Other studies," and the importance of obtaining test results when the test has been performed by a treating source or other medical source.

Comment: A national medical association suggested the 5 METS or less criterion should apply to leg exercise only and that we should provide a threshold for arm exercises. The commenter recommended that the arm threshold should be 60 to 70 percent of the leg criterion. The commenter also said that some work does not require much leg work and, therefore, thought the treadmill test could be inappropriate. The commenter said that some people without the use of legs may still be capable of performing many jobs.

Response: The primary focus of the preface to the listings is on providing guidance for the evaluation of disability under the listings, although the guidance may also be applicable for disability evaluation at other steps of the sequence. The listings are only examples of impairments that are so severe that they preclude the performance of gainful activity. We believe that the exercise threshold levels we have provided in these listings are so limited as to render the issue of arm exercise at the listing level moot; even sedentary work requires some ability to walk, stand, lift, and carry, as well as the ability to travel to and from a job. We also want to make clear that, under our longstanding rules, people who do not have the use of their legs are always deemed to be disabled.

We do agree with the commenter that arm exercise testing is less sensitive than treadmill testing in the detection of myocardial ischemia because the large muscle groups are not exercised. We believe that the maximal aerobic capacity is approximately 80 percent of a treadmill exercise test. A MET level on arm exercise that would be comparable to the 5-MET level of the treadmill test would be 4 METs, and in such a circumstance, an equivalence determination would be appropriate.

Comment: Another commenter wondered whether the increase in systolic blood pressure before and early into exercise discussed in 4.00C2b(4) and the diastolic rise in blood pressure discussed in 4.00C2b(5) occur with sufficient frequency that they warrant inclusion in the listings. The commenter also suggested that we add a statement requiring review by a program physician to ensure the validity of the test interpretation. Another commenter recommended that we add the phrase, "at peak level," to the third sentence of proposed 4.00C2b(5), so that the sentence would begin: "Conversely, an increase in diastolic blood pressure with low workloads, together with a decrease in systolic blood pressure at peak level and decrease in pulse pressure * * *." Another commenter also asked if the significance of severe systolic hypertension during exercise needs to be mentioned.

Response: We believe that the guidance we provide in final 4.00C2b(4) is important and that the phenomenon does occur frequently enough to warrant inclusion in the methodology section of the preface. It is well known that there is a degree of apprehension in the patient-physician encounter which can result in a transient elevation of blood pressure, and this occurs commonly. As the test progresses, the transient elevation in blood pressure settles down. This degree of apprehension must be taken into consideration when blood pressure is measured early in an exercise test in order to distinguish between tests that are truly sign-or symptom-limited and those that register transient elevations in blood pressure early in the test as a result of apprehension.

We agree with the first commenter that the changes in diastolic blood pressure discussed in proposed 4.00C2b(5) were not as important; it is the decrease in systolic blood pressure which is associated with significant coronary disease and which increases the risk of further treadmill testing.

Moreover, the paragraph could have been misleading; it is, in fact, not invariably true that an increase in diastolic blood pressure with low workloads, together with a decrease in systolic blood pressure and decrease in pulse pressure, indicates a response to inadequate cardiac output. There are other reasons why this may occur. Therefore, we have deleted the paragraph and redesignated proposed 4.00C2b(6) (with modifications to delete redundancies and cross-references not in the final regulation) as final 4.00C2b(5). We did not adopt the comment to add "at peak level."

We did not adopt the comment that asked us to add a sentence ensuring review by a program physician because the results of an exercise test must be considered in the context of all of the other evidence in the individual's case record, and we did not wish to mandate a physician review of only one specific type of evidence. We did not single out the issue of blood pressure because we believe that it is well understood by experienced program physicians that interpretation of exercise tests takes into account all relevant factors, including the individual's exercise time, stage of exercise, electrocardiographic manifestations, and blood pressure changes. Blood pressure changes as an isolated finding are not the basis of an exercise test interpretation.

Finally, we adopted the comment that asked us to add information about the significance of systolic hypertension on exercise. We added a sentence to the end of final 4.00C2b(4) that states: "In addition, isolated systolic hypertension may be a manifestation of arteriosclerosis."

Comment: A physician, noting that 4.00C2b(4) discusses the significance of a decrease in systolic blood pressure during exercise to below the usual resting level, wondered whether it would be helpful if we added a discussion of the significance of a decrease in systolic blood pressure during exercise that did not fall to below the resting level. The commenter noted similar passages in listings 4.02B2 and 4.04A4.

Response: As the commenter is undoubtedly aware, a decrease in systolic blood pressure that does not fall below the resting level may have no special significance. It is merely one of many factors the doctor must consider when interpreting the test results. Because we do not, and could not, list all of the factors that must be considered in exercise test interpretation, we do not believe that it would be helpful to address this particular one, either in the preface or the listings.

Comment: We received two general comments about the examples of risk factors in proposed 4.00C2c. One commenter noted that there were fewer risk factors named in the proposed rules than in 4.00G3 of the former rules, and that we had recategorized some of the risk factors militating against the purchase of exercise testing in the former rules to factors that would limit interpretation of exercise test results in the proposed rules. This commenter, who believed that the rules "contemplate[ ] large numbers of exercise tests purchased by State agencies notwithstanding the judgments of treating physicians," said that we would also be exposing claimants to additional risk "by abandoning many of the factors which have heretofore restrained the discretion of SSA decisionmakers." In a similar vein, the second commenter indicated a belief that, by changing some of the factors in the prior rules (such as musculoskeletal and neurological impairments) from risk factors to factors that would limit the usefulness of exercise testing, we were indicating that we would purchase exercise tests in which the results are likely to be of limited or no value because of the presence of other diseases.

Response: In response to the comments, we have restored to final 4.00C2c several of the examples from the former rules of conditions that would preclude purchase of exercise testing; specifically, Wolff-Parkinson-White syndrome (which we have deleted from final 4.00C2e(2)), marked aortic stenosis, marked pulmonary hypertension, and limiting musculoskeletal and neurological impairments. We had proposed to delete the examples of second-and third-degree heart blocks because they are subsumed under the category of arrhythmias; moreover, second-degree heart blocks are not always significant risks to exercise testing, as in the case of Wenckebach periods. However, in response to the comments, we have included third-degree heart blocks and Mobitz II, a kind of second degree heart block that would preclude the purchase of testing, as examples of arrhythmias. We deleted the example of ventricular aneurysms because we now know that they do not rupture; therefore, we no longer consider them to be a significant risk to exercise testing for that reason. Arrhythmias that result from ventricular aneurysms would already be covered. However, in response to the comments, we have revised the example of aneurysms that was in the former rules to include chronic or dissecting aortic aneurysms and have added it to the list of examples. We deleted the example from the former rules of recent onset angina because it is too imprecise. Unless the angina is unstable or progressive, there is no significant risk to the purchase of testing.

In some cases, the examples in the NPRM were the same as the examples in the former rules, but with more up-to-date or clearer language; for instance, "atrial" fibrillation instead of "auricular" fibrillation and the example of cardiac drug toxicity instead of the less precise "individuals on medication where performance of stress testing may constitute a significant risk." In the final rules, we have also clarified an example we proposed in the NPRM. Because "recent" aortic dissection was unclear, we have revised the example to "unrepaired" aortic dissection; thus, we will not require recency. The proposed rules contained the example of arterial dissection after coronary angioplasty; however, we eliminated this example because it was medically inappropriate. Coronary arterial dissection usually occurs during coronary angioplasty and is the major means by which arterial blood flow is reestablished. Therefore, it is not a risk factor for exercise testing. In addition, we have added language to 4.00C2c to indicate that the risk factors listed are only examples, not an all-inclusive list. Based upon the facts of each individual's case, the program physician can decide if other factors would pose a risk to the claimant.

With regard to the first commenter's remark that we intend to purchase many exercise tests despite the judgments of treating physicians, we believe that the commenter misread the NPRM. As we have already explained, the proposed rules clearly stated that the program physician would "give great weight to the treating physicians' opinions and will generally not override them," in this regard.

Comment: One commenter from a national medical association recommended that the unstable progressive angina in 4.00C2c should be well-documented as it could be attributable to anxiety, especially following coronary artery bypass graft surgery.

Response: We always try to document any impairment as well as possible. However, we believe that unstable angina due to any cause raises a sufficient question of risk that we will not purchase exercise testing.

Comment: One national cardiological association said that our proposal in 4.00C2d to wait 3 months following an acute myocardial infarction or angioplasty before purchasing an

exercise test was too long. They indicated an exercise test can be safely done within 1 to 2 months. Conversely, a lay commenter suggested that we might extend the deferral period to 4 months.

Response: We did not adopt the comments. We chose a 3-month deferral period not for reasons of safety, but to provide a reasonable period of time for recovery so that we could realistically evaluate the benefits achieved from medical management. We also believe that 3 months is long enough to wait before purchasing the test, and that there is no need to extend the requirement to 4 months.

Comment: One commenter asked whether the factors in proposed 4.00C2e (final 4.00C2e(2)) could be used to rule out exercise testing, inasmuch as they limit test interpretation.

Response: The factors in this section may, on an individual case basis, be used for this purpose, although they generally will not preclude exercise testing. We have included this section to alert program physicians that these things sometimes make interpretation of an exercise test more difficult. They do not necessarily pose a risk to the individual, nor do they make interpretation impossible.

Comment: The same commenter asked us to define "prolonged periods of physical inactivity."

Response: We have added a parenthetical statement indicating that an example of a prolonged period of physical inactivity could be two weeks of bedrest.

Comment: Two attorneys, using identical language, said that they were concerned about the "requirement" for an exercise test for individuals with chronic heart failure, who generally are treated with digitalis. The commenters said that the medication alters the ECGs and can result in misinterpretation of the exercise test results, thereby denying benefits to disabled individuals. Two other attorneys, also using identical language, said that the rules authorized reliance on exercise tests where medication conceals the underlying impairment. One of these commenters said that we should instruct adjudicators to disregard results of exercise tests that are unfavorable to individuals when the individuals were on medication at the time of the test. Another commenter thought that we should not use treadmills or Holter monitors to evaluate ischemia when the individual takes medication that controls symptoms because a negative test result does not give a reliable picture of the person's ability to function on a sustained basis. This commenter also said that we routinely invalidate positive test findings when they are supportive of listing criteria because the claimant is on digitalis.

Response: The final rules do not require exercise testing for people with chronic heart failure. They provide a listing under which people who have chronic heart failure can show listing-level severity through exercise testing, in addition to two other listings for the impairment that do not include exercise testing among their criteria. Moreover, the exercise test criteria in listing 4.02 do not include ischemic findings; they require only an inability to exercise at 5 METS or less or a need to stop exercising because of certain abnormalities that require the cessation of the test. Therefore, any effect of medication on the ECG will have no relevance to whether the person meets this particular listing. However, because these commenters misunderstood the language we had proposed, we have revised listing 4.02B1 to make it clearer. We also repeat that the results of exercise tests alone will not result in denials of benefits.

With regard to the issue of the value of exercise testing when medication controls symptoms, a so-called medication-affected test in an asymptomatic individual indicates the effectiveness of the treatment. The absence of ST changes on an exercise test does not mean that the person is free of coronary disease; however, the absence of ischemic ECG changes or symptoms at a given level of exercise indicates what can safely be done in terms of aerobic capacity. As we have already stated, we do not use the exercise test to determine the existence of an impairment, but the aerobic functional limitations associated with the impairment. If medication sufficiently controls an impairment, the impairment is not disabling.

With regard to digitalis, we agree with the commenters that the presence of baseline segment abnormalities makes interpretation of an abnormal exercise test difficult and reduces the usefulness of such a piece of medical evidence in the evaluation of ischemic heart disease. This is because digitalis may induce or accentuate ST segment displacements on exercise, resulting in a false-positive test; for this reason, an abnormal exercise test of an individual taking digitalis could not in itself establish that the individual has met the criteria of the ischemia listing. However, this is not the case for normal tests, and a normal exercise test is valid. In any event, inasmuch as we have deleted the requirement to purchase exercise tests we believe that we have responded to the commenters' concerns.

4.00C3 Other Studies

Comment: A national medical association suggested that we should place less reliance on imaging techniques such as echocardiography and radionuclide tests in determining function. The commenter said that too much emphasis is placed on ejection fraction when tests must be related to aerobic capacity, and that the effective cardiac output and effective stroke volume are more important.

Response: We did not adopt the comment. It was not clear to us what the commenter meant by "effective" cardiac output and stroke volume. However, both cardiac output and stroke volume are measures of ventricular function that do not in themselves provide enough information from which one could infer reduced functional capacity. The implications of both depend on variables that we could not easily define in these listings. For instance, cardiac output depends on stroke volume and heart rate—which can vary through a wide range—as well as according to the individual's size. Therefore, neither test is amenable to a simple cutoff for listings purposes as the ejection fraction is. Moreover, stroke volume is one of the components used to calculate the ejection fraction. Even if we provide a threshold level for stroke volume in these listings, it would likely be redundant because it would also appear as a reduced ejection fraction.

Comment: One commenter felt that stricter guidelines need to be given as to when studies described in 4.00C3 may be purchased to ensure that the treating physician's opinion is carefully considered in order to protect the safety of claimants.

Response: We have clarified section 4.00C3 to indicate that these tests may only be purchased if the claim cannot be favorably decided on another basis, and the program physician, preferably one experienced in the care of patients with cardiovascular disease, has concluded that the test does not pose a significant risk to the individual.

Comment: One commenter asked us to provide criteria for purchase of two-dimensional echocardiograms and radionuclide studies in 4.00C3.

Response: We did not adopt the comment. We believe that this is a procedure that is more appropriate to our operational manual and other subinstructions than to the regulations.

4.00D Treatment and Relationship to Functional Status

Comment: One commenter suggested that the requirement in proposed 4.00D4 to obtain results of biopsies during the first few months after transplant was unnecessary because the listing directs an allowance once we have documented that a transplant has been performed.

Response: We adopted the comment by deleting the sentence. As the commenter correctly noted, under listing 4.09 there is a presumption of disability for 1 year following cardiac transplantation so that there is no need for requiring biopsy results within that period.

4.00E Clinical Syndromes

Comment: A physician noted the statement in proposed 4.00E1a that chronic heart failure may manifest itself as pulmonary congestion "or" systemic congestion could be clarified to indicate that it might also result in both pulmonary and systemic congestion.

Response: We adopted the comment.

Comment: One national medical association suggested that we add "chest wall syndrome" to the list of noncardiac conditions that may also produce symptoms mimicking myocardial ischemia.

Response: We adopted the comment in final 4.00E3f.

Comment: A national medical organization suggested three clarifying language additions for the second and third paragraphs of 4.00E4.

Response: We adopted two of the suggestions but not the third. In the first sentence of the second paragraph of 4.00E4, we added the phrase, "in the supine position," following the word, "determined," as suggested because this is standard practice for determining the ankle/brachial blood pressure ratio. Similarly, in the fifth sentence of the third paragraph of the section, we now indicate that the treadmill for Doppler exercise may be on a "10 or 12 percent" grade, instead of 12 percent alone, in recognition of variations in standard practice; for the purposes of this listing, the difference in the grading is so small as to be immaterial. We did not adopt the third suggestion, to indicate in the same sentence that the exercise should be for "up to" 5 minutes, because we already include the possibility that the individual will not complete the test in the fourth sentence of the paragraph.

Comment: Under 4.00E4 there is a requirement for a resting ankle/brachial systolic blood pressure ratio of less than 0.50. A national medical association commented that this is an arbitrary ratio and that pain and pallor must also be taken into account, even though the individual may register 0.45.

Response: We disagree. The requirement for a resting ankle/brachial systolic blood pressure ratio of less than 0.50 is not arbitrary, but is confirmed by the literature and clinical experience. (See, e.g., Carter, S.A., "Rate of Pressure Measurements in Vascular Disease," in Bernstein, E.F., "Non-invasive Diagnostic Techniques in Valvular Disease," The C.B. Mosby Company, Saint Louis, 1987.)

Furthermore, the existence of pain and pallor is implicit in the requirements. Listing 4.12 requires "intermittent claudication," which is a description of a kind of pain. People with the severely reduced ankle/brachial systolic pressure of 0.50 will have both pallor and rubor, among other clinical findings, and the symptom of pain associated with the degree of marked peripheral arterial disease described in the listings. We do not believe that it would be helpful to mention only one such common finding.

Comment: One commenter suggested that we add text to 4.00E4 explaining that varicose veins by themselves do not generally cause disability at the listing level, and that the listing concerns chronic venous insufficiency, not isolated varicosities.

Response: Although the commenter was correct, we do not believe that it is necessary to add this much detail to the listings, since it is evident from the listed criteria that a mere finding of varicose veins could not meet or equal the criteria of the listing.

Listings

4.02 Chronic Heart Failure

Comment: Several commenters believed a definition of cardiac enlargement should be provided.

Response: We agree and have added two common examples of cardiac enlargement to listing 4.02A.

Comment: Two attorney commenters noted that proposed listing 4.02 introduced an exercise test criterion. One of these commenters said that we had presented no justification to support our conclusion that exercise testing is an appropriate measure of disability arising from chronic heart disease. The other commenter noted that in our former rules (in 4.00G3), we had listed congestive heart failure as a reason for not purchasing exercise tests. A third commenter asked us to define "markedly symptomatic exercise intolerance" as used in proposed listing 4.02B1.

Response: Experts in the field of cardiology indicate that exercise testing of individuals with chronic cardiac failure that is compensated is both safe and useful. Among the objectives for subjecting these individuals to exercise testing are the sensitive and specific detection of impaired cardiac performance, a gradation of the severity of chronic cardiac failure, the assessment of aerobic capacity of the patient, and the monitoring of the therapeutic response (see, e.g., "Cardiopulmonary Exercise Testing," Karl T. Weber, Joseph S. Janicki, 1986, W. B. Saunders Company, Philadelphia). Nevertheless, we still exclude individuals who have chronic heart failure resulting in NYHA functional class IV limitations in 4.00C2c.

Our proposal to use the term "markedly symptomatic exercise intolerance" was unclear. We have, therefore, clarified final listing 4.02B1 by deleting the phrase and revising the final clause to state clearly what we intended; i.e., that the person is unable to exercise in an exercise test at a workload equivalent to 5 METS or less because of symptoms of chronic heart failure. In this way, the criteria for symptoms will be evaluated only under B2 of final listing 4.02.

Comment: One commenter asked if in listing 4.02B the "recurrent fatigue and dyspnea" must occur at rest or with exercise, or either.

Response: NYHA functional class III connotes that the individual is comfortable at rest but symptomatic on ordinary physical activity. Similarly, NYHA functional class IV connotes that the individual is symptomatic at rest. We believe that we have clarified these principles by deleting the references to the functional classes and instead incorporating into the listings narrative descriptions of the functional criteria.

Comment: One commenter suggested that we include multiform ventricular premature contractions in listing 4.02B2a.

Response: We adopted the comment. We have rephrased this listing section to indicate, "Three or more consecutive ventricular premature beats or three or more multiform beats * * *."

4.04 Ischemic Heart Disease

Comment: Three commenters addressed the requirement in the opening sentence of proposed listing 4.04 for chest discomfort "occurring repeatedly." One commenter asked us to define the phrase. Two commenters pointed out that individuals may restrict their activities so as to avoid discomfort or lessen its frequency. One of the commenters said that we should delete the phrase, arguing that the issue is not

how often chest discomfort of ischemic origin occurs, but whether it occurs consistently with exertion.

Response: We adopted the comment that asked us to delete the phrase. We agree with the last commenter that the issue is not how often the chest pain occurs, because the individual may have structured his or her activities so as to avoid chest pain, but whether the individual would have symptoms with a given level of exertion. Moreover, the specific listings criteria in the subparagraphs establish the level of functional severity for the listings.

Comment: One commenter thought that the requirement in listing 4.04A1 for findings in at least 3 consecutive complexes would make it too difficult to meet this listing. Another commenter asked if the requirement in listing 4.04A1 for depression in 3 complexes rather than 2 is correct.

Response: The requirement for findings in at least 3 consecutive complexes is correct. We changed the requirement from the prior listing's 2 complexes to bring these listings into line with standard medical practice. We do not intend to raise the severity level of the listing, but to make it more accurate and up-to-date by minimizing the effect of wandering baseline or artifacts.

Comment: One commenter requested that we consider expanding proposed listing 4.04A5 to include abnormal findings on stress echocardiogram and IV Persantine tests. The commenter said that these tests could improve sensitivity in assessing claimants with coronary artery disease who have negative routine exercise tests.

Response: We did not accept the comment because these are new technologies that are still being developed. Moreover, they are not widely available and there is currently no correlation indicating the sensitivity or specificity of these tests relative to more accepted technologies, such as thallium stress testing. For these reasons, it would not be appropriate at this time to include such modalities in our listings.

Comment: Two attorney commenters thought that proposed listings 4.04B and C tightened the criteria in the nonexercise test listings for ischemic heart disease and could not be met. One of these commenters said that this constriction of the listings was unfair and unwarranted, and that the former listing did not have these requirements. Another commenter asked why listing 4.04C requires both angiographic evidence of severe vessel occlusion and an ejection fraction of 30 percent or less.

Response: In response to the comments, we revised the rules so that final listing 4.04C requires only angiographic evidence instead of both angiographic evidence and a decreased ejection fraction. We also revised final listing 4.04B so that it has the same functional severity level as listing 4.04C, i.e., the condition must result in symptoms on ordinary physical activity even though the individual is comfortable at rest; this equates with NYHA functional class III. Proposed listing 4.04B had required NYHA functional class IV, which requires symptoms at rest.

We revised the listings employing ejection fraction criteria from the prior rules, which permitted a finding of "meets" based on the ejection fraction alone, because it is well supported in the medical literature that individuals with even markedly decreased ejection fractions can functionally live perfectly normal lives; the ejection fraction alone does not indicate functional capacity. This is also the reason we require functional limitations associated with angiographic evidence of coronary atherosclerosis; as we have already explained, this test does not provide information about whether any discovered disease is directly related to or predictive of functional status.

Comment: Two commenters noted that we deleted the criteria of former listings 4.04B1 through B5, which provided criteria for evaluating chest pain following myocardial infarctions based on resting ECG findings. One commenter said that resting ECGs should not be entirely omitted; another said that we should retain the prior listings.

Response: We did not adopt the comments. We deleted the criteria because the presence of a previous myocardial infarction does not, of itself, guarantee that subsequent chest pain is of cardiac origin. Therefore, we need other information to establish that the individual is experiencing ischemia resulting in chest discomfort. An exercise test may be useful for this purpose. Additionally, a resting and exercise two-dimensional echocardiogram or radionuclide ventriculogram may also demonstrate cardiac dysfunction, including ischemia. Again, the fact that we have deleted the criteria does not mean that individuals who demonstrate these findings will be found not disabled. It only means that they do not have impairments that "meet" the criteria of the listing.

Comment: Two commenters asked whether we deliberately deleted the word "proximal" in proposed listing 4.04C2b (final listing 4.04C1b), "70 percent or more narrowing of another nonbypassed coronary artery"; former listing 4.04B7b, the corresponding listing that was in effect at the time of the NPRM, had specified that the artery must be a proximal artery.

Response: We did delete the word intentionally to recognize that lesions in other than a proximal portion of the major arteries may result in significant impairment.

Comment: One commenter noted that we had deleted the criterion in former listing 4.04A5 for development of second-or third-degree heart block. The commenter thought that heart blocks and conductive defects with exercise are an important part of the ischemic heart disease listings and asked us to consider reinstating the criterion.

Response: We did not adopt the comment. We deleted the criterion because it is unnecessary. Individuals with significant heart block or conductive defects will have either blood pressure changes or exercise intolerance and would be considered under the standards for those consequences of the impairment.

4.05 Recurrent Arrhythmias

Comment: Four commenters believed that the requirement in listing 4.05 that cardiac syncope be coincident with findings on a Holter monitor is an unduly restrictive requirement. They said that medical care is unavailable to many claimants, particularly in the SSI claimant population, who may only have the benefit of a Holter evaluation because of a consultative examination. The commenters also said that it was unreasonable to require that the claimant sustain an episode during an isolated twenty-four hour period.

Response: We did not adopt the comments. There are many causes for syncope, including noncardiac causes and, except for the use of a Holter monitor with the individual lying on a tilt table or by ambulatory monitoring there is no other way to determine whether there is true cardiac syncope. There has to be an association between the symptom and medically determinable arrhythmia to satisfy the requirements of this listing.

Even though we agree with the commenters that there will be some individuals who have true cardiac syncope but who have not been appropriately tested by treating sources, we do not believe that this will occur as often as the commenters do. Cardiac syncope is such a severe symptom that it is unlikely that many people who experience it will not be appropriately tested. In any case, and as we have

stated throughout this preamble, those individuals who cannot present evidence showing that their impairments meet this listing may still establish disability in other ways.

Comment: A national medical association suggested that the addition of the phrase "near syncope" would make the listing description of symptoms associated with uncontrolled arrhythmias more accurate.

Response: We agree, and have added the phrase in final 4.00B3 and listings 4.05 and 104.05.

4.06 Symptomatic Congenital Heart Disease

Comment: One commenter noted that the vast majority of claimants suffering from symptomatic congenital heart disease who suffer cyanosis at rest will meet either the requirements of listing 4.06A1 or A2. However, the commenter was concerned that we might deny claimants whose impairments do not quite meet the requirements of those listings. The commenter believed that cyanosis at rest should in itself be sufficient to meet listing-level severity.

Response: We did not adopt the comment. The commenter was correct that the vast majority of people who are cyanotic at rest will have impairments that meet this listing. However, we did not list cyanosis by itself because it can be too subjective a finding on which to base a listing. The listings are not intended to be all-inclusive. Those individuals who have cyanosis at rest but who do not demonstrate the criteria of the listing may still demonstrate disability through the equivalence concept and, if necessary, through an individualized assessment of their residual functional capacities. However, as we explained earlier in this preamble, and in response to this comment, we deleted the proposed functional criteria from final listing 4.06 partly in recognition of the fact that individuals who are cyanotic at rest will necessarily have functional limitations of at least NYHA functional class III.

Comment: One commenter suggested that we provide specific guidelines in the listings regarding when to purchase blood gas studies because these types of tests constitute an increased risk for claimants.

Response: We did not adopt the comment. It would be very unusual for a person with congenital cyanotic heart disease not to have at least one blood gas test available; therefore, we do not expect to purchase many of these tests. We also believe that the guidelines for the purchase of such tests more appropriately belong in our operational manual instructions. These tests do not pose a risk to the claimant.

4.08 Cardiomyopathies

Comment: One commenter was apparently concerned about the references to listings 4.02 and 4.04 in listing 4.08. The commenter noted that individuals with hypertrophic cardiomyopathy are high risk individuals and should not be subjected to exercise tests.

Response: Listing 4.08 refers to criteria in other listings for the evaluation of cardiomyopathy because the consequences of this impairment are so varied (e.g., heart failure, ischemia, arrhythmia) that it is more efficient to refer to other listings to evaluate the consequences rather than repeating all the criteria under listing 4.08. We agree that individuals with hypertrophic cardiomyopathy are at risk for sudden death due to arrhythmias and physical exertion and they should not be required to do an exercise test. We have added this condition to the risk factors in final 4.00C2c to make it clear that we will not purchase exercise tests in these cases. We did not revise the cross-references in final listing 4.08 because some individuals may have undergone exercise testing and may be able to show that their impairments meet final listings 4.02B or 4.04A. Those who have not may still be evaluated under final listings 4.02A and C, and 4.04B and C, the listings that do not include exercise tests among their criteria.

4.09 Cardiac Transplantation

Comment: One national medical association indicated that some individuals undergoing cardiac transplantation have recurring disability beyond 1 year. The commenter pointed out that serial observations and retesting must be continued.

Response: Final listing 4.09 does not conflict with these facts. The listing provides that, after the year of disability, the individual must be reevaluated under whatever listing is appropriate to his or her residual cardiac impairment, where a finding of "meets" or "equals" may be possible.

Moreover, under the medical improvement disability review standard that we are required to follow under §§ 404.1594 and 416.994 (and § 416.994a for children) we may not find that an individual's disability has ended "automatically" after a certain period of time. We are generally required to show that there has been medical improvement in the individual's disabling impairment, that the improvement is related to the ability to work, and that the individual is not currently under a disability. This means that, even if the individual's impairment has improved, we may still find that the individual continues to be disabled based on an assessment of residual functional capacity and consideration of vocational factors.

4.11 Chronic Venous Insufficiency

Comment: One commenter thought that there were too many criteria required to meet listing 4.11. The commenter said that it should be unnecessary to require all five of the listed criteria in order to find a claimant disabled and that brawny edema alone should be sufficient for a finding of disability. Conversely, another commenter questioned whether this listing is too liberal, but did not say why.

Response: We adopted the first comment. Extensive brawny edema is the most severe, end-stage manifestation of chronic venous insufficiency. However, we believe that because there can be variability in the severity of each of the other findings we proposed in listing 4.11, they must all be present together in order to establish listing-level severity based on chronic venous insufficiency that has not resulted in extensive brawny edema. We have, therefore, divided final listing 4.11 into two paragraphs. Final listing 4.11A will be met when there is extensive brawny edema resulting from deep venous insufficiency, while final listing 4.11B will be met with deep venous insufficiency with associated superficial varicosities, stasis dermatitis, and recurrent or persistent ulceration which has not healed following at least 3 months of prescribed medical or surgical therapy. We did not include a 3-month treatment requirement in final listing 4.11A because extensive brawny edema is a sufficiently severe finding in itself that treatment is not an issue in establishing duration.

We also reiterate for the first commenter that an individual does not have to demonstrate an impairment that "meets" a listing to be found disabled.

Comment: One commenter suggested that we consider adding a statement about the evaluation of lower extremity pain without evidence of chronic venous insufficiency.

Response: We did not adopt the comment. It was not clear to us from the comment what information the commenter was suggesting we provide. However, we have regulations for the evaluation of pain that we believe adequately cover the issue for all impairments.

4.12 Peripheral Arterial Disease

Comment: One commenter suggested that we also require failure to visualize superficial arteries in listing 4.12A.

Response: We did not adopt the comment. When the common femoral or deep femoral artery cannot be visualized, superficial arteries will not be visualized either. Therefore, such a requirement would be superfluous.

Comment: Another commenter suggested that we add a third criterion, "ischemic pain at rest," to listing 4.12B.

Response: We did not adopt the comment. Individuals with peripheral vascular disease who have ischemic pain at rest will have more severe impairments than are already described in final listing 4.12B1. Such individuals have resting ankle/brachial systolic blood pressures in the range of 0.30 to 0.40, which is even more severe than the listing requirement of 0.50.

104.00 Preface to Part B

104.00A Introduction

Comment: One commenter pointed out that the statement in the fifth paragraph of proposed 104.00A about age-appropriate activities for individuals age 14½ to 18 (i.e., that they "are not unlike those of young adults") was inconsistent with the interim final rules for evaluating childhood disability we had issued on February 11, 1991 ("Determining Disability for a Child Under Age 18," 56 FR 5534).

Response: We have deleted the entire paragraph. The rules for evaluating childhood function in §§ 416.924 through 416.924e provide information on the evaluation of age-appropriate activities for children of all ages irrespective of the nature of their impairments. They are, therefore, also applicable to children with cardiovascular impairments.

104.00B Documentation

Comment: One commenter thought that the requirement in the second sentence of proposed 104.00B, which provided in part that a copy of relevant echocardiographic views "must" be included in the record, was unrealistic. The commenter pointed out that the State agency is not always able to obtain these copies. Therefore, the commenter recommended that we change the word "must" to "should."

Response: We adopted the comment.

104.00D Congenital Heart Disease

Comment: A physician recommended that we eliminate the reference to patent ductus arteriosus in the fourth paragraph of proposed 104.00D because this condition is almost always amenable to surgical or medical therapy with very low morbidity.

Response: We adopted the comment. Because of advances in the medical and surgical treatment of patent ductus arteriosus, infants born with this condition would not ordinarily be expected to experience chronic cardiopulmonary impairment. We have, therefore, deleted the paragraph. We have also clarified final 104.00 C and D so that they clearly indicate the kinds of conditions and the level of severity intended by the discussion. In addition, we have included guidance in final 104.00D for those conditions which, even though not named, nevertheless result in listing-level impairment in individual cases.

104.00E Chronic Heart Failure

Comment: A national medical association, noting our reference to "imaging techniques such as echocardiography and radionuclide studies" in the last sentence of proposed 104.00E, pointed out that pediatric cardiologists almost never do radionuclide studies. The commenter suggested that we revise the last sentence to refer to other tests, such as two-dimensional and Doppler echocardiography.

Response: We adopted the comment.

Listings

104.02 Chronic Heart Failure

Comment: One attorney was concerned that our proposal to remove the tables for tachycardia and tachypnea from listing 104.02 would increase the severity level of the listing. The commenter thought that the exercise intolerance criterion was more restrictive in proposed listing 104.02 than in former listing 104.02G. The commenter also thought that there was no justification for removal of chest x-ray evidence demonstrating cardiomegaly. The commenter was also concerned that hepatomegaly and edema were not included as criteria for this listing, even though they were in the prior listing. This commenter and another commenter noted that there were no criteria for fatigue and dyspnea in proposed listing 104.02.

Response: Although the commenter was not correct in the belief that we had proposed to make the listing more stringent, we adopted most of the comments. Final listing 104.02A is now a criterion for persistent tachycardia at rest; final listing 104.02B is now a criterion for persistent tachypnea at rest or markedly decreased exercise tolerance; and we have included the corresponding tables from our former listings as Tables I and II at the end of the section. We moved the other criteria we had proposed in listing 104.02A into final 104.00E of the preface, and also added chronic dyspnea, tachypnea, and orthopnea to the list of symptoms (including fatigue and weakness) we had already included; we did not specifically mention all of them in the proposed listings because they are symptoms of chronic heart failure with which all physicians are familiar. Our proposed addition of the phrase "markedly reduced" (now "markedly decreased" in the final rules) to modify the requirement for exercise tolerance was only a clarification; infants with labored respiration on mild exertion have markedly decreased exercise tolerance.

The opinion of the commenter that there was no justification for our deletion of the rule for cardiomegaly demonstrated by x-ray was not correct. Our prior listing could be met only with the demonstration of two criteria associated with chronic heart failure. The proposed (and final) listing is the same, in that it requires as an initial matter the demonstration of findings—such as cardiomegaly—that confirm the existence of the impairment, and one other of the criteria in the subparagraphs. Our proposal to delete the requirement that cardiomegaly be demonstrated by x-ray was consistent with contemporary standards of care for infants and children with chronic heart failure, in which other, more accurate, imaging techniques, including echocardiography and other radionuclide studies, are generally used. Heart failure in children must be properly assessed; like cancer, it is not a diagnosis to be lightly entertained, and should not be based on an x-ray in a physician's office.

However, we concede that not all claimants receive the proper care and that there will still occasionally be x-rays in the evidence without appropriate imaging techniques. Therefore, in response to the comment, we have restored our prior rules on x-ray evidence of heart enlargement demonstrated by cardiothoracic ratio in final 104.00E, with the provision that the findings must also be accompanied by other signs of chronic heart failure or ventricular dysfunction. Because we restored these provisions, we were also required to clarify how enlargement is evaluated using appropriate imaging techniques, such as echocardiography. We have not included the former requirements for enlargement on serial x-rays or for measurement of chamber size based on x-rays because these are outdated methods of assessment.

The foregoing also explains why we removed the listing criteria for hepatomegaly and dependent edema. Like cardiomegaly, these are examples of medical findings that are used to confirm the existence of chronic heart failure, as described in 4.00E.

With regard to the comments on dyspnea, we also added two new paragraphs to final 104.00B providing for the possibility of exercise testing in children. Exercise testing has been increasingly used in children age 6 and older for the assessment of some arrhythmias, for the assessment of the severity of chronic heart failure, and for the assessment of recovery of function following cardiac surgery or other therapy; however, it is still less frequently indicated for children than for adults and can rarely be successfully performed on children under age 6. We do not expect to purchase many such tests for children, but they may be useful in those few cases in which we are unable to obtain sufficient evidence about a child's functioning (for instance, from treating sources and schools) to make a decision. The first paragraph, therefore, provides that we may purchase the test only if we cannot decide the case based on the available evidence; therefore, it cannot be used to disadvantage any child claimant. The paragraph also requires that the testing must be performed in a specialty center for pediatric cardiology or other facility qualified to perform exercise testing for children.

The second paragraph parallels the adult rules by requiring that such testing be performed using a generally accepted protocol consistent with the prevailing state of medical knowledge and clinical practice. In addition, it prohibits the purchase of the test for a child for whom the performance of the test constitutes a significant risk and adopts by reference the risk provisions in the adult rules, which are also applicable to children.

104.03 Hypertensive Cardiovascular Disease

Comment: The same attorney commenter thought that the table for elevated blood pressure in listing 104.03 established a higher level of severity in the listings for children. The commenter also noted that we had not provided any explanation in the preamble to the NPRM of our reasons for making the change.

Response: As we explained in the preamble to the NPRM, Table III in final listing 104.03 comprises up-to-date values that are recommended by the American Academy of Pediatrics (56 FR 31269). The table is taken from the definition of "Significant Hypertension" in Table 5 of the "Guidelines of the American Academy of Pediatrics; Report of the 2d Task Force on Blood Pressure Control in Children—1987," "Pediatrics," 1987; 79:1–25. These guidelines should be in every pediatrician's office.

The levels in Table III are equal to or greater than the 95th percentile for age. In response to the comment, we have added this explanation to the opening of the final listing.

In most instances, the readings in final Table III are not more severe than those on the former table. We also provide more refined age category breaks. In any event, no child will be disadvantaged by our updating of the rule inasmuch as, to meet this listing, a child must also show another, consequent listing-level impairment, as in the former listing. Children whose blood pressures do not rise to the levels on the table but who have listing-level kidney, cerebrovascular, or heart impairment will still be found disabled at the listing level by virtue of their secondary impairments.

104.05 Recurrent Arrhythmias

Comment: The same commenter thought that our proposal in 104.05A to require that any episode of cardiac syncope be coincident with the documented arrhythmia, was a new requirement.

Response: As we explained under the comments about the corresponding adult rule, listing 4.05, the proposed language merely clarified what is standard medical practice. In order for cardiac syncope to be related to the arrhythmia, it must be coincident with the arrhythmia. In response to the comment, we have also added a new second sentence to the second paragraph of final 4.00B, "Documentation," providing procedural guidance on when the purchase of an ambulatory ECG may be appropriate.

Comment: The same commenter thought that by cross-referencing the chronic heart failure listing in proposed listing 104.05B while omitting the exercise intolerance criteria in former listing 104.05C, we were suggesting that even a claimant meeting the more exacting stricture of the listing 104.02A exercise intolerance test would still be found not to meet the arrhythmia listing unless he or she also suffered from chronic heart failure. The commenter felt that an explicit exercise criterion should be included in the arrhythmia listing.

Response: We do not believe it is necessary to add the explicit exercise criterion to 104.05. Cardiac arrhythmias are common in children, and most childhood arrhythmias are essentially benign. When a child with a cardiac arrhythmia develops exercise intolerance with labored respirations on mild exertion, this is usually indicative of chronic heart failure. This is why we provided the cross-reference to listing 104.02 instead of incorporating the criteria from listing 104.02 into the listing on arrhythmia, which is what the prior listing essentially did. In addition, there are other criteria associated with arrhythmias in childhood, such as syncope or near syncope, which are more frequent manifestations of severe cardiac arrhythmias and which may not be necessarily associated with congestive heart failure.

However, in response to the comment, and because we have tried in these final rules to maintain consistency between part A and part B wherever possible and appropriate, we have revised listings 104.02 and 104.05. We have removed the reference to listing 104.02 from the arrhythmia listing and have instead added a criterion for arrhythmia under final listing 104.02C, by which that listing can now be met; this better describes our original intent than did proposed listing 104.05B. In addition, we revised the remaining language in final listing 104.05 into a single paragraph that is more consistent with the adult rules, as explained in the summary of provisions.

Comment: A medical association recommended that we add nonsyncopal arrhythmia to listing 104.05. Another commenter questioned why we did not mention A–V dissociation in the proposed listing; it was a criterion in the heading of the former listing.

Response: In response to the comment, we have revised final listing 104.05 to include near syncopal episodes clearly documented to be associated with arrhythmia. This is also consistent with our addition of the term to final listing 4.05.

We did not actually delete A–V dissociation from the listing. A–V dissociation is a kind of heart block and is, therefore, implicit in the term "heart block." We, therefore, proposed to delete the term because the prior listing language was ambiguous: The use of the conjunctive, "or," in the former rules did not mean that A–V dissociation was a separate medical entity from heart block; it meant that A–V dissociation was another way of describing a heart block. However, so that there is no misunderstanding, we have restored the term parenthetically after "heart block" in the final listing.

104.06 Congenital Heart Disease

Comment: A physician questioned our approach in proposed listing 104.06A (final listing 104.06H). The commenter pointed out that the proposed rule to consider all children who meet the requirements of the listing to be disabled until age 24 months would result in inequitable outcomes. For instance, a child who had life-saving surgery at age 3 months would in effect be found disabled for at least 21 months, whereas a child who was found disabled under this listing at age 11 months would be found disabled for only 13 months. The commenter suggested that a more equitable approach would be to provide a recovery time period instead of an age cutoff.

Response: We adopted the comment, which actually conveyed our original intent. We have revised the final rule to state that we will consider an infant who meets the requirements of the listing to be disabled until the attainment of age 1, or for 12 months after surgery, whichever is later, and then reevaluate. We believe that 12 months is a sufficient period for stabilization and developmental recovery and, in this manner, all infants will be treated in the same way under the listing. We tied the recovery time period to surgery because the listing is for children who are expected to die within the first year of life without surgical intervention. If by age 1 an infant has not had surgery and has survived, the child should be reevaluated because the impairment may no longer be as severe as it originally appeared. Even if it is of listing-level severity at age 1, we should be able to evaluate it under one of the other listings; if it is less severe than listing-level, we will perform an individualized functional assessment and determine whether the child is still disabled.

In addition, we believe that the comment also required us to revise the period described in proposed listing 104.09, "Cardiac transplantation," because it used the same language. Indeed, proposed listing 104.09 could have been viewed as being even more inequitable. This is because, under the proposed rule, all children over age 1 would have received a period of 12 months (because a 12-month period for a child over 12 months old would always end later than age 24 months), whereas all children under age 1 would always receive a period of more than 12 months, some for nearly 2 years, others for closer to 1 year. In sum, we believe that the revisions to final listings 104.06H and 104.09 are simply fairer.

Comment: A commenter indicated that squatting, which was a criterion in former listing 104.04B, was not included in listing 104.06, the corresponding listing in these rules, and questioned its absence.

Response: We proposed to delete squatting because it is now a rare finding. In the past, squatting was usually seen in older surviving children with uncorrected cardiac defects associated with dyspnea and cyanosis at rest. Because the majority of children with cyanotic forms of congenital heart disease are now undergoing corrective surgery within the first year of life to restore oxygenation at more physiological levels, squatting is rarely seen. Nonetheless, to encompass the rare situation in which squatting may be present, we have restored it as a criterion under final listing 104.06A3.

Comment: A national medical association thought that the four manifestations of persistent, chronic hypoxemia we proposed in listing 104.06B might be too rigid. As an example, it said that a hematocrit of 55 percent or greater could create a problem for children who are anemic, and suggested that the qualifier "in the absence of documented anemia" should be added to the criterion. An attorney noted that former listing 104.04C required a "chronic" hematocrit of 55 percent or greater, whereas proposed listing 104.06B2 specified a hematocrit of 55 percent or greater "on two or more evaluations within a 3-month period." The commenter thought that this was a more stringent requirement than the one in the former listings, called it a "hidden" change in the listings, and strongly objected to it.

Response: We did not adopt the comments. Other than providing the example of anemia, the first commenter did not provide any other explanation for the belief that the four criteria in final listing 104.06A are too rigid. We believe that anemic and hypoxic children will be covered by final listing 104.06A1 because the arterial oxygen saturation should be significantly reduced as a result of anemia. The requirement that hematocrit results at 55 percent or greater be obtained twice or more within a 3-month period is consistent with medical practice in children, is manifestly a more precise programmatic definition of what is meant by the term "chronic" hematocrit of 55 percent or greater, and is not intended as a change in severity level. Moreover, we proposed the change through proper notice-and-comment rulemaking procedures and received no negative comments about the proposal aside from this lay comment.

Comment: The same attorney commenter from the preceding comment noted our statement in the preamble of the NPRM that we proposed to delete former listing 104.08, "Recurrent hemoptysis," because the condition could be evaluated under proposed listing 104.06E (56 FR 31269). The commenter said that, in fact, we had not mentioned hemoptysis (or bronchial collaterals, another criterion in the former listing) in proposed listing 104.06E. Another commenter asked whether nonvalvular stenosis should have been included in proposed listing 104.06F.

Response: We did not adopt the first comment. Hemoptysis is an uncommon manifestation of cardiovascular disease which occurs only in the presence of cyanotic heart disease or pulmonary hypertension of such seriousness that the primary condition would already have met or equaled the listings. Under final listing 104.06D, a child does not have to have an impairment so severe that it results in hemoptysis. Because of this fact, we have also deleted the criterion for recurrent hemoptysis in final listing 104.06A3; this, too, describes an impairment that exceeds listing-level severity.

We deleted the reference to bronchial collaterals for the same reason. Major collaterals (which generally are shown by cardiac catheterization) are only present in infants and children with severe cyanosis, occasionally combined with congestive failure, and such children will already have evidence that their impairments meet or are equivalent to one of the listings.

We adopted the second comment because we did intend to include nonvalvular stenotic lesions under this listing. We, therefore, revised final listing 104.06E (which was proposed listing 104.06F) to include congenital valvular or other stenotic defects, or valvular regurgitation. For consistency, we made similar revisions in final listings 4.07 and 104.07.

104.13 Chronic Rheumatic Fever or Rheumatic Heart Disease

Comment: Another commenter noted that proposed listing 104.13 was essentially the same as prior listing 104.09A but that we had not included ECG findings as an example of an abnormal laboratory finding, as in the former listing.

Response: We have restored the example of abnormal ECG findings to final listing 104.13A. We had proposed to delete the example only because it is a minor criterion; it is not a specific

requirement that abnormal ECG findings be provided in order to meet or equal the listing. The elevated sedimentation rate and abnormal ECG findings are only two of several minor criteria that can be used in establishing the diagnosis of continuing rheumatic activity. The use of elevated sedimentation rate to the exclusion of the ECG and other minor criteria was not intended to preclude the use or substitution of these other criteria for meeting the requirement that rheumatic activity be manifested by abnormal laboratory findings.

104.15 Kawasaki Syndrome

Comment: A national medical association suggested that we include a separate listing for Kawasaki syndrome. The commenter said that we should mention specifically the anatomical and arterial findings associated with the disorder and the chronic sequelae, including coronary lesions or valvular involvement.

Response: We have added a new listing 104.15 for Kawasaki syndrome. The listing will be met with Kawasaki syndrome associated with a major coronary artery aneurysm or with chronic heart failure of the level described in listing 104.02. The current treatment of Kawasaki syndrome with immunoglobulin therapy is thought to reduce the risk of the two major cardiac sequelae, coronary artery aneurysms and ventricular dysfunction. Listing-level impairment from either of these causes is rare, probably on the order of less than 5 percent of all infants affected, and it is unusual for the syndrome to be a cause of chronic cardiovascular impairment. However, in those instances in which such sequelae occur, other listings (such as listing 104.07, for valvular and other stenotic lesions) may be used for evaluation.

Accordingly, with the aforementioned revisions, the regulations are adopted.

Regulatory Procedures

Executive Order 12291

The Secretary has determined that this is not a major rule under Executive Order 12291 because implementation will not result in additional costs of $100 million and other threshold criteria for a major rule are not met. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act

These final regulations will impose no new reporting or recordkeeping requirements subject to clearance by the Office of Management and Budget.

Regulatory Flexibility Act

We certify that these final regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities because they primarily affect only disability claimants and beneficiaries under title II and title XVI of the Social Security Act.

(Catalog of Federal Domestic Assistance Program No. 93.802, Disability Insurance; No. 93.807)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-Age, Survivors and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

Dated: April 8, 1993.

Louis D. Enoff,

Principal Deputy Commissioner of Social Security.

Approved: October 22, 1993.

Donna E. Shalala,

Secretary of Health and Human Services.

For the reasons set out in the preamble, part 404 of Chapter III of title 20 of the Code of Federal Regulations is amended as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–_____)

Subpart P—[Amended]

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

Authority: Secs. 202, 205 (a), (b), and (d) through (h), 216(i), 221 (a) and (i), 222(c), 223, 225, and 1102 of the Social Security Act; 42 U.S.C. 402, 405 (a), (b), and (d) through (h), 416(i), 421 (a) and (i), 422(c), 423, 425, and 1302.

2. Appendix 1 to subpart P is amended by revising item 5 of the introductory text before part A to read as follows:

Appendix 1 to Subpart P—Listing of Impairments

* * * * *

5. The cardiovascular system listings (4.00 and 104.00) within 4 years. Consequently, the listings in this body system will no longer be effective on February 10, 1994.

* * * * *

3. Listing 4.00, Cardiovascular System, of part A of appendix 1 to subpart P of part 404 is revised to read as follows:

4.00 Cardiovascular System

A. *Introduction.* The listings in this section describe impairments resulting from cardiovascular disease based on symptoms, physical signs, laboratory test abnormalities, and response to a regimen of therapy prescribed by a treating source. A longitudinal clinical record covering a period of not less than 3 months of observations and therapy is usually necessary for the assessment of severity and expected duration of cardiovascular impairment, unless the claim can be decided favorably on the basis of the current evidence. All relevant evidence must be considered in assessing disability.

Many individuals, especially those who have listing-level impairments, will have received the benefit of medically prescribed treatment. Whenever there is evidence of such treatment, the longitudinal clinical record must include a description of the therapy prescribed by the treating source and response, in addition to information about the nature and severity of the impairment. It is important to document any prescribed therapy and response because this medical management may have improved the individual's functional status. The longitudinal record should provide information regarding functional recovery, if any.

Some individuals will not have received ongoing treatment or have an ongoing relationship with the medical community despite the existence of a severe impairment(s). Unless the claim can be decided favorably on the basis of the current evidence, a longitudinal record is still important because it will provide information about such things as the ongoing medical severity of the impairment, the degree of recovery from cardiac insult, the level of the individual's functioning, and the frequency, severity, and duration of symptoms. Also, several listings include a requirement for continuing signs and symptoms despite a regimen of prescribed treatment. Even though an individual who does not receive treatment may not be able to show an impairment that meets the criteria of these listings, the individual may have an impairment(s) equivalent in severity to one of the listed impairments or be disabled because of a limited residual functional capacity.

Indeed, it must be remembered that these listings are only examples of common cardiovascular disorders that are severe enough to prevent a person from engaging in gainful activity. Therefore, in any case in which an individual has a medically determinable impairment that is not listed, or a combination of impairments no one of which meets a listing, we will make a medical equivalence determination. Individuals who have an impairment(s) with a level of severity which does not meet or equal the criteria of the cardiovascular listings may or may not have the residual functional capacity (RFC) which would enable them to engage in substantial gainful activity. Evaluation of the impairment(s) of these individuals should proceed through the final steps of the sequential evaluation process (or, as appropriate, the steps in the medical improvement review standard).

B. *Cardiovascular impairment* results from one or more of four consequences of heart disease:

1. Chronic heart failure or ventricular dysfunction.

2. Discomfort or pain due to myocardial ischemia, with or without necrosis of heart muscle.

3. Syncope, or near syncope, due to inadequate cerebral perfusion from any cardiac cause such as obstruction of flow or disturbance in rhythm or conduction resulting in inadequate cardiac output.

4. Central cyanosis due to right-to-left shunt, arterial desaturation, or pulmonary vascular disease.

Impairment from diseases of arteries and veins may result from disorders of the vasculature in the central nervous system (11.04A, B), eyes (2.02–2.04), kidney (6.02), and other organs.

C. *Documentation.* Each individual's file must include sufficiently detailed reports on history, physical examinations, laboratory studies, and any prescribed therapy and response to allow an independent reviewer to assess the severity and duration of the cardiovascular impairment.

1. Electrocardiography

a. An original or legible copy of the 12-lead electrocardiogram (ECG) obtained at rest must be submitted, appropriately dated and labeled, with the standardization inscribed on the tracing. Alteration in standardization of specific leads (such as to accommodate large QRS amplitudes) must be identified on those leads.

(1) Detailed descriptions or computer-averaged signals without original or legible copies of the ECG as described in subsection 4.00Cla are not acceptable.

(2) The effects of drugs or electrolyte abnormalities must be considered as possible noncoronary causes of ECG abnormalities of ventricular repolarization, i.e., those involving the ST segment and T wave. If available, the predrug (especially digitalis glycoside) ECG should be submitted.

(3) The term "ischemic" is used in 4.04A to describe an abnormal ST segment deviation. Nonspecific repolarization abnormalities should not be confused with "ischemic" changes.

b. ECGs obtained in conjunction with treadmill, bicycle, or arm exercise tests should meet the following specifications:

(1) ECGs must include the original calibrated ECG tracings or a legible copy.

(2) A 12-lead baseline ECG must be recorded in the upright position before exercise.

(3) A 12-lead ECG should be recorded at the end of each minute of exercise, including at the time the ST segment abnormalities reach or exceed the criteria for abnormality described in 4.04A or the individual experiences chest discomfort or other abnormalities, and also when the exercise test is terminated.

(4) If ECG documentation of the effects of hyperventilation is obtained, the exercise test should be deferred for at least 10 minutes because metabolic changes of hyperventilation may alter the physiologic and ECG response to exercise.

(5) Post-exercise ECGs should be recorded using a generally accepted protocol consistent with the prevailing state of medical knowledge and clinical practice.

(6) All resting, exercise, and recovery ECG strips must have a standardization inscribed on the tracing. The ECG strips should be labeled to indicate the times recorded and the relationship to the stage of the exercise protocol. The speed and grade (treadmill test) or work rate (bicycle or arm ergometric test) should be recorded. The highest level of exercise achieved, blood pressure levels during testing, and the reason(s) for terminating the test (including limiting signs or symptoms) must be recorded.

2. Purchasing Exercise Tests

a. It is well recognized by medical experts that exercise testing is the best tool currently available for estimating maximal aerobic capacity in individuals with cardiovascular impairments. Purchase of an exercise test may be appropriate when there is a question whether an impairment meets or is equivalent in severity to one of the listings, or when there is insufficient evidence in the record to evaluate aerobic capacity, and the claim cannot otherwise be favorably decided. Before purchasing an exercise test, a program physician, preferably one with experience in the care of patients with cardiovascular disease, must review the pertinent history, physical examinations, and laboratory tests to determine whether obtaining the test would present a significant risk to the individual (see 4.00C2c). Purchase may be indicated when there is no significant risk to exercise testing and there is no timely test of record. An exercise test is generally considered timely for 12 months after the date performed, provided there has been no change in clinical status that may alter the severity of the cardiac impairment.

b. *Methodology.*

(1) When an exercise test is purchased, it should be a "sign-or symptom-limited" test characterized by a progressive multistage regimen. A purchased exercise test must be performed using a generally accepted protocol consistent with the prevailing state of medical knowledge and clinical practice. A description of the protocol that was followed must be provided, and the test must meet the requirements of 4.00C1b and this section. A pre-exercise posthyperventilation tracing may be essential for the proper evaluation of an "abnormal" test in certain circumstances, such as in women with evidence of mitral valve prolapse.

(2) The exercise test should be paced to the capabilities of the individual and be supervised by a physician. With a treadmill test, the speed, grade (incline) and duration of exercise must be recorded for each exercise test stage performed. Other exercise test protocols or techniques that are used should utilize similar workloads.

(3) Levels of exercise should be described in terms of workload and duration of each stage, e.g., treadmill speed and grade, or bicycle ergometer work rate in kpm/min or watts.

(4) Normally, systolic blood pressure and heart rate increase gradually with exercise. A decrease in systolic blood pressure during exercise below the usual resting level is often associated with ischemia-induced left ventricular dysfunction resulting in decreased cardiac output. Some individuals (because of deconditioning or apprehension) with increased sympathetic responses may increase their systolic blood pressure and heart rate above their usual resting level just before and early into exercise. This occurrence may limit the ability to assess the significance of an early decrease in systolic blood pressure and heart rate if exercise is discontinued shortly after initiation. In addition, isolated systolic hypertension may be a manifestation of arteriosclerosis.

(5) The exercise laboratory's physical environment, staffing, and equipment should meet the generally accepted standards for adult exercise test laboratories.

c. *Risk factors in exercise testing.* The following are examples of situations in which exercise testing will not be purchased: unstable progressive angina pectoris, a history of acute myocardial infarction within the past 3 months, New York Heart Association (NYHA) class IV heart failure, cardiac drug toxicity, uncontrolled serious arrhythmia (including uncontrolled atrial fibrillation, Mobitz II, and third-degree block), Wolff-Parkinson-White syndrome, uncontrolled severe systemic arterial hypertension, marked pulmonary hypertension, unrepaired aortic dissection, left main stenosis of 50 percent or greater, marked aortic stenosis, chronic or dissecting aortic aneurysm, recent pulmonary embolism, hypertrophic cardiomyopathy, limiting neurological or musculoskeletal impairments, or an acute illness. In addition, an exercise test should not be purchased for individuals for whom the performance of the test is considered to constitute a significant risk by a program physician, preferably one experienced in the care of patients with cardiovascular disease, even in the absence of any of the above risk factors. In defining risk, the program physician, in accordance with the regulations and other instructions on consultative examinations, will generally give great weight to the treating physicians' opinions and will generally not override them. In the rare situation in which the program physician does override the treating source's opinion, a written rationale must be prepared documenting the reasons for overriding the opinion.

d. In order to permit maximal, attainable restoration of functional capacity, exercise testing should not be purchased until 3 months after an acute myocardial infarction, surgical myocardial revascularization, or other open-heart surgical procedures. Purchase of an exercise test should also be deferred for 3 months after percutaneous transluminal coronary angioplasty because restenosis with ischemic symptoms may occur within a few months of angioplasty (see 4.00D). Also, individuals who have had a period of bedrest or inactivity (e.g., 2 weeks) that results in a reversible deconditioned state may do poorly if exercise testing is performed at that time.

e. *Evaluation.*

(1) Exercise testing is evaluated on the basis of the work level at which the test becomes abnormal, as documented by onset of signs and symptoms and any ECG abnormalities listed in 4.04A. The ability or inability to complete an exercise test is not, by itself, evidence that a person is free from ischemic heart disease. The results of an exercise test must be considered in the

context of all of the other evidence in the individual's case record. If the individual is under the care of a treating physician for a cardiac impairment, and this physician has not performed an exercise test and there are no reported significant risks to testing (see 4.00C2c), a statement should be requested from the treating physician explaining why it was not done or should not be done before deciding whether an exercise test should be purchased. In those rare situations in which the treating source's opinion is overridden, follow 4.00C2c. If there is no treating physician, the program physician will be responsible for assessing the risk to exercise testing.

(2) Limitations to exercise test interpretation include the presence of noncoronary or nonischemic factors that may influence the hemodynamic and ECG response to exercise, such as hypokalemia or other electrolyte abnormality, hyperventilation, vasoregulatory deconditioning, prolonged periods of physical inactivity (e.g., 2 weeks of bedrest), significant anemia, left bundle branch block pattern on the ECG (and other conduction abnormalities that do not preclude the purchase of exercise testing), and other heart diseases or abnormalities (particularly valvular heart disease). Digitalis glycosides may cause ST segment abnormalities at rest, during, and after exercise. Digitalis or other drug-related ST segment displacement, present at rest, may become accentuated with exercise and make ECG interpretation difficult, but such drugs do not invalidate an otherwise normal exercise test. Diuretic-induced hypokalemia and left ventricular hypertrophy may also be associated with repolarization changes and behave similarly. Finally, treatment with beta blockers slows the heart rate more at near-maximal exertion than at rest; this limits apparent chronotropic capacity.

3. Other Studies

Information from two-dimensional and Doppler echocardiographic studies of ventricular size and function as well as radionuclide (thallium $_{201}$) myocardial "perfusion" or radionuclide (technetium 99m) ventriculograms (RVG or MUGA) may be useful. These techniques can provide a reliable estimate of ejection fraction. In selected cases, these tests may be purchased after a medical history and physical examination, report of chest x-rays, ECGs, and other appropriate tests have been evaluated, preferably by a program physician with experience in the care of patients with cardiovascular disease. Purchase should be considered when other information available is not adequate to assess whether the individual may have severe ventricular dysfunction or myocardial ischemia and there is no significant risk involved (follow 4.00C2a guides), and the claim cannot be favorably decided on any other basis.

Exercise testing with measurement of maximal oxygen uptake (VO_2) provides an accurate determination of aerobic capacity. An exercise test without measurement of oxygen uptake provides an estimate of aerobic capacity. When the results of tests with measurement of oxygen uptake are available, every reasonable effort should be made to obtain them.

The recording of properly calibrated ambulatory ECGs for analysis of ST segment signals with a concomitantly recorded symptom and treatment log may permit more adequate evaluation of chest discomfort during activities of daily living, but the significance of these data for disability evaluation has not been established in the absence of symptoms (e.g., silent ischemia). This information (including selected segments of both the ECG recording and summary report of the patient diary) may be submitted for the record.

4. *Cardiac catheterization* will not be purchased by the Social Security Administration.

a. *Coronary arteriography.* If results of such testing are available, the report should be obtained and considered as to the quality and type of data provided and its relevance to the evaluation of the impairment. A copy of the report of the cardiac catheterization and ancillary studies should also be obtained. The report should provide information citing the method of assessing coronary arterial lumen diameter and the nature and location of obstructive lesions. Drug treatment at baseline and during the procedure should be reported. Coronary artery spasm induced by intracoronary catheterization is not to be considered evidence of ischemic disease. Some individuals with significant coronary atherosclerotic obstruction have collateral vessels that supply the myocardium distal to the arterial obstruction so that there is no evidence of myocardial damage or ischemia, even with exercise. When available, quantitative computer measurements and analyses should be considered in the interpretation of severity of stenotic lesions.

b. *Left ventriculography (by angiography).* The report should describe the wall motion of the myocardium with regard to any areas of hypokinesis, akinesis, or dyskinesis, and the overall contraction of the ventricle as measured by the ejection fraction. Measurement of chamber volumes and pressures may be useful. When available, quantitative computer analysis provides precise measurement of segmental left ventricular wall thickness and motion. There is often a poor correlation between left ventricular function at rest and functional capacity for physical activity.

D. *Treatment and relationship to functional status.*

1. In general, conclusions about the severity of a cardiovascular impairment cannot be made on the basis of type of treatment rendered or anticipated. The overall clinical and laboratory evidence, including the treatment plan(s) or results, should be persuasive that a listing-level impairment exists. The amount of function restored and the time required for improvement after treatment (medical, surgical, or a prescribed program of progressive physical activity) vary with the nature and extent of the disorder, the type of treatment, and other factors. Depending upon the timing of this treatment in relation to the alleged onset date of disability, impairment evaluation may need to be deferred for a period of up to 3 months from the date of treatment to permit consideration of treatment effects. Evaluation should not be deferred if the claim can be favorably decided based upon the available evidence.

2. The usual time after myocardial infarction, valvular and/or revascularization surgery for adequate assessment of the results of treatment is considered to be 3 months. If an exercise test is performed by a treating source within a week or two after angioplasty, and there is no significant change in clinical status during the 3-month period after the angioplasty that would invalidate the implications of the exercise test results, the exercise test results may be used to reflect functional capacity during the period in question. However, if the test was done immediately following an acute myocardial infarction or during a period of protracted inactivity, the results should not be projected to 3 months even if there is no change in clinical status.

3. An individual who has undergone cardiac transplantation will be considered under a disability for 1 year following the surgery because, during the first year, there is a greater likelihood of rejection of the organ and recurrent infection. After the first year posttransplantation, continuing disability evaluation will be based upon residual impairment as shown by symptoms, signs, and laboratory findings. Absence of symptoms, signs, and laboratory findings indicative of cardiac dysfunction will be included in the consideration of whether medical improvement (as defined in §§ 404.1579(b)(1) and (c)(1), 404.1594(b)(1) and (c)(1), or 416.994(b)(1)(i) and (b)(2)(i), as appropriate) has occurred.

E. *Clinical syndromes.*

1. Chronic heart failure (ventricular dysfunction) is considered in these listings as one category whatever its etiology, i.e., atherosclerotic, hypertensive, rheumatic, pulmonary, congenital or other organic heart disease. Chronic heart failure may manifest itself by:

a. Pulmonary or systemic congestion, or both; or

b. Symptoms of limited cardiac output, such as weakness, fatigue, or intolerance of physical activity.

For the purpose of 4.02A, pulmonary and systemic congestion are not considered to have been established unless there is or has been evidence of fluid retention, such as hepatomegaly or ascites, or peripheral or pulmonary edema of cardiac origin. The findings of fluid retention need not be present at the time of adjudication because congestion may be controlled with medication. Chronic heart failure due to limited cardiac output is not considered to have been established for the purpose of 4.02B unless symptoms occur with ordinary daily activities, i.e., activity restriction as manifested by a need to decrease activity or pace, or to rest intermittently, and are associated with one or more physical signs or abnormal laboratory studies listed in 4.02B. These studies include exercise testing with ECG and blood pressure recording and/or appropriate imaging techniques, such as two-dimensional echocardiography or radionuclide or contrast ventriculography. The exercise criteria are outlined in 4.02B1.

In addition, other abnormal symptoms, signs, or laboratory test results that lend credence to the impression of ventricular dysfunction should be considered.

2. For the purposes of 4.03, hypertensive cardiovascular disease is evaluated by reference to the specific organ system involved (heart, brain, kidneys, or eyes). The presence of organic impairment must be established by appropriate physical signs and laboratory test abnormalities as specified in 4.02 or 4.04, or for the body system involved.

3. Ischemic (coronary) heart disease may result in an impairment due to myocardial ischemia and/or ventricular dysfunction or infarction. For the purposes of 4.04, the clinical determination that discomfort of myocardial ischemic origin (angina pectoris) is present must be supported by objective evidence as described under 4.00Cl, 2, 3, or 4.

a. Discomfort of myocardial ischemic origin (angina pectoris) is discomfort that is precipitated by effort and/or emotion and promptly relieved by sublingual nitroglycerin, other rapidly acting nitrates, or rest. Typically the discomfort is located in the chest (usually substernal) and described as crushing, squeezing, burning, aching, or oppressive. Sharp, sticking, or cramping discomfort is considered less common or atypical. Discomfort occurring with activity or emotion should be described specifically as to timing and usual inciting factors (type and intensity), character, location, radiation, duration, and response to nitrate therapy or rest.

b. So-called anginal equivalent may be localized to the neck, jaw(s), or hand(s) and has the same precipitating and relieving factors as typical chest discomfort. Isolated shortness of breath (dyspnea) is not considered an anginal equivalent for purposes of adjudication.

c. Variant angina of the Prinzmetal type, i.e., rest angina with transitory ST segment elevation on ECG, may have the same significance as typical angina, described in 4.00E3a.

d. If there is documented evidence of silent ischemia or restricted activity to prevent chest discomfort, this information must be considered along with all available evidence to determine if an equivalence decision is appropriate.

e. Chest discomfort of myocardial ischemic origin is usually caused by coronary artery disease. However, ischemic discomfort may be caused by noncoronary artery conditions, such as critical aortic stenosis, hypertrophic cardiomyopathy, pulmonary hypertension, or anemia. These conditions should be distinguished from coronary artery disease, because the evaluation criteria, management, and prognosis (duration) may differ from that of coronary artery disease.

f. Chest discomfort of nonischemic origin may result from other cardiac conditions such as pericarditis and mitral valve prolapse. Noncardiac conditions may also produce symptoms mimicking that of myocardial ischemia. These conditions include gastrointestinal tract disorders, such as esophageal spasm, esophagitis, hiatal hernia, biliary tract disease, gastritis, peptic ulcer, and pancreatitis, and musculoskeletal syndromes, such as chest wall muscle spasm, chest wall syndrome (especially after coronary bypass surgery), costochondritis, and cervical or dorsal arthritis. Hyperventilation may also mimic ischemic discomfort. Such disorders should be considered before concluding that chest discomfort is of myocardial ischemic origin.

4. Peripheral Arterial Disease

The level of impairment is based on the symptomatology, physical findings, Doppler studies before and after a standard exercise test, or angiographic findings.

The requirements for evaluating peripheral arterial disease in 4.12B are based on the ratio of the systolic blood pressure at the ankle to the systolic blood pressure at the brachial artery, determined in the supine position at the same time. Techniques for obtaining ankle systolic blood pressures include Doppler, plethysmographic studies, or other techniques.

Listing 4.12B1 is met when the resting ankle/brachial systolic blood pressure ratio is less than 0.50. Listing 4.12B2 provides additional criteria for evaluating peripheral arterial impairment on the basis of exercise studies when the resting ankle/brachial systolic blood pressure ratio is 0.50 or above. The decision to obtain exercise studies should be based on an evaluation of the existing clinical evidence, but exercise studies are rarely warranted when the resting ankle-over-brachial systolic blood pressure ratio is 0.80 or above. The results of exercise studies should describe the level of exercise, e.g., speed and grade of the treadmill settings, the duration of exercise, symptoms during exercise, the reasons for stopping exercise if the expected level of exercise was not attained, blood pressures at the ankle and other pertinent sites measured after exercise, and the time required to return the systolic blood pressure toward or to the pre-exercise level. When an exercise Doppler study is purchased by the Social Security Administration, the requested exercise must be on a treadmill at 2 mph on a 10 or 12 percent grade for 5 minutes. Exercise studies should not be performed on individuals for whom exercise poses a significant risk.

Application of the criteria in 4.12B may be limited in individuals who have marked calcific (Monckeberg's) sclerosis of the peripheral arteries or marked small vessel disease associated with diabetes mellitus.

4.01 Category of Impairments, Cardiovascular System

4.02 *Chronic heart failure* while on a regimen of prescribed treatment (see 4.00A if there is no regimen of prescribed treatment). With one of the following:

A. Documented cardiac enlargement by appropriate imaging techniques (e.g., a cardiothoracic ratio of greater than 0.50 on a PA chest x-ray with good inspiratory effort or left ventricular diastolic diameter of greater than 5.5 cm on two-dimensional echocardiography), resulting in inability to carry on any physical activity, and with symptoms of inadequate cardiac output, pulmonary congestion, systemic congestion, or anginal syndrome at rest (e.g., recurrent or persistent fatigue, dyspnea, orthopnea, anginal discomfort);

OR

B. Documented cardiac enlargement by appropriate imaging techniques (see 4.02A) or ventricular dysfunction manifested by S3, abnormal wall motion, or left ventricular ejection fraction of 30 percent or less by appropriate imaging techniques; and

1. Inability to perform on an exercise test at a workload equivalent to 5 METs or less due to symptoms of chronic heart failure, or, in rare instances, a need to stop exercise testing at less than this level of work because of:

a. Three or more consecutive ventricular premature beats or three or more multiform beats; or

b. Failure to increase systolic blood pressure by 10 mmHg, or decrease in systolic pressure below the usual resting level (see 4.00C2b); or

c. Signs attributable to inadequate cerebral perfusion, such as ataxic gait or mental confusion; and

2. Resulting in marked limitation of physical activity, as demonstrated by fatigue, palpitation, dyspnea, or anginal discomfort on ordinary physical activity, even though the individual is comfortable at rest;

OR

C. Cor pulmonale fulfilling the criteria in 4.02A or B.

4.03 *Hypertensive cardiovascular disease.* Evaluate under 4.02 or 4.04, or under the criteria for the affected body system (2.02 through 2.04, 6.02, or 11.04A or B).

4.04 *Ischemic heart disease*, with chest discomfort associated with myocardial ischemia, as described in 4.00E3, while on a regimen of prescribed treatment (see 4.00A if there is no regimen of prescribed treatment). With one of the following:

A. Symptom-and sign-limited exercise test demonstrating at least one of the following manifestations at a workload equivalent to 5 METs or less:

1. Horizontal or downsloping depression, in the absence of digitalis glycoside therapy and/or hypokalemia, of the ST segment of at least −0.10 millivolts (−1.0 mm) in at least 3 consecutive complexes that are on a level baseline in any lead (other than aVR) and that have a typical ischemic time course of development and resolution (progression of horizontal or downsloping ST depression with exercise, and persistence of depression of at least −0.10 millivolts for at least 1 minute of recovery); or

2. An upsloping ST junction depression, in the absence of digitalis glycoside therapy and/or hypokalemia, in any lead (except aVR) of at least −0.2 millivolts or more for at least 0.08 seconds after the J junction and persisting for at least 1 minute of recovery; or

3. At least 0.1 millivolt (1 mm) ST elevation above resting baseline during both exercise and 3 or more minutes of recovery in ECG leads with low R and T waves in the leads demonstrating the ST segment displacement; or

4. Failure to increase systolic pressure by 10 mmHg, or decrease in systolic pressure below usual clinical resting level (see 4.00C2b); or

5. Documented reversible radionuclide "perfusion" (thallium^{201}) defect at an exercise level equivalent to 5 METs or less;

OR

B. Impaired myocardial function, documented by evidence (as outlined under 4.00C3 or 4.00C4b) of hypokinetic, akinetic, or dyskinetic myocardial free wall or septal wall motion with left ventricular ejection fraction of 30 percent or less, and an evaluating program physician, preferably one experienced in the care of patients with cardiovascular disease, has concluded that performance of exercise testing would present a significant risk to the individual, and resulting in marked limitation of physical activity, as demonstrated by fatigue, palpitation, dyspnea, or anginal discomfort on ordinary physical activity, even though the individual is comfortable at rest;

OR

C. Coronary artery disease, demonstrated by angiography (obtained independent of Social Security disability evaluation), and an evaluating program physician, preferably one experienced in the care of patients with cardiovascular disease, has concluded that performance of exercise testing would present a significant risk to the individual, with both 1 and 2:

1. Angiographic evidence revealing:

a. 50 percent or more narrowing of a nonbypassed left main coronary artery; or

b. 70 percent or more narrowing of another nonbypassed coronary artery; or

c. 50 percent or more narrowing involving a long (greater than 1 cm) segment of a nonbypassed coronary artery; or

d. 50 percent or more narrowing of at least 2 nonbypassed coronary arteries; or

e. Total obstruction of a bypass graft vessel; and

2. Resulting in marked limitation of physical activity, as demonstrated by fatigue, palpitation, dyspnea, or anginal discomfort on ordinary physical activity, even though the individual is comfortable at rest.

4.05 *Recurrent arrhythmias*, not related to reversible causes such as electrolyte abnormalities or digitalis glycoside or antiarrhythmic drug toxicity, resulting in uncontrolled repeated episodes of cardiac syncope or near syncope and arrhythmia despite prescribed treatment (see 4.00A if there is no prescribed treatment), documented by resting or ambulatory (Holter) electrocardiography coincident with the occurrence of syncope or near syncope.

4.06 *Symptomatic congenital heart disease* (cyanotic or acyanotic), documented by appropriate imaging techniques (as outlined under 4.00C3) or cardiac catheterization. With one of the following:

A. Cyanosis at rest, and:

1. Hematocrit of 55 percent or greater, or

2. Arterial O_2 saturation of less than 90 percent in room air, or resting arterial PO_2 of 60 Torr or less;

OR

B. Intermittent right-to-left shunting resulting in cyanosis on exertion (e.g., Eisenmenger's physiology) and with arterial PO_2 of 60 Torr or less at a workload equivalent to 5 METs or less;

OR

C. Chronic heart failure with evidence of ventricular dysfunction, as described in 4.02;

OR

D. Recurrent arrhythmias as described in 4.05;

OR

E. Secondary pulmonary vascular obstructive disease with a mean pulmonary arterial pressure elevated to at least 70 percent of the mean systemic arterial pressure.

4.07 *Valvular heart disease or other stenotic defects, or valvular regurgitation*, documented by appropriate imaging techniques or cardiac catheterization. Evaluate under the criteria in 4.02, 4.04, 4.05, or 11.04.

4.08 *Cardiomyopathies*, documented by appropriate imaging techniques or cardiac catheterization. Evaluate under the criteria in 4.02, 4.04, 4.05, or 11.04.

4.09 *Cardiac transplantation*. Consider under a disability for 1 year following surgery; thereafter, reevaluate residual impairment under 4.02 to 4.08.

4.10 *Aneurysm of aorta or major branches*, due to any cause (e.g., atherosclerosis, cystic medial necrosis, Marfan syndrome, trauma), demonstrated by an appropriate imaging technique. With one of the following:

A. Acute or chronic dissection not controlled by prescribed medical or surgical treatment;

OR

B. Chronic heart failure as described under 4.02;

OR

C. Renal failure as described under 6.02;

OR

D. Neurological complications as described under 11.04.

4.11 *Chronic venous insufficiency* of a lower extremity. With incompetency or obstruction of the deep venous system and one of the following:

A. Extensive brawny edema;

OR

B. Superficial varicosities, stasis dermatitis, and recurrent or persistent ulceration which has not healed following at least 3 months of prescribed medical or surgical therapy.

4.12 *Peripheral arterial disease*. With one of the following:

A. Intermittent claudication with failure to visualize (on arteriogram obtained independent of Social Security disability evaluation) the common femoral or deep femoral artery in one extremity;

OR

B. Intermittent claudication with marked impairment of peripheral arterial circulation as determined by Doppler studies showing:

1. Resting ankle/brachial systolic blood pressure ratio of less than 0.50; or

2. Decrease in systolic blood pressure at the ankle on exercise (see 4.00E4) of 50 percent or more of pre-exercise level at the ankle, and requiring 10 minutes or more to return to pre-exercise level;

OR

C. Amputation at or above the tarsal region due to peripheral vascular disease.

4. Listing 104.00, Cardiovascular System, of part B of appendix 1 to subpart P of part 404 is revised to read as follows:

104.00 Cardiovascular System

A. *Introduction*

The listings in this section describe childhood impairments resulting from congenital or acquired cardiovascular disease based on symptoms, physical signs, laboratory test abnormalities, and response to a regimen of therapy prescribed by a treating source. A longitudinal clinical record covering a period of not less than 3 months of observations and therapy is usually necessary for the assessment of severity and expected duration unless the child is a neonate or the claim can be decided favorably on the basis of the current evidence. All relevant evidence must be considered in assessing a child's disability. Reasonable efforts should be made to ensure evaluation by a program physician specializing in childhood cardiovascular impairments or a qualified pediatrician.

Examples of congenital defects include: abnormalities of cardiac septation, such as ventricular septal defect or atrioventricular (AV) canal; abnormalities resulting in cyanotic heart disease, such as tetralogy of Fallot or transposition of the vessels; valvular defects or obstructions to ventricular outflow, including pulmonary or aortic stenosis and/or coarctation of the aorta; and major abnormalities of ventricular development, including hypoplastic left heart syndrome or pulmonary tricuspid atresia with hypoplastic right ventricle. Acquired heart disease may be due to cardiomyopathy, rheumatic heart disease, Kawasaki syndrome, or other etiologies. Recurrent arrhythmias, severe enough to cause functional impairment, may be seen with congenital or acquired heart disease or, more rarely, in children with structurally normal hearts.

Cardiovascular impairments, especially chronic heart failure and congenital heart disease, may result in impairments in other body systems including, but not limited to, growth, neurological, and mental. Therefore, evaluation should include consideration of the adverse effects of cardiovascular impairment in all relevant body systems, and especially on the child's growth and development, or mental functioning, as described under the Growth impairment (100.00), Neurological (111.00), and Mental retardation (112.05) listings.

Many children, especially those who have listing-level impairments, will have received the benefit of medically prescribed treatment. Whenever there is evidence of such treatment, the longitudinal clinical record must include a description of the therapy prescribed by the treating source and response, in addition to information about the nature and severity of the impairment. It is important to document any prescribed therapy and response because this medical management may have improved the child's functional status. The longitudinal record should provide information regarding functional recovery, if any.

Some children will not have received ongoing treatment or have an ongoing relationship with the medical community despite the existence of a severe impairment(s). Unless the claim can be decided favorably on the basis of the current evidence, a longitudinal record is still important because it will provide

information about such things as the ongoing medical severity of the impairment, the level of the child's functioning, and the frequency, severity, and duration of symptoms. Also, several listings include a requirement for continuing signs and symptoms despite a regimen of prescribed treatment. Even though a child who does not receive treatment may not be able to show an impairment that meets the criteria of these listings, the child may have an impairment(s) equivalent in severity to one of the listed impairments or be disabled because of a substantial reduction in the ability to function independently, appropriately, and effectively in an age-appropriate manner.

Indeed, it must be remembered that these listings are only examples of common cardiovascular disorders that are severe enough to prevent a child from functioning independently, appropriately, and effectively in an age-appropriate manner. When a child has a medically determinable impairment that is not listed, or a combination of impairments no one of which meets a listing, we will make an equivalence determination. Also, with respect to children claiming SSI benefits under title XVI of the Act who have an impairment(s) with a level of severity which does not meet or equal the criteria of the cardiovascular listings, we will determine whether the impairment(s) is of comparable severity to one that would disable an adult. In these cases, an individualized functional assessment is crucial to the evaluation of a child's ability to function independently, appropriately, and effectively in an age-appropriate manner when the impairment(s) is severe but the criteria of these listings are not met or equaled.

B. Documentation

Each child's file must include sufficiently detailed reports on history, physical examinations, laboratory studies, and any prescribed therapy and response to allow an independent reviewer to assess the severity and duration of the cardiovascular impairment. Data should be obtained preferably from an office or center experienced in pediatric cardiac assessment. The actual electrocardiographic tracing (or adequately marked photocopy) and echocardiogram report with a copy of relevant echocardiographic views should be included (see part A, 4.00C1).

Results of additional studies necessary to substantiate the diagnosis or to document the severity of the impairment, including two-dimensional and Doppler echocardiography, and radionuclide ventriculograms, should be obtained as appropriate according to part A, 4.00C3. Ambulatory electrocardiographic monitoring may also be obtained if necessary to document the presence or severity of an arrhythmia.

Exercise testing, though increasingly used, is still less frequently indicated in children than in adults, and can rarely be successfully performed in children under 6 years of age. It may be of value in the assessment of some arrhythmias, in the assessment of the severity of chronic heart failure, and in the assessment of recovery of function following cardiac surgery or other therapy. It will only be purchased by the Social Security Administration if the case cannot be decided based on the available evidence and, if purchased, must be performed in a specialty center for pediatric cardiology or other facility qualified to perform exercise testing for children.

Purchased exercise tests should be performed using a generally accepted protocol consistent with the prevailing state of medical knowledge and clinical practice. An exercise test should not be purchased for a child for whom the performance of the test is considered to constitute a significant risk by a program physician. See 4.00C2c.

Cardiac catheterization will not be purchased by the Social Security Administration. If the results of catheterization are otherwise available, they should be obtained.

C. Treatment and Relationship to Functional Status

In general, conclusions about the severity of a cardiovascular impairment cannot be made on the basis of type of treatment rendered or anticipated. The overall clinical and laboratory evidence, including the treatment plan(s) or results, should be persuasive that a listing-level impairment exists. The amount of function restored and the time required for improvement after treatment (medical, surgical, or a prescribed program of progressive physical activity) vary with the nature and extent of the disorder, the type of treatment, and other factors. Depending upon the timing of this treatment in relation to the alleged onset date of disability, impairment evaluation may need to be deferred for a period of up to 3 months from the date of treatment to permit consideration of treatment effects.

Evaluation should not be deferred if the claim can be favorably decided based upon the available evidence.

The most life-threatening forms of congenital heart disease and cardiac impairments, such as those listed in 104.00D, almost always require surgical treatment within the first year of life to prevent early death. Even with surgery, these impairments are so severe that it is likely that the impairment will continue to be disabling long enough to meet the duration requirement because of significant residual impairment post-surgery, or the recovery time from surgery, or a combination of both factors. Therefore, when the impairment is one of those named in 104.00D, or is as severe as one of those impairments, the presence of a listing-level impairment can usually be found on the basis of planned or actual cardiac surgery.

A child who has undergone surgical treatment for life-threatening heart disease will be found under a disability for 12 months following the date of surgery under 104.06H (for infants with life-threatening cardiac disease) or 104.09 (for a child of any age who undergoes cardiac transplantation) because of the uncertainty during that period concerning outcome or long-term results. After 12 months, continuing disability evaluation will be based upon residual impairment, which will consider the clinical course following treatment and comparison of symptoms, signs, and laboratory findings preoperatively and after the specified period. (See §§ 416.994a, 404.1594, or 416.994, as appropriate, for our rules on medical improvement and whether an individual is no longer disabled.)

D. Congenital Heart Disease

Some congenital defects usually lead to listing-level impairment in the first year of life and require surgery within the first year as a life-saving measure. Examples of impairments that in most instances will require life-saving surgery before age 1, include, but are not limited to, the following: hypoplastic left heart syndrome; critical aortic stenosis with neonatal heart failure; critical coarctation of the aorta, with or without associated anomalies; complete AV canal defects; transposition of the great arteries; tetralogy of Fallot; and pulmonary atresia with intact ventricular septum.

In addition, there are rarer defects which may lead to early mortality and that may require multiple surgical interventions or a combination of surgery and other major interventional procedures (e.g., multiple "balloon" catheter procedures). Examples of such defects include single ventricle, tricuspid atresia, and multiple ventricular septal defects.

Pulmonary vascular obstructive disease can cause cardiac impairment in young children. When a large or nonrestrictive septal defect or ductus is present, pulmonary artery mean pressures of at least 70 percent of mean systemic levels are used as a criterion of listing-level impairment. In the absence of such a defect (i.e., with primary pulmonary hypertension, or in some connective tissue disorders with cardiopulmonary involvement and pulmonary vascular destruction), listing-level impairment may be present at lower levels of pulmonary artery pressure, in the range of at least 50 percent of mean systemic levels.

E. Chronic Heart Failure

Chronic heart failure in infants and children may manifest itself by pulmonary or systemic venous congestion, including cardiomegaly, chronic dyspnea, tachypnea, orthopnea, or hepatomegaly; or symptoms of limited cardiac output, such as weakness or fatigue; or a need for cardiotonic drugs. Fatigue or exercise intolerance in an infant may be manifested by prolonged feeding time associated with signs of cardiac impairment, including excessive respiratory effort and sweating. Other manifestations of chronic heart failure during infancy may include failure to gain weight or involuntary loss of weight and repeated lower respiratory tract infections.

Cardiomegaly or ventricular dysfunction must be present and demonstrated by imaging techniques, such as two-dimensional and Doppler echocardiography. (Reference: Feigenbaum, Harvey, "Echocardiography," 4th Edition, Lea and Febiger, 1986, Appendix, pp. 621–639.) Chest x-ray (6 ft. PA film) will be considered indicative of cardiomegaly if the cardiothoracic ratio is over 60 percent at age 1 year or less, or 55 percent at more than 1 year of age.

Findings of cardiomegaly on chest x-ray must be accompanied by other evidence of

chronic heart failure or ventricular dysfunction. This evidence may include clinical evidence, such as hepatomegaly, edema, or pulmonary venous congestion; or echocardiographic evidence, such as marked ventricular dilatation above established normals for age, or markedly reduced ejection fraction or shortening fraction.

F. Valvular Heart Disease

Valvular heart disease requires documentation by appropriate imaging techniques, including Doppler echocardiogram studies or cardiac catheterization if catheterization results are available from a treating source or other source of record. Listing-level impairment is usually associated with critical aortic stenosis in a newborn child, persistent heart failure, arrhythmias, or valve replacement and ongoing anticoagulant therapy. The usual time after valvular surgery for adequate assessment of the results of treatment is considered to be 3 months.

G. Rheumatic Heart Disease

The diagnosis should be made in accordance with the current revised Jones criteria for guidance in the diagnosis of rheumatic fever.

104.01 Category of Impairments, Cardiovascular System

104.02 *Chronic heart failure.* Documented by clinical and laboratory findings as described in 104.00E, and with one of the following:

A. Persistent tachycardia at rest (see Table I);

OR

B. Persistent tachypnea at rest (see Table II), or markedly decreased exercise tolerance (see 104.00E);

OR

C. Recurrent arrhythmias, as described in 104.05;

OR

D. Growth disturbance, with:

1. An involuntary weight loss (or failure to gain weight at an appropriate rate for age) resulting in a fall of 15 percentiles from established growth curve (on standard growth charts) which persists for 2 months or longer; or

2. An involuntary weight loss (or failure to gain weight at an appropriate rate for age) resulting in a fall to below the third percentile from established growth curve (on standard growth charts) which persists for 2 months or longer; or

3. Growth impairment as described under the criteria in 100.00.

TABLE I—TACHYCARDIA AT REST

Age	Apical heart (beats per minute)
Under 1 yr	150
1 through 3 yrs	130
4 through 9 yrs	120
10 through 15 yrs	110
Over 15 yrs	100

TABLE II—TACHYPNEA AT REST

Age	Respiratory rate over (per minute)
Under 1 yr	40
1 through 5 yrs	35
6 through 9 yrs	30
Over 9 yrs	25

104.03 *Hypertensive cardiovascular disease.* With persistently elevated blood pressure equal to or greater than the 95th percentile for age (see Table III), and one of the following:

A. Impaired renal function, as described in 106.02;

OR

B. Cerebrovascular damage, as described in 111.06;

OR

C. Chronic heart failure as described in 104.02.

TABLE III—ELEVATED BLOOD PRESSURE

Age	Systolic over (mmHg)	OR	Diastolic over (mmHg)
Under 1 month	95		—
1 month through 2 yrs	112		74
3 through 5 yrs	116		76
6 through 9 yrs	122		78
10 through 12 yrs	126		82
13 through 15 yrs	136		86
16 to 18 yrs	142		92

104.05 *Recurrent arrhythmias,* such as persistent or recurrent heart block (A–V dissociation), repeated symptomatic tachyarrhythmias or bradyarrhythmias or long QT syndrome arrhythmias, not related to reversible causes such as electrolyte abnormalities or digitalis glycoside or antiarrhythmic drug toxicity, resulting in uncontrolled repeated episodes of cardiac syncope or near syncope and arrhythmia despite prescribed treatment, including electronic pacemaker (see 104.00A if there is no prescribed treatment), and documented by resting or ambulatory (Holter) electrocardiography coincident with the occurrence of syncope or near syncope.

104.06 *Congenital heart disease.* With one of the following:

A. Cyanotic heart disease, with persistent, chronic hypoxemia as manifested by:

1. Hematocrit of 55 percent or greater on two or more evaluations within a 3-month period; or

2. Arterial O_2 saturation of less than 90 percent in room air, or resting PO_2 of 60 Torr or less; or

3. Hypercyanotic spells, syncope, characteristic squatting, or other incapacitating symptoms directly related to documented cyanotic heart disease; or

4. Exercise intolerance with increased hypoxemia on exertion;

OR

B. Chronic heart failure with evidence of ventricular dysfunction, as described in 104.02;

OR

C. Recurrent arrhythmias as described in 104.05;

OR

D. Secondary pulmonary vascular obstructive disease with a mean pulmonary arterial pressure elevated to at least 70 percent of the mean systemic arterial pressure;

OR

E. Congenital valvular or other stenotic defects, or valvular regurgitation, as described in 104.00F and 104.07;

OR

F. Symptomatic acyanotic heart disease, with ventricular dysfunction resulting in significant restriction of age-appropriate activities or inability to complete age-appropriate tasks (see 104.00A);

OR

G. Growth failure, as described in 100.00;

OR

H. For infants under 12 months of age at the time of filing, with life-threatening congenital heart impairment that will or has required surgical treatment in the first year of life, consider the infant to be under a disability until the attainment of age 1 or for 12 months after surgery, whichever is the later event; thereafter, evaluate impairment severity with reference to 104.02 to 104.08.

104.07 *Valvular heart disease or other stenotic defects, or valvular regurgitation,*

documented by appropriate imaging techniques or cardiac catheterization.

A. Evaluate according to criteria in 104.02, 104.05, 111.06, or 11.04;

OR

B. Critical aortic stenosis in newborn.

104.08 *Cardiomyopathies*, documented by appropriate imaging techniques, including echocardiography or cardiac catheterization, if catheterization results are available from a treating source. Impairment must be associated with an ejection fraction of 50 percent or less and significant left ventricular dilatation using standardized age-appropriate echocardiographic ventricular cavity measurements. Evaluate under the criteria in 104.02, 104.05, or 111.06.

104.09 *Cardiac transplantation*. Consider under a disability for 1 year following surgery; thereafter, evaluate residual impairment under 104.02 to 104.08.

104.13 *Chronic rheumatic fever or rheumatic heart disease*. Consider under a disability for 18 months from the established onset of impairment with one of the following:

A. Persistence of rheumatic fever activity for 6 months or more which is manifested by significant murmur(s), cardiac enlargement (see 104.00E) or ventricular dysfunction, and other abnormal laboratory findings, as for example, an elevated sedimentation rate or ECG findings;

OR

B. Evidence of chronic heart failure, as described under 104.02;

OR

C. Recurrent arrhythmias, as described under 104.05.

104.14 *Hyperlipidemia*. Documented Type II homozygous hyperlipidemia with repeated plasma cholesterol levels of 500 mg/ml or greater, with one of the following:

A. Myocardial ischemia, as described in 4.04B or 4.04C;

OR

B. Significant aortic stenosis documented by Doppler echocardiographic techniques or cardiac catheterization;

OR

C. Major disruption of normal life activities by repeated hospitalizations for plasmapheresis or other prescribed therapies, including liver transplant;

OR

D. Recurrent pancreatitis complicating hyperlipidemia.

104.15 *Kawasaki syndrome*. With one of the following:

A. Major coronary artery aneurysm;

OR

B. Chronic heart failure, as described in 104.02.

[FR Doc. 94–2844 Filed 2–9–94; 8:45 am]

BILLING CODE 4190–11–P

federal register

Thursday
February 10, 1994

Part V

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 3500

Amendments to Regulation X, Real Estate Settlement Procedures Act Regulation (Subordinate Liens); Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 3500

[Docket No. R-94-1653; FR-3382-F-01]

RIN 2502-AG13

Amendments to Regulation X, the Real Estate Settlement Procedures Act Regulation (Subordinate Liens)

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: The Department of Housing and Urban Development is implementing the amendments to the Real Estate Settlement Procedures Act of 1974 (RESPA) contained in sections 908 and 951 of the Housing and Community Development Act of 1992, by amending HUD's RESPA regulation at 24 CFR part 3500, Regulation X. That Act expanded the coverage of RESPA to include refinancing transactions and mortgages secured by subordinate liens. This rule adopts certain definitions and disclosure requirements of the Truth in Lending Act (TILA) and its implementing regulation, Regulation Z, to minimize the burden on lenders and others in complying with different or conflicting definitions and disclosure requirements for transactions also covered by the TILA.

DATES: Effective date: August 9, 1994, except that exemptions set forth in § 3500.5(b) are effective March 14, 1994.

FOR FURTHER INFORMATION CONTACT: David Williamson, Director, RESPA Enforcement, room 5241, (202) 708-4560 or, for legal questions, Grant E. Mitchell, Senior Attorney for RESPA, Office of General Counsel, room 10252 (202) 708-1550, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500. The TDD number is (202) 708-4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this final rule have been approved by the Office of Management and Budget, under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520), and assigned OMB control number 2502-0491.

I. Background

The Department of Housing and Urban Development published on May 13, 1993, a proposed rule to amend Regulation X, HUD's Real Estate Settlement Procedures Act (RESPA) regulation (58 FR 28477). HUD initiated rulemaking primarily because of section 908 of the Housing and Community Development Act of 1992 (the 1992 Act), which amended RESPA to extend coverage to refinancing and subordinate lien transactions. Section 951 of the Act amended RESPA to provide that certain information need not be disclosed to a potential borrower if the loan application was turned down within three business days. This provision is also included in the rule. The Department also proposed certain exemptions from RESPA coverage and certain technical changes to the November 2, 1992, RESPA rule. HUD requested comments on this rule, and 540 comments were received within the July 12, 1993, deadline.

II. Discussion of the Comments Received

Exemptions

In the May 13, 1993, proposed rule, HUD proposed several exemptions from RESPA coverage, not only for subordinate lien transactions, but for first lien transactions covered by the November 2, 1992, rule. The following is a discussion of the exemptions proposed, the comments received, and HUD's treatment of these exemptions in this final rule.

1. Reinstitution of the Exemption in the Previous Regulation X for Farms of 25 or More Acres

One hundred thirty-four commenters supported the exemption as HUD proposed it. Three commenters suggested reverting to the pre-1992 language, while three others wanted the 25-acre threshold lowered or removed. One proposed rewording the exemption. Two Federal regulatory agencies and several others suggested that the business purpose Regulation Z standard be adopted for all transactions under 25 acres. After review of various alternatives, the Department determined that it would adopt the 25-acre exemption for all properties, whether the property was vacant, the property was used for agricultural purposes, or a 1- to 4-family residential real property was involved. This provides an absolute exemption for property consisting of 25 or more acres in a single transaction. The Department is also adopting the Regulation Z business purpose test, which will apply, among other purposes, to agricultural purpose loans under 25 acres.

2. Refinancing Transactions

The Department proposed an exemption to the general coverage of refinancing transactions under RESPA for "any transaction whose purpose is to change the interest rate, term, or periodic payment amount of an existing federally related mortgage loan, including extension of the terms of a balloon note, so long as the transaction involves no charge, or nominal charges (less than ¼ of 1% of the outstanding loan amount) and does not involve a transfer of title."

Ninety-one commenters favored this exemption; one opposed it. Forty-five of these commenters addressed the ¼ of 1% limitation. They suggested various modifications, including increases in the percentage threshold for exemption from ½ of 1% to 3%, fixed dollar thresholds, and a total elimination of the cap. Eight commenters noted the absence of a definition of a "refinancing" in the rule and suggested that the Regulation Z definition be adopted. Under Regulation Z, a refinancing occurs when "an existing obligation * * * is satisfied and replaced by a new obligation undertaken by the same consumer." (12 CFR 226.20(a).) Two commenters wanted refinancings to be totally exempt, while one felt they should be exempt if no new funds were involved.

Upon review of all the comments, the Department concluded that its proposed exemption would be an ineffective modality for differentiating between classes of transactions. It was determined that a more straightforward exemption should be utilized that incorporates and expands upon the Regulation Z standards. Like Regulation Z, the final rule provides that a refinancing is a covered transaction if a new obligation is created to satisfy an existing obligation with the same lender. Regulation X, however, also includes transactions with a new lender to replace an existing obligation when no transfer of title is involved.

A new loan for an increased amount with the same lender is also a covered transaction. For any covered transaction, the borrower would receive RESPA disclosures (including the Good Faith Estimate, but not currently a HUD Settlement Booklet), and the HUD-1 or new HUD-1A would be used.[1] If the

[1] While section 5 of RESPA authorizes the Booklet and Good Faith Estimate only in purchase money transactions, the Secretary has exercised his authority under section 19(a) of RESPA (12 U.S.C. 2617(a)) to extend the requirement for a good faith estimate to all covered transactions.

transaction only involves a modification of an existing obligation with the same borrower (except for converting a fixed-term obligation to a variable rate obligation, see § 226.19(b), Regulation Z), the transaction is not covered and no additional good faith estimate or HUD settlement statement is needed. If the terms of the original mortgage loan provide for conversion of the loan to a different rate or term at the borrower's option with the same lender, this is not a refinancing transaction (unless a new note is written), even if an additional fee is required for conversion.

3. Exemptions for Home Equity Line of Credit (Open-End Credit Plan) Transactions in Accordance With TILA (Regulation Z)

Two hundred fifty-eight commenters made comments regarding the relationship of Regulation Z and RESPA requirements. Most commenters maintained that the proposed RESPA disclosures under Regulation X would be duplicative of TILA's Regulation Z disclosures. One commenter opposed the use of Regulation Z as a standard for Regulation X exemptions. Many commenters advocated adoption of Regulation Z treatment for home equity lines of credit, citing extensive disclosure materials already issued under Regulation Z. The Federal Reserve Board materials were revised within recent years at Congress' direction. Since these disclosure materials were extensive and there had been recent thorough congressional oversight and action (Home Equity Loan Consumer Protection Act of 1988, 15 U.S.C. 1647, Pub. L. 100–709), commenters urged the appropriateness of deferral to the Regulation Z structure.

This final rule defers to the Regulation Z requirements for home equity lines of credit (open-end credit plans) for purposes of disclosure only; lenders must follow the requirements under Regulation Z for home equity lines of credit.

4. Exemption for Loans on Vacant Land or Unimproved Property, Unless It Will Be Improved by a Residential Structure Purchased Using the Loan Proceeds Within Two Years From the Date of the Loan

This exemption in the proposed rule was favored by 90 commenters, opposed by 1. Six commenters spoke to the difficulty of lenders monitoring the two-year period. One commenter urged that all vacant lots including post-construction activities be exempt.

In this final rule, HUD adopts the proposed exemption. Lenders must assure themselves that the purpose of the loan on vacant or unimproved property is not to add or construct a 1- to 4-family residential structure out of loan proceeds on the property within two years from settlement of the loan. However, HUD has also included an absolute 25-acre exemption for any real property. (See discussion regarding the farm loan exemption in item 1, above.)

5. Temporary Financing Such as a Construction Loan

Temporary financing is exempt from coverage under RESPA. The exemption does not apply to a loan for construction or rehabilitation of a 1- to 4-family structure that is used or may be converted to permanent financing by the same lender. If a lender has issued a commitment to provide permanent funding, with or without conditions, the transaction is not exempt from RESPA. Any construction loan for a new or rehabilitated 1- to 4-family residential structure, other than a loan to a bona fide builder (a person who regularly engages in the construction of residential properties for sale or lease), is a RESPA-covered loan if its term is for two or more years. This clarifying exemption was supported by 70 commenters; one opposed it. Five commenters were uncertain about the application of the exemption to bridge or swing loans. Commenters sought several clarifications including: (i) The conversion to permanent loans provision; (ii) the coverage of convertible/refinancable construction loans; and (iii) the definition of the term "bona fide builder". Two commenters advocated substituting the Regulation Z disclosures.

The final rule clarifies that so-called "bridge" or "swing" loans, which are short-term loans to facilitate a person who is selling a property and buying another to cover interim obligations, are not covered RESPA transactions. The rule also makes minor clarifying language changes in response to comments received.

6. Secondary Market Transactions

A bona fide transfer of a loan obligation in the secondary market is not covered by Section 8 of RESPA. The proposed rule included a provision that stated that the assignment and transfer of "dealer loans" was not a secondary market transaction, which would remove such loans from RESPA's coverage. The Department did not seek comments regarding other portions of the secondary market exception. Nonetheless, 15 commenters maintained that "table funding" should be considered a secondary market transaction. Other commenters sought clarification concerning: (i) The "real source of funding"; and (ii) the scope of the exemption. Five comments were received on the proposed language regarding dealer loans, including one from a trade association, which argued that such loans were not federally related mortgage loans within the purview of RESPA.

In the final rule, a dealer loan or dealer consumer credit contract originated with the intent of subsequent assignment of the dealer's interest is defined as a "federally related mortgage loan." (See definition in § 3500.2 of "federally related mortgage loan".) The dealer advances credit to the borrower based upon the lender's prior agreement to fund the loan upon completion or delivery of goods and services, with the net proceeds to be paid to the dealer. The lender to whom the advance of credit is initially assigned is defined as a lender for purposes of this rule. The initial assignment of a dealer loan is not exempt from RESPA as a secondary market transaction, and the funding lender is responsible for: (i) Assuring that the necessary disclosures, such as the good faith estimate, are made in a timely manner, by either the funding lender or the dealer; and (ii) the use of the HUD–1 or HUD 1–A settlement statements.

A "dealer loan" or "dealer consumer credit contract" describes, generally, any arrangement in which a dealer assists a borrower in obtaining a loan from the funding lender, the dealer's interests are assigned to the funding lender, and the dealer receives the net proceeds of the loan. A loan or advance by a dealer in which the dealer does not assign its interest and receives the loan payments directly would not be a covered RESPA transaction, unless the dealer qualifies as a creditor as defined under the definition of a "federally related mortgage loan".

The Department was guided in these determinations by the Committee Report language regarding the amendments in the 1992 Act. The report stated in relevant part:

> The Committee included second mortgages within RESPA because of the unfortunate potential for fraud and abuse among the elderly and inner-city homeowners. The Committee heard disturbing testimony at a May, 1991, hearing in Boston that indicated some secondary [sic] mortgage lenders, home-repair specialists and banks had allegedly taken advantage of elderly and minority homeowners * * *. The Committee believes that some homeowners might have been spared foreclosure and bankruptcy if comprehensive RESPA disclosures had been required during the negotiation process and if the anti-kickback provisions had been in place. (Report 102–760, of the Committee on

Banking, Finance and Urban Affairs, House of Representatives to accompany H.R. 5334, July 30, 1992.)

A new Illustration 13 of appendix B further discusses a dealer loan transaction.

The final rule also adds a definition of the term "table funding," and HUD restates its position that table-funding transactions are not secondary market transactions exempt from RESPA's coverage. If a mortgage broker funds a loan with its own money, or from a warehouse line for which the mortgage broker is liable, this is not a table-funding transaction, and the mortgage broker is a lender for purposes of this part. Section 3500.7(b) has been revised to provide that the mortgage broker's good faith estimate is sufficient and the funding lender is not required to provide additional disclosures. However, the funding lender is responsible for ascertaining that the good faith estimate has been delivered.

7. Exemptions for Business Purpose Transactions Similar to TILA (Regulation Z)

Two-hundred sixty-six comments were received regarding the possibility of making the business purpose test of Regulation Z applicable to RESPA. Commenters requested the following exemptions from Regulation X: (a) Loans to unnatural persons; (b) loans that are not for personal residences; (c) loans securing guarantees for general business purposes; and (d) loans that were indirect collateral, such as those taken out of an abundance of caution, as backup collateral.

The Department decided generally to adopt the "business purpose" exemptions and test of Regulation Z, but does not include in the business purpose exemption the placing of a first or subordinate lien on 1- to 4-family residential properties by individuals (natural persons). RESPA is oriented towards assuring that individual consumers are able to make meaningful choices in shopping for settlement services. The Department concluded that the disclosure and anti-kickback provisions of RESPA should apply to all individual consumer transactions.

Under this rule, loans regarding 1- to 4-family residential property made to corporations, associations, partnerships, and trusts (the other entities falling under the definition of "person" in section 3 of RESPA) are not covered. The Department was informed that certain loans are made where both an individual and a living trust, or a corporation, association, or partnership is named on the note and/or deed. As long as any individual is named, the transaction is covered by RESPA.

8. Assumptions

Several commenters suggested that assumptions be exempt, while others recommended use of the Regulation Z test. The November 2, 1992, RESPA rule deleted the previous exemption of coverage for assumptions. HUD adopted the following test for coverage: Assumptions are covered if lender approval of the assumption is required by the mortgage instruments and is obtained, whether or not a fee is charged for the assumption. If lender approval is not required, the transaction is exempt from RESPA.

9. Commenter Proposed Exemptions

Commenters suggested several other exemptions from RESPA's coverage. Four commenters wished to exempt home improvement loans. Other exemptions suggested included: (a) All subordinate loans; (b) loans under $10,000; (c) loans under $30–50,000; (d) Small Business Administration guaranteed loans; (e) loans not involving a transfer of title and loans involving only modifications, balloons, or workouts; (f) cross-collateral "dragnet" loans; (g) loans with a term of two years or less; (h) "no fee" loans; (i) improved land loans; (j) transactions by mortgage bankers subject to state regulation limiting compensation; and (k) transactions by mortgage bankers or mortgage brokers subject to "pervasive" State regulation, such as in California. Some of the proposed exemptions are implicitly or explicitly covered by the Department's adoption of exemptions similar to the Regulation Z business purpose test. Otherwise, HUD has not added additional exemptions in this rule except those discussed elsewhere in this preamble.

Statutory Changes

1. Special Information Booklet (§ 3500.6)

A number of commenters took the position that because Congress had not provided for separate booklets containing information for borrowers other than those purchasing 1- to 4-family residential real property, none could be required. Eighty-six opposed a new booklet, and three supported it. Several commenters questioned whether each applicant must be presented with a copy of the booklet if the applicant is not present at the time of application. One commenter urged that the booklet be freely available in foreign languages. Forty-one commenters advocated exempting all but purchase money transactions from a new booklet requirement. Five sought the merger of the booklet with the Regulation Z disclosure documents. Three commenters raised questions about the appropriateness of requiring a booklet if the loan is a home equity first lien. Three others advocated a combined booklet for refinance and junior loans. Two sought a single new booklet for first and second liens.

The provisions in the existing RESPA rule have been continued in this final rule; that is, a HUD Special Information Booklet is only required to be given to persons purchasing a 1- to 4-family residential structure. HUD anticipates updating as soon as possible the HUD Special Information Booklet, which contains several outdated or inaccurate statements (*e.g.*, it states that RESPA does not cover refinancings). This rule includes a provision giving HUD the discretion to issue other booklets on refinancings and other liens in the future, after appropriate review, which could include congressional review, and other publication requirements have been met.

2. Good Faith Estimate (§ 3500.7)

Seven commenters maintained that RESPA ties the requirement for a Good Faith Estimate (GFE) to the requirement that HUD be furnished the Booklet, so that furnishing the GFE is not required whenever furnishing a Booklet is not required, e.g., refinancings. A commenter suggested that the GFE be furnished only at the borrower's request so as to avoid needless paperwork. Another commenter suggested that the GFE should not be required if the total settlement cost does not exceed $750. One commenter considered the second GFE backing up a mortgage broker's GFE as an unnecessary additive, and another suggested exempting brokered loans from the second GFE requirement for the same reason. One commenter maintained the GFE was not necessary for a home equity loan because of the Regulation Z disclosures.

Two commenters strongly opposed disclosure of the mortgage broker fee, maintaining that because it sometimes is included in the gross interest rate, the borrower would believe the fee was being paid twice; therefore, this double disclosure is misleading.

This final rule provides, using the Secretary's discretion under section 19 of RESPA, that a GFE is required for every covered transaction, except for the deferral to the Regulation Z's provisions for disclosure for home equity plans (open-end lines of credit).

Miscellaneous Matters

This rule, as did the proposed rule, addresses several miscellaneous matters contained in the revised RESPA rule of November 2, 1992.

1. Required provider disclosures (§ 3500.7(e)(3))

With respect to this provision, which requires the listing of providers required by a lender, 17 commenters advocated that the regulations be abolished or relaxed. Twenty-three commenters maintained that these requirements interfere with the lender's performance of its obligations under the Community Reinvestment Act. Some suggested that lenders' attempts to develop relationships with low-income community institutions, including making contributions for mortgage loans generated (currently a prohibited practice under RESPA), would be adversely impacted. One commenter suggested an exemption for payments to charitable entities qualifying as such under section 501(c)(3) of the Internal Revenue Code.

While five commenters were in favor of the list of "five or more" providers as suggested in the proposed rule, nine were opposed to the concept. One advocated providing the list to the borrower only on request, to avoid needless paperwork. Four commenters suggested the threshold (of five providers) be lowered, because in certain areas it would be impractically high. Five suggested requiring less detailed information, such as permitting a range of costs. Two commenters maintained that the reality of settlement transactions dictated that, due to conflicts and the press of work, one never really knew who would be providing the service until the settlement.

Ten commenters asserted a conflict between the "required provider" rule and the non-RESPA (FIRREA) requirement to use approved appraisers. It was suggested that the use of appraisers not be deemed a "required use" under such circumstances. One of these commenters pointed out that the borrower had a right under the Equal Credit Opportunity Act, upon request and payment, to obtain the appraisal. Another commenter maintained that an even greater problem was presented by obtaining construction engineering inspectors, because of the limited number of inspectors deemed competent by bank staff that are available to perform construction inspections.

Ten commenters sought exemptions from the required provider provisions for all non-purchase money loans, for all "No Fee" loans, and for all loans that close within 3 days of application. In this final rule, HUD adopts the proposed modification to the required provider disclosures, with the listing of five or more required providers. (See further discussion regarding controlled business disclosures in item 8, of this section.) Instructions for completing the Good Faith Estimate and HUD–1 or HUD–1A for "no point" or "no cost" loans are included in § 3500.7 and in the Appendix B instructions.

2. Definition of "Table Funding"

One commenter suggested that the table-funded loan provision, § 3500.5, be clarified. The commenter believed that "lender" is intended to refer to funder, and that a change to "wholesale lender" would better identify the real parties in interest. In this final rule, HUD clarifies the definition of lender and defines "table funding."

3. Three-day Denial of Credit Period

Several commenters suggested that the three-day denial-of-credit period in the proposed rule, which provided that if credit is denied the booklet and good faith estimate would not be required, is impractically short and should be closer to ten days to two weeks. Another commenter suggested that the three-day denial period be expanded to include a withdrawal of an application by a borrower within three days. A third urged that the GFE time clock run from approval rather than application. Another inquiry was received about the effective date of section 951 of the Housing and Community Development Act of 1992, which establishes the denial of credit provision.

The three-day period is a statutory requirement contained in section 951 of the Housing and Community Development Act of 1992 (1992 Act), and HUD does not believe it has the regulatory discretion to extend it. The provision does not, on its face, require rulemaking and was included in a subtitle of the 1992 Act entitled "Bank Regulatory Clarification Provisions." While HUD is including the provision in this rulemaking, HUD takes the position that the provision has been in effect since the effective date of the 1992 Act (October 28, 1992).

4. Escrow Account Requirements and Mortgage Servicing Transfer Requirements

Eighteen commenters advocated exempting subordinate liens from escrow requirements, because lenders would not establish an escrow account unless they were holding a first lien. A commenter maintained that escrow fees were reasonable charges because the funds were held for the borrower's account and benefit.

Nine commenters questioned whether the section 6 provisions of RESPA, regarding disclosures when mortgage servicing is transferred, extended to secondary liens. Two commenters suggested that servicing transfer disclosures should only be required in the event of an actual transfer.

HUD will implement separately a final rule regarding mortgage servicing requirements of section 6 of RESPA (currently set forth in an interim rule of April 26, 1991, which continues in effect until supplanted by a final rule). That interim rule will continue to apply only to first mortgage liens, including first mortgage refinancing transactions, unless the final mortgage servicing rule changes this position. A new § 3500.17, relating to escrow accounts, is being developed concurrently, which will state HUD's position regarding escrow accounts and accounting procedures. (See the proposed rule published at 58 FR 64065 (December 3, 1993).)

5. Form of HUD Settlement Statement for Refinancings and Subordinate Lien Transactions

Forty-three commenters supported the proposed form set out as Appendix F for use in one-party transactions, while 10 opposed the form and 2 advocated that it be optional. Another commenter suggested that no Appendix F be required if the total settlement cost does not exceed $750. A significant number of commenters (56), while supporting the form as effective, advocated combining Appendix F and the HUD–1, so as to be able to cut back on the stock of paper as well as the paperwork. Three commenters suggested that permission be granted to modify the HUD–1, arguing that this would be particularly beneficial for those lenders making few subordinate loans in the course of a year.

Seventeen commenters wished to follow only Regulation Z and sought an exemption from use of appendix F for all subordinate liens. Seven sought an exemption from all subordinate lien loans without reliance on Regulation Z.

Twenty-four commenters sought specific instructions for using the form. Clarifications were requested for when the form is used: (i) For assumptions; (ii) in non-purchase money, non-refinance situations; and (iii) in modifying a first lien.

Three commenters wished an exemption for "no fee" transactions, and three sought an exemption for fixed-fee transactions. A commenter

suggested that the disclosure form be used only on request of the borrower. Another commenter suggested that secondary (vacation or rental) homes be exempt from disclosure. One commenter requested guidance on how to reconcile the Appendix F form with the specific State law requirements.

In the final rule, appendix F has been adopted, basically as proposed. The form is denominated as HUD–1A and is included in appendix A of this rule. HUD has provided instructions for filling out this form at the end of appendix A. The final rule makes clear that settlement agents may use this form for refinancing or any other one-party transactions, but may also use the borrower's side of a HUD–1 settlement statement to convey the same information.

6. Compliance Burden

Fifty-three comments addressed the burden of compliance. They generally indicated that first lien disclosures and the disclosures under the proposed rule constituted a substantial paperwork burden on lenders. The commenters believed that few borrowers read any disclosure material, except, perhaps, the HUD–1. Seventeen commenters estimated the additional cost per loan as being from $25–32; two commenters alleged $1,000,000 each in compliance costs. HUD's own estimate of the costs of complying with this regulation was substantially less than these amounts. Commenters maintained that the compliance burden caused a chilling effect on the making of loans. Commenters also noted a training burden, because the lender staff making the loans in question normally would not have dealt with RESPA.

In developing the final rule, and consistent with the Administration's directives to ease the burden of regulations insofar as possible, the Department has expended substantial effort in interagency consultation to reduce the compliance and regulatory burdens. As a result of this consultation, the interrelated regulations, Regulation X and Regulation Z, function in harmony, as far as possible. This, of course, was done within the various statutory constraints placed upon HUD and the Federal Reserve Board.

7. Multiple Liens

The Department was advised that there are certain circumstances when a first mortgage and a subordinate lien may be created at the same settlement (such as when a residential property is purchased through an affordable housing program with an advance of funds for down-payment or closing costs under a subordinate lien). If the subordinate lien meets the definition of a federally related mortgage loan, the related charges for settlement services must be documented on a HUD–1 or HUD–1A, as appropriate for the circumstances, but a single HUD–1 can be used for both the first mortgage and the subordinate lien. If the subordinate lien does not meet the definition of federally related mortgage loan (e.g., it is held by a governmental entity), the related charges may still be shown on the HUD–1 for the first mortgage or on a separate HUD–1 or HUD–1A.

8. Controlled Business Disclosures

As noted previously, in this final rule the modification to the required provider disclosures, with the list of five or more required providers, has been adopted. The rule is also clarified to indicate that it does not apply to in-house settlement service providers. A related question is: what is the extent of effort that is needed by a person in a position to refer business (such as a bank with a related mortgage lending company) to warrant a controlled business disclosure? This question has been deferred to future rulemaking, which may deal further with controlled business disclosures. However, the Department wishes to make clear that incidental and uncompensated referrals, such as brochures in the bank lobby or street directions given by a bank employee, are not perceived as rising to the level necessary to require a controlled business disclosure.

9. Effective Date

Twenty-five commenters suggested that HUD allow sufficient time for implementation of this rule, so that the form, software, and technical compliance materials could be created by affected parties. A range of two months to one year was suggested to be adequate. The commenters suggested that the exemptions should be made effective as soon as possible or within 30 days after publication.

The final rule is effective 180 days after publication, while exemptions contained in this rule are effective 30 days after the publication date. Persons covered by this rule also may comply with this rule before the effective date.

III. Other Matters

Executive Order 12866

This rule was reviewed by the Office of Management and Budget under Executive Order 12866, Regulatory Planning and Review. Any changes made to the rule as a result of that review are clearly identified in the docket file, which is available for public inspection in the office of the Department's Rules Docket Clerk, room 10276, 451 Seventh Street, SW., Washington, DC 20410–0500.

Regulatory Flexibility Act

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 this rule does not have a significant economic impact on a substantial number of small entities, other than those impacts specifically required to be applied universally by the RESPA statute.

Environmental Impact

At the time of publication of the proposed rule, a finding of no significant impact with respect to the environment was made in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The proposed rule is adopted by this final rule without significant change. Accordingly, the initial finding of no significant impact remains applicable, 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 General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the federal government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the rule is not subject to review under the Order. Promulgation of this rule expands coverage of the applicable regulatory requirements pursuant to statutory direction.

Executive Order 12606, the Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this rule does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the order. No significant change in existing HUD policies or programs will result from promulgation of this rule, as those

policies and programs relate to family concerns.

Regulatory Agenda

This rule was listed as item 1552 in the Department's Semiannual Agenda of Regulations published on October 25, 1993 (58 FR 56402, 56433), in accordance with Executive Order 12866 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 3500

Consumer protection, Housing, Mortgages, Real property acquisition, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, part 3500 of title 24 of the Code of Federal Regulations is amended as set forth below.

PART 3500—REAL ESTATE SETTLEMENT PROCEDURES ACT

1. The authority citation for part 3500 continues to read as follows:

Authority: 12 U.S.C. 2601 *et seq.*

2. Section 3500.2 is revised to read as follows:

§ 3500.2 Definitions.

As used in this part:

Application means the submission of a borrower's financial information in anticipation of a credit decision, whether written or computer-generated, relating to a federally related mortgage loan. If the submission does not state or identify a specific property, the submission is an application for a pre-qualification and not an application for a federally related mortgage loan under this part. The subsequent addition of an identified property to the submission converts the submission to an application for a federally related mortgage loan.

Business day means a day on which the offices of the business entity are open to the public for carrying on substantially all of its business functions. "Business day" for purposes of compliance with section 6 of RESPA (12 U.S.C. 2605) is defined in § 3500.21.

Dealer means, in the case of property improvement loans, a seller, contractor, or supplier of goods or services. In the case of manufactured home loans, "dealer" means one who engages in the business of manufactured home retail sales.

Dealer loan or *dealer consumer credit contract* means, generally, any arrangement in which a dealer assists the borrower in obtaining a federally related mortgage loan from the funding lender and then assigns the dealer's legal interests to the funding lender and receives the net proceeds of the loan. The funding lender is the lender for the purposes of the disclosure requirements of this part. If a dealer is a "creditor" as defined under the definition of "federally related mortgage loan" in this part, the dealer is the lender for purposes of this part.

Federally related mortgage loan means as follows:

(1) Any loan (other than temporary financing, such as a construction loan):

(i) That is secured by a first or subordinate lien on residential real property, including a refinancing of any secured loan on residential real property upon which there is either:

(A) Located or, following settlement, will be constructed using proceeds of the loan, a structure or structures designed principally for occupancy of from one to four families (including individual units of condominiums and cooperatives and including any related interests, such as a share in the cooperative or right to occupancy of the unit); or

(B) Located or, following settlement, will be placed using proceeds of the loan, a manufactured home; and

(ii) For which one of the following paragraphs applies. The loan:

(A) Is made in whole or in part by any lender that is either regulated by or whose deposits or accounts are insured by any agency of the Federal Government;

(B) Is made in whole or in part, or is insured, guaranteed, supplemented, or assisted in any way:

(*1*) By the Secretary or any other officer or agency of the Federal Government; or

(*2*) Under or in connection with a housing or urban development program administered by the Secretary or a housing or related program administered by any other officer or agency of the Federal Government;

(C) Is intended to be sold by the originating lender to the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation (or its successors), or a financial institution from which the loan is to be purchased by the Federal Home Loan Mortgage Corporation (or its successors);

(D) Is made in whole or in part by a "creditor," as defined in section 103(f) of the Consumer Credit Protection Act (15 U.S.C. 1602(f)), that makes or invests in residential real estate loans aggregating more than $1,000,000 per year. For purposes of this definition, the term "creditor" does not include any agency or instrumentality of any State, and the term "residential real estate loan" means any loan secured by residential property, including single-family and multifamily residential property;

(E) Is originated either by a dealer or, if the obligation is to be assigned to any maker of mortgage loans specified in paragraphs (1)(ii)(A) through (D) of this definition, by a mortgage broker; or

(F) Is the subject of a home equity conversion mortgage, also frequently called a "reverse mortgage," issued by any maker of mortgage loans specified in paragraphs (1)(ii)(A) through (D) of this definition.

(2) Any installment sales contract, land contract, or contract for deed on otherwise qualifying residential property is a federally related mortgage loan if the contract is funded in whole or in part by proceeds of a loan made by any maker of mortgage loans specified in paragraphs (1)(ii)(A) through (D) of this definition. If the residential property securing a mortgage loan is not located in a State, it is not a federally related mortgage loan.

Good faith estimate means an estimate, prepared in accordance with section 5 of RESPA (12 U.S.C. 2604), of charges that a borrower is likely to incur in connection with a settlement.

HUD–1 or HUD–1A settlement statement (also *HUD–1 or HUD–1A*) means the statement that is prescribed by the Secretary in this part for setting forth settlement charges in connection with either the purchase or the refinancing (or other subordinate lien transaction) of 1- to 4-family residential property.

Lender means, generally, the secured creditor or creditors named in the debt obligation and document creating the lien. For loans originated by a mortgage broker that closes a federally related mortgage loan in its own name in a table funding transaction, the lender is the person to whom the obligation is initially assigned at or after settlement. A lender, in connection with dealer loans, is the lender to whom the loan is assigned, unless the dealer meets the definition of creditor as defined under "federally related mortgage loan" in this section. See also § 3500.5(b)(5), secondary market transactions.

Manufactured home means the same as the term is defined in § 3280.2 of this chapter.

Mortgage broker means a person (not an employee or exclusive agent of a lender) who brings a borrower and lender together to obtain a federally related mortgage loan, and who renders services as described in the definition of "settlement services" in this section. A loan correspondent meeting the requirements of the Federal Housing Administration under § 202.2(b) or

202.15(a) of this title is a mortgage broker for purposes of this part.

Mortgaged property means the real property that is security for the federally related mortgage loan.

Person means any individual, corporation, partnership, trust, association, or other entity.

Refinancing means a transaction in which an existing obligation that was subject to a secured lien on residential real property is satisfied and replaced by a new obligation undertaken by the same borrower and with the same or a new lender. The following shall not be treated as a refinancing, even when the existing obligation is satisfied and replaced by a new obligation with the same lender (this definition of "refinancing" as to transactions with the same lender is similar to Regulation Z, 12 CFR 226.20(a)):

(1) A renewal of a single payment obligation with no change in the original terms;

(2) A reduction in the annual percentage rate as computed under the Truth in Lending Act with a corresponding change in the payment schedule;

(3) An agreement involving a court proceeding;

(4) A workout agreement, in which a change in the payment schedule or change in collateral requirements is agreed to as a result of the consumer's default or delinquency, unless the rate is increased or the new amount financed exceeds the unpaid balance plus earned finance charges and premiums for continuation of allowable insurance; and

(5) The renewal of optional insurance purchased by the consumer that is added to an existing transaction, if disclosures relating to the initial purchase were provided.

Regulation Z means the regulations issued by the Board of Governors of the Federal Reserve System (12 CFR part 226) to implement the Federal Truth in Lending Act (15 U.S.C. 1601 *et seq.*), and includes the Commentary on Regulation Z.

Required use means a situation in which a person must use a particular provider of a settlement service in order to have access to some distinct service or property, and the person will pay for the settlement service of the particular provider or will pay a charge attributable, in whole or in part, to the settlement service. However, the offering of a package (or combination of settlement services) or the offering of discounts or rebates to consumers for the purchase of multiple settlement services does not constitute a required use. Any package or discount must be optional to the purchaser. The discount must be a true discount below the prices that are otherwise generally available, and must not be made up by higher costs elsewhere in the settlement process.

RESPA means the Real Estate Settlement Procedures Act of 1974, 12 U.S.C. 2601 *et seq.*

Secretary means the Secretary of Housing and Urban Development or any official who is designated the authority of the Secretary with respect to RESPA.

Settlement means the process of executing legally binding documents regarding a lien on property that is subject to a federally related mortgage loan. This process may also be called "closing" or "escrow" in different jurisdictions.

Settlement service means any service provided in connection with a prospective or actual settlement, including any one or more of the following:

(1) Origination of a federally related mortgage loan (including, but not limited to, the taking of loan applications, loan processing, and the underwriting and funding of such loans);

(2) Rendering of services by a mortgage broker (including counseling, taking of applications, obtaining verifications and appraisals, and other loan processing and origination services, and communicating with the borrower and lender);

(3) Provision of any services related to the origination, processing or funding of a federally related mortgage loan;

(4) Provision of title services, including title searches, title examinations, abstract preparation, insurability determinations, and the issuance of title commitments and title insurance policies;

(5) Rendering of services by an attorney;

(6) Preparation of documents, including notarization, delivery, and recordation;

(7) Rendering of credit reports and appraisals;

(8) Rendering of inspections, including inspections required by applicable law or any inspections required by the sales contract or mortgage documents prior to transfer of title;

(9) Conducting of settlement by a settlement agent and any related services;

(10) Provision of services involving mortgage insurance;

(11) Provision of services involving hazard, flood, or other casualty insurance or homeowner's warranties;

(12) Provision of services involving mortgage life, disability, or similar insurance designed to pay a mortgage loan upon disability or death of a borrower, but only if such insurance is required by the lender as a condition of the loan;

(13) Provision of services involving real property taxes or any other assessments or charges on the real property;

(14) Rendering of services by a real estate agent or real estate broker; and

(15) Provision of any other services for which a settlement service provider requires a borrower or seller to pay.

Special information booklet means the booklet prepared by the Secretary pursuant to section 5 of RESPA (12 U.S.C. 2604) to help persons understand the nature and costs of settlement services. The Secretary publishes the form of the special information booklet in the **Federal Register**. The Secretary may issue or approve additional booklets or alternative booklets by publication of a Notice in the **Federal Register**.

State means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

Table funding means a settlement at which a loan is funded by a contemporaneous advance of loan funds and an assignment of the loan to the person advancing the funds. A table-funded transaction is not a secondary market transaction (see § 3500.5(b)(7)).

Title company means any institution, or its duly authorized agent, that is qualified to issue title insurance.

Section 3500.5 is revised to read as follows:

§ 3500.5 Coverage of RESPA.

(a) *Applicability.* RESPA and this part apply to all federally related mortgage loans, except for the exemptions provided in paragraph (b) of this section.

(b) *Exemptions.* (1) *A loan on property of 25 acres or more.* Any loan on property constituting 25 or more acres, regardless of:

(i) Whether the land is vacant;

(ii) Whether the land contains a residential structure; and

(iii) The purpose of the loan.

(2) *Business purpose loans.* An extension of credit primarily for a business, commercial, or agricultural purpose. The definition of such an extension of credit for purposes of this exemption generally parallels Regulation Z, 12 CFR 226.3(a)(1). However, the definition of business purpose loans does not include any transaction in which one or more persons, acting in an individual

capacity (natural persons), place a lien on a 1- to 4-family residential property, whether used for occupancy or investment.

(3) *Temporary financing.* Temporary financing, such as a construction loan. The exemption for temporary financing does not apply to a loan made to finance construction of 1- to 4-family residential property if the loan is used as, or may be converted to, permanent financing by the same lender or is used to finance transfer of title to the first user. If a lender issues a commitment for permanent financing, with or without conditions, the loan is covered by this part. Any construction loan for new or rehabilitated 1- to 4-family residential property, other than a loan to a bona fide builder (a person who regularly constructs 1- to 4-family residential structures for sale or lease), is subject to this part if its term is for two years or more. A "bridge loan" or "swing loan" in which a lender takes a security interest in otherwise covered 1- to 4-family residential property is not covered by RESPA and this part.

(4) *Vacant land.* Any loan secured by vacant or unimproved property, unless within two years from the date of the settlement of the loan, a structure or a manufactured home will be constructed or placed on the real property using the loan proceeds. If a loan for a structure or manufactured home to be placed on vacant or unimproved property will be secured by a lien on that property, the transaction is covered by this part.

(5) *Assumption without lender approval.* Any assumption in which the lender does not have the right expressly to approve a subsequent person as the borrower on an existing federally related mortgage loan. Any assumption in which the lender's permission is both required and obtained is covered by RESPA and this part, whether or not the lender charges a fee for the assumption.

(6) *Loan conversions.* Any conversion of a federally related mortgage loan to different terms that are consistent with provisions of the original mortgage instrument, as long as a new note is not required, even if the lender charges an additional fee for the conversion.

(7) *Secondary market transactions.* A bona fide transfer of a loan obligation in the secondary market is not covered by RESPA and this part, except as set forth in section 6 of RESPA and § 3500.21. In determining what constitutes a bona fide transfer, HUD will consider the real source of funding and the real interest of the funding lender. Mortgage broker transactions that are table-funded are not secondary market transactions. Neither the creation of a dealer loan or dealer consumer credit contract, nor the first assignment of such loan or contract to a lender, is a secondary market transaction (see § 3500.2.)

4. Section 3500.6 is amended by revising paragraph (a) to read as follows:

§ 3500.6 Special information booklet at time of loan application.

(a) *Lender to provide special information booklet.* Subject to the exceptions set forth in this paragraph, the lender shall provide a copy of the special information booklet to a person from whom the lender receives, or for whom the lender prepares, a written application for a federally related mortgage loan. When two or more persons apply together for a loan, the lender is in compliance if the lender provides a copy of the booklet to one of the persons applying, but the lender may provide additional booklets to other applicants and to guarantors.

(1) The lender shall provide the special information booklet by delivering it or placing it in the mail to the applicant not later than three business days (as that term is defined in § 3500.2) after the application is received or prepared. However, if the lender denies the borrower's application for credit before the end of the three-business-day period, then the lender need not provide the booklet to the borrower. If a borrower uses a mortgage broker, the mortgage broker shall distribute the special information booklet and the lender need not do so. The intent of this provision is that the applicant receive the special information booklet at the earliest possible date.

(2) In the case of a federally related mortgage loan involving an open-ended credit plan, as defined in § 226.2(a)(20) of Regulation Z, a lender or mortgage broker that provides the borrower with a copy of the brochure entitled "When Your Home is On the Line: What You Should Know About Home Equity Lines of Credit", or any successor brochure issued by the Board of Governors of the Federal Reserve System, is deemed to be in compliance with this section.

(3) In the categories of transactions set forth at the end of this paragraph, the lender or mortgage broker does not have to provide the booklet to the borrower. Under the authority of section 19(a) of RESPA, the Secretary may issue a revised or separate special information booklet that deals with these transactions, or the Secretary may chose to endorse the forms or booklets of other Federal agencies. In such an event, the requirements for delivery by lenders and the availability of the booklet or alternate materials for these transactions will be set forth in a Notice in the Federal Register. This paragraph shall apply to the following transactions:

(i) Refinancing transactions;

(ii) Closed-end loans, as defined in § 226.2(a)(10) of Regulation Z, when the lender takes a subordinate lien; and

(iii) Reverse mortgages.

* * * * *

5. Section 3500.7 is amended by revising paragraphs (a), (c)(1), and (e); adding two sentences at the end of paragraph (b); by removing the undesignated paragraph following paragraph (e); and adding a new paragraph (f), to read as follows:

§ 3500.7 Good faith estimate.

(a) *Lender to provide.* Except as provided in this paragraph or paragraph (f) of this section, the lender shall provide all applicants for a federally related mortgage loan with a good faith estimate of the amount of or range of charges for the specific settlement services the borrower is likely to incur in connection with the settlement. The lender shall provide the good faith estimate required under this section (a suggested format is set forth in appendix C of this part) either by delivering the good faith estimate or by placing it in the mail to the loan applicant, not later than three business days after the application is received or prepared.

(1) If the lender denies the application for a federally related mortgage loan before the end of the three-business-day period, the lender need not provide the denied borrower with a good faith estimate.

(2) For "no cost" or "no point" loans, the charges to be shown on the good faith estimate include any payments to be made to affiliated or independent settlement service providers. These payments should be shown as P.O.C. (Paid Outside of Closing) on the Good Faith Estimate and the HUD–1 or HUD–1A.

(3) In the case of dealer loans, the lender is responsible for provision of the good faith estimate, either directly or by the dealer.

(4) If a mortgage broker is the exclusive agent of the lender, either the lender or the mortgage broker shall provide the good faith estimate within three business days after the mortgage broker receives or prepares the application.

(b) * * * As long as the mortgage broker has provided the good faith estimate, the funding lender is not required to provide an additional good faith estimate, but the funding lender is responsible for ascertaining that the good faith estimate has been delivered. If the application for mortgage credit is denied before the end of the three-

business-day period, the mortgage broker need not provide the denied borrower with a good faith estimate.

(c) * * *

(1) Will be listed in section L of the HUD–1 or HUD–1A in accordance with the instructions set forth in appendix A to this part; and

* * * * *

(e) *Particular providers required by lender.* (1) If the lender requires the use (see § 3500.2, "required use") of a particular provider of a settlement service, other than the lender's own employees, and also requires the borrower to pay any portion of the cost of such service, then the good faith estimate must:

(i) Clearly state that use of the particular provider is required and that the estimate is based on the charges of the designated provider;

(ii) Give the name, address, and telephone number of each provider; and

(iii) Describe the nature of any relationship between each such provider and the lender. Plain English references to the relationship should be utilized, e.g., "X is a depositor of the lender," "X is a borrower from the lender," "X has performed 60% of the lender's settlements in the past year." In the event that more than one relationship exists, each should be disclosed.

(2) For purposes of paragraph (e)(1) of this section, a "relationship" exists if:

(i) The provider is an associate of the lender, as that term is defined in § 3500.15(c)(1));

(ii) Within the last 12 months, the provider has maintained an account with the lender or had an outstanding loan or credit arrangement with the lender; or

(iii) The lender has repeatedly used or required borrowers to use the services of the provider within the last 12 months.

(3) Except for a provider that is the lender's chosen attorney, credit reporting agency, or appraiser, if the lender is in a controlled business relationship (see § 3500.15) with a provider, the lender may not require the use of that provider.

(4) If the lender maintains a controlled list of required providers (five or more for each discrete service) or relies on a list maintained by others, and at the time of application the lender has not yet decided which provider will be selected from that list, then the lender may satisfy the requirements of this section if the lender:

(i) Provides the borrower with a written statement that the lender will require a particular provider from a lender-controlled or -approved list; and

(ii) Provides the borrower in the Good Faith Estimate the range of costs for the required provider(s), and provides the name of the specific provider and the actual cost on the HUD–1 or HUD–1A.

(f) *Open-end lines of credit (home-equity plans) under Truth in Lending Act.* In the case of a federally related mortgage loan involving an open-end line of credit (home-equity plan) covered under the Truth in Lending Act and Regulation Z, a lender or mortgage broker that provides the borrower with the disclosures required by 12 CFR 226.5(b) of Regulation Z at the time the borrower applies for such loan shall be deemed to satisfy the requirements of this section.

6. Section 3500.8 is revised to read as follows:

§ 3500.8 Use of HUD–1 or HUD–1A settlement statements.

(a) *Use by settlement agent.* The settlement agent shall use the HUD–1 settlement statement in every settlement involving a federally related mortgage loan in which there is a borrower and a seller. For transactions in which there is a borrower and no seller, such as refinancing loans or subordinate lien loans, the HUD–1 may be utilized by using the borrower's side of the HUD–1 statement. Alternatively, the form HUD–1A may be used for these transactions. Either the HUD–1 or the HUD–1A, as appropriate, shall be used for every RESPA-covered transaction, but may be modified as permitted under this part.

(b) *Charges to be stated.* The settlement agent shall complete the HUD–1 or HUD–1A in accordance with the instructions set forth in appendix A to this part.

(Approved by the Office of Management and Budget under control numbers 2502–0265 and 2502–0491)

7. Section 3500.9 is revised to read as follows:

§ 3500.9 Reproduction of settlement statements.

(a) *Permissible changes—HUD–1.* The following changes and insertions are permitted when the HUD–1 settlement statement is reproduced:

(1) The person reproducing the HUD–1 may insert its business name and logotype in Section A and may rearrange, but not delete, the other information that appears in Section A.

(2) The name, address, and other information regarding the lender and settlement agent may be printed in Sections F and H, respectively.

(3) Reproduction of the HUD–1 must conform to the terminology, sequence, and numbering of line items as presented in lines 100–1400. However, blank lines or items listed in lines 100–1400 that are not used locally or in connection with mortgages by the lender may be deleted, except for the following: Lines 100, 120, 200, 220, 300, 301, 302, 303, 400, 420, 500, 520, 600, 601, 602, 603, 700, 800, 900, 1000, 1100, 1200, 1300, and 1400. The form may be shortened correspondingly. The number of a deleted item shall not be used for a substitute or new item, but the number of a blank space on the HUD–1 may be used for a substitute or new item.

(4) Charges not listed on the HUD–1, but that are customary locally or pursuant to the lender's practice, may be inserted in blank spaces. Where existing blank spaces on the HUD–1 are insufficient, additional lines and spaces may be added and numbered in sequence with spaces on the HUD–1.

(5) The following variations in layout and format are within the discretion of persons reproducing the HUD–1 and do not require prior HUD approval: size of pages; tint or color of pages; size and style of type or print; vertical spacing between lines or provision for additional horizontal space on lines (for example, to provide sufficient space for recording time periods used in prorations); printing of the HUD–1 contents on separate pages, on the front and back of a single page, or on one continuous page; use of multicopy tear-out sets; printing on rolls for computer purposes; reorganization of Sections B through I, when necessary to accommodate computer printing; and manner of placement of the HUD number, but not the OMB approval number, neither of which may be deleted. The designation of the expiration date of the OMB number may be deleted. Any changes in the HUD number or OMB approval number may be announced by notice in the **Federal Register**, rather than by amendment of this part.

(6) The borrower's information and the seller's information may be provided on separate pages.

(7) Signature lines may be added.

(8) The HUD–1 may be translated into languages other than English.

(9) An additional page may be attached to the HUD–1 for the purpose of including customary recitals and information used locally in real estate settlements; for example, breakdown of payoff figures, a breakdown of the borrower's total monthly mortgage payments, check disbursements, a statement indicating receipt of funds, applicable special stipulations between buyer and seller, and the date funds are transferred. If space permits, such

information may be added at the end of the HUD–1.

(10) As required by HUD/FHA in FHA-insured loans.

(11) As allowed by § 3500.17, relating to an initial escrow account statement.

(b) *Permissible changes—HUD–1A.* The changes and insertions on the HUD–1 permitted under paragraph (a) of this section are also permitted when the HUD–1A settlement statement is reproduced, except the changes described in paragraphs (a) (3), (6), and (11).

(c) *Written approval.* Any other deviation in the HUD–1 or HUD–1A forms is permissible only upon receipt of written approval of the Secretary. A request to the Secretary for approval shall be submitted in writing to the address indicated in § 3500.3 and shall state the reasons why the applicant believes such deviation is needed. The prescribed form(s) must be used until approval is received.

(Approved by the Office of Management and Budget under control numbers 2502–0265 and 2502–0491)

8. Section 3500.10 is revised to read as follows:

§ 3500.10 One-day advance inspection of HUD–1 or HUD–1A settlement statement; delivery; recordkeeping.

(a) *Inspection one day prior to settlement upon request by the borrower.* The settlement agent shall permit the borrower to inspect the HUD–1 or HUD–1A settlement statement, completed to set forth those items that are known to the settlement agent at the time of inspection, during the business day immediately preceding settlement. Items related only to the seller's transaction may be omitted from the HUD–1.

(b) *Delivery.* The settlement agent shall provide a completed HUD–1 or HUD–1A to the borrower, the seller (if there is one), the lender (if the lender is not the settlement agent), and/or their agents. When the borrower's and seller's copies of the HUD–1 or HUD–1A differ as permitted by the instructions in Appendix A to this part, both copies shall be provided to the lender (if the lender is not the settlement agent). The settlement agent shall deliver the completed HUD–1 or HUD–1A at or before the settlement, except as provided in paragraphs (c) and (d) of this section.

(c) *Waiver.* The borrower may waive the right to delivery of the completed HUD–1 or HUD–1A no later than at settlement by executing a written waiver at or before settlement. In such case, the completed HUD–1 or HUD–1A shall be mailed or delivered to the borrower, seller, and lender (if the lender is not the settlement agent) as soon as practicable after settlement.

(d) *Exempt transactions.* When the borrower or the borrower's agent does not attend the settlement, or when the settlement agent does not conduct a meeting of the parties for that purpose, the transaction shall be exempt from the requirements of paragraphs (a) and (b) of this section, except that the HUD–1 or HUD–1A shall be mailed or delivered as soon as practicable after settlement.

(e) *Recordkeeping.* The lender shall retain each completed HUD–1 or HUD–1A and related documents for five years after settlement, unless the lender disposes of its interest in the mortgage and does not service the mortgage. In that case, the lender shall provide its copy of the HUD–1 or HUD–1A to the owner or servicer of the mortgage as a part of the transfer of the loan file. Such owner or servicer shall retain the HUD–1 or HUD–1A for the remainder of the five-year period. The Secretary shall have the right to inspect or require copies of records covered by this paragraph (e).

(Approved by the Office of Management and Budget under control numbers 2502–0265 and 2502–0491)

9. Section 3500.12 is revised to read as follows:

§ 3500.12 No fee.

No fee shall be imposed or charge made upon any other person, as a part of settlement costs or otherwise, by a lender in connection with a federally related mortgage loan made by it (or a loan for the purchase of a manufactured home), or by a servicer (as that term is defined under 12 U.S.C. 2605(1)) for or on account of the preparation and distribution of the HUD–1 or HUD–1A settlement statement, escrow account statements required pursuant to section 10 of RESPA, or statements required by the Truth in Lending Act, 15 U.S.C. 1601 *et seq.*

10. Section 3500.14 is amended by revising paragraphs (f)(2) and (g)(1)(v), to read as follows:

§ 3500.14 Prohibition against kickbacks and unearned fees.

* * * * *

(f) * * *

(2) A referral also occurs whenever a person paying for a settlement service or business incident thereto is required to use (see § 3500.2, "required use") a particular provider of a settlement service or business incident thereto.

(g) * * *

(1) * * *

(v) Pursuant to cooperative brokerage and referral arrangements or agreements between real estate agents and real estate brokers. (The statutory exemption restated in this paragraph refers only to fee divisions within real estate brokerage arrangements when all parties are acting in a real estate brokerage capacity, and has no applicability to any fee arrangements between real estate brokers and mortgage brokers or between mortgage brokers.)

* * * * *

§ 3500.15 [Amended]

Section 3500.15 is amended by revising the phrase "(as defined in § 3500.2(a)(11)" in paragraph (b)(2) to read "(as defined in § 3500.2, 'required use')".

12. Section 3500.16 is amended by revising the second sentence, to read as follows:

§ 3500.16 Title companies.

* * * Section 3500.2 defines "required use" of a provider of a settlement service. * * *

13. Appendix A to part 3500 is amended by revising the title of the appendix; by revising the introductory text and the paragraph beginning with "Line 902" in Section L under the text heading "*Line Item Instructions*"; and by adding additional text, a HUD–1 settlement statement form, and a HUD–1A settlement statement form at the end of the appendix, to read as follows:

Appendix A to Part 3500—Instructions for Completing HUD–1 and HUD–1A Settlement Statements

* * * * *

Line Item Instructions

* * * * *

Section L. Settlement Charges

For all items except for those paid to and retained by the Lender, the name of the person or firm ultimately receiving the payment should be shown. In the case of "no cost" or "no point" loans, the charge to be paid by the lender to an affiliated or independent service provider should be shown as P.O.C. (Paid Outside of Closing) and should not be used in computing totals. Such charges also include indirect payments or back-funded payments to mortgage brokers that arise from the settlement transaction. When used, "P.O.C." should be placed in the appropriate lines next to the identified item, not in the columns themselves.

* * * * *

Line 902 is used for mortgage insurance premiums due and payable at settlement, except reserves collected by the Lender and recorded in the 1000 series. A lump sum mortgage insurance premium paid at settlement should be inserted on Line 902, with a note that indicates that the premium is for the life of the loan.

* * * * *

Line Item Instructions for Completing HUD–1A

Note: HUD–1A is an optional form that may be used for refinancing and subordinate lien federally related mortgage loans, as well as for any other one-party transaction that does not involve the transfer of title to residential real property. The HUD–1 form may also be used for such transactions, by utilizing the borrower's side of the HUD–1 and following the relevant parts of the instructions as set forth above. The use of either the HUD–1 or HUD–1A is not mandatory for open-end lines of credit (home-equity plans), as long as the provisions of Regulation Z are followed.

Background

The HUD–1A settlement statement is to be used as a statement of actual charges and adjustments to be given to the borrower at settlement, as defined in this part. The instructions for completion of the HUD–1A are for the benefit of the settlement agent who prepares the statement; the instructions are not a part of the statement and need not be transmitted to the borrower. There is no objection to using the HUD–1A in transactions in which it is not required, and its use in open-end lines of credit transactions (home-equity plans) is encouraged. It may not be used as a substitute for a HUD–1 in any transaction in which there is a transfer of title and a first lien is taken as security.

Refer to the "definitions" section of Regulation X for specific definitions of terms used in these instructions.

General Instructions

Information and amounts may be filled in by typewriter, hand printing, computer printing, or any other method producing clear and legible results. Refer to § 3500.9 regarding rules for reproduction of the HUD–1A. Additional pages may be attached to the HUD–1A for the inclusion of customary recitals and information used locally for settlements or if there are insufficient lines on the HUD–1A.

The settlement agent shall complete the HUD–1A to itemize all charges imposed upon the borrower by the lender, whether to be paid at settlement or outside of settlement, and any other charges that the borrower will pay for at settlement. In the case of "no cost" or "no point" loans, these charges include any payments the lender will make to affiliated or independent settlement service providers relating to this settlement. These charges shall be included on the HUD–1A, but marked "P.O.C." for "paid outside of closing," and shall not be used in computing totals. Such charges also include indirect payments or back-funded payments to mortgage brokers that arise from the settlement transaction. When used, "P.O.C." should be placed in the appropriate lines next to the identified item, not in the columns themselves.

Blank lines are provided in Section L for any additional settlement charges. Blank lines are also provided in Section M for recipients of all or portions of the loan proceeds. The names of the recipients of the settlement charges in Section L and the names of the recipients of the loan proceeds in Section M should be set forth on the blank lines.

Line Item Instructions

The identification information at the top of the HUD–1A should be completed as follows:

The borrower's name and address is entered in the space provided. If the property securing the loan is different from the borrower's address, the address or other location information on the property should be entered in the space provided. The loan number is the lender's identification number for the loan. The settlement date is the date of settlement in accordance with § 3500.2, not the end of any applicable rescission period. The name and address of the lender should be entered in the space provided.

Section L. Settlement Charges. This section of the HUD–1A is similar to Section L of the HUD–1, with minor changes or omissions, including deletion of lines 700 through 704, relating to real estate broker commissions. The instructions for Section L in the HUD–1, should be followed insofar as possible. Inapplicable charges should be ignored, as should any instructions regarding seller items.

Line 1400 in the HUD–1A is for the total settlement charges charged to the borrower. Enter this total on line 1602 as well. This total should include Section L amounts from additional pages, if any are attached to this HUD–1A.

Section M. Disbursement to Others. This section is used to list payees, other than the borrower, of all or portions of the loan proceeds (including the lender, if the loan is paying off a prior loan made by the same lender), when the payee will be paid directly out of the settlement proceeds. It is not used to list payees of settlement charges, nor to list funds disbursed directly to the borrower, even if the lender knows the borrower's intended use of the funds.

For example, in a refinancing transaction, the loan proceeds are used to pay off an existing loan. The name of the lender for the loan being paid off and the pay-off balance would be entered in Section M. In a home improvement transaction when the proceeds are to be paid to the home improvement contractor, the name of the contractor and the amount paid to the contractor would be entered in Section M. In a consolidation loan, or when part of the loan proceeds is used to pay off other creditors, the name of each creditor and the amount paid to that creditor would be entered in Section M. If the proceeds are to be given directly to the borrower and the borrower will use the proceeds to pay off existing obligations, this would not be reflected in Section M.

Section N. Net Settlement. Line 1600 normally sets forth the principal amount of the loan as it appears on the related note for this loan. In the event this form is used for an open-ended home equity line whose approved amount is greater than the initial amount advanced at settlement, the amount shown on Line 1600 will be the loan amount advanced at settlement. Line 1601 is used for all settlement charges that are both included in the totals for lines 1400 and 1602 and are not financed as part of the principal amount of the loan. This is the amount normally received by the lender from the borrower at settlement, which would occur when some or all of the settlement charges were paid in cash by the borrower at settlement, instead of being financed as part of the principal amount of the loan. Failure to include any such amount in line 1601 will result in an error in the amount calculated on line 1604. P.O.C. amounts should not be included in line 1601.

Line 1602 is the total amount from line 1400.

Line 1603 is the total amount from line 1520.

Line 1604 is the amount disbursed to the borrower. This is determined by adding together the amounts for lines 1600 and 1601, and then subtracting any amounts listed on lines 1602 and 1603.

BILLING CODE 4210–27–P

A. Settlement Statement

U.S. Department of Housing and Urban Development

OMB Approval No. 2502-0265

B. Type of Loan	6. File Number	7. Loan Number	8. Mortgage Insurance Case Number
1. ☐ FHA 2. ☐ FmHA 3. ☐ Conv. Unins. 4. ☐ VA 5. ☐ Conv. Ins.			

C. Note: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "(p.o.c.)" were paid outside the closing; they are shown here for informational purposes and are not included in the totals.

D. Name and Address of Borrower	E. Name and Address of Seller	F. Name and Address of Lender

G. Property Location	H. Settlement Agent	
	Place of Settlement	I. Settlement Date

J. Summary of Borrower's Transaction		K. Summary of Seller's Transaction	
100. Gross Amount Due From Borrower		**400. Gross Amount Due To Seller**	
101. Contract sales price		401. Contract sales price	
102. Personal property		402. Personal property	
103. Settlement charges to borrower (line 1400)		403.	
104.		404.	
105.		405.	
Adjustments for items paid by seller in advance		**Adjustments for items paid by seller in advance**	
106. City/town taxes to		406. City/town taxes to	
107. County taxes to		407. County taxes to	
108. Assessments to		408. Assessments to	
109.		409.	
110.		410.	
111.		411.	
112.		412.	
120. Gross Amount Due From Borrower		**420. Gross Amount Due To Seller**	
200. Amounts Paid By Or In Behalf Of Borrower		**500. Reductions In Amount Due To Seller**	
201. Deposit or earnest money		501. Excess deposit (see instructions)	
202. Principal amount of new loan(s)		502. Settlement charges to seller (line 1400)	
203. Existing loan(s) taken subject to		503. Existing loan(s) taken subject to	
204.		504. Payoff of first mortgage loan	
205.		505. Payoff of second mortgage loan	
206.		506.	
207.		507.	
208.		508.	
209.		509.	
Adjustments for items unpaid by seller		**Adjustments for items unpaid by seller**	
210. City/town taxes to		510. City/town taxes to	
211. County taxes to		511. County taxes to	
212. Assessments to		512. Assessments to	
213.		513.	
214.		514.	
215.		515.	
216.		516.	
217.		517.	
218.		518.	
219.		519.	
220. Total Paid By/For Borrower		**520. Total Reduction Amount Due Seller**	
300. Cash At Settlement From/To Borrower		**600. Cash At Settlement To/From Seller**	
301. Gross Amount due from borrower (line 120)		601. Gross amount due to seller (line 420)	
302. Less amounts paid by/for borrower (line 220)	( )	602. Less reductions in amt. due seller (line 520)	( )
303. Cash ☐ **From** ☐ **To Borrower**		**603. Cash** ☐ **To** ☐ **From Seller**	

Previous Edition is Obsolete

HUD-1 (3-86)
RESPA, HB 4305.2

L. Settlement Charges			
700. Total Sales/Broker's Commission based on price $ @ % =		Paid From Borrowers Funds at Settlement	Paid From Seller's Funds at Settlement
Division of Commission (line 700) as follows:			
701. $ to			
702. $ to			
703. Commission paid at Settlement			
704.			
800. Items Payable In Connection With Loan			
801. Loan Origination Fee %			
802. Loan Discount %			
803. Appraisal Fee to			
804. Credit Report to			
805. Lender's Inspection Fee			
806. Mortgage Insurance Application Fee to			
807. Assumption Fee			
808.			
809.			
810.			
811.			
900. Items Required By Lender To Be Paid In Advance			
901. Interest from to @$ /day			
902. Mortgage Insurance Premium for months to			
903. Hazard Insurance Premium for years to			
904. years to			
905.			
1000. Reserves Deposited With Lender			
1001. Hazard insurance months@$ per month			
1002. Mortgage insurance months@$ per month			
1003. City property taxes months@$ per month			
1004. County property taxes months@$ per month			
1005. Annual assessments months@$ per month			
1006. months@$ per month			
1007. months@$ per month			
1008. months@$ per month			
1100. Title Charges			
1101. Settlement or closing fee to			
1102. Abstract or title search to			
1103. Title examination to			
1104. Title insurance binder to			
1105. Document preparation to			
1106. Notary fees to			
1107. Attorney's fees to			
(includes above items numbers:)			
1108. Title insurance to			
(includes above items numbers:)			
1109. Lender's coverage $			
1110. Owner's coverage $			
1111.			
1112.			
1113.			
1200. Government Recording and Transfer Charges			
1201. Recording fees: Deed $; Mortgage $; Releases $			
1202. City/county tax/stamps: Deed $; Mortgage $			
1203. State tax/stamps: Deed $; Mortgage $			
1204.			
1205.			
1300. Additional Settlement Charges			
1301. Survey to			
1302. Pest inspection to			
1303.			
1304.			
1305.			
1400. Total Settlement Charges (enter on lines 103, Section J and 502, Section K)			

Public Reporting Burden for this collection of information is estimated to average 0.25 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600; and to the Office of Management and Budget, Paperwork Reduction Project (2502-0265), Washington, D.C. 20503

U.S. GOVERNMENT PRINTING OFFICE: 1993 O—394-248

Settlement Statement
Optional Form for
Transactions without Sellers

U.S. Department of Housing and Urban Development

OMB Approval No. 2502-0491

Name & Address of Borrower:	Name & Address of Lender:
Property Location: (if different from above)	Settlement Agent:
	Place of Settlement:
Loan Number:	Settlement Date:

L. Settlement Charges	
800. Items Payable in Connection with Loan	
801. Loan origination fee % to	
802. Loan discount % to	
803. Appraisal fee to	
804. Credit report to	
805. Inspection fee to	
806. Mortgage insurance application fee to	
807. Mortgage broker fee to	
808.	
809.	
810.	
811.	
900. Items Required by Lender to be Paid in Advance	
901. Interest from to @$ per day	
902. Mortgage insurance premium for months to	
903. Hazard insurance premium for year(s) to	
904.	
1000. Reserves Deposited with Lender	
1001. Hazard insurance months @ $ per month	
1002. Mortgage insurance months @ $ per month	
1003. City property taxes months @ $ per month	
1004. County property taxes months @ $ per month	
1005. Annual assessments months @ $ per month	
1006. months @ $ per month	
1007. months @ $ per month	
1008. months @ $ per month	
1100. Title Charges	
1101. Settlement or closing fee to	
1102. Abstract or title search to	
1103. Title examination to	
1104. Title insurance binder to	
1105. Document preparation to	
1106. Notary fees to	
1107. Attorney's fees to (includes above item numbers)	
1108. Title insurance to (includes above item numbers)	
1109. Lender's coverage $	
1110. Owner's coverage $	
1111.	
1112.	
1113.	
1200. Government Recording and Transfer Charges	
1201. Recording fees:	
1202. City/county tax/stamps:	
1203. State tax/stamps:	
1204.	
1205.	
1300. Additional Settlement Charges	
1301. Survey to	
1302. Pest inspection to	
1303. Architectural/engineering services to	
1304. Building permit to	
1305.	
1306.	
1307.	
1400. Total Settlement Charges (enter on line 1602)	

M. Disbursement to Others	
1501.	
1502.	
1503.	
1504.	
1505.	
1506.	
1507.	
1508.	
1509.	
1510.	
1511.	
1512.	
1513.	
1514.	
1515.	
1520. TOTAL DISBURSED (enter on line 1603)	

N. NET SETTLEMENT	
1600. Loan Amount	$
1601. **Plus** Cash/Check from Borrower	$
1602. **Minus** Total Settlement Charges (line 1400)	$
1603. **Minus** Total Disbursements to Others (line 1520)	$
1604. **Equals** Disbursements to Borrower (after expiration of any applicable rescission period required by law)	$

Borrower(s) Signature(s):

X

form HUD-1A (2/94)
ref. RESPA

Public reporting burden for this collection of information is estimated to average 0.35 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (2502-0491), Washington, D.C. 20503. Do not send this completed form to either of these addresses.

Instructions for completing form HUD-1A

Note: This form is issued under authority of the Real Estate Settlement Procedures Act (RESPA), 12 U.S.C. 2601 *et seq.* The regulation for RESPA is Regulation X, codified as 24 CFR 3500, and administered by the Department of Housing and Urban Development (HUD). Regulation Z referred to in the next paragraph is the regulation implementing the Truth in Lending Act (TILA), 15 U.S.C. 1601 *et seq.* and codified as 12 CFR part 226.

HUD-1A is an optional form that may be used for refinancing and subordinate lien federally related mortgage loans, as well as for any other one-party transaction that does not involve the transfer of title to residential real property. The HUD-1 form may also be used for such transactions, by utilizing the borrower's side of the HUD-1 and following the relevant parts of the instructions set forth in Appendix A of Regulation X. The use of either the HUD-1 or HUD-1A is not mandatory for open-end lines of credit (home-equity plans), as long as the provisions of Regulation Z are followed.

Background

The HUD-1A settlement statement is to be used as a statement of actual charges and adjustments to be given to the borrower at settlement. The instructions for completion of the HUD-1A are for the benefit of the settlement agent who prepares the statement; the instructions are not a part of the statement and need not be transmitted to the borrower. There is no objection to using the HUD-1A in transactions in which it is not required, and its use in open-end lines of credit transactions (home-equity plans) is encouraged. It may not be used as a substitute for a HUD-1 in any transaction in which there is a transfer of title and a first lien is taken as security.

Refer to the "definitions" section of Regulation X for specific definitions of terms used in these instructions.

General Instructions

Information and amounts may be filled in by typewriter, hand printing, computer printing, or any other method producing clear and legible results. Additional pages may be attached to the HUD-1A for the inclusion of customary recitals and information used locally for settlements or if there are insufficient lines on the HUD-1A.

The settlement agent shall complete the HUD-1A to itemize all charges imposed upon the borrower by the lender, whether to be paid at settlement or outside of settlement, and any other charges that the borrower will pay for at settlement. In the case of "no cost" or "no point" loans, these charges include any payments the lender will make to affiliated or independent settlement service providers relating to this settlement. These charges shall be included on the HUD-1A, but marked "P.O.C." for "paid outside of closing," and shall not be used in computing totals. Such charges also include indirect payments or back-funded payments to mortgage brokers that arise from the settlement transaction. When used, "P.O.C." should be placed in the appropriate lines next to the identified item, ***not in the columns themselves.***

Blank lines are provided in Section L for any additional settlement charges. Blank lines are also provided in Section M for recipients of all or portions of the loan proceeds. The names of the recipients of the settlement charges in Section L and the names of the recipients of the loan proceeds in Section M should be set forth on the blank lines.

Line Item Instructions

The identification information at the top of the HUD-1A should be completed as follows:

The borrower's name and address is entered in the space provided. If the property securing the loan is different from the borrower's address, the address or other location information on the property should be entered in the space provided. The loan number is the lender's identification number for the loan. The settlement date is the date of settlement in accordance with § 3500.2 of Regulation X, not the end of any applicable rescission period. The name and address of the lender should be entered in the space provided.

Section L. Settlement Charges. This section of the HUD-1A is similar to section L of the HUD-1, with the deletion of lines 700 through 704, relating to real estate broker commissions. The Instructions for filling out the HUD-1 as set forth in Appendix A of Regulation X provide additional information regarding Section L, if needed.

Line 1400 in the HUD-1A is for the total settlement charges charged to the borrower. Enter this total on line 1602 as well. This total should include Section L amounts from additional pages, if any are attached to this HUD-1A.

Section M. Disbursement to Others. This section is used to list payees, other than the borrower, of all or portions of the loan proceeds (including the lender, if the loan is paying off a prior loan made by the same lender), when the payee will be paid directly out of the settlement proceeds. It is not used to list payees of settlement charges, nor to list funds disbursed directly to the borrower, even if the lender knows the borrower's intended use of the funds.

For example, in a refinancing transaction, the loan proceeds are used to pay off an existing loan. The name of the lender for the loan being paid off and the pay-off balance would be entered in Section M. In a home improvement transaction when the proceeds are to be paid to the home improvement contractor, the name of the contractor and the amount paid to the contractor would be entered in Section M. In a consolidation loan, or when part of the loan proceeds is used to pay off other creditors, the name of each creditor and the amount paid to that creditor would be entered in Section M. If the proceeds are to be given directly to the borrower and the borrower will use the proceeds to pay off existing obligations, this would not be reflected in Section M.

Section N. Net Settlement. Line 1600 normally sets forth the principal amount of the loan as it appears on the related note for this loan. In the event this form is used for an open-ended home equity line whose approved amount is greater than the initial amount advanced at settlement, the amount shown on Line 1600 will be the loan amount advanced at settlement. Line 1601 is used for all settlement charges that are both included in the totals for lines 1400 and 1602 and are not financed as part of the principal amount of the loan. This is the amount normally received by the lender from the borrower at settlement, which would occur when some or all of the settlement charges were paid in cash by the borrower at settlement, instead of being financed as part of the principal amount of the loan. Failure to include any such amount in line 1601 will result in an error in the amount calculated on line 1604. P.O.C. amounts should not be included in line 1601.

Line 1602 is the total amount from line 1400.

Line 1603 is the total amount from line 1520.

Line 1604 is the amount disbursed to the borrower. This is determined by adding together the amounts for lines 1600 and 1601, and then subtracting any amounts listed on lines 1602 and 1603.

BILLING CODE 4210-27-C

14. Appendix B to part 3500 is amended by adding illustration 13 at the end of the appendix, to read as follows:

Appendix B to Part 3500—Illustration of Requirements of RESPA

* * * * *

13. *Facts.* A is a dealer in home improvements who has established funding arrangements with several lenders. Customers for home improvements receive a proposed contract from A. The proposal requires that customers both execute forms authorizing a credit check and employment verification, and, frequently, execute a dealer consumer credit contract secured by a lien on the customer's (borrower's) 1- to 4-family residential property. Simultaneously with the completion and certification of the home improvement work, the note is assigned by the dealer to a funding lender.

Comments. The loan that is assigned to the funding lender is a loan covered by RESPA, when a lien is placed on the borrower's 1- to 4-family residential structure. The dealer loan or consumer credit contract originated by a dealer is also a RESPA-covered transaction, except when the dealer is not a "creditor" under the definition of "federally related mortgage loan" in § 3500.2. The lender to whom the loan will be assigned is responsible for assuring that the lender or the dealer delivers to the borrower a Good Faith Estimate of closing costs consistent with Regulation X, and that the HUD–1 or HUD–1A Settlement Statement is used in conjunction with the settlement of the loan to be assigned. A dealer who, under § 3500.2, is covered by RESPA as a creditor is responsible for the Good Faith Estimate of Closing Costs and the use of the appropriate settlement statement in connection with the loan.

15. Appendix C to part 3500 is amended by revising the second paragraph and the last paragraph before the footnotes; by revising the heading in the second column of the chart to read "HUD–1 or HUD–1A"; and by removing the last sentence, beginning with "A lender will provide you", in footnote 1, to read as follows:

Appendix C to Part 3500—Sample Form of Good Faith Estimate

* * * * *

The numbers listed beside the estimates generally correspond to the numbered lines contained in the HUD–1 or HUD–1A settlement statement that you will be receiving at settlement. The HUD–1 or HUD–1A settlement statement will show you the actual cost for items paid at settlement.

* * * * *

These estimates are provided pursuant to the Real Estate Settlement Procedures Act of 1974, as amended (RESPA). Additional information can be found in the HUD Special Information Booklet, which is to be provided to you by your mortgage broker or lender, if your application is to purchase residential real property and the Lender will take a first lien on the property.

* * * * *

Dated: February 4, 1994.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 94–3035 Filed 2–9–94; 8:45 am]

BILLING CODE 4210–27–P

federal register

Thursday
February 10, 1994

Part VI

Department of Commerce

Bureau of Export Administration

15 CFR Parts 770, 771, and 785
Exports to Vietnam; Country Group Y; Rule

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 770, 771, and 785

[Docket No. 940233–4033]

Exports to Vietnam; Country Group Y

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: On February 3, 1994, President Clinton stated that he was lifting the trade embargo against Vietnam because he determined that this step offers the best way to resolve the fate of our prisoners of war and missing in action. Accordingly, the Bureau of Export Administration (BXA) is amending the Export Administration Regulations (EAR) by removing Vietnam from the Country Group Z list of embargoed countries, placing Vietnam in Country Group Y, and revising certain licensing policies and procedures for Vietnam. Since Vietnam is a COCOM proscribed destination, it will share the same licensing policy with most other Group Y countries.

This rule also removes General License G–NGO, which authorized exports of donated humanitarian shipments to Vietnam by non-government organizations, and removes General License GVN, which authorized shipments to Vietnam in support of activities licensed by Treasury's Office of Foreign Assets Control.

EFFECTIVE DATE: This rule is effective 5:05 PM EST, February 3, 1994.

FOR FURTHER INFORMATION CONTACT: David Schlechty, Country Policy Branch, Office of Technology and Policy Analysis, Bureau of Export Administration, Telephone: (202) 482–4252.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

1. This rule was not subject to review by the Office of Management and Budget under Executive Order 12866.

2. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control numbers 0694–0005 and 0694–0010.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553), or by any other law, under section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)), no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. The provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a foreign and military affairs function of the United States. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Patricia Muldonian, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, 14th Street and Pennsylvania Ave., NW., room 4054, Washington, DC 20230.

List of Subjects

15 CFR Part 770

Administrative practice and procedure, Exports.

15 CFR Part 771

Exports, Reporting and recordkeeping requirements.

15 CFR Part 785

Communist countries, Exports.

Accordingly, parts 770, 771, and 785 of the Export Administration Regulations (15 CFR parts 730–799) are amended as follows:

1. The authority citation for parts 770 and 771 continues to read as follows:

Authority: Pub. L. 90–351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; sec. 101, Pub. L. 93–153, 87 Stat. 576 (30 U.S.C. 185), as amended; sec. 103, Pub. L. 94–163, 89 Stat. 877 (42 U.S.C. 6212), as amended; secs. 201 and 201(11)(e), Pub. L. 94–258, 90 Stat. 309 (10 U.S.C. 7420 and 7430(e)), as amended; Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); sec. 208, Pub. L. 95–372, 92 Stat. 668 (43 U.S.C. 1354); Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended (extended by Pub. L. 103–10, 107 Stat. 40); sec. 125, Pub. L. 99–64, 99 Stat. 156 (46 U.S.C. 466c); E.O 11912 of April 13, 1976 (41 FR 15825, April 15, 1976); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978); E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 11, 1992 (57 FR 53979, November 13, 1992); and E.O. 12868 of September 30, 1993 (58 FR 51747, October 4, 1993).

2. The authority citation for Part 785 continues to read as follows:

Authority: Pub. L. 90–351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended (extended by Pub. L. 103–10, 107 Stat. 40); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978); E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 11, 1992 (57 FR 53979, November 13, 1992); and E.O. 12868 of September 30, 1993 (58 FR 51747, October 4, 1993).

PART 770—[AMENDED]

3. Supplement No. 1 to Part 770 is amended, under the heading "Country Group Y", by adding the term "Vietnam" in alphabetical order and by removing the term "Vietnam" under the heading "Country Group Z".

PART 771—[AMENDED]

§ 771.27 [Removed]

4. Section 771.27 is removed.

§ 771.28 [Removed]

5. Section 771.28 is removed.

PART 785—[AMENDED]

6. In § 785.1, the section heading and paragraph (a) are amended to read as follows:

§ 785.1 Country Group Z [1]: Cuba and North Korea.

(a) As authorized by section 6 of the Export Administration Act of 1979, as amended (EAA) and by the Trading With the Enemy Act of 1917 as amended by Public Law 95–223, a validated license is required for foreign policy purposes for the export and reexport of virtually all U.S.-origin commodities and technical data to destinations in Country Group Z. Certain exceptions are contained in parts 771 and 779 of this subchapter, and in ECCN 0A98 on the Commerce Control List (Supplement No. 1 to § 799.1 of this subchapter). Except as noted below, the general policy is to deny all applications or requests to export or reexport U.S.-origin commodities and technical data to these

[1] See Supplement No. 1 to part 770 of this subchapter for a listing of Country Groups.

destinations. Exports of donations to meet basic human needs may be authorized under a Humanitarian License, as described in § 773.5 of this subchapter. Such exports may also be authorized for single transactions under an individual validated license. Exports to meet emergency needs that do not qualify for export under the Humanitarian License procedure will be considered on a case-by-case basis. Exports of commercially-supplied goods to meet basic human needs may be authorized under an individual validated license on a case-by-case basis for destinations in North Korea. The types of commodities that may be supplied commercially to meet basic human needs are the same as those types of commodities described in Supplement No. 7 to part 773 of this subchapter, but are not restricted solely to small scale projects at the local level.

* * * * *

7. Section 785.2 is amended by revising the section heading and by revising the phrase "Poland, Romania, and the Slovak Republic only" to read "Poland, Romania, the Slovak Republic and Vietnam only" in paragraph (a)(1), as follows:

§ 785.2 Country Group Q, W, and Y [2]: Geographic area of the former U.S.S.R., Eastern Europe, Mongolia, Cambodia, Laos, and Vietnam.

* * * * *

Dated: February 4, 1994.

Sue E. Eckert,

Assistant Secretary for Export Administration.

[FR Doc. 94–3124 Filed 2–7–94; 3:49 pm]

BILLING CODE 3510–DT–P

[2] See Supplement No. 1 to part 770 of this subchapter for listing of Country Groups.

federal register

Thursday
February 10, 1994

Part VII

Department of Commerce

Bureau of Export Administration

15 CFR Parts 768, et al.

Request for Comments on Simplification of the Export Administration Regulations; Proposed Rule

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 768 and 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 785, 786, 787, 788, 789, 790, 791 and 799

[Docket No. 940230–4030]

RIN 0694–AA67

Request for Comments on Simplification of the Export Administration Regulations

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Advance notice of proposed revision and simplification of export administration regulations; request for comments.

SUMMARY: Consistent with the export reform measures announced by the Administration in the Trade Promotion Coordinating Committee Report, the Bureau of Export Administration is undertaking a comprehensive review of the Export Administration Regulations. This review is intended to simplify, clarify, and to make the export control regulatory requirements more user-friendly.

This advance notice and request for comments is being issued to solicit public comments from industry and the interested public before BXA begins to draft revisions of the regulations.

DATES: Comments should be received by March 28, 1994.

ADDRESSES: Written comments (six copies) should be sent to Patricia Muldonian, Regulations Branch (Room 4054), Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Patricia Muldonian, Office of Technology and Policy Analysis, Bureau of Export Administration, telephone: (202) 482–2440.

SUPPLEMENTARY INFORMATION: On September 30, 1993, the Secretary of Commerce submitted to the Congress a report of the Trade Promotion Coordinating Committee (TPCC), entitled Toward a National Export Strategy. This report included the following among its goals:

> Undertake a comprehensive review of the Export Administration Regulations to simplify, clarify, and make the regulations more user-friendly. Working with industry, the simplification exercise will be completed in 1994.

The Bureau of Export Administration (BXA) is providing advance notice that, consistent with the TPCC report, it is initiating a review of the Export Administration Regulations contained in parts 730 to 799 of title 15 of the Code of Federal Regulations (EAR). In this connection, and before BXA starts to draft proposed regulations, it is requesting comments from industry and the interested public.

This review of the EAR will be comprehensive, and it will include a reexamination of the basic approaches to export controls as they are currently administered under the EAR. The primary focus of this review will be on the export-related provisions of the EAR. Consequently, BXA does not intend to include in this review the antiboycott regulations set forth in EAR Part 769. BXA is especially interested in comments that suggest innovative alternative methods for BXA to carry out its statutory export control responsibilities with minimal interference to U.S. trade and competitiveness. BXA is also interested in proposals to improve and simplify the overall structure of the EAR, and in specific comments relating to the following:

(1) Can some license obligations be replaced with pre-shipment or post-shipment notifications?

(2) Should the general license provisions of the EAR be revised? Can certain general licenses be combined? Are there alternatives to the general license concept?

(3) Should reexport controls be modified? Continued?

(4) How can the structure of the Commerce Control List (CCL) be improved? Are there alternative approaches to the CCL? Can it be renumbered/restructured? Can it be harmonized with other systems?

(5) Are there alternatives to the "Country Group" approach currently used in the EAR?

(6) How should the EAR deal with controls on products of technical data, written assurance requirements, and parts and components controls? Are there alternative approaches?

(7) How should documentation requirements, such as Import Certificates and Destination Control Statements, be modified? Should forms used by BXA, *e.g.*, BXA–622P (Application for Export License), BXA–685P (Request for Amendment Request), or BXA–699P (Request for Reexport Authorization), be changed, eliminated, or consolidated (with other BXA forms or other agency forms)? Should document retention requirements be modified?

(8) Should the EAR provide for "License Free" zones?

(9) What revisions should be made to the special licensing procedures (Distribution License, Project License, Service Supply Procedure, etc.)? Are there more effective alternatives?

(10) How should the EAR apply to unique situations such as the electronic transmittal of technology and software, international movement of aircraft and vessels, *etc.*?

(11) Are there new enforcement programs, practices or policies that could enhance the government's ability to detect and prevent violations of the EAR, while negatively impacting as little as possible on law-abiding exporters?

All comments on improving and simplifying the EAR are welcome and will be reviewed and considered in the course of rewriting the EAR. Comments on policy issues, however, such as changes in the export licensing policies to specific countries or regions, are outside the scope of this regulatory review and should not be submitted.

Upon receipt and review of comments, BXA will draft proposed regulations and publish them in the **Federal Register** for comment. Following consideration of comments on the proposed regulations, BXA plans to publish final regulations by the end of 1994.

BXA intends that all information obtained from the public in connection with this notice be a matter of public record. Comments received will be available for public inspection and copying. BXA will not accept submissions made on a confidential basis. Communications between agencies of the United States Government or with foreign governments will not be made available for public inspection.

In the interest of accuracy and completeness, BXA requires written comments. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying.

The public record concerning these comments will be maintained in the Freedom of Information Records Inspection Facility, Room 4525, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue NW., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in part 4 of title 15 of the Code of Federal Regulations. Information about inspection and copying of records at this facility may be obtained from Margaret Cornejo, BXA Freedom of Information Officer, at the above address or by calling (202) 482–5653.

Dated: February 7, 1994.

Barry E. Carter,

Acting Under Secretary for Export Administration.

[FR Doc. 94–3125 Filed 2–7–94; 8:45 am]

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LIST OF PUBLIC LAWS

Note: The list of Public Laws for the first session of the 103d Congress has been completed and will resume when bills are enacted into law during the second session of the 103d Congress, which convenes on January 25, 1994.

A cumulative list of Public Laws for the first session of the 103d Congress was published in Part IV of the **Federal Register** on January 3, 1994.

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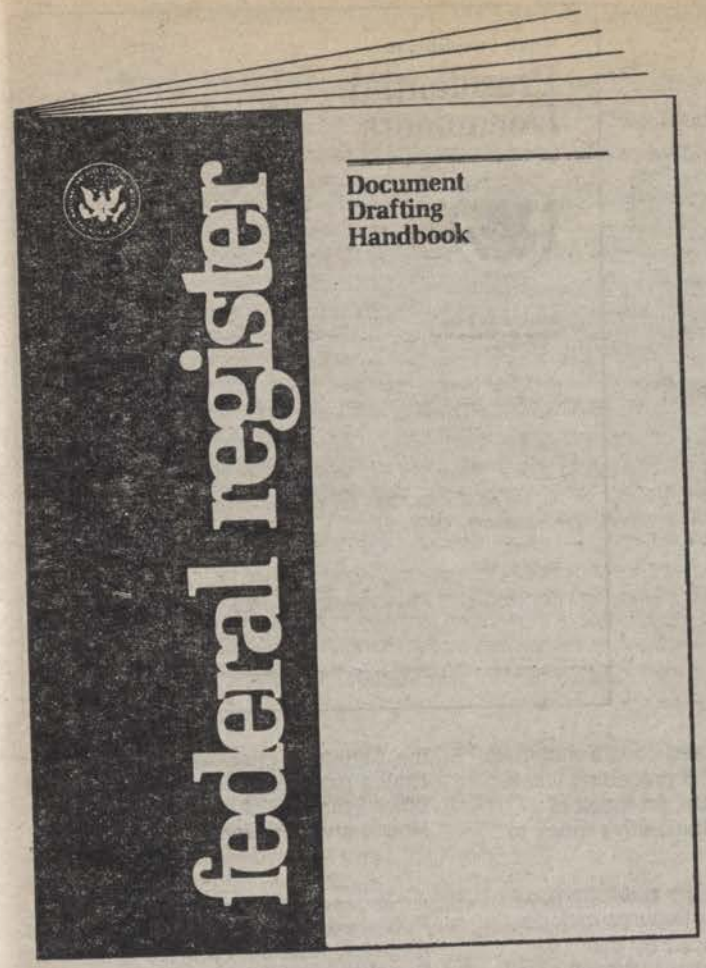

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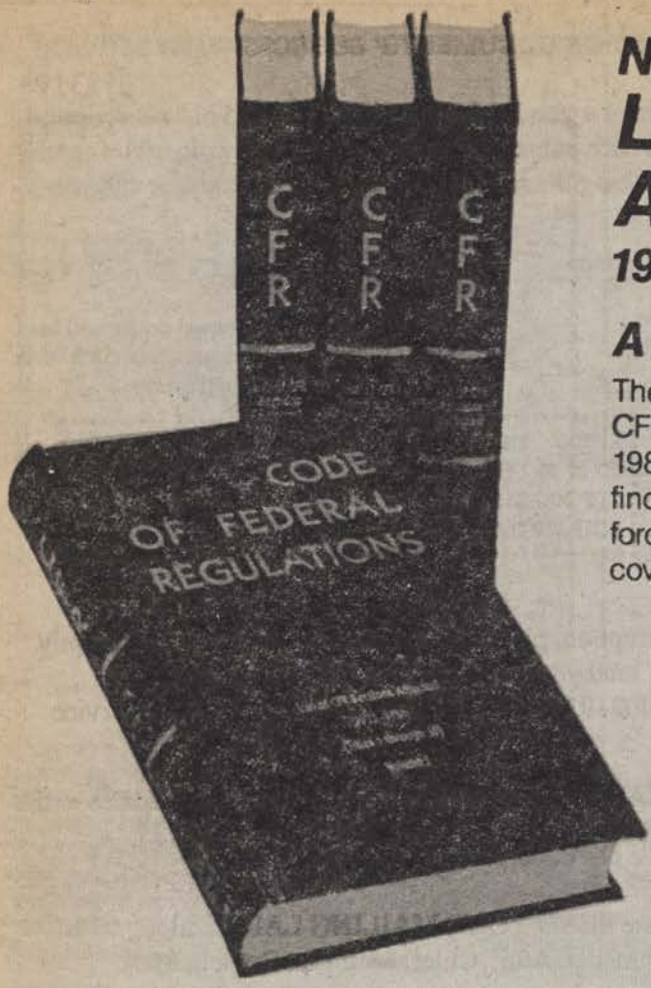

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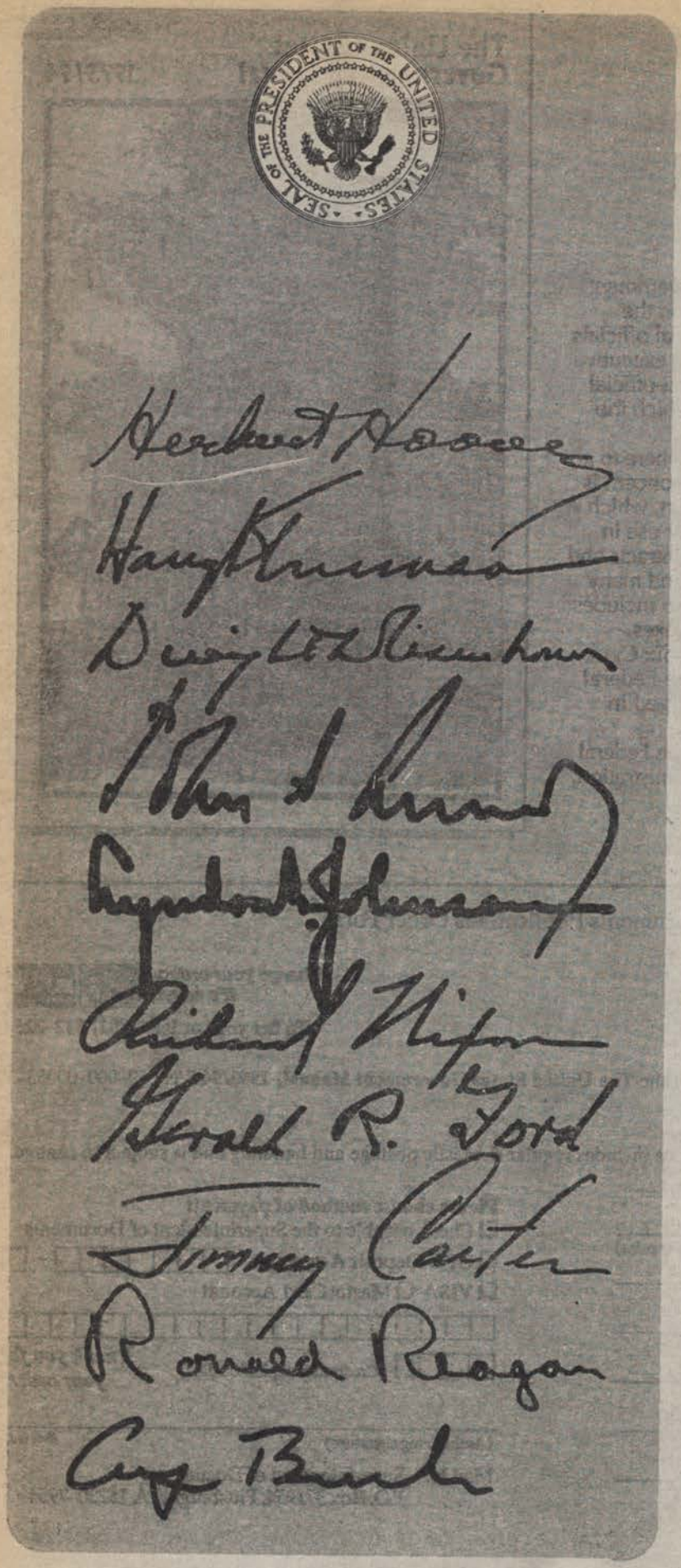

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