6–29–94
Vol. 59 No. 124

federal register

Wednesday
June 29, 1994

NOW AVAILABLE ONLINE!
Subscribe Now ... Only $375 Per Year
See Page II for Details.

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)

6–29–94
Vol. 59 No. 124
Pages 33413–33640

Wednesday
June 29, 1994

federal register

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The seal of the National Archives and Records Administration authenticates this issue of the **Federal Register** as the official serial publication established under the Federal Register Act. 44 U.S.C. 1507 provides that the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper, 24x microfiche and as an online database through *GPO Access*, a service of the U.S. Government Printing Office. The online database is updated by 6 a.m. each day the **Federal Register** is published. The database includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward. It is available on a Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. The annual subscription fee for a single workstation is $375. Six-month subscriptions are available for $200 and one month of access can be purchased for $35. Discounts are available for multiple-workstation subscriptions. To subscribe, Internet users should telnet to wais.access.gpo.gov and login as newuser (all lower case); no password is required. Dial in users should use communications software and modem to call (202) 512–1661 and login as wais (all lower case); no password is required; at the second login prompt, login as newuser (all lower case); no password is required. Follow the instructions on the screen to register for a subscription for the **Federal Register** Online via *GPO Access*. For assistance, contact the *GPO Access* User Support Team by sending Internet e-mail to help@eids05.eids.gpo.gov, or a fax to (202) 512–1262, or by calling (202) 512–1530 between 7 a.m. and 5 p.m. Eastern time, Monday through Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $444, or $490 for a combined **Federal Register**, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $403. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $6.00 for each issue, or $6.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA or MasterCard. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 59 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–783–3238**
Assistance with public subscriptions	**512–2303**

Online:

Telnet wais.access.gpo.gov, login as newuser <enter>, no password <enter>; or use a modem to call (202) 512–1661, login as wais, no password <enter>, at the second login as newuser <enter>, no password <enter>.

Assistance with online subscriptions	**202–512–1530**

Single copies/back copies:

Paper or fiche	**783–3238**
Assistance with public single copies	**512–2457**

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	**523–5243**
Assistance with Federal agency subscriptions	**523–5243**

For other telephone numbers, see the Reader Aids section at the end of this issue.

Printed on recycled paper containing 100% post consumer waste

Contents

Federal Register
Vol. 59, No. 124
Wednesday, June 29, 1994

Agency for International Development
RULES
Acquisition regulations:
Miscellaneous amendments, 33444–33447

Agricultural Marketing Service
RULES
Avocados grown in Florida, 33417–33418
Milk marketing orders:
Southern Michigan, 33418–33420
PROPOSED RULES
Kiwifruit grown in California, and imported, 33451–33453
Milk marketing orders:
Eastern Colorado, 33455–33456
Vegetables and specialty crops; import regulations:
Onions, 33453–33455
NOTICES
Meetings:
Burley Tobacco Advisory Committee, 33485

Agricultural Research Service
NOTICES
Patent licenses; non-exclusive, exclusive, or partially exclusive:
Continental Grain Co., 33486

Agricultural Stabilization and Conservation Service
NOTICES
Feed grain donations:
Pueblo of Laguna Indian Reservation, NM, 33485–33486

Agriculture Department
See Agricultural Marketing Service
See Agricultural Research Service
See Agricultural Stabilization and Conservation Service
See Commodity Credit Corporation
NOTICES
Agency information collection activities under OMB review, 33485

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Centers for Disease Control and Prevention
NOTICES
Grants and cooperative agreements; availability, etc.:
Computer image-based cytology proficiency test pilot program, 33507–33508
Hazardous waste clean-up activities; workforce occupational training, 33509–33510
National breast and cervical cancer early detection program, 33510–33515
American Indian initiative, 33515–33520

Coast Guard
RULES
Ports and waterways safety:
Columbia River, WA; safety zone, 33434–33435
Willamette River, OR; safety zone, 33435–33436
Regattas and marine parades:
Night in Venice Boat Parade, 33433
Pony Penning Swim, 33433–33434
Welcome America Fireworks Display and Lighted Boat Parade, 33434
NOTICES
Meetings:
Wooden boat inspection; workshop, 33567

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration
NOTICES
Agency information collection activities under OMB review, 33486

Commodity Credit Corporation
NOTICES
Feed grain donations:
Pueblo of Laguna Indian Reservation, NM, 33485–33486

Defense Department
PROPOSED RULES
Civilian health and medical program of uniformed services (CHAMPUS):
Inpatient mental health services care standards and reimbursement methods, 33465–33483
NOTICES
Committees; establishment, renewal, termination, etc.:
Defense Labor-Management Partnership Council, 33490
Meetings:
Science Board, 33490
Senior Executive Service:
Performance Review Boards; membership, 33490–33491

Drug Enforcement Administration
NOTICES
Applications, hearings, determinations, etc.:
Penick Corp., 33544
Wildlife Laboratories, Inc., 33544–33545

Education Department
RULES
Postsecondary education:
Federal family education loan program, 33580–33596
NOTICES
Privacy Act:
Systems of records, 33491–33494

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Grant and cooperative agreement awards:
Roof Science Corp., 33496
Grants and cooperative agreements; availability, etc.:
Alternative fuels and alternative fuel vehicles; State demonstration programs, 33494–33496
Meetings:
Environmental Management Advisory Board, 33496

Environmental Protection Agency
RULES
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
12-Hydroxystearic acid-polyethylene glycol copolymer, etc., 33437–33439

Ampelomyces quisqualis isolate M10, 33436–33437
NOTICES
Pesticide, food, and feed additive petitions:
Valent U.S.A. Corp. et al., 33503–33504
Pesticide registration, cancellation, etc.:
DowElanco Co., 33504–33505
Mole-Med, 33505
Pronamide, etc., 33505–33506
Pesticides; emergency exemptions, etc.:
Norflurazon, etc., 33502–33503
Pesticides; temporary tolerances:
Abamectin, 33506

Executive Office of the President
See Presidential Documents

Federal Aviation Administration
RULES
Air carrier certification and operations:
Commuter air carrier and air taxi aircraft; exit seating for on-demand operations; rule exclusion, 33602–33604
Class E airspace, 33421–33422
Standard instrument approach procedures, 33422–33430
PROPOSED RULES
Airworthiness standards:
Rotorcraft; transport category—
Takeoff distances determination, etc., 33598–33599
Rulemaking petitions; summary and disposition, 33457
NOTICES
Airport rates and charges; policy statement; meeting, 33567–33568
Class C airspace, 33568–33569
Exemption petitions; summary and disposition, 33569–33571
Meetings:
Aviation Rulemaking Advisory Committee, 33571

Federal Communications Commission
PROPOSED RULES
Radio services, special:
LMDS/FSS 28 GHz Band Negotiated Rulemaking Committee; meetings, 33483

Federal Election Commission
RULES
Presidential nominating conventions, publicly financed; transmittal to Congress, 33606–33624

Federal Emergency Management Agency
RULES
Flood elevation determinations:
Florida et al., 33442–33444
Illinois et al., 33439–33441
Minnesota et al., 33441–33442
NOTICES
Hotel and Motel Fire Safety Act; national master list, 33626–33639

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
Robbins Resource Recovery Co. et al., 33497–33499
Natural gas certificate filings:
Texas Eastern Transmission Corp. et al., 33499–33501
Applications, hearings, determinations, etc.:
Colorado Interstate Gas Co., 33501
Kansas City Power & Light Co., 33501
Washington Natural Gas Co., 33501–33502

Federal Maritime Commission
NOTICES
Agreements filed, etc., 33506–33507

Federal Railroad Administration
NOTICES
Meetings:
Northeast Corridor Safety Committee, 33571

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
Mount Hermon June beetle, etc. (three insects from Santa Cruz Mountains, CA), 33484
NOTICES
Endangered and threatened species permit applications, 33540–33541

Food and Drug Administration
RULES
Organization, functions, and authority delegations:
Center for Drug Evaluation and Research, 33430–33431

Health and Human Services Department
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Care Financing Administration
See National Institutes of Health
See Public Health Service

Health Care Financing Administration
NOTICES
Medicare:
Intermittent positive pressure breathing machine therapy; coverage limitations, 33520–33536

Health Resources and Services Administration
See Public Health Service

Interior Department
See Fish and Wildlife Service
See Land Management Bureau

Internal Revenue Service
RULES
Income taxes:
Preparer penalties; manual signature requirement, 33431–33433

International Development Cooperation Agency
See Agency for International Development

International Trade Administration
NOTICES
Antidumping:
Color television receivers from—
Korea, 33486–33489

International Trade Commission
NOTICES
Import investigations:
Devices for connecting computers via telephone lines, 33542
Disposable lighters from—
China and Thailand, 33542
Microsphere adhesives, process for making same, and products containing same, including self-stick repositionable notes, 33542–33543

Steel wire rod from—
Belgium, 33543–33544

Justice Department
See Drug Enforcement Administration
RULES
Earthquake Hazards Reduction Act:
Seismic safety program in Federal and federally assisted or regulated new building construction; correction, 33439
PROPOSED RULES
Civil and criminal forfeitures, remission or mitigation petitions; procedures, 33457–33465
NOTICES
Pollution control; consent judgments:
Coated Sales, Inc., et al., 33544

Labor Department
See Pension and Welfare Benefits Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Women in Apprenticeship and Nontraditional Occupations Act competition, 33545–33547

Land Management Bureau
NOTICES
Withdrawal and reservation of lands:
New Mexico, 33541–33542

Libraries and Information Science, National Commission
See National Commission on Libraries and Information Science

National Commission on Libraries and Information Science
NOTICES
Meetings; Sunshine Act, 33577

National Credit Union Administration
RULES
Credit unions:
Organization and operations, and insurance requirements—
Fiscal and insurance years; changes, 33420–33421

National Foundation on the Arts and the Humanities
NOTICES
Grants and cooperative agreements; availability, etc.:
Opera-musical theater program; site visits administration, 33555

National Highway Traffic Safety Administration
NOTICES
Motor vehicle safety standards:
Nonconforming vehicles—
Importation eligibility; determinations, 33571–33574

National Institutes of Health
NOTICES
Meetings:
National Institute of Environmental Health Sciences, 33537
Research Grants Division Behavioral and Neurosciences Special Emphasis Panel, 33537

National Oceanic and Atmospheric Administration
RULES
Endangered and threatened species:
Sea turtle conservation; shrimp trawling requirements—
Turtle excluder devices; flotation devices, 33447–33450
Fishery conservation and management:
Atlantic shark, 33450
NOTICES
Permits:
Endangered and threatened species, 33489–33490

Nuclear Regulatory Commission
NOTICES
Petitions; Director's decisions:
Blanch, Paul M., 33555
Applications, hearings, determinations, etc.:
Consolidated Edison Co. of New York, Inc., 33555–33557
Indiana University School of Medicine, 33555

Pension and Welfare Benefits Administration
NOTICES
Employee benefit plans; prohibited transaction exemptions:
B&B Securities, Inc., et al., 33547–33550
Prudential Insurance Co. of America et al., 33550–33554
Smith Barney, Inc.; correction, 33554
Meetings:
Employee Welfare and Pension Benefit Plans Advisory Council, 33554–33555

Personnel Management Office
RULES
Pay administration:
Hazard pay differentials, 33415–33417

Postal Rate Commission
NOTICES
Post office closings; petitions for appeal:
Fairfield, NY, 33557

Presidential Documents
ADMINISTRATIVE ORDERS
Debt reduction for poorest and most heavily indebted countries; authority delegation to Secretary of the Treasury (Memorandum of June 20, 1994), 33413

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration
See National Institutes of Health
NOTICES
Academic medical centers; effect of managed care organizations; comment request, 33537–33540

Securities and Exchange Commission
NOTICES
Meetings; Sunshine Act, 33577
Self-regulatory organizations; proposed rule changes:
Chicago Board Options Exchange, Inc., 33557–33559
New York Stock Exchange, Inc., 33559–33561
Philadelphia Stock Exchange, Inc., 33565
Applications, hearings, determinations, etc.:
AIM Funds Group et al., 33565–33566
New York Venture Fund, Inc., et al., 33561–33565

Small Business Administration
PROPOSED RULES
Disaster-physical disaster and economic injury loans:
Judgment lien restriction waivers, 33456–33457
NOTICES
Applications, hearings, determinations, etc.:
Northwood Capital Partners, L.P., 33566–3356[illegible]

Transportation Department
See Coast Guard

See Federal Aviation Administration
See Federal Railroad Administration
See National Highway Traffic Safety Administration

Treasury Department
See Internal Revenue Service
NOTICES
Depository Institutions Disaster Relief Act study, 33574–33575
Pay and allowances, and travel, transportation, and relocation expenses and allowances; waiver of claims for erroneous payments, 33575–33576

Separate Parts In This Issue

Part II
Department of Education, 33580–33596

Part III
Department of Transportation, Federal Aviation Administration, 33598–33599

Part IV
Department of Transportation, Federal Aviation Administration, 33602–33604

Part V
Federal Election Commission, 33606–33624

Part VI
Federal Emergency Management Agency, 33626–33639

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

Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR
Administrative Orders:
Memorandums:
June 20, 1994 33413

5 CFR
550 33415

7 CFR
915 33417
1040 33418
Proposed Rules:
920 33451
944 33451
980 33453
1137 33455

11 CFR
107 33606
114 33606
9008 33606

12 CFR
701 33420
741 33420

13 CFR
Proposed Rules:
123 33456

14 CFR
71 33421
97(3 documents) 33422, 33424, 33428
135 33602
Proposed Rules:
Ch. I 33457
29 33598

21 CFR
5 33430

26 CFR
1 33431
602 33431

28 CFR
Proposed Rules:
9 33457

32 CFR
Proposed Rules:
199 33465

33 CFR
100(3 documents) 33433, 33434
165(2 documents) 33434, 33435

34 CFR
682 33580

40 CFR
180(2 documents) 33436, 33437

41 CFR
128-1 33439

44 CFR
65(2 documents) 33439, 33441
67 33442

47 CFR
Proposed Rules:
Ch. I 33483

48 CFR
701 33444
702 33444
703 33444
706 33444
710 33444
715 33444
724 33444
725 33444
728 33444
737 33444
749 33444
750 33444
752 33444
753 33444
Appendix H 33444

50 CFR
227 33447
678 33450
Proposed Rules:
17 33484

Federal Register
Vol. 59, No. 124
Wednesday, June 29, 1994

Presidential Documents

Title 3—

The President

Memorandum of June 20, 1994

Delegation of Authority With Respect to Debt Reduction for the Poorest Countries

Memorandum for the Secretary of the Treasury

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 570 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994 (Public Law 103–87) (the "Act"), section 14 of the Export-Import Bank Act of 1945 (12 U.S.C. 635–635i–8), and section 301 of title 3 of the United States Code, it is hereby ordered as follows:

1. There are delegated to the Secretary of the Treasury, in consultation with the Secretary of State and the Secretary of Defense, the functions, authorities, and duties conferred upon the President by section 570(a) of the Act.

2. There are delegated to the Secretary of the Treasury, in consultation with the Secretary of State and the President of the Export-Import Bank, the functions, authorities, and duties conferred upon the President by section 570(b) of the Act and section 14(a) of the Export-Import Bank Act of 1945 (12 U.S.C. 635–635i–8).

The Secretary of the Treasury is authorized and directed to publish this memorandum in the **Federal Register**.

William J. Clinton

THE WHITE HOUSE,
Washington, June 20, 1994.

[FR Doc. 94–16007
Filed 6–27–94; 4:22 pm]
Billing code 4810–31–M

Rules and Regulations

Federal Register
Vol. 59, No. 124
Wednesday, June 29, 1994

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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 550

RIN 3206–AE31

Pay Administration (General); Hazard Pay Differentials

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations on the hazardous duty pay differential program for General Schedule employees, as amended by the Federal Employees Pay Comparability Act of 1990 (FEPCA). The final rule delegates authority to agencies to authorize payment of a differential to an employee when the hazardous duty has been taken into account in the classification of his or her position, clarifies when a hazard has been taken into account in the classification of a position, and clarifies the circumstances under which a hazard pay differential may be terminated.

EFFECTIVE DATE: The final rule is effective on July 29, 1994.

FOR FURTHER INFORMATION CONTACT: Frank Hong, (202) 606–2858.

SUPPLEMENTARY INFORMATION: On May 3, 1991, (56 FR 20343) the Office of Personnel Management (OPM) published interim regulations to implement section 203 of the Federal Employees Pay Comparability Act of 1990 (FEPCA), Public Law 101–509, November 5, 1990. Section 203 amended section 5545(d) of title 5, United States Code, which contains the legal basis for paying General Schedule employees a differential for duty involving unusual physical hardship or hazard.

The 60-day comment period ended on July 1, 1991. An employees' professional association commented favorably on the FEPCA changes in general. Other more specific comments were received from five Federal agencies, one labor organization, and three individuals. Following are summarized comments and revisions in the interim regulations.

Delegation of Authority

In response to draft interim regulations, two agencies recommended that OPM delegate authority to agencies to authorize payment of a hazardous duty pay (HDP) differential to an employee even though the hazardous duty has been taken into account in the classification of his or her position. As part of our effort to delegate decisionmaking authority to Federal managers and supervisors where appropriate, OPM has decided to delegate authority to agencies to authorize payment of an HDP differential under these circumstances for the following reasons.

First, agencies have direct and detailed knowledge of their workplaces, occupations, positions, job duties, and possible safety measures to reduce hazards to less than significant levels. Second, agencies currently have responsibility to apply the existing HDP categories to their own workplace situations, determine whether the work duty is covered by a particular HDP category, and decide whether the differential may (or may not) be paid to the employee based on the classification of his or her position. Third, the exercise of this responsibility requires the same expertise in the classification aspects of the HDP program as the evaluation of the qualifying conditions requires.

OPM has specified two conditions in § 550.904(b) that must exist before payment of an HDP differential may be approved by an agency:

(1) The actual circumstances of the specific hazard or physical hardship have changed from that taken into account and described in the position description; *and*

(2) Using the knowledge, skills, and abilities that are described in the position description, the employee cannot control the hazard or physical hardship; thus, the risk is *not* reduced to a less than significant level.

The qualifying conditions for payment of a differential may be present even though the hazardous duty may be performed with considerable frequency. When the two conditions are met, payment for the hazardous duty would be authorized (provided other regulatory requirements are met). The final regulations also include certain minimal recordkeeping and reporting requirements related to the delegation of this authority.

Hazardous Duty and Classification of the Position

In most situations, payment of a differential is prohibited when the hazardous duty has been taken into account in the classification of the employee's position. The interim regulations added the phrase "without regard to whether the hazardous duty or physical hardship is grade controlling, unless a waiver has been approved by OPM." Three agencies and two individuals believed that the differential should be payable unless the hazardous duty serves as the primary basis for grade level in the classification process. Adopting this recommendation would overturn OPM's long-standing interpretation of the statutory phrase "the classification of which takes into account."

The commenters provided the following example. When a hazard is recognized in Factor Evaluation System (FES) factors 8, physical demands, and/or 9, work environment, the hazard is a factor considered in establishing the grade of the position. In this example, the commenters noted, the hazard typically has a limited effect on the overall classification of the position and usually does not increase the grade level of the position.

However, OPM notes that limited consideration of a hazardous duty in FES factors 8 and/or 9 may be appropriate where the hazard is at a low level. Moreover, factors 8 and/or 9 may not describe in great detail how a hazard relates to the whole position. Furthermore, in some cases, a hazardous duty may be considered in the narrative standard for the occupation and may be the same for all job levels, and, therefore, may not require further consideration in the classification of the position. In other cases, a hazardous duty may be classified by analogy to an existing described and classified hazard and documented accordingly in the evaluation statement.

Nevertheless, the FES example illustrates some of the difficulties with

the classification process in regard to the HDP program. Eligibility for payment of a differential is no longer restricted to the performance of an irregular or intermittent hazardous duty. Therefore, the determination that payment of a differential is *not* warranted depends on the classification of the position (provided that the agency involved has determined that the hazardous work situation involved does match one of the categories in appendix A).

In OPM's view, a hazardous duty is taken into account in the classification of a position when the duty is a part of the knowledge, skills, and abilities required of the incumbent of the position. In other words, the incumbent of the position is able to influence the hazardous duty—*i.e.*, exercise knowledge, skill, and ability to reduce the risk of the hazard. Therefore, OPM has clarified § 550.904(c) by adding the following phrase: "that is, the knowledge, skills, and abilities required to perform that duty are considered in the classification of the position."

Termination of a Differential

The labor organization requested that a differential *not* be discontinued when the hazard has been reduced to a negligible level or the physical discomfort or distress has been adequately alleviated, but that the differential be discontinued only when the hazard or hardship is completely eliminated. OPM cannot make such a change because the statute authorizes payment of a differential for duty involving *unusual* physical hardship or hazard, but not for negligible hazard or adequately alleviated discomfort or distress.

An agency requested that OPM clarify the term "negligible level" used in § 550.906(b) of the interim regulations to describe the level of risk at which the differential shall be discontinued. The agency requested that the HDP regulations incorporate terms used in the Occupational Safety and Health Administration's (OSHA's) health standards or other generally accepted standards that are required in the workplace. By law, Federal agencies are required to follow OSHA safety and health standards in order to protect employees from a *significant risk* of material health or functional impairment that may be experienced because of hazard in the workplace.

OPM agrees that the term "negligible level" should be clarified by substituting a term closely related to the term "significant risk" used in the OSHA standards. Therefore, the final rule has been amended to provide that hazard pay shall be discontinued when "[s]afety precautions have reduced the element of hazard to a less than significant level of risk, consistent with generally accepted standards that may be applicable, such as those published by the Occupational Safety and Health Administration, Department of Labor." This change in regulatory language is intended to clarify rather than change the meaning of the regulations.

Miscellaneous Comments

Concerning the establishment of hazard pay differentials, the labor organization requested that employees and their representatives be provided with standing to request amendments to part 550, subpart I, appendix A—Schedule of Pay Differentials Authorized for Hazardous Duty. Since an individual or organization may request that OPM establish a new differential on OPM's own motion, it is not necessary to amend the regulations to accomplish this objective.

The labor organization and one individual requested that employees and their representatives be provided with standing to request payment of a differential in unusual situations when the hazard has been taken into account in classification. No changes in the regulations are needed. An individual or organization may request that an agency consider such action.

One agency and the labor organization objected to the requirement in § 550.903(b)(5) that an agency include an estimate of annual cost with a request for an additional category under appendix A. The agency believed that preparation of the estimate would delay the request for no apparent value. The labor organization believed that consideration of cost is not authorized by the law and that the requirement for such an estimate is arbitrary and an abuse of administrative discretion. OPM is retaining this provision because the information is needed to evaluate the cost of the HDP program.

One agency requested that a study be conducted of non-Federal pay practices to determine how inconsistencies between the separate Federal programs for General Schedule and prevailing rate employees could be eliminated. OPM recognizes that significant disparities exist between these programs and will attempt to address these disparities as its resources permit. However, such a study is not required prior to the issuance of final rules governing the program changes made by FEPCA.

Two individuals questioned the way the phrase "irregular or intermittent" was defined in the past in the HDP program and maintained that the use of the correct dictionary definitions would have made it unnecessary to delete this phrase. OPM believes the statute as amended by FEPCA removes any possible ambiguity attributable to this phrase in the previous statute.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they apply only to Federal agencies and employees.

List of Subjects in 5 CFR Part 550

Administrative practice and procedure, Claims, Government employees, Wages.

U.S. Office of Personnel Management.

James B. King,

Director.

Accordingly, the interim rule published at 56 FR 20343 on May 3, 1991, amending 5 CFR part 550, is adopted as a final rule with the following changes:

PART 550—PAY ADMINISTRATION (GENERAL)

Subpart I—Pay for Duty Involving Physical Hardship or Hazard

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

Authority: 5 U.S.C. 5545(d), 5548(b).

2. In § 550.902, a definition of *head of an agency* is added in alphabetical order to read as follows:

§ 550.902 Definitions.

* * * * *

Head of an agency means the head of an agency or an official who has been delegated the authority to act for the head of the agency in the matter concerned.

3. Section 550.904 is revised to read as follows:

§ 550.904 Authorization of hazard pay differential.

(a) An agency shall pay the hazard pay differential listed in appendix A of this subpart to an employee who is assigned to and performs any duty specified in appendix A of this subpart. However, hazard pay differential may not be paid to an employee when the hazardous duty or physical hardship has been taken into account in the classification of his or her position, without regard to whether the hazardous duty or physical hardship is grade controlling, unless payment of a differential has been approved under paragraph (b) of this section.

(b) The head of an agency may approve payment of a hazard pay differential when—

(1) The actual circumstances of the specific hazard or physical hardship have changed from that taken into account and described in the position description; and

(2) Usi.ng the knowledge, skills, and abilities that are described in the position description, the employee cannot control the hazard or physical hardship; thus, the risk is not reduced to a less than significant level.

(c) For the purpose of this section, the phrase "has been taken into account in the classification of his or her position" means that the duty constitutes an element considered in establishing the grade of the position—*i.e.*, the knowledge, skills, and abilities required to perform that duty are considered in the classification of the position.

(d) The head of the agency shall maintain records on the use of the authority described in paragraph (b) of this section, including the specific hazardous duty or duty involving physical hardship; the authorized position description(s); the number of employees paid the differential; documentation of the conditions described in paragraph (b) of this section; and the annual cost to the agency.

(e) So that OPM can evaluate agencies' use of this authority and provide the Congress and others with information regarding its use, each agency shall maintain such other records and submit to OPM such other reports and data as OPM shall require.

4. In § 550.906, paragraph (b) is revised to read as follows:

§ 550.906 Termination of hazard pay differential.

* * * * *

(b) Safety precautions have reduced the element of hazard to a less than significant level of risk, consistent with generally accepted standards that may be applicable, such as those published by the Occupational Safety and Health Administration, Department of Labor; or

* * * * *

[FR Doc. 94–15695 Filed 6–28–94; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 915

[Docket No. FV94–915–1–FIR]

Avocados Grown in South Florida; Finalize Suspension of Grade Requirements for Certain Florida Avocados

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule finalizes without change an interim final rule which suspended grade requirements for fresh Florida avocados shipped in certain containers to destinations within the production area in Florida for the 1994–95 season. The suspension was designed to enable Florida growers and handlers to continue to market a larger percentage of their crops in the production area, and was necessary in response to quality problems associated with the after effects of Hurricane Andrew.

EFFECTIVE DATE: July 29, 1994.

FOR FURTHER INFORMATION CONTACT: Aleck Jonas, Southeast Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883–2276; telephone: 813–299–4770, or FAX: 813–299–5169; or Gary D. Rasmussen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2523–S, Washington, DC 20090–6456; telephone: 202–720–5331, or FAX: 202–720–5698.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 915 (7 CFR Part 915) regulating the handling of avocados grown in South Florida, hereinafter referred to as the order. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

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

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

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

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

There are about 65 avocado handlers subject to regulation under the order covering avocados grown in South Florida, and about 95 avocado producers in South Florida. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers have been defined as those having annual receipts which are less than $500,000. The majority of these handlers and producers may be classified as small entities.

The Avocado Administrative Committee (committee) met February 16, 1994, and recommended the suspension of certain grade requirements. The committee meets prior to and during each season to review the rules and regulations effective on a continuous basis for avocados regulated under the order. Committee meetings are open to the public, and interested persons may express their views at these meetings. The Department reviews committee recommendations and information, as well as information from other sources,

and determines whether modification, suspension, or termination of the rules and regulations would tend to effectuate the declared policy of the Act.

Section 915.306 (7 CFR 915.306) of the order specifies grade, pack, and container marking regulations for fresh shipments of avocados grown in Florida. This section was amended by an interim final rule published at 58 FR 7972 on February 11, 1993, and finalized at 58 FR 34683 on June 29, 1993. That amendment suspended grade requirements for avocados shipped to destinations within the production area in Florida in containers other than those authorized under § 915.305, during the period February 11, 1993, through March 31, 1994.

This rule finalizes an interim final rule which further amended § 915.306 by adding a new paragraph (a)(7) to extend the suspension of grade requirements for avocados shipped to destinations within the production area in Florida in containers other than those authorized under § 915.305, during the period April 1, 1994, through March 31, 1995. The interim final rule was issued March 25, 1994, with an effective date of April 1, 1994, and published in the **Federal Register** (59 FR 15313, April 1, 1994). The interim final rule provided a 30-day comment period ending May 2, 1994, and no comments were received.

The committee recommended that this suspension be extended for 1994–95 season shipments, because more than normal amounts of scarring and Cercospora spots due to wind damage and the loss of tree canopy are expected to damage the skin of the fruit for several avocado varieties during the 1994–95 season. These skin blemishes affect the appearance of the avocados, and as a result some of the fruit will not meet the minimum grade requirement of U.S. No. 2 specified in paragraph (a)(1) of § 915.306. However, such fruit is a wholesome product marketable within the production area.

This rule will enable Florida avocado producers and handlers to continue selling fresh avocados in the production area, which would otherwise be culled out during the packing process, making additional fruit available to consumers. This suspension is expected to result in relatively small quantities of lower quality avocados being sold fresh within the production area during the 1994–95 season.

The committee recommended that this suspension be made effective for only the 1994–95 season, because it expects that more abundant supplies of fresh Florida avocados with fewer skin blemishes will be available for the fresh market by the start of the 1995–96 season. Florida avocado production continues to recover from the devastation caused by Hurricane Andrew in August of 1992, but production expected for the 1994–95 season is still well below the levels reached prior to the hurricane.

The suspension does not apply to fresh Florida avocados shipped to destinations outside the production area and to avocados shipped to any destination in those containers specified in § 915.305. A minimum grade requirement of U.S. No. 2 continues to apply to such shipments. Also, the suspension does not change any current maturity, container, pack, and inspection requirements effective under the order for fresh Florida avocado shipments.

Avocados imported into the United States must grade at least U.S. No. 2, as provided in § 944.28 (7 CFR 944.28). Since the interim final rule did not change the minimum grade requirement of U.S. No. 2 specified in § 915.306 for avocados handled to points outside the production area, there was no need to change the avocado import regulation. Section 8e of the Act (7 U.S.C. 608e–1) requires that whenever specified commodities, including avocados, are regulated under a Federal marketing order, imports of that commodity into the United States must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity.

This rule reflects the committee's and the Department's appraisal of the need to maintain the suspension of the grade requirements for certain Florida avocados shipped during the 1994–95 season. The Department's view is that this rule will have a beneficial impact on producers and handlers since it will permit avocado handlers to continue to make additional supplies of fruit available to meet consumer needs consistent with expected crop and market conditions.

Based on the above, the Administrator of the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, the information and recommendations submitted by the committee, and other information, it is found that the finalization as set forth below will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 915

Avocados, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 915 is amended as follows:

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

Accordingly, the interim final rule amending 7 CFR part 915 which was published at 59 FR 15313 on April 1, 1994, is adopted as a final rule without change.

Dated: June 23, 1994.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 94–15722 Filed 6–28–94; 8:45 am]

BILLING CODE 3410–22–P

---

7 CFR Part 1040

[Docket No. AO–225–A45–R01; DA–92–10]

Milk in the Southern Michigan Marketing Area; Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the pooling provisions of the Southern Michigan Federal milk order. The amendment provides that a distributing plant located in the marketing area that processes and distributes primarily aseptically processed fluid milk products is fully regulated under the order irrespective of the market or markets in which the products may be distributed. The action is based on a proprietary handler's proposal considered at a public hearing held March 1, 1994, in Grand Rapids, Michigan. The change, which has been approved by more than two-thirds of the producers in the market, is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the regulated area.

EFFECTIVE DATE: June 29, 1994.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 720–7183.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12866.

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a final rule on small entities. Pursuant to 5 U.S.C.

605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. The amended order will lessen the regulatory impact of the order on certain milk handlers and will promote orderly marketing of milk by producers and regulated handlers.

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

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674) ("the Act") provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with the law and requesting a modification of an order or to be exempted from the order. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or is the handler's principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Prior documents in this proceeding:

Notice of Hearing: Issued December 3, 1992; published December 10, 1992 (57 FR 58418).

Supplemental Notice of Hearing: Issued January 19, 1993; published January 29, 1993 (58 FR 6447).

Recommended Decision: Issued November 29, 1993; published December 6, 1993 (58 FR 64176).

Notice of Reopened Hearing: Issued February 18, 1994; published February 24, 1994 (59 FR 8874).

Extension of Time for Filing Briefs: Issued April 6, 1994; published April 13, 1994 (59 FR 17497).

Emergency Final Decision: Issued May 12, 1994; published May 23,1994 (59 FR 26603).

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the Southern Michigan order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) Findings upon the basis of the hearing record. Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Southern Michigan marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) Additional findings. It is necessary in the public interest to make this order amending the order effective not later than the date of publication in the **Federal Register**. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The decision of the Acting Assistant Secretary containing all amendment provisions of this order was issued May 12, 1994; published May 23, 1994 (59 FR 26603). The changes effected by this order will not require extensive preparation or substantial alteration in methods of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective upon publication in the **Federal Register**, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the **Federal Register**. (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559).

(c) Determinations. It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk which is marketed within the marketing area to sign a proposed marketing agreement tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order amending the order is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the respective orders; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

List of Subjects in 7 CFR Part 1040

Milk marketing orders.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Southern Michigan marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

PART 1040—MILK IN THE SOUTHERN MICHIGAN MARKETING AREA

1. The authority citation for 7 CFR Part 1040 continues to read as follows:

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

§ 1040.5 [Amended]

2. Section 1040.5 is amended by removing the words "in the marketing area" at the end of the text.

3. Section 1040.7 is amended by revising the introductory text, paragraph (a), and the first sentence in paragraph (b) introductory text to read as follows:

§ 1040.7 Pool plant.

Pool plant means:

(a) A distributing plant:

(1) From which total route disposition, except filled milk, during the month is not less than 50 percent of the combined Grade A milk received in bulk at such plant direct from producers, from supply plants, from a cooperative association as described in § 1040.9(c) or diverted by the plant operator or by a cooperative association

pursuant to § 1040.13 as producer milk, except as provided in paragraph (c) of this section; or

(2) That qualified as a pool plant in either of the immediately preceding 2 months on the basis of performance standards described in paragraph (a)(1) of this section, except as provided in paragraph (c) of this section; or

(3) That meets the following conditions, regardless of the provisions of paragraph (c) of this section:

(i) The plant is located in the marketing area;

(ii) The plant has total route disposition, except filled milk, during the month of not less than 50 percent of the combined Grade A milk received in bulk at such plant direct from producers, from supply plants, from a cooperative association as described in § 1040.9(c) or diverted by the plant operator or by a cooperative association pursuant to § 1040.13 as producer milk; and

(iii) The principal activity of such plant is the processing and distributing of aseptically processed fluid milk products.

(b) Except as provided in paragraph (c) of this section, a supply plant which during the month meets one of the performance requirements specified in paragraph (b) (1), (2), (3) or (4) of this section. * * *

* * * * *

Dated: June 22, 1994.

Patricia A. Jensen,

Acting Assistant Secretary for Marketing and Inspection Services.

[FR Doc. 94–15715 Filed 6–28–94; 8:45 am]

BILLING CODE 3410–02–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 701 and 741

Organization and Operation of Federal Credit Unions and Requirements for Insurance

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The Board is amending NCUA's Regulations in order to conform them to the new NCUA Fiscal and National Credit Union Share Insurance Fund (NCUSIF) Insurance year. The changes to the fiscal and insurance years were approved by the NCUA Board on November 15, 1993.

EFFECTIVE DATE: July 29, 1994.

ADDRESSES: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.

FOR FURTHER INFORMATION CONTACT: Herbert S. Yolles, Controller, Office of the Controller, at the above address or telephone: (703) 518–6570 or Mary F. Rupp, Staff Attorney, Office of General Counsel, at the above address or telephone: (703) 518–6553.

SUPPLEMENTARY INFORMATION: The NCUA Board on November 15, 1993, voted to change NCUA's fiscal year and NCUSIF's insurance year to coincide with the calendar year, effective January 1, 1995. This change requires the NCUA to amend its regulations addressing operating fees, capitalization deposit adjustments and insurance premiums to conform to the calendar year.

Currently, under § 701.6 of NCUA's Rules and Regulations, an operating fee is assessed on federal credit unions based on a fiscal year of October 1 to September 30. This section must be changed to reflect the change to the calendar year. The change will result in a transition quarter that begins on October 1, 1994 and ends on December 31, 1994 for which no operating fee would be assessed. Also, the operating fee assessed as a result of a conversion or merger will now be based on the calendar year and those sections must be changed to delete references to the former fiscal year and reflect the new calendar year. 12 CFR 701.6(b) (2) and (3).

Currently, under § 741.11 of NCUA's Rules and Regulations, any insurance premium and adjustments in the one percent deposit for all federally insured credit unions are based on an "insurance year" of July 1 through June 30. 12 CFR 741.11(b)(1). The definition of "insurance year" must be amended to reflect the change to the calendar year. Further, the due dates for the deposit adjustment and any premium must be changed from January 31 to a date as set by the NCUA Board in order to coincide with the calendar year. (The Board anticipates that the due date will be in March of each calendar year.) 12 CFR 741.11 (c), (d) and (g).

Four letters were received in response to the request for comments in the proposed amendments. Two were from national credit union organizations, one was from a state credit union organization and one was from a credit union. The comments were generally favorable.

One commenter expressed concern that the NCUA Board had not solicited comments prior to converting NCUA's fiscal year and NCUSIF's insurance year to the calendar year. It requested an explanation of the accounting implications, the reasoning behind the change and a timetable for the assessments.

The accounting implications for any credit union accounting for the fee under full accrual accounting (i.e., amortizing the fee over the period October 1 through September 30) are that the credit union will have a one time three month reduction. The NCUA Board believes very few, if any, credit unions use this method. All other credit unions will experience a one time cash flow benefit, because the next assessment will be in March, rather than January.

Some of the more advantageous reasons for the change are to eliminate the present confusion caused by NCUA's use of three different operating periods: insurance year, fiscal year and calendar year; in the unlikely event NCUA assesses another insurance premium, the change will eliminate the massive accounting confusion experienced the last time an insurance premium was assessed, because only one accounting period will be involved; the change will provide for better comparison of NCUSIF to the other depository insurance funds; the change will make clearer the calculation of the NCUSIF equity ratio and eliminate the current seven month lag in collecting the 1% deposit adjustment payments, and the change will enable NCUA to obtain better information for budgeting purposes and for pay adjustment decisions because labor market data and projections from other regulators are not available until September or October.

NCUA will be setting its budget in mid-October. In November, the agency will provide federal credit unions a very close estimate of their operating fee assessment, which may vary only slightly after the December 31 credit union call reports are reviewed. The operating fee and capitalization deposit adjustment payments will be due in late March or early April.

Other budgetary issues were raised by the two national organizations which are not directly related to the proposed changes and will be addressed by the agency in another forum.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires the NCUA to prepare an analysis to describe any significant economic impact any regulation may have on a potential number of small credit unions (primarily those under $1 million in assets). The regulation simply repeats the preexisting requirements of federal credit unions to pay operating fees and federally insured credit unions to fund their one percent deposit and pay insurance premiums if assessed,

with the only modification being the dates when these fees and premiums must be paid. Accordingly, the NCUA Board has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

These amendments do not change the paperwork requirements.

Executive Order 12612

The section of the final amendment dealing with insurance premiums applies to all federally insured credit unions. However, it makes no substantive changes except to change the dates for certain filings and assessments of fees. The NCUA Board has determined that this amendment is not likely to have any direct effect on states, on the relationship between the states, or on the distribution of power and responsibilities among the various levels of government because federally insured credit unions are currently required to pay an insurance premium.

List of Subjects

12 CFR Part 701

Civil rights, Conflicts of interest, Credit, Credit unions, Fair housing, Insurance, Mortgages, Reporting and recordkeeping requirements, Signs and symbols, Surety bonds.

12 CFR Part 741

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

By the National Credit Union Administration Board on June 23, 1994.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA amends 12 CFR parts 701 and 741 as follows:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787 and 1789. Section 701.6 is also authorized by 31 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 et seq., 42 U.S.C. 1861 and 42 U.S.C. 3601–3610. Section 701.35 is also authorized by 12 U.S.C. 4311–4312.

2. Section 701.6 is amended by revising paragraphs (a), (b) (2) and (3) to read as follows:

§ 701.6 Fees paid by Federal Credit Unions.

(a) *Basis for assessment.* Each calendar year or as otherwise directed by the Board, each Federal credit union shall pay to the Administration for the current National Credit Union Administration fiscal year (January 1 to December 31) an operating fee in accordance with a schedule as fixed from time to time by the National Credit Union Administration Board based on the total assets of each Federal credit union as of December 31 of the preceding year or as otherwise determined pursuant to paragraph (b) of this section.

(b) * * *

(1) * * *

(2) *Conversions.* A state chartered credit union that converts to Federal charter will pay an operating fee in the year following the conversion. Federal credit unions converting to state charter will not receive a refund of the operating fee paid to the Administration in the year in which the conversion takes place.

(3) *Mergers.* A continuing Federal credit union that has merged with another credit union will pay an operating fee in the following year based on the combined total assets of the merged credit union and the continuing Federal credit union as of December 31 of the year in which the merger took place. For purposes of this requirement, a purchase and assumption transaction wherein the continuing Federal credit union purchases all or essentially all of the assets of another credit union shall be deemed a merger. Federal credit unions merging with other Federal or state credit unions will not receive a refund of the operating fee paid to the Administration in the year in which the merger took place.

* * * * *

PART 741—REQUIREMENTS FOR INSURANCE

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

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

4. Section 741.11 is amended by revising paragraphs (b)(1), (c), (d) and (g) to read as follows:

§ 741.11 Insurance premium and one per cent deposit.

* * * * *

(b) * * *

* * * * *

(1) "Insurance year" means the period from January 1 through December 31.

* * * * *

(c) *One Percent Deposit.* Each insured credit union shall maintain with the NCUSIF during each insurance year a deposit in an amount equaling one percent of the total of the credit union's insured shares as of the close of the preceding insurance year. The deposit shall be adjusted annually on a date to be determined by the NCUA Board.

(d) *Premium.* Each insured credit union shall pay to the NCUSIF, on a date to be determined by the NCUA Board, an insurance premium for that insurance year in an amount equaling one twelfth of one percent of the credit union's total insured shares as of the close of the preceding insurance year.

* * * * *

(g) *New Charters.* A newly-chartered credit union that obtains share insurance coverage from the NCUSIF during the insurance year in which it has obtained its charter shall not be required to pay an insurance premium for that insurance year. The credit union shall fund its one percent deposit on a date to be determined by the NCUA Board in the following insurance year, but shall not participate in any distribution from NCUSIF equity related to the period prior to the credit union's funding of its deposit.

* * * * *

[FR Doc. 94–15804 Filed 6–28–94; 8:45 am]

BILLING CODE 7535–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 92–ASW–30]

Revision of Class E Airspace: Russellville, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the Class E airspace at Russellville, AR. A nondirectional radio beacon (NDB) standard instrument approach procedure (SIAP) has been developed at Russellville Municipal Airport and has made this action necessary. Controlled airspace extending upward from 700 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action is intended to provide adequate Class E airspace to contain instrument flight rule (IFR) operations for aircraft executing the SIAP's at Russellville Municipal Airport, Russelville, AR.

EFFECTIVE DATE: 0901 UTC, August 18, 1994.

FOR FURTHER INFORMATION CONTACT: Gregory L. Juro, System Management Branch, Air Traffic Division, Southwest

Region, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530, telephone 817–222–5591.

SUPPLEMENTARY INFORMATION:

History

On November 30, 1993, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the class E airspace at Russellville, AR, was published in the **Federal Register** (58 FR 63130). A SIAP, NDB–A, approach was developed for the Russellville Municipal Airport, Russellville, AR. The proposal was to revise the controlled airspace extending upward from 700 feet AGL to contain IFR operations in controlled airspace during portions of the terminal operation and while transitioning between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. The latitude and longitude for the Russellville Municipal Airport, and the Russellville NDB, have been changed to reflect an increase of one second in each of the latitudinal and longitudinal coordinates. Except for the non-substantive changes just discussed, the rule is adopted as proposed. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace designations for airspace areas extending upward from 700 feet or more AGL are published in Paragraph 6005 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1994). The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR 71) revises the Class E airspace located at Russellville, AR, to provide controlled airspace extending upward from 700 feet AGL for aircraft executing the SIAP at Russellville Municipal Airport.

The FAA has determined that this regulation only involves an established body of technical regulations that need frequent and routine amendments to keep them operationally current. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 6005: Class E Airspace areas extending upward from 700 feet or more above the surface of the Earth.

* * * * *

ASW AR E5 Russellville, AR [Revised]

Russellville Municipal Airport, AR
(Lat. 35°15′33″ N., long. 93°05′38″ W.)
Russellville NDB
(Lat. 35°15′26″ N., long. 93°05′40″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Russellville Municipal Airport, and within 2.4 miles each side of the 184° bearing the Russellville NDB extending from the 6.4-mile radius to 6.6 miles south of the airport, excluding that airspace which overlies the Morrilton, AR Class E area.

* * * * *

Issued in Forth Worth, TX, on June 7, 1994.

Larry D. Gray,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 94–15762 Filed 6–28–94; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 27796; Amdt. No. 1607]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Ave., SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards

Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC, on June 17, 1994.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

Authority: 49 U.S.C. app. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2)

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

. . . *Effective August 18, 1994*

Craig, CO, Craig-Moffat, VOR/DME OR GPS RWY 7, Amdt 2
Craig, CO, Craig-Moffat, VOR OR GPS RWY 25, Amdt 3
Pompano Beach, FL, Pompano Beach Airpack, LOC RWY 14, Orig
Newnan, GA, Newnan-Coweta County, VOR/DME OR GPS-A, Amdt 6
Newnan, GA, Newnan-Coweta County, NDB OR GPS RWY 32, Amdt 2
Storm Lake, IA, Storm Lake Muni, NDB RWY 35, Amdt 1
Idaho Falls, ID, Fanning Field, LOC BC RWY 2, Amdt 6
Idaho Falls, ID, Fanning Field, VOR RWY 2, Amdt 6
Idaho Falls, ID, Fanning Field, VOR RWY 20, Amdt 9
Idaho Falls, ID, Fanning Field, NDB RWY 20, Amdt 10
Idaho Falls, ID, Fanning Field, ILS RWY 20, Amdt 11
Rexburg, ID, Rexburg-Madison County, VOR RWY 35, Amdt 3
Litchfield, IL, Litchfield Muni, NDB RWY 9, Amdt 5
Litchfield, IL, Litchfield Muni, NDB RWY 27, Amdt 7
Goodland, KS, Renner Fld/Goodland Muni, VOR/DME RWY 30, Amdt 6
Boston, MA, General Edward Lawrence Logan Intl, VOR/DME RWY 27, Amdt 2
Boston, MA, General Edward Lawrence Logan Intl, VOR/DME OR GPS RWY 15R, Amdt 1
Boston, MA, General Edward Lawrence Logan Intl, VOR/DME RWY 33L, Amdt 2
Boston, MA, General Edward Lawrence Logan Intl, NDP OR GPS RWY 4R, Amdt 23
Boston, MA, General Edward Lawrence Logan Intl, NDB OR GPS RWY 22L, Amdt 10
Boston, MA, General Edward Lawrence Logan Intl, ILS/DME RWY 15R, Amdt 10 CANCELLED
Boston, MA, General Edward Lawrence Logan Intl, ILS RWY 15R, Orig
Boston, MA, General Edward Lawrence Logan Intl, ILS RWY 27, Orig
Boston, MA, General Edward Lawrence Logan Intl, ILS/DME RWY 27, Amdt 4 CANCELLED
Boston, MA, General Edward Lawrence Logan Intl, ILS/DME RWY 33L, Amdt 21A CANCELLED
Boston, MA, General Edward Lawrence Logan Intl, ILS RWY 33L, Orig
Stevensville, MD, Bay Bridge, VOR/DME RWY 29, Orig
Detroit, MI, Willow Run, ILS RWY 23L, Amdt 7
Newberry, MI, Luce County Hale, VOR RWY 11, Amdt 9
Newberry, MI, Luce County Hale, VOR RWY 29, Amdt 9
Hutchinson, MN, Hutchinson Muni-Butler Field, VOR/DME RWY 33, Amdt 2
Hutchinson, MN, Hutchinson Muni-Butler Field, NDB RWY 15, Amdt 3
Minneapolis, MN, Minneapolis-St Paul Intl/Wold-Chamberlain, NDB OR GPS RWY 4, Amdt 18

Minneapolis, MN, Minneapolis-St Paul Intl/ Wold-Chamberlain, NDB OR GPS RWY 29L, Amdt 23
Minneapolis, MN, Minneapolis-St Paul Intl/ Wold-Chamberlain, NDB RWY 29R, Amdt 11
Minneapolis, MN, Minneapolis-St Paul Intl/ Wold-Chamberlain, ILS RWY 4, Amdt 24
Minneapolis, MN, Minneapolis-St Paul Intl/ Wold-Chamberlain, ILS RWY 11L, Amdt 2
Minneapolis, MN, Minneapolis-St Paul Intl/ Wold-Chamberlain, ILS RWY 11R, Amdt 4
Minneapolis, MN, Minneapolis-St Paul Intl/ Wold-Chamberlain, ILS RWY 22, Amdt 4
Minneapolis, MN, Minneapolis-St Paul Intl/ Wold-Chamberlain, ILS RWY 29L, Amdt 40
Minneapolis, MN, Minneapolis-St Paul Intl/ Wold-Chamberlain, ILS RWY 29R, Amdt 6
Statesville, NC, Statesville Muni, RNAV RWY 2, Amdt 5, CANCELLED
Springfield, OH, Springfield-Beckley Muni, VOR OR GPS RWY 6, Amdt 10
Springfield, OH, Springfield-Beckley Muni, NDB OR GPS RWY 24, Amdt 16
Springfield, OH, Springfield-Beckley Muni, VOR RWY 24, Amdt 10
Springfield, OH, Springfield-Beckley Muni, ILS RWY 24, Orig
Springfield, OH, Springfield-Beckley Muni, ILS1 RWY 24, Amdt 3, CANCELLED
Shawnee, OK, Shawnee Muni, NDB OR GPS RWY 17, Amdt 1
Center, TX, Center Muni, NDB RWY 17, Amdt 1
Cleveland, TX, Cleveland Muni, VOR–A, Amdt 4
Conroe, TX, Montgomery County, NDB RWY 14, Amdt 1
Conroe, TX, Montgomery County, ILS RWY 14, Amdt 1
Conroe, TX, Montgomery County, VOR/DME RNAV RWY 32, Amdt 1
Houston, TX, Houston Intercontinental, NDB OR GPS RWY 26, Amdt 1
Kountze/Silsbee, TX, Hawthorne Field, NDB RWY 13, Amdt 1

. . . *Effective July 21, 1994*

Wixon, MI, Spencer Field, VOR–A, Amdt 1A, CANCELLED
Kansas City, MO, Kansas City Intl, RNAV RWY 1L, Amdt 5A, CANCELLED
St. Louis, MO, Weiss, VOR–C, Amdt 5, CANCELLED
Islip, NY, Long Island Mac Arthur, NDB RWY 6, Amdt 18
Islip, NY, Long Island Mac Arthur, ILS RWY 6, Amdt 21
Nashville, TN, Nashville Intl, ILS RWY 2C, Orig

[FR Doc. 94–15763 Filed 6–28–94; 8:45 am]
BILLING CODE 4910–13–M

---

14 CFR Part 97

[Docket No. 27798; Amdt. No. 1609]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Form 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. The SIAPs contained in this amendment are based on the criteria contained in the United States Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports.

The FAA has determined through testing that current non-localizer type, non-precision instrument approaches developed using the TERPS criteria can be flown by aircraft equipped with Global Positioning System (GPS) equipment. In consideration of the above, the applicable Standard Instrument Approach Procedures (SIAPs) will be altered to include "or GPS" in the title without otherwise reviewing or modifying the procedure. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which

frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reasons, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC, on June 17, 1994

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delgated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

Authority: 49 U.S.C. app. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.27, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.27 NDB, NDB/DME; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

. . . *Effective August 18, 1994*

Galena, AK, Galena, VOR/DME or TACAN or GPS RWY 7, Amdt. 6B
Kotzebue, AK, Ralph Wien Memorial, VOR/DME 2 or GPS RWY 26, Orig.
Kotzebue, AK, Ralph Wien Memorial, NDB or GPS–A, Orig.
Kotzebue, AK, Ralph Wien Memorial, VOR/DME or GPS RWY 8, Amdt. 2
McGrath, AK, McGrath, VOR/DME or TACAN or GPS RWY 16, Orig.
Nome, AK, Nome, NDB/DME or GPS RWY 2, Amdt. 1
Yakutat, AK, Yakutat, VOR/DME or GPS RWY 2, Orig. A
Clayton, AL, Clayton Muni, VOR/DME or GPS Rwy 27, Amdt. 1
Courtland, AL, Industrial Airpark, VOR or GPS RWY 13, Orig.
Dothan, AL, Dothan, VOR or GPS RWY 14, Amdt. 3B
Dothan, AL, Dothan, VOR or GPS RWY 18, Amdt. 3A
Enterprise, AL, Enterprise Muni, VOR or GPS RWY 5, Amdt. 2
Evergreen, AL, Middleton Field, VOR/DME or GPS RWY 9, Amdt. 2
Corning, AR, Corning Muni, VOR/DME or GPS–A, Amdt. 1B
De Queen, AR, J. Lynn Helms Sevier County, NDB or GPS RWY 8, Amdt. 4A
Dumas, AR, Billy Free Municipal, VOR/DME or GPS RWY 36, Amdt. 2A
North Little Rock, AR, North Little Rock Muni, VOR/DME or GPS RWY 35, Amdt. 4
Paragould, AR, Kirk Field, VOR or GPS RWY 4, Amdt. 3
Warren, AR, Warren Muni, NDB or GPS RWY 3, Amdt. 1A
Warren, AR, Warren Muni, VOR/DME or GPS–A, Amdt. 4
Chandler, AZ, Chandler Muni, VOR or GPS RWY 4L, Amdt. 5
Yuma, AZ, Yuma MCAS/Yuma Intl, RNAV or GPS RWY 21R, Amdt. 3
Yuma, AZ, Yuma MCAS/Yuma Intl, VOR/DME or GPS RWY 17, Orig.
Avalon, CA, Catalina, VOR or GPS–A, Amdt. 4
Bakersfield, CA, Meadows Field, VOR or GPS RWY 30R, Amdt. 7
Delano, CA, Delano Muni, VOR or GPS RWY 32, Amdt. 6
Fresno, CA, Fresno Air Terminal, VOR or TACAN or GPS RWY 11L, Amdt. 11
Fullerton, CA, Fullerton Muni, VOR or GPS–A, Amdt. 6
Oroville, CA, Oroville Muni, NDB or GPS RWY 1, Amdt.1
Petaluma, CA, Petaluma Muni, VOR or GPS RWY 29, Orig.
Santa Barbara, CA, Santa Barbara Muni, VOR or GPS RWY 25, Amdt. 6A
Santa Maria, CA, Santa Maria Public/Captain G. Allan Hancock Field, VOR or GPS RWY 12, Amdt. 13
Santa Monica, CA, Santa Monica Muni, VOR or GPS–A, Amdt. 10
Tulare, CA, Mefford Field, VOR/DME or GPS RWY 13, Orig.
Twentynine Palms, CA, Twentynine Palms, VOR or GPS RWY 26, Orig.
Denver, CO, Jeffco, VOR/DME or GPS RWY 29R, Orig.
Durango, CO, Durango-La Plata County, VOR/DME or GPS RWY 2, Amdt. 4
Kremmling, CO, McElroy Airfield, VOR/DME or GPS–A, Amdt. 1
Lamar, CO, Lamar Muni, VOR or GPS RWY 18, Amdt. 8
Bridgeport, CT, Igor I. Sikorsky Memorial, VOR or GPS RWY 24, Amdt. 14
Bridgeport, CT, Igor I. Sikorsky Memorial, VOR or GPS RWY 6, Amdt. 20
Georgetown, DE, Sussex County, VOR/DME RNAV or GPS RWY 22, Amdt. 3
Ormond Beach, FL, Ormond Beach Muni, VOR or GPS RWY 17, Amdt. 1
Pahokee, FL, Palm Beach County Glades, VOR or GPS RWY 17, Amdt. 8
Pensacola, FL, Pensacola Regional, NDB or GPS RWY 17, Orig. A
Pensacola, FL, Pensacola Regional, NDB or GPS RWY 35, Amdt. 15A
Pensacola, FL, Pensacola Regional, VOR or GPS RWY 8, Amdt. 2B
Sarasota/Bradenton, FL, Sarasota/Bradenton Intl, VOR or GPS RWY 32, Amdt. 8
Sarasota/Bradenton, FL, Sarasota/Bradenton Intl, VOR or GPS RWY 22, Amdt. 10
Sarasota/Bradenton, FL, Sarasota/Bradenton Intl, VOR or GPS RWY 14, Amdt. 16
West Palm Beach, FL, Palm Beach County Park, VOR or GPS RWY 15, Amdt. 2
Williston, FL, Williston Muni, VOR/DME or GPS RWY 22, Orig.
Albany, GA, Southwest Georgia Regional, RNAV or GPS RWY 34, Amdt. 3
Albany, GA, Southwest Georgia Regional, VOR or TACAN or GPS RWY 16, Amdt. 24
Atlanta, GA Dekalb-Peachtree, VOR/DME or GPS RWY 20L, Amdt. 1
Atlanta, GA Dekalb-Peachtree, VOR/DME or GPS RWY 27, Amdt. 1
Atlanta, GA, Fulton County Airport-Brown Field, VOR/DME or GPS RWY 26, Orig.
La Grange, GA, Callaway, RNAV or GPS RWY 31, Amdt. 3
La Grange, GA, Callaway, VOR or GPS RWY 13, Amdt. 15
Tifton, GA, Henry Tift Myers, NDB or GPS RWY 33, Orig.
Tifton, GA, Henry Tift Myers, VOR or GPS RWY 27, Amdt. 9A
Lihue, HI, Lihue, VOR/DME or TACAN or GPS RWY 21, Amdt. 3
Lihue, HI, Lihue, VOR/DME or TACAN or GPS RWY 35, Amdt. 6
Boone, IA, Boone Muni, NDB or GPS RWY 32, Amdt. 4
Boone, IA, Boone Muni, NDB or GPS RWY 14, Amdt. 8
Burlington, IA, Burlington Muni, VOR or GPS RWY 30, Amdt. 11
Burlington, IA, Burlington Muni, VOR/DME or GPS RWY 12, Amdt. 4
Chariton, IA, Chariton Muni, VOR or GPS RWY 17, Amdt. 1
Pocahontas, IA, Pocahontas Muni, VOR/DME or GPS RWY 29, Amdt. 2
Tipton IA, Mathews Memorial, VOR or GPS RWY 11, Amdt. 1
Waterloo, IA, Waterloo Muni, VOR or GPS RWY 12, Amdt. 9
Waterloo, IA, Waterloo Muni, VOR or GPS RWY 18, Amdt. 7
Waterloo, IA, Waterloo Muni, VOR or GPS RWY 24, Amdt. 15
Waterloo, IA, Waterloo Muni, VOR or GPS RWY 36, Amdt. 16
Waterloo, IA, Waterloo Muni, VOR/DME or GPS RWY 30, Amdt. 14
Burley, ID, Burley Muni, RNAV or GPS RWY 20, Amdt. 2
Joliet, IL, Joliet Park District, VOR or GPS RWY 12, Amdt. 11
Marion, IL, Williamson County Regional, VOR or GPS RWY 2, Amdt. 12
Mattoon/Charleston, IL, Coles County Memorial, VOR or GPS RWY 6, Amdt. 12
Mattoon/Charleston, IL, Coles County Memorial, VOR or GPS RWY 24, Amdt. 10
Mattoon/Charleston, IL, Coles County Memorial, NDB or GPS RWY 24, Amdt. 29
Moline, IL, Quad-City, RNAV or GPS RWY 31, Amdt. 9
Moline, IL, Quad-City, NDB or GPS RWY 9, Amdt. 27

Monee, IL, Sanger, VOR or GPS RWY 5, Amdt. 3
Mount Vernon, IL, Mount Vernon-Outland, VOR or GPS RWY 23, Amdt. 14
Peru, IL, Illinois Valley Regional—Water A. Duncan Field, NDB or GPS RWY 18, Amdt. 3
Pittsfield, IL, Pittsfield-Penstone Muni, VOR/DME or GPS RWY 13, Amdt. 3
Gary, IN, Gary Regional, VOR/DME or GPS RWY 2, Amdt. 5A
Griffith, IN, Griffith-Merrillville, VOR or GPS RWY 8, Amdt. 6
Indianapolis, IN, Indianapolis Brookside Airpark, VOR or GPS RWY 36, Amdt. 6
Indianapolis, IN, Indianapolis Intl, VOR or GPS RWY 14, Amdt. 24
Indianapolis, IN, Indianapolis Intl, NDB or GPS RWY 32, Amdt. 14
Indianapolis, IN, Indianapolis Intl, NDB or GPS RWY 5R, Amdt. 1
Terre Haute, IN, Hulman Regional, VOR or GPS RWY 23, Amdt. 19
Terre Haute, IN, Hulman Regional, RNAV or GPS RWY 31, Amdt. 6
Warsaw, IN, Warsaw Muni, VOR or GPS RWY 9, Amdt. 5
Warsaw, IN, Warsaw Muni, VOR or GPS RWY 27, Amdt. 6
Eureka, KS, Eureka Muni, VOR/DME or GPS RWY 18, Amdt. 1
Garden City, KS, Garden City Regional, VOR/DME or GPS RWY 35, Amdt. 1
Garden City, KS, Garden City Regional, VOR or GPS RWY 17, Amdt. 10
Great Bend, KS, Great Bend Muni, NDB or GPS–A, Amdt 5
Harper, KS, Harper Muni. VOR or GPS–B, Orig
Liberal, KS, Liberal Muni, VOR or GPS RWY 3, Amdt. 1
Liberal, KS, Liberal Muni, VOR or GPS RWY 35, Amdt. 10
Minneapolis, KS, Minneapolis City County, VOR/DME or GPS RWY 34, Orig.
Hawesville, KY, Hancock Airfield, VOR or GPS RWY 15, Amdt. 6
Hawesville, KY, Hancock Airfield, VOR or GPS RWY 33, Amdt. 6
Hopkinsville, KY, Hopkinsville-Christian County, NDB or GPS RWY 26, Amdt. 5
Lexington, KY, Blue Grass, VOR or GPS–A, Amdt. 7
De Quincy, LA, De Quincy Industrial Airpark, VOR/DME or GPS RWY 33, Orig.
Hammond, LA, Hammond Muni, VOR or GPS RWY 31, Amdt. 3B
Hammond, LA, Hammond Muni, NDB or GPS RWY 18, Amdt. 2
Lawrence, MA, Lawrence Muni, VOR or GPS RWY 23, Amdt. 9A
Provincetown, MA, Provincetown Muni, NDB or GPS RWY 7, Orig.
Westfield, MA, Barnes Muni, VOR or GPS RWY 20, Amdt. 18
Westfield, MA, Barnes Muni, VOR or TACAN or GPS RWY 2, Amdt. 2
Easton, MD, Easton/Newman Field, NDB or GPS RWY 22, Amdt. 8
Gaithersburg, MD, Montgomery County Airpark, VOR or GPS RWY 14, Amdt. 1
Bangor, ME, Bangor Intl, NDB or GPS RWY 33, Amdt. 5
Bangor, ME, Bangor Intl, VOR or GPS–A, Amdt. 2
Biddeford, ME, Biddeford Muni, VOR or GPS–A, Amdt. 5
Cadillac, MI, Wexford County, NDB or GPS RWY 7, Amdt. 1
Detroit, MI, Berz-Macomb, NDB or GPS RWY 22, Orig.
Detroit, MI, Detroit City, VOR or GPS RWY 33, Amdt. 27
Detroit, MI, Detroit Metropolitan Wayne County, VOR or GPS RWY 21R, Amdt. 1A
Detroit, MI, Detroit Metropolitan Wayne County, NDB or GPS RWY 3C, Amdt. 12
Hancock, MI, Houghton County Memorial, VOR or GPS RWY 13, Amdt. 14
Hancock, MI, Houghton County Memorial, VOR or GPS RWY 25, Amdt. 16
Hancock, MI, Houghton County Memorial, NDB or GPS RWY 31, Amdt. 10
Mount Pleasant, MI, Mount Pleasant Muni, VOR or GPS RWY 27, Amdt. 13
Plymouth, MI, Mettetal-Canton, VOR or GPS–A, Amdt. 11
Brainerd, MN, Brainerd-Crow Wing Co Regional, VOR or GPS RWY 30, Amdt. 12
Cloquet, MN, Cloquet Carlton County, NDB or GPS RWY 17, Amdt. 3B
Cloquet, MN, Cloquet Carlton County, NDB or GPS RWY 35, Amdt. 3B
Fergus Falls, MN, Fergus Falls Muni-Einar Mickelson Fld, VOR or GPS RWY 35, Amdt. 9
Fergus Falls, MN, Fergus Falls Muni-Einar Mickelson Fld, VOR or GPS RWY 13, Orig.
Minneapolis, MN, Airlake, VOR or GPS RWY 11, Orig.
Minneapolis, MN, Anoka County-Blaine Airport (Janes Field), RNAV or GPS RWY 17, Amdt. 2
Minneapolis, MN, Anoka County-Blaine Airport (Janes Field), VOR or GPS DME RWY 8, Amdt. 10
Orr, MN, Orr Regional, NDB or GPS RWY 13, Amdt. 7
St. Joseph, MO, Rosecrans Memorial, NDB or GPS RWY 35, Amdt. 28A
St. Joseph, MO, Rosecrans Memorial, RNAV or GPS RWY 17, Amdt. 4
Trenton, MO, Trenton Muni, NDB or GPS RWY 18, Amdt. 6A
Trenton, MO, Trenton Muni, NDB or GPS RWY 36, Amdt. 8A
Warrensburg, MO, Skyhaven, VOR/DME or GPS–A, Orig.
Warrensburg, MO, Skyhaven, VOR/DME RNAV or GPS RWY 18, Amdt. 1
Gulfport, MS, Gulfport-Biloxi Regional, VOR/DME OR TACAN or GPS RWY 14, Amdt. 2
Gulfport, MS, Gulfport-Biloxi Regional, VOR/DME OR TACAN or GPS RWY 32, Amdt. 2
Starkville, MS, George M. Bryan, RNAV or GPS RWY 36, Orig.
Tupelo, MS, Tupelo Municipal-C.D. Lemons, VOR/DME or GPS RWY 18, Orig.
Billings, MT, Billings Logan Intl, VOR or GPS–A, Amdt. 1
Billings, MT, Billings Logan Intl, VOR/DME RNAV or GPS RWY 28R, Amdt. 2
Billings, MT, Billings Logan Intl, NDB or GPS RWY 10L, Amdt. 19
Asheville, NC, Asheville Regional, NDB or GPS RWY 16, Amdt. 15
Charlotte, NC, Charlotte/Douglas Intl, VOR/DME or GPS RWY 18L, Amdt. 5A
Goldsboro, NC, Goldsboro-Wayne Muni, NDB or GPS RWY 23 Orig.
Goldsboro, NC, Goldsboro-Wayne Muni, VOR or GPS–A, Amdt. 4
Raleigh/Durham, NC, Raleigh-Durham Intl, NDB or GPS RWY 23L, Amdt. 4
Monroe, NC, Monroe, VOR/DME or GPS–B, Amdt. 6
Monroe, NC, Monroe, VOR or GPS–A, Amdt. 11
Monroe, NC, Monroe, NDB or GPS RWY 5, Amdt. 2
Fargo, ND, Hector Intl, VOR or TACAN or GPS RWY 35, Amdt. 11
Fargo, ND, Hector Intl, RNAV or GPS RWY 13, Amdt. 5
Fargo, ND, Hector Intl, VOR/DME or TACAN or GPS RWY 17, Orig. Amdt. 3A
Chadron, NE, Chadron Muni, VOR or GPS RWY 20, Amdt. 6
Chadron, NE, Chadron Muni, VOR/DME or GPS RWY 2, Amdt. 1
Cozad, NE, Cozad Muni, VOR or GPS RWY 13, Amdt. 1
Gordon, NE, Gordon Muni, NDB or GPS RWY 22, Amdt. 2
Kimball, NE, Kimball Muni/Robert E. Arraj Field, NDB or GPS RWY 28, Orig.
Lexington, NE, Jim Kelly Field, VOR or GPS RWY 14, Amdt. 2
Ogallala, NE, Searle Field, VOR or GPS RWY 8, Amdt. 4
Ogallala, NE, Searle Field, VOR or GPS RWY 26, Amdt. 4
Nashua, NH, Boire Field, VOR or GPS RWY 14, Amdt. 5
Nashua, NH, Boire Field, VOR or GPS–A, Amdt. 11
Caldwell, NJ, Essex County, NDB or GPS–A, Amdt. 4A
Caldwell, NJ, Essex County, NDB or GPS RWY 22, Amdt. 5
Millville, NJ, Millville Muni, NDB or GPS RWY 14, Amdt. 5
Millville, NJ, Millville Muni, VOR or GPS RWY 19, Amdt. 3A
Morristown, NJ, Morristown Muni, NDB or GPS RWY 23, Amdt. 6B
Morristown, NJ, Morristown Muni, NDB or GPS RWY 5, Amdt. 11
Las Vegas, NM, Las Vegas Muni, VOR or GPS RWY 2, Amdt. 10
Las Vegas, NM, Las Vegas Muni, VOR or GPS RWY 20, Amdt. 5
Raton, MN, Raton Municipal/Crews Field, NDB or GPS RWY 2, Amdt. 3
Elko, NV, Elko Muni-J.C. Harris Field, VOR/DME or GPS–B, Amdt. 2
Elko, NV, Elko Muni J.C. Harris Field, VOR or GPS–A, Amdt. 2
Albany, NY, Albany County, VOR or GPS RWY 28, Amdt. 6
Buffalo, NY, Greater Buffalo Intl, RNAV or GPS RWY 32, Amdt. 5A
Buffalo, NY, Greater Buffalo Intl. RNAV or GPS RWY 23, Orig.
Calverton, NY, Calverton Naval Weapons Industrial Reserve Plant, VOR/DME OR TACAN or GPS RWY 32, Amdt. 2
Calverton, NY, Calverton Naval Weapons Industrial Reserve, VOR/DME OR TACAN or GPS–A, Amdt. 2
White Plains, NY, Westchester County, VOR/DME or TACAN or GPS–A Amdt. 3A
White Plains, NY, Westchester County, NDB or GPS RWY 16, Amdt. 20A
White Plains, NY, Westchester County, VOR/DME RNAV or GPS RWY 34, Amdt. 6
Wurtsboro, NY, Wurtsboro-Sullivan County, VOR/DME or GPS RWY 5, Orig.

Carrollton, OH, Carroll County-Tolson, NDB or GPS RWY 25, Amdt. 5A
Carrollton, OH, Carroll County-Tolson, VOR or GPS–A, Orig. B
Cincinnati, OH, Cincinnati-Blue Ash, NDB or GPS RWY 24, Orig.
Cincinnati, OH, Cincinnati-Blue Ash, NDB or GPS RWY 6, Orig.
Circleville, OH, Pickaway County Memorial, VOR or GPS RWY19, Amdt. 2
Findlay, OH, Findlay, VOR or GPS RWY 7, Amdt. 11
Portsmouth, OH, Greater Portsmouth Regional, VOR/DME RNAV or GPS RWY 18, Amdt. 5
Portsmouth, OH, Greater Portsmouth Regional, VOR/DME or GPS–A, Amdt. 5
Wooster, OH, Wayne County, VOR or GPS RWY 10, Orig–A
Wooster, OH, Wayne County, NDB or GPS RWY 28, Amdt. 7A
Ada, OK, Ada Muni, NDB or GPS–A, Amdt. 3
Ardmore, OK, Ardmore Muni, VOR or GPS RWY 4, Amdt. 20
Ardmore, OK, Ardmore Muni, NDB or GPS RWY 30, Amdt. 4
Clinton, OK, Clinton-Sherman, NDB or GPS RWY 17R, Amdt. 10
Clinton, OK, Clinton-Sherman, VOR–1 or GPS VOR RWY 35L, Amdt. 10
Frederick, OK, Frederick Muni, NDB or GPS RWY 35L, Amdt. 1A
Hobart, OK, Hobart Muni, VOR or GPS RWY 35, Amdt. 7
Astoria, OR, Astoria Regional, VOR or GPS RWY 8, Amdt. 11
Aurora, OR, Aurora State, VOR/DME or GPS–A, Amdt. 2
Eugene, OR, Mahlon Sweet Field, VOR/DME or TACAN or GPS RWY 3, Amdt. 2
Eugene, OR, Mahlon Sweet Field, VOR/DME or TACAN or GPS RWY 34, AMdt. 2
Clarion, PA, Clarion County, VOR or GPS–A, Amdt. 1
Grove City, PA, Grove City, VOR/DME RNAV or GPS RWY 10, Amdt. 2
Grove City, PA, Grove City, VOR/DME RNAV or GPS RWY 28, Amdt. 2
Grove City, PA, Grove City, VOR or GPS–A, Amdt. 4
Pittsburgh, PA, Pittsburgh International, VOR/DME or TACAN or GPS RWY 14, Orig.
Pottsville, PA, Schuylkill County (Joe Zerbey), VOR/DME RNAV or GPS RWY 29, Amdt. 3
Pottsville, PA, Schuylkill County (Joe Zerbey). VOR or GPS RWY 4, Amdt. 5
State College, PA, University Park, RNAV or GPS RWY 6, Amdt. 5
State College, PA, University Park, VOR or GPS–B, Amdt. 8
West Chester, PA, Brandywine, VOR/DME RNAV or GPS RWY 27, Amdt. 2
North Kingstown, RI, Quonset State, VOR or GPS–A, Amdt. 3
Barnwell, SC, Barnwell County, NDB or GPS RWY 4, Amdt. 1
Greer, SC, Greenville-Spartanburg, RNAV or GPS RWY 21, Amdt. 5
Greer, SC, Greenville-Spartanburg, NDB or GPS RWY 3, Amdt. 14
Lancaster, SC, Lancaster County-Mc Whirter Field, VOR/DME or GPS–A, Amdt. 5
Lancaster, SC, Lancaster County-Mc Whirter Field, NDB or GPS RWY 24, Amdt. 3
St George, SC, St George Muni, VOR/DME or GPS–A, Amdt. 1
Madison, SD, Madison Muni, NDB or GPS RWY 15, Amdt. 7
Madison, SD, Madison Muni, VOR/DME or GPS RWY 33, Amdt. 3
Columbia/Mount Pleasant, TN, Maury County, NDB or GPS RWY 23, Amdt. 3B
Columbia/Mount Pleasant, TN, Maury County, VOR/DME or GPS–A, Amdt. 3A
Huntingdon, TN, Carroll County, NDB or GPS RWY 1, Amdt. 1
Selmer, TN, Robert Sibley, NDB or GPS RWY 17, Amdt. 5
Tullahoma, TN, Tullahoma Regional Arpt/Wm Northern Field, NDB or GPS RWY 18, Amdt. 1
Tullahoma, TN, Tullahoma Regional Arpt/Wm Northern Field, VOR/DME or GPS–B, Amdt. 3A
Tullahoma, TN, Tullahoma Regional Arpt/Wm Northern Field, RNAV or GPS RWY 36, Amdt. 4
Tullahoma, TN, Tullahoma Regiona Arpt/Wm Northern Field, VOR or GPS–A, Amdt. 3
Alpine, TX, Alpine–Casparis Municipal, NDB or GPS RWY 19, Amdt. 4
College Station, TX, Easterwood Field, VOR or TACAN or GPS RWY 10, Amdt. 18
College Station, TX, Easterwood Field, NDB or GPS RWY 34, Amdt. 11
Fredericksburg, TX, Gillespie County, VOR/DME or GPS–A, Amdt. 2
Harlingen, TX, Rio Grande Valley Intl, VOR or GPS RWY 13, Amdt. 11
Harlingen, TX, Rio Grande Valley Intl, NDB or GPS RWY 17R, Amdt. 11
Harlingen, TX, Rio Grande Valley Intl, VOR/DME or GPS RWY 31, Amdt. 3
Houston, TX, Ellington Field, VOR/DME or TACAN or GPS RWY 17R, Amdt. 3
Houston, TX, Ellington Field, VOR/DME or TACAN or GPS RWY 35L, Amdt. 3
Houston, TX, Houston-Southwest, RNAV or GPS RWY 27, Amdt. 2B
Houston, TX, Houston-Southwest, RNAV or GPS RWY 9, Amdt. 1B
Junction, TX, Kimble County, VOR or GPS–A, Amdt. 11
Junction, TX, Kimble County, RNAV or GPS RWY 17, Amdt. 3
Kerrville, TX, Kerrville Muni/Louis Schreiner Field, VOR/DME RNAV or GPS RWY 12, Amdt. 2
Kerrville, TX, Kerrville Muni/Louis Schreiner Field, NDB or GPS RWY 30, Amdt. 3
Kerrville, TX, Kerrville Muni/Louis Schreiner Field, VOR or GPS–A, Amdt. 2
Lamesa, TX, Lamesa Muni, NDB or GPS RWY 34, Amdt. 3
Lamesa, TX, Lamesa Muni, NDB or GPS RWY 16, Amdt. 2
Laredo, TX, Laredo Intl, VOR or TACAN or GPS RWY 32, Amdt. 9
Laredo, TX, Laredo Intl, VOR/DME or TACAN or GPS RWY 14, Amdt. 8
Laredo, TX, Laredo Intl, NDB or GPS RWY 17R, Amdt. 9
Laredo, TX, Laredo Intl, NDB or GPS RWY 17L, Amdt. 2
San Angelo, TX, Mathis Field, VOR or GPS RWY 21, Amdt. 15
Sherman/Denison, TX, Grayson County, VOR/DME or GPS–A, Amdt. 7
Sherman/Denison, TX, Grayson County, NDB or GPS RWY 17L, Amdt. 8
Sulphur Springs, TX, Sulphur Springs Muni, VOR/DME or GPS–B, Amdt. 5
Sulphur Springs, TX, Sulphur Springs Muni, VOR or GPS–A, Amdt. 4
Moab, UT, Canyonlands Field, VOR or GPS–A, Amdt. 9
Ogden, UT, Ogden-Hinckley, RNAV or GPS RWY 3, Orig.
Ogden, UT, Ogden-Hinskley, VOR or GPS RWY 7, Amdt. 5
Galax-Hillsville, VA, Galax/Twin County, NDB or GPS–A, Amdt. 4
Galax-Hillsville, VA, Galax/Twin County, VOR/DME or GPS RWY 18, Amdt. 4
Leesburg, VA, Leesburg Muni/Godfrey Field, VOR or GPS–A, Orig.
Suffolk, VA, Suffolk Muni, NDB or GPS RWY 7, Amdt. 1A
Tangier, VA, Tangier Island, VOR/DME or GPS RWY 2, Orig.
Wallops Island, VA, Wallops Flight Facility, VOR or Tacan or GPS RWY 17, Amdt. 5
Morrisville, VT, Morrisville-Stowe State, NDB or GPS–B, Orig.
Newport, VT, Newport State, NDB or GPS–A, Amdt. 2.
Shelton, WA, Sanderson Field, NDB or GPS–A, Orig.
Spokane, WA, Felts Field, VOR or GPS RWY 3L, Amdt. 2
Yakima, WA, Yakima Air Terminal, VOR or GPS–A, Amdt. 6
Yakima, WA, Yakima Air Terminal, VOR/DME or TACAN or GPS RWY 27, Amdt. 7
Eagle River, WI, Eagle River Union, NDB or GPS RWY 22, Amdt. 5
Fond Du Lac, WI, Fond Du Lac County, NDB or GPS RWY 9, Amdt. 6
Fond Du Lac, WI, Fond Du Lac County, VOR/DME or GPS RWY 36, Amdt. 6
Green Bay, WI, Austin Straubel International, NDB or GPS RWY 6, Amdt. 15A
Green Bay, WI, Austin Straubel International, VOR or GPS RWY 12, Amdt. 17
Green Bay, WI, Austin Straubel International, VOR/DME or TACAN or GPS, RWY 36 Amdt. 6A
Madison, WI, Dane County Regional-Tryax Field, NDB or GPS RWY 36, Amdt. 28
Madison, WI, Dane County Regional-Truax Field, VOR or TACAN or GPS RWY 18, Amdt. 20
Stevens Point, WI, Stevens Point Muni, VOR or GPS RWY 21, Amdt. 17
Stevens Point, WI, Stevens Point Muni, VOR/DME or GPS RWY 3, Amdt. 13
Bluefield, WV, Mercer County, VOR/DME or GPS RWY 23, Amdt. 2B
Cheyenne, WY, Cheyenne, NDB or GPS RWY 26, Amdt. 13
Cheyenne, WY, Cheyenne, VOR or TACAN or GPS–A, Amdt. 9
Greybull, WY, South Big Horn County, NDB or GPS RWY 35, Amdt. 1

The following are *corrected* procedure titles adding "or GPS" published in Transmittal Letter 94–13.

Kirksville, MO, Kirksville Regional, VOR/DME RNAV or GPS RWY 18, Amdt. 6
Kirksville, MO, Kirksville Regional, VOR/DME RNAV or GPS RWY 36, Amdt. 7
Lewistown, MT, Lewistown Muni, VOR or GPS RWY 7, Amdt. 14

Sidney, MT, Sidney-Richland Muni, NDB or GPS RWY 1, Amdt. 12
Louisburg, NC, Franklin County, VOR/DME or GPS–A, Orig. A
Atlantic City, NJ, Atlantic City Muni/Bader Field, VOR or GPS RWY 11, Amdt. 4
Atlantic City, NJ, Atlantic City Muni/Bader Field, VOR or GPS–A, Amdt. 4
Atlantic City, NJ, Atlantic City Muni/Bader Field, VOR or GPS–SB, Amdt. 1
Farmington, NM, Four Corners Regional, VOR/DME or GPS RWY 7, Amdt. 3
Cleveland, OH, Cleveland-Hopkins Intl, VOR/DME RNAV or GPS RWY 18, Amdt. 10
San Juan, PR, Luis Munoz Marin Intl, VOR or GPS RWY 26, Amdt. 18
Spartanburg, SC, Spartanburg Downtown Memorial, RNAV or GPS RWY 5, Amdt. 6A
Amarillo, TX, Tradewind, VOR/DME RNAV or GPS RWY 35, Amdt. 8
Dallas, TX, Redbird, VOR or GPS RWY 31, Amdt. 11
El Paso, TX, El Paso Intl, VOR or GPS RWY 26L, Amdt. 29
La Crosse, WI, La Crosse Muni, VOR or GPS RWY 36, Amdt. 28

[FR Doc. 94–15765 Filed 6–28–94; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 97

[Docket No. 27797; Amdt. No. 1608]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviations Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been cancelled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant

economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on June 17, 1994.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

Authority: 49 U.S.C. app. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

* * * EFFECTIVE UPON PUBLICATION

FDC date	State	City	Airport	FDC No.	SIAP
06/01/94	SC	Rock Hill	Rock Hill/York County/Bryant Field.	FDC 4/2494	NDB Rwy 2 Orig A...
06/01/94	SC	Rock Hill	Rock Hill/York County/Bryant Field.	FDC 4/2495	Loc Rwy 2 Orig A...
06/01/94	SC	Rock Hill	Rock Hill/York County/Bryant Field.	FDC 4/2496	VOR/DME RNAV Rwy 2 Amdt 4A...
06/08/94	NE	Kearney	Kearney Muni	FDC 4/2605	Loc Rwy 36, Amdt 5...
06/08/94	NE	Kearney	Kearney Muni	FDC 4/2607	NDB Rwy 36, Amdt 4...
06/09/94	NE	Kearney	Kearney Muni	FDC 4/2619	VOR Rwy 36 Amdt 9...
06/13/94	LA	Minden	Minden-Webster	FDC 4/2690	VOR/DME–A Amdt 4...
06/13/94	LA	Opelousas	St Landry Parish-Ahart Field	FDC 4/2693	VOR/DME Rwy 35 Orig...
06/14/94	DC	Washington	Washington National	FDC 4/2718	VOR Rwy 36, Amdt 11...
06/14/94	NJ	Newark	Newark Intl	FDC 4/2712	NDB Rwy 4L, Amdt 9B...
06/14/94	NJ	Newark	Newark Intl	FDC 4/2713	ILS Rwy 4L, Amdt 11C...
06/14/94	NJ	Newark	Newark Intl	FDC 4/2714	NDB Rwy 4R, Amdt 5A...
06/14/94	NJ	Newark	Newark Intl	FDC 4/2715	ILS Rwy 4R, Amdt 8A...
06/15/94	SD	Watertown	Watertown Muni	FDC 4/2740	LOC/DME BC Rwy 17 Amdt 8...
06/15/94	TX	Baytown	Baytown	FDC 4/2741	VOR Rwy 13 Orig...
06/15/94	TX	Baytown	Baytown	FDC 4/2742	NDB Rwy 13 Orig...
06/16/94	TX	Baytown	Baytown	FDC 4/2767	NDB Rwy 31 Orig...
06/16/94	TX	Baytown	Baytown	FDC 4/2769	VOR Rwy 31 Orig...

Washington

Washington National
District of Columbia
VOR Rwy 36, Amdt 11...
FDC Date: 06/14/94

FDC 4/2718/DCA/ FI/P Washington National, Washington, DC. VOR Rwy 36, Amdt 11...Chg PISCA INT/DCA 10.2 DME to PISCA INT/DCA 10.7 DME. Chg OTT R–276 to OTT R–274. This is VOR Rwy 36, Amdt 11A.

Minden

Minden-Webster
Louisiana
VOR/DME–A Amdt 4..
FDC Date: 06/13/94

FDC 4/2690/F24/ FI/P Minden-Webster, Minden, LA. VOR/DME–A Amdt 4...Circling MDA/HAA 1540/1262 All CATS. VIS CAT B 1½, CAT C 3. MSA from SHV VORTAC 3100 /28 MN/ . This becomes VOR/DME–A Amdt 4A.

Opelousas

St Landry Parish-Ahart Field
Louisiana
VOR/DME Rwy 35 Orig...
FDC Date: 06/13/94

FDC 4/2693/OPL/ FI/P St Landry Parish-Ahart Field, Opelousas, LA. VOR/DME Rwy 35 Orig...MSA from LFT VORTAC...R–360 CLKWS R–090 2100, R–090 CLKWS R–180 16, 000, R–180 CLKWS R–360 2800. This becomes VOR/DME Rwy 35 ORIG–A.

Kearney

Kearney Muni
Nebraska
LOC Rwy 36, Amdt 5...
FDC Date: 06/8/94

FDC 4/2605/EAR/ FI/P Kearney Muni, Kearney, NE. LOC Rwy 36, Amdt 5... S–36 VIS CAT A/B/C 1/2, CAT D 3/4. This is LOC Rwy 36, Amdt 5A.

Kearney

Kearney Muni
Nebraska
NDB Rwy 36, Amdt 4...
FDC Date: 06/08/94

FDC 4/2607/EAR/ FI/P Kearney Muni, Kearney, NE. NDB Rwy 36, Amdt 4...S–36 VIS CAT C 3/4, CAT D 1¼. Delete

Note...CAT C INOP table does not apply. This is NDB Rwy 36, Amdt 4A.

Kearney

Kearney Muni
Nebraska
VOR Rwy 36 Amdt 9...
FDC Date: 06/09/94

FDC 4/2619/EAR/ FI/P Kearney Muni, Kearney, NE. VOR Rwy 36 Amdt 9...S–36 VIS CAT A, B 1/2, CAT C, D 1. QUARI FIX MINS...S–36 VIS CAT A, B 1/2, CAT C 3/4, CAT D 1. Delete note...CAT C INOP table does not apply. Add note...For INOP MALSR, INCR S–36 CAT D VIS to 1¼ mile. This is VOR Rwy 36 Amdt 9A.

Newark

Newark Intl
New Jersey
NDB Rwy 4L, Amdt 9B...
FDC Date: 06/14/94

FDC 4/2712/EWR/ FI/P Newark Intl, Newark, NJ. NDB Rwy 4L, Amdt 9B... MSA 090–270 2100 FT, 270–090 2800 FT. This is NDB Rwy 4L, Amdt 9C.

Newark

Newark Intl
New Jersey
ILS Rwy 4L, Amdt 11C...
FDC Date: 06/14/94

FDC 4/2713 EWR/ FI/P Newark Intl, Newark, NJ. ILS Rwy 4L, Amdt 11C... MSA 090–270 2100 FT, 270–090 2800 FT. This is ILS Rwy 4L, Amdt 11D.

Newark

Newark Intl
New Jersey
NDB RWY 4R, Amdt 5A...
FDC Date: 06/14/94

FDC 4/2714/EWR/FI/P Newark Intl, Newark, NJ. NDB Rwy 4R, Amdt 5A... MSA 090–270 2100 FT, 270–090 2800 FT. This is NDB Rwy 4R, Amdt 5B

Newark

Newark Intl
New Jersey
ILS RWY 4R, Amdt 8A...
FDC Date: 06/14/94

FDC 4/2715/EWR/FI/P Newark Intl, Newark, NJ. ILS Rwy 4R, Amdt 8A... MSA 090–270 2100 FT, 270–090 2800 FT. This is ILS Rwy 4R, Amdt 8B.

Rock Hill

Rock Hill/York County/Bryant Field
South Carolina
NDB Rwy 2 Orig A...
FDC Date: 06/01/94

FDC 4/2494/29J/FI/P Rock Hill/York County/Bryant Field, Rock Hill, SC. NDB Rwy 2 Orig A...S–2 CAT A and B VIS 3/4. Note...INOP Table does not apply to CAT C. This becomes NDB Rwy 2 Orig B.

Rock Hill

Rock Hill/York County/Bryant Field
South Carolina
LOC RWY 2 Orig A...
FDC Date: 06/01/94

FDC 4/2495/29J/FI/P Rock Hill/York County/Bryant Field, Rock Hill, SC. LOC Rwy 2 Orig A...S–2 CAT A and B VIS 3/4. INOP Table does not apply to CAT C. This becomes LOC Rwy 2 Orig B.

Rock Hill

Rock Hill/York County/Bryant Field
South Carolina
VOR/DME RNAV Rwy 2 Amdt 4A...
FDC Date: 06/01/94

FDC 4/2496/29J/FI/P Rock Hill/York County/Bryant Field, Rock Hill, SC. VOR/DME RNAV Rwy 2 Amdt 4A...S–2 CAT A and B VIS 3/4. Note...INOP Table does not apply to CAT C. This becomes VOR/DME RNAV Amdt 4B.

Watertown

Watertown MUNI
South Dakota
LOC/DME BC RWY 17 Amdt 8...
FDC Date: 06/15/94

FDC 4/2740/ATY/FI/P Watertown MUNI, Watertown, SD. LOC/DME BC Rwy 17 Amdt 8...S17 MDA 2200/HAT 461 All CATS, VIS CAT D 1½. HURON ALSTG MINS... S–17 MDA 2400/HAT 661 All CATS. This is LOC/DME BC Rwy 17 Amdt 8A.

Baytown

Baytown
Texas
VOR RWY 13 Orig...
FDC Date: 06/15/94

FDC 4/2741/HPY/FI/P Baytown, Baytown, TX. VOR Rwy 13 Orig...MIN ALT at GARBO INT/MHF 23 DME/ Radar 1700. CHG all references to Rwy 13/31 to read Rwy 14/32. This is VOR Rwy 14 Orig–A.

Baytown

Baytown
Texas
NDB Rwy 13 Orig...
FDC Date: 06/15/94

FDC 4/2742/HPY/FI/P Baytown, Baytown, TX. NDB Rwy 13 Orig...CHG all references to Rwy 13/31 to read Rwy 14/32. This is NDB Rwy 14 Orig–A.

Baytown

Baytown
Texas
NDB Rwy 31 Orig...
FDC Date: 06/16/94

FDC 4/2767/HPY/FI/P Baytown, Baytown, TX. NDB Rwy 31 Orig...CHG all references to Rwy 13/31 to read Rwy 14/32. This is NDB Rwy 32 Orig–A.

Baytown

Baytown
Texas
VOR Rwy 31 Orig...
FDC Date: 06/16/94

FDC 4/2769/HPY/FI/P Baytown, Baytown, TX. VOR Rwy 31 Orig...CHG all references to Rwy 13/31 to read Rwy 14/32. This is VOR Rwy 32 Orig–A.

[FR Doc. 94–15764 Filed 6–28–94; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Center for Drug Evaluation and Research

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority relating to the list of FDA officials in the Center for Drug Evaluation and Research (CDER), Office of Generic Drugs (OGD), with authority to perform all the functions of the Commissioner of Food and Drugs with respect to approval of supplemental applications. This action is being taken to reflect a reorganization in OGD and to ensure the accuracy of the regulation.

EFFECTIVE DATE: June 29, 1994.

FOR FURTHER INFORMATION CONTACT: Ellen R. Rawlings, Division of Management Systems and Policy (HFA–340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4976.

SUPPLEMENTARY INFORMATION: FDA is amending the regulations in § 5.80 *Approval of new drug applications and their supplements* (21 CFR 5.80) to change the title of Associate Director for Labeling and Professional Support, OGD, to Director, Division of Labeling and Program Support in § 5.80(e). In addition, the title of Deputy Director, Division of Labeling and Program Support is being added to those authorized in § 5.80(e) to carry out the Commissioner's authorities described in that section. These changes are being made to reflect a minor reorganization in OGD.

Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially

designated to serve in such position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Imports, Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 5 is amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. The authority citation for 21 CFR part 5 continues to read as follows:

Authority: 5 U.S.C. 504, 552, App. 2; 7 U.S.C. 138a, 2271; 15 U.S.C. 638, 1261–1282, 3701–3711a; secs. 2–12 of the Fair Packaging and Labeling Act (15 U.S.C. 1451–1461); 21 U.S.C. 41–50, 61–63, 141–149, 467f, 679(b), 801–886, 1031–1309; secs. 201–903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321–394); 35 U.S.C. 156; secs. 301, 302, 303, 307, 310, 311, 351, 352, 361, 362, 1701–1706, 2101, 2125, 2127, 2128 of the Public Health Service Act (42 U.S.C. 241, 242, 242a, 242l, 242n, 243, 262, 263, 264, 265, 300u–300u–5, 300aa–1, 300aa–25, 300aa–27, 300aa–28); 42 U.S.C. 1395y, 3246b, 4332, 4831(a), 10007–10008; E.O. 11490, 11921, and 12591; secs. 312, 313, 314 of the National Childhood Vaccine Injury Act of 1986, Pub. L. 99–660 (42 U.S.C. 300aa–1 note).

2. Section 5.80 is amended by revising paragraph (e) to read as follows:

§ 5.80 Approval of new drug applications and their supplements.

* * * * *

(e) The Director and Deputy Director, Division of Labeling and Program Support, OGD, are authorized to perform all the functions of the Commissioner of Food and Drugs with respect to approval of supplemental applications to abbreviated new drug applications, 5S applications, or 505(b)(2) applications for drugs for human use that are described in § 314.70(b)(3) and (c)(2)(i) through (c)(2)(iv) of this chapter. Authority to approve supplements that require in vivo bioavailability studies or in vivo study waiver requests is not included in this paragraph.

* * * * *

Dated: June 23, 1994.

Micheal R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 94–15749 Filed 6–28–94; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 8549]

RIN 1545–AL49

Preparer Penalties—Manual Signature Requirement

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations providing that persons who prepare U.S. fiduciary income tax returns for compensation may, under certain conditions, satisfy the manual signature requirements by using a facsimile signature. The final regulations will reduce the burden on preparers of U.S. fiduciary income tax returns. The final regulations also incorporate the new $50 penalty amount, with a $25,000 maximum per person with respect to each calendar year, imposed by section 6695(a), (b), and (c). Prior to the Omnibus Budget and Reconciliation Act of 1989 (OBRA), the penalty amount was $25. Finally, the final regulations incorporate the amendment to section 6695(e) by OBRA changing the $100 penalty for failure to file correct information returns and the $5 penalty for each failure to put a required item on a return to $50 for each of the two described failures (with a $25,000 maximum per person with respect to each calendar year).

EFFECTIVE DATE: These regulations are effective June 28, 1994.

FOR FURTHER INFORMATION CONTACT: Robert A. Walker, (202) 622–3640 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control number 1545–1385. The estimated annual burden per recordkeeper varies from 30 to 60 minutes depending on individual circumstances, with an estimated average of 45 minutes.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, PC:FP, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Background

The IRS published a notice of proposed rulemaking in the **Federal Register** on April 22, 1993 (58 FR 21548), proposing amendments to rules under section 6695 of the Internal Revenue Code (Code). No comments were received in response to the notice of proposed rulemaking. Accordingly, except for minor stylistic changes, the proposed regulations are adopted as final regulations by this Treasury decision.

Explanation of Provisions

Section 645 of the Code, which was enacted as part of the Tax Reform Act of 1986, generally requires trusts to use a calendar taxable year for years beginning after 1986. Section 1.6695–1(b)(1) of the Income Tax regulations requires an individual, who is an income tax preparer with respect to an income tax return or a claim for refund of income tax, to manually sign the return or claim. These two requirements, taken together, impose a potential hardship for income tax preparers responsible for the preparation of large numbers of Forms 1041 (U.S. Fiduciary Income Tax Returns).

The IRS responded to this potential hardship in Notice 88–48, 1988–1 C.B. 531 (for 1987 Forms 1041), and Notice 89–48, 1989–1 C.B. 688 (for post-1987 Forms 1041). Under these Notices, pending the revision of regulations under section 6695(b), the IRS authorized the use of a facsimile signature by a preparer (i.e., a failure-to-sign penalty would not be imposed) if certain conditions were satisfied. First, the preparer had to submit to the IRS, with the Forms 1041 bearing the preparer's facsimile signature, a letter manually signed by the preparer (a) listing the taxpayer's name and identification number on each Form 1041 bearing the facsimile signature, and (b) containing a declaration, under penalties of perjury, that the facsimile signature appearing on each return is the signature used by the preparer to sign the return. Second, after the facsimile signature is affixed, no person other than the preparer could alter entries of the Form 1041 other than to correct arithmetic errors. Third, a manually signed copy of the letter to the IRS, together with a record of any arithmetic errors that were corrected, must be retained and made available to the IRS upon request.

The final regulations amend § 1.6695–1(b) to permit preparers of fiduciary returns to use a facsimile signature, instead of a manual signature, to sign returns under the same conditions contained in the two Notices. These conditions are substantially similar to those under which preparers of returns for nonresident alien individual taxpayers are permitted to use a facsimile signature to sign a return or claim for refund. The rules for nonresident alien taxpayers appear in § 1.6695–1(b)(4)(iii). Unlike those rules, however, the final regulations do not extend permission for preparers to use a facsimile signature on fiduciary claims for refund.

Additionally, the final regulations amend the current regulations to reflect the changes made in OBRA to the amounts of the preparer penalties imposed by sections 6695 (a), (b), (c), and (e).

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Robert A. Walker of the Office of Assistant Chief Counsel (General Litigation). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding the following citation:

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

Section 1.6695–1 also issued under 26 U.S.C. 6695(b) * * *

Par. 2. Section 1.6695–1 is amended by:

1. Revising paragraph (a)(1), introductory text.
2. Revising paragraph (b)(1).
3. Revising paragraphs (b)(4) (iv) and (v).
4. Adding paragraph (b)(4)(vi).
5. Revising paragraph (b)(5), introductory text.
6. Revising paragraphs (c)(1), introductory text and paragraph (c)(3).
7. Revising paragraph (e).

§ 1.6695–1 Other assessable penalties with respect to the preparation of income tax returns for other persons.

(a) *Failure to furnish copy to taxpayer.* (1) A person who is an income tax return preparer of any return of tax under subtitle A of the Internal Revenue Code or claim for refund of tax under subtitle A of the Internal Revenue Code and who fails to satisfy the requirements imposed by section 6107(a) and § 1.6107–1 (a) and (c) to furnish a copy of the return or claim for refund to the taxpayer (or nontaxable entity), shall be subject to a penalty of $50 for such failure, with a maximum penalty of $25,000 per person imposed with respect to each calendar year, unless it is shown that the failure is due to reasonable cause and not due to willful neglect. Thus, no penalty may be imposed under section 6695(a) and this paragraph (a)(1) upon a person who is an income tax return preparer solely by reason of—

* * * * *

(b) *Failure to sign return.* (1) An individual who is an income tax return preparer with respect to a return of tax under subtitle A of the Internal Revenue Code or claim for refund of tax under subtitle A of the Internal Revenue Code shall manually sign the return or claim for refund (which may be a photocopy) in the appropriate space provided on the return or claim for refund after it is completed and before it is presented to the taxpayer (or nontaxable entity) for signature. Except as provided in paragraphs (b)(4) (iii) and (iv) of this section, an individual preparer may not satisfy this requirement by use of a facsimile signature stamp or signed gummed label. If the preparer is unavailable for signature, another preparer shall review the entire preparation of the return or claim for refund, and then shall manually sign the return or claim for refund.

* * * * *

(4) * * *

(iv) A preparer of a fiduciary return may satisfy the manual signature requirement of paragraphs (b) (1) and (2) of this section by a facsimile signature only if the preparer submits to the Internal Revenue Service with the returns bearing the preparer's facsimile signature a letter, manually signed by the preparer, identifying by taxpayer name and identification number each return bearing the facsimile signature and declaring under penalties of perjury that the facsimile signature appearing on these returns is the signature used by the preparer to sign these documents. After the facsimile signature is affixed, no person other than the preparer may alter any entries on the return other than to correct arithmetical errors discernable on the return. The employer of the preparer or the partnership in which the preparer is a partner, or the preparer (if not employed or engaged by a preparer and not a partner in a partnership which is a preparer), shall retain a manually signed copy of the letter submitted to the Internal Revenue Service with the returns. A record of any arithmetical errors corrected shall be retained by the person required to keep the manually signed letter and that person shall make the record available to the Internal Revenue Service upon request. The preparer of a fiduciary claim for refund may not satisfy the manual signature requirement of paragraphs (b) (1) and (2) of this section by a facsimile signature.

(v) Any items required to be retained and kept available for inspection under paragraph (b)(4) (i), (ii), (iii), or (iv) of this section shall be retained and kept available for inspection for the same period that the material described in § 1.6107–1(b) must be retained and kept available for inspection.

(vi) If the district director, service center director, or compliance center director (director) determines that a preparer or preparers have abused the permissive signature rules of this paragraph (b)(4), such as by altering the return or claim for refund after signature (in contravention of paragraph (b)(4)(i) of this section), by altering information on the return or claim for refund after attestation (in contravention of paragraph (b)(4)(ii) of this section), or by failing to comply with the provisions of paragraph (b)(4) (iii) or (iv) of this section, then the director may, by written notice, prospectively deny to the preparer or preparers the right to use the permissive signature rules of this paragraph (b)(4).

(5) An individual required by this paragraph (b) to sign a return or claim for refund shall be subject to a penalty of $50 for each failure to sign, with a

maximum of $25,000 per person imposed with respect to each calendar year, unless it is shown that the failure is due to reasonable cause and not due to willful neglect. For purposes of this paragraph (b), reasonable cause is a cause which arises despite ordinary care and prudence exercised by the individual preparer. Thus, no penalty may be imposed under section 6695(b) and this paragraph (b) upon a person who is an income tax return preparer solely by reason of—

* * * * *

(c) *Failure to furnish identifying number.* (1) A person who is an income tax return preparer of any return of tax under subtitle A of the Internal Revenue Code or claim for refund of tax under subtitle A of the Internal Revenue Code and who fails to satisfy the requirement of section 6109(a)(4) and § 1.6109–2(a) to furnish one or more identifying numbers of preparers on a return or claim for refund shall be subject to a penalty of $50 for each failure, with a maximum of $25,000 per person imposed with respect to each calendar year, unless it is shown that the failure is due to reasonable cause and not due to willful neglect. Thus, no penalty may be imposed under section 6695(c) and this paragraph (c)(1) upon a person who is an income tax return preparer solely by reason of—

* * * * *

(3) No more than one penalty of $50 may be imposed under section 6695(c) and paragraph (c)(1) of this section with respect to a single return or claim for refund.

* * * * *

(e) *Failure to file correct information returns.* A person who is subject to the reporting requirements of section 6060 and § 1.6060–1 and who fails to satisfy these requirements shall pay a penalty of $50 for each such failure, with a maximum of $25,000 per person imposed for each calendar year, unless such failure was due to reasonable cause and not due to willful neglect.

* * * * *

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

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

Authority: 26 U.S.C. 7805.

Par. 4. The table in § 602.101(c) is amended by revising the entry for § 1.6695–1 to read as follows:

"1.6695–1——1545–0074, 1545–1385".

Margaret Milner Richardson,

Commissioner of Internal Revenue.

Approved: June 10, 1994.

Leslie Samuels,

Assistant Secretary of the Treasury.

[FR Doc. 94–15665 Filed 6–28–94; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–94–038]

Special Local Regulations for Marine Events; Night in Venice Boat Parade, Ship Channel and Great Egg Waterway, Ocean City, NJ

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: This notice implements special local regulations for the Night in Venice Boat Parade, an annual event to be held on July 23, 1994 in the Ship Channel and on the Great Egg Waterway, Ocean City, New Jersey. These special local regulations are needed to provide for the safety of the participants and spectators on navigable waters during this event. The effect will be to restrict general navigation in the regulated area.

EFFECTIVE DATE: The regulations in 33 CFR 100.504 are effective from 4:30 p.m. to 11:45 p.m., July 23, 1994.

FOR FURTHER INFORMATION CONTACT: Stephen L. Phillips, Chief, Boating Affairs Branch, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004 (804) 398–6204, or Commander, Coast Guard Group Cape May (609) 884–6981.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this notice are QM2 Gregory C. Garrison, project officer, Boating Affairs Branch, Boating Safety Division, Fifth Coast Guard District, and LT Monica L. Lombardi, project attorney, Fifth Coast Guard District Legal Staff.

Discussion of Regulations

The City of Ocean City, New Jersey, has submitted an application to hold the Night in Venice Boat Parade. The event will consist of approximately 125 vessels less than 65 feet in length. The parade will start at Ship Channel Buoy 4 (LLNR 1160), cruise down the channel through Great Egg Waterway to Daybeacon 28 (LLNR 33865), and return to Great Egg Waterway Buoy 2 (LLNR 33800). Since these regulations were specifically established to enhance the safety of the participants in and spectators of the Night In Venice Boat Parade, the regulations in 33 CFR 100.504 are hereby implemented. Commercial traffic should not be severely disrupted at any given time, since commercial vessels will be permitted to transit the regulated area as the parade progresses.

Dated: June 16, 1994.

J.E. Schwartz,

Captain, U.S. Coast Guard, Commander, Fifth Coast Guard District, Acting.

[FR Doc. 94–15693 Filed 6–28–94; 8:45 am]

BILLING CODE 4910–14–M

---

33 CFR Part 100

[CGD 05–94–037]

Special Local Regulations for Marine Events; Pony Penning Swim, Assateague Channel, Chincoteague, VA

AGENCY: Coast Guard, DOT.

ACTION: Notice of Implementation.

SUMMARY: This notice implements special local regulations for the Pony Penning Swim, an annual event to be held in the Assateague Channel in Chincoteague, Virginia. These special local regulations are necessary to control vessel traffic in the immediate vicinity of this event. The effect will be to restrict general navigation in the regulated area for the safety of spectators and participants.

EFFECTIVE DATE: The regulations in 33 CFR 100.519 are effective from 6 a.m. to 2 p.m., July 27, 1994.

FOR FURTHER INFORMATION CONTACT: Stephen L. Phillips, Chief, Boating Affairs Branch, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004 (804) 398–6204, or Commander, Coast Guard Group Eastern Shore (804) 336–2891.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this notice are QM2 Gregory C. Garrison, project officer, Boating Affairs Branch, Fifth Coast Guard District, and LT Monica L. Lombardi, project attorney, Fifth Coast Guard District Legal Staff.

Discussion of Regulation

The Chincoteague Volunteer Fire Company submitted an application to hold this year's Pony Penning Swim on July 27, 1994, in the Assateague

Channel. Since this event is of the type contemplated by these regulations and the safety of the participants and spectators viewing this event will be enhanced, the regulations in 33 CFR 100.519 are implemented. The swim is an annual event held the last Wednesday in July. Ponies swim across Assateague Channel to Chincoteague, Virginia, and the next Friday swim back across the channel to Assateague Island. To provide for the safety of participants, spectators, and vessels transiting the area, the Coast Guard will restrict vessel movement in the regulated area during the time the ponies are in the water.

Dated: June 16, 1994.

J.E. Schwartz,

Captain, U.S. Coast Guard, Commander, Fifth Coast Guard District, Acting.

[FR Doc. 94–15694 Filed 6–28–94; 8:45 am]

BILLING CODE 4910–14–M

---

33 CFR Part 100

[CGD 05–94–047]

Special Local Regulations for Marine Events; Welcome America Fireworks and Lighted Boat Parade; Delaware River, Philadelphia, PA

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: This notice implements special local regulations for the Welcome America Fireworks Display and Lighted Boat Parade. The boat parade will begin at Penn Treaty Park and conclude at Penn's Landing, Delaware River, Philadelphia, Pennsylvania on July 2, 1994. The fireworks display will be launched from barges anchored off Penn's Landing, Delaware River, Philadelphia, Pennsylvania on July 3, 1994. These special local regulations are needed to control vessel traffic in the immediate vicinity of the event due to the confined nature of the waterway and expected spectator craft congestion during the event. These regulations restrict general navigation in the area for the safety of life and property on the navigable waters during the event.

EFFECTIVE DATE: The regulations in 33 CFR 100.509 are effective from 8:15 p.m. to 10:30 p.m., July 2, 1993 and from 8:30 p.m. to 11 p.m., July 3, 1994. If inclement weather causes the postponement of the event, the regulations are effective from 8:15 p.m. to 10:30 p.m., July 3, 1994 and from 8:30 p.m. to 11 p.m., July 5, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen L. Phillips, Chief, Boating Affairs Branch, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004 (804) 398–6204, or Commander, Coast Guard Group Philadelphia (215) 271–4825.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this notice are QM2 Gregory C. Garrison, project officer, Boating Affairs Branch, Boating Safety Division, Fifth Coast Guard District, and Monica L. Lombardi, project attorney, Fifth Coast Guard District Legal Staff.

Discussion of Regulations

The Philadelphia Convention and Visitors Bureau submitted an application dated May 31, 1994 to hold the Welcome America Fireworks Display and Lighted Boat Parade. The display will be launched from barges anchored off Penn's Landing, Delaware River, Philadelphia, Pennsylvania. Since many spectator vessels are expected to be in the area to watch the fireworks, the regulations in 33 CFR 100.509 are being implemented for this event. The fireworks will be launched from within the regulated area. The waterway will be closed during the display. Since the closure will not be for an extended period, commercial traffic should not be severely disrupted.

Dated: June 16, 1994.

J.E. Schwartz,

Captain, U.S. Coast Guard, Commander, Fifth Coast Guard District, Acting.

[FR Doc. 94–15692 Filed 6–28–94; 8:45 am]

BILLING CODE 4910–14–M

---

33 CFR Part 165

[CGD13–94–016]

RIN 2115–AA97

Safety Zone Regulations: Vancouver Fourth of July Fireworks Display, Columbia River, Vancouver, WA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone for the Independence Day Fireworks Display to be held on July 4, 1994. The zone will be located on the Columbia River and include all waters between the Washington shore and a line drawn from the Interstate 5 bridge to the Washington shore at Ryan's Point. This safety zone is needed to protect persons, facilities, and vessels from safety hazards associated with a fireworks display. Entry into this safety zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATE: This regulation becomes effective on July 4, 1994, at 9:45 p.m. (PDT) and terminates on July 4, 1994, at 11:30 p.m. (PDT).

FOR FURTHER INFORMATION CONTACT: LTJG R.S. Croke, c/o Captain of the Port Portland, 6767 N. Basin Ave., Portland Oregon 97217–3992, (503) 240–9327.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is necessary to ensure the safety of structures and vessels operating in the regulated area. Due to the complex planning and coordination involved, notice of the final details for the show were not available to the Coast Guard from the City of Vancouver Fourth of July Fireworks Committee until 30 days prior to the show. Therefore, sufficient time was not available to publish the proposed rules in advance of the event or to provide a delayed effective date. Following normal rulemaking procedures would be impracticable.

Drafting Information

The drafters of this regulation are LTJG R.S. Croke, project officer for the Captain of the Port, and LT L.J. Argenti, project attorney, Thirteenth Coast Guard District Legal Office.

Discussion of Regulations

The event requiring this regulation will begin on July 4, 1994 at 9:45 p.m. Upon request of the City of Vancouver Fourth of July Fireworks Committee, the Coast Guard is establishing a safety zone on the Columbia River that will include all waters between the Washington shore and a line drawn from the Interstate 5 bridge at position 45°37′03″ N., 122°40′32″ W. running straight to position 45°36′28″ N., 122°38′35″ W. and then due north to the Washington shore at Ryan's Point. This fireworks display may result in a large number of vessels congregating near the fireworks launch barge. Concern is justified due to the possibility of debris and unexploded fireworks falling into the Columbia River in the vicinity of the launch barge. This safety zone will be enforced by representatives of the Captain of the Port Portland, Oregon. The Captain of the Port may be assisted by other federal agencies.

This regulation is issued pursuant to 33 U.S.C. 1231 as set out in the authority citation for all of Part 165.

Regulatory Evaluation

This temporary final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Federalism

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

Environmental Assessment

This final rule has been thoroughly reviewed by the Coast Guard and determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.c. of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 165

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

Regulation

In consideration of the foregoing, subpart C of Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

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

PART 165—[AMENDED]

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

2. A new section 165.T13–013 is added to read as follows:

§ 165.T13–013 Safety Zone: Columbia River, Vancouver, Washington

(a) *Location.* The following area is a safety zone: All waters on the Columbia River between the Washington shore and a line drawn from the Interstate 5 bridge at position 45°37′03″ N., 122°40′32″ W. running straight to position 45°36′28″ N., 122°38′35″ W. and then due north to the Washington shore at Ryan's Point.

(b) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port or his designated representatives.

(2) The designated representative of the Captain of the Port is any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Portland, to act on his behalf. The following officers have or will be designated by the Captain of the Port: The Coast Guard Patrol Commander, the senior boarding officer on each vessel enforcing the safety zone, and the Duty Officer at Coast Guard Group Portland, Oregon.

(3) A succession of sharp, short signals by whistle, siren, or horn from vessels patrolling the area under the direction of the Patrol Commander shall serve as a signal to stop. Vessels or persons signalled shall stop and comply with the orders of the patrol vessels; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(c) *Effective date.* This section becomes effective on July 4, 1994, at 9:45 p.m. (PDT) and terminates on July 4, 1994, at 11:30 p.m. (PDT) unless sooner terminated by the Captain of the Port.

Dated: June 21, 1994.

J.R. Townley,

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

[FR Doc. 94–15691 Filed 6–28–94; 8:45 am]

BILLING CODE 4910–14–M

Coast Guard

33 CFR Part 165

[CGD13–94–017]

RIN 2115–AA97

Safety Zone Regulations; Willamette River, Portland, OR

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone for the KGON Radio Blues Festival Fireworks Display to be held on July 4, 1994. The zone will be located on the Willamette River from the Morrison bridge to the Hawthorne bridge. This safety zone is needed to protect persons, facilities, and vessels from safety hazards associated with a fireworks display. Entry into this safety zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATE: This regulation becomes effective on July 4, 1994, at 9:15 p.m. (PDT) and terminates on July 4, 1994 at 10:30 p.m. (PDT).

FOR FURTHER INFORMATION CONTACT: LTJR R.S. Croke, c/o Captain of the Port Portland, 6767 N. Basin Ave., Portland, Oregon 97217–3992, (503) 240–9327.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is necessary to ensure the safety of structures and vessels operating in the regulated area. Due to the complex planning and coordination involved, notice of the final details for the show were not available to the Coast Guard from the KGON Radio until 30 days prior to the show. Therefore, sufficient time was not available to publish the proposed rules in advance of the event or to provide a delayed effective date. Following normal rulemaking procedures would be impracticable.

Drafting Information

The drafters of this regulation are LTJG R.S. Croke, project officer for the Captain of the Port, and LT L.J. Argenti, project attorney, Thirteenth Coast Guard District Legal Office.

Discussion of Regulations

The event requiring this regulation will begin on July 4, 1994 at 9:15 p.m. Upon request of KGON Radio, the Coast Guard is establishing a safety zone on the Willamette River from the Morrison bridge (river mile 13.8) to the Hawthorne bridge (river mile 14.1). This fireworks display may result in a large number of vessels congregating near the fireworks launch barge. Concern is justified due to the possibility of debris and unexploded fireworks falling into the Willamette River in the vicinity of the launch barge. This safety zone will be enforced by representatives of the Captain of the Port Portland, Oregon. The Captain of the Port may be assisted by other federal agencies.

This Regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of part 165.

Regulatory Evaluation

This temporary final rule is not a significant regulatory action under

section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Federalism

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

Environmental Assessment

This final rule has been thoroughly reviewed by the Coast Guard and determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.c. of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 165

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

Regulation

In consideration of the foregoing, subpart C of part 165 of title 33, Code of Federal Regulations, is amended as follows: 1. The authority citation for part 165 continues to read as follows:

PART 165—[AMENDED]

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

2. A new Section 165.T13–014 is added to read as follows:

§ 165.T13–014 Safety Zone: Willamette River, Portland, Oregon.

(a) *Location.* The following area is a safety zone: All waters on the Willamette River from the Morrison bridge (river mile 13.8) to the Hawthorne bridge (river mile 14.1), Portland, Oregon.

(b) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port or his designated representatives.

(2) The designated representative of the Captain of The Port is any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Portland, to act on his behalf. The following officers have or will be designated by the Captain of the Port: The Coast Guard Patrol Commander, the senior boarding officer on each vessel enforcing the safety zone, and the Deputy Officer at Coast Guard Group Portland, Oregon.

(3) A succession of sharp, short signals by whistle, siren, or horn from vessels patrolling the area under the direction of the Patrol Commander shall serve as a signal to stop. Vessels or persons signalled shall stop and comply with the orders of the patrol vessels; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(c) *Effective dates.* This section becomes effective on July 4, 1994, at 9:15 p.m. (PDT) and terminates on July 4, 1994, at 10:30 p.m. (PDT) unless sooner terminated by the Captain of The Port.

Dated: June 21, 1994.

J.R. Townley,

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

[FR Doc. 94–15690 Filed 6–28–94; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 3F4242/R2066; FRL–4873–2]

RIN No. 2070–AB78

Ampelomyces Quisqualis Isolate M10; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for residues of the biological fungicide *Ampelomyces quisqualis* isolate M10 in or on all raw agricultural commodities when used as a fungicide on agricultural crops in accordance with good agricultural practices. This exemption was requested by Ecogen, Inc.

EFFECTIVE DATE: This regulation becomes effective June 17, 1994.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [PP 3F4242/R2066], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

FOR FURTHER INFORMATION CONTACT: By mail: Steve Robbins, Product Manager (PM) 21, Registration Division (7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 227, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-6900.

SUPPLEMENTARY INFORMATION: EPA issued a notice in the **Federal Register** of May 11, 1994 (59 FR 24429), announcing that Ecogen, Inc., 2005 Cabot Blvd., West Langhorne, PA 19047, had submitted pesticide petition (PP) 3F4242 to EPA proposing to amend 40 CFR part 180 by establishing a regulation under the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a and 371, to exempt from the requirement of a tolerance the residues of the biological fungicide *Ampelomyces quisqualis* isolate M10 in or on all raw agricultural commodities when used as a fungicide on agricultural crops in accordance with good agricultural practices.

No comments were received in response to the notice of filing.

This organism is a naturally occurring strain of *Ampelomyces* which was isolated from powdery mildew (*Oidium* sp.) that was infecting *Cynia* plants growing in Israel. *Ampelomyces quisqualis* is a well known hyperparasite of the *Erysiphaceae* family, a pathogenic fungus that causes powdery mildew diseases on a wide variety of plant species. Strains of *Ampelomyces* are not generally regarded as human, animal, or plant pathogens. The product containing this organism is intended to be applied as a foliar spray to plants susceptible to infection by powdery mildew fungi

such as apples, cucurbits, grapes, strawberries, and tomatoes.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the exemption from the requirement of a tolerance include an acute oral toxicity/pathogenicity study, an acute dermal toxicity study, an acute pulmonary toxicity/pathogenicity study, an acute intraperitoneal toxicity/pathogenicity study, a primary eye irritation study, and a primary dermal irritation study.

A review of these studies indicated that the organism was not toxic, pathogenic, or infective to test animals when administered via oral or dermal routes of exposure. Mortality to treated rats was observed in the acute pulmonary test immediately following dosing and could be related to toxic response or could simply be the result of dose administration. The results of the pulmonary study are not directly related to the exemption from tolerance requirements since consumers of agricultural products would not be exposed to the organism in this manner. *Ampelomyces quisqualis* was not pathogenic or infective to rats in this study or in the acute intraperitoneal toxicity/pathogenicity study. When rats were dosed intraperitoneally, there was a failure to gain weight through day 7 of the test, and lesions were present on the organs in the peritoneum, indicating slight toxicity, which may be caused by the injection of either the live or killed microbe. These effects were minimal and reversible and therefore not considered significant toxic effects. Minimal ocular irritation in rabbits was noted in the primary eye irritation study, and the product was found to be nonirritating to rabbits in the primary dermal irritation study. All of the toxicity studies submitted are considered acceptable and are sufficient to demonstrate that no foreseeable health hazards to humans or domestic animals are likely to arise from the use of this organism as a fungicide on agricultural crops.

Acceptable daily intake (ADI) and maximum permissible intake (MPI) considerations are not relevant to this petition because the data submitted demonstrate that this biological control agent is not toxic to humans by dietary exposure. No enforcement actions are expected. Therefore, the requirement for an analytical method for enforcement purposes is not applicable to this exemption request. This is the first exemption from the requirement of a tolerance for this biological control agent. *Ampelomyces quisqualis* isolate M10 is considered useful for the purposes for which the exemption from the requirement of a tolerance is sought. Based on the information considered, the Agency concludes that establishment of a tolerance is not necessary to protect the public health. Therefore, the regulation is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections and/or request for hearing with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections. 40 CFR 178.25. Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on each such issue, and a summary of any evidence relied upon by the objector. 40 CFR 178.27. A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; the resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested. 40 CFR 178.32.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12866.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 17, 1994.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

a. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

b. In subpart D, by adding new § 180.1131, to read as follows:

§ 180.1131 Ampelomyces quisqualis isolate M10; exemption from the requirement of a tolerance.

The biological fungicide *Ampelomyces quisqualis* isolate M10 is exempted from the requirement of a tolerance in or on all raw agricultural commodities when used as a fungicide on agricultural crops in accordance with good agricultural practices.

[FR Doc. 94–15678 Filed 6–28–94; 8:45 am]

BILLING CODE 6560–50–F

---

40 CFR Part 180

[OPP–300329A; FRL–4864–5]

RIN 2070–AB78

12-Hydroxystearic Acid-Polyethylene Glycol Copolymer and Methyl Methacrylate-Methacrylic Acid-Monomethoxypolyethylene Glycol Methacrylate Copolymer; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes an exemption from the requirement of a tolerance for residues of 12-hydroxystearic acid-polyethylene glycol copolymer (CAS Reg. No. 70142-34-6) and methyl methacrylate-methacrylic acid- monomethoxypolyethylene glycol methacrylate copolymer when used as inert ingredients (suspending agents, dispersing agents, surfactants, related adjuvants) in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest. This regulation was requested by ICI Americas, Inc.

EFFECTIVE DATE: This regulation becomes effective June 29, 1994.

ADDRESSES: Written objections, identified by the document control number [OPP-300329A], may be submitted to: Hearing Clerk (1900),

Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Tina Levine, Registration Support Branch, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 2800 Crystal Dr., 6th Fl., North Tower, Arlington, VA 22202, (703)-308-8393.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 30, 1994 (59 FR 14822), EPA issued a proposed rule that gave notice that ICI Americas, Inc., Safety Health Environmental Affairs Group, Wilmington, DE 19897, submitted pesticide petitions (PPs) 3E4199 and 3E4202 requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(e), propose to amend 40 CFR 180.1001(c) by establishing an exemption from the requirement of a tolerance for residues of 12-hydroxystearic acid-polyethylene glycol copolymer (PP 3E4199) and methyl methacrylate-methacrylic acid-monomethoxypolyethylene glycol methacrylate copolymer (PP 3E4202) when used as inert ingredients (surfactants) in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

One comment has been received in response to the proposed rule. This comment was from the petitioner, who noted that the proposal had incorrectly listed the CAS number of 12-hydroxystearic acid-polyethylene glycol copolymer as pertaining to methyl methacrylate copolymer. This error has been corrected. In addition, the petitioner noted that the original request for an exemption from tolerance had indicated that both copolymers could be used as suspending agents, dispersing agents, surfactants, or related adjuvants in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest rather than solely as surfactants as was inadvertently proposed. Since the basis of the exemption is a low concern for toxicity based on the polymeric nature of these materials and is not use-specific, the originally requested uses have been added to the listing.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections and/or request a hearing with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f), the order defines a "significant regulatory action" as an action that is likely to result in a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State local, or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations or recipients thereof, or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

Pursuant to the terms of the Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review. Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Recording and recordkeeping requirements.

Dated: June 10, 1994.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.1001(c) is amended by adding and alphabetically inserting the inert ingredients, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * *	*	* * *
12-Hydroxy-stearic acid-poly-ethylene glycol copolymer (CAS Reg. No. 70142-34-6), minimum number average molecular weight 5,000..	.....	Suspending agent, dispersing agent, surfactants, related adjuvants.
* * *	*	* * *
Methyl methacrylate-methacrylic acid-mono-methoxy-polyethylene glycol methacrylate copolymer, minimum number-average molecular weight 18,000..	.....	Suspending agent, dispersing agent, surfactants, related adjuvants.
* * *	*	* * *

* * * * *

[FR Doc. 94–15681 Filed 6–28–94; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF JUSTICE

41 CFR Part 128–1

Provisions Regarding Professional Practice

AGENCY: Department of Justice.

ACTION: Correction to final rule.

SUMMARY: This document contains a correction to the final rule that was published on Thursday, August 12, 1993 (58 FR 42876). The rule established the Department of Justice (DOJ) Seismic Safety Program.

EFFECTIVE DATE: August 12, 1993.

FOR FURTHER INFORMATION CONTACT: Rosemary Hart, Senior Counsel, Office of Legal Counsel, Department of Justice, Room 5234, 10th and Constitution Avenues, NW., Washington, DC 20530; telephone (202) 514–2027.

SUPPLEMENTARY INFORMATION: On August 12, 1993, the Department of Justice published a final rule establishing the DOJ Seismic Safety Program, thereby bringing the Department into compliance with the provisions of Executive Order 12699, "Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction," which implements the building safety provisions of the Earthquake Hazards Reduction Act of 1977, as amended. This document is needed to correct technical errors in the final rule prior to codification in the Code of Federal Regulations.

Correction of Final Rule

Accordingly, the publication on August 12, 1993 of the final rule is corrected as follows:

1. On page 42876, in the first column, the amendatory instruction is corrected to read as follows: "For the reasons set out in the preamble, title 41, Chapter 128 of the Code of Federal Regulations is amended by adding subpart 128–1.80 to read as follows:"

Subpart 128–1.80 [Corrected]

Subpart 128–1.80—Seismic Safety Program

2. On page 42876, in the first column, the subpart heading is corrected to read as it appears above.

3. On page 42876, in the first and second columns, the table of contents is corrected to read as follows:

Sec.
128–1.8000 Scope.
128–1.8001 Background.
128–1.8002 Definition of terms.
128–1.8003 Objective.
128–1.8004 Seismic Safety Coordinators.
128–1.8005 Seismic Safety standards.
128–1.8006 Seismic Safety Program requirements.
128–1.8007 Reporting.
128–1.8008 Exemptions.
128–1.8009 Review of Seismic Safety Program.
128–1.8010 Judicial review.

Dated: June 24, 1994.

Rosemary Hart,

Federal Register Liaison Officer, Senior Counsel, Office of Legal Counsel.

[FR Doc. 94–15774 Filed 6–28–94; 8:45 am]

BILLING CODE 4410–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: Modified base (100-year) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATE: The effective dates for these modified base flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect for each listed community prior to this date.

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

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Associate Director has resolved any appeals resulting from this notification.

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

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 et seq., and with 44 CFR part 65.

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

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

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

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

National Environmental Policy Act

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

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

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

Executive Order 12778, Civil Justice Reform

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

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

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

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

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

§ 65.4 [Amended]

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

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Illinois: DuPage and Will (FEMA Docket No. 7079).	City of Naperville	Oct. 27, 1993, Nov. 3, 1993, *The Naperville Sun.*	The Honorable Samuel T. Macrane, Mayor of the City of Naperville, 400 South Eagle Street, Naperville, Illinois 60566–7020.	Oct. 20, 1993	170213 C
Illinois Cook (FEMA Docket No. 7084).	Village of Wheeling	June 10, 1993, June 17, 1993, *Daily Herald.*	Ms. Sheila Schultz, President of the Village of Wheeling, Cook County, 255 West Dundee Road, P.O. Box V, Wheeling, Illinois 60090.	June 3, 1993	170173 C
Illinois: DuPage (FEMA Docket No. 7079).	Village of Woodridge ...	Oct. 14, 1993, Oct. 21, 1993, *The Woodridge Progress.*	The Honorable William Murphy, Mayor of the Village of Woodridge, 1900 West 75th Street, Woodridge, Illinois 60517.	Sept. 30, 1993 ..	170737B
Maine: Lincoln (FEMA Docket No. 7084).	Town of South Bristol ..	Nov. 4, 1993, Nov. 11, 1993, *Lincoln County News.*	Mr. Larry Kelsey, Chairman of the Town of South Bristol Board of Selectmen, HC 64, Box 050, Walpole, Maine 04573.	Oct. 26, 1993	230220 B
Ohio: Franklin (FEMA Docket No. 7079).	City of Hilliard	Oct. 20, 1993, Oct. 27, 1993, *Hilliard Northwest News.*	The Honorable Roger A. Reynolds, Mayor of the City of Hilliard, 3800 Municipal Square, Hilliard, Ohio 43026.	Oct. 12, 1993	390175 C

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

Richard T. Moore,

Associate Director for Mitigation.

[FR Doc. 94–15780 Filed 6–28–94; 8:45 am]

BILLING CODE 6718–03–P

---

44 CFR Part 65

[Docket No. FEMA–7098]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Interim rule.

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

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

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

ADDRESSES: The modified base (100-year) flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW., Washington, DC 20472, (202) 646–2756.

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

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

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

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

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

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

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

National Environmental Policy Act

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

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This interim rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

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

Executive Order 12778, Civil Justice Reform

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

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements. Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

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

§ 65.4 [Amended]

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

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Minnesota: Anoka	City of Coon Rapids	Apr. 1, 1994, Apr. 8, 1994, *Coon Rapids Herald.*	Mr. Robert Svehla, Coon Rapids City Manager, 1313 Coon Rapids Boulevard, Coon Rapids, Minnesota 55433–5397.	Mar. 22, 1994	270011 A

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
North Carolina: Buncombe	City of Asheville	Feb. 28, 1994, Mar. 7, 1994, *The Asheville Citizen Times.*	The Honorable Kenneth Michalove, Mayor of the City of Asheville, P.O. Box 7148, Asheville, North Carolina 28802.	Feb. 18, 1994 ...	370032
Tennessee: Hamilton	Unincorporated Areas of Hamilton County.	Mar. 21, 1994, Mar. 28, 1994, *Chattanooga Free Press.*	Mr. Dalton Roberts, Hamilton County Executive, 208 County Courthouse, Fountain Square, Chattanooga, Tennessee 37402.	Sept. 15, 1994 ..	470071 D

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

Richard T. Moore,

Associate Director for Mitigation.

[FR Doc. 94–15781 Filed 6–28–94; 8:45 am]

BILLING CODE 6718–03–P

---

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (100-year) flood elevations and modified base (100-year) flood elevations are made final for the communities listed below. The base (100-year) flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

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

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) makes final determinations listed below of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the **Federal Register**.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67.

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act

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

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

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

Executive Order 12778, Civil Justice Reform

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

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

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

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	# Depth in feet above ground. *Elevation in feet (NGVD)
FLORIDA	
Putnam County (unincorporated areas) (FEMA Docket No. 7078)	
Castle Lake: Entire shoreline	*71
Clearwater Lake: Entire shoreline	*84
Clubhouse Lake: Entire shoreline	*89
Crane Ponds: Entire shoreline	*40
Cue Lake: Entire shoreline	*93
Georges Lake: Entire shoreline	*101
Halfmoon Lake: Entire shoreline	*99
Lake Grandin: Entire shoreline	*84
Long Lake: Entire shoreline	*93
Putnam Prairie/Wall Lake: Entire shoreline	*97
Redwater Lake: Entire shoreline	*82
Saratoga Lake: Entire shoreline	*67
Star Lake: Entire shoreline	*79
Sugarbowl Lake: Entire shoreline	*40
Acosta Creek:	
Approximately 250 feet upstream of confluence with St. Johns River	*7
Approximately 3.15 miles upstream of confluence with St. Johns River	*60
Dunns Creek:	
At U.S. Highway No. 17	*6
Approximately 1.6 miles downstream of Crescent Lake	*6
Etonia Creek:	
Approximately 1,500 feet downstream of Bardin Road	*18
At Holloway Road	*84
Falling Branch:	
At confluence with Etonia Creek	*66
Approximately 400 feet above Philchard Road	*101
Simms Creek:	
Approximately 1,000 feet downstream of USGS gage station	*19
At Putnam-Clay County line	*89
Tributary 1 to Simms Creek:	
At confluence with Simms Creek	*32
Approximately 2.0 miles upstream of confluence of Tributary 1–A to Simms Creek	*105
Tributary 1–A to Simms Creek:	
At confluence with Tributary 1 to Simms Creek	*75
Approximately 1.62 miles upstream of confluence with Tributary 1 of Simms Creek	*101
Tributary 2 to Simms Creek:	
At confluence with Simms Creek	*36
At Putnam-Clay County line	*106
Maps available for inspection at the Putnam County Building and Zoning Department, Putnam County Courthouse, Palatka, Florida.	
ILLINOIS	
Morris (city), Grundy County (FEMA Docket No. 7083)	
Nettle Creek:	
Approximately 200 feet upstream of Illinois Michigan Canal	*506
At upstream corporate limits	*507
East Fork Nettle Creek:	
At confluence with Nettle Creek	*506
Approximately 150 feet upstream of Gore Road	*547
East Fork Nettle Creek Tributary:	
At the upstream side of Illinois Highway 47	*517
Approximately 200 feet upstream of upstream corporate limits	*520
Maps available for inspection at the Morris City Hall, 320 Wauponsee Street, Morris, Illinois.	
Mundelein (village), Lake County (FEMA Docket No. 7083)	
Diamond Lake Drain:	
Approximately 250 feet downstream of corporate limit	*721
Approximately 100 feet upstream of Diamond Lake Road	*744
Diamond Lake: For entire shoreline within community	*744
Maps available for inspection at the Mundelein Village Hall, 440 East Hawley Street, Mundelein, Illinois.	
INDIANA	
Jasper (city), DuBois County (FEMA Docket No. 7086)	
Jahn Creek:	
Approximately 0.62 river mile upstream of confluence	*455
Approximately 0.13 river mile upstream of Maplecrest Boulevard	*483
Mill Creek:	
Approximately 0.82 river mile downstream of confluence of Ackerman Branch	*452
Approximately 0.85 river mile upstream of confluence of Grist Run	*481
Ackerman Branch:	
Confluence with Mill Creek	*453
Approximately 0.21 river mile upstream of North 400 Road	*469
Grist Run:	
Confluence with Mill Creek	*468
Approximately 0.1 river mile upstream of West 350 Road	*472
Crooked Creek:	
Approximately 0.07 river mile downstream of West 450 Road	*448
Confluence of Crooked Creek Tributary	*466
Crooked Creek Tributary:	
Confluence with Crooked Creek	*466
Approximately 0.01 river mile upstream of North 200 Road	*469
Jasper Drain:	
Confluence with Crooked Creek	*464
Approximately 0.01 river mile upstream of St. Charles Street	*472
Maps available for inspection at the Jasper City Hall, 610 Main Street, Jasper, Indiana.	
KENTUCKY	
Hyden (city), Leslie County (FEMA Docket No. 7078)	
Middle Fork Kentucky River:	
At downstream corporate limits	*854
Approximately 200 feet upstream of State Route 80	*859
Maps available for inspection at the City Hall, Dryhill Road, Hyden, Kentucky.	
Leslie County (unincorporated areas) (FEMA Docket No. 7078)	
Middle Fork Kentucky River:	
Approximately 1.0 mile downstream of city of Hyden corporate limits	*850
Approximately 1.1 miles upstream of Leslie County High School bridge	*869
Maps available for inspection at the County Emergency Operations Center, Wendover Road, Hyden, Kentucky.	
MAINE	
Calais (city), Washington County (FEMA Docket No. 7083)	
St. Croix River:	
Calais-Robbinston corporate limits	*15
Calais-Baring Plantation corporate limits	*80

Source of flooding and location	# Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the Calais City Hall, Community Development Office, Church Street, Calais, Maine.	
MINNESOTA	
Argyle (city), Marshall County (FEMA Docket No. 7086)	
Middle River:	
Approximately 0.64 mile downstream of Pacific Avenue	*840
Approximately 1.6 miles upstream of County Highway 4	*851
Maps available for inspection at the City Office, 701 Pacific Avenue, Argyle, Minnesota.	
Preston (city), Fillmore County (FEMA Docket No. 7086)	
South Branch Root River:	
Approximately 1,900 feet downstream of U.S. Route 16 and 52	*927
Approximately 0.64 mile upstream of Preston City Road	*954
Maps available for inspection at the City Hall, 109 St. Paul South West, Preston, Minnesota.	
NEW YORK	
Cicero (town), Onondaga County (FEMA Docket No. 7058)	
Volmer Creek:	
Approximately 760 feet downstream of Mud Hill Road	*373
Approximately 0.5 mile upstream of Grandview Drive	*409
Button Brook:	
At confluence with Volmer Creek	*385
Approximately 110 feet upstream of South Bay Road	*416
Thompson Brook:	
At confluence with Pine Grove Brook	*381
Approximately 40 feet upstream of State Route 82 (Northern Boulevard)	*397
Rosewood Brook:	
At confluence with Thompson Brook	*391
Approximately 1,100 feet upstream of Leroy Road	*400
Hancock Brook:	
At confluence with Thompson Brook	*392
Approximately 1,800 feet upstream of confluence with Thompson Brook	*392
Totman Brook:	
At confluence with Thompson Brook	*391
Approximately 35 feet upstream of upstream crossing of Totman Road	*412
Pine Grove Brook:	
Approximately 1,500 feet downstream of U.S. Route 11	*375
At downstream face of Penn Can Mall culvert system	*382
North Branch Pine Grove Brook:	
Approximately 160 feet downstream of Interstate Route 81	*386
Approximately 35 feet upstream of Thompson Road	*411
South Branch Pine Grove Brook:	
At South Bay Road	*386
Approximately 30 feet upstream of Thompson Road	*406
Maps available for inspection at the Cicero Town Hall, 8236 S. Main Street, Cicero, New York.	
Hamburg (town), Erie County (FEMA Docket No. 7083)	
Buttermilk Falls:	
Approximately 800 feet downstream of Lakeview Road	*726
At Heltz Road	*742
Maps available for inspection at the Building Inspection Office, S–6100 South Park Avenue, Hamburg, New York.	
NORTH CAROLINA	
Washington County (unincorporated areas) (FEMA Docket No. 7086)	
Roanoke River:	
At North Carolina Highway 45	*8
At upstream Town of Plymouth extraterritorial limits	*8
Welch Creek:	
At downstream Town of Plymouth extraterritorial limits	*9
Approximately 0.2 mile upstream of confluence of Welch Creek Tributary	*9
Welch Creek Tributary:	
At confluence with Welch Creek	*9
Approximately 0.4 mile upstream of confluence with Welch Creek	*9
Maps available for inspection at the Washington County Permits, Inspections, and Emergency Management Office, 120 Adams Street, Plymouth, North Carolina.	
SOUTH CAROLINA	
North Augusta (city), Aiken and Edgefield Counties (FEMA Docket No. 7062)	
Savannah River:	
Approximately 2 miles downstream of U.S. Highway 78	*133
Approximately .3 mile upstream of the confluence of Tributary C	*140
Fox Creek:	
Approximately 2,000 feet upstream of the confluence with the Savannah River	*152
Approximately 3,900 feet upstream of the confluence with the Savannah River	*159
Tributary C:	
At confluence with Savannah River	*140
Approximately 1,750 feet upstream of confluence with the Savannah River	*153
Maps available at North Augusta City Hall, Planning and Zoning Department, 400 East Buena Vista Avenue, North Augusta, South Carolina.	

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

Richard T. Moore,

Associate Director for Mitigation.

[FR Doc. 94–15779 Filed 6–28–94; 8:45 am]

BILLING CODE 6718–03–P

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

48 CFR Parts 701, 702, 703, 706, 710, 715, 724, 725, 728, 737, 749, 750, 752, 753, and Appendix H

[AIDAR Notice 94–4]

Miscellaneous Amendments to Acquisition Regulations

AGENCY: United States Agency for International Development, IDCA.

ACTION: Final rule.

SUMMARY: The U.S. Agency for International Development Acquisition Regulation (AIDAR) is being amended to make various administrative changes and to add a Medical Evacuation (Medevac) clause.

EFFECTIVE DATE: July 29, 1994.

FOR FURTHER INFORMATION CONTACT: M/OP/P, Ms. Frances Maki, Room 1600I, SA–14, U.S. Agency for

International Development, Washington, DC 20523–1435. Telephone: (703) 875–1534.

SUPPLEMENTARY INFORMATION: USAID has recently undergone a reorganization; the AIDAR is being amended to reflect new office designations and titles and to name the new USAID Procurement Executive. This notice also adds additional coverage on ocean bills of lading, changes the point of contact for guidance and receipt of unsolicited proposals, and revises local procurement rules to implement current Agency policy. Finally, additional information concerning paperwork collection requirements is provided and the OMB approval expiration date is updated.

The changes being made by this Notice are editorial and administrative and are not considered significant rules under FAR Section 1.301 or Subpart 1.5, nor major rules as defined in Executive Order 12291. This Notice will not have an impact on a substantial number of small entities, nor does it establish any information collection as contemplated by the Regulatory Flexibility Act and Paperwork Reduction Act. Because of the nature of this Notice, use of the proposed rule/public comment approach was not considered necessary. USAID has decided to issue this Notice as a final rule; however, we welcome public comment on the material covered by this Notice or any part of the AIDAR at any time. Comments or questions may be addressed as specified in the **FOR FURTHER INFORMATION CONTACT** section of the preamble.

List of Subjects in 48 CFR Parts 701, 702, 703, 706, 710, 715, 724, 725, 728, 737, 749, 750, 752, 753, and Appendix H to Chapter 7

Government procurement.

Accordingly for the reasons set out in the Preamble, 48 CFR Chapter 7 is amended as follows:

1. The authority citations in Parts 701, 702, 703, 706, 710, 715, 724, 725, 728, 737, 749, 750, 752, 753 and Appendix H to Chapter 7 continue to read as follows:

Authority: Sec. 621, Public Law 87–195, Stat. 445 (22 U.S.C. 2381), as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673, 3 CFR 1979 Comp., p. 435.

PART 701—FEDERAL ACQUISITION REGULATION SYSTEM

Subpart 701.1—Purpose, Authority, Issuance

2. Section 701.105, OMB approval under the Paperwork Reduction Act, is revised to read as follows:

701.105 OMB approval under the Paperwork Reduction Act.

(a) The following information collection and record keeping requirements established by AID have been approved by OMB, and assigned an OMB control number and approval/expiration dates as specified below:

AIDAR segment	OMB control No.	Expiration date	Burden hours per report
733.7003(c)	0412–0520	9/30/96	40
752.209–70	0412–0520	9/30/96	4
752.219–8	0412–0520	9/30/96	1
752.245–70	0412–0520	9/30/96	.5
752.245–71	0412–0520	9/30/96	1
752.7001(a)	0412–0520	9/30/96	.5
752.7001(b)	0412–0520	9/30/96	.5
752.7002(j)	0412–0520	9/30/96	1
752.7003	0412–0520	9/30/96	8
752.7004(b)(4)	0412–0520	9/30/96	.5
752.7032	0412–0520	9/30/96	2
752.7033	0412–0536	5/31/95	4

(b) The information requested by the AIDAR sections listed in paragraph (a) is necessary to allow AID to prudently administer pubic funds. It lets AID make reasonable assessments of contractor capabilities and responsibility of costs. Information is required in order for a contractor and/or its employee to obtain a benefit-usually taking the form of payment under a government contract.

(c) Public reporting burden for these collections of information is estimated as shown in paragraph (a) of this section. The estimated burden includes 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 the burden estimates or any other aspects of these collections of information, including suggestions for reducing the burden, to: US Agency for International Development, Office of Procurement, Policy Division (M/OP/P), Washington, DC 20523–1435; and Office of Management and Budget, OMB, Paper Reduction Project (0412–0520), Washington, DC 20503.

701.376–4 [Amended]

3. Section 701.376–4 is amended by removing "Procurement Policy and Evaluation Staff (FA/PPE)" and replacing it with "Office of Procurement, Policy Division (M/OP/P)".

Subpart 701.4—Deviations to the FAR or AIDAR

701.470 [Amended]

4. Section 701.470 is amended by removing "Procurement Policy and Evaluation Staff (FA/PPE)" and replacing it with "Office of Procurement, Policy Division (M/OP/P)" in paragraph (a)(2), and removing "PPE" wherever it appears and replacing it with "M/OP/P/."

Subpart 701.6—Contracting Authority and Responsibility

5. Section 701.601, paragraph (b)(4) is amended by removing "FA/PPE" and replacing it with "M/OP/P."

PART 702—DEFINITIONS OF WORDS AND TERMS

Subpart 702.170—Definitions

6. Section 702.170–13, paragraphs (a) and (b) are revised to read as follows:

702.170–13 Procurement Executive.

(a) *Procurement Executive* means the AID official who:

(1) Is responsible to the Administrator, through the Assistant Administrator for Management, for management direction of AID's procurement system, including

implementation of AID's unique procurement policies, regulations, and standards, and

(2) Oversees development of the system, evaluates system performance in accordance with approved criteria, and certifies to the Administrator, through the Assistant Administrator for Management, that the AID procurement system meets approved criteria.

(b) The Procurement Executive for AID is Mr. Michael D. Sherwin, the Principal Deputy Assistant Administrator for Management. Mr. Sherwin reports and makes recommendations to the Administrator, the Deputy Administrator, or other AID officials, as appropriate, with regard to the implementation and improvement of the procurement system and procurement staffing to meet the objectives and requirements of the Foreign Assistance Act, Executive Order 12352, the Office of Federal Procurement Policy Act, and other statutory and Executive Branch procurement policies and requirements applicable to AID operations. These reports and recommendations, including results of case reviews requested by the Principal Deputy Assistant Administrator, will deal with the use of effective competition in procurement; establishment of clear lines of authority, accountability, and responsibility for procurement decision making within AID; and development and maintenance of a procurement career management program to assure an adequate professional work force.

* * * * *

PART 703—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

Supart 703.4—Contingent Fees

703.403 [Amended]

7. Section 703.403 is amended by removing "FAR 3.404(b)(6)" and replacing it with "FAR 3.404(B)(4)".

PART 706—COMPETITION REQUIREMENTS

Subpart 706.5—Competition Advocates

8. Section 706.501 is revised to read as follows:

706.501 Requirement.

The AID Administrator delegated the authority to designate the agency competition advocate and a competition advocate for each agency procuring activity (see 706.003 of this part) to the AID Procurement Executive. The AID Procurement Executive, under the Administrator's delegation, has designated the M/OP Deputy Director for Policy, Evaluation and Support as the Agency's competition advocate and the deputy head (or equivalent) of each contracting activity as the competition advocate for each activity. The competition advocate for M/OP is the Deputy Director for Operations. If there is no deputy or equivalent, the head of the contracting activity is designated the competition advocate for that activity. The competition advocate's duties may not be redelegated, but can be exercised by persons serving as acting deputy (or acting head) of the contracting activity. For definitions of contracting activity and head of contracting activity, see 702.170–3 and 702.170–10, respectively.

PART 710—SPECIFICATIONS, STANDARDS, AND OTHER DESCRIPTIONS

710.070 [Amended]

9. Section 710.070, paragraph (b) is amended by removing "(FA/AS)" wherever it appears and replacing it with "M/AS)".

PART 715—CONTRACTING BY NEGOTIATION

Subpart 715.5—Unsolicited Proposals

10. Section 715.504(a), is revised to read as follows:

715.504 Advance guidance.

(a) Information concerning USAID's policies for unsolicited proposals is available from the U.S. Agency for International Development, Office of Procurement, Evaluation Division, Room 1600H, SA–14, Washington, DC 20523–1435.

* * * * *

PART 724—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

Subpart 724.1—Protection of Individual Privacy

724.170 [Amended]

PART 725—FOREIGN ACQUISITION

Subpart 725.70—Source, Origin, and Nationality

11 and 12. Section 725.705 is revised to read as follows:

725.705 Local procurement—contract clause.

(a) Local procurement may be undertaken in accordance with the terms of Chapter 18 of AID Handbook 1, Supplement B.

(b) All contracts involving performance overseas must contain the clause specified in 752.7017.

PART 728—BONDS AND INSURANCE

Subpart 728.1—Bonds

728.105–1 [Amended]

13. Paragraph (b) of section 728.105–1 is amended by removing "Procurement Policy and Evaluation Staff (FA/PPE)" and replacing it with "Office of Procurement, Policy Division (M/OP/P)".

728.307–70 [Added]

14. A new section 728.307–70 is added to read as follows:

728.307–70 Medical Evacuation (MEDEVAC) Services (MAR 1993)

The Contracting Officer shall insert the clause at 752.228–70 in all contracts which require performance by contractor employees overseas.

PART 737—SERVICE CONTRACTING

Subpart 737—Advisory and Assistance Services

737.270 [Amended]

15. Section 737.270 is amended by removing "Associate Administrator for Finance and Administration" and replacing it with "Assistant Administrator for Management".

PART 749—TERMINATION OF CONTRACTS

Subpart 749.1—General Principles

749.111–71 [Amended]

16. Paragraph (b) of section 749.111–71 is amended by removing "$1 million" and replacing it with "$5 million".

PART 750—EXTRAORDINARY CONTRACTUAL RELIEF

Subpart 750.71—Extraordinary Contractual Actions to Protect Foreign Policy Interests of the United States

750.7109–1, 750.7110–1, 750.7110–2, 750.7110–3 [Amended]

17a. Sections 750.7109–1, 750.7110–1, and 750.7110–3 are amended by removing "Director, Procurement Policy and Evaluation Staff (FA/PPE)" wherever it appears and replacing it with "Chief of the Office of Procurement, Evaluation Division (M/OP/E)".

17b. Section 750.7110–2 is amended by deleting "Procurement Policy and Evaluation Staff (FA/PPE)" and replacing it with "Office of

Procurement, Evaluation Division (M/OP/E)".

PART 752—SOLICITATION PROVISION AND CONTRACT CLAUSES

Subpart 752.2—Texts of Provisions and Clauses

752.225–9 [Amended]

18. Section 752.225–9 is amended by removing "FAR 25.407(a)(2)" and replacing it with "FAR 25.408(a)(2)".

752.228–70 [Added]

19. Section 752.228–70 is added to read as follows:

752.228–70 Medical Evacuation (MEDEVAC) Services.

As prescribed in 728.307–70, for use in all contracts requiring performance overseas:

Medical Evacuation (MEDEVAC) Services (Mar 1993)

(a) Contractors agree to provide medevac service coverage to all U.S. citizen, U.S. resident alien, and Third Country National employees and their authorized dependents while overseas under an AID financed direct contract. Coverage shall be obtained pursuant to the terms of the contract between AID and AID's medevac service provider unless exempted in accordance with paragraph (b) of this clause.

(b) The following are exempted from the requirements in paragraph (a) of this clause:

(i) Eligible employees and their dependents with a health program that includes sufficient medevac coverage as approved by the Contracting Officer.

(ii) Eligible employees and their dependents located at Missions where the Mission Director makes a written determination to waive the requirement for such coverage based on findings that the quality of local medical services or other circumstances obviate the need for such coverage.

(c) Contractors further agree to insert in all subcontracts hereunder to which the medevac coverage is applicable, a clause similar to this clause, including this sentence, imposing on all subcontractors a like requirement to provide medical evacuation services coverage and obtain medevac coverage in accordance with the contract between AID and AID's medevac service provider.

752.232–70 [Amended]

20. The introductory sentence in section 752.232–70 is amended by removing "732.406.70–4" and replacing it with "732.406–73".

Subpart 752.70—Texts Of AID Contract Clauses

21. Section 752.7004, paragraph (b)(5) is revised to read as follows:

752.7004 Source and nationality requirements.

* * * * *

(b) * * *

(5) Vouchers submitted for reimbursement which include ocean shipment costs shall contain a certification essentially as follows: "I hereby certify that a copy of each ocean bill of lading concerned has been submitted to the Maritime Administration, Division of National Cargo, 400 Seventh St., S.W. Washington, D.C. 20590 and to US Agency for International Development, Office of Procurement, Transportation Division, Room 1446, SA–14, Washington, D.C. 20523–1435 and that such bills of lading state all of the carrier's charges including the basis for calculation which as weight or cubic measurement."

* * * * *

22. Section 752.7017 is revised to read as follows:

752.7017 Local procurement.

For use in any AID contract involving performance overseas.

Local Procurement (APR 1994)

(a) Local procurement involves the use of appropriated funds to finance the procurement of goods and services supplied by local businesses, dealers or producers, with payment normally being in the currency of the cooperating country.

(b) All locally-financed procurements must be covered by source/origin and nationality waivers as set forth in Chapter 5 of AID Handbook 1, Supplement B, with the following exceptions:

(1) Commodities and services financed under the Development Fund for Africa, unless otherwise specified in the contract.

(2) Locally available commodities of U.S. origin, which are otherwise eligible for financing, if the transaction value is estimated not to exceed the local currency equivalent of $100,000 (exclusive of transportation costs).

(3) Commodities of geographic code 935 origin if the transaction value does not exceed $5,000.

(4) Professional services contracts estimated not to exceed $250,000.

(5) Construction services contracts estimated not to exceed $5 million.

(6) Commodities, services and related expenses which as a practical matter can only be acquired, performed, or incurred in the cooperating country such as: utilities; communications; housing and office rental; hotel accommodations; petroleum, oils and lubricants for vehicles and equipment; vehicle maintenance; and newspapers, periodicals, or books published in the cooperating country.

752.7026 [Amended]

23. Section 752.7026, paragraph (b)(3) is amended by removing "Directorate for Policy" and replacing it with "Bureau for Policy and Program Coordination" and by removing "POL/CDIE/DI" and replacing it with "PPC/CDIE/DI".

PART 753—FORMS

Subpart 753.1—General

753.1 [Amended]

24. Subpart 753.1 is amended by removing "(FA/AS/PP/PP)" and replacing it with "(M/AS/PP/PP)".

Appendices to Chapter 7

Appendix H—Responses to Audit Recommendations

25. Paragraph (b)(3) *Collection* of section 5. *Procedures* is amended by removing "FM/PAFD" and replacing it with "FM/CMP".

26. Paragraph (a) *General* of section 7. *Clearances* is amended by removing "DAA/FA" and replacing it with "DAA/M".

Dated: May 17, 1994.

Michael D. Sherwin,

Procurement Executive.

[FR Doc. 94–15726 Filed 6–28–94; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 227

[Docket No. 940674–4174; I.D. 060694A]

RIN 0648–AG71

Sea Turtle Conservation; Restrictions Applicable to Shrimp Trawling Activities

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

ACTION: Interim final rule; request for comments.

SUMMARY: NMFS issues this rule to require shrimp trawlers using Turtle Excluder Devices (TEDs) in the Gulf and Atlantic Areas to attach flotation devices to the TEDs if they are single-grid TEDs with bottom escape openings. Flotation devices adequate to lift TEDs from the sea floor are specified. This action is necessary to improve the ability of bottom-opening, single-grid TEDs to safely exclude sea turtles.

DATES: This rule is effective July 8, 1994. Comments on this notice are requested, and must be received by August 8, 1994.

ADDRESSES: Requests for a copy of the environmental assessment prepared for this action, and comments on this action, should be addressed to Dr. William Fox, Jr., Director, Office of Protected Resources, NMFS, 1335 East-

West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Heather Weiner, NMFS Office of Protected Resources (301/713–2319), or Charles A. Oravetz, Chief, Protected Species Management Branch, NMFS, Southeast Region (813/893–3366).

SUPPLEMENTARY INFORMATION:

Background

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act of 1973 (ESA). The Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) are listed as endangered. Loggerhead (*Caretta caretta*) and green (*Chelonia mydas*) turtles are listed as threatened, except for breeding populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered.

The incidental take and mortality of these species, as a result of shrimp trawling activities, have been documented in the Gulf of Mexico and along the Atlantic seaboard. Under the ESA and its implementing regulations, taking sea turtles is prohibited, with some exceptions. The incidental taking of turtles during shrimp trawling in the Gulf and Atlantic Areas is excepted from the taking prohibition if specified sea turtle conservation measures are employed, such as the use of TEDs. Existing sea turtle conservation regulations (50 CFR part 227) require most shrimp trawlers operating in the Gulf and Atlantic Areas to have a NMFS-approved TED installed in each net rigged for fishing, year round. The required use of TEDs has significantly reduced shrimp trawler related mortalities of sea turtles.

NMFS regulations also set forth criteria for allowable modifications to NMFS-approved TEDs including the use of flotation devices. Under 50 CFR 227.72(e)(iv)(A), floats may be attached to TEDs only if they are attached to the outside of the net or inside the net behind the rear surface, at the top of the TED. They may not be attached to a flap. In previous TED certification tests, bottom-opening, single-grid TEDs were tested with flotation. However, because it was not previously evident to NMFS gear specialists that the lack of flotation on bottom-shooting TEDs may prevent turtle release if used in certain ways, flotation was not required. NMFS now has new information that the lack of flotation on bottom-opening, single-grid TEDs is likely preventing sea turtles from safely exiting the trawls.

Recent Strandings

Large numbers of stranded sea turtles were reported during April and May, 1994, along the coasts of Texas, Georgia and north Florida, and more recently, along western Louisiana. One hundred and ninety-three dead turtles, 136 of which were Kemp's ridleys, were found stranded during April and May on the Texas coast. Texas waters were closed to shrimping on May 13 and the strandings subsided. Only 17 additional turtles were reported stranded in Texas from May 13 to May 31. The reported 5-year (1989–1993) average strandings for the Texas coast during April and May is 49.

As shrimping effort shifted to western Louisiana after the Texas closure, turtle strandings began on the Louisiana shoreline. Twenty-three strandings, mostly Kemp's ridleys, were reported in western Louisiana between May 14 and May 31, 1994. Fifty-four sea turtle strandings were reported in Georgia during April and the beginning of May, 1994; most were loggerheads. Thirty-one strandings were reported in north Florida from April 1 through May 22, 1994. The 5-year average of reported strandings in Georgia and north Florida for April and May are 47 and 37, respectively.

The exact cause of the strandings has not been precisely determined. Many of the stranded turtles from Texas were necropsied and many had more fish remains in their stomachs than normally expected. Tissue samples were collected for contaminant analysis and are being examined. Necropsies did not reveal the cause of mortality. Most of the animals appeared to be healthy and actively feeding at the time of death.

The Texas strandings were associated with strandings of fish, consisting mostly of sea catfish. The State of Texas documented the presence of toxic dinoflagellates (red tide) associated with the fish and turtle strandings; however, no indication of poisoning was evident in the turtle necropsies. Also, there were several menhaden purse seine vessels operating off the Texas coast at the time of the strandings. NMFS observers were placed on the menhaden vessels and monitored 29 sets. The observers did not document any take of sea turtles. This is consistent with historical observations of menhaden purse seine vessels. No unusual environmental or other large-scale fishing activities were noted off Georgia, north Florida, or Louisiana during the period the strandings occurred.

Gear Observations

An alternative explanation for the abnormally high turtle strandings is the heavy shrimping effort that was, or is currently taking place along the Texas, Louisiana, Georgia, and north Florida coasts at the same time the strandings are occurring. Law enforcement boardings of shrimp vessels in these areas during April and May revealed a good level of compliance with TED regulations. However, some of the observed TEDs were installed at very steep angles, which could reduce the ability of turtles to exit the net. Current TED regulations require single-grid style TEDs to be installed in the trawl at a 30 to 50-degree angle when the trawl is in a normal horizontal fishing position. An angle greater than 50 degrees will cause clogging of the TED and hinder turtle release.

NMFS gear specialists, who accompanied NMFS and Coast Guard enforcement patrols to assist shrimpers with TED operational problems, noted a large number of bottom-opening grid TEDs that had no flotation or inadequate flotation. Of 128 boardings, 45 vessels (35 percent) were found to be using bottom-opening, single-grid style TEDs without floats or with inadequate flotation. Chafing of the trawl nets below the TEDs was observed, indicating that the TEDs were dragging the bottom. If the TEDs drag across the bottom, the turtle escape opening is closed or restricted, preventing safe turtle release from the trawl.

NMFS has limited empirical test data to verify that bottom-exiting, single-grid hard TEDs without proper flotation hinder turtle release. However, based on limited testing and behavioral observations while turtles are in the trawl, it is highly likely that TEDs dragging across the bottom will hinder or prevent turtle release. During recent NMFS testing of TEDs with juvenile turtles, seven small turtles were introduced into a bottom-exiting TED without floats. All seven turtles failed to exit the trawl; five passed through the TED bars and two were unable to escape through the exit opening because the TED was dragging across the sea bottom.

Additionally, NMFS analyzed data from the trawler bycatch observer program conducted between April 1992 and May 1994. These data provide further evidence that bottom-exiting, single-grid TEDs sometimes fail to properly release sea turtles. Three hundred and twenty-seven tows were sampled. Turtle captures occurred in 27 of these tows. Some turtles were captured in soft TEDs and some in try nets, but 10 of the captures occurred in bottom-opening, single-grid hard TEDs. Information on the use of floats was not collected in this study.

Conclusion

NMFS believes that single-grid TEDs having escape openings on the bottom may not effectively release sea turtles, if sufficient flotation is not used to keep the trawl bottom and escape opening off the sea floor. This type of TED has an opening cut in the bottom of the net adjacent to the deflector grid and a flap covering the opening to prevent shrimp loss. If, because of the weight of the TED, the flap is pressed against the trawl by the sea floor, turtles may not be able to escape. Turtles trapped in this manner may drown and would be released before the net is brought to the surface, because the exit opening would be open as the trawl is retrieved from the bottom. Thus, shrimp fishermen with TEDs installed legally, but without proper flotation, could be unaware they are killing sea turtles, because there would be no sea turtle carcass left in the net. Furthermore, turtles killed in this manner may not be detected by observers or enforcement personnel.

The addition of an adequate amount of flotation will lift the TED off the sea floor and allow turtles deflected by the grid to escape out the bottom opening. Hard plastic or aluminum floats are recommended for use in either shallow or deep water fishing (deeper than 10 fathoms). Polyvinyl chloride floats are recommended for use in water depths of less than 10 fathoms because they lose some flotation capacity under high water pressure. Because most shrimp trawling occurs in shallow waters and turtle captures in deep waters are rare, polyvinyl chloride floats, hard plastic, or aluminum floats may be used successfully by the shrimp industry to reduce sea turtle incidental captures in bottom-opening TEDs.

NMFS expects that this rule will impose a minimal burden on shrimpers because the required floats are relatively inexpensive, and because adequate flotation improves trawling efficiency and decreases gear chafing.

Sea Turtle Conservation Measures

Based on this new information, NMFS has reinitiated consultation under section 7 of the ESA on the biological opinion issued in conjunction with shrimp trawling regulations that require the use of TEDs. This opinion concluded that the regulations will not jeopardize the continued existence of sea turtles, providing that, shrimpers use flotation devices on bottom-opening, single-grid TEDs adequate to lift the TEDs off the sea floor. Implementation of this reasonable and prudent measure ensures that the shrimp fishery will not likely jeopardize the continued existence of sea turtles. The Assistant Administrator for Fisheries, NOAA, (AA) has determined that incidental takings of sea turtles during shrimp trawl fishing in the Gulf and Atlantic Areas are unauthorized unless the takings are consistent with the applicable biological opinions and associated incidental take statements.

NMFS is taking immediate action because it anticipates that high sea turtle strandings related to shrimp trawling with TEDs without adequate flotation may continue through the summer. In addition, NMFS expects that the use of adequate flotation devices will be required during future shrimping seasons. Therefore, through publication of this interim final rule, NMFS is inviting comments on measures that could permanently require flotation devices on bottom-opening, single-grid TEDs.

Classification

This action has been determined to be not significant for purposes of E.O. 12866.

Pursuant to section 553(b)(B) of the Administrative Procedure Act (APA), the AA finds there is good cause to waive prior notice and opportunity to comment on this rule. It is impracticable and contrary to the public interest to provide prior notice and opportunity for comment because unusually high levels of turtle strandings have been reported in Texas, Louisiana, Georgia and north Florida and continue to occur as shrimping continues. Any delay in this action will likely result in additional fatal takings of listed sea turtles.

Pursuant to section 553(d) of the APA, the AA finds there is good cause to reduce the required 30-day delay in the effective date for this rule to 14 days. A 14-day delay will minimize additional turtle mortalities, while at the same time provide fishermen sufficient time to procure and install floats.

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

The AA prepared an Environmental Assessment (EA) for the final rule (57 FR 57348, December 4, 1992) requiring TED-use in shrimp trawls. A supplemental EA prepared specifically for this action concludes that this action will have no significant impact on the human environment. A copy of the EA is available (see **ADDRESSES**) and comments on it are requested.

List of Subjects in 50 CFR Part 227

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

Dated: June 22, 1994.

Henry R. Beasley,

Acting Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 227 is amended as follows:

PART 227—THREATENED FISH AND WILDLIFE

1. The authority citation for part 227 continues to read as follows:

Authority: 16 U.S.C. 1531 *et seq.*

2. In § 227.72, a new paragraph (e)(4)(i)(I) is added and paragraph (e)(4)(iv)(A) is revised to read as follows:

§ 227.72 Exceptions to prohibitions.

* * * * *

(e) * * *

(4) * * *

(i) * * *

(I) *Flotation.* Floats must be attached to the top one-half of all single-grid hard TEDs with bottom escape openings. The floats may be attached either outside or inside the net, but not to a flap. Floats attached inside the net must be behind the rear surface.

(*1*) For single-grid TEDs with a circumference of 120 inches (304.8 cm) or more, a minimum of either one round aluminum float, no smaller than 9.8 inches (25.0 cm) in diameter, or one round hard plastic float, no smaller than 9.8 inches (25.0 cm) in diameter, or two expanded polyvinyl chloride floats, no smaller than 6.75 inches by 8.75 inches (17.2 cm by 22.2 cm), must be attached with heavy twine or rope.

(*2*) For single-grid TEDs with a circumference of less than 120 inches (304.8 cm), a minimum of either one round aluminum float, no smaller than 9.8 inches (25.0 cm) in diameter, or one round hard plastic float, no smaller than 9.8 inches (25.0 cm) in diameter, or one expanded polyvinyl chloride float, no smaller than 6.75 inches by 8.75 inches (17.2 cm by 22.2 cm), must be attached with heavy twine or rope.

* * * * *

(iv) * * *

(A) Floats may be attached to the TED, either outside or inside the net, but not to a flap. Floats attached inside the net must be behind the rear surface at the top of the TED. Any use of floats under this paragraph (e)(4)(iv)(A) must be in

addition to floats that are required by paragraph (e)(4)(i)(I) of this section.

* * * * *

[FR Doc. 94–15784 Filed 6–24–94; 3:09 pm]

BILLING CODE 3510–22–W

---

50 CFR Part 678

[I.D. 061594A]

Atlantic Shark Fisheries

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

ACTION: Announcement of adjustment to the second semi-annual 1994 quota for the Atlantic large coastal shark species group.

SUMMARY: NMFS announces that the catch of large coastal sharks in the Atlantic, Caribbean, and Gulf of Mexico was 1,252 metric tons (mt) during the first semi-annual 1994 season. Because of the underharvest of this category quota, the second semi-annual 1994 quota is adjusted accordingly. The adjusted quota for the period July 1 through December 31, 1994, is 1,318 mt for large coastal sharks.

EFFECTIVE DATE: June 28, 1994.

FOR FURTHER INFORMATION CONTACT: C. Michael Bailey, 301–713–2347, Kevin B. Foster, 508–281–9260, or Michael E. Justen, 813–893–3721.

SUPPLEMENTARY INFORMATION: The Atlantic, Caribbean, and Gulf of Mexico shark fisheries are managed by the Secretary of Commerce (Secretary) according to the Fishery Management Plan (FMP) for Atlantic Sharks prepared by the Secretary under authority of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*). Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR part 678.

Section 678.23(b)(1)(i) of the regulations provides for two semi-annual quotas of 1,285 mt of large coastal sharks to be harvested from Atlantic, Caribbean, and Gulf of Mexico waters by commercial fishermen. The first semi-annual quota was available for harvest from January 1 through June 30, 1994.

The Assistant Administrator for Fisheries, NOAA, is authorized under § 678.23(c) to adjust the semi-annual quota to reflect actual catches during the preceding semi-annual period. Final data indicate that the catch from January through May 16, 1994, of the large coastal shark species totaled 1,252 mt, which is less than the established quota by 33 mt. Therefore, the new adjusted quota for large coastal shark species for the second 1994 semi-annual period is increased from 1,285 mt to 1,318 mt.

Classification

This rule is exempt from OMB review under E.O. 12866.

Dated: June 23, 1994.

David S. Crestin,

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

[FR Doc. 94–15785 Filed 6–28–94; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 59, No. 124
Wednesday, June 29, 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 AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 920 and 944

[Docket No. FV94–920–1PR]

Kiwifruit Grown in California and Imported Kiwifruit; Proposed Increase in Minimum Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would increase the current minimum size requirements for kiwifruit grown in California and for kiwifruit imported into the United States that are shipped to the fresh market. The minimum size requirements would be increased from Size 49, which is defined as 60 pieces of fruit per 8-pound sample, to Size 45, which would be defined as 55 pieces of fruit per 8-pound sample. This rule would prevent shipments of low-quality, undersized kiwifruit from having a negative effect on the market.

DATES: Comments must be received by July 29, 1994.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments should be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456 or by FAX at (202) 720–5698. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Mark Hessel, Marketing Order Administration Branch, AMS, USDA, P.O. Box 96456, Room 2526–S, Washington, DC 20090–6456; telephone (202) 720–5127; or Rose Aguayo, California Marketing Field Office, AMS, USDA, 2202 Monterey Street, Suite 102 B, Fresno, California 93721; telephone (209) 487–5901.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Order No. 920 [7 CFR Part 920], as amended, regulating the handling of kiwifruit grown in California, hereinafter referred to as the order. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–674], hereinafter referred to as the Act.

This proposed rule is also issued under section 8e of the Act, which provides that whenever certain specified commodities, including kiwifruit, are regulated under a Federal marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodities.

The Department of Agriculture (Department) is issuing this proposed rule in conformance with Executive Order 12866.

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

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

There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act.

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

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

There are approximately 65 handlers subject to regulation under the order and about 600 producers of California kiwifruit. There are approximately 75 importers of kiwifruit. Small agricultural service firms, which include kiwifruit handlers and importers, have been defined by the Small Business Administration [13 CFR 121.601] as those whose annual receipts are less than $3,500,000, and small agricultural producers are defined as those whose annual receipts are less than $500,000. A majority of these handlers, importers, and producers may be classified as small entities.

Under the terms of the marketing order, fresh market shipments of California kiwifruit are required to be inspected and are subject to grade, size, maturity, pack, and container requirements. Current requirements include specifications that such shipments be at least Size 49, grade at least KAC No. 1 quality, and contain a minimum of 6.5 percent soluble solids.

The production of California kiwifruit for the 1993 season was approximately 12.3 million tray equivalents, compared to the 1992 season production of 13.3 million tray equivalents. This represents an 8 percent decrease in California kiwifruit production from 1992 to 1993.

The Kiwifruit Administrative Committee (committee), the agency responsible for local administration of the marketing order, met on February 10, 1993, and recommended increasing the minimum size requirement from

Size 49, which is defined as 60 pieces of fruit per 8-pound sample, to Size 45, which would be defined as 55 pieces of fruit per 8-pound sample.

The marketing order authorizes under § 920.52(a)(2) the establishment of minimum size requirements. § 920.302(a)(2) of the rules and regulations outlines the minimum size requirements for fresh shipments of California kiwifruit. Section 920.302(a)(4)(ii) includes a table that specifies numerical size designations that are used to determine kiwifruit sizes. These size designations are defined by numerical counts, which establish the maximum number of fruit per 8-pound sample for each of the established sizes. The size designation table defines ten different sizes, beginning with Size 21 (the largest size) and ending with Size 49 (the smallest size). The committee recommended eliminating the Size 49 designation (60 pieces of fruit per 8-pound sample) and redefining the Size 45/46 designation (57 pieces of fruit per 8-pound sample) as a Size 45 designation (55 pieces of fruit per 8-pound sample).

The committee recommended increasing the minimum size requirement because of the blending and packing of undersized fruit into containers using the Size 49 designation. Current pack requirements specify that kiwifruit designated as Size 45/46 or below must be packed within a ¼ inch size tolerance. Undersized fruit (Size 49 kiwifruit near or below the lower limit of the size tolerance) is often blended into the Size 49 designation. It is a common practice throughout the industry to blend and pack kiwifruit that could be designated as either undersized fruit, Size 49, or Size 45/46 into a Size 49 container.

Blending occurs because adjoining size designations have size tolerances that partially overlap and kiwifruit within either size tolerance may be packed in either size designation. For example, the current Size 49 designation and the current Size 45/46 designation have only a 3-count difference per 8-pound sample. This amounts to only a 0.12 ounce difference per individual fruit. The equipment and time needed to detect such a difference when packing individual fruit would be cost prohibitive, so instead, handlers choose to blend sizes.

Blending has become more prevalent in recent years because a greater percentage of kiwifruit is being packed in volume-fill or bulk containers in which the fruit is packed "loosely" instead of in containers with molded trays. Without the constraints of a molded tray, there is more freedom to blend sizes.

The committee's intention in recommending this increase in the minimum size requirement is to eliminate shipments of undersized fruit that is blended into the Size 49 designation. This undersized kiwifruit tends to soften more rapidly during storage than larger fruit and becomes more susceptible to decay. This tendency for undersized fruit to soften more rapidly than larger fruit becomes more pronounced once it leaves a controlled environment and enters an uncontrolled one such as a retail shelf. The end result is that the consumer is more likely to encounter quality defects with undersized fruit then with larger fruit.

Eliminating fresh shipments of undersized fruit by increasing the minimum size requirement would improve overall quality and increase uniformity of pack size. The consumer would benefit by being offered a higher quality kiwifruit that would ripen properly without prematurely shriveling or softening. Also, grower returns are expected to increase due to less repack loss, better kiwifruit movement, and higher prices because of a better quality product.

There is also ample evidence to show that the market is adverse to smaller sizes. The California Kiwifruit Commission funded an independent survey titled "Fresh Kiwifruit: Views from the Trade," in 1993. This survey indicated that 30% of the trade rejects small sizes and that 86.1% of the trade prefers Size 42 (defined as 50 pieces of fruit per 8-pound sample) or larger. Also, 92.1% of the merchandisers and produce managers claim that their customers reject small sizes.

An example of how consumers reject smaller sizes is when kiwifruit is sold at the retail level out of 125 pound bulk bins. Consumers initially pick out the largest and higher quality kiwifruit, and displays are left with undersized and low quality kiwifruit that is rejected by later consumers.

The committee's recommendation that the minimum size requirement be set at Size 45 would not significantly lower the volume of kiwifruit available in the fresh market. Although the committee reports that 12.1% of the California kiwifruit packout for the 1993/94 season was designated as Size 49, most of this total could be blended into the proposed Size 45 designation because of the small difference between the two size designations. The practice of blending sizes makes it difficult to predict how much fruit would be eliminated by this proposal, however, the committee estimates that the total packout would be reduced by only 1%. In addition, growers could adjust pruning, thinning, fertilizing, and irrigation techniques so that a larger percentage of kiwifruit would meet the higher size requirement.

There is general agreement in the industry for the need to eliminate the packing of undersize fruit. Other alternatives have been suggested to eliminate shipments of low quality, undersized fruit, but would not adequately address the problem. One suggestion was to eliminate the blending of sizes by eliminating the size tolerances. This is not a realistic alternative, because as mentioned earlier, it would be cost prohibitive and impossible to achieve using today's packing methods.

Another suggestion was to measure size by passing a fruit through a template with an opening large enough for an undersized fruit to fall through, but too small for a kiwifruit that meets the minimum size requirement to fall through. This template would be used to determine whether a fruit was undersized. However, this alternative does not take into consideration that kiwifruit grows in different shapes so that a heavier fruit that is short and broad could fall through a template while a lighter fruit that is long and narrow would not. Weight is currently used to measure size and is the most accurate measure of a kiwifruit's size.

Another alternative presented at the meeting was to tighten the maturity requirements rather than the size standards so that undersized, immature fruit would not be shipped. However, not all undersized fruit is immature, but all undersized fruit is more susceptible to quality problems. Thus, this alternative would not fully address the problem of blending in undersized fruit of inferior quality.

Finally, another alternative presented in the meeting was to establish Size 45 as the minimum size, but continue to define it as 57 pieces of fruit instead of 55 pieces of fruit per 8-pound sample as recommended by the committee. However, because of the approximately 0.12 ounce difference between a Size 45 kiwifruit defined as 57 pieces of fruit per 8-pound sample and a Size 49 kiwifruit defined as 60 pieces of fruit per 8-pound sample, this alternative would not go far enough to prevent the blending of undersized fruit.

Section 8e of the Act provides that when certain domestically produced commodities, including kiwifruit, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade,

size, quality, and maturity requirements. Since this rule would increase the minimum size requirement under the domestic handling regulations, a corresponding change to the import regulations must also be considered.

Minimum grade, size, quality, and maturity requirements for kiwifruit imported into the United States are currently in effect under § 944.550 [7 CFR 944.550]. The minimum size requirement is specified in paragraph (a) of § 944.550. This proposal would increase the minimum size requirement for imported kiwifruit from Size 49, which is defined as 60 pieces of fruit per 8-pound sample, to Size 45, which would be defined as 55 pieces of fruit per 8-pound sample.

The increase in the minimum size requirement for importers of kiwifruit would also have a beneficial impact. This rule would eliminate quality problems associated with undersized imported kiwifruit as it would for undersized domestic kiwifruit. In addition, the domestic trade's preference for larger size kiwifruit applies to imported kiwifruit as well as domestic kiwifruit. Thus, importers would benefit by improving the overall quality of kiwifruit shipments and increasing sales.

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this proposed rule.

Based on the above, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

A 30-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects

7 CFR Part 920

Kiwifruit, Marketing agreements.

7 CFR Part 944

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwifruit, Limes, Olives, Oranges.

For the reasons set forth above, 7 CFR Parts 920 and 944 are proposed to be amended as follows:

1. The authority citation for 7 CFR Parts 920 and 944 continues to read as follows:

Authority: 7 U.S.C. 601–674.

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

2. In § 920.302, paragraphs (a)(2) and (a)(4)(ii) are revised to read as follows:

§ 920.302 Grade, size, pack, and container regulations.

(a) * * *

(2) *Size Requirements.* Such kiwifruit shall be at least a minimum Size 45.

* * * * *

(4) * * *

(ii)(A) Kiwifruit packed in bags, volume fill or bulk containers may not vary more than ½ inch (12.7 mm) in diameter if Size 30 or larger; not more than ⅜ inch (9.5 mm) in diameter if Size 33, 36, 39, or 42; and not more than ¼ inch in diameter (6.4 mm) if Size 45. Not more than 10 percent, by count, of the containers in any lot and not more than 5 percent, by count, of kiwifruit in any container may fail to meet the requirements of this paragraph. The following table specifies the numerical size designation to be used in packing such containers as shown in Column 1, and the maximum number of fruit per 8-pound sample as shown in Column 2.

Column 1, numerical count size designation	Column 2, maximum number of fruit per 8-pound sample
21	22
25	27
27/28	30
30	32
33	35
36	40
39	45
42	50
45	55

(B) The average weight of all sample units in a lot must weigh at least 8 pounds, but no sample unit may be more than 4 ounces less than 8 pounds.

* * * * *

PART 944—FRUITS; IMPORT REGULATIONS

3. In § 944.550, paragraph (a) is revised to read as follows:

§ 944.550 Kiwifruit import regulation.

(a) Pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended, the importation into the United States of any kiwifruit is prohibited unless such kiwifruit meets all the requirements of a U.S. No. 1 grade as defined in the United States Standards for Grades of Kiwifruit (7 CFR 51.2335 through 51.2340), except that the kiwifruit shall be "not badly misshapen," and an additional tolerance of 7 percent is provided for kiwifruit that is "badly misshapen." Such fruit shall be at least Size 45, which means there shall be a maximum of 55 pieces of fruit and the average weight of all samples in a specific lot must weigh at least 8 pounds, provided that no individual sample may be less than 7 pounds 12 ounces.

* * * * *

Dated: June 23, 1994.

Eric M. Forman,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 94–15721 Filed 6–28–94; 8:45 am]

BILLING CODE 3410–02–P

---

7 CFR Part 980

[FV94–980–1PR]

Vegetables; Import Regulations; Modification of Regulatory Time Periods for Imported Onions and Establishment of Requirements for Red Variety Onions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule with request for comments.

SUMMARY: This proposed rule would modify the time periods when imported onions are regulated based on the grade, size, quality and maturity requirements of the South Texas onion and Idaho-Eastern Oregon onion marketing orders. This proposal also would establish import requirements for red variety onions based on South Texas requirements. The proposed changes are needed to make the onion import requirements consistent with changes to the South Texas onion marketing order, as required by section 8e of the Agricultural Marketing Agreement Act of 1937 (Act).

DATES: Comments must be received by July 29, 1994.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456. All comments should reference the docket number and the date and page number of this issue of the Federal Register and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Robert F. Matthews, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS,

USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456: telephone: (202) 690–0464, Fax (202) 720–5698.

SUPPLEMENTARY INFORMATION: This rule is proposed under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–674], hereinafter referred to as the Act.

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this proposed rule.

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

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. There are approximately 40 importers of onions who would be affected by this proposal. Small agricultural service firms, which include onion importers, have been defined by the Small Business Administration [13 CFR 121.601] as those having annual receipts of less than $5,000,000. The majority of onion importers may be classified as small entities.

Import regulations issued under the Act are based on regulations established under Federal marketing orders to regulate domestically produced products. Thus, this proposed rule should have small entity orientation, and impact on both small and large business entities in a manner comparable to rules issued under marketing orders. This rule proposes to modify the dates when imported onions, including red variety onions, are regulated based on requirements of the South Texas onion and Idaho-Eastern Oregon onion marketing orders.

Section 8e provides that whenever certain specified commodities, including onions, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements as those in effect for the domestically produced commodity. The Act further provides that when two or more marketing orders covering the same commodity are concurrently in effect, imports will be subject to the requirements established for the commodity grown in the area with which the imported commodity is in most direct competition.

Marketing Order No. 958 regulates onions grown in certain counties of Idaho and Eastern Oregon and Marketing Order No. 959 regulates onions grown in South Texas. Fresh onion shipments from Idaho-Eastern Oregon are regulated throughout the year, while onion shipments from South Texas were regulated from March 1 through May 20 each year. On the basis of past shipment data, the Secretary of Agriculture (Secretary) had determined that onions imported during the March 10 through May 20 period were in most direct competition with onions grown in South Texas and found that the minimum grade, size, quality, and maturity requirements for onions imported during that period should be the same as those established for South Texas onions under Marketing Order No. 959. The Secretary further determined that onions imported during the May 21 through March 9 period were in most direct competition with onions grown in Idaho-Eastern Oregon and that the minimum grade, size, quality, and maturity requirements for onions imported during that period should be the same as those established for Idaho-Eastern Oregon onions under Marketing Order No. 959.

Based on a recommendation of the South Texas Onion Committee (committee), the agency responsible for local administration of Marketing Order No. 959, the Department has extended the end of the South Texas regulatory period from May 20 to June 15. The Fruit and Vegetable Division's Market News Service has reported no onion shipments of commercial quantities from the Idaho-Easter Oregon production area during June from the 1990 through 1993 period, and only one year during this period, 1993, were onion shipments recorded during May. Therefore, onions imported during the period March 10 through June 15 are in most direct competition with those produced in South Texas.

Thus, now that the change in the regulatory period for South Texas onions is effective, a corresponding change must be made in the onion import regulation so that the requirements established under the South Texas marketing order would be the determining requirements for onions imported during the May 21 through June 15 period. Currently, imports of onions during that period are required to meet minimum requirements based on those established under the Idaho-Eastern Oregon marketing order. This rule proposes to change onion import requirements to be the same as the South Texas requirements during that period. With that adjustment, the onion import requirement would be based on the requirements for South Texas onions during the period March 10 through June 15, and would be based on the requirements for Idaho-Eastern Oregon onions during the June 16 through March 9 period.

Red onion varieties are subject to minimum grade, size, quality, and maturity requirements under the Idaho-Eastern Oregon marketing order, but those requirements are not in effect for imported red onions during the South Texas regulatory period. Red onion varieties are not currently regulated under the South Texas onion order. However, based on a recommendation of the committee, the Department has established minimum requirements for red onion varieties grown in the South Texas production area. Since South Texas red onion varieties are regulated, red onions, imported from March 10 to May 20 would be required to grade at least U.S. No. 1 with a 20 percent defect allowance and 1 and ¾ inch minimum diameter. This requirement would be in effect through June 15 as the South Texas regulatory period has been extended to June 15.

Based on these considerations, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

In accordance with section 8e of the Act, the U.S. Trade Representative has concurred with the issuance of this proposed rule.

Interested persons are invited to submit their views and comments on this proposal. A 30-day comment period is provided.

List of Subjects in 7 CFR Part 980

Food grades and standards, Imports, Marketing agreements, Onions, Potatoes, Tomatoes.

For the reasons set forth in the preamble, 7 CFR Part 980 is proposed to be amended as follows:

PART 980—VEGETABLES; IMPORT REGULATIONS

1. The authority citation for 7 CFR Part 980 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 980.117 [Amended]

2. In § 980.117, paragraph (a)(2) is amended by removing "May 21" and

adding in its place "June 16" and by removing "May 20" and adding in its place "June 15"; paragraph (b)(1) is amended by removing "May 21" and adding in its place "June 16"; and paragraph (b)(2) is amended by removing "May 20" and adding in its place "June 15".

Dated: June 23, 1994.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 94–15719 Filed 6–28–94; 8:45 am]

BILLING CODE 3410–02–M

---

7 CFR Part 1137

[DA–94–13]

Milk in the Eastern Colorado Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This document invites written comments on a proposal to suspend certain performance standards of the Eastern Colorado Federal milk marketing order, which would make it easier for handlers to qualify milk for pool status. The action was proposed by Mid-America Dairymen, Inc., a cooperative association that supplies milk for the market's fluid needs. The suspension was requested to prevent uneconomic milk movements that otherwise would be required to maintain pool status for milk of producers who have been historically associated with the market.

DATES: Comments are due no later than July 29, 1994.

ADDRESSES: Comments (two copies) should be filed with the USDA/AMS/Dairy Division, Order Formulation Branch, room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456.

FOR FURTHER INFORMATION CONTACT: Clifford M. Carman, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 720–9368.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this proposed rule would not have a significant economic impact on a substantial number of small entities. This rule would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers who have been historically associated with this market would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

The Department is issuing this proposed rule in conformance with Executive Order 12866.

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

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provisions of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of an order or to be exempted from the order. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act, the suspension of the following provisions of the order regulating the handling of milk in the Eastern Colorado marketing area is being considered:

1. For the months of September 1994 through February 1995: In the second sentence of § 1137.7(b), the words "plant which has qualified as a" and "of March through August"; and

2. For the months of September 1994 through August 1995:

In the first sentence of § 1137.12(a)(1), the words "from whom at least three deliveries of milk are received during the month at a distributing pool plant"; and in the second sentence "30 percent in the months of March, April, May, June, July, and December and 20 percent in other months of", and the word "distributing".

All persons who want to submit written data, views or arguments about the proposed suspension should send two copies of their views to the USDA/AMS/Dairy Division, Order Formulation Branch, room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456, by the 30th day after publication of this notice in the Federal Register.

All written submissions made pursuant to this notice will be made available for public inspection in the Dairy Division during regular business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed rule would suspend certain portions of the "pool plant" and "producer" definitions of the Eastern Colorado order (Order 137). It would be easier for handlers to qualify milk for pooling under the order if the provisions were suspended.

The proposed suspension was requested by Mid-America Dairymen, Inc. (Mid-Am), a cooperative association that has pooled milk of dairy farmers under Order 137 for several years. Mid-Am has requested the suspension to prevent the uneconomic and inefficient movement of milk for the sole purpose of pooling the milk of producers who have been historically associated with the order.

Mid-Am requests, for the months of September 1994 through February 1995, the removal of the restriction on the months when automatic pool plant status applies for supply plants. Mid-Am also proposes that, for the months of September 1994 through August 1995, the touch-base requirement not apply and that the diversion allowance for cooperatives be raised.

These provisions have been suspended in prior years to maintain the pool status of producers who have historically supplied the fluid needs of Order 137 distributing plants. The cooperative indicates that the marketing conditions which justified the prior suspensions continue to exist.

Mid-Am asserts that they have made a commitment to supply the fluid milk requirements of distributing plants if their suspension request is granted. Without the suspension, Mid-Am contends that to qualify certain of its milk for pooling it will be necessary to ship milk from distant farms to Denver-area bottling plants. The distant milk will displace milk produced on nearby farms that would then have to be shipped from the Denver area to manufacturing plants located in outlying areas.

In addition, Mid-Am maintains that ample supplies of locally-produced milk that can be delivered directly to

distributing plants will be available to meet the market's fluid needs without requiring shipments from supply plants. Proponent also claims that neither the elimination of the touch-base requirement for producers nor the increase in the amount of milk that can be diverted to nonpool plants by a cooperative, should jeopardize the needs of the market's fluid processors.

Accordingly, it may be appropriate to suspend the aforesaid provisions for the time periods stated.

List of Subjects in 7 CFR Part 1137

Milk marketing orders.

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

Dated: June 23, 1994.

Lon Hatamiya,

Administrator.

[FR Doc. 94–15718 Filed 6–28–94; 8:45 am]

BILLING CODE 3410–02–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 123

Disaster—Waiver of Judgment Lien Restriction

AGENCY: Small Business Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed rule applies only to disaster loan assistance and would enable SBA to waive, for good cause shown, the restriction in the Federal Debt Collection Procedures Act of 1990 prohibiting debtors on whose property the United States has an outstanding judgment lien from receiving certain assistance from the Federal government.

DATES: Comments must be submitted on or before August 29, 1994.

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

FOR FURTHER INFORMATION CONTACT: Michael E. Deegan at 202/205–6734.

SUPPLEMENTARY INFORMATION: The Federal Debt Collection Procedures Act of 1990 (28 U.S.C. 3201(e)) provides that a debtor who has a judgment lien against the debtor's property for a debt owed to the United States shall not be eligible to receive any grant or loan which is made, insured, guaranteed or financed directly or indirectly by the United States or to receive funds directly from the Federal government in any program, except funds to which the debtor is entitled as beneficiary, until the judgment is paid in full or otherwise satisfied. However, the statute permits any agency responsible for such grants or loans to promulgate regulations to allow for waivers of this restriction. As an agency authorized to provide several forms of assistance proscribed by this restriction, including disaster loan assistance and other types of direct and guaranteed loans, SBA is subject to this restriction, absent its exercise of the waiver authority conferred by the statute.

SBA recognizes that the excessive demands which disasters may place upon the financial resources of otherwise responsible debtors may prevent them from meeting their financial obligations to the United States or may prevent debtors who have previously defaulted on their financial obligations but who have entered into agreements with the creditor agency to satisfy a judgment from continuing to comply with the terms of those agreements. Therefore, SBA is proposing to issue a regulation permitting it to waive the restriction on eligibility for physical and economic injury disaster assistance provided under section (7)(b) (1) and (2) of the Small Business Act, 15 U.S.C. 636(b) (1) and (2), where there exists good cause to do so.

The proposed regulation applies to applicants for assistance who have outstanding judgment liens in favor of SBA or in favor of other agencies and identifies two nonexclusive instances in which good cause will ordinarily be found to exist. Both examples address circumstances in which a debtor's inability to fulfill his or her financial responsibilities has been occasioned by the disaster for which the assistance is sought.

It is contemplated that a waiver will be forthcoming as part of the eligibility review of an application for either physical or economic injury disaster assistance upon a demonstration of good cause by the applicant. Examples of good cause include, but are not limited to: (1) Circumstances in which the delinquency that gave rise to the otherwise-disqualifying judgment lien was caused by the disaster, whether the original debt was incurred prior to or after the commencement date of the disaster, and (2) circumstances in which the disaster has prevented the debtor from adhering to the terms of an agreement to satisfy the judgment, whether that agreement has been made with SBA, another creditor agency or any other Federal entity responsible for the lien, such as the Resolution Trust Corporation or the Federal Deposit Insurance Corporation. In the case of agreements with other agencies, SBA will not waive the restriction on eligibility until the appropriate Federal entity has certified that the debtor had been adhering satisfactorily to the terms of the agreement prior to the commencement date of the disaster.

The proposed regulation contemplates that SBA's Assistant Administrator for Disaster Assistance, or his/her designee, will make the determination as to whether good cause for waiving the restriction has been demonstrated by the applicant. Although such determinations are subject to the provisions of § 123.12 governing requests for reconsideration, no appeal from an adverse determination is contemplated.

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

SBA submitted this proposed rule to the Office of management and Budget for purposes of Executive Order 12866.

For purposes of Executive Order 12612, SBA certifies that the proposed rule, if promulgated as a final rule, would not have federalism implications warranting the preparation of a Federalism assessment.

For purposes of Executive Order 12778, SBA certifies that the proposed rule, if promulgated as a final 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 the proposed rule, if promulgated as a final rule, would not have a significant economic effect on a substantial number of small entities because, even though the proposed rule would render previously ineligible applicants eligible for disaster loan assistance, SBA does not expect the number of affected applicants to be significant.

For purposes of the Paperwork Reduction Act, SBA certifies that the proposed rule, if promulgated as a final rule, would not impose a new recordkeeping or reporting requirement.

List of Subjects in 13 CFR Part 123

Disaster, Physical disaster and economic injury loans.

Pursuant to the authority conferred in section 5(b)(6) of the Small Business Act (15 U.S.C. 634(b)(6)), SBA proposes to amend Part 123, Chapter I, Title 13, Code of Federal Regulations, as follows:

PART 123—DISASTER—PHYSICAL DISASTER AND ECONOMIC INJURY LOANS

1. The authority citation for Part 123 would be revised 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; Pub. L. 103–75, 107 Stat. 739; and Pub. L. 101–647, 104 Stat. 4933.

2. Section 123.2 would be amended by adding the following at the end of the section:

§ 123.2 Introduction.

* * * Under the Federal Debt Collection Procedures Act of 1990 (28 U.S.C. 3201(e)), a debtor who has an outstanding judgment lien against the debtor's property for a debt owed to the United States is not eligible to receive certain assistance from the Federal government, including physical and economic injury disaster loans covered by this part. This restriction may be waived by SBA's Assistant Administrator for Disaster Assistance or his/her designee (deciding official) upon a demonstration of good cause by the applicant for assistance. Good cause may be demonstrated by a credible representation which permits the deciding official to determine that the disaster for which such assistance is requested caused the delinquency upon which the judgment is based, whether the debt was incurred before or after the commencement date for such disaster; or such disaster prevented the debtor from adhering to the terms of an agreement to satisfy the judgment lien, made with SBA or another agency in whose favor the judgment was entered or with any other Federal government entity as may be appropriate, and that other agency or entity certifies with respect to its agreement that, prior to the commencement date for the disaster, the debtor had been adhering satisfactorily to the terms of that agreement; or such other circumstances exist as may permit that good cause sufficient to waive the statutory prohibition. Subject to the provisions of § 123.12 concerning requests for reconsideration, a determination of the Assistant Administrator for Disaster Assistance or his/her designee under this regulation is a final, nonappealable decision of the SBA.

Dated: May 30, 1994.

Erskine B. Bowles,

Administrator.

[FR Doc. 94–15696 Filed 6–28–94; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Chapter I

[Summary Notice No. PR–94–15]

Petition for Rulemaking; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received by August 29, 1994.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket No. 27800, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. D. Michael Smith, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7470.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on June 23, 1994.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Rulemaking

Docket No.: 27800.

Petitioner: Richard F. Honigsbaum.

Regulations Affected: 14 CFR 25.811(c).

Description of Rulechange Sought: To amend § 25.811(c) to require tactiovisual means to assist occupants in locating airplane cabin exits in all conditions of vision and visibility.

Petitioner's Reason for the Request: The petitioner feels the current vision dependent exit locating aids do not serve occupants blinded by smoke or those who cannot see an exit for other reasons.

[FR Doc. 94–15766 Filed 6–28–94; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF JUSTICE

28 CFR Part 9

[AG Order No. 1896–94]

Revision of Regulations Governing the Remission or Mitigation of Civil and Criminal Forfeitures

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend and adopts procedures that govern the processing of petitions for remission and mitigation of forfeitures by the Criminal Division, the Drug Enforcement Administration, the Federal Bureau of Investigation, the Immigration and Naturalization Service, and the United States Marshals Service of the Department of Justice. The Department of Justice proposed the following procedures in an effort to ameliorate the harsh results in individual forfeiture cases and to provide relief for innocent persons whose property is used by others for criminal purpose.

DATES: Comments must be submitted on or before July 29, 1994.

ADDRESSES: All comments concerning this proposed rule should be addressed to the Assistant Director for Policy and Operations, Executive Office for Asset Forfeiture, Office of the Deputy Attorney General, Department of Justice, 901 E St., NW., Suite 832, Washington, DC 20530.

FOR FURTHER INFORMATION CONTACT: Laurie J. Sartorio, Assistant Director for Policy and Operations, Executive Office for Asset Forfeiture, Office of the

Deputy Attorney General, Department of Justice, Washington, DC 20530, telephone (202) 616–8000. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

Background

In 1987, the Attorney General, recognizing the importance of petitions for remission or mitigation of forfeiture as a means of ameliorating the harsh results in certain forfeiture cases, amended Title 28 of the CFR, Part 9, which provides uniform treatment of remission and mitigation petitions by the Department's Criminal Division in judicial forfeiture cases, and by the Drug Enforcement Administration, the Federal Bureau of Investigation, the Immigration and Naturalization Service, and the United States Marshals Service in administrative forfeiture cases. A grant of a petition for remission provides for the return of forfeited property or the return of an appropriate property interest to individuals who can show that they acted without willful negligence. Mitigation provides for the partial or total relief from forfeiture through the return of some or all of the property and/or the imposition of monetary or other conditions.

Due to the growth of asset forfeiture cases and the growing number of federal agencies engaged in the forfeiture process, the Attorney General proposes the following procedures that will apply to the processing of petitions by the Criminal Division, the Drug Enforcement Administration, the Federal Bureau of Investigation, the Immigration and Naturalization Service, and the United States Marshals Service of the Department of Justice. This effort seeks to establish a comprehensive set of procedures, understandable by individuals and their attorneys, that will govern the handling of processing of petitions for remission or mitigation in the overwhelming majority of federal forfeiture cases.

In addition to establishing a comprehensive petition process, the proposed rules seek to: (1) Clarify provisions in existing rules; (2) distinguish between the bases for remission of forfeiture and the mitigation of forfeiture; (3) address inadequacies that have been detected in current rules due, in part, to the increased use of forfeiture by federal law enforcement agencies; (4) promote consistent and predictable decisions on petitions; and (5) recognize the interests of victims of crime in forfeited monies and other properties.

The proposed procedures in section 9.8 permit remission and mitigation to victims of crime when the property was forfeited under a statute that specifically provides for the restoration or remission of forfeited property to victims. An example of such a statute is 18 U.S.C. 1963(g)(1), which authorizes the Attorney General to "restore forfeited property to victims of a violation of this chapter." Some statutes, however, do not so provide, and instead adopt the provisions of the customs laws relating to remission. For example, 21 U.S.C. 881(d) provides that "[t]he provisions of law relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of customs laws: * * * the remission or mitigation of such forfeitures; and the compromise of claims shall apply to seizures and forfeitures incurred * * * under any of the provisions of this subchapter." The proposed rule does not permit remission or mitigation to victims where the forfeiture occurs under statutes that adopt the provisions of the customs laws without including language specifically authorizing restoration or remission to victims of crimes (e.g., forfeitures pursuant to the civil money laundering statute, 18 U.S.C. 981(a)(1)(A)). In such cases, the remission process is governed solely by the customs laws (specifically, 19 U.S.C. 1613 and 1618), which does not authorize remission to those who lack a legally cognizable interest in the property. However, the proposed rules will permit remission to victims should the applicable forfeiture statutes be amended to provide specifically for the restoration or remission of forfeited properties to victims. At the present time, most of the criminal forfeiture statutes, as well as 18 U.S.C. 981(a)(1)(c), a civil forfeiture statute, specifically, provide for restoration or remission to victims and, therefore, are covered by § 9.8.

These regulations supersede the provisions of 21 CFR 1316.79 and 1316.80, which contain remission and mitigation procedures for property seized for narcotics violations. The provisions of 8 CFR 274.13 through 274.19 and 28 CFR 8.10, which concern nondrug related forfeitures, are also superseded by these regulations.

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This rules does not have federalism implications warranting the preparation of a federalism assessment in accordance with section 6 of Executive Order 12612. This rule is not a significant regulatory action within the meaning of Executive Order 12866 and has not been reviewed by the Office of Management and Budget pursuant to that order.

List of Subjects in 28 CFR Part 9

Administrative practice and procedure, Crime, Seizures, and forfeitures.

Accordingly, Title 28 of the Code of Federal Regulations is proposed to be amended by revising Part 9 to read as follows:

PART 9—REMISSION OR MITIGATION OF ADMINISTRATIVE, CIVIL, AND CRIMINAL FORFEITURES

Sec.
9.1 Authority, purpose, and scope.
9.2 Definitions.
9.3 Petitions in administrative forfeiture cases.
9.4 Petitions in judicial forfeiture cases.
9.5 Criteria governing administrative and judicial remission and mitigation.
9.6 Special rules for specific petitioners.
9.7 Terms and conditions of remission and mitigation.
9.8 Provisions applicable to victims.
9.9 Miscellaneous provisions.

Authority: 28 U.S.C. 509, 510, 515–518, 524; 8 U.S.C. 1324; 15 U.S.C. 1177; 17 U.S.C. 509; 18 U.S.C. 512, 981, 982, 1467, 1955, 1963, 2253, 2254, 2513; 19 U.S.C. 1613, 1618; 21 U.S.C. 853, 881; 22 U.S.C. 401.

§ 9.1 Authority, purpose, and scope.

(a) *Purpose of regulations.* This Part sets forth the procedures for agency officials to follow when considering remission or mitigation of administrative forfeitures under the jurisdiction of the agency, and civil judicial and criminal judicial forfeitures under the jurisdiction of the Criminal Division. The purpose of these regulations is to provide a basis for ameliorating the effects of forfeiture through the partial or total remission of forfeiture for individuals who have an interest in the forfeited property but who did not participate in, or have knowledge of, the conduct that resulted in the property being subject to forfeiture and, where required, took all reasonable steps under the circumstances to ensure that such property would not be used, acquired, or disposed of contrary to law. Additionally, these regulations provide for partial or total mitigation of the forfeiture and imposition of alternative conditions in appropriate circumstances.

(b) *Authority to grant remission and mitigation.* (1) Remission and mitigation functions in administrative forfeitures are performed by the agency seizing the property. Within the Federal Bureau of Investigation, authority to grant remission and mitigation is delegated to the Forfeiture Counsel, who is the Unit

Chief, Legal Forfeiture Unit, Legal Counsel Division; within the Drug Enforcement Administration, authority to grant remission and mitigation is delegated to the Forfeiture Counsel, Office of Chief Counsel; and within the Immigration and Naturalization Service, authority to grant remission and mitigation is delegated to the Associate Commissioner for Enforcement.

(2) Remission and mitigation functions in judicial cases are performed by the Criminal Division of the Department of Justice. Within the Criminal Division, authority to grant remission and mitigation is delegated to the Director, Asset Forfeiture Office, Criminal Division.

(3) The powers and responsibilities delegated by these regulations may be redelegated to attorneys or managers working under the supervision of the designated officials.

(c) The time periods and internal requirements established herein are designed to guide the orderly administration of the remission and mitigation process and are not intended to create rights or entitlements in favor of individuals seeking remission or mitigation.

§ 9.2 Definitions.

As used in this Part:

(a) The term *administrative forfeiture* means the process by which property may be forfeited by an investigative agency rather than through judicial proceedings.

(b) The term *appraised value* means the estimated market value of an asset at the time and place of seizure if such or similar property was freely offered for sale between a willing seller and a willing buyer.

(c) The term *Assets Forfeiture Fund* means the Department of Justice Assets Forfeiture Fund or Department of the Treasury Assets Forfeiture Fund, depending upon the identity of the seizing agency.

(d) The term *Attorney General* means the Attorney General of the United States or his or her designee.

(e) The term *beneficial owner* means a person with actual use of, as well as an interest in, the property subject to forfeiture.

(f) The term *Director, Asset Forfeiture Office*, and *Director*, refer to the Director of the Asset Forfeiture Office, Criminal Division, United States Department of Justice.

(g) The term *general creditor* means one whose claim or debt is not secured by a specific right to obtain satisfaction against the particular property subject to forfeiture.

(h) The term *judgment creditor* means one who has obtained a judgment against the debtor but has not yet received full satisfaction of the judgment.

(i) The term *judicial forfeiture* means either a civil or a criminal proceeding in a United States District Court that may result in a final judgment and order of forfeiture.

(j) The term *lienholder* means a creditor whose claim or debt is secured by a specific right to obtain satisfaction against the particular property subject to forfeiture. A lien creditor qualifies as a lienholder if the lien:

(1) Was established by operation of law or contract;

(2) Was created as a result of an exchange of money, goods, or services; and

(3) Is perfected against the specific property forfeited for which remission or mitigation is sought (*e.g.*, a real estate mortgage; a mechanic's lien).

(k) The term *net equity* means the amount of a lienholder's monetary interest in property subject to forfeiture. Net equity shall be computed by determining the amount of unpaid principal and unpaid interest at the time of seizure, and by adding to that sum unpaid interest calculated from the date of seizure through the last full month prior to the date of the decision on the petition. Where a rate of interest is set forth in a security agreement, the rate of interest to be used in this computation will be the annual percentage rate so specified in the security agreement that is the basis of the lienholder's interest. In this computation, however, there shall be no allowances for attorney's fees, accelerated or enhanced interest charges, amounts set by contract as damages, unearned extended warranty fees, insurance, service contract charges incurred after the date of seizure, allowances for dealer's reserve, or any other similar charges.

(l) The term *owner* means the person in whom primary title is vested or whose interest is manifested by the actual and beneficial use of the property, even though the title is vested in another. A victim of an offense, as defined in § 9.2(v), may also be an owner if he or she has a present legally cognizable ownership interest in the property forfeited. A nominal owner of property will not be treated as its true owner if he or she is not its beneficial owner. The mere existence of a community property interest without proof of financial contribution to the purchase of the property will not be deemed sufficient interest to support a petition.

(m) The term *person* means an individual, partnership, corporation, joint business enterprise, estate, or other legal entity capable of owning property.

(n) The term *petition* means a petition for remission or mitigation of forfeiture under these regulations. This definition includes a petition for restoration of the proceeds of sale of forfeited property and a petition for the value of forfeited property placed into official use.

(o) The term *petitioner* means the person applying for remission, mitigation, restoration of the proceeds of sale, or for the appraised value of forfeited property, under these regulations. A petitioner may be an owner as defined in § 9.2(l), a lienholder as defined in § 9.2(j), or a victim as defined in § 9.2(v), subject to the limitations of § 9.8.

(p) The term *property* means real or personal property of any kind of capable of being owned or possessed.

(q) The term *record* means a series of arrests for related crimes, unless the arrestee was acquitted or the charges were dismissed for lack of evidence; a conviction for a related crime or completion of sentence within ten years of the acquisition of the property subject to forfeiture; or two convictions for a related crime at any time in the past.

(r) The term *related crime* as used in § 9.2(q) and § 9.6(e) means any crime similar in nature to that which gives rise to the seizure of property for forfeiture. For example, where property is seized for a violation of the federal laws relating to drugs, a related crime would be any offense involving a violation of the federal laws relating to drugs or the laws of any state or political subdivision thereof relating to drugs.

(s) The term *related offense* as used in § 9.8 means:

(1) Any predicate offense charged in a Federal Racketeer Influenced and Corrupt Organizations Act (RICO) count for which forfeiture was ordered; or

(2) An offense committed as part of the same scheme or design, or pursuant to the same conspiracy, as was involved in the offense for which forfeiture was ordered.

(t) The term *Ruling Official* means any official to whom decision making authority has been delegated pursuant to § 9.1(b).

(u) The term *seizing agency* means the federal agency that seized the property or adopted the seizure of another agency for federal forfeiture.

(v) The term *victim* means a person who has incurred a pecuniary loss as a direct result of the commission of the offense underlying a forfeiture. A drug user is not considered a victim of a drug trafficking offense under this definition.

A victim does not include one who acquires a right to sue the perpetrator of the criminal offense for any loss by assignment, subrogation, inheritance, or otherwise from the actual victim, unless that person has acquired an actual ownership interest in the forfeited property.

(w) The term *violator* means the person whose use or acquisition of the property in violation of the law subjected such property to seizure for forfeiture.

§ 9.3 Petitions in administrative forfeiture cases.

(a) *Notice of seizure.* The notice of seizure and intent to forfeit the property shall advise any persons who may have a present ownership interest in the property to submit their petitions for remission or mitigation within thirty (30) days of the date they receive the notice in order to facilitate processing. Petitions shall be considered any time after notice until the forfeited property is placed into official use, sold, or otherwise disposed of according to law, except in cases involving petitions to restore the proceeds from the sale of forfeited property. A notice of seizure shall include the title of the seizing agency, the Ruling Official, the mailing and street address of the official to whom petitions should be sent, and an asset identifier number.

(b) *Persons who may file.* A petition for remission or mitigation must be filed by a petitioner as defined in § 9.2(o) or as prescribed in §§ 9.9(g) and (h).

(c) *Contents of petition.* (1) All petitions must include the following information in clear and concise terms:

(i) The name, address, and social security or other taxpayer identification number of the person claiming an interest in the seized property who is seeking remission or mitigation;

(ii) The name of the seizing agency, the asset identifier number, and the date and place of seizure;

(iii) A complete description of the property, including make, model, and serial numbers, if any; and

(iv) A description of the petitioner's interest in the property as owner, lienholder, or otherwise, supported by original or certified bills of sale, contracts, deeds, mortgages, or other documentary evidence.

(2) Any factual recitation or documentation of any type in a petition must be supported by a sworn affidavit.

(d) *Releases.* In addition to the contents of the petition for remission or mitigation set forth in § 9.3(c), upon request, the petitioner shall also furnish the agency with an instrument executed by the titled or registered owner and any other known claimant of an interest in the property releasing interest in such property.

(e) *Filing petition with agency.* (1) A petition for remission or mitigation subject to administrative forfeiture shall be addressed to the appropriate federal agency as follows:

(i) Drug Enforcement Administration, Office of Chief Counsel, Street Address: 700 Army Navy Drive, Arlington, VA 22202, Mailing Address: P.O. Box 28356, Washington, DC 20039

(ii) Federal Bureau of Investigation, Special Agent in Charge, Field office that seized the property.

(iii) Immigration and Naturalization Service District Director, Chief Patrol Agent, or Regional Asset Forfeiture Office at location with jurisdiction over the forfeiture proceeding.

(2) The petition is to be sent to the official address provided in the notice of seizure and shall be sworn to by the petitioner or by the petitioner's attorney upon information and belief, supported by the client's sworn notice of representation pursuant to 28 U.S.C. 1746, as set out in § 9.9(g). The Director of the Executive Office for Asset Forfeiture is delegated authority to amend the address of the official to whom petitions may be sent from time to time, as necessary, by publishing notice of the change of address in the **Federal Register**. Failure to publish a notice of change of address in the **Federal Register** shall not alter the authority of the Ruling Official to determine petitions for remission or mitigation nor the obligation of a petitioner to file a petition at the address provided in the notice of seizure. Failure to publish a notice of change of address in the **Federal Register** shall not be grounds for expanding the time for filing a petition for remission or mitigation under these regulations.

(f) *Agency investigation.* Upon receipt of a petition, the seizing agency shall investigate the merits of the petition and prepare a written report containing the results of that investigation. This report shall be submitted to the Ruling Official for review and consideration.

(g) *Ruling.* Upon receipt of the petition and the agency report, the Ruling Official for the seizing agency shall review the petition and the report, and shall rule on the merits of the petition. No hearing shall be held.

(h) *Petitions granted.* If the Ruling Official grants a remission or mitigation of the forfeiture, a copy of the decision shall be mailed to the petitioner or, if represented by an attorney, to the petitioner's attorney. A copy shall also be sent to the United States Marshals Service or other property custodian. The written decision shall include the terms and conditions, if any, upon which the remission or mitigation is granted and the procedures the petitioner must follow to obtain release of the property or the monetary interest therein.

(i) *Petitions denied.* If the Ruling Official denies a petition, a copy of the decision shall be mailed to the petitioner or, if represented by an attorney, to the petitioner's attorney of record. A copy of the decision shall also be sent to the United States Marshals Service or other property custodian. The decision shall specify the reason that the petition was denied. The decision shall advise the petitioner that a request for reconsideration of the denial of the petition may be submitted to the Ruling Official in accordance with paragraph (j) of this section.

(j) *Request for reconsideration.* (1) A request for reconsideration of the denial of the petition shall be considered if:

(i) It is postmarked or received by the office of the Ruling Official within ten (10) days from the receipt of the notice of denial of the petition by the petitioner; and

(ii) The request is based on information or evidence not previously considered that is material to the basis for the denial or presents a basis clearly demonstrating that the denial was erroneous.

(2) In no event shall a request for reconsideration be decided by the same Ruling Official who ruled on the original petition.

(3) Only one request for reconsideration of a denial of a petition shall be considered.

(k) *Restoration of proceeds from sale.* (1) A petition for restoration of the proceeds from the sale of forfeited property, or for the appraised value of forfeited property when the forfeited property has been retained by or delivered to a government agency for official use, may be submitted by an owner or lienholder in cases in which the petitioner:

(i) Did you know of the seizure prior to the entry of a declaration of forfeiture; and

(ii) Could not reasonably have known of the seizure prior to the entry of a declaration of forfeiture.

(2) Such a petition shall be submitted pursuant to paragraphs (b) through (e) of this section within ninety (90) days from the date the property is sold or otherwise disposed of.

§ 9.4 Petitions in judicial forfeiture cases.

(a) *Notice of seizure.* The notice of seizure and intent to forfeit the property shall advise any persons who may have a present ownership interest in the property to submit their petitions for remission or mitigation within thirty (30) days of the date they receive the notice in order to facilitate processing. Petitions shall be considered any time after notice until such time as the forfeited property is placed in official use, sold, or otherwise disposed of according to law, except in cases involving petitions to restore property. A notice of seizure shall include the title of the official and the mailing and street address of the official to whom petitions should be sent, the name of the agency seizing the property, an asset identifying number, and the district court docket number.

(b) *Persons who may file.* A petition for remission or mitigation must be filed by a petitioner as defined in § 9.2(o) or as prescribed in §§ 9.9 (g) and (h).

(c) *Contents of petition.* (1) All petitions must include the following information in clear and concise terms:

(i) The name, address, and social security or other taxpayer identification number of the person claiming an interest in the seized property who is seeking remission or mitigation;

(ii) The name of the seizing agency, the asset identifier number, and the date and place of seizure;

(iii) The district court docket number;

(iv) A complete description of the property, including the address or legal description of real property, and make, model, and serial numbers of personal property, if any; and

(v) A description of the petitioner's interest in the property as owner, lienholder, or otherwise, supported by original or certified bills of sale, contracts, mortgages, deeds, or other documentary evidence.

(2) Any factual recitation or documentation of any type in a petition must be supported by a sworn affidavit.

(d) *Releases.* In addition to the content of the petition for remission or mitigation set forth in § 9.4(c), the petitioner, upon request, also shall furnish the agency with an instrument executed by the titled or registered owner and any other known claimant of an interest in the property releasing the interest in such property.

(e) *Filing petition with Department of Justice.* A petition for remission or mitigation of a judicial forfeiture shall be addressed to the Attorney General; shall be sworn to by the petitioner or by the petitioner's attorney upon information and belief, supported by the client's sworn notice of representation pursuant to 28 U.S.C. 1746, as set forth in § 9.9(g); and shall be submitted to the United States Attorney for the district in which the judicial forfeiture proceedings are brought. A petitioner also shall submit a copy of the petition to the seizing agency in the judicial district in which the seizure occurred as specified in the notice of seizure, except in Drug Enforcement Administration cases, where the copy shall be submitted to Drug Enforcement Administration Headquarters, Office of Chief Counsel, P.O. Box 28356, Washington, D.C. 20038, or 700 Army Navy Drive, Arlington, VA 22202.

(f) *Agency investigation and recommendation; United States Attorney's recommendation.* Upon receipt of a petition, the United States Attorney shall direct the seizing agency to investigate the merits of the petition based on the information provided by the petitioner and the totality of the agency's investigation of the underlying basis for forfeiture. The agency shall submit to the United States Attorney a report of its investigation and its recommendation on whether the petition should be granted or denied. Upon receipt of the agency's report and recommendation, the United States Attorney shall forward to the Director, Asset Forfeiture Office the petition, the seizing agency's report and recommendation, and the United States Attorney's recommendation on whether the petition should be granted or denied.

(g) *Ruling.* The Director shall rule on the petition. No hearing shall be held. The Director shall not rule on any petition in any case in which a similar petition has been administratively denied by the seizing agency prior to the referral of the case to the United States Attorney for the institution of forfeiture proceedings.

(h) *Petitions under Internal Revenue Service liquor laws.* The Director shall accept and consider petitions submitted in judicial forfeiture proceedings under the Internal Revenue Service liquor laws only prior to the time a decree of forfeiture is entered. Thereafter, district courts have exclusive jurisdiction.

(i) *Petition granted.* If the Director grants a remission or mitigates the forfeiture, the Director shall mail a copy of the decision to the petitioner or if represented by an attorney, to the petitioner's attorney, the appropriate United States Attorney, the United States Marshals Service or other property custodian, and the appropriate seizing agency. The written decision shall include the terms and conditions, if any, upon which the remission or mitigation is granted and the procedures the petitioner must follow to obtain release of the property or the monetary interest therein. The Director shall advise the petitioner or the petitioner's attorney to consult with the United States Attorney as to such terms and conditions. The United States Attorney shall confer with the seizing agency regarding the release and shall coordinate disposition of the property with that office and the United States Marshals Service or other property custodian.

(j) *Petitions denied.* If the Director denies a petition, a copy of that decision shall be mailed to the petitioner, or if represented by an attorney, to the petitioner's attorney of record, to the appropriate United States Attorney, the United States Marshals Service or other property custodian, and to the appropriate seizing agency. The decision shall specify the reason that the petition was denied. The decision shall advise the petitioner that a request for reconsideration of the denial of the petition may be submitted to the Director at the address provided in the decision, in accordance with paragraph (k) of this section.

(k) *Request for reconsideration.* (1) A request for reconsideration of the denial shall be considered if:

(i) It is postmarked or received by the Asset Forfeiture Office at the address contained in the decision denying the petition within ten (10) days from the receipt of the notice of denial of the petition by the petitioner; and

(ii) The request is based on information or evidence not previously considered that is material to the basis for the denial or presents a basis clearly demonstrating that the denial was erroneous. A copy of the request must be received by the above due date by the appropriate United States Attorney within ten (10) days of the receipt of the denial by the petitioner.

(2) In no event shall a request for reconsideration be decided by the Ruling Official who ruled on the original petition.

(3) Only one request for reconsideration of a denial of a petition shall be considered.

(4) Upon receipt of the request for reconsideration of the denial of a petition, disposition of the property will be delayed pending notice of the decision at the request of the Director. If the United States Attorney does not receive a copy of the request for reconsideration within the prescribed period, the disposition of the property may proceed.

(l) *Restoration of proceeds from sale.* (1) A petition for restoration of the proceeds from the sale of forfeited

property, or for the appraised value of forfeited property when the forfeited property has been retained by or delivered to a government agency for official use, may be submitted by an owner or lienholder in cases in which the petitioner:

(i) Did not know of the seizure prior to the entry of a final order of forfeiture; and

(ii) Could not reasonably have known of the seizure prior to the entry of a final order of forfeiture.

(2) Such a petition must be submitted pursuant to paragraphs (b) through (e) of this section within ninety (90) days of the date the property was sold or otherwise disposed of.

§ 9.5 Criteria governing administrative and judicial remission and mitigation.

(a) *Remission.* (1) The Ruling Official shall not grant remission of a forfeiture unless the petitioner establishes that:

(i) The petitioner has a valid, good faith, and legally cognizable interest in the seized property as owner or lienholder as defined in these regulations; and

(ii) The petitioner is innocent within the meaning of the innocent owner provisions of the applicable civil forfeiture statute, is a bona fide purchaser for value without cause to believe that the property was subject to forfeiture at the time of the purchase, or is one who held a legally cognizable interest in the seized property at the time of the violation underlying the forfeiture superior to that of the defendant within the meaning of the applicable criminal forfeiture statute, and is thereby entitled to recover his or her interest in the forfeiture property by statute. (If the applicable civil forfeiture statute contains no innocent owner defense, the innocent owner provisions applicable to 21 U.S.C. 881(a)(4) shall apply.) Unless otherwise provided by statute, in the case of petitioners who acquired their interest in the property after the time of the violation underlying the forfeiture, the question of whether the petitioner had knowledge of the violation shall be determined as of the point in time when the interest in the property was acquired.

(2) The knowledge and responsibilities of petitioner's representative, agent, or employee in § 9.5(a)(1)(ii) are imputed to the petitioner where the representative, agent, or employee was acting in the course of his or her employment and in furtherance of the petitioner's business.

(3) The petitioner has the burden of establishing the basis for granting a petition for remission or mitigation for forfeited property, a restoration of proceeds of sale or appraised value of forfeited property, or a reconsideration of a denial of such a petition. Failure to provide information or documents and to submit to interviews, as requested, may result in a denial of the petition.

(4) The Ruling Official shall presume a valid forfeiture and shall not consider whether the evidence is sufficient to support the forfeiture.

(5) Willful, materially-false statements or information, made or furnished by the petitioner in support of a petition for remission or mitigation of forfeited property, the restoration of proceeds or appraised value of forfeited property, or the reconsideration of a denial of any such petition, shall be grounds for denial of such petition and possible prosecution for the filing of false statements.

(b) *Mitigation.* (1) The Ruling Official may grant mitigation to a party not involved in the commission of the offense underlying the forfeiture:

(i) Where the petitioner has not met the minimum conditions for remission, but the Ruling Official finds that some relief should be granted to avoid extreme hardship, and that return of the property combined with imposition of monetary and/or other conditions of mitigation in lieu of a complete forfeiture will promote the interest of justice and will not diminish the deterrent effect of the law. Extenuating circumstances justifying such a finding include those circumstances that reduce the responsibility of the petitioner for knowledge of the illegal activity, knowledge of the criminal record of a user of the property, or failure to take reasonable steps to prevent the illegal use or acquisition by another for some reason, such as a reasonable fear of reprisal; or

(ii) Where the minimum standards for remission have been satisfied but the overall circumstances are such that, in the opinion of the Ruling Official, complete relief is not warranted.

(2) The Ruling Official may in his or her discretion grant mitigation to a party involved in the commission of the offense underlying the forfeiture where certain mitigating factors exist, including, but not limited to: the lack of a prior record or evidence of similar criminal conduct; if the violation does not include drug distribution, manufacturing, or importation, the fact that the violator has taken steps, such as drug treatment, to prevent further criminal conduct; the fact that the violation was minimal and was not part of a larger criminal scheme; the fact that the violator has cooperated with federal, state, or local investigations relating to the criminal conduct underlying the forfeiture; or the fact that complete forfeiture of an asset is not necessary to achieve the legitimate purposes of forfeiture.

(3) Mitigation may take the form of a monetary condition or the imposition of other conditions relating to the continued use of the property, and the return of the property, in addition to the imposition of any other costs that would be chargeable as a condition to remission. This monetary condition is considered as an item of cost payable by the petitioner, and shall be deposited into the Assets Forfeiture Fund as an amount realized from forfeiture in accordance with the applicable statute. If the petitioner fails to accept the Ruling Official's mitigation decision or any of its conditions, or fails to pay the monetary amount within twenty (20) days of the receipt of the decision, the property shall be sold, and the monetary amount imposed and other costs chargeable as a condition to mitigation shall be subtracted from the proceeds of the sale before transmitting the remainder to the petitioner.

§ 9.6 Special rules for specific petitioners.

(a) *General creditors.* A general creditor may not be granted remission or mitigation of forfeiture unless he or she otherwise qualifies as a petitioner under these regulations.

(b) *Rival claimants.* If the beneficial owner of the forfeited property and the owner of a security interest in the same property each files a petition, and if both petitions are found to be meritorious, the claims of the beneficial owner shall take precedence.

(c) *Voluntary bailments.* A petitioner who allows another to use his or her property without cost, and who is not in the business of lending money secured by property or of leasing or renting property for profit, shall be granted remission or mitigation of forfeiture in accordance with the provisions of § 9.5.

(d) *Lessors.* A person engaged in the business of leasing or renting real or personal property on a long-term basis with the right to sublease shall not be entitled to remission or mitigation of a forfeiture of such property unless the lessor can demonstrate compliance with all the requirements of § 9.5.

(e) *Straw owners.* A petition by any person who has acquired a property interest recognizable under these regulations, and who knew or had reason to believe that the interest was conveyed by the previous owner for the purpose of circumventing seizure, forfeiture, or these regulations, shall be denied. A petition by a person who purchases or owns property for another

who has a record for related crimes as defined in § 9.2(r), or a petition by a lienholder who knows or has reason to believe that the purchaser or owner of record is not the real purchaser or owner, shall be denied unless both the purchaser of record and the real purchaser or owner meet the requirements of § 9.5.

(f) *Judgment creditors.* (1) A judgment creditor will be recognized as a lienholder if:

(i) The judgment was duly recorded before the seizure of the property for forfeiture;

(ii) Under applicable state or other local law, the judgment constitutes a valid lien on the property that attached to it before the seizure of the property for forfeiture; and

(iii) The petitioner had no knowledge of the commission of any act or acts giving rise to the forfeiture at the time the judgment became a lien on the forfeited property.

(2) A judgment creditor will not be recognized as a lienholder if the property in question is not property of which the judgment debtor is entitled to claim ownership under applicable state or other local law (*e.g.*, stolen property). A judgment creditor is entitled under these regulations to no more than the amount of the judgment , exclusive of any interest, costs, or other fees including attorney's fees associated with the action that led to the judgment or its collection.

(3) A judgment creditor's lien must be registered in the district where the property is located if the judgment was obtained outside the district.

§ 9.7 Terms and conditions of remission and mitigation.

(a) *Owners.* (1) An owner's interest in property that has been forfeited is represented by the property itself or by a monetary interest equivalent to that interest at the time of seizure. Whether the property or a monetary equivalent will be remitted to an owner shall be determined at the discretion of the Ruling Official.

(2) If a civil judicial forfeiture action against the property is pending, release of the property must await an appropriate court order.

(3) Where the government sells or disposes of the property prior to the grant of the remission, the owner shall receive the proceeds of that sale, less any costs incurred by the government in the sale. The Ruling Official, at his or her discretion, may waive the deduction of costs and expenses incident to the forfeiture.

(4) Where the owner does not comply with the conditions imposed upon release of the property by the Ruling Official, the property shall be sold. Following the sale, the proceeds shall be used to pay all costs of the forfeiture and disposition of the property, in addition to any monetary conditions imposed. The remaining balance shall be paid to the owner.

(b) *Lienholders.* (1) When the forfeited property is to be retained for official use or transferred to a state of local law enforcement agency or foreign government pursuant to law, and remission or mitigation has been granted to a lienholder, the recipient of the property shall assure that:

(i) In the case of remission, the lien is satisfied as determined through the petition process; or

(ii) In the case of mitigation, an amount equal to the net equity, less any monetary conditions imposed, is paid to the lienholder prior to the release of the property to the recipient agency or foreign government.

(2) When the forfeited property is not retained for official use or transferred to another agency or foreign government pursuant to law, the lienholder shall be notified by the Ruling Official of the right to select either of the following alternatives:

(i) Return of property. The lienholder may obtain possession of the property after paying the United States, through the Ruling Official, the costs and expenses incident to the forfeiture, the amount, if any, by which the appraised value of the property exceeds the lienholder's net equity in the property, and any amount specified in the Ruling Official's decision as a condition to remit the property. The Ruling Official, at his or her discretion, may waive costs and expenses incident to the forfeiture. The Ruling Official shall forward a copy of the decision, a memorandum of disposition, and the original releases to the United States Marshals Service or other property custodian who shall thereafter release the property to the lienholder; or

(ii) Sale of Property and Payment to Lienholder. Subject to the provision of § 9.9(a) of this part, upon sale of the property, the lienholder may receive the payment of a monetary amount up to the sum of the lienholder's net equity, less the expenses and costs incident to the forfeiture and sale of the property, and any other monetary conditions imposed. The Ruling Official, at his or her discretion, may waive costs and expenses incident to the forfeiture.

(3) If the lienholder does not notify the Ruling Official of the selection of one of the two options set forth in § 9.7(b)(2) within twenty (20) days of the receipt of notification, the Ruling Official shall direct the United States Marshal or other property custodian to sell the property and pay the lienholder an amount up to the net equity, less the costs and expenses incurred incident to the forfeiture and sale, and my monetary conditions imposed. In the event a lienholder subsequently receives a payment of any kind on the debt owed for which he or she received payment as a result of the granting of remission or mitigation, the lienholder shall reimburse the Assets Forfeiture Fund to the extent of the payment received.

(4) Where the lienholder does not comply with the conditions imposed upon the release of the property, the property shall be sold after forfeiture. From the proceeds of the sale, all costs incident to the forfeiture and sale shall first be deducted, and the balance up to the net equity, less any monetary conditions, shall be paid to the lienholder.

§ 9.8 Provisions applicable to victims.

The provisions below apply to victims of an offense underlying the forfeiture of property, or of related offense, who do not have a present ownership interest in the forfeited property (or, in the case of multiple victims of an offense, who do not have a present ownership interest in the forfeited property that is clearly superior to that of other petitioner victims). These provisions apply only with respect to property forfeited pursuant to statutes that explicitly authorize restoration or remission of forfeited property to victims. Victims who have a superior present legally cognizable ownership interest in forfeited property may file petitions, as other owners, subject to the regulations set forth elsewhere in this Part. The claims of such owner victims, like those of any other owners, shall have priority over the claims of any non-owner victims whose claims are recognized pursuant to this section.

(a) *Qualification to file.* A victim, as defined in § 9.2(v), of an offense that was the statutory basis for the criminal, civil, or administrative forfeiture of specific property, or a victim of a related offense, may be granted remission of the forfeiture of that property,if in addition to complying with the other applicable provisions of this part, the victim satisfactorily demonstrates that:

(1) A pecuniary loss of a specific amount has been directly caused by the criminal offense that resulted in the forfeiture, or by a related offense, and that the loss is supported by documentary evidence including invoices and receipts;

(2) The pecuniary loss is the direct result of the illegal acts and is not the

result of otherwise lawful acts that were committed in the course of a criminal offense;

(3) The victim did not knowingly contribute to, participate in, benefit from, or act in a willfully blind manner towards the commission of the offense, or related offense, for which forfeiture was ordered;

(4) The victim has not in fact been compensated for the wrongful loss of the property by the perpetrator or others; and

(5) The victim does not have recourse reasonably available to other assets from which to obtain compensation for the wrongful loss of the property.

(b) *Pecuniary loss.* The amount of the pecuniary loss suffered by a victim for which remission may be granted is limited to the fair market value of the property of which the victim was deprived as of the date of the occurrence of the loss. No allowance shall be made for interest foregone or for collateral expenses incurred to recover lost property or to seek other recompense.

(c) *Torts.* A tort associated with illegal activity that formed the basis for the forfeiture shall not be a basis for remission, unless it constitutes the illegal activity itself, nor shall remission be granted for physical injuries to a petitioner or for damage to a petitioner's property.

(d) *Denial of petition.* In the exercise of his or her discretion, the Ruling Official may decline to grant remission where:

(1) There is substantial difficulty in calculating the pecuniary loss incurred by the victim or victims;

(2) The amount of the remission, if granted, would be small in comparison with the expenses incurred by the government in determining whether to grant remission; or

(3) The total number of victims is large and the monetary amount of the remission so small as to make its granting impractical.

(e) *Pro rata basis.* In granting remission to multiple victims pursuant to this section, the Ruling Official should generally grant remission on a pro rata basis to recognized victims when petitions cannot be granted in full due to the limited value of the forfeited property. However, the Ruling Official may consider, among others, the following factors in establishing appropriate priorities in individual cases:

(1) The specificity and reliability of the evidence establishing a loss;

(2) The fact that a particular victim is suffering an extreme financial hardship;

(3) The fact that a particular victim has cooperated with the government in the investigation related to the forfeiture or to a related prosecution or civil action; and

(4) In the case of petitions filed by multiple victims of related offenses, the fact that a particular victim is a victim of the offense underlying the forfeiture.

(f) *Reimbursement.* Any petitioner granted remission pursuant to this part shall reimburse the Assets Forfeiture Fund for the amount received to the extent the individual later receives compensation for the loss of the property from any other source. The petitioner shall surrender the reimbursement upon payment from any secondary source.

(g) *Claims of financial institution regulatory agencies.* In cases involving property forfeitable under 18 U.S.C. 981(a)(1)(C) or (a)(1)(D), the Ruling Official may decline to grant a petition filed by a petitioner in whole or in part due to the lack of sufficient forfeitable funds to satisfy both the petition and claims of the financial institution regulatory agencies pursuant to 18 U.S.C. 981(e)(3) or (7). Generally, claims of financial institution regulatory agencies pursuant to 18 U.S.C. 981(e)(3), or (7) shall take priority over claims of victims.

§ 9.9 Miscellaneous Provisions.

(a) *Priority of payment.* Except where otherwise provided in this part, costs incurred by the United States Marshall Service and other agencies participating in the forfeiture that were incident to the forfeiture, sale, or other disposition of the property shall be deducted from the amount available for remission or mitigation. Such costs include, but are not limited to, court costs, storage cost, brokerage and other sales-related cost, the amount of any liens and associated costs paid by the government on the property, costs incurred in paying the ordinary and necessary expenses of a business seized for forfeiture, awards for information as authorized by statute, expenses of trustees or other assistants pursuant to § 9.9(c), investigative or prosecutive costs specially incurred incident to the particular forfeiture, and costs incurred incident to the processing of the petition(s) for remission or mitigation. The remaining balance shall be available for remission or mitigation. The Ruling Official shall direct the distribution of the remaining balance in the following order of priority, except that the Ruling Official may exercise discretion in determining the priority between petitioners belonging to classes described in paragraphs (a)(3) and (4) of this section in exceptional circumstances:

(1) Owners;

(2) Lienholders;

(3) Federal financial institution regulatory agencies (pursuant to § 9.9(e)), not constituting owners or lienholders; and

(4) Victims; not constituting owners or lienholders (pursuant to § 9.8).

(b) *Sale or disposition of property prior to ruling.* If forfeited property has been sold or otherwise disposed of prior to a ruling, the Ruling Official may grant relief in the form of a monetary amount. The amount realized by the sale of the property is presumed to be the value of the property. Monetary relief shall not be greater than the appraised value of the property at the time of seizure and shall not exceed the amount realized from the sale or other disposition. The proceeds of the sale shall be distributed as follows:

(1) Payment of the government's expenses incurred incident to the forfeiture and sale, including court costs and storage charges, if any;

(2) Payment to the petitioner of an amount up to his or her interest in the property;

(3) Payment to the Assets Forfeiture Fund of all other costs and expenses incident to the forfeiture;

(4) In the case of victims, payment of any amount up to the amount of his or her loss; and

(5) Payment of the balance remaining, if any, to the Assets Forfeiture Fund.

(c) *Trustees and other assistants.* In the exercise of his or her discretion, the Ruling Official, with the approval of the Executive Office for Asset Forfeiture, may use the services of a trustee, other government official, or appointed contractors to notify potential petitioners, process petitions, and make recommendations to the Ruling Official on the distribution of property to petitioners. The expense for such assistance shall be paid out of the forfeited funds.

(d) *Other agencies of the United States.* Where another agency of the United States is entitled to remission or mitigation of forfeited assets because of an interest that is recognizable under these regulations, or is eligible for such transfer pursuant to 18 U.S.C. 981(e)(6), such agency shall request the transfer in writing, in addition to complying with any applicable provisions of § § 9.3 through 9.5. The decision to make such transfer shall be made in writing by the Ruling Official.

(e) *Financial institution regulatory agencies.* A Ruling Official may direct the transfer of property under 18 U.S.C. 981(e) to certain federal financial institution regulatory agencies or an entity acting in their behalf, upon receipt of a written request, in lieu of

ruling on a petition for remission or mitigation.

(f) *Transfers to foreign governments.* A Ruling Official may decline to grant remission to any petitioner other than an owner or lienholder so that forfeited assets may be transferred to a foreign government pursuant to 18 U.S.C. 981(i)(1), 19 U.S.C. 1616a(c)(2), or 21 U.S.C. 881(e)(1)(E).

(g) *Filing by attorneys.* (1) A petition for remission or mitigation may be filed by a petitioner or by his or her attorney or legal guardian. If an attorney files on behalf of the petitioner, the petition must include a signed and sworn statement by the client-petitioner stating that:

(i) The attorney has the authority to represent the petitioner in this proceeding;

(ii) The petitioner has fully reviewed the petition; and

(iii) The petition is truthful and accurate in every respect.

(2) Verbal notification of representation is not acceptable. Responses and notification of rulings shall not be sent to an attorney claiming to represent a petitioner unless a written notice of representation is filed. No extensions of time shall be granted due to delays in submission of the notice of representation.

(h) *Consolidated petitions.* At the discretion of the Ruling Official in individual cases, a petition may be filed by one petitioner on behalf of other petitioners, provided the petitions are based on similar underlying facts, and the petitioner who files the petition has written authority to do so on behalf of the other petitioners. This authority must be either expressed in documents giving the petitioner the authority to file petitions for remission, or reasonably implied from documents giving the petitioner express authority to file claims or lawsuits related to the course of conduct in question on behalf of these petitioners. An insurer or an administrator of an employee benefit plan, for example, which itself has standing to file a petition as a "victim" within the meaning of § 9.2(v), may also file a petition on behalf of its insured or plan beneficiaries for any claims they may have based on co-payments made to the perpetrator of the offense underlying the forfeiture or the perpetrator of a "related offense" within the meaning of § 9.2(s), if the authority to file claims or lawsuits is contained in the document or documents establishing the plan. Where such a petition is filed, any amounts granted as a remission must be transferred to the other petitioners, not the party filing the petition; although, in his or her discretion, the Ruling Official may use the actual petitioner as an intermediary for transferring the amounts authorized as a remission to the other petitioners.

Dated: June 17, 1994.

Janet Reno,

Attorney General.

[FR Doc. 94–15728 Filed 6–28–94; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

RIN–0720–AA23

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Mental Health Services

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed Rule.

SUMMARY: This proposed rule is to reform CHAMPUS quality of care standards and reimbursement methods for inpatient mental health services. The rule would update existing standards for residential treatment centers (RTCs) and establish new standards for approval as CHAMPUS-authorized providers for substance abuse rehabilitation facilities and partial hospitalization programs; implement recommendations of the Comptroller General of the United States that DoD establish cost-based reimbursement methods for psychiatric hospitals and, residential treatment facilities; adopt another Comptroller General recommendation that DoD reverse the current incentive for the use of inpatient mental health care; and eliminate payments to residential treatment centers for days in which the patient is on a leave of absence.

DATES: Written comments must be received on or before August 29, 1994.

ADDRESSES: Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Office of Program Development; Aurora, Colorado 80045–6900.

FOR FURTHER INFORMATION CONTACT: CFR Deborah Kamin, NC, USN, Office of the Assistant Secretary of Defense (Health Affairs), (703) 697–8975.

Questions regarding payment of specific claims should be addressed to the appropriate CHAMPUS contractor.

SUPPLEMENTARY INFORMATION:

I. Introduction

Quality assurance and cost effectiveness of mental health care services under CHAMPUS continue to be major reform issues for the Defense Department and Congress. In recent years, a series of DoD initiatives, legislative and regulatory actions, and Congressional hearings has spotlighted both progress made and the need for more improvement.

Two recent Comptroller General Reports are indicative of the importance of these issues and the need for reform. The first of these, "Defense Health Care: Additional Improvements Needed in CHAMPUS's Mental Health Program," GAO/HRD–93–34, May 1993, stated that, although DoD has taken actions to improve the program, "several problems persist." The Report (hereafter referred to as "GAO Report #1") elaborated:

> For example, reviews of medical records have identified numerous instances of poor medical record documentation, potentially inappropriate admissions, excessive hospital stays, and poor-quality care. Also, inspections of RTCs [Residential Treatment Centers] continue to reveal significant health and safety problems, and corrective actions often take many months.
>
> Moreover, DoD * * * pays considerably higher rates for comparable services than do other public programs.

GAO Report #1, p. 2. The Report referenced the General Accounting Office's 1991 Congressional testimony regarding CHAMPUS mental health care and inspections of residential treatment facilities conducted for DoD since then:

> Inspections conducted since our 1991 testimony have identified some of the same problems we described then: unlicensed and unqualified staff, inappropriate use of seclusion and medication, inadequate staff-to-patient ratios, and inadequate documentation of treatment.

GAO Report #1, p. 5.

The principal conclusions of this Report were: (1) "standards, which include termination for noncompliance, should be specified and termination proceedings, time frames, and reinspection provisions * * * should be adopted;" and (2) because "DoD reimburses psychiatric hospitals and RTCs at higher rates than do other government payers, it should modify its payment system to more closely resemble other programs such as Medicare." GAO Report #1, p. 9.

A second recent Comptroller General Report, "Psychiatric Fraud and Abuse: Increased Scrutiny of Hospital Stays is Needed to Lessen Federal Health Program Vulnerability," GAO/HRD–93–92, September 1993, also called for improvements in the CHAMPUS mental health program. The Report (hereafter referred to as GAO Report #2) said:

> Investigations to date have revealed that federal health programs have been subject to fraudulent and abusive psychiatric hospital

practices, but apparently to a lesser extent than private insurers. * * *

Some federal control weaknesses do exist which have resulted in unnecessary hospital admissions, excessive stays, and sometimes inadequate quality of care. * * *

DoD has also identified numerous instances of quality problems and unnecessary hospital admissions.

GAO Report #2, pp. 9–10.

These two recent Comptroller General Reports, as well as a substantial body of other documentation, highlight the need for a very active quality assurance program. As discussed further below, two primary issues are presented. First, there is a need for clear, specific standards for psychiatric facilities on staff qualifications, clinical practices, and all other aspects directly impacting the quality of care. These standards are needed for residential treatment facilities, substance abuse rehabilitation facilities, and partial hospitalization programs. These standards will help bring those facilities, a minority in the industry, that are unwilling or unable to comply with necessary requirements, up to an appropriate standard of care.

The second key issue is reimbursement rates. As documented by the Comptroller General, CHAMPUS needs to discontinue payment rates based on historical billed charges and establish payment rates based on the actual costs of providing the services. Payment methodologies used by Medicare provide the appropriate model, with provisions to assure that rates are based on costs for a broad range of patients, not just the elderly.

This proposed rule seeks public comment on our plan to adopt reforms on these two primary issues. The rule would put in place as part of the CHAMPUS regulation comprehensive quality of care certification standards for residential treatment facilities, substance abuse rehabilitation facilities, and partial hospitalization programs. It would also phase in gradually a cost-based reimbursement system for psychiatric hospitals and residential treatment facilities. In addition, the rule includes proposals on several other issues, addressed below.

II. Provisions of Proposed Rule To Reform Certification Standards For Mental Health Care Facilities

The Comptroller General's call for stronger management by CHAMPUS to assure quality of care in the mental health programs was based partially on a review of serious abuses on the part of some providers. The GAO presented audit findings identifying program weaknesses. As one of four states which account for more than half of CHAMPUS mental health hospital costs, Texas surfaced in recent audits as number one in CHAMPUS mental health expenditures. Of particular concern are practices described during 1991 hearings conducted before the Texas state senate and summarized in GAO report #2. In over 80 hours of testimony, 175 witnesses—some beneficiaries of federal programs—brought forth allegations which included exorbitant charges for care never rendered; Kickbacks for patient referrals; restraint of voluntary patients against their will; discharge of patients upon exhaustion of benefits, regardless of their condition; and isolation of family from patients including withholding of visitation and mail/telephone privileges. While privately insured patients are the most common target of unethical practices, increasing benefit limits and payment controls by private third party payers may place federal programs at increased risk for fraudulent practices. GAO auditors point out that, because CHAMPUS reimburses mental health at rates higher than other federal programs, it may be particularly vulnerable to the minority of unethical providers seeking additional revenue sources.

Other abuses among some mental health providers were also documented in recent Congressional hearings. The House Select Committee on Children, Youth and Families, chaired by Representative Patricia Schroeder, conducted hearings on the U.S. mental health system in April 1992. The hearing was entitled, "The Profits of Misery: How Inpatient Psychiatric Treatment Bilks the System and Betrays Our Trust." Witnesses testifying before the committee cited numerous abuses in the mental health industry which included treatment up to the point of benefit exhaustion regardless of health status, manipulative advertising campaigns, placement of "volunteers" in school counseling offices for the purpose of recruiting patients, and billing for physician services actually provided by other health workers.

The GAO, represented by David Baine, Director of Federal Health Care Delivery issues, testified to disturbing results obtained by a CHAMPUS contractor, Health Management Strategies International (HMSI), during focused and quarterly reviews of mental health facilities. In a substantial number of cases reviewed, medical records failed to document medical necessity for an admission and two-thirds of cases reviewed did not meet critical quality-of-care criteria or lacked evidence to make such a determination. In focused reviews, unnecessary admissions ranged from 26 to 91 percent of cases sampled.

In his testimony before the committee, Dr. Melvin Sabshin, Medical Director of the American Psychiatric Association, expressed concern over inappropriate and abusive psychiatric practices and committed the APA to "strengthening laws to protect psychiatric hospital patients." Additionally, Dr. Sabshin cited recent adoption of APA guidelines governing the hospitalization of minors. These guidelines will serve to "protect children against needless hospitalization and deprivation of liberty, and to enable medical decisions to be made in response to clinical needs and in accordance with sound psychiatric judgment."

Echoing concern over breaches in professional ethics, Dr. Richard Cohen, President of the American Academy of Child and Adolescent Psychiatry, provided a policy statement for the record which identified as unethical any mental health program offering financial reward in exchange for admissions, programs allowing admission decisions by other than qualified psychiatrists, and "misleading, guilt-provoking, or unduly alarming advertising to promote self-referrals and admissions." Individual providers, professional associations, other members of the mental health community and beneficiaries testified to an array of problems in quality of care and utilization management. Numerous calls were made to strengthen existing legislation, improve professional standards and provide closer monitoring to ensure appropriate and cost effective treatment.

Based on information provided to the Committee, Chairwoman Schroeder stated:

Clearly this business of treating minds—particularly this big business of treating young minds has not policed itself, and has no incentive to put a stop to the kinds of fraudulent and unethical practices that are going on. This leads me to conclude that Federal and State oversight must be increased.

Hearing, p. 2.

In recent years, the Department has worked to strengthen oversight and monitoring of mental health programs, particularly with respect to treatment of children and adolescents. Through the contract with HMSI, and other efforts, CHAMPUS has paid much more attention to care in RTCs. In April of 1992, Health Management Strategies International (HMSI) expressed specific concerns about several of the CHAMPUS-authorized residential treatment centers. Numerous quality of care issues surfaced during on-site

facility visits to residential treatment centers where CHAMPUS beneficiaries were receiving care. Here are several examples:

—*Unqualified staff were providing individual, group and family therapy.* For example, group therapy was being conducted by child care workers with high school diplomas.

—*Patient treatment was not being directed by qualified psychiatrists.* At one facility, psychiatry residents were acting as facility medical directors. In some facilities, one psychiatrist may be responsible for as many as 90 children and their families, seriously limiting professional time available for individual attention.

—*Several facilities failed to individualize treatment plans.* At one facility all treatment plans were the same, regardless of history, needs or problems. Similarly, some facilities were discovered to focus on one type of treatment to the exclusion of all other approaches. This was true regardless of whether or not patients responded to this type of treatment.

—*In several facilities, registered nurses were not available on a full-time basis.* For example, at one facility children were ordering their own medications "as needed" and medications were dispensed—without further evaluation—by untrained child care workers. In one instance a child who developed tardive dyskinesia (a motion disorder resulting from medication) was described by a child care worker as having a "nervous tic."

—*There was evidence of excessive use of restraints and seclusion as methods of behavioral management.* Examples include placing children as young as three or four in restraint and seclusion; secluding neurologically impaired children because of screaming or inability to follow directions; and locking children who cannot write in seclusion because they failed to write essays about their behavior. In one facility, seclusion was used 146 times in one month. The practice of zipping children into so-called "body bags" was employed by several facilities. Use of a body bag, which leaves an opening only for the head, carries risk of overheating to the point of lethal hyperthermia. One facility policy governing this practice did not require physician evaluation of the patient for 72 to 96 hours after the event.

—*Many facilities did not offer the required range of services.* For example, since unskilled child care workers were supervising play, activity therapy was not being used as treatment. Also, a number of facilities failed to incorporate basic life skills with other treatment. Many children facing independent living after discharge were not able to negotiate activities such as making telephone calls, making change, planning meals, and riding a bus.

—*Certain RTCs employed unnecessary strip searches and other intrusive acts.* Searches involve adult authority figures forcing children between the ages of four and 18 to remove all clothing and submit to cavity searches. Cavity searches involve finger probes to the mouth, vagina, and rectum. Some facilities were requiring such searches whenever the patient returned from a pass or having a visitor. In many cases, children subjected to such searches were victims of abuse and, for some, these methods of search re-enact the original trauma.

These HMSI case findings pointed out shortcomings in practices in some RTCs that can be addressed through improved standards. Although standards for residential treatment centers exist, they have evolved over time from attempts to address individual issues with incremental change. Further, existing CHAMPUS standards for residential treatment centers were written as supplements to standards employed to the Joint Commission on Accreditation of Hospital Organization (JCAHO). In recent years, the JCAHO has moved toward a more general set of facility standards, with less specific reference to unique requirements of medical specialties. The result has been that CHAMPUS standards—which were not intended to stand alone—do not address the full spectrum of requirements and expectations for mental health facilities and providers.

Orginally drafted in the late 1970s, CHAMPUS standards for RTCs have undergone multiple revisions to ensure they reflect currently accepted clinical practice. This rule will incorporate revisions necessary to update existing standards. With shorter lengths of stay in acute care facilities, mental health patients are reaching residential treatment centers at earlier—and less stable—stages of treatment. Similar to trends in other medical specialties, the growing intensity of illness among inpatients has dictated a need for higher standards of care and increasing levels of professional supervision and treatment. Current CHAMPUS standards for RTCs must be updated to reflect more clearly professional skill levels and intervention strategies employed in today's mental health environment. Based on a clear record of problems among some institutional mental health providers and the shortcomings of current standards, DoD has developed a comprehensive, unified set of standards for residential treatment centers, partial hospitalization programs and substance use disorder rehabilitation facilities. This rule would update existing standards to reflect current mental health practices, account for policy shifts in the JCAHO, and communicate clearly CHAMPUS policy with regard to quality and scope of care provided to its beneficiaries.

The proposed standards will work to prevent recurrence of abuses such as those discussed by defining more completely and specifically quality indicators which will be used to judge care rendered in these facilities. Among areas addressed by the standards are:

—*Qualifications and authority of medical director.* Proposed standards require the medical director of any RTC have completed an approved residency in psychiatry and have at least five years experience in treating children and adolescents. In addition to oversight of all clinical care provided, standards for RTCs, substance abuse rehabilitation facilities and partial hospitalization programs outline specific requirements for medical director participation in program development, peer review, medical staff supervision, quality monitoring and improvement and coordination with the governing body.

—*Adequate staffing with qualified professionals.* Proposed standards require written staffing plans. Specific information is provided concerning requirements for staffing levels and professional qualifications 24 hours per day, seven days per week (or, in the case of partial hospitalization programs, during all hours of operation). Standards require that all clinical care provided under clinical supervision is the responsibility of a licensed or certified mental health professional. Additionally, there must be evidence to show that ultimate authority for medical management of care is vested in a physician.

—*Patient rights and limitations on use of seclusion and restraint.* Standards require provisions for protection of all individual patient rights, including civil rights, provided for under federal law and the laws of the state where the residential treatment center is located. Specific requirements address privacy, personal freedoms, contact with families and environmental safety. Detailed guidelines for use, supervision and medical monitoring of behavior management—including use of seclusion and restraint—are also provided.

—*Implementation of individualized treatment plans addressing each patient's needs.* Responsibility for development, supervision, implementation and assessment of written, individualized and interdisciplinary treatment plans is assigned to a psychiatrist or doctoral level clinical psychologist. Treatment goals must be communicated to the family, must undergo regular review and must include specific, measurable and observable criteria for discharge.

—*Comprehensive evaluation system to guide an ongoing quality improvement program.* Proposed standards provide detailed expectations with respect to evaluation systems by which quality, efficiency, appropriateness and effectiveness of care, treatments, and services are provided. The evaluation system must involve all disciplines, services, and programs of the facility, including administrative and support staff activities. Responsibility for development and implementation of

quality assurance and quality improvement programs rests with the medical director and must support overall facility philosophical assumptions and values.

Proposed standards are designed to foster interdisciplinary communication and patient protection through involvement and oversight of the Governing Body, Chief Executive Officer, Medical Director, and Professional Staff with respect to administrative, utilization review, and clinical activities. Based on DoD experience, on-site review of residential treatment centers, and testimony obtained during Congressional hearings, DoD has strengthened standards for substance abuse treatment programs in a manner similar to residential treatment centers. For partial hospitalization, proposed standards occur as part of implementation of this new benefit, which became effective September 29, 1993.

This proposed rule incorporates basic requirements governing CHAMPUS approval of facilities providing mental health services as residential treatment centers, as partial hospitalization providers, and substance use disorder rehabilitation facilities. More detailed definition of these basis standards will be issued under the authority of this regulation. It should be noted that only the requirements included in the final regulation will, by themselves, have the force and effect of law. Additional detail in the more lengthy standards are extensions of the regulation. They do not independently have the force and effect of law. Rather, they establish the agency's interpretations of regulation and will serve as guidelines for compliance with the regulatory requirements. The complete proposed standards are available to the public from the office of CHAMPUS. These more lengthy standards will be finalized coincident with the issuance of the final regulation.

CHAMPUS must have some means of differentiating among RTCs, Substance Use Disorder Rehabilitation Facilities, and Partial Hospitalization Programs in order to select and certify only those facilities capable of fully meeting the needs of its beneficiaries.

III. Provisions of Proposed Rule To Reform Payment Methods For Mental Health Care Facilities

The proposed rule closely follows the Comptroller General's recommendations regarding payment reform for mental health care facilities. The Comptroller General's findings regarding current CHAMPUS payment rates are especially noteworthy. According to the Report: "Our work indicates that DoD pays psychiatric facilities considerably more than other government programs do for comparable services." GAO Report #1, p. 6. The Comptroller General very accurately summarized the background of the current CHAMPUS payment methods for psychiatric hospitals and RTCs:

> Although the current CHAMPUS system of per diem reimbursements has helped limit program cost increases for inpatient mental health, the per diem rates were based on providers' billed charges, not their costs. The rates were based on billing data from a period when providers' charges were not subject to controls and had just increased significantly. Before 1989 when no upper limit on rates existed, hospitals and RTCs essentially set their own CHAMPUS payment rates. Before the per diem calculations, hospitals and RTC rates increased significantly. For example, average daily charges per CHAMPUS inpatient day rose by 17 percent from fiscal years 1987 to 1988. One RTC boosted its daily charges from an average of $331 in fiscal year 1987 to $531 in June 1988—a 60% increase.

GAO Report #1, pp 6–7.

Because CHAMPUS payments are based on historical billed charges, they substantially exceed the facilities' actual costs and Medicare reimbursement rates. Based on an analysis of payments to a number of high CHAMPUS volume psychiatric hospitals, the Comptroller General concluded: "The hospitals made large profits, on average, on CHAMPUS patients." GAO Report #1, p. 7. More specifically, based on fiscal year 1990 payments.:

> Subtracting their average daily costs from the CHAMPUS per diem rates revealed an average daily profit on CHAMPUS patients of about $99, or about 22% above the average cost per inpatient day. In contrast, the average profit margin per day for other patients and payers was about $66 or 14% above the average daily costs.

Id. The degree to which CHAMPUS currently overpays facilities is even more dramatically shown in comparison with Medicare rates. According to the Comptroller General: On average, the hospitals were paid 39 percent more per day for CHAMPUS patients than for Medicare patients." Id. In the aggregate CHAMPUS paid an average of $170 per day more than the Medicare-allowed daily costs, "and this was more than 15 times larger than the average Medicare-allowed profit." *Id.*

A similar pattern emerges on payment rates for RTCs. Using fiscal year 1991 data, the Comptroller General compared CHAMPUS payments to state-authorized daily rates for a number of RTCs in Florida and Virginia, and found that the average daily CHAMPUS rate was 36 percent more than the average state rate. RTC cost data were available for three RTCs in Texas, the state with the highest total CHAMPUS RTC costs. These data showed "an average profit margin of 27 percent." Id., p. 8. The Comptroller General also stated that the index factor used to annually update CHAMPUS RTC per diems, the consumer price index for urban medical services (CPI–U), results in excessive increases. The GAO Report says the hospital market basket index factor that CHAMPUS and Medicare use for hospital payments "would be more appropriate than the CPI–U because it reflects increases in the amounts hospitals pay for goods and services" rather than "increases in charges by health practitioners and facilities." *Id.*

The problem of excessive payments also involves drug and alcohol abuse rehabilitation facilities, which continue to be paid by CHAMPUS billed charges. According to the Comptroller General:

> These facilities set their own fees and can increase them freely—without controls over their charges. Some of these facilities are paid more on a daily basis than are psychiatric hospitals. *Id.*

Based on these findings, the Comptroller General recommended that the Secretary of Defense:

> Establish a system of reimbursing psychiatric facilities, RTCs, and specialized treatment facilities based on a cost-based system similar to Medicare, adjusted appropriately for differences in beneficiary demographics, rather than the present per diem or billed charges system.

Id., p. 10.

This proposed rule would do that. It is based on the legal authority of 10 U.S.C. section 1079(j)(2), which calls on CHAMPUS generally to adopt reimbursement rules similar to Medicare's for health care facilities. For facilities except from the Medicare Prospective Payment System Medicare pays on the basis of the facility's allowable costs, as reflected on a Medicare cost report.

Under the proposed rule, CHAMPUS payments to specialty psychiatric hospitals and units and residential treatment facilities would gradually transition from the present system of per diem rates based on historical billed charges to a new system of per diem rates based on facility costs. Where possible, Medicare cost reports for the most current period will be used to calculate base year costs.

For inpatient mental health hospital care in specialty psychiatric hospitals and units, two sets of per diem rates will be established. One set of per diems applies to hospitals and units that have a relatively higher number of CHAMPUS discharges (at least 50). For

these hospitals and units, the system uses hospital-specific per diem rates based on the hospital's average Medicare inpatient operating cost, including pass through cost, per day. Hospital-specific per diem rates would be subject to a cap, set at two standard deviations above the mean per diem for all higher volume hospitals.

The other set of per diems applies to hospitals and units with a relatively lower number of CHAMPUS discharges. For these hospitals and units, the system uses a national per diem, based on the average Medicare inpatient operating cost per day, including pass through costs, for all patients in all CHAMPUS lower volume hospitals and units which file Medicare cost reports, adjusted for local area wage differences and facility/type teaching status. Costs will be determined from the Medicare cost reports filed by those hospitals for a recent base year, updated to the year for which the payment rate will be used.

With respect to RTC's, the proposed rule would establish a similar payment structure. For RTCs that have a relatively higher number of CHAMPUS discharges (again, 50 or more per year), RTC-specific per diem rates would be established based on the RTC's average allowable cost per day, subject to a cap comparable to that set for psychiatric hospitals. For RTCs with a relatively lower number of CHAMPUS discharges, the system uses a national per diem adjusted for area wages. Costs will be based on the cost per day for all patients in all CHAMPUS lower volume RTCs in the nation which file cost reports (or an appropriate sample of such facilities). If data from cost reports are insufficient to establish a national rate, an alternative method will be available, based on RTC charges, adjusted by the cost-to-charge applicable to free-standing, non-teaching psychiatric hospitals.

Beginning in fiscal year 1995, per diem rates for both psychiatric hospitals and RTCs would undergo transition from charge-based to cost-based rates. For psychiatric hospitals, the transition will occur over three years. For RTCs, to provide time for collection of cost reports, the transition will occur over four years. For psychiatric hospitals, during the transition years, in the cost-based per diem is less than the fiscal year 1994 per diem, OCHAMPUS will pay a blended rate calculated to phase in the cost-based rate by fiscal year 1997. For fiscal year 1995, the blended rate will be two-thirds of the 1994 per diem plus one-third of the cost-based rate. For fiscal year 1996, the blended rate will be one-third of the 1994 per diem plus two-thirds of the cost-based rate. Beginning in fiscal year 1995, if the cost-based per diem exceeds the 1994 per diem rate, the cost based per diem will be used.

We are aware that most RTCs do not currently file Medicare cost reports. For this reason, the Director, OCHAMPUS will establish an alternative method for obtaining the facility cost information necessary to calculate the per diem payment rates. State Medicaid cost reports are a probable source of the information, as may be other independently audited cost data. As a fall back, RTCs that have no administratively easy way to provide cost information may be excused from any such requirement and receive the national per diem rate. To allow time for the collection of cost data, cost-based rates will not be fully implemented until fiscal year 1998. Blended rates will be used in fiscal years 1996 and 1997. Fiscal year 1994 rates will be continued in fiscal year 1995.

For both hospitals and RTCs, per day costs for individual facilities and regions will be calculated every three years. In the interim years, the per diem rates will be updated by the Medicare update factor for hospitals exempt from the Medicare Prospective Payment System.

Importantly, the mechanism for calculation of actual costs for the facility will assure each hospital and RTC with substantial CHAMPUS business that all allowable costs will be recognized. This includes all increased costs the facility might incur in order to comply with the revised quality of care certification standards. If the facility must invest more resources in its clinical program in order to assure that it has qualified personnel, adequate staffing, an intensive therapeutic program, appropriate clinical interventions, and consistently good quality of care, those costs will be acknowledged in the CHAMPUS payment rate. Thus, although our proposed reforms may both push up facility costs and bring down reimbursement rates, our effort to tie payments to actual facility costs assures that we keep faith with the justifications for both actions.

With respect to substance use disorder rehabilitation facilities, the proposed rule would include services provided by these facilities under the CHAMPUS DRG-based payment system. Currently, most substance use disorder rehabilitation services reimbursed by CHAMPUS are provided by facilities covered by the CHAMPUS DRG system or mental health per diem system. Only a small portion are provided by facilities that continue to be paid on the basis of billed charges. Under Medicare, these facilities are covered by the Medicare Prospective Payment System. Based on these factors, we believe inclusion of services provided by substance use disorder rehabilitation facilities should be included with the similar services already covered by the CHAMPUS DRG-based payment system. Partial hospitalization for substance use disorder rehabilitation will be reimbursed in the same manner as psychiatric partial hospitalization programs.

The proposed payment system changes appear at the proposed revisions to section 1994.14.

IV. Other Provisions of Proposed Rule

A. Therapeutic leave of absence days.

Currently, DoD pays RTCs for days a patient is away from the facility on an approved therapeutic leave of absence. The payment amount is 100% of the normal per diem for the first three days and 75% for additional days. It is our view that current rates are not justified by any costs to the facility. In addition, we are aware of no other public payer that pays for leave days. Therefore, the proposed rule would eliminate payment for days in which patients are on leave from the residential treatment center. Because the proposed rates are cost-based, facility costs associated with therapeutic leave should be captured in cost reports and reflected in the CHAMPUS reimbursement rates. We believe the proposed rates are adequate to cover the facility's overhead costs associated with reserving space for the patient's return. This change applies only to RTCs; in psychiatric hospitals, substance use disorder rehabilitation facilities and partial hospitalization programs, leave days are not reimbursed by CHAMPUS.

B. Reversing incentive for inpatient care.

Another of the recommendations of the Comptroller General was to "reverse the financial incentives to use inpatient care by introducing larger copayments for CHAMPUS inpatient care." GAO Report #1, p. 10. This recommendation was based on the Comptroller General's conclusion that there is a "bias toward patients receiving inpatient rather than outpatient care" because inpatient care is less expensive for dependents of active duty members than outpatient care. Id., p. 8–9. These beneficiaries currently pay $9.30 per day or $25 per admission, whichever is greater, for inpatient care. For outpatient care, dependents of active duty members pay a $150 deductible (subject to a $300 family limit) and 20 percent of the allowable payment for individual professional services. Consequently, as a general matter, there is a financial

incentive for beneficiaries to seek services on an inpatient, rather than an outpatient, basis. Under 10 U.S.C. section 1079(i)(2), DoD has authority to establish mental health copayment requirements different from those for other CHAMPUS services.

The proposed rule would establish a per day copayment of $20 for dependents of active duty beneficiaries. This is based on the fact that an outpatient mental health visit is generally approximately $100, meaning that the copayment would be $20. Thus, an inpatient day would have a roughly equal beneficiary copayment as an outpatient visit (excluding the deductible). We believe this proposal addresses the Comptroller General's recommendation, without impairing access to care or imposing hardship on beneficiaries. (With respect to avoidance of hardship, we note that the catastrophic cap for active duty dependents is $1000 per family per year.)

C. Equalization of alcoholism and drug abuse benefit provisions.

The frequent coexistence of alcohol and other chemical dependency or abuse suggests existing differences in benefit structures for treatment of alcohol and drug abuse should be eliminated. This rule proposes to include treatment for both alcohol and drug dependency/abuse under a broad benefit package designed to include treatment of all substance use disorders.

V. Rulemaking Procedures

We are soliciting public comments on this proposed rule. We will address these comments in connection with the final rule, which will be issued in fiscal year 1994.

Regarding other regulatory procedures, Executive Order 12866 requires certain regulatory assessments for any significant regulatory action, defined as one which would result in an annual effect on the nation's economy of $100 million or more or have other substantial impacts. Section 605(b) of the Regulatory Flexibility Act requires that each federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities.

This proposed rule is a significant regulatory action as determined by the Office of Management and Budget. Also, we certify that this proposed rule will not significantly affect a large number of small entities within the meaning of the Regulatory Flexibility Act. For the most part, this proposed rule would implement revised quality assurance standards and cost based reimbursement methods for mental health care facilities.

This proposed rule does not impose new information collection requirements. The authority to require facility cost information currently exists in CFR 199.6(b)(4)(x)(B)(*3*)(*v*)(*bb*).

List of Subjects in 32 CFR Part 199

Claims, Handicapped, Health insurance, and Military personnel.

Accordingly, 32 CFR Part 199 is proposed to be amended as follows:

PART 199—[AMENDED]

1. The authority citation for Part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. 1079, 1086.

2. Section 199.4 is proposed to be amended by revising the heading of paragraph (e)(4), paragraph (e)(4) introductory text, (e)(4)(i), (e)(4)(ii), and the introductory text of paragraph (f)(2)(ii), by adding new paragraphs (e)(4) (v) and (vi), and (f)(2)(ii)(D), as follows:

§ 199.4 Basic program benefits.

* * * * *

(e) * * *

(4) *Treatment of substance use disorders.* Emergency and inpatient hospital care for complications of alcohol and drug abuse or dependency and detoxification are covered as for any other medical condition. Specific coverage for the treatment of substance use disorders includes detoxification, rehabilitation, and outpatient care provided in authorized substance use disorder rehabilitation facilities.

(i) *Emergency and inpatient hospital services.* Emergency and inpatient hospital services are covered when medically necessary for the active medical treatment of the acute phases of substance abuse withdrawal (detoxification), for stabilization, and for treatment of medical complications of substance use disorders. Emergency and inpatient hospital services are considered medically necessary only when the patient's condition is such that the personnel and facilities of a hospital are required. Stays provided for substance use disorder rehabilitation in a hospital-based rehabilitation facility are covered, subject to the provisions of paragraph (e)(4)(ii) of this section. Inpatient hospital services also are subject to the provisions regarding the limit on inpatient mental health services.

(ii) *Authorized substance use disorder treatment.* Only those services provided by CHAMPUS-authorized institutional providers are covered. Such a provider must be either an authorized hospital, or an organized substance use disorder treatment program in an authorized free-standing or hospital-based substance use disorder rehabilitation facility. Covered services consist of any or all of the services listed below. A qualified mental health provider (physicians, clinical psychologists, clinical social workers, psychiatric nurse specialists) (see paragraph (c)(3)(ix) of this section) shall prescribe the particular level of treatment. Each CHAMPUS beneficiary is entitled to three substance use disorder treatment benefit periods in his or her lifetime, unless this limit is waived pursuant to paragraph (e)(4)(v) of this section. (A benefit period begins with the first date of covered treatment and ends 365 days later, regardless of the total services actually used within the benefit period. Unused benefits cannot be carried over to subsequent benefit periods. Emergency and inpatient hospital services (as described in paragraph (e)(4)(i) of this section) do not constitute substance abuse treatment for purposes of establishing the beginning of a benefit period.)

(A) *Rehabilitative care.* Rehabilitative care in an authorized hospital or substance use disorder rehabilitative facility, whether free-standing or hospital-based, is covered on either a residential or partial care (day or night program) basis. Coverage during a single benefit period is limited to no more than one inpatient stay (exclusive of stays classified in DRG 433) in hospitals subject to CHAMPUS DRG-based payment system or 21 days in a DRG-exempt facility for rehabilitation care, unless the limit is waived pursuant to paragraph (e)(4)(v) of this section. If the patient is medically in need of chemical detoxification, but does not require the personnel or facilities of a general hospital setting, detoxification services are covered in addition to the rehabilitative care, but in a DRG-exempt facility detoxification services are limited to 7 days, unless the limit is waived pursuant to paragraph (e)(4)(v) of this section. The medical necessity for the detoxification must be documented. Any detoxification services provided by the substance use disorder rehabilitation facility must be under general medical supervision.

(B) *Outpatient care.* Outpatient treatment provided by an approved substance use disorder rehabilitation facility, whether free-standing or hospital-based, is covered for up to 60 visits in a benefit period, unless the limit is waived pursuant to paragraph (e)(4)(v) of this section.

(C) *Family therapy.* Family therapy provided by an approved substance use disorder rehabilitation facility, whether free-standing or hospital-based, is covered for up to 15 visits in a benefit period, unless the limit is waived pursuant to paragraph (e)(4)(v) of this section.

* * * * *

(v) *Confidentiality.* Release of any patient identifying information, including that required to adjudicate a claim, must comply with the provisions of section 544 of the Public Health Service Act, as amended, (42 U.S.C. 290dd–3), which governs the release of medical and other information from the records of patients undergoing treatment of substance abuse. If the patient refuses to authorize the release of medical records which are, in the opinion of the Director, OCHAMPUS, or a designee, necessary to determine benefits on a claim for treatment of substance abuse the claim will be denied.

(vi) *Waiver of benefit limits.* The specific benefit limits set forth in paragraph (e)(4)(ii) of this section may be waived by the Director, OCHAMPUS in special cases based on a determination that all of the following criteria are met:

(A) Active treatment has taken place during the period of the benefit limit and substantial progress has been made according to the plan of treatment.

(B) Further progress has been delayed due to the complexity of the illness.

(C) Specific evidence has been presented to explain the factors that interfered with further treatment progress during the period of the benefit limit.

(D) The waiver request includes specific time frames and a specific plan of treatment which will complete the course of treatment.

* * * * *

(f) * * *

(2) * * *

(ii) *Inpatient cost-sharing.* Except in the case of mental health services (see paragraph (f)(2)(ii)(D) of this section), dependents of active duty members of the Uniformed Services or their sponsors are responsible for the payment of the first $25 of the allowable institutional costs incurred with each covered inpatient admission to a hospital or other authorized institutional provider (refer to section 199.6), or the amount the beneficiary or sponsor would have been charged had the inpatient care been provided in a Uniformed Service hospital, whichever is greater.

* * * * *

(D) *Inpatient cost-sharing for mental health services.* The inpatient cost-sharing for mental health services is $20 per day for each day of the inpatient admission. This $20 per day cost sharing amount applies to admissions to any hospital for mental health services, any residential treatment facility, any substance abuse rehabilitation facility, and any partial hospitalization program providing mental health services.

3. Section 199.6 is proposed to be amended by revising paragraphs (b)(4)(vii) and (b)(4)(xii), by removing paragraph (b)(4)(x)(B)(*3*), and by adding a new paragraph (b)(4)(xiii) to read as follows:

§ 199.6 Authorized providers.

* * * * *

(b) * * *

(4) * * *

(vii) *Residential treatment centers.* This paragraph (b)(4)(vii) establishes standards and requirements for residential treatment centers (RTCs).

(A) *Organization and administration.*

(*1*) *Definition.* A Residential Treatment Center (RTC) is a facility or a distinct part of a facility that provides to beneficiaries under 21 years of age a medically supervised, interdisciplinary program of mental health treatment. An RTC is appropriate for patients whose predominant symptom presentation is essentially stabilized, although not resolved, and who have persistent dysfunction in major life areas. The extent and pervasiveness of the patient's problems require a protected and highly structured therapeutic environment. Residential treatment is differentiated from:

(*i*) Acute psychiatric care, which requires medical treatment and 24-hour availability of a full range of diagnostic and therapeutic services to establish and implement an effective plan of care which will reverse life-threatening and/or severely incapacitating symptoms;

(*ii*) Partial hospitalization, which provides a less than 24-hour-per-day, seven-day-per-week for patients who continue to exhibit psychiatric problems but can function with support in some of the major life areas;

(*iii*) A group home, which is a professionally directed living arrangement with the availability of psychiatric consultation and treatment for patients with significant family dysfunction and/or chronic but stable psychiatric disturbances;

(*iv*) Therapeutic school, which is an educational program supplemented by psychological and psychiatric services;

(*v*) Facilities that treat patients with a primary diagnosis of chemical abuse or dependence; and

(*vi*) Facilities providing care for patients with a primary diagnosis of mental retardation or developmental disability.

(*2*) *Eligibility.*

(*i*) Every RTC must be certified pursuant to CHAMPUS certification standards. Such standards shall incorporate the basic standards set forth in paragraphs (b)(4)(vii) (A) through (D) of this section, and shall include such additional elaborative criteria and standards as the Director, OCHAMPUS determines are necessary to implement the basic standards.

(*ii*) To be eligible for CHAMPUS certification, the facility is required to be licensed and fully operational for six months (with a minimum average daily census of 30 percent of total bed capacity) and operate in substantial compliance with state and federal regulations.

(*iii*) The facility is currently accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) under the current edition of the *Manual for Mental Health, Chemical Dependency, and Mental Retardation/Developmental Disabilities Services* which is available from JCAHO, P.O. Box 75751, Chicago, IL 60675.

(*iv*) The facility has a written participation agreement with OCHAMPUS. The RTC is not a CHAMPUS-authorized provider and CHAMPUS benefits are not paid for services provided until the date upon which a participation agreement is signed by the Director, OCHAMPUS.

(*3*) *Governing body.*

(*i*) The RTC shall have a governing body which is responsible for the policies, bylaws, and activities of the facility. If the RTC is owned by a partnership or single owner, the partners or single owner are regarded as the governing body. The facility will provide an up-to-date list of names, addresses, telephone numbers and titles of the members of the governing body.

(*ii*) The governing body ensures appropriate and adequate services for all patients and overseas continuing development and improvement of care. Where business relationships exist between the governing body and facility, appropriate conflict-of-interest policies are in place.

(*iii*) Board members are fully informed about facility services and the governing body conducts annual review of its performance in meeting purposes, responsibilities, goals and objectives.

(*4*) *Chief executive officer.* The chief executive officer, appointed by and subject to the direction of the governing body, shall possess a master's degree in business administration, public health, hospital administration, nursing, social

work, or psychology, or meet similar educational requirements as prescribed by the Director, OCHAMPUS or a designee. The CEO shall have five years' administrative experience in the field of mental health and shall assume overall administrative responsibility for the operation of the facility according to governing body policies.

(5) *Medical director.* The medical director, appointed by the governing body, shall be licensed to practice medicine in the state where the residential treatment center is located and shall possess requisite education and experience, including graduation from an accredited school of medicine or osteopathy, an approved residency in psychiatry and a minimum of five years clinical experience in the treatment of children and adolescents. The Medical Director shall be responsible for the planning, development, implementation, and monitoring of all clinical activities.

(6) *Medical or professional staff organization.* The governing body shall establish a medical or professional staff organization to assure effective implementation of clinical privileging, professional conduct rules, and other activities directly affecting patient care.

(7) *Personnel policies and records.* The RTC shall maintain written personnel policies, updated job descriptions and personnel records to assure the selection of qualified personnel and successful job performance of those personnel.

(8) *Staff development.* The facility shall provide appropriate training and development programs for administrative, professional support, and direct care staff.

(9) *Fiscal accountability.* The RTC shall assure fiscal accountability to applicable government authorities and patients.

(10) *Designated teaching facilities.* Students, residents, interns or fellows providing direct clinical care are under the supervision of a qualified staff member approved by an accredited university. The teaching program is approved by the Director, OCHAMPUS.

(11) *Emergency reports and records.* The facility notifies OCHAMPUS of any serious occurrence involving CHAMPUS beneficiaries.

(B) *Treatment services.*

(1) *Staff composition.*

(*i*) The RTC shall follow written plans which assure that medical and clinical patient needs will be appropriately addressed 24 hours a day, seven days a week by a sufficient number of fully qualified (including license, registration or certification requirements for independent practice, educational attainment, and professional experience) health care professionals and support staff in the respective disciplines. Clinicians providing individual, group, and family therapy meet CHAMPUS requirements as qualified mental health providers and operate within the scope of their licenses. The ultimate authority for medical management of care is vested in a physician.

(*ii*) The center shall ensure that patient care needs will be appropriately addressed during all hours of operation by a sufficient number of fully qualified (including license, registration or certification requirements for independent practice, educational attainment, and professional experience) health care professionals and support staff in the respective disciplines. The ultimate authority for medical management of care is vested in a physician.

(2) *Staff qualifications.* Within the scope of its programs and services, the facility has a sufficient number of professional, administrative and support staff to address the medical and clinical needs of patients and to coordinate services provided. RTCs that employ master's or doctoral level staff who are not qualified mental health providers have a supervision program to oversee and monitor their activities related to the provision of clinical care.

(3) *Patient rights.*

(*i*) The RTC shall provide adequate protection for all patient rights, including rights provided by law, privacy, personnel rights, safety, confidentiality, informed consent, grievances, and personal dignity.

(*ii*) The facility has a written policy regarding patient abuse and neglect.

(*iii*) Facility marketing and advertising meets professional standards.

(4) *Behavioral management.* The RTC shall adhere to a comprehensive, written plan of behavioral management, developed by the medical director and the medical or professional staff and approved by the governing body, including strictly limited procedures to assure that the restraint or seclusion are used only in extraordinary circumstances, as determined by a psychiatrist, are carefully monitored, and are fully documented. Only trained and clinically privileged RNs or qualified mental health professionals may implement seclusion and restraint procedures in an emergency situation.

(5) *Admission process.* The RTC shall maintain written policies and procedures to assure that prior to an admission, a determination is made by a psychiatrist or doctoral level clinical psychologist, and approved pursuant to CHAMPUS pre-authorization requirements, that the admission is medically and/or psychologically necessary and the program is appropriate to meet the patient's needs.

(6) *Assessment.* The professional staff of the RTC shall provide a current multidisciplinary assessment which includes, but is not limited to physical, psychological, developmental, family, educational, social, spiritual and skills assessment of each patient admitted. Unless otherwise specified, all required clinical assessments are completed within 14 days of admission.

(7) *Clinical formulation.* The psychiatrist or doctoral level psychologist shall be responsible for the clinical formulation which incorporates significant findings from each of the multidisciplinary assessments and provides the basis for development of an interdisciplinary treatment planning.

(8) *Treatment planning.* The psychiatrist or doctoral level clinical psychologist with admitting privileges shall be responsible for the development, supervision, implementation, and assessment of a written, individualized, interdisciplinary plan of treatment, which shall be completed within 10 days of admission and shall include individual, measurable, and observable goals for incremental progress and discharge. A preliminary treatment plan is completed within 24 hours of admission and includes at least a physician's admission note and orders. The master treatment plan is reviewed and revised at least every 30 days, or when major changes occur in treatment.

(9) *Discharge and transition planning.* The RTC shall maintain a transition planning process to address adequately the anticipated needs of the patient prior to the time of discharge. The planning involves determining necessary modifications in the treatment plan, facilitating the termination of treatment, and identifying resources to maintain therapeutic stability following discharge.

(10) *Clinical documentation.* Clinical records shall be maintained on each patient to plan care and treatment and provide ongoing evaluation of the patient's progress. All care is documented and each clinical record contains at least the following: demographic data, consent forms, pertinent legal documents, all treatment plans and patient assessments, consultation and laboratory reports, physician orders, progress notes, and a discharge summary. Clinical records are maintained and controlled by an appropriately qualified records administrator. These requirements are

in addition to other records requirements of this Part, and documentation requirements of the Joint Commission on Accreditation of Healthcare Organizations.

(*11*) *Progress notes.* RTC's shall document the course of treatment for patients and families using progress notes which provide information to review, analyze, and modify the treatment plans. Progress notes are legible contemporaneous, sequential, signed and dated and adhere to applicable provisions of the *Manual for Mental Health, Chemical Dependency, and Mental Retardation/Developmental Disabilities Services* and requirements set forth in section 199.7(b)(3).

(*12*) *Therapeutic services.*

(*i*) Individual, group, and family psychotherapy are provided to all patients, consistent with each patient's treatment plan, by qualified mental health providers.

(*ii*) A range of therapeutic activities, directed and staffed by qualified personnel, are offered to help patients meet the goals of the treatment plan.

(*iii*) Therapeutic educational services are provided or arranged that are appropriate to the patients educational and therapeutic needs.

(*13*) *Ancillary services.* A full range of ancillary services is provided. Emergency services include policies and procedures for handling emergencies with qualified personnel and written agreements with each facility providing the service. Other ancillary services include physical health, pharmacy and dietary services.

(C) *Standards for physical plant and environment.*

(*1*) *Physical environment.* The buildings and grounds of the RTC shall be maintained so as to avoid health and safety hazards, be supportive of the services provided to patients, and promote patient comfort, dignity, privacy, personal hygiene, and personal safety.

(*2*) *Physical plant safety.* The RTC shall be of permanent construction and maintained in a manner that protects the lives and ensures the physical safety of patients, staff, and visitors, including conformity with all applicable building, fire, health, and safety codes.

(*3*) *Disaster planning.* The RTC shall maintain and rehearse written plans for taking care of casualties and handling other consequences arising from internal and external disasters.

(D) *Standards for evaluation system.*

(*1*) *Quality assessment and improvement.* The RTC shall develop and implement a comprehensive quality assurance and quality improvement program that monitors the quality, efficiency, appropriateness, and effectiveness of the care, treatments, and services it provides for patients and their families, primarily utilizing explicit clinical indicators to evaluate all functions of the RTC and contribute to an ongoing process of program improvement. The medical director is responsible for developing and implementing quality assessment and improvement activities throughout the facility.

(*2*) *Utilization review.* The RTC shall implement a utilization review process, pursuant to a written plan approved by the professional staff, the administration, and the governing body, that assesses the appropriateness of admissions, continued stay, and timeliness of discharge as part of an effort to provide quality patient care in a cost-effective manner. Findings of the utilization review process are used as a basis for revising the plan of operation, including a review of staff qualifications and staff composition.

(*3*) *Patient records review.* The RTC shall implement a process, including monthly reviews of a representative sample of patient records, to determine the completeness and accuracy of the patient records and the timeliness and pertinence of record entries, particularly with regard to regular recording of progress/non-progress in treatment plan.

(*4*) *Drug utilization review.* The RTC shall implement a comprehensive process for the monitoring and evaluating of the prophylactic, therapeutic, and empiric use of drugs to assure that medications are provided appropriately, safely, and effectively.

(*5*) *Risk management.* The RTC shall implement a comprehensive risk management program, fully coordinated with other aspects of the quality assurance and quality improvement program, to prevent and control risks to patients and staff and costs associated with clinical aspects of patient care and safety.

(*6*) *Infection control.* The RTC shall implement a comprehensive system for the surveillance, prevention, control, and reporting of infections acquired or brought into the facility.

(*7*) *Safety.* The RTC shall implement an effective program to assure a safe environment for patients, staff, and visitors, including an incident report system, a continuous safety surveillance system, and an active multidisciplinary safety committee.

(*8*) *Facility evaluation.* The RTC annually evaluates accomplishment of the goals and objectives of each clinical program and service of the RTC and reports findings and recommendations to the governing body.

(E) Participation agreement requirements. In addition to other requirements set forth in paragraph (b)(4)(vii), of this section in order for the services of an RTC to be authorized, the RTC shall have entered into a Participation Agreement with OCHAMPUS. The period of a participation agreement shall be specified in the agreement, and will generally be for not more than five years. Participation agreement entered into prior to October 1, 1994, must be renewed not later than April 1, 1995. In addition to review of a facility's application and supporting documentation, an on-site inspection by OCHAMPUS authorized personnel may be required prior to signing a Participation Agreement. Retroactive approval is not given. In addition, the Participation Agreement shall include provisions that the RTC shall, at a minimum:

(*1*) Reader residential treatment center inpatient services to eligible CHAMPUS beneficiaries in need of such services, in accordance with the participation agreement and CHAMPUS regulation;

(*2*) Accept payment for its services based upon the methodology provides in section 199.14 (f) or such other method as determined by the Director, OCHAMPUS;

(*3*) Accept the CHAMPUS all-inclusive per diem rate as payment in full and collect from the CHAMPUS beneficiary or the family of the CHAMPUS beneficiary only those amounts that represent the beneficiary's liability, as defined in section 199.4, and charges for services and supplies that are not a benefit of CHAMPUS;

(*4*) Make all reasonable efforts acceptable to the Director, OCHAMPUS, to collect those amounts, which represent the beneficiary's liability, as defined in section 199.4;

(*5*) Comply with the provisions of section 199.8, and submit claims first to all health insurance coverage to which the beneficiary is entitled that is primary to CHAMPUS;

(*6*) Submit claims for services provided to CHAMPUS beneficiaries at least every 30 days (except to the extent a delay is necessitated by efforts to first collect from other health insurance). If claims are not submitted at least every 30 days, the RTC agrees not to bill the beneficiary or the beneficiary's family for any amounts disallowed by CHAMPUS;

(*7*) Certify that:

(*i*) It is and will remain in compliance with the provisions of paragraph (b)(4)(vii) of this section establishing standards for Residential Treatment Centers;

(*ii*) It has conducted a self assessment of the facility's compliance with the CHAMPUS Standards for Residential Treatment Centers Serving Children and Adolescents with Mental Disorders, as issued by the Director, OCHAMPUS and notified the Director, OCHAMPUS of any matter regarding which the facility is not in compliance with such standards; and

(*iii*) It will maintain compliance with the CHAMPUS Standards for Residential Treatment Centers Serving Children and Adolescents with Mental Disorders, as issued by the Director, OCHAMPUS, except for any such standards regarding which the facility notifies the Director, OCHAMPUS that it is not in compliance.

(*8*) Designate an individual who will act as liaison for CHAMPUS inquiries. The RTC shall inform OCHAMPUS in writing of the designated individual;

(*9*) Furnish OCHAMPUS, as requested by OCHAMPUS, with cost data certified by an independent accounting firm or other agency as authorized by the Director, OCHAMPUS;

(*10*) Comply with all requirements of this section applicable to institutional providers generally concerning preauthorization, concurrent care review, claims processing, beneficiary liability, double coverage, utilization and quality review and other matters;

(*11*) Grant the Director, OCHAMPUS, or designee, the right to conduct quality assurance audits or accounting audits with full access to patients and records (including records relating to patients who are not CHAMPUS beneficiaries) to determine the quality and cost-effectiveness of care rendered. The audits may be conducted on a scheduled or unscheduled (unannounced) basis. This right to audit/review includes, but is not limited to:

(*i*) Examination of fiscal and all other records of the RTC which would confirm compliance with the participation agreement and designation as an authorized CHAMPUS RTC provider;

(*ii*) Conducting such audits of RTC records including clinical, financial, and census records, as may be necessary to determine the nature of the services being provided, and the basis for charges and claims against the United States for services provided CHAMPUS beneficiaries;

(*iii*) Examining reports of evaluations and inspections conducted by federal, state and local government, and private agencies and organizations;

(*iv*) Conducting on-site inspections of the facilities of the RTC and interviewing employees, members of the staff, contractors, board members, volunteers, and patients, as required;

(*v*) Audits conducted by the United States General Accounting Office.

(F) *Other requirements applicable to RTCs.*

(*1*) Even though an RTC may qualify as a CHAMPUS-authorized provider and may have entered into a participation agreement with CHAMPUS, payment by CHAMPUS for particular services provided is contingent upon the RTC also meeting all conditions set forth in section 199.4 especially all requirements of paragraph (b)(4) of that section.

(*2*) The RTC shall provide inpatient services to CHAMPUS beneficiaries in the same manner it provides inpatient services to all other patients. The RTC may not discriminate against CHAMPUS beneficiaries in any manner, including admission practices, placement in special or separate wings or rooms, or provisions of special or limited treatment.

(*3*) The RTC shall assure that all certifications and information provided to the Director, OCHAMPUS incident to the process of obtaining and retaining authorized provider status is accurate and that it has no material errors or omissions. In the case of any misrepresentations, whether by inaccurate information being provided or material facts withheld, authorized status will be denied or terminated, and the RTC will be eligible for consideration for authorized provider status for a two year period.

* * * * *

(xii) Psychiatric partial hospitalization programs. Paragraph (b)(4)(xii) of this section establishes standards and requirements for psychiatric partial hospitalization programs.

(A) *Organization and administration.*

(*1*) *Definition.* Partial hospitalization is defined as a time-limited, ambulatory, active treatment program that offers therapeutically intensive, coordinated, and structured clinical services within a stable therapeutic milieu. Partial hospitalization programs serve patients who exhibit psychiatric symptoms, disturbances of conduct, and decompensating conditions affecting mental health.

(*2*) *Eligibility.*

(*i*) Every inpatient rehabilitation center and partial hospitalization center for the treatment of substance use disorders must be certified pursuant to CHAMPUS certification standards. Such standards shall incorporate the basic standards set forth in paragraphs (b)(4)(xii) (A) through (D) of this section, and shall include such additional elaborative criteria and standards as the Director, OCHAMPUS determines are necessary to implement the basic standards. Each psychiatric partial hospitalization program must be either a distinct part of an otherwise authorized institutional provider or a freestanding program.

(*ii*) To be eligible for CHAMPUS certification, the facility is required to be licensed and fully operational for a period of at least six months (with a minimum patient census of at least 30 percent of bed capacity) and operate in substantial compliance with state and federal regulations.

(*iii*) The facility is currently accredited by the Joint Commission on Accreditation of Healthcare Organizations under the *Accreditation Manual for Mental Health, Chemical Dependency, and Mental Retardation/ Developmental Disabilities Services.*

(*iv*) The facility has a written participations agreement with OCHAMPUS. The PHP is not a CHAMPUS-authorized provider and CHAMPUS benefits are not paid for services provided until the date upon which a participation agreement is signed by the Director, OCHAMPUS. Partial hospitalization is capable of providing an interdisciplinary program of medical and therapeutic services a minimum of three hours per day, five days per week, and may include full- or half-day, evening, and weekend treatment programs.

(*3*) *Governing body.*

(*i*) The PHP shall have a governing body which is responsible for the policies, bylaws, and activities of the facilities. If the PHP is owned by a partnership or single owner, the partners or single owner are regarded as the governing body. The facility will provide an up-to-date list of names, addresses, telephone numbers, and titles of the members of the governing body.

(*ii*) The governing body ensures appropriate and adequate services for all patients and oversees continuing development and improvement of care. Where business relationships exist between the governing body and facility, appropriate conflict-of-interest policies are in place.

(*iii*) Board members are fully informed about facility services and the governing body conducts annual review of its performance in meeting purposes, responsibilities, goals and objectives.

(*4*) Chief executive officer. The chief Executive officer, appointed by and subject to the direction of the governing body, shall possess a master's degree in business administration, public health, hospital administration, nursing, social

work, or psychology, or meet similar educational requirements as prescribed by the Director, OCHAMPUS or a designee. The CEO shall have five years' administrative experience in the field of mental health and shall assume overall administrative responsiblity for the operation of the facility according to governing body policies.

(5) *Medical director.* The Medical Director, appointed by the governing body, shall be licensed to practice medicine in the state where the PHP is located and shall possess requisite education and experience, including graduation from an accredited school of medicine or osteopathy, an approved residency in psychiatry and a minimum of five years clinical experience in treating mental disorders specific to the ages and disabilities of the patients served. The Medical Director shall be responsible for the planning, development, implementation, and monitoring of all clinical activities.

(6) *Medical or professional staff organization.* The governing body shall establish a medical or professional staff organization to assure effective implementation of clinical privileging, professional conduct rules, and other activities directly affecting patient care.

(7) *Personnel policies and records.* The PHP shall maintain written personnel policies, updated job descriptions, personnel records to assure the selection of qualified personnel and successful job performance of those personnel.

(8) *Staff development.* The facility shall provide appropriate training and development programs for administrative, professional support, and direct care staff.

(9) *Fiscal accountability.* The PHP shall assure fiscal accountability to applicable government authorities and patients.

(10) *Designated teaching facilities.* Students, residents, interns, or fellows providing direct clinical care are under the supervision of a qualified staff member approved by an accredited university. The teaching program is approved by the Director, OCHAMPUS.

(11) *Emergency reports and records.* The facility notifies OCHAMPUS of any serious occurrence involving CHAMPUS beneficiaries.

(B) *Treatment services.*

(1) *Staff composition.*

(*i*) The PHP shall ensure that patient care needs will be appropriately addressed during all hours of operation by a sufficient number of qualified health care professionals. Clinicians providing individual, group, and family therapy meet CHAMPUS requirements as qualified mental health providers, and operate within the scope of their licenses. The ultimate authority for managing care is vested in a psychiatrist or licensed doctor level psychologist with admitting privileges.

(*ii*) The center shall establish and follow written plans to assure adequate staff coverage during all hours of operation, including on-call physician availability 24 hours per day, seven days per week to respond to medical and psychiatric problems, and other professional staff coverage during all service hours.

(2) *Staff qualifications.* The PHP will have a sufficient number of qualified (including license, registration or certification requirements for independent practice, educational attainment, and professional experience) mental health providers, administrative, and support staff to address patients' clinical needs and to coordinate the services provided. All mental health services must be provided by a CHAMPUS-authorized mental health provider. [Exception: PHPs which employ individuals with master's or doctoral level degrees in a mental health discipline who do not meet the licensure, certification and experience requirements for a qualified mental health provider but are actively working toward licensure or certification, may provide services within the all-inclusive per diem rate, provided that the individual must work under the clinical supervision of a fully qualified mental health provider employed by the PHP.] All other program services shall be provided by trained, licensed staff.

(3) *Patient rights.*

(*i*) The PHP shall provide adequate protection for all patient rights, including rights provided by law, privacy, personal rights, safety, confidentiality, informed consent, grievances, and personal dignity.

(*ii*) The facility has a written policy regarding patient abuse and neglect.

(*iii*) Facility marketing and advertising meets professional standards.

(4) *Behavioral management.* The PHP shall adhere to a comprehensive, written plan of behavior management, developed by the medical director and the medical or professional staff and approved by the governing body, including strictly limited procedures to assure that restraint or seclusion are used only in extraordinary circumstances, as determined by a psychiatrist, are carefully monitored, and are fully documented. Only trained and clinically privileged RNs or qualified mental health professionals may implement seclusion and restraint procedures in an emergency situation.

(5) *Admission process.* The PHP shall maintain written policies and procedures to ensure that prior to an admission, a determination is made by a psychiatrist, and approved pursuant to CHAMPUS pre-authorization requirements, that the admission is medically and/or psychologically necessary and the program is appropriate to meet the patient's needs.

(6) *Assessments.* The professional staff of the PHP shall provide complete, current and timely assessments of all patients in the PHP. Assessments include, but are not limited to, physical health, psychological health, physiological, biological, and cognitive processes, development, family history, social history, educational or vocational history, environmental factors, and skills.

(7) *Clinical formulation.* A qualified mental health provider of the PHP will complete a clinical formulation on all patients. The clinical formulation will be reviewed and approved by the responsible physician or doctoral level licensed clinical psychologist and will incorporate significant findings from each of the multidisciplinary assessments. It will provide the basis for development of a multidisciplinary treatment plan.

(8) *Treatment planning.* A PHP psychiatrist or doctoral level psychologist with admitting privileges shall be responsible for the development, supervision, implementation, and assessment of a written, individualized, interdisciplinary plan of treatment, which shall be completed by the fifth day following admission to a full-day PHP, or by the seventh day following admission to a half-day PHP, and shall include measurable and observable goals for incremental progress and discharge. The treatment plan shall undergo review at least every two weeks, or when major changes occur in treatment.

(9) *Discharge and transition planning.* The PHP shall develop an individualized transition plan which addresses anticipated needs of the patient at discharge. The transition plan involves determining necessary modifications in the treatment plan, facilitating the termination of treatment, and identifying resources for maintaining therapeutic stability following discharge.

(10) *Clinical documentation.* Clinical records shall be maintained on each patient to plan care and treatment and provide ongoing evaluation of the patient's progress. All care is documented and each clinical record contains at least the following:

demographic data, consent forms, pertinent legal documents, all treatment plans and patient assessments, consultation and laboratory reports, physician orders, progress notes, and a discharge summary. All documentation will adhere to applicable provisions of the JCAHO and requirements set forth in section 199.7(b)(3). An appropriately qualified records administrator or technician will supervise and maintain the quality of the records. These requirements are in addition to other records requirements of this Part, and documentation requirements of the Joint Commission on Accreditation of Health Care Organizations.

(*11*) *Progress notes.* PHPs shall document the course of treatment for patients and families using progress notes which provide information to review, analyze, and modify the treatment plans. Progress notes are legible contemporaneous, sequential, signed and dated and adhere to applicable provisions of the *Manual for Mental Health, Chemical Dependency, and Mental Retardation/Developmental Disabilities Services* and requirements set forth in section 199.7(b)(3).

(*12*) *Therapeutic services.*

(*i*) Individual, group, and family therapy are provided to all patients, consistent with each patient's treatment plan by qualified mental health providers.

(*ii*) A range of therapeutic activities, directed and staffed by qualified personnel, are offered to help patients meet the goals of the treatment plan.

(*iii*) Educational services are provided or arranged that are appropriate to the patient's needs.

(*13*) *Ancillary services.* A full range of ancillary services are provided. Emergency services include policies and procedures for handling emergencies with qualified personnel and written agreements with each facility providing these services. Other ancillary services include physical health, pharmacy and dietary services.

(C) Standards and physical plant and environment.

(*1*) *Physical environment.* The buildings and grounds of the PHP shall be maintained so as to avoid health and safety hazards, be supportive of the services provided to patients, and promote patient comfort, dignity, privacy, personal hygiene, and personal safety.

(*2*) *Physical plant safety.* The PHP shall be of permanent construction and maintained in a manner that protects the lives and ensures the physical safety of patients, staff, and visitors, including conformity with all applicable building, fire, health, and safety codes.

(*3*) *Disaster planning.* The PHP shall maintain and rehearse written plans for taking care of casualties and handling other consequences arising from internal and external disasters.

(*D*) *Standards for evaluation system.*

(*1*) *Quality assessment and improvement.* The PHP shall develop and implement a comprehensive quality assurance and quality improvement program that monitors the quality, efficiency, appropriateness, and effectiveness of care, treatments, and services the PHP provides for patients and their families. Explicit clinical indicators shall be used to evaluate all functions of the PHP and contribute to an ongoing process of program improvement. The medical director is responsible for developing and implementing quality assessment and improvement activities throughout the facility.

(*2*) *Utilization review.* The PHP shall implement a utilization review process, pursuant to a written plan approved by the professional staff, the administration and the governing body, that assesses distribution of services, clinical necessity of treatment, appropriateness of admission, continued stay, and timeliness of discharge, as part of an overall effort to provide quality patient care in a cost-effective manner. Findings of the utilization review process are used as a basis for revising the plan of operation, including a review of staff qualifications and staff composition.

(*3*) *Patient records.* The PHP shall implement a process, including regular monthly reviews of a representative sample of patient records, to determine completeness, accuracy, timeliness of entries, appropriate signatures, and pertinence of clinical entries. Conclusions, recommendations, actions taken, and the results of actions are monitored and reported.

(*4*) *Drug utilization review.* The PHP shall implement a comprehensive process for the monitoring and evaluating of the prophylactic, therapeutic, and empiric use of drugs to assure that medications are provided appropriately, safely, and effectively.

(*5*) *Risk management.* The PHP shall implement a comprehensive risk management program, fully coordinated with other aspects of the quality assurance and quality improvement program, to prevent and control risks to patients and staff, and to minimize costs associated with clinical aspects of patient care and safety.

(*6*) *Infection control.* The PHP shall implement a comprehensive system for the surveillance, prevention, control, and reporting of infections acquired or brought into the facility.

(*7*) *Safety.* The PHP shall implement an effective program to assure a safe environment for patients, staff, and visitors, including an incident reporting system, disaster training and safety education, a continuous safety surveillance system, and an active multidisciplinary safety committee.

(*8*) *Facility evaluation.* The PHP annually evaluates accomplishment of the goals and objectives of each clinical program component or facility service of the PHP and reports findings and recommendations to the governing body.

(E) *Participation agreement requirements.* In addition to other requirements set forth in paragraph (b)(4)(xii) of this section, in order for the services of a PHP to be authorized, the PHP shall have entered into a Participation Agreement with OCHAMPUS. The period of a Participation Agreement shall be specified in the agreement, and will generally be for not more than five years. The PHP shall not be considered to be a CHAMPUS authorized provider and CHAMPUS payments shall not be made for services provided by the PHP until the date the participation agreement is signed by the Director, OCHAMPUS. In addition to review of a facility's application and supporting documentation, an on-site inspection by OCHAMPUS authorized personnel may be required prior to signing a participation agreement. The Participation Agreement shall include at least the following requirements:

(*1*) Render partial hospitalization program services to eligible CHAMPUS beneficiaries in need of such services, in accordance with the participation agreement and CHAMPUS regulation.

(*2*) Accept payment for its services based upon the methodology provided in section 199.14, or such other method as determined by the Director, OCHAMPUS;

(*3*) Accept the CHAMPUS all-inclusive per diem rate as payment in full and collect from the CHAMPUS beneficiary or the family of the CHAMPUS beneficiary only those amounts that represent the beneficiary's liability, as defined in section 199.4, and charges for services and supplies that are not a benefit of CHAMPUS;

(*4*) Make all reasonable efforts acceptable to the Director, OCHAMPUS, to collect those amounts, which represent the beneficiary's liability, as defined in 199.4;

(*5*) Comply with the provisions of section 199.8, and submit claims first to all health insurance coverage to which the beneficiary is entitled that is primary to CHAMPUS;

(*6*) Submit claims for services provided to CHAMPUS beneficiaries at least every 30 days (except to the extent a delay is necessitated by efforts to first collect from other health insurance). If claims are not submitted at least every 30 days, the PHP agrees not to bill the beneficiary or the beneficiary's family for any amounts disallowed by CHAMPUS;

(*7*) Certify that:

(*i*) It is and will remain in compliance with the provisions of paragraph (b)(4)(xii) of this section establishing standards for psychiatric partial hospitalization programs;

(*ii*) It has conducted a self assessment of the facility's compliance with the CHAMPUS Standards for Psychiatric Partial Hospitalization Programs, as issued by the Director, OCHAMPUS, and notified the Director, OCHAMPUS of any matter regarding which the facility is not in compliance with such standards; and

(*iii*) It will maintain compliance with the CHAMPUS Standards for Psychiatric Partial Hospitalization Programs, as issued by the Director, OCHAMPUS, except for any such standards regarding which the facility notifies the Director, OCHAMPUS that it is not in compliance.

(*8*) Designate an individual who will act as liaison for CHAMPUS inquiries. The PHP shall inform OCHAMPUS in writing of the designated individual;

(*9*) Furnish OCHAMPUS with cost data, as requested by OCHAMPUS, certified by an independent accounting firm or other agency as authorized by the Director, OCHAMPUS;

(*10*) Comply with all requirements of this section applicable to institutional providers generally concerning preauthorization, concurrent care review, claims processing, beneficiary liability, double coverage, utilization and quality review and other matters;

(*11*) Grant the Director, OCHAMPUS, or designee, the right to conduct quality assurance audits or accounting audits with full access to patients and records (including records relating to patients who are not CHAMPUS beneficiaries) to determine the quality and cost-effectiveness of care rendered. The audits may be conducted on a scheduled or unscheduled (unannounced) basis. This right to audit/review includes, but is not limited to:

(*i*) Examination of fiscal and all other records of the PHP which would confirm compliance with the participation agreement and designation as an authorized CHAMPUS PHP provider;

(*ii*) Conducting such audits of PHP records including clinical, financial, and census records, as may be necessary to determine the nature of the services being provided, and the basis for charges and claims against the United States for services provided CHAMPUS beneficiaries;

(*iii*) Examining reports of evaluations and inspections conducted by federal, state and local government, and private agencies and organizations;

(*iv*) Conducting on-site inspections of the facilities of the PHP and interviewing employees, members of the staff, contractors, board members, volunteers, and patients, as required.

(*v*) Audits conducted by the United States General Accounting Office.

(F) *Other requirements applicable to PHPs.*

(*1*) Even though a PHP may qualify as a CHAMPUS-authorized provider and may have entered into a participation agreement with CHAMPUS, payment by CHAMPUS for particular services provided is contingent upon the PHP also meeting all conditions set forth in section 199.4 of this part.

(*2*) the PHP shall provide inpatient services to CHAMPUS beneficiaries in the same manner it provides inpatient services to all other patients. The PHP may not discriminate against CHAMPUS beneficiaries in any manner, including admission practices, placement in special or separate wings or rooms, or provisions of special or limited treatment.

(*3*) the PHP shall assure that all certifications and information provided to the Director, OCHAMPUS incident to the process of obtaining and retaining authorized provider status is accurate and that is has no material errors or omissions. In the case of any misrepresentations, whether by inaccurate information being provided or material facts withheld, authorized provider status will be denied or terminated, and the PHP will be ineligible for consideration for authorized provider status for a two year period.

(xiii) *Substance are disorder rehabilitation facilities.* Paragraph (b)(4)(xiii) of this section establishes standards and requirements for substance use disorder rehabilitation facilities. This includes both inpatient rehabilitation centers for the treatment of substance use disorders and partial hospitalization centers for the treatment of substance use disorders.

(A) *Organization and administration.*

(*1*) *Definition of inpatient rehabilitation center.*

(*i*) An inpatient rehabilitation center is a facility, or distinct part of a facility, that provides medically monitored, interdisciplinary addiction-focused treatment to beneficiaries who have psychoactive substance use disorders. Qualified health care professionals provide 24-hour, seven-day-per-week, medically monitored assessment, treatment, and evaluation. An inpatient rehabilitation center is appropriate for patients whose addition-related symptoms, or concomitant physical and emotional/behavioral problems reflect persistent dysfunction in several major life areas. Inpatient rehabilitation is differentiated from:

(*A*) Acute psychoactive substance use treatment and from treatment of acute biomedical/emotional/behavioral problems; which problems are either life-threatening and/or severely incapacitating and often occur within the context of a discrete episode of addition-related biomedical or psychiatric dysfunction;

(*B*) A partial hospitalization center, which serves patients who exhibit emotional/behavioral dysfunction but who can function in the community for defined periods of time with support in one or more of the major life areas;

(*C*) A group home, sober-living environment, halfway house, or three-quarter way house;

(*D*) Therapeutic schools, which are educational programs supplemented by addiction-focused services;

(*E*) Facilities that treat patients with primary psychiatric diagnoses other than psychoactive substance use or dependence; and

(*F*) Facilities that care for patients with the primary diagnosis of mental retardation or developmental disability.

(*2*) *Definition of partial hospitalization center for the treatment of substance use disorders.* A partial hospitalization center for the treatment of substance use disorders is an addiction-focused service that provides active treatment to adolescents between the ages of 13 and 18 or adults aged 18 and over. Partial hospitalization is a generic term for day, evening, or weekend programs that treat patients with psychoactive substance use disorders according to a comprehensive, individualized, integrated schedule of care. A partial hospitalization center is organized, interdisciplinary, and medically monitored. Partial hospitalization is appropriate for those whose addiction-related symptoms or concomitant physical and emotional/behavioral problems can be managed outside the hospital environment for defined periods of time with support in one or more of the major life areas.

(*3*) *Eligibility.*

(*i*) Every inpatient rehabilitation center and partial hospitalization center for the treatment of substance use disorders must be certified pursuant to CHAMPUS certification standards. Such standards shall incorporate the basic standards set forth in paragraphs (b)(4)(xiii)(A) through (D) of this section, and shall include such additional elaborative criteria and standards as the Director, OCHAMPUS determines are necessary to implement the basic standards.

(*ii*) To be eligible for CHAMPUS certification, the facility is required to be licensed and fully operational (with a minimum patient census of the less of: six patients or 30 percent of bed capacity) for a period of at least six months and operate in substantial compliance with state and federal regulations.

(*iii*) The facility is currently accredited by the Joint Commission on Accreditation of Healthcare Organizations under the Accreditation Manual for Mental Health, Chemical Dependency, and Mental Retardation/ Developmental Disabilities Services, or by the Commission on Accreditation of Rehabilitation Facilities as an alcoholism and other drug dependency rehabilitation program under the Standards Manual for Organizations Serving People with Disabilities, or other designated standards approved by the Director, OCHAMPUS.

(*iv*) The facility has a written participation agreement with OCHAMPUS. The facility is not considered a CHAMPUS-authorized provider, and CHAMPUS benefits are not paid for services provided until the date upon which a participation agreement is signed by the Director, OCHAMPUS.

(*4*) *Governing body.*

(*i*) The center shall have a governing body which is responsible for the policies, bylaws, and activities of the facility. If the center is owned by a partnership or single owner, the partners or single owner are regarded as the governing body. The facility will provide an up-to-date list of names, addresses, telephone numbers and titles of the members of the governing body.

(*ii*) The governing body ensures appropriate and adequate services for all patients and oversees continuing development and improvement of care. Where business relationships exist between the governing body and facility, appropriate conflict-of-interest policies are in place.

(*iii*) Board members are fully informed about facility services and the governing body conducts annual reviews of its performance in meeting purposes, responsibilities, goals and objectives.

(*5*) *Chief executive officer.* The chief executive officer, appointed by and subject to the direction of the governing body, shall possess a master's degree in business administration, public health, hospital administration, nursing, social work, or psychology, or meet similar educational requirements as prescribed by the Director, OCHAMPUS or a designee. The CEO shall have five years administrative experience requisite education and experience and shall assume overall administrative responsibility for the operation of the facility according to governing body policies.

(*6*) *Medical director.* The medical director, appointed by the governing body, shall be licensed to practice medicine in the state where the center is located and shall possess requisite education including graduation from an accredited school of medicine or osteopathy. The medical director shall satisfy at least one of the following requirements: certification by the American Society of Addiction Medicine; one year or 1,000 hours of experience in the treatment of psychoactive substance use disorders; or is a psychiatrist with experience in the treatment of substance use disorders. The medical director shall be responsible for the planning, development, implementation, and monitoring of all clinical activities.

(*7*) *Medical or professional staff organization.* The governing body shall establish a medical or professional staff organization to assure effective implementation of clinical privileging, professional conduct rules, and other activities directly affecting patient care.

(*8*) *Personnel policies and records.* The center shall maintain written personnel policies, updated job descriptions, personnel records to assure the selection of qualified personnel and successful job performance of those personnel.

(*9*) *Staff development.* The facility shall provide appropriate training and development programs for administrative, support, and direct care staff.

(*10*) *Fiscal accountability.* The center shall assure fiscal accountability to applicable government authorities and patients.

(*11*) *Designated teaching facilities.* Students, residents, interns, or fellows providing direct clinical care are under the supervision of a qualified staff member approved by an accredited university. The teaching program is approved by the Director, OCHAMPUS.

(*12*) *Emergency reports and records.* The facility notifies OCHAMPUS of any serious occurrence involving CHAMPUS beneficiaries.

(B) *Treatment services.*

(*1*) *Staff composition.*

(*i*) The center shall ensure that patient care needs will be appropriately addressed during all hours of operation by a sufficient number of fully qualified (including license, registration or certification requirements for independent practice, educational attainment, and professional experience) health care professionals and support staff in the respective disciplines. Clinicians providing individual, group and private therapy meet CHAMPUS requirements as qualified mental health providers and operate within the scope of their licenses. The ultimate authority for medical management of care is vested in a physician.

(*ii*) The center shall establish and follow written plans to assure adequate staff coverage during all hours of operation of the center, including physician availability and other professional staff coverage 24 hours per day, seven days per week for an inpatient rehabilitation center and during all service hours for a partial hospitalization center.

(*2*) *Staff qualification.* Within the scope of its programs and services, the facility has a sufficient number of professional, administrative, and support staff to address the medical and clinical needs of patients and to coordinate the services provided. Facilities that employ master's or doctoral level staff who are not qualified health care providers have a supervision program to oversee and monitor their activities related to the provision of clinical care.

(*3*) *Patient rights.*

(*i*) The center shall provide adequate protection for all patient rights, safety, confidentiality, informed consent, grievances, and personal dignity.

(*ii*) The facility has a written policy regarding patient abuse and neglect.

(*iii*) Facility marketing and advertising meets professional standards.

(*4*) *Behavioral management.* When a center uses a behavioral management program, the center shall adhere to a comprehensive, written plan of behavioral management, developed by the medical director and the medical or professional staff and approved by the governing body, which shall be based on positive reinforcement methods and may not permit the use of restraint or seclusion.

(*5*) *Admission process.* The center shall maintain written policies and

procedures to assure that each admission is approved pursuant to CHAMPUS pre-authorization requirements, medically necessary, and based on a determination that the center's program is appropriate to the patient's needs.

(6) *Assessment.* The professional staff of the center shall provide a complete, multidisciplinary assessment of each patient's medical history, physical health, nursing needs, alcohol and drug history, emotional and behavioral factors, age-appropriate social circumstances, psychological condition, education status, and skills.

(7) *Clinical formulation.* A qualified health care professional shall be responsible for a clinical formulation, providing the basis for an interdisciplinary treatment plan.

(8) *Treatment planning.* The qualified health care professional shall be responsible for the development, supervision, implementation, and assessment of a written, individualized, and interdisciplinary plan of treatment, which shall be completed within ten days of admission to an inpatient rehabilitation center or by the fifth day following admission to full day partial hospitalization center, and by the seventh day of treatment for half day partial hospitalization and shall include individual, measurable, and observable goals for incremental progress towards the treatment plan objectives and goals and discharge. A preliminary treatment plan is completed within 24 hours of admission and includes at least a physician's admission note and orders. The master treatment plan is regularly reviewed for effectiveness and revised when major changes occur in treatment.

(9) *Discharge and transition planning.* The center shall maintain a transition planning process to address adequately the anticipated needs of the patient prior to the time of discharge.

(10) *Clinical records.* Complete individual patient clinical records shall be maintained, documenting all treatment plans, patient care, and patient assessments, and adhering to applicable provisions of the JCAHO *Manual for Mental Health, Chemical Dependency, and Mental Retardation/ Development Disabilities Services,* and the requirements set forth in section 199.7(b)(3). Clinical records are maintained and controlled by an appropriately qualified records administrator or technician.

(11) *Progress notes.* Timely and complete progress notes shall be maintained to document the course of treatment for the patient and family.

(12) *Therapeutic services.*

(*i*) Individual, group, and family psychotherapy and addiction counseling services are provided to all patients, consistent with each patient's treatment plan by qualified mental health providers.

(*ii*) A range of therapeutic activities, directed and staffed by qualified personnel, are offered to help patients meet the goals of the treatment plan.

(*iii*) Therapeutic educational services are provided or arranged that are appropriate to the patient's educational and therapeutic needs.

(13) *Ancillary services.* A full range of ancillary services is provided. Emergency services include policies and procedures for handling emergencies with qualified personnel and written agreements with each facility providing the service. Other ancillary services include physical health, pharmacy and dietary services.

(C) *Standards for physical plant and environment.*

(1) *Physical environment.* The buildings and grounds of the center shall be maintained so as to avoid health and safety hazards, be supportive of the services provided to patients, and promote patient comfort, dignity, privacy, personal hygiene, and personal safety.

(2) *Physical plant safety.* The center shall be maintained in a manner that protects the lives and ensures the physical safety of patients, staff, and visitors, including conformity with all applicable building, fire, health, and safety codes.

(3) *Disaster planning.* The center shall maintain and rehearse written plans for taking care of casualties and handling other consequences arising from internal or external disasters.

(D) *Standards for evaluation system.*

(1) *Quality assessment and improvement.* The center shall develop and implement a comprehensive quality assurance and quality improvement program that monitors the quality, efficiency, appropriateness, and effectiveness of the care, treatments, and services it provides for patients and their families, utilizing clinical indicators of effectiveness to contribute to an ongoing process of program improvement. The medical director is responsible for developing and implementing quality assessment and improvement activities throughout the facility.

(2) *Utilization review.* The center shall implement a utilization review process, pursuant to a written plan approved by the professional staff, the administration, and the governing body, that assesses the appropriateness of admissions, continued stay, and timeliness of discharge as part of an effort to provide quality patient care in a cost-effective manner. Findings of the utilization review process are used as a basis for reviewing the plan of operation, including a review of staff qualifications and staff composition.

(3) *Patient records review.* The center shall implement a process, including monthly reviews of a representative sample of patient records, to determine the completeness and accuracy of the patient records and the timeliness and pertinence of record entities, particularly with regard to regular recording of progress/non-progress in treatment plan.

(4) *Drug utilization review.* An inpatient rehabilitation center and, when applicable, a partial hospitalization center, shall implement a comprehensive process for the monitoring and evaluating of the prophylactic, therapeutic, and empiric use of drugs to assure that medications are provided appropriately, safely, and effectively.

(5) *Risk management.* The center shall implement a comprehensive risk management program, fully coordinated with other aspects of the quality assurance and quality improvement program, to prevent and control risks to patients and staff and costs associated with clinical aspects of patient care and safety.

(6) *Infection control.* The center shall implement a comprehensive system for the surveillance, prevention, control, and reporting of infections acquired or brought into the facility.

(7) *Safety.* The center shall implement an effective program to assure a safe environment for patients, staff, and visitors.

(8) *Facility evaluation.* The center annually evaluates accomplishment of the goals and objectives of each clinical program and service of the RTC and reports findings and recommendations to the governing body.

(E) *Participation agreement requirements.* In addition to other requirements set forth in paragraph (b)(4)(xiii) of this section, in order for the services of an inpatient rehabilitation center or partial hospitalization center for the treatment of substance abuse disorders to be authorized, the center shall have entered into a Participation Agreement with OCHAMPUS. The period of a Participation Agreement shall be specified in the agreement, and will generally be for not more than five years. The center shall not be considered to be a CHAMPUS authorized provider and CHAMPUS payments shall not be made for services

provided by the center until the date the participation agreement is signed by the Director, OCHAMPUS. In addition to review of facility's application and supporting documentation, an on-site visit by OCHAMPUS representatives may be part of the authorization process. In addition, such a Participation Agreement may not be signed until an SUDRF has been licensed and operational for at least six months. The Participation Agreement shall include at least the following requirements:

(*1*) Render applicable services to eligible CHAMPUS beneficiaries in need of such services, in accordance with the participation agreement and CHAMPUS regulation;

(*2*) Accept payment for its services based upon the methodology provided in section 199.14, or such other method as determined by the Director, OCHAMPUS;

(*3*) Accept the CHAMPUS-determined rate as payment in full and collect from the CHAMPUS beneficiary or the family of the CHAMPUS beneficiary only those amounts that represent the beneficiary's liability, as defined in section 199.4, and charges for services and supplies that are not a benefit of CHAMPUS;

(*4*) Make all reasonable efforts acceptable to the Director, OCHAMPUS, to collect those amounts which represent the beneficiary's liability, as defined in section 199.4;

(*5*) Comply with the provisions of section 199.8, and submit claims first to all health insurance coverage to which the beneficiary is entitled that is primary to CHAMPUS;

(*6*) Furnish OCHAMPUS with cost data, as requested by OCHAMPUS, certified to by an independent accounting firm or other agency as authorized by the Director, OCHAMPUS;

(*7*) Certify that:

(*i*) It is and will remain in compliance with the provisions of paragraph (b)(4)(xiii) of the section establishing standards for substance use disorder rehabilitation facilities;

(*ii*) It has conducted a self assessment of the facility's compliance with the CHAMPUS Standards for Substance Use Disorder Rehabilitation Facilities, as issued by the Director, OCHAMPUS, and notified the Director, OCHAMPUS of any matter regarding which the facility is not in compliance with such standards; and

(*iii*) It will maintain compliance with the CHAMPUS Standards for Substance Use Disorder Rehabilitation Facilities, as issued by the Director, OCHAMPUS, except for any such standards regarding which the facility notifies the Director, OCHAMPUS that it is not in compliance.

(*8*) Grant the Director, OCHAMPUS, or designee, the right to conduct quality assurance audits or accounting audits with full access to patients and records (including records relating to patients who are not CHAMPUS beneficiaries) to determine the quality and cost effectiveness of care rendered. The audits may be conducted on a scheduled or unscheduled (unannounced) basis. This right to audit/review include, but is not limited to:

(*i*) Examination of fiscal and all other records of the center which would confirm compliance with the participation agreement and designation as an authorized CHAMPUS provider;

(*ii*) Conducting such audits of center records including clinical, financial, and census records, as may be necessary to determine the nature of the services being provided, and the basis for charges and claims against the United States for services provided CHAMPUS beneficiaries;

(*iii*) Examining reports of evaluations and inspection conducted by federal, state and local government, and private agencies and organizations;

(*iv*) Conducting on-site inspections of the facilities of the center and interviewing employees, members of the staff, contractors, board members, volunteers, and patients, as required.

(*v*) Audits conducted by the United States General Accounting Office.

(F) *Other requirements applicable to substance disorders rehabilitation facilities.*

(*1*) Even though a center may qualify as a CHAMPUS-authorized provider and may have entered into a participation agreement with CHAMPUS, payment by CHAMPUS for particular services provided is contingent upon the center also meeting all conditions set forth in section 199.4.

(*2*) The center shall provide inpatient services to CHAMPUS beneficiaries in the same manner it provides services to all other patients. The center may not discriminate against CHAMPUS beneficiaries in any manner, including admission practices, placement in special or separate wings or rooms, or provisions of special or limited treatment.

(*3*) The substance use disorder facility shall assure that all certifications and information provided to the Director, OCHAMPUS incident to the process of obtaining and retaining authorized provider status is accurate and that it has no material errors or omissions. In the case of any misrepresentations, whether by inaccurate information being provided or material facts withheld, authorized provider status will be denied or terminated, and the facility will be ineligible for consideration for authorized provider status for a two year period.

* * * * *

4. Section 199.14 is proposed to be amended by revising the introductory text of paragraph (a)(2), paragraphs (a)(2)(ii), (a)(2)(iii), (a)(2)(iv), (a)(2)(v), the heading of (a)(2)(ix), paragraphs (a)(2)(ix)(A), (a)(2)(ix)(C), the introductory text of paragraph (f), paragraphs (f)(1), (f)(2), (f)(3), and (f)(5), by redesignating paragraph (f)(4) as (f)(7), and by adding a heading for the newly designated paragraph (f)(7), and by adding new paragraphs (a)(1)(ii)(F), (f)(4), and (f)(6), as follows:

§ 199.14 Provider reimbursement methods.

* * * * *

(a) * * *

(1) * * *

(ii) * * *

(F) *Substance Use Disorder Rehabilitation facilities.* Substance use disorder rehabilitation facilities, authorized under section 199.6(b)(4)(xiii), are subject to the DRG-based payment system.

* * * * *

(*2*) *CHAMPUS mental health per diem payment system.* The CHAMPUS mental health per diem payment system shall be used to reimburse for inpatient mental health hospital care in specialty psychiatric hospitals and units. Payment is made on the basis of prospectively determined rates and paid on a per diem basis. The system uses two sets of per diems. One set of per diems applies to hospitals and units that have a relatively higher number of CHAMPUS discharges. For these hospitals and units, the system uses hospital-specific per diem rates, calculated pursuant to paragraph (a)(2)(ii) of this section. The other set of per diems applies to hospitals and units with a relatively lower number of CHAMPUS discharges. For these hospitals and units, the system uses a national per diem rate, calculated pursuant to paragraph (a)(2)(iii) of this section, and adjusted for area wage rates. Beginning in fiscal year 1995, these two sets of rates will undergo transitions from charge-based to cost-based. This transition process, which will occur over a three-year period, is set forth in paragraph (a)(2)(iv) of this section. Costs will be determined by reference to average per day Medicare inpatient operating costs, including pass through costs, as reported on Medicare cost reports. For high volume hospitals

and units, a hospital-specific per day cost will be determined. For low volume hospitals, a national average per day cost will be determined based on available Medicare cost reports for four separate types of facilities: distinct part unit teaching facilities; distinct part unit non-teaching facilities; free-standing teaching hospitals; and free-standing non-teaching hospitals. During the transition years, if the cost based per diem is less than the fiscal year 1994 per diem, OCHAMPUS will pay a blended rate, calculated to phase in the cost-based rate by fiscal year 1997. Beginning in fiscal year 1995, if the cost based per diem exceeds the 1994 per diem rate, the cost based per diem will be used.

* * * * *

(ii) *Hospital-specific cost-based per diems for higher volume hospitals and units.* The per diem amount for each higher volume hospital and unit will be the average Medicare inpatient operating cost, including pass through costs per day, in that hospital or specialty unit, as reported in the hospital's Medicare cost report for a recent base year, updated to the year for which the payment rate will be used. However, the per diem shall not be higher than two standard deviations above the mean per diem for all high volume facilities.

(iii) *National cost-based per diem for lower volume hospitals and units.* This paragraph (a)(2)(iii) describes the per diem payment amount for hospitals with lower volume of CHAMPUS discharges.

(A) *Per diem amount.* Hospitals and units with a lower volume of CHAMPUS patients are paid on the basis of a national per diem amount. The national per diem amount is calculated based on the average Medicare inpatient operating cost, including pass through costs, per day for all patients in all CHAMPUS lower volume hospitals and units which file Medicare cost reports, as determined from the Medicare cost reports filed by those hospitals for a recent base year, updated to the year for which the payment rate will be used.

(B) *Adjustments to national per diem.* Two adjustments shall be made to the per diem rate.

(*1*) *Area wage index.* The same area wages indexes used for the CHAMPUS DRG-based payment system (see paragraph (a)(1)(iii)(E)(*2*) of this section) shall be applied to the wage portion of the national per diem rate for each day of the admission. The wage portion shall be the same as that used for the CHAMPUS DRG-based payment system.

(*2*) *Facility type/teaching status.* An adjustment to the per diem rate will be made to reflect the type of facility and the presence or absence of a teaching program. Separate per diem rates will be calculated for each of the following four types of facilities: distinct part unit teaching facilities; distinct part unite non-teaching facilities; free-standing teaching hospitals; and free-standing non-teaching hospitals.

(iv) *Transition from charge-based rates to cost-based rates.* Beginning in fiscal year 1995, there is a transition from charge-based per diem rates to cost-based per diem rates under the CHAMPUS mental health per diem payment system.

(A) *Fiscal year 1997 rate.* In fiscal year 1997, each facility's per diem rate (whether hospital-specific or based on the national rate) shall be the cost-based rate calculated pursuant to paragraph (a)(2) (ii) or (iii) of this section, whichever is applicable.

(B) *Transition rule.* For fiscal years 1995 and 1996, each facility's per diem rate (whether hospital-specific or based on the national rate) shall be the cost-based rate calculated pursuant to paragraphs (a)(2) (ii) or (iii) of this section, whichever is applicable, if it exceeds the fiscal year 1994 rate, or the blended rate calculated pursuant to paragraph (a)(2)(iv)(c) of this section if it does not.

(C) *Blended rate.* For fiscal years 1995 and 1996, each facility's per diem rate (whether hospital-specific or based on the national rate) shall, if the cost-based rate calculated pursuant to paragraphs (a)(2) (ii) or (iii) of this section, whichever is applicable, is less than the facility's 1994 rate, be a blended rate calculated as follows:

(*1*) For fiscal year 1995, the sum of two-thirds of the facility's fiscal year 1994 rate plus one third of the facility's cost-based rate; and

(*2*) For fiscal year 1996, the sum of one third of the facility's 1994 rate plus two-thirds of the facility's cost-based rate.

(D) *Special rule for new hospitals.* For any hospital or unit that was not in operation as a CHAMPUS-authorized provider in fiscal year 1994, the cost-based per diem rate shall be that calculated pursuant to paragraph (a)(2)(iii) of this section until rebasing.

(v) *Administration of per diem payment system.* This paragraph contains several provisions pertinent to the administration of the CHAMPUS mental health per diem payment system.

(A) *Identification of higher volume hospitals.* A hospital or unit is considered a higher volume hospital for purposes of a hospital-specific per diem rate if it had 50 or more annual discharges of CHAMPUS patients during fiscal year 1994 or a subsequent period that serves as a base year for purposes of rebasing under paragraph (a)(2)(v)(D) of this section. All other hospitals and units are considered lower volume hospitals for purposes of establishing a per diem rate.

(B) *Cost reports.* Information from cost reports needed for determinations required by paragraph (a)(2) of this section will, as a general rule, be obtained by the Director, OCHAMPUS from the Health Care Financing Administration. For hospitals that do not file a Medicare cost report, the Director, OCHAMPUS may provide an alternative method for reporting independently audited costs. In the case of any hospital or unit for which the Director, OCHAMPUS is unable to determine hospital-specific costs because the hospital has not filed a Medicare cost report or provided appropriate alternative cost information, the cost-based per diem rate for this hospital will be based on the national rate (as provided in paragraph (a)(2)(iii) of this section).

(C) *Based year and update factor.* The base year used for calculating hospital-specific and national per day costs will be established by the Director, OCHAMPUS based on the most current available Medicare cost reports. The update factor used to calculate cost based payment rates from base year per day costs will be the applicable Medicare update factor for hospitals and units exempt from the Medicare prospective payment system.

(D) *Rebasing.* Under the cost-based per diem system, the Director, OCHAMPUS will recalculate base year cost-based per diem rates every third year after initially calculated.

* * * * *

(ix) *Per diem payment for psychiatric and substance use disorder rehabilitation partial hospitalization services.*

(A) *In general.* Psychiatric and substance use disorder rehabilitation partial hospitalization services authorized by § 199.4(b)(10) and (e)(4) and provided by institutional providers authorized under § 199.6(b)(4)(xii) and (b)(4)(xiii), are reimbursed on the basis of prospectively determined, all-inclusive per diem rates. The per diem payment amount must be accepted as payment in full for all institutional services provided, including board, routine nursing services, ancillary services (includes art, music, dance, occupational and other such therapies), psychological testing and assessments, overhead and any other services for

which the customary practice among similar providers is included as part of the institutional charges.

* * * * *

(C) *Per diem rate.* For any full day partial hospitalization program (minimum of 6 hours), the maximum per diem payment amount is 40 percent of the average inpatient per diem amount per case established under the CHAMPUS mental health per diem reimbursement system for both high and low volume psychiatric hospitals and units (as defined in section 199.14(a)(2)) for the fiscal year. A partial hospitalization program of less than 6 hours (with a minimum of three hours) will be paid a per diem rate of 75 percent of the rate for a full-day program.

* * * * *

(f) *Reimbursement of Residential Treatment Centers.* The CHAMPUS rate is the per diem rate that CHAMPUS will authorize for all mental health services rendered to a patient and the patient's family as part of the total treatment plan submitted by a CHAMPUS-approved RTC, and approved by the Director, OCHAMPUS, or designee. The per diem rates for RTCs are all-inclusive rates for all institutional and professional services incident to the provision of inpatient services. No separate billings or payments for ancillary or professional services are allowed.

(1) *In general.* Payment to RTCs is made on the basis of prospectively determined rates and paid on a per diem basis. The system uses two sets of per diems. One set of per diems applies to RTCs that have a relatively higher number of CHAMPUS discharges. For these RTCs, the system uses RTC-specific per diem rates, calculated pursuant to paragraph (f)(2) of this section. The other set of per diems applies to RTCs with a relatively lower number of CHAMPUS discharges. For these RTCs, the system uses a national per diem rate, calculated pursuant to paragraph (f)(3) of this section, adjusted for area wages. Beginning in fiscal year 1995, per diem rates will undergo transitions from charge-based to cost-based. This transition process, which will occur over a four-year period, is set forth in paragraph (f)(4) of this section. Costs will be determined by reference to average allowable costs per day as reported on cost reports filed with OCHAMPUS. For high volume RTCs, an RTC-specific per day cost will be determined. For low volume RTCs, a national average per day cost will be determined. During the first year of the transition—fiscal year 1995—fiscal year 1994 payment rates will be continued. For the subsequent three years, if the cost based per diem is less than the fiscal year 1995 per diem, OCHAMPUS will pay a blended rate, calculated to 'phase in the cost-based rate by fiscal year 1998. Beginning in fiscal year 1996, if the cost-based per diem exceeds the 1995 per diem rate, the cost-based per diem will be used.

(2) *RTC-specific cost-based per diems for higher volume RTCs.* The per diem amount for each higher volume RTC will be the allowable cost per day for all inpatients in that RTC, as reported in the RTC's cost report for a recent base year, updated to the year for which the payment rate will be used. However, the per diem shall not be higher than two standard deviations above the mean per diem for all high volume RTCs.

(3) *National cost-based per diems for lower volume RTCs.* This paragraph describes the per diem payment amounts for RTCs with a lower volume of CHAMPUS discharges.

(i) *Per diem amount.* RTCs with a lower volume of CHAMPUS patients are paid on the basis of a national per diem amount. The national per diem amount is calculated based on the cost per day for all patients in all CHAMPUS lower volume RTCs in the nation which file cost reports (or an appropriate sample of such facilities).

(A) *Determination of RTC costs.* The national average cost per day for lower volume RTCs is determined from the cost reports filed by those RTCs for a recent base year, updated to the year for which the payment rates will be used.

(B) *Alternative method for determining RTC costs.* In the event that the Director, OCHAMPUS determines that there are insufficient data from RTC cost reports on which to base a reliable calculation of the cost per day for all patients in all CHAMPUS lower volume RTCs in the nation (or an appropriate sample of such patients), the Director may use an alternative method for calculating a national per diem amount. The alternative method will be the average charge per day for all CHAMPUS patients in all RTCs, other than higher volume RTCs for which adequate RTC-specific cost data are available to the Director, OCHAMPUS, adjusted by the cost-to-charge ratio of all free-standing, non-teaching psychiatric hospitals covered by paragraph (a)(2) of this section, updated to the year for which the payment rates will be used. A national rate calculated based on this alternative method may not be the basis for the determination of a national rate for the next subsequent year unless the Director, OCHAMPUS determines that sufficient data from RTC cost reports continue to be unavailable.

(ii) *Area wage index adjustment to national per diem.* The same area wage indexes used for the CHAMPUS DRG-based payment system (see paragraph (a)(1)(iii)(E)(2) of this section) shall be applied to the wage portion of the national per diem rate for each day of the admission. The wage portion shall be the same as that used for the CHAMPUS DRG-based payment system.

(4) *Transition from charge-based rates to cost-based rates.* Beginning in fiscal year 1995, there is a transition from charge-based per diem rates to cost-based per diem rates under the RTC per diem payment system.

(i) *Fiscal year 1998 rate.* In fiscal year 1998, each RTC's per diem rate (whether hospital-specific or based on the national rate) shall be the cost-based rate calculated pursuant to paragraph (f)(2) or (3) of this section, whichever is applicable.

(ii) *Transition rule for fiscal year 1995.* Each RTC's per diem payment rate for fiscal year 1994 shall be continued for fiscal year 1995.

(iii) *Transition rule for fiscal years 1996 and 1997.* For fiscal years 1996 and 1997, each RTC's per diem rate (whether hospital specific or based on the national rate) shall be the cost-based rate calculated pursuant to paragraphs (f)(2) or (3) of this section, whichever is applicable, if it exceeds the fiscal year 1994 rate, or the blended rate calculated pursuant to paragraph (f)(4)(iv) of this section if it does not.

(iv) *Blended rate.* For fiscal years 1996 and 1997, each RTC's per diem rate (whether hospital specific or based on the national rate) shall, if the cost-based rate calculated pursuant to paragraphs (f)(2) or (3) of this section, whichever is applicable, is less than the facility's 1995 rate, be a blended rate calculated as follows:

(A) For fiscal year 1996, the sum of two-thirds of the RTC's fiscal year 1995 rate plus one-third of the RTC's cost-based rate; and

(B) For fiscal year 1997, the sum of one third of the RTC's 1995 rate plus two-thirds of the RTC's cost-based rate.

(v) *Special rule for new RTCs.* For any RTC that was not in operation as a CHAMPUS-authorized provider in fiscal year 1994, the cost-based per diem rate shall be that calculated pursuant to paragraph (f)(3) of this section until rebasing.

(5) *Administration of RTC per diem payment system.* This paragraph contains several provisions pertinent to the administration of the CHAMPUS RTC per diem payment system.

(i) *Higher volume RTCs.* An RTC is considered a higher volume RTC for purposes of a RTC-specific per diem rate

if it had 50 or more annual discharges of CHAMPUS patients during the base period used for calculation of the per diem rates. All other RTCs are considered lower volume RTCs for purposes of establishing a per diem rate.

(ii) *Cost reports.* Cost reports needed for determinations required by paragraphs (f)(2) and (f)(3) of this section will be provided by each RTC to the Director, OCHAMPUS, who will provide a method for reporting costs. The method established by the Director, OCHAMPUS will require submission by the RTC of a copy of the RTC's state Medicaid cost report, if the RTC filed one, or of alternative, independently audited cost information. In any case in which the Director, OCHAMPUS is unable to determine RTC-specific costs because the RTC has not provided appropriate cost information, the cost-based per diem rate for that RTC will be based on the national rate (as provided in paragraph (f)(3) of this section).

(iii) *Base year and update factor.* The base year used for calculating RTC-specific and national per day costs will be established by the Director, OCHAMPUS based on the most current available cost report data. The update factor used to calculate cost based payment rates from base year per day costs will be the applicable Medicare update factor for hospitals and units exempt from the Medicare prospective payment system.

(iv) *Rebasing.* Under the cost-based per diem system, the Director, OCHAMPUS will recalculate base year cost-based per diem rates every third year after initially calculated.

(6) *Therapeutic absences.* CHAMPUS will not pay for days in which the patient is absent on leave from the RTC. The RTC must identify these days when claiming reimbursement. CHAMPUS will not count a patient's leave of absence as a discharge in determining whether the facility is a higher volume RTC for purposes of paragraph (f)(5) of this section.

(7) *Education costs.* * * *

* * * * *

June 23, 1994.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–15700 Filed 6–28–94; 8:45 am]

BILLING CODE 5000–04–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

Notice of Advisory Committee Establishment; Notice of Advisory Committee Meetings

June 23, 1994.

AGENCY: FCC.

ACTION: Notice of meetings.

SUMMARY: The Federal Communications Commission has established the LMDS/FSS 28 GHz Band Negotiated Rulemaking Committee (Committee). The Committee will provide expert advice and recommendations to the Federal Communications Commission to be used in the formulation of technical rules which should be adopted for the Local Multipoint Distribution Service (LMDS) and/or the Fixed Satellite Service (FSS) so as to maximize the co-frequency sharing of the 27.5–29.5 GHz frequency band ("28 GHz band") between these services. The establishment of this Committee is necessary and in the public interest.

In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, this notice also advises interested persons of the initial and proposed subsequent meetings of the Committee.

DATES:

July 26, 1994 9:30 a.m. EDT
August 2, 1994 9:30 a.m. EDT
August 5, 1994 9:30 a.m. EDT
August 22, 1994 9:30 a.m. EDT
August 23, 1994 9:30 a.m. EDT
August 30, 1994 9:30 a.m. EDT
September 6, 1994 9:30 a.m. EDT
September 13, 1994 9:30 a.m. EDT
September 20, 1994 9:30 a.m. EDT

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Room 856, Washington, DC 20554, or as otherwise announced.

FOR FURTHER INFORMATION CONTACT: Susan Magnotti, Designated Federal Official of the LMDS/FSS 28 GHz Band Negotiated Rulemaking committee, Domestic Radio Branch, Domestic Facilities Division, Common Carrier Bureau, 2025 M Street, NW., Suite 6310, Washington DC, 20054; (202) 634–1773; internet address: smagnott@fcc.gov.

SUPPLEMENTARY INFORMATION: The Committee was established by the Federal Communications Commission to bring together significantly affected entities to discuss and to recommend approaches to resolving technical and coordination issues involved in the establishment and regulation of a new terrestrial point-to-multipoint service and its coordination with satellite use of the same frequency band. The FCC has solicited nominations for membership on the Committee pursuant to the Negotiated Rulemaking Act of 1990, Public Law 101–648, November 28, 1990, and will select members which are significantly affected by the proposed rules. See Public Notice in CC Docket No. 92–297, 59 FR 7961, February 17, 1994.

Members of the general public may attend the meeting. The FCC will attempt to accommodate as many people as possible. However, admittance will be limited to the seating available. The public may submit written comments to the committee. The comments must be submitted two business days before the meeting in which the commenter desires his/her comments to be distributed. In addition, oral comments by parties or entities not represented on the committee will be permitted to the extent time permits. Oral comments will be limited to three minutes in length by any one party or entity, and request to make oral comments to the committee in person must be received two business days before the meeting in which the commenter desires to be heard. Finally, the Commission will make the meetings available by audio-conference to parties whose requests for audioconferencing are received five business days before the meeting to which the party wishes to be connected. Requests by any person wishing to make oral comments to the committee by audio-conference connection must be received five business days before the meeting in which the commenter desires to be heard. Requests for oral comment opportunity, audioconferencing, and written comments should be sent to Susan Magnotti, Staff Attorney, Domestic Radio Branch, Domestic Facilities Division, Common Carrier Bureau, 2025 M Street, NW., Suite 6310, Washington DC, 20054; (202) 634–1773; internet address: smagnott@fcc.gov.

AGENDA: The planned agenda for the first meeting is as follows:

1. Introductions and Welcoming Remarks.
2. Nomination of Facilitator.
3. Introduction of Committee Members.
4. Committee Charter and Related Matters.
5. Work Program.
6. Organization of Work and Working Groups.
7. Meeting Schedule and Locations.
8. Agenda for Next Meeting.
9. Other Business.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 94–15756 Filed 6–28–94; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB97

Endangered and Threatened Wildlife and Plants; Notice of Public Hearing and Extension of Public Comment Period on Proposed Endangered Status for Three Insects From the Santa Cruz Mountains of California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearing and extension of public comment period.

SUMMARY: The Fish and Wildlife Service (Service), pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531), as amended (Act), gives notice that a public hearing will be held on the proposed endangered status for the Mount Hermon June beetle (*Polyphylla barbata*), Zayante band-winged grasshopper (*Trimerotropis infantilis*), and Santa Cruz rain beetle (*Pleocoma conjugens conjugens*), and that the comment period is extended. The Service will allow all interested parties to submit oral and written comments on the proposal during the hearing and comment period. A proposed rule for these species was published in the Federal Register on May 10, 1994 (59 FR 24112).

DATES: The comment period on the proposal is extended until August 1, 1994. The public hearing will be held from 6:30 to 8:00 p.m. on Monday, July 18, 1994, in Santa Cruz, California. Any comments received after the closing date may not be considered in the final decision on this proposal.

ADDRESSES: The public hearing will be held at the Santa Cruz County Government Center, 701 Ocean Street, Board of Supervisors Chambers, Room 525, Santa Cruz, California. Written comments and materials concerning this proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, 2140 Eastman Avenue, Suite 100, Ventura, California 93003. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Carl Benz at the Ventura Field Office (see ADDRESSES Section), (telephone 805–644–1766).

SUPPLEMENTARY INFORMATION:

Background

The Mount Hermon June beetle is a small scarab beetle with a black head, dark blackish-brown front wings clothed with scattered long hair, and striped body. The Zayante band-winged grasshopper is a small grasshopper with a pale gray to light-brown body and forewings, and with dark crossbands on the forewings. The Santa Cruz rain beetle is a large beetle, shining reddish-brown to blackish in color, and the ventral surface of the body is clothed with long hair. Females are longer and fatter than males, chestnut colored, and lack functional wings. Historical habitat for these three species occurred in patches and totalled about 500 acres. With the exception of two sightings, all known localities for the three species are within a 20-square-mile range. Recent human activities in the Santa Cruz Mountains have resulted in the loss, fragmentation, and degradation of over 50 percent of their habitat. These three insects are threatened by urban development, recreational use, sand mining, agricultural activities, and change in the frequency of natural fires.

Subsection 4(b)(5)(E) of the Act requires that a public hearing be held if it is requested within 45 days of the publication of a proposed rule. In response to the proposed rule, the Service received one request for a public hearing from William Hazeltine, Environmental Consultant, Oroville, California. As a result, the Service has scheduled a public hearing on Monday, July 18, 1994, from 6:30 to 8:00 p.m., at the Santa Cruz County Government Center, Santa Cruz, California. Parties wishing to make statements for the record should bring a copy of their statements to the hearing. Oral statements may be limited in length, if the number of parties present at the hearing necessitates such a limitation. However, no limits exist for written comments or materials presented at the hearing or mailed to the Service. The comment period closes on August 1, 1994. Written comments should be submitted to the Service office identified in the ADDRESSES section.

Author

The primary author of this notice is Carl Benz, Ventura Field Office (see ADDRESSES section).

Authority

The authority for this section is the Endangered Species Act (16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

List of Subjects in 50 CFR Part 17

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

Dated: June 23, 1994.

David L. McMullen,

Acting Regional Director, Fish and Wildlife Service.

[FR Doc. 94–15740 Filed 6–28–94; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 59, No. 124
Wednesday, June 29, 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

June 24, 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 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 agency contact person.

Questions about the item 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, D.C. 20250, (202) 690–2118.

Revision

• Food and Nutrition Service
WIC Monthly Financial Management and Participation Report
Monthly
State or local governments; 31,926 responses; 33,354 hours
Linda Clark (703) 305–2710

• Rural Electrification Administration
Advance and Disbursement of Funds—Telephone Loan Program
REA Form 481
On occasion
Small businesses or organizations; 2,552 responses; 2,496 hours
Monte Heppe (202) 720–0736

Extension

• Food and Nutrition Service
WIC Annual Participation Report
FNS–654
Annually
State or local governments; 1,875 responses; 1,875 hours
Maxine McMillian (703) 305–2710

• Animal and Plant Health Inspection Service
Prohibited and restricted importation of meats, animal byproducts, poultry, organisms and vectors into the United States
VS 16–3 VS 16–25, VS 16–26
Recordkeeping; On occasion; Quarterly
Individuals or households; State or local governments; businesses or other for profit; Federal agencies or employees; non-profit institutions; small businesses or organizations; 9,626 responses; 28,754 hours
Kathleen Jan Akin (301) 436–7830

• Agricultural Research Service
Record of Shipment/Release of Exotic Microorganisms for Biological Control
AD–944 and AD–944A
On occasion
State or local governments; Federal agencies or employees; 420 responses; 105 hours
Jack R. Coulson (301) 504–8748

New Collection

• Agricultural Marketing Service
National Research, Promotion and Consumer Information Programs—Addendum 1
Recordkeeping; on occasion; monthly; annually
Individuals or households; farms; businesses or other for-profit; Small businesses or organizations; 16,087 responses; 3,555 hours
Richard Schultz (202) 720–5976

Larry K. Roberson,
Deputy Departmental Clearance Officer.

[FR Doc. 94–15778 Filed 6–28–94; 8:45 am]

BILLING CODE 3410–01–M

Agricultural Marketing Service

[Docket No. TB–94–30]

Burley Tobacco Advisory Committee; Meeting

In accordance with the Federal Advisory Committee Act (5 U.S.C. App.) announcement is made of the following committee meeting:

Name: Burley Tobacco Advisory Committee.

Dates: July 21, 1994.

Time: 1:00 p.m.

Place: Campbell House Inn, North Colonial Hall, 1375 Harrodsburg Road, Lexington, Kentucky 40504.

Purpose: To elect officers, discuss the calculation of sales opportunity, and the policies and procedures for the 1994–95 marketing season, review regulations pursuant to the Tobacco Inspection Act, 7 U.S.C. 511 *et seq.*, and other related issues.

The meeting is open to the public. Persons, other than members who wish to address the Committee at the meeting should contact the Director, AMS, U.S. Department of Agriculture, Room 502 Annex Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 205–0567, prior to the meeting. Written statements may be submitted to the Committee before, at, or after the meeting.

Dated: June 23, 1994.

Lon Hatamiya,
Administrator.

[FR Doc. 94–15720 Filed 6–28–94; 8:45 am]

BILLING CODE 3410–02–P

Agricultural Stabilization and Conservation Service and Commodity Credit Corporation

Feed Grain Donations; Pueblo of Laguna Indian Reservation of New Mexico

AGENCY: Agricultural Stabilization and Conservation Service, and Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: The Executive Vice President, Commodity Credit Corporation (CCC) and the Administrator, Agricultural Stabilization and Conservation Service, is announcing that the Pueblo of Laguna Indian Reservation of New Mexico is an acute distress area and that CCC-owned feed grain will be donated to needy livestock owners on the reservation.

FOR FURTHER INFORMATION CONTACT: John Newcomer, Livestock Programs Branch, Agricultural Stabilization and Conservation Service, P.O. Box 2415, Washington, DC 20013–2415, 202–720–6157.

SUPPLEMENTARY INFORMATION: Pursuant to the authority set forth in section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427), and Executive Order 11336, notice is being given that I have determined that:

1. The chronic economic distress of the needy members of the Pueblo of

Laguna Indian Reservation of New Mexico has been materially increased and become acute because of drought during the 1992, 1993, and 1994 growing seasons, thereby creating a serious shortage of feed and causing increased economic distress. This reservation is designated for Indian use and is utilized by members of the Pueblo of Laguna for grazing purposes.

2. The use of feed grain or products thereof made available by CCC for livestock feed for such needy members of the Pueblo of Laguna Indian Reservation will not displace or interfere with normal marketing of agricultural commodities.

3. Based on the above determinations, I hereby declare the Pueblo of Laguna Indian Reservation of New Mexico to be an acute distress area and authorize the donation of feed grain owned by the CCC to livestock owners who are determined by the Bureau of Indian Affairs, United States Department of the Interior, to be needy members of the Pueblo of Laguna utilizing such lands. These donations by the CCC may commence upon June 24, 1994, and shall be made available through September 21, 1994, or such other date as may be stated in a notice issued by the Administrator, Agricultural Stabilization and Conservation Service.

Signed at Washington, DC, on June 23, 1994.

Grant Buntrock,

Administrator, Agricultural Stabilization and Conservation Service, and Executive Vice President, Commodity Credit Corporation.

[FR Doc. 94–15777 Filed 6–28–94; 8:45 am]

BILLING CODE 3410–05–P

Agricultural Research Service

Notice of Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Continental Grain Company of Duluth, Georgia, an exclusive, field of use licnese to U.S. Patent Application Serial No. 08/031,983, "Mucosal Competitive Exclusion Flora". Notice of Availability was published in the **Federal Register** on July 23, 1993.

DATES: Comments must be received within 60 calendar days of June 29, 1994.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, Room 401, Building 005, BARC–West, Baltimore Boulevard, Beltsville, Maryland 20705–2350.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights to this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so licnese this invention as Continental Grain Company has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive licnese may be granted unless, within sixty days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

R.M. Parry, Jr.

Acting Assistant Administrator.

[FR Doc. 94–15717 Filed 6–28–94; 8:45 am]

BILLING CODE 3410–03–M

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Export Administration.

Title: Customer Service Phone Survey.

Agency Form Number: None.

OMB Approval Number: None.

Type of Request: New

Burden: 42 hours.

Number of Respondents: 500.

Avg Hours Per Response: 5 minutes.

Needs and Uses: BXA will be collecting information to assess customer satisfaction with its Resource Matching Program seminars and to assess the effectiveness of this public service program.

Affected Public: Businesses or other for–profit institutions, small businesses or organizations.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Don Arbuckle, (202) 395–7340.

Agency: National Oceanic and Atmospheric Administration.

Title: Antarctic Marine Living Resources Conservation and Management Measures.

Agency Approval Number: None.

OMB Approval Number: 0648–0194.

Type of Request: Revision of a currently approved collection.

Burden: 55 hours.

Number of Respondents: 6.

Avg Hours Per Response: Varies depending on requirement but ranges between 30 minutes and 40 hours.

Needs and Uses: As a member of the Convention which governs the Antarctic marine living resources, the United States has agreed to adhere to conservation measures for this region. Persons planning to harvest or import certain living marine resources or their products from the Antarctic are required to obtain permits, maintain logbooks, and file reports. This information is used by the National Marine Fisheries Service to meet its research and enforcement obligations of the Antarctic Treaty.

Affected Public: Individuals, businesses or other for–profit institutions, small businesses or organizations.

Frequency: Weekly, monthly, annually and other.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Don Arbuckle, (202) 395–7340.

Copies of the above information collection proposals can be obtained by calling or writing Gerald Tache, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, Room 5327, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to Don Arbuckle, OMB Desk Officer, Room 5327, New Executive Office Building, Washington, D.C. 20503.

Dated: June 20, 1994

Gerald Tache,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 94–15745 Filed 6–28–94; 8:45 am]

BILLING CODE 3510–CW–F

International Trade Administration

[A–580–008]

Color Television Receivers From Korea; Termination of Antidumping Duty Administrative Reviews

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of Termination of Antidumping Duty Administrative Reviews.

SUMMARY: On May 24, 1989, June 1, 1990, and May 12, 1994, the Department of Commerce (the Department) initiated administrative reviews of the antidumping duty order on color television receivers from Korea for the periods April 1, 1988 through March 31, 1989, April 1, 1989 through March 31, 1990, and April 1, 1993 through March 31, 1994, respectively. Based on withdrawal of requests for review of Goldstar for these three periods from all requesting parties and the consent to termination by the relevant parties, the Department is now terminating these reviews.

EFFECTIVE DATE: June 29, 1994.

FOR FURTHER INFORMATION CONTACT: Zev Primor or Wendy Frankel, Office of Antidumping Compliance, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 482–5253.

Background: On May 24, 1989 (54 FR 22465), June 1, 1990 (55 FR 22366), and May 12, 1994 (59 FR 24683), the Department published in the Federal Register notices of initiation of administrative reviews of the antidumping duty order on color television receivers from Korea (49 FR 18336, April 30, 1984) at the request of various interested parties. The notices stated that the Department would review merchandise sold in the United States by Goldstar Company, Ltd. (Goldstar), and other foreign respondents for the periods April 1, 1988 through March 31, 1989, April 1, 1989 through March 31, 1990, and April 1, 1993 through March 31, 1994.

On May 23, 1994, the Independent Radionic Workers of America, International Union of Electronic, Electrical, Technical, Salaried, and Machine Workers, AFL–CIO, the International Brotherhood of Electrical Workers of America, and the Industrial Union Department, AFL–CIO (collectively the petitioners) withdrew their requests for the sixth, seventh, and eleventh administrative reviews of Goldstar and requested that the Department terminate those reviews.

Also on May 23, 1994, Zenith Electronics Corporation (Zenith) withdrew its requests for the sixth and seventh administrative reviews of Goldstar and requested that the Department terminate those reviews.

On May 23, 1994, Goldstar withdrew its request to be reviewed for the seventh administrative review period and requested termination of that review. On June 13, 1994, Goldstar consented to termination of the two periods for which it did not request a review of itself. Finally, on June 14, 1994, Zenith, an interested party consented to the termination of the eleventh review of Goldstar.

Section 353.22(a)(5) of our regulations states that "[t]he Secretary may permit a party that requests a review under paragraph (a) of this section to withdraw the request not later than 90 days after the date of publication of notices of initiation of the requested review. The Secretary may extend this time limit if the Secretary decides that it is reasonable to do so." Because no party objects to the proposed terminations and all requesting parties have withdrawn their requests for review of Goldstar, we are terminating the sixth, seventh, and eleventh administrative reviews for Goldstar.

This notice is published pursuant to 19 CFR § 353.22(a)(5).

Dated: June 24, 1994.

Holly A. Kuga,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 94–15953 Filed 6–27–94 2:57 pm]

BILLING CODE 3510–DS–P–M

[A–580–008]

Color Television Receivers From the Republic of Korea; Preliminary Results of Antidumping Duty Administrative Reviews

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Reviews.

SUMMARY: In response to requests by interested parties, the Department of Commerce (the Department) is conducting administrative reviews of the antidumping duty order on color television receivers (CTVs) from the Republic of Korea. The reviews cover exports of this merchandise to the United States by the manufacturer Daewoo Electronics Co., Ltd. (Daewoo). Based on our review of these exports during the period April 1, 1988 through March 31, 1989, we preliminarily find a margin of 4.00 percent. Daewoo had no shipments during the April 1, 1989 through March 31, 1990, administrative review period. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: June 29, 1994.

FOR FURTHER INFORMATION CONTACT: Anne D'Alauro or Richard Herring, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On March 31, 1989, the Department published in the Federal Register a notice of "Opportunity to Request Administrative Review" (54 FR 13211) of the antidumping duty order on color television receivers from the Republic of Korea for the period April 1, 1988 through March 1, 1989 (sixth review). The Independent Radionic Workers of America, International Union of Electronic, Electrical, Technical, Salaried and Machine Workers, AFL–CIO, the International Brotherhood of Electrical Workers of America, and the Industrial Union Department, AFL–CIO, the petitioners in this proceeding, and Zenith Electronics Corporation, a domestic interested party, requested an administrative review of the antidumping duty order with respect to Daewoo for this period. For the subsequent (seventh) review period, April 1, 1989 through March 31, 1990, the opportunity notice was published on April 10, 1990 (55 FR 13302), Zenith Electronics Corporation requested the seventh period review of Daewoo.

On May 24, 1989 and June 1, 1990, the Department published a notice of initiation for the sixth and seventh administrative reviews, respectively. The Department is now conducting these administrative reviews with respect to Daewoo in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

On May 1, 1990, we received a letter from counsel for Daewoo stating that the company had no shipments during the period April 1, 1989 through March 31, 1990 and, therefore, would not be submitting a questionnaire response. We received no further comments.

Scope of the Review

Imports covered by this review include CTVs, complete and incomplete, from the Republic of Korea. The order covers all CTVs regardless of tariff classification. During the period of review, the subject merchandise was classified under item numbers 684.9246, 684.9248, 684.9250, 684.9252, 684.9253, 684.9255, 684.9256, 684.9258, 684.9262, 684.9263, 684.9270, 684.9275, 684.9655, 684.9656, 684.9658, 684.9660, 684.9663, 684.9864, 684.9866, 687.3512, 687.3513, 687.3514, 687.3516, 687.3518, and 687.3520, of the *Tariff Schedules of the United States Annotated* (TSUSA). This merchandise is currently classifiable under item numbers 8528.10.80, 8529.90.15, 8529.90.20, and 8540.11.00 of the *Harmonized Tariff Schedule* (HTS). Although the HTS and TSUSA item numbers are provided for

convenience and Customs purposes, our written description of the scope remains dispositive.

United States Price

For a portion of Daewoo's sales, we based United States Price (USP) on purchase price (PP) in accordance with section 772(b) of the Tariff Act. We based USP on PP because CTVs were sold to unrelated purchasers in the United States prior to importation into the United States and because exporter's sales price (ESP) methodology was not indicated by other circumstances. For the remainder of Daewoo's sales, we based USP and ESP because those sales were made to unrelated parties after importation into the United States, pursuant to section 772(c) of the Tariff Act.

We calculated PP based on packed, C&F, CIF, or F.O.B. Korea prices to unrelated customers in the United States. We made deductions, where applicable, for foreign inland freight, Electronic Industries Association of Korea (EIAK) fees, ocean freight (which includes Korean customs clearance fees), marine insurance, U.S. and Korean brokerage and handling charges, wharfage, U.S. duties, U.S. customs processing fees, harbor maintenance fees, U.S. inland freight, and rebates. Where applicable, we made an addition for import duties collected and rebated on imported raw materials used in merchandise exported to the United States.

We calculated ESP based on the packed, CIF prices to unrelated customers in the United States. We made deductions, where applicable, for foreign inland freight, EIAK export fees, ocean freight (which includes customs clearance fees), marine insurance, U.S. and Korean brokerage and handling charges, wharfage, U.S. duties, U.S. customs processing fees, harbor maintenance fees, U.S. inland freight and container delivery, royalties, commissions, warranty, return set losses, warehousing, credit, and indirect selling expenses. Where applicable, we made an addition for import duties collected and rebated on imported raw materials used in merchandise exported to the United States.

We adjusted USP for taxes in accordance with our practice as outlined in *Silicon Manganese from Venezuela, Preliminary Determination of Sales at Less Than Fair Value,* 59 FR 31204, June 17, 1994.

There were no other adjustments claimed or allowed.

Foreign Market Value (FMV)

In calculating FMV, the Department used home market price, as defined in section 773 of the Tariff Act, since sufficient quantities of such or similar merchandise were sold above the cost of production in the home market to provide a basis for comparison. Home market price was based on the packed, delivered price to the first unrelated purchaser in the home market. Where applicable, we made deductions for inland freight, discounts, rebates, advertising, warranties, credit, and royalties, as well as making adjustments for differences in merchandise and packing. We adjusted FMV for taxes in accordance with our practice as outlined in *Silicon Manganese from Venezuela, Preliminary Determination of Sales at Less Than Fair Value,* 59 FR 31204, June 17, 1994. The company's warehousing expense could not be tied directly to either a particular customer or sales of the subject merchandise, therefore it was treated as an indirect selling expense.

In light of the CAFC's decision in *Ad Hoc Committee of AD–NM–TX–FL Producers of Gray Portland Cement v. United States,* 13 F3d 398 (CAFC 1994), the Department no longer can deduct home market movement charges from FMV pursuant to its inherent power to fill in gaps in the antidumping statute. We instead will adjust for those expenses under the circumstance-of-sale (COS) provision of 19 CFR 353.56 and the ESP offset provision of 19 CFR 353.56(b)(1) and (2), as appropriate, in the manner described below.

When USP is based on PP, we only adjust for home market movement charges through the COS provision of 19 CFR 353.56. Under this adjustment, we capture only direct selling expenses, which include post-sale movement expenses and, in some circumstances, pre-sale movement expenses. Specifically, we will treat pre-sale movement expenses as direct expenses if those expenses are directly related to the home market sales of the merchandise under consideration. Moreover, in order to determine whether pre-sale movement expenses are direct, the Department will examine the respondent's pre-sale warehousing expenses, since the pre-sale movement charges incurred in positioning the merchandise at the warehouse are, for analytical purposes, inextricably linked to pre-sale warehousing expenses. If the pre-sale warehousing constitutes an indirect expense, the expense involved in getting the merchandise to the warehouse also must be indirect; conversely, a direct pre-sale warehousing expense necessarily implies a direct pre-sale movement expense.

When USP is based on ESP, the Department uses the COS adjustment in the same manner as in PP situations. Additionally, under the ESP offset provision set forth in 19 CFR 353.56(b)(1) and (2), we will adjust for any pre-sale movement charges which are treated as indirect selling expenses. Accordingly, because the Department has preliminarily determined that pre-sale warehousing costs are an indirect expense, the Department is also treating pre-sale movement costs as an indirect expense. Therefore, no COS adjustment has been made for these costs. For ESP sales, an adjustment for indirect costs has been made under the ESP offset provision.

For comparisons involving PP transactions, we added direct selling expenses including royalties, commissions, credit and warranties in order to adjust for differences in circumstances of sale between the two markets. In addition, indirect selling expenses were deducted from FMV in an amount not exceeding the amount of commissions paid on PP sales in accordance with 19 CFR 353.56(b)(1). For comparisons involving ESP transactions, we deducted indirect selling expenses from FMV in an amount not exceeding the sum of the indirect selling expenses incurred and commissions paid on ESP sales, in accordance with 19 CFR 353.56(b)(2). No other adjustments were claimed or allowed.

Preliminary Results of the Reviews

As a result of our review, we preliminarily determine that the weighted-average dumping margin for the April 1, 1988 through March 31, 1989, period for Daewoo is 4.00 percent. The company had no shipments during the April 1, 1989 through March 31, 1990 period.

Pursuant to 19 CFR 353.38(c), case briefs and/or written comments from interested parties may be submitted no later than 30 days after the date of publication of this notice. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed no later than 37 days after the date of publication of this notice pursuant to 19 CFR 353.38(d).

Pursuant to 19 CFR 353.38(b), within 10 days of the date of publication of this notice, interested parties to this proceeding may request a disclosure and/or a hearing. The hearing, if requested, will take place no later than 44 days after publication of this notice.

Persons interested in attending the hearing should contact the Department for the date and time of the hearing. The Department will subsequently publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, since Daewoo has been reviewed in a period subsequent to this period, the cash deposit rate for Daewoo will remain at 0.90 percent, the company's rate from the most recently reviewed period. See, *Color Television Receivers from the Republic of Korea; Amendment to Final Results of Antidumping Duty Administrative Review* (59 FR 21958; April 28, 1994).

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act, as amended (19 U.S.C 1675(a)(1)) and 19 CFR 353.22.

Dated: June 23, 1994.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 94–15954 Filed 6–27–94; 2:58 am]

BILLING CODE 3510–DS–P–M

National Oceanic and Atmospheric Administration

[I.D. 062194C]

Endangered Species; Permits

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

ACTION: Issuance of Permit 923 (P509A).

On March 29, 1994, notice was published (59 FR 14612) that an application had been filed by Robert van Dam (P509A) to take listed hawksbill sea turtles (*Eretmochelys imbricata*) and listed green sea turtles (*Chelonia mydas*) for habitat and population studies 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 June 15, 1994 as authorized by the provisions of the ESA, NMFS issued Permit Number 923 for the above taking subject to certain conditions set forth therein.

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 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, NMFS, 1335 East-West Highway, Silver Spring, MD 20910–3226 (301–713–2322);

Southeast Region, NMFS, NOAA, 9721 Executive Center Drive, St. Petersburg, FL 33702–2432 (813-893-3141); and

Director, Southwest Region, NMFS, NOAA, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213 (310–980–4016).

Dated: June 21, 1994.

Patricia A. Montanio,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 94–15760 Filed 6–28–94; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 062194D]

Endangered Species; Permits

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

ACTION: Issuance of four Scientific Research and Enhancement Permits (P503N, P503O, P503P, P503Q), a Second Modification to Permit 847 (P211E), Third Modifications to Permits 795 (P503A) and 817 (P45K), an Amendment to Permit 907 (P498A), and an Amendment to the Second Modification of Permit 848 (P507D).

On March 14, 1994, notice was published (59 FR 11778) that two applications had been filed by Idaho Department of Fish and Game (P503N, P503O) for two permits to take listed Snake River spring/summer chinook salmon 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). On April 5, 1994, notice was published (59 FR 15894) that two applications had been filed by Idaho Department of Fish and Game (P503P, P503Q) for two additional permits to take listed Snake River spring/summer chinook salmon as authorized by the ESA. Notice is hereby given that on June 16, 1994, as authorized by the provisions of the ESA, NMFS issued Permit Numbers 919, 920, 921, and 922 for the above taking, subject to certain conditions set forth therein.

On May 19, 1994 notice was published (59 FR 26211) that an application had been received by the Oregon Department of Fish and Wildlife for the second modification to Permit Number 847 (P211E) to take listed Snake River spring/summer chinook salmon as authorized by the ESA. Notice is hereby given that on June 20, 1994, as authorized by the provisions of the ESA, NMFS issued the second modification to Permit Number 847 for the above taking, subject to certain conditions set forth therein.

On April 19, 1994, notice was published (59 FR 18524) that an application had been filed by Idaho Department of Fish and Game, for a third modification to Permit 795 (P503A) to take listed Snake River sockeye salmon as authorized by the ESA. Notice is hereby given that on June 10, 1994, as authorized by the provisions of the ESA, NMFS issued the third modification to Permit Number 795 for the above taking, subject to certain conditions set forth therein.

On June 14, 1994, NMFS received a request from the National Biological Survey for a third modification to Permit 817 (P45K) to take listed Snake River fall chinook salmon as authorized by the ESA. Notice is hereby given that on June 20, 1994, as authorized by the provisions of the ESA, NMFS issued the third modification to Permit Number 817 for the above taking, subject to certain conditions set forth therein.

Notice is hereby given that on June 20, 1994, as authorized by the provisions of the ESA, NMFS issued the first amendment to Permit Number 907 (P498A) to Dr. David Bennett of the University of Idaho for the taking of listed Snake River spring/summer chinook and kokanee/sockeye salmon, subject to certain conditions set forth therein.

Notice is hereby given that on June 20, 1994, as authorized by the provisions of the ESA, NMFS issued an amendment to the second modification of Permit Number 848 (P507D) to the Washington Department of Fisheries for the taking of listed Snake River spring/summer and fall chinook salmon, subject to certain conditions set forth therein.

Issuance of these permits, modifications, and amendments, as required by the ESA, was based on a finding that: (1) They were applied for in good faith; (2) they will not operate to the disadvantage of the listed species which are the subject of the permits; (3) they are consistent with the purposes and policies set forth in section 2 of the ESA. These permits, modifications, and amendments were also issued in accordance with and are subject to parts 217-222 of Title 50 CFR, the NMFS regulations governing listed species permits.

The applications, permits, modifications, amendments, and supporting documentation are available for review by interested persons in the following offices, by appointment:

Office of Protected Resources, NMFS, 1335 East-West Highway, Silver Spring, MD 20910–3226 (301–713–2322); and

Environmental and Technical Services Division, NMFS, NOAA, 911 North East 11th Ave., Room 620, Portland, OR 97232 (503-230-5400).

Dated: June 21, 1994.

Patricia A. Montanio,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 94–15761 Filed 6–28–94; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

DEPARTMENT OF DEFENSE

Office of the Secretary

Establishment of the Defense Labor-Management Partnership Council

ACTION: Notice.

SUMMARY: The Defense Labor-Management Partnership Council (the Council) is being established by the Department of Defense (DoD) in consonance with the public interest, and in accordance with the provisions of Pub. L. 92–463, the "Federal Advisory Committee Act." The Council is being formed pursuant to Executive Order 12871, "Labor Management Partnerships," dated October 1, 1993.

The Council will provide advice to the Secretary of Defense, through the office of the Under Secretary of Defense for Personnel and Readiness, on all matters affecting labor-management relations. The Council members will work by consensus to formulate approaches that empower employees, promote safe and healthful work environments, and produce demonstrable improvements in productivity, service, and cost savings. In performing its functions, the Council will be guided by principles that: put the public interest first; value and respect all members of the workforce; focus on common interest and shared problems; stress information sharing for an informed workforce; emphasize decision-making by consensus; treat all Council partners/members as equals; and, resolve conflicts to sustain the partnership.

The Committee will be composed of approximately 20 to 25 members who are experts in labor-management relations from DoD and national labor unions. Efforts will be made to ensure that the membership will be well balanced in terms of the functions to be performed and interest groups represented.

For further information regarding the Defense Labor-Management Partnership Council contact: Mr. Ken Oprisko, telephone: 703–607–3475.

June 23, 1994.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–15705 Filed 6–28–94; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board; Meeting

ACTION: Notice of Advisory Committee Meetings

SUMMARY: The Defense Science Board will meet in closed session on August 21–September 1, 1994, at the Beckman Center, Irvine, California.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition and Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At that time the Board will examine the substance, interrelationships, and the U.S. national security implications of three critical areas identified and tasked to the Board by the Secretary of Defense, Deputy Secretary of Defense, and Under Secretary of Defense for Acquisition and Technology. The subject areas are: Cruise Missile Defense, Information Architecture for the Battlefield, and Military Operations in Built-up Areas. The period of study is anticipated to culminate in the formulation of specific recommendations to be submitted to the Secretary of Defense, via the Under Secretary of Defense for Acquisition and Technology, for his consideration in determining resource policies, short- and long-range plans, and in shaping appropriate implementing actions as they may affect the U.S. national defense posture.

In accordance with Section 10(d) of the Federal Advisory Committee Act, P.L. No. 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that this DSB meeting, concerns matters listed in 5 U.S.C. § 552(c)(1) (1988), and that accordingly this meeting will be closed to the public.

Dated: June 23, 1994.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–15698 Filed 6–28–94; 8:45 am]

BILLING CODE 5000–04–M

Office of the Inspector General

Membership of the Performance Review Board

AGENCY: Office of the Inspector General, Department of Defense (OIG, DoD).

ACTION: Notice of membership to the Performance Review Board, OIG, DoD.

SUMMARY: This notice announces the appointment of the members of the Performance Review Board (PRB) for the OIG, DoD as required by 5 U.S.C. 4314(c)(4). The PRB provides fair and impartial review of Senior Executive Service performance appraisals and makes recommendations regarding performance ratings, performance awards and recertification to the Inspector General.

EFFECTIVE DATE: July 1, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Peterson, Chief, Employee Relations Division, Personnel and Security Directorate, Office of the Assistant Inspector General for Administration and Information Management, OIG, DoD, 400 Army Navy Drive, Arlington, VA 22202, (703) 693–0257.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the appointed members of the PRB for the OIG, DoD are identified in the enclosures. They will serve until further notice.

June 23, 1994.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Performance Review Board Office of the Inspector General, Department of Defense

Derek J. Vander Schaaf, Deputy Inspector General, OIG, DoD
Russell A. Rau, Director, Financial Management Directorate, Office of the Assistant Inspector General for Auditing, OIG, DoD
David A. Brinkman, Assistant Inspector General for Analysis and Followup, OIG, DoD
Katherine A. Brittin, Assistant Inspector General for Inspections, OIG, DoD
Donald E. Davis, Assistant Inspector General for Audit Policy and Oversight, OIG, DoD
David K. Steensma, Deputy Assistant Inspector General for Auditing, OIG, DoD
Robert J. Lieberman, Assistant Inspector General for Auditing, OIG, DoD
Nicholas T. Lutsch, Assistant Inspector General for Administration and Information Management, OIG, DoD
Donald Mancuso, Assistant Inspector General for Investigations, OIG, DoD
Donald E. Reed, Director, Acquisition Management Directorate, Office of the Assistant Inspector General for Auditing, OIG, DoD
William G. Dupree, Deputy Assistant Inspector General for Investigations, OIG, DoD
Stephen A. Whitlock, Director, Inspections Directorate, Office of the Assistant Inspector General for Inspections, OIG, DoD
C. Frank Broome, Deputy Assistant Inspector General for Administration and Information Management
Paul J. Granetto, Director, Contract Management Directorate, Office of the Assistant Inspector General for Auditing, OIG, DoD
Michael B. Suessmann, Assistant Inspector General for Departmental Inquiries
Shelton R. Young, Director, Logistics and Support Directorate, Office of the Assistant Inspector General for Auditing, OIG, DoD
John F. Keenan, Director, Investigative Operations, Office of the Assistant Inspector General for Investigations, OIG, DoD
Joel Leson, Assistant Inspector General for Criminal Policy and Oversight, OIG, DoD
Michael G. Huston, Director, Audit Planning and Technical Support Directorate, Office of the Assistant Inspector General for Auditing, OIG, DoD
John C. Speedy III, Deputy Assistant Inspector General for Program Evaluation, Office of the Assistant Inspector General for Inspections, OIG, DoD
John C. Martin, Inspector General, Environmental Protection Agency
Gordon W. Harvey, Deputy Inspector General, Department of Energy
Mario A. Lauro Jr., Deputy Inspector General, Department of Transportation
Irving A. Bassett Jr., Deputy Inspector General, Department of Labor

[FR Doc. 94–15699 Filed 6–28–94; 8:45 am]
BILLING CODE 5000–04–M

DEPARTMENT OF EDUCATION

Privacy Act of 1974; System of Records

AGENCY: Department of Education.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Department of Education (ED) publishes this notice of a new system of records for the National Student Loan Data System as authorized by the Higher Education Act of 1965, as amended.

This system is being designed to maintain loan-level information on Title IV aid recipients. The NSLDS is being developed in three phases with thirteen major capabilities. Phase I will provide a central verification system for use in determining the eligibility of Title IV aid applicants with respect to prior aid, existing defaults and grant overpayments, default rate calculations, audit planning, research studies support and policy development support, budget analysis and development, monitoring of lender and guaranty agency billings, and GSL Program administration assessment. Phase II will track changes in the enrollment status of students, as reported by schools in a standard format (Standardized Student Status Confirmation Reporting), track loan transfers, track borrowers, and provide default prevention notices to schools (preclaims assistance and supplemental preclaims assistance notification). Phase III will provide financial aid transcript information to schools electronically and Credit Reform Act (CRA) support (requirements for support of the CRA currently includes providing, to the Office of Management and Budget, data on lender interest benefits and special allowance payments, defaulted loan balances, and supplemental preclaims assistance payments information).

The primary function of the NSLDS will not be the collection of student loans. However, the Department expects as a result of closer monitoring of financial aid transactions, that the Department will collect information that will aid in the collection of some loan and grant overpayments. Thus, a secondary purpose of this systems of records is to aid in the collection of debts owed under Title IV, HEA programs.

DATES: Comments on the proposed routine uses for this system of records must be submitted by 30 days after the publication in the **Federal Register**. The Department filed a report of the new system of records with the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House of Representatives, and the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB) on June 23, 1994. This system of records will become effective after the 40-day period for OMB review of the system expires on August 2, 1994, unless OMB gives specific notice within the 40 days that the system is not approved for implementation or requests additional time for OMB review. The Department will publish any changes to the routine uses that are a result of the comments.

ADDRESSEES: Comments on the proposed routine uses should be addressed to the Privacy Act Officer; Information Management and Compliance Division; Office of Information Resources Management; U.S. Department of Education; 400 Maryland Avenue SW.; Room 5624; GSA Regional Office Building 3; Washington, DC 20202–4651. All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in Room 5624, GSA Regional Office Building 3, 7th and D Streets, SW., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday of each week except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Susan Pentecost; Branch Chief, National Student Loan Data System; U.S. Department of Education; 400 Maryland Avenue, SW.; Room 4640; GSA Regional Office Building 3; Washington, DC 20202; (202) 708–8125. Individuals who are hearing impaired may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Privacy Act of 1974 (see 5 U.S.C. 552a(e)(4)) requires the Department to publish in the **Federal Register** this notice of a new system of records. The Department's regulations implementing the Privacy Act of 1974 are contained in the Code of Federal Regulations (CFR) at 34 CFR part 5b.

The NSLDS database is being established to comply with amendments to Section 485B of the Higher Education Act (HEA) of 1965.

The NSLDS is being developed in three phases with thirteen major capabilities. Phase I will provide a central verification system for use in determining the eligibility of Title IV aid applicants with respect to prior aid, existing defaults and grant overpayments, default rate calculations, audit planning, research studies support and policy development support, budget analysis and development, monitoring of lender and guaranty agency billings, and GSL Program administration assessment. Phase II will track changes in the enrollment status of students, as reported by schools in a standard format (Standardized Student Status Confirmation Reporting), track loan transfers, track borrowers, and provide default prevention notices to schools (preclaims assistance and supplemental preclaims assistance notification). Phase III will provide financial aid transcript information to schools electronically and Credit Reform Act support (requirements for support of the CRA currently includes providing, to the Office of Management and Budget, data on lender interest benefits and special allowance payments, defaulted loan balances, and supplemental preclaims assistance payment information).

The primary function of the NSLDS will not be the collection of student loans. However, the Department expects as a result of closer monitoring of financial aid transactions, that the Department will collect information that will aid in the collection of some loan and grant over payments. Thus, a secondary purpose of this systems of records is to aid in the collection of debts owed under Title IV, HEA programs.

The NSLDS database will be used to pre-screen Title IV aid applications to prevent the award of funds to ineligible applicants. The database will also be used to provide the following information: (1) A centralized verification system for determining the eligibility of Title IV aid applicants; (2) shared access to comprehensive student loan database; (3) a borrowers profile history to support research and analysis of student financial assistance program issues; (4) a database on participating lenders, guaranty agency and school profiles; and (5) an efficient data transfer. This notice includes proposed routine uses for the information contained in the system of records.

The Department will collect, for each student loan stored on the NSLDS, data about the identification of borrowers; loan type(s) and amount(s); total amount of all student loans received and remaining balance(s); name of guaranty agency, lender, holder, and servicer; school attended when loan was made; and defaults, deferments, forbearance, and cancellations.

Access to the data maintained on the NSLDS database will be accessible by guaranty agencies, schools and ED. Data in the NSLDS will be maintained on mainframe computers with back ups of the data stored on magnetic media. Direct access is restricted to authorized contract and agency personnel in the performance of their official duties.

Dated: June 23, 1994.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

The Assistant Secretary for Postsecondary Education publishes a notice of a new system of records to read as follows.

18–40–0039

SYSTEM NAME:

National Student Loan Data System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

E-Systems, Greenville Division, P.O. Box 6056, Greenville, Texas 75403–6056.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Borrowers who have applied for loans under the Federal Direct Student Loan Program; borrowers who applied for loans under the Federal Insured Student Loan (FISL) Program; borrowers who applied for loans under the Federal Family Education Loan (FFEL) Program; borrowers who applied for loans under the Federal Perkins Loan Program (including National Defense Student Loans and National Direct Student Loans); borrowers who had a loan discharged in bankruptcy under the FISL Program and on which ED paid a claim to the holder of the loan; borrowers who defaulted on their loans or the borrower died or became disabled; borrowers whose loans were guaranteed by a guaranty agency and who defaulted under the FFEL Program if those loans were assigned by the guaranty agency to ED; FFEL borrowers whose lenders have reported them delinquent or reported their locations as unknown; FFEL borrowers whose loans were cancelled due to borrower's death or total and permanent disability, or whose loans were discharged in bankruptcy under the FFEL Program; FFEL borrowers whose loans have been assigned to ED due to false loan certification; borrowers under the Federal Perkins Loan Program whose loans have been assigned to ED because of default, and borrowers under the Federal Perkins Loan Program or under the FFEL Program whose loans have been assigned to ED due to school closing; borrowers whose loans were served by guaranty agencies for which ED has assumed management responsibility; and Federal Pell and Federal Supplemental Educational Opportunity Grants on which overpayments are collected by the Department.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains records regarding (1) an applicant's demographic background; (2) loan and educational status; (3) data on family income; (4) name; (5) social security number; (6) address; (7) amount of claim; (8) forbearance; (9) cancellation; (10) disability; (11) deferment information; (12) profile information on schools, lenders and guaranty agencies; (13) student/borrower date of birth; (14) loan level detail; (15) school(s) attended by student and/or received aid; (16) loan repayment disclosure information; (17) student/borrower anticipated school completion date; (18) indicator of lender-of-last-resort loans; (19) loan refund/cancellation information; and (20) grant overpayment date and amount.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Higher Education Act of 1965, Title IV-A through IV-G, as amended, (20 U.S.C. 1092b).

PURPOSE(S):

This system of records is maintained for the purpose(s) of: (1) Providing pre-screening for Title IV aid eligibility; (2) providing default rate calculations for schools, guaranty agencies, and lenders; (3) reporting changes in student/borrower enrollment status (Student Status Confirmation Reporting (SSCR)); (4) preparing financial aid transcripts (FAT); (5) assisting guaranty agencies in helping lenders collect delinquent loans (pre-claims assistance (PCA)/supplemental PCA support); (6) providing audit and program review

planning; (7) supporting research studies and policy development; (8) conducting budget analysis and development; (9) tracking loan transfers; (10) assessing FFEL Program administration of guaranty agencies, schools, and lenders; (11) tracking borrowers; (12) providing information that will support Credit Reform Act of 1992 requirements; (13) providing information to track refunds/cancellations; and (14) collecting debts owed to the Department under Title IV of HEA.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of Education (ED) may disclose information contained in a record in this system of records without the consent of the individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

(a) *Program purposes.* (1) Records may be disclosed for the following program purposes to the persons listed in (a)(2): To verify the identity of the applicant and assist with the determination of program eligibility and benefits, provide additional borrower profile information, to support research and analysis of student financial assistance program issues, provide lender, school, and guaranty agency profile information, provide default rate calculations, support audit and program review planning, support budget analysis and development, support loan transfer tracking, support assessment of the FFEL Program administration of guaranty agencies, schools, and lenders, support borrower tracking, provide a standardized student status confirmation report, provide financial aid transcript information, provide pre-claims assistance/supplemental pre-claims assistance notification, and support for credit reform act (CRA) requirements (requirements for support of the CRA currently includes providing, to the Office of Management and Budget, data on lender interest benefits and special allowance payments, defaulted loan balances, and supplemental preclaims assistance payments information).

(2) The information may be furnished to Federal, State, or Local agencies, to guaranty agencies, to educational and financial institutions, to agency contractors, to the Internal Revenue Service, to the General Accounting Office, and to the Office of Management and Budget.

(b) *Litigation disclosure.*

(1) *Disclosure to the Department of Justice.* If ED determines that disclosure of certain records to the Department of Justice or attorneys engaged by the Department of Justice is relevant and necessary to litigation and is compatible with the purpose for which the records were collected, ED may disclose those records as a routine use to the Department of Justice. Such disclosure may be made in the event that one of the parties listed below is involved in the litigation, or has an interest in litigation:

(i) ED, or any component of the Department; or

(ii) Any ED employee in his or her official capacity; or

(iii) Any employee of ED in his or her individual capacity where the Department of Justice has agreed to provide or arrange for representation for the employee; or

(iv) Any employee of ED in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where ED determines that the litigation is likely to affect the Department or any of its components.

(2) *Other disclosures.* If ED determines that disclosure of certain records to a court, adjudicative body before which ED is authorized to appear, individual, or entity designated by ED or otherwise empowered to resolve disputes, counsel or other representative, or potential witness is relevant and necessary to litigation and is compatible with the purpose for which the records were collected, ED may disclose those records as a routine use notice to the court, adjudicative body, individual or entity, counsel or other representative, or witness. Such a disclosure may be made in the event that one of the parties listed below is involved in the litigation, or has an interest in the litigation:

(i) ED or any component of the Department; or

(ii) Any ED employee in his or her official capacity; or

(iii) Any employee of ED in his or her individual capacity where the Department has agreed to represent the employee; or

(iv) The United States, where ED determines that litigation is likely to affect the Department or any of its components.

(c) *Enforcement disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether foreign, Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or executive order or rule, regulation, or order issued pursuant thereto if the information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility of the receiving entity.

(d) *Contract disclosure.* When ED contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating, or otherwise refining records or performing any other function with respect to the records in this system, relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act Safeguards with respect to such records.

(e) Employee grievance, complaint or conduct disclosure. If a record maintained in this system of records is relevant to an employee grievance or complaint or employee discipline or competence determination proceedings of another party of the Federal Government, ED may disclose the record as a routine use in the course of the proceedings.

(f) *Labor organization disclosure.* Where a contract between a component of ED and a labor organization recognized under Chapter 71, U.S.C. Title V provides that the Department will disclose personal records relevant to the organization's mission, records in this system of records may be disclosed as a routine use to such an organization.

(g) *Research disclosure.* When the appropriate official of ED determines that an individual or organization is qualified to carry out specific research, that official may disclose information from this system of records to that researcher solely for the purpose of carrying out research. The researcher shall be required to maintain Privacy Act safeguards with respect to such records.

(h) *Computer matching disclosure.* Any information from this system of records, including personal information obtained from other agencies through computer matching programs, may be disclosed to any third party through a computer matching program in connection with an individual's application for, or participation in, any grant or loan program administered by ED. The purposes of these disclosures may be to determine program eligibility and benefits, enforce the condition and terms of a loan or grant, permit the servicing and collecting of the loan or grant, prosecute or enforce debarment, suspension, and exclusionary actions,

counsel the individual in repayment efforts, investigate possible fraud and verify compliance with program regulations, locate a delinquent or defaulted debtor, and initiate legal action against an individual involved in program fraud or abuse.

(i) *FOIA advice disclosure.* In the event that ED deems it desirable or necessary in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosure may be made to the Department of Justice or the Office of Management and Budget for the purpose of obtaining their advice.

(j) *Subpoena disclosure.* Where Federal agencies having the power to subpoena other Federal agencies' records, such as Internal Revenue Service or Civil Rights Commission, issue a subpoena to ED for records in this system of records, the Department may make such records available provided the disclosure is consistent with the purposes for which the records were collected.

(k) *Disclosure to the Department of Justice.* ED may disclose information from this system of records as a routine use to the Department of Justice to the extent necessary for obtaining its advice on any matter relevant to an audit, inspection, or other inquiry related to the Department's responsibilities under Title IV of the Higher Education Act of 1965.

(l) *Congressional Member disclosure.* ED may disclose information from this system of records to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the written request of that individual; the Member's right to the information is no greater than the right of the individual who requested it.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 552a(b)(12): The Department may disclose to a consumer reporting agency information regarding a claim which is determined to be valid and overdue as follows: (1) The name, taxpayer identification number and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status, and history of the claim; and (3) the program under which the claim arose. The Department may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) and the procedures contained in subsection 31 U.S.C. 3711 (f). A consumer reporting agency to which these disclosures may be made is defined at 31 U.S.C., 15 U.S.C. 1681a(f), and 3701 (a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained on magnetic tape and computer disk media.

RETRIEVABILITY:

Data is retrieved by matching social security number, name and date of birth.

SAFEGUARDS:

All physical access to the sites of the contractor where this system of records is maintained, is controlled and monitored by security personnel who check each individual entering the building for his or her employee or visitor badge. The computer system employed by the Department of Education offers a high degree of resistance to tampering and circumvention. This security systems limits data access to Department of Education and contract staff on a "need to know" basis, including external users of the system (guaranty agency and school personnel) and controls individual users' ability to access and alter records within the system. All users of this system are given a unique user ID with a personal identifier. All interactions by individual users with the system are recorded.

RETENTION AND DISPOSAL:

Records of individual loans will be archived twelve months after a loan is closed. The loan will be archived to optical disk for economical and efficient storage. The Department will retain and dispose of NSLDS records in accordance with the ED Comprehensive Records Disposition Schedule, Part 10 item 16 (a)(b)(c)(d)(e).

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Program Operations, Room 4640, GSA Building, 7th and D Streets, SW., Washington, DC 20202.

NOTIFICATION PROCEDURES:

If an individual wishes to determine whether a record exists regarding him or her in this system of records, the individual should provide the system manager his or her name, date of birth, social security number, and the name of the school or lender from which the loan or grant was obtained. Requests for notification about an individual must meet the requirements of the Department of Education's Privacy Act regulations at 34 CFR 5b.5.

RECORD ACCESS PROCEDURES:

If an individual wishes to gain access to a record in this system, he or she should contact the system manager and provide information as described in the notification procedure.

CONTESTING RECORD PROCEDURES:

If an individual wishes to change the content of a record in the system of records, he or she should contact the system manager with the information described in the notification procedure, identify the specific item(s) to be changed, and provide a written justification for the change. Requests to amend a record must meet the requirements of the Department of Education Privacy Act regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information is obtained from guaranty agencies, schools, and the Title IV Program File (Privacy Act System of Records Number 18–4000–24). However, lenders and guarantee agencies are not a source of information for participants in the Federal Direct Students Loan Program since the Department maintains individual records of borrowers.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 94–15687 Filed 6–28–94; 8:45 am]
BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Invitation for Proposals From State Governments for Projects Designed To Accelerate the Introduction and Increase the Use of Alternative Fuels and Alternative Fuel Vehicles

AGENCY: Department of Energy.

ACTION: Notice of Program Interest.

SUMMARY: The U.S. Department of Energy (DOE) is interested in obtaining unsolicited proposals from States under 10 CFR 600.15. DOE may award grants to States to fund pilot programs demonstrating the feasibility of accelerating the introduction and expanding the use of alternative fuels and alternative fuel vehicles. Grants for such demonstration programs, if any, would generally support DOE's alternative motor fuels programs, including the impending State and Local Incentives Program of the Energy Policy Act of 1992 (EPACT) and DOE's Clean Cities program. Awards, if any, will be based on a combination of DOE need and program merit. Meritorious

program proposals would contain incentive plans directed toward cities that are currently or are petitioning to become DOE Clean Cities; that leverage non-Federal and Federal resources; and are regionally diverse.

Proposals in response to this notice should encourage widespread participation and reflect the participation and responsibilities of all included parties. Particularly, proposals should reflect other governmental participation, such as local government participation in a State program. Approximately $1.0 million may be available in FY 1994 funds for pilot programs; approximately 6–10 awards may be made.

DATES: To guarantee consideration, proposals must be received by September 1, 1994. Proposals shall be considered as meeting the deadline if they are either received or postmarked on or before the deadline date. Applications which do not meet the deadline will be considered late applications and may not be considered.

ADDRESSES: Proposals referencing Program Notice should be submitted to: Office of Transportation Technologies, Office of Alternative Fuels, EE–33, U.S. Department of Energy, Forrestal Building, 1000 Independence Ave., Washington, DC 20585, Reference: Notice of Program Interest, DOE Alternative Fuels Pilot Programs.

FOR FURTHER INFORMATION CONTACT: Jeffrey P. Hardy, Office of Alternative Fuels, Office of Transportation Technologies, U.S. Department of Energy, Forrestal Building, 1000 Independence Ave., Washington, DC 20585, telephone (202) 586–9118.

SUPPLEMENTARY INFORMATION:

A. Background

The Energy Policy Act of 1992 (EPACT) sets forth Alternative Fuels Titles III, IV and V which effectively establish goals and mechanisms by which the widespread use of alternative fuels will lead this country away from a growing dependence on imported petroleum in the transportation sector. The Department of Energy (DOE) is responsible for implementing and executing many initiatives under EPACT in order to create a sustainable alternative fuels market.

To ensure successful market development, DOE is undertaking a strategic alternative fuels program which builds on research and development successes through the establishment of market foundations, including public information, certification of training programs, and assisting other agencies in labeling of fuels and vehicles, and setting standards for fuels and vehicles. The second step of the program is to supplement existing incentives to encourage the early adoption of alternative fuels and vehicles, such as tax credits for purchasing vehicles, tax credits for building stations, and grants to States to develop incentive programs for alternative fuels. Thirdly, DOE will obtain voluntary commitments from fuel suppliers to build stations, from the automakers to build vehicles, and from fleets to use those vehicles. Voluntary participation reduces the need for mandates and allows users to determine appropriate technologies. The fourth step will be to expand the market for alternative fuel vehicles by requiring selected fleet operators to take the leadership in vehicle acquisition, beginning with the Federal fleet, the State fleets, and the fleets of alternative fuel suppliers. Finally, achieving long-term EPACT goals may require private fleets and municipal government fleets to begin acquiring AFVs in 1999.

Achievement of the challenging EPACT mandates will require innovative and resourceful activity by DOE and by stakeholders in the alternative fuels market. In support of the strategic alternative fuel program, DOE will draw upon such available tools as technology transfer, the use of studies, pilot programs, rulemakings, grants and other deployment activities.

B. Purpose

The purpose of this notice is to promote and support innovative or promising State programs demonstrating the feasibility of accelerating the introduction and expanding the use of alternative fuels and alternative fuel vehicles in the creation of a sustainable alternative fuels market. Demonstrated results may then be considered by DOE during the development and execution of its strategic alternative fuels program.

C. Areas of Interest

The Department of Energy seeks to gain information and broaden its knowledge and experience in the following areas of interest:

(1) Energy Policy Act of 1992 requirements to accelerate the introduction and expand the use of alternative fuels and alternative fuel vehicles;

(2) The potential to increase the long-term effectiveness of EPACT Section 409;

(3) The potential to complement on-going activities in the DOE Clean Cities program;

(4) Integration and implementation of Energy Policy Act and Clean Air Act goals at the State and local level;

(5) The cost-effective use of combined private and public funding;

(6) The motivation and involvement of multiple public and private market entities;

(7) The development of supporting alternative fuel market infrastructure and broad public access to such infrastructure (refueling, maintenance, etc.);

(8) Geographic program diversity;

(9) Promotion of all types of alternative fuels;

(10) The commercialization of innovative, efficient energy technologies;

(11) Air quality improvement; and,

(12) The advancement of economic development and domestic resource utilization.

D. Availability of Funds

Approximately $1.0 million may be available in FY 1994 funds for developing demonstration projects to support the strategic alternative fuels program. Approximately 6–10 awards may be made. Awards, if any, will be based on a combination of DOE need and project merit within each area of interest. Programs that leverage non-Federal and other Federal resources will receive priority consideration.

E. Schedule

All projects submitted by the published deadline will be reviewed during FY 1994. Any awards, thereafter, will be determined by DOE. Budget and project periods may be negotiated to fit the needs of particular projects. Award may be by means of amendment to an existing grant or by separate grant or cooperative or joint venture agreement.

F. Eligible Applicants

States and entities which are agencies of States are eligible to apply. Applicants are encouraged to propose cooperative projects or joint ventures in partnership with local government, private and non-profit sector organizations, and others.

Qualifying applications must be submitted in accordance with the following format established by DOE. An application will consist of: (1) applicant information; (2) a description of the proposed project, stating parameters and objectives, action to be undertaken and expected performance; (3) information on the sources and amount of funds necessary for program implementation, including amounts to be provided by the applicant(s); and, (4) an economic analysis to show the cost-effectiveness of the project.

G. Evaluation Criteria

All proposals submitted under this Notice of Program Interest will be evaluated in accordance of 10 CFR 600.14. Selection will be based on criteria set forth in 10 CFR 600.14, including: overall merit, objectives and probability of achievement, proposer's facilities, and qualifications of critical project personnel. In addition, proposals will be evaluated with respect to the above-listed Areas of Interest; for their uniqueness or innovation of concept; for potential replicability; and upon funding or other resources either provided by the proposer or leveraged from non-governmental sources.

H. Review Process

Evaluation will be at the Program Office level: DOE Office of Alternative Fuels. Final selection will be made by the Deputy Assistant Secretary of Transportation Technologies.

DOE reserves the right to fund, in whole or in part, any, all, or none of the proposals submitted in response to this notice.

Issued in Washington, DC, June 21, 1994.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 94–15793 Filed 6–28–94; 8:45 am]

BILLING CODE 6450–01–P

Financial Assistance Award: Roof Science Corporation

AGENCY: Department of Energy.

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy announces that pursuant to 10 CFR 600.6(a)(2), it is making a discretionary financial assistance award based on acceptance of an unsolicited application meeting the criteria of 10 CFR 600.14(e)(1) to Roof Science Corporation, under Grant Number DE-FG01–94CE15611. The proposed grant will provide funding in the amount of $99,706 for Roof Science Corporation to develop, test, and demonstrate the Whitecap cool storage roof system. The Whitecap, a patented invention, is a new roofing technology which utilizes a roof pond for cooling and protects roof membranes from temperature extremes.

SUPPLEMENTARY INFORMATION: The Department of Energy has determined in accordance with 10 CFR 600.14(f) that the application submitted by the Roof Science Corporation is meritorious based on the general evaluation required by 10 CFR 600.14(d) and that the proposed project represents a unique device for greatly diminishing the need for conventional mechanical compression cooling. The use of this device has the potential to greatly increase the lifetime of roof membranes by utilizing insulation and evaporation of water at night to provide cooling, and combined with energy savings, result in an extremely short payback period. The proposed project is not eligible for financial assistance under a recent, current or planned solicitation because the program, the Energy-Related Invention Program (ERIP), has been structured since its beginning in 1975 to operate without competitive solicitations because the authorizing legislation directs ERIP to provide support for worthy ideas submitted by the public. The program has never issued and has no plans to issue a competitive solicitation.

FOR FURTHER INFORMATION CONTACT: Please write the U.S. Department of Energy, Office of Placement and Administration, ATTN: Linda S. Sapp, HR–531.23, 1000 Independence Avenue, SW., Washington, DC 20585.

The anticipated term of the proposed grant is 18 months from the date of award.

Issued in Washington, DC, on June 22, 1994.

Scott Sheffield,

Director, Headquarters Operation Division "B", Office of Placement and Administration.

[FR Doc. 94–15786 Filed 6–28–94; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Advisory Board; Notice of Open Meeting

AGENCY: Department of Energy.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public law 92–463, 86 Stat. 770), notice is hereby given of the following Advisory Commitee meeting:

Name: Environmental Management Advisory Board.

Dates and Times: Friday, July 15, 1994 from 9:00 a.m. to 4:00 p.m.

Place: U.S. Department of Energy, Room 8E089 (Program Review Center), 1000 Independence Ave., SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: James T. Melillo, Executive Secretary, Environmental Management Advisory Board, EM–1, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–4400.

SUPPLEMENTARY INFORMATION: Purpose of the Board. The purpose of the Board is to provide the Assistant Secretary for Environmental Management (EM) with advice and recommendations on both the substance and process of the EM Programmatic Environmental Impact Statement and other EM projects, from the perspectives of affected groups and State and local Governments. The Board will help to improve the Environmental Management Program by assisting in the process of securing consensus recommendations, and providing the Department's numerous publics with opportunities to express their opinions regarding the Environmental Management Program.

Tentative Agenda

Friday, July 15, 1994

9:00 a.m. Co-Chairs Opens the Meeting

Future Direction of the Environmental Management Advisory Board Activities

12:30 p.m. Lunch

1:45 p.m. Board Business, Reports of Subcommittees

3:30 p.m. Public Comment Session

4:00 p.m. Meeting Ends

A final agenda will be available at the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Members of the public when wish to make oral statements pertaining to agenda items should contact James T. Melillo at the address or telephone number listed above. Individuals wishing to orally address the Board during the public comment session should call (800) 862–8860 and leave a message. Individuals may also register on May 16, 1994 at the meeting site. Every effort will be made to hear all those wishing to speak to the Board, on a first come, first serve basis. Those who call in and reserve item will be given the opportunity to speak first. The Board Co-Chairs are empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts and Minutes: A transcript and minutes of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on June 24, 1994.

Marcia L. Morris,

Deputy Advisory Committee, Management Officer.

[FR Doc. 94–15795 Filed 6–28–94; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. EC94–16–000, et al.]

Robbins Resource Recovery Company, Robbins Resource Recovery Partners, L.P., et al.; Electric Rate and Corporate Regulation Filings

June 22, 1994.

Take notice that the following filings have been made with the Commission:

1. Robbins Resource Recovery Company, Robbins Resource Recovery Partners, L.P.

[Docket No. EC94–16–000]

Take notice that on June 16, 1994, Robbins Resource Recovery Company and Robbins Resource Recovery Partners, L.P. filed additional information to its May 20, 1994 filing in this docket.

Comment date: July 12, 1994, in accordance with Standard Paragraph E at the end of this notice.

2. Consumers Power Company

[Docket No. EC94–18–000]

Take notice that on June 9, 1994, Consumers Power Company tendered for filing an application to sell undivided ownership interests in certain transmission facilities to the City of Lansing by its Board of Water and Light (Light).

Comment date: July 11, 1994, in accordance with Standard Paragraph E at the end of this notice.

3. Direct Electric Inc.

[Docket No. ER94–1161–000]

Take notice that Direct Electric Inc., (DIRECT) on June 1, 1994 tendered for filing an amendment to its April 15, 1994 filing in the above-referenced docket.

Comment date: July 6, 1994, in accordance with Standard Paragraph E at the end of this notice.

4. Georgia Power Company

[Docket No. ER94–1175–000]

Take notice that on June 10, 1994, Georgia Power Company submitted supplemental information in this docket.

Comment date: July 7, 1994, in accordance with Standard Paragraph E at the end of this notice.

5. Missouri Public Service, division of UtiliCorp United, Inc.

[Docket No. ER94–1345–000]

Take notice that on June 10, 1994, Missouri Public Service division of UtiliCorp United, Inc. ("MPS") tendered for filing an executed "Contract for Electric Service" with the City of Osceola, Missouri ("Osceola"), dated May 25, 1994 (the "Contract"). The Contract provides for the new points of delivery between MPS and Osceola. The rates, terms and conditions under which service will be provided are identical to those approved by the Commission in Docket No. ER91–124. MPS has requested that the Contract be made effective as soon as the necessary technical work to interconnect the two systems is complete, but in any event, no later than August 27, 1994.

A copy of the filing was served on Osceola and the Missouri Public Service Commission.

Comment date: July 7, 1994, in accordance with Standard Paragraph E at the end of this notice.

6. Georgia Power Company

[Docket No. ER94–1350–000]

Take notice that on June 13, 1994, Georgia Power Company (Georgia Power) tendered for filing a Scheduling Services Agreement between itself and the Municipal Electric Authority of Georgia (MEAG) which sets forth the procedural details and unit commitment cost recovery mechanisms for off-system transactions scheduled by MEAG. The parties intend for the Scheduling Services Agreement to become effective as of the date it is accepted for filing or approved by the Commission, and Georgia Power requests waiver of the Commission's notice requirements. Georgia Power states that it has served copies of the filing on MEAG.

Comment date: July 7, 1994, in accordance with Standard Paragraph E at the end of this notice.

7. New York State Electric & Gas Corporation

[Docket No. ER94–1353–000]

Take notice that New York State Electric & Gas Corporation (NYSEG) on June 13, 1994, tendered for filing pursuant to Section 35.12 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, as an initial rate schedule, an agreement with Niagara Mohawk Power Corporation (NMPC). The agreement provides a mechanism pursuant to which the parties can enter into separately scheduled transactions under which NYSEG will sell to NMPC and NMPC will purchase from NYSEG either capacity and associated energy or energy only as the parties may mutually agree.

NYSEG requests that the agreement become effective on June 14, 1994, so that the parties may, if mutually agreeable, enter into separately scheduled transactions under the agreement. NYSEG has requested waiver of the notice requirements for good cause shown.

NYSEG served copies of the filing upon the New York State Public Service Commission and NMPC.

Comment date: July 7, 1994, in accordance with Standard Paragraph E at the end of this notice.

8. Southwestern Electric Power Company

[Docket No. ER94–1354–000]

Take notice that on June 13, 1994, Southwestern Electric Power Company (SWEPCO) tendered for filing a transmission service agreement, dated May 2, 1994, between SWEPCO and the City of Lafayette, Louisiana (Lafayette). SWEPCO proposes reduced rates for continued transmission service through its system for up to 26 megawatts of power and associated energy from the Southwestern Power Administration (SWPA) for delivery to SWEPCO's interconnections with Central Louisiana Electric Company (CLECO) and Gulf States Utilities Company (GSU) for Lafayette's benefit.

SWEPCO requests an effective date of May 1, 1994, and, accordingly, requests waiver of the Commission's notice requirements. Copies of the filing were served upon Lafayette, SWPA, CLECO, GSU, the Arkansas Public Service Commission, the Louisiana Public Service Commission and the Public Utility Commission of Texas.

Comment date: July 7, 1994, in accordance with Standard Paragraph E at the end of this notice.

9. Southern California Edison Company

[Docket No. ER94–1355–000]

Take notice that on June 14, 1994, Southern California Edison Company (Edison) tendered for filing changes in rates for transmission service as embodied in Edison's agreements with the following entities:

Entity	FERC Rate Schedule No.
1. City of Anaheim	130, 241, 246.04, 246.06, 246.08, 246.13, 246.23
2. City of Azusa	160, 242, 242.8, 247.04, 247.06, 247.08, 247.18
3. City of Banning	159, 243, 243.8, 248.05, 248.07, 248.09, 248.17
4. City of Colton	162, 244, 244.8, 249.04, 249.06, 249.08, 249.18
5. City of Riverside	129, 245, 250.04, 250.06, 250.08, 250.10, 250.15, 250.21, 250.27

Entity	FERC Rate Schedule No.
6. City of Vernon	149, 154.07, 172, 207, 257, 263, 272, 276
7. Arizona Electric Power Cooperative.	131, 161
8. Arizona Public Service Company.	185
9. California Department of Water Resources.	38, 112, 113, 181
10. City of Burbank	166
11. City of Glendale	143
12. City of Los Angeles Department of Water and Power.	102, 118, 140, 141, 163, 188, 219
13. City of Pasadena.	158
14. Imperial Irrigation District.	259, 268
15. M-S-R Public Power Agency.	153
16. Northern California Power Agency.	240
17. Pacific Gas and Electric Company.	117, 147, 256
18. PacfiCorp	275
19. San Diego Gas and Electric Company.	151, 232, 274, 302
20. Western Area Power Administration.	120

Pursuant to these rate schedules, the rate changes result from a decrease in the rate of return from 9.94% to 9.17% authorized by the California Public Utilities Commission, effective January 1, 1994.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: July 7, 1994, in accordance with Standard Paragraph E at the end of this notice.

10. Consolidated Edison Company of New York, Inc.

[Docket No. ER94–1359–000]

Take notice that on June 14, 1994, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing a Supplement to Con Edison Rate Schedule FERC No. 112 for transmission service for New York State Electric & Gas Corporation (NYSEG). The Supplement provides for an increase in annual revenues of $38,582.28. The supplement increases the charges for transmission service from $.3879/kW-mo. to $.4028/kW-mo. Con Edison has requested waiver of notice requirements so that the Supplement can be made effective as of April 1, 1993.

Con Edison states that a copy of this filing has been served by mail upon NYSEG.

Comment date: July 7, 1994, in accordance with Standard Paragraph E at the end of this notice.

11. Orange and Rockland Utilities Inc.

[Docket No. ER94–1360–000]

Take notice that on June 14, 1994, Orange and Rockland Utilities, Inc. (Orange and Rockland) tendered for filing pursuant to the Federal Energy Regulatory Commission's order issued January 15, 1988, in Docket ER88–112–000, an executed Service Agreement between Orange and Rockland and Tesa Tape, Inc.

Comment date: July 7, 1994, in accordance with Standard Paragraph E at the end of this notice.

12. Pennsylvania Power & Light Company

[Docket No. ER94–1363–000]

Take notice that on June 15, 1994, Pennsylvania Power & Light Company (PP&L) tendered for filing an Electrical Output Sales Agreement (Agreement) between PP&L and North American Energy Conservation, Inc. (NAEC) dated May 13, 1994. The Agreement provides for the sale by PP&L to NAEC's of electrical output solely for NAEC's use in wholesale bulk power transactions.

PP&L has requested an effective date of August 14, 1994 for the Agreement. PP&L has not requested any notice period waivers.

PP&L states that a copy of its filing was provided to NAEC and to the Pennsylvania Public Utility Commission.

Comment date: July 7, 1994, in accordance with Standard Paragraph E at the end of this notice.

13. Southwestern Public Service Company

[Docket No. ER94–1365–000]

Take notice that on June 15, 1994, Southwestern Public Service Company (Southwestern) tendered for filing a Rate Schedule to be included in its wholesale electric rate tariff. The rate schedule is a contribution in aid of construction agreement between Southwestern and South Plains Electric Cooperative, Inc. (South Plains). The agreement provides for South Plains to pay Southwestern $14,134 for the construction of a 115 kV structure and attachment of certain facilities to a steel tower.

Comment date: July 7, 1994, in accordance with Standard Paragraph E at the end of this notice.

14. Vermont Yankee Nuclear Power Corporation

[Docket No. ER94–1370–000]

Take notice that on June 16, 1994, Vermont Yankee Nuclear Power Corporation (Vermont Yankee) tendered for filing, pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Commission's regulations, an amendment to the Power Contracts under which the Company sells electricity for resale to nine New England utilities. Vermont Yankee states that the rate change proposed would result in an increase in Vermont Yankee's 1993 revenue requirement of approximately $380 thousand.

Vermont Yankee states that copies of its filing have been provided to its customers and to state regulatory authorities in Vermont, New Hampshire, Maine, Massachusetts, Connecticut, and Rhode Island.

Comment date: July 7, 1994, in accordance with Standard Paragraph E at the end of this notice.

15. Northeast Utilities Service Company

[Docket No. ER94–1358–000]

Take notice that on June 14, 1994, Northeast Utilities Service Company (NUSCO) tendered for filing, on behalf of The Connecticut Light and Power Company, Western Massachusetts Electric Company, Holyoke Water Power Company (including Holyoke Power and Electric Company), and Public Service Company of New Hampshire (together, the "NU System Companies"), a First Amendment to System Power Sales Agreement (Amendment) with Hudson Light and Power Department (Hudson) and a Service Agreement between NUSCO and the NU System Companies for service under NUSCO's Short-Term Firm Transmission Service Tariff No. 5. The transaction provides Hudson with economic replacement power during the extended Seabrook refueling outage over the period June 12–July 6, 1994.

NUSCO requests that the rate schedule become effective on April 11, 1994. NUSCO states that copies of the rate schedule have been mailed or delivered to the parties to the Amendment and the affected state utility commissions.

Comment date: July 7, 1994, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs:

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE.,

Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–15803 Filed 6–28–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP94–607–000, et al.]

Texas Eastern Transmission Corporation, et al.; Natural Gas Certificate Filings

June 22, 1994.

Take notice that the following filings have been made with the Commission:

1. Texas Eastern Transmission Corporation

[Docket No. CP94–607–000]

Take notice that on June 16, 1994, Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP94–607–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon effective December 20, 1994 of the firm transportation service Texas Eastern renders for Northern Natural Gas Company (Northern) under Texas Eastern's Rate Schedule X–80, (authorized in Docket No. CP76–362–000 Commission order issued August 31, 1976), all as more fully set forth in the application on file with the Commission and open to public inspection.

Northern notified Texas Eastern of Northern's election to terminate Rate Schedule X–80 at the end of the primary term, December 20, 1994. Texas Eastern does not propose to abandon any facilities.

Comment date: July 13, 1994, in accordance with Standard Paragraph F at the end of this notice.

2. Tennessee Gas Pipeline Company

[Docket No. CP94–533–000]

Take notice that on July 21, 1994, at 10:00 am, the Commission Staff will convene a technical conference in the above captioned docket to discuss issues raised by the intervenors related to the proposal of Tennessee to abandon by sale, to Channel Industries Gas Company, either a undivided 30% interest in its "San Salvador" and its "La Rosa/Mustang Island," or alternatively, a undivided 100% interest in these facilities to Channel.

The conference will be held at the offices of the Federal Energy Regulatory Commission, 810 1st Street NE, Washington, DC 20426. All interested parties are invited to attend. However, attendance at the conference will not confer party status.

For further information, contact George Dornbusch (202) 208–0881, Office of Pipeline Regulation, Room 7102C; or Hyun Kim (202) 208–2960, Office of General Counsel, Room 4014, 825 North Capitol Street NE, Washington, DC 20426.

3. Northern Natural Gas Company

[Docket No. CP94–608–000]

Take notice that on June 16, 1994, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124, filed an application pursuant to Section 7(b) of the Natural Gas Act for an order permitting and approving the abandonment by sale to Enron Gathering Company (EGC), a wholly owned subsidiary of Enron Operations Corp., certain compression, dehydrating, delivery point and pipeline facilities, with appurtenances, located in various counties in Texas, Oklahoma, Kansas, Wyoming and Colorado and services rendered thereby. Northern also requests approval concurrent with the conveyance of the facilities to EGC to abandon certain agreements and services, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern request permission and approval to abandon by sale to EGC the jurisdictional gathering facilities upstream of the initial point of transmission which includes certain pipeline, compression, purification, and dehydration and appurtenant facilities pursuant to the Contract for Sale and Purchase of Assets dated June 14, 1994. Northern's gathering facilities are comprised of 66 gathering systems consisting of approximately 6,330 miles of various size pipelines spread throughout three separate major producing regions located in the Anadarko area of the Texas Panhandle and Oklahoma, the Hugoton area in Kansas and the Permian area of Texas and noncontiguous areas located in Wyoming and Colorado. Northern also requests permission and approval to permit Northern to transfer and assign any gathering contracts and delivery services to EGC with the transfer of the facilities.

Northern states that EGC would operate the gathering system on a non-jurisdictional basis and would assume all future operational and economic responsibility for these facilities. Northern states that the transfer would be subject to EGC assuming any of Northern's contractual obligations which may exist at the time of the effective date of the sale, and EGC would agree to provide gathering services previously provided by Northern. Northern states that EGC intends to operate the gathering facilities herein in a not unduly discriminatory manner and would negotiate with the parties receiving gathering services from Northern in each geographic area to establish the rates, terms, and conditions that would apply in each geographic area.

Comment date: July 13, 1994, in accordance with Standard Paragraph F at the end of this notice.

4. Enron Gathering Company

[Docket No. CP94–610–000]

Take notice that on June 16, 1994, Enron Gathering Company (EGC), P.O. Box 1188, Houston, Texas 77251–1188, filed a petition for declaratory order in Docket No. CP94–610–000, requesting that the Commission declare that facilities to be acquired by EGC from Northern Natural Gas Company (Northern) are gathering facilities exempt from the Commission's Regulations pursuant to Section 1(b) of the Natural Gas Act (NGA), all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

EGC states that Northern is concurrently seeking in Docket No. CP94–608–000, among other things, to abandon what it characterized as its certificated gathering facilities comprising a portion of the facilities to be conveyed to EGC. It is stated that the systems that EGC seeks to acquire comprise 66 gathering systems consisting of approximately 6,330 miles of various size pipelines spread throughout three separate major producing regions located in the Anadarko area of the Texas Panhandle and Oklahoma, the Hugoton area in Kansas and the Permian area of Texas and noncontiguous areas located in Wyoming and Colorado. It is indicated these systems with few exceptions (1) operate at low pressure typically less than 250 psig; (2) consist of short, small diameter pipe, between 2-inch for the

smallest tie lines up to 26-inch in diameter for the final segments of some gathering lines before entering the transmission compressor; (3) form a web like configuration in appearance; and (4) are located upstream of the point of compression on Northern's transmission facilities. EGC states that some of these facilities have been certificated without regard as to whether the facilities actually qualify as gathering facilities.

EGC states that it would offer gathering, treating, dehydrating, purification and compression services to producers and shippers seeking such services and would compete with the numerous other unregulated gatherers of gas in the states of Kansas, Wyoming, Colorado, Oklahoma and Texas upon the granting of this petition. EGC states it intends to operate the gathering facilities in a not unduly discriminatory manner and would offer existing customers the opportunity to continue service under mutually agreeable terms, conditions and rates on a basis consistent with services offered by other gatherers in the same geographic area.

EGC states that these facilities perform services in the production area prior to transportation in interstate commerce which are not subject to Commission jurisdiction under the NGA and that there is no longer any basis for continued Commission regulation of the facilities or the rates or terms or conditions of service to be offered by EGC upon the granting of this petition.

Comment date: July 13, 1994, in accordance with the first paragraph of Standard Paragraph F at the end of this notice.

5. Tennessee Gas Pipeline Company

[Docket No. CP94–611–000]

Take notice that on June 17, 1994, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP94–611–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a transportation service which was authorized in Docket No. CP75–276,[1] all as more fully set forth in the application on file with the Commission and open to public inspection.

Tennessee proposes to abandon an interruptible transportation service provided for Public Service Electric & Gas Company (PSE&G) under an agreement dated September 8, 1975, on file as Tennessee's FERC Rate Schedule T–24. It is stated that the service involves the transportation of natural gas from receipt points in Cameron and Acadia Parishes, Louisiana, to a delivery point located in Bergen County, New Jersey, where it is delivered to Transcontinental Gas Pipe Line Corporation for PSE&G's account. Tennessee explains that the service is no longer required and that the parties terminated the arrangement by letter agreement dated April 5, 1994.

Comment date: July 13, 1994, in accordance with Standard Paragraph F at the end of this notice.

6. Louisiana-Nevada Transit Company

[Docket No. CP94–613–000]

Take notice that on June 17, 1994, Louisiana-Nevada Transit Company (LNT), Suite 710, 16475 Dallas Parkway, Dallas, Texas 75248–2661, filed in Docket No. CP94–613–000, an application pursuant to Section 7(b) of the Natural Gas Act for an order granting permission and approval to abandon certain facilities that currently function as local distribution facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

In its application, LNT proposes to abandon several laterals off its mainline that function as local distribution facilities rather than interstate pipeline facilities. LNT states that upon abandonment it would treat such facilities as part of its distribution system, which is regulated by the states of Arkansas and Louisiana.

Comment date: July 13, 1994, in accordance with Standard Paragraph F at the end of this notice.

7. Tennessee Gas Pipeline Company

[Docket No. CP94–615–000]

Take notice that on June 20, 1994, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP94–615–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to operate an existing delivery point under Tennessee's blanket certificate issued in Docket No. CP82–413–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Tennessee proposes to operate the existing delivery point facility, located in Rockingham County, New Hampshire, that was initially constructed pursuant to Section 311(a) of the Natural Gas Policy Act of 1978 ("NGPA").

The request for authorization states that Tennessee has constructed this delivery point under Section 311(a) of the NGPA for use in the transportation of natural gas under subpart B of part 284 of the Commission's Regulations. Tennessee states that since it renders significant transportation service under its subpart G blanket certificate, it is imperative that maximum flexibility be attained so that its facilities can be used for the benefit of all customers on Tennessee's system.

Tennessee states that the delivery of volumes through the existing delivery point would not impact Tennessee's peak day and annual deliveries; that the proposed activity is not prohibited by its existing tariff; and that it has sufficient capacity to accommodate the changes proposed herein without detriment or disadvantage to Tennessee's other customers.

Comment date: August 8, 1994, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and/or permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further

[1] See 55 FPC 2105 (1976)

notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 94–15802 Filed 6–28–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. RP94–223–000]

Colorado Interstate Gas Co.; Technical Conference

June 23, 1994.

Take notice that at 10 a.m. on Tuesday, July 26, 1994, the Commission staff will convene a technical conference in the above-captioned proceedings pursuant to the Commission's order issued May 26, 1994.[1]

The technical conference will be held at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC.

Lois D. Cashell,

Secretary.

[FR Doc. 94–15730 Filed 6–28–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER94–1045–002]

Kansas City Power & Light Company; Filing and Technical Conference

June 24, 1994.

Take notice that on June 13, 1994, Kansas City Power & Light Company filed a revised transmission tariff in response to the Federal Energy Regulatory Commission's May 13, 1994 order in this proceeding. *Kansas City Power & Light Company*, 67 FERC ¶ 61,183 (1994). The Company's compliance filing is intended to provide third parties transmission services that are comparable to the uses the company makes of its system. Copies of this filing are on file with the Commission and are available for public inspection.

Any person desiring to intervene in the compliance phase of this proceeding[1] should file a motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214). All such motions should be filed on or before July 1, 1994.

Further take notice that the Commission hereby directs a technical conference to be convened in this proceeding on July 14, 1994, at 10:00 a.m., in a hearing room of the Federal Energy Regulatory Commission, 810 First Street, N.E., Washington, D.C. 20426. The sole purpose of the technical conference is to determine whether the Company's compliance filing satisfies the Commission's comparability standard and, if not, what changes are required to do so. The conference will be chaired by the Commission's electric advisory staff. All parties to this proceeding are invited to attend.

In order to help focus the matters discussed at the technical conference, parties may, but are not required to, file comments setting forth their preliminary views on whether KCP&L's compliance filing satisfies the comparability standard, and describing any issues which they believe should be addressed at the technical conference. Such comments and issues (an original and 14 copies) should be filed not later than July 8, 1994, and should not exceed 20 pages in length.

By direction of the Commission.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–15829 Filed 6–24–94; 4:41 pm]

BILLING CODE 6717–01–P

[Docket No. CP94–614–000]

Washington Natural Gas Co., as Project Operator; Application

June 23, 1994.

Take notice that on June 17, 1994, Washington Natural Gas Company, as Project Operator of the Jackson Prairie Storage Project (Washington Natural), 815 Mercer Street, Seattle, Washington 98109, filed an application pursuant to Section 7(c) of the Natural Gas Act and part 157.7(a) of the Commission's Regulations for a certificate of public convenience and necessity authorizing the upgrading of the horsepower on one compressor unit, Compressor Unit C5, installed at the Jackson Prairie Storage Project (Storage Project) located in Lewis County, Washington, all as more fully set forth in the application on file with the Commission and open to public inspection.

Washington Natural seeks authorization to upgrade the horsepower of Compressor Unit C5 at the Storage Project from the standard 1,000 hp to 1,300 hp. Washington Natural states that Compressor Unit C5 is scheduled for routine maintenance during 1994 and that the proposed upgrade will cost $26,900 if done during routine overhaul.

Washington Natural states that no increase in the certificated daily deliverability or the seasonal working gas capacity is proposed. However, Washington Natural states that the additional horsepower, along with other modifications would be needed in any future expansion of the Storage Project.

Washington Natural states that the Storage Project is an aquifer type storage facility which provides storage capacity under existing authorizations to enable Northwest Pipeline Corporation (Northwest) to provide a winter season peaking service for its customers pursuant to its Rate Schedules SGS–1, SGS–2F, and SGS–2I in its FERC Gas Tariff, Third Revised Volume No. 1. The Storage Project is connected to Northwest's mainline in Lewis County, near Chehalis, Washington.

Washington Natural further states that the Storage Project is owned in joint and equal individual interest by Washington Natural, The Washington Water Power Company, and Northwest. Washington Natural as Project Operator, operates the Storage Project pursuant to a Gas Storage Project Agreement on file with the Commission as Washington Natural's rate Schedule S–1 in its FERC Gas Tariff, First Revised Volume No. 1. The Federal Power Commission certificated Washington Natural as Project Operator of the Jackson Prairie Storage Project in Opinion No. 620; 47 FPC 1527 (1972).

Any person desiring to be heard or to make any protest with reference to said application should on or before July 14, 1994, file with the Federal Energy Regulatory Commission, 825 N. Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211)

---

[1] 67 FERC ¶ 61,230 (1994).

[1] Existing parties are, of course, parties for all phases of the case.

and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed construction and operation are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Washington Natural to appear or be represented the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 94–15731 Filed 6–28–94; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–180942; FRL–4870–6]

Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pests to the 16 States as listed below. One crisis exemption was initiated by the Louisiana Department of Agriculture and Forestry. These exemptions, issued during the month of March 1994, are subject to application and timing restrictions and reporting requirements designed to protect the environment to the maximum extent possible. EPA has denied three specific exemption requests. Information on these restrictions is available from the contact persons in EPA listed below.

DATES: See each specific and crisis exemption for its effective date.

FOR FURTHER INFORMATION CONTACT: See each emergency exemption for the name of the contact person. The following information applies to all contact persons: By mail: Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 6th Floor, CS #1, 2800 Jefferson Davis Highway, Arlington, VA, (703–308–8417).

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. Alabama Department of Agriculture and Industries for the use of norflurazon on Bermudagrass to control annual weeds; March 25, 1994, to June 15, 1994. (Libby Pemberton)

2. Arkansas State Plant Board for the use of triclopyr on rice to control hemp sesbania, morningglory, and northern jointvetch; March 17, 1994, to September 1, 1994. (Susan Stanton)

3. California Environmental Protection Agency for the use of avermectin B_1 on strawberries to control two-spotted spider mites; March 26, 1994, to March 25, 1995. (Larry Fried)

4. California Department of Pesticide Regulation for the use of methyl bromide on sweet potatoes to control nematodes; March 16, 1994, to March 15, 1995. (Libby Pemberton)

5. California Environmental Protection Agency, Department of Pesticide Regulation, for the use of maneb on walnuts to control blight; March 31, 1994, to March 30, 1995. A notice of receipt published in the **Federal Register** of March 11, 1994 (59 FR 11600). Walnuts have developed a tolerance to copper based bactericides, the only registered product for control of walnut blight. In addition, in 1993, climate conditions produced favorable conditions for bacteria to spread throughout infested orchards. Walnut farms have been unsuccessful in controlling bacterium with copper base bactericides alone, but maneb mixed with copper serves as a better control. The Agency initiated a Special Review of the ethylene bisdithiocarbamate (EBDC) fungicides on July 17, 1987, which includes maneb and a notice of final determination was issued on March 2, 1992 (57 FR 7484). (Margarita Collantes)

6. California Environmental Protection Agency for the use of bifenthrin on curcurbits (cucumbers, melons, pumpkins, and squash) to control the sweet potato whitefly; March 28, 1994, to March 28, 1995. A notice of receipt published in the **Federal Register** of March 2, 1994 (59 FR 9984). The situation was determined to be urgent and nonroutine, the registered pesticides are not providing adequate control, and significant economic loss could result. (Andrea Beard)

7. Florida Department of Agriculture and Consumer Services for the use of malathion on atemoya and sugar apples to control annona seed borer; March 22, 1994, to December 31, 1994. (Susan Stanton)

8. Georgia Department of Agriculture for the use of norflurazon on Bermudagrass to control annual weeds; March 25, 1994, to July 1, 1994. (Libby Pemberton)

9. Idaho Department of Agriculture for the use of sethoxydim on rapeseed/canola to control volunteer grains and grasses; March 17, 1994, to November 30, 1994. (Susan Stanton)

10. Idaho Department of Agriculture for the use of sethoxydim on mint to control grasses; March 25, 1994, to November 1, 1994. (Susan Stanton)

11. Louisiana Department of Agriculture and Forestry for the use of triclopyr on rice to control alligatorweed, palmleaf morningglory, and jointvetch; March 15, 1994, to August 30, 1994. (Susan Stanton)

12. Michigan Department of Agriculture for the use of oxytetracycline on apples to control fire blight; March 23, 1994, to March 22, 1995. A notice of receipt published in the **Federal Register** of March 9, 1994 (59 FR 11056). Apples developed resistance to the only registered bactericide, streptomycin. The apple growers lack effective control for fireblight and face an urgent nonroutine situation. They could suffer significant economic loss if oxytetracycline is not available. (Margarita Collantes)

13. Minnesota Department of Agriculture for the use of sethoxydim on rapeseed/canola to control volunteer grains and grasses; March 17, 1994, to June 30, 1994. (Susan Stanton)

14. Mississippi Department of Agriculture and Commerce for the use of triclopyr on rice to control redstem and morningglory; March 15, 1994, to August 15, 1994. (Susan Stanton)

15. Montana Department of Agriculture for the use of sethoxydim on mint to control grasses; March 25, 1994, to November 1, 1994. (Susan Stanton)

16. Oregon Department of Agriculture for the use of sethoxydim on mint to control grasses; March 25, 1994, to November 1, 1994. (Susan Stanton)

17. Oregon Department of Agriculture for the use of oxyfluorfen on raspberries to control primocanes; March 17, 1994, to May 15, 1994. (Larry Fried)

18. Texas Department of Agriculture for the use of triclopyr on rice to control alligatorweed and Texasweed; March 15, 1994, to August 31, 1994. (Susan Stanton)

19. Utah Department of Agriculture for the use of sethoxydim on rapeseed/canola to control volunteer grains and grasses; March 17, 1994, to November 15, 1994. (Susan Stanton)

20. Washington Department of Agriculture for the use of sethoxydim on mint to control grasses; March 25, 1994, to November 1, 1994. (Susan Stanton)

21. Washington Department of Agriculture for the use of oxytetracycline on apples to control fireblight; March 17, 1994, to March 16, 1995. A notice of receipt published in the **Federal Register** of February 9, 1994 (59 FR 6021). Apples developed resistance to the only registered bactericide, streptomycin. The apple growers lack effective control for fireblight and face an urgent nonroutine situation. They could suffer significant economic loss if oxytetracycline is not available. (Margarita Collantes)

22. Washington Department of Agriculture for the use of sethoxydim on canola to control volunteer grains and grasses; March 17, 1994, to November 30, 1994. (Susan Stanton)

23. Washington Department of Agriculture for the use of oxyfluorfen on raspberries to control primocanes; March 17, 1994, to June 1, 1994. (Larry Fried)

24. Washington Department of Agriculture for the use of chlorpyrifos on grapes to control cutworms and grape mealybugs; March 14, 1994, to August 15, 1994. (Andrea Beard)

25. Washington Department of Agriculture for the use of imidacloprid on apples to control aphids; March 17, 1994, to September 15, 1994. A notice published in **Federal Register** of January 19, 1994 (59 FR 2850). The situation was determined to be urgent and nonroutine. Adequate control was not achieved with the available alternatives, and significant economic losses were expected. (Andrea Beard)

26. Wisconsin Department of Agriculture, Trade, and Consumer Protection for the use of clomazone on cabbage to control velvetleaf; March 10, 1994, to March 9, 1995. (Margarita Collantes)

A crisis exemption was initiated by the Louisiana Department of Agriculture and Forestry on March 20, 1994, for the use of triadimefon on strawberries to control powdery mildew. This program has ended. (Susan Stanton)

EPA has denied a specific exemption request from the:

1. California Environmental Protection Agency for the use of imazethapyr on alfalfa to control creeping wartcress. The exemption was denied because an emergency does not exist. (Andrea Beard)

2. Florida Department of Agriculture and Consumer Services for the use of iprodione on tobacco to control target spot. The specific exemption was denied because of inadequate progress toward registration. (Susan Stanton)

3. Michigan Department of Agriculture for the use of imidacloprid on potatoes to control Colorado potato beetle. A notice of receipt published in the **Federal Register** of January 19, 1994 (59 FR 2851). This specific exemption was denied because the data submitted do not demonstrate that an emergency condition exists and the Michigan potato growers will suffer a significant economic loss without the use of imidacloprid. (Libby Pemberton)

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Crisis exemptions.

Dated: June 17, 1994.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

[FR Doc. 94–15411 Filed 6–28–94; 8:45 am]

BILLING CODE 6560–50–F

[PF–598; FRL–4866–3]

Pesticide Tolerance Petitions; Filings, Amendment, and Withdrawal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces two initial filings, an amendment, and a withdrawal for pesticide petitions (PPs) and food/feed additive petitions (FAPs) proposing the establishment of regulations for residues of certain pesticide chemicals in or on various agricultural commodities.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1128, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1128 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, contact the PM named in each petition at the following office location/telephone number:

Product Manager	Office location/telephone No.	Address
Cynthia Giles-Parker (PM 22)	Rm. 229, CM #2, 703-305-5440	1921 Jefferson Davis Hwy., Arlington, VA.
Joanne Miller (PM 23)	Rm. 237, CM #2, 703-305-7830	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions and a food/feed additive petition as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various agricultural commodities. EPA also announces the withdrawal without prejudice to future filing for a food/feed additive petition.

Initial Filings

1. *PP 3F4234.* Valent U.S.A. Corp., 1333 N. California Blvd., Suite 600, Walnut Creek, CA 94596-8025, proposes to amend 40 CFR part 180 by establishing a regulation to permit residues of the herbicide pentyl [2-chloro-4-fluoro-5-(1,3,4,5,6,7-hexahydro-1,3-dioxo-2*H*-isoindol-2-yl)phenoxy]acetate in or on the raw

agricultural commodities soybeans, corn, grain, corn, forage, corn, fodder, and corn, silage at 0.01 ppm. The analytical method used is gas chromatography with a thermionic-specific detector. (PM 23)

2. *PP 4F4320*. Miles, Inc., 8400 Hawthorne Rd., P.O. Box 4913, Kansas City, MO 64120, proposes to amend 40 CFR 180.450 by establishing tolerances for residues of *beta*-(4-chlorophenoxy)-*alpha*-(1,1-dimethyl)-1*H*-1,2,4-triazole-1-ethanol in or on the raw agricultural commodities barley, straw, oat, straw, and wheat, straw at 0.2 part per million (ppm). The analytical method used is gas chromatography. (PM 22)

Amended Filing

3. *PP 2F4154*. The petition appearing in the **Federal Register** of December 30, 1992 at page 62334 (57 FR 62334; Dec. 30, 1992) is amended to read as follows: Rohm & Haas Co., Independence Mall West, Philadelphia, PA 19105, proposes to amend 40 CFR part 180 by establishing a regulation to permit residues of fenbuconazole, α-[2-(4-chlorophenyl)-ethyl]-α-phenyl-1*H*-1,2,4-triazole-1-propanenitrile and its metabolites *cis*-5-(4-chlorophenyl)dihydro-3-phenyl-3-(1*H*-1,2,4-triazole-1-ylmethyl-)-2(3*H*)-furanone, and *trans*-5-(4-chlorophenyl)dihydro-3-phenyl-3-(1*H*-1,2,4-triazole-1-ylmethyl-)-2(3*H*)-furanone, in or on bananas (whole fruit) at 0.3 ppm of which not more than 0.05 ppm is contained in banana pulp. (PM 22)

Withdrawn Filing

4. *FAP 0H5595*. Rhone-Poulenc Ag Co., P.O. Box 12014, Research Triangle Park, NC 27709, proposed to amend 40 CFR 185.2700 to establish a tolerance for the plant growth regulator ethephon [(2-chloroethyl)phosphonic acid] in or on sugarcane molasses at 3.0 parts per million (ppm) and baagasse at 0.25 ppm in conjunction with an experimental use program. The original filing appeared in the **Federal Register** of May 9, 1990 (55 FR 19320), and an amendment to the petition appeared in the **Federal Register** of May 29, 1991 (56 FR 24190). This notice announces that Rhone-Poulenc Ag Co. has voluntarily withdrawn the petition without prejudice to future filing. (PM 22)

List of Subjects

Environmental protection, Agricultural commodities, Food and feed additives, Pesticides and pests.

Authority: 7 U.S.C. 136a.

Dated: June 17, 1994.

Stephen L. Johnson,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 94–15682 Filed 6–28–94; 8:45 am]

BILLING CODE 6560–50–F

[OPP–30352A; FRL–4865–7]

DowElanco Co.; Approval of Pesticide Product Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of applications submitted by DowElanco Co., to register the pesticide products DE-473 Insecticide Concentrate and NAF-46 containing an active ingredient not included in any previously registered products pursuant to the provisions of section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: By mail: Robert Brennis, Acting Product Manager (PM) 10, Registration Division (7505C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 210, CM #2, Environmental Protection Agency, 1921 Jefferson Davis Hwy, Arlington, VA 22202, (703-305–6788).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of September 8, 1993 (58 FR 47275), which announced that DowElanco Co., 9002 Purdue Road, Indianapolis, IN 4668, had submitted applications to register the pesticide products DE-473 Insecticide Concentrate and NAF-46 (EPA File Symbols 62719–EUU and 62719–EUG), containing the active ingredient hexaflumuron *N*[((3,5-dichloro-4-(1,1,2,2-tetrafluorethoxy)phenyl)amino) carbonyl)-2,6-difluoro benzamide at 97 and 0.1 percent respectively, an active ingredient not included in any previously registered products.

The applications were approved on March 10, 1994, as DE-473 Insecticide Concentrate for manufacturing use only (EPA Registration Number 62719–244) and NAF-46 for use as an integrated monitoring and baiting system to control the subterranean termites (EPA Registration Number 62719–243).

The Agency has considered all required data on risks associated with the proposed use of hexaflumuron *N*[((3,5-dichloro-4-(1,1,2,2-tetrafluorethoxy)phenyl)amino) carbonyl)-2,6-difluoro benzamide, and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the chemical and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health safety determinations which show that use of hexaflumuron *N*[((3,5-dichloro-4-(1,1,2,2-tetrafluorethoxy)phenyl)amino) carbonyl)-2,6-difluoro benzamide when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects to the environment.

More detailed information on these registrations is contained in a Chemical Fact Sheet on hexaflumuron *N*[((3,5-dichloro-4-(1,1,2,2-tetrafluorethoxy)phenyl)amino) carbonyl)-2,6-difluoro benzamide.

A copy of this fact sheet, which provides a summary description of the chemical, use patterns and formulations, science findings, and the Agency's regulatory position and rationale, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the Product Manager. The data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 1132, CM #2, Arlington, VA 22202 (703-305–5805). Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), 401 M St., SW., Washington, D.C. 20460. Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registration.

Dated: May 19, 1994.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

[FR Doc. 94–15294 Filed 6–28–94; 8:45 am]

BILLING CODE 6560–50–F

[OPP–30366; FRL–4872–2]

Mole-Med; Application To Register a Pesticide Product

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application to register the pesticide product Mole-Med, a mole repellent containing an active ingredient not included in any currently registered product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by July 29, 1994.

ADDRESSES: By mail, submit written comments identified by the document control number [OPP–30366] and the file symbol (64439–R) to: Public Response and Program Resources Branch, Field Operations Divisions (7506C), attention Product Manager (PM) 14, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Environmental Protection Agency, Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: PM 14, Robert Forrest, Rm. 219, CM #2, (703–305–6600).

SUPPLEMENTARY INFORMATION: EPA received an application from Mole-Med, P.O. Box 333, Aurora, IN 47001, to register the pesticide product Mole-Med, a mole repellent for use on lawns (File Symbol 64439–R). This product contains 66 percent of castor oil an active ingredient not included in any currently registered product pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of the application does not imply a decision by the Agency on the application.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will available in the Public Response and Program Resources Branch, Field Operation Division office at the address provided from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the FOD office (703–305–5805), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registration.

Dated: June 15, 1994.

Stephen L. Johnson,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 94–15410 Filed 6–28–94; 8:45 am]

BILLING CODE 6560–50–F

[OPP–34059; FRL–4897–2]

Reregistration Eligibility Decision Documents for Pronamide, et al; Availability for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of Reregistration Eligibility Decision documents; opening of public comment period.

SUMMARY: This Notice announces the availability of the Reregistration Eligibility Decision (RED) documents for the following active ingredients from List A, and this notice also starts a 60–day public comment period. The REDs for the chemicals listed are the Agency's formal regulatory assessments of the health and environmental data base of the subject chemicals and present the Agency's determination regarding which pesticidal uses are eligible for reregistration.

DATES: Written comments on the REDs must be submitted by August 29, 1994.

ADDRESSES: Three copies of comments identified with the docket number "OPP–34059" and the case number (noted above), should be submitted to: By mail: OPP Pesticide Docket, Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: OPP Pesticide Docket, Room 1132, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Technical questions on the listed RED documents should be directed to the appropriate Chemical Review Managers:

Pronamide - Karen Jones - (703) 308–8047

Tebuthiuron - Linda Propst - (703) 308–8165

Information submitted as a comment in response to this Notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information (CBI)." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public docket. Information not marked confidential will be included in the public docket without prior notice. The public docket and docket index will be available for public inspection in Room 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

SUPPLEMENTARY INFORMATION: The Agency has issued Reregistration Eligibility Decision (RED) documents for the pesticidal active ingredients listed above. Under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1988, EPA is conducting an accelerated reregistration program to reevaluate existing pesticides to make sure they meet current scientific and regulatory standards. The data base to support the reregistration of each of the chemicals listed above is substantially complete. EPA has determined that all currently registered products subject to reregistration containing these active ingredients are eligible for reregistration.

List A -

Case 0082	Pronamide;
Case 0054	Tebuthiuron;

To request a copy of any of the above listed RED documents, or a RED Fact Sheet, contact the OPP Pesticide Docket, Public Response and Program Resources Branch, in Room 1132 at the address given above or call (703) 305–5805.

All registrants of products containing one or more of the above listed active ingredients have been sent the appropriate RED documents and must respond to labeling requirements and product specific data requirements (if applicable) within 8 months of receipt. Products containing the other active ingredients will not be reregistered until adequate product specific data have been submitted and all necessary product label changes are implemented.

The reregistration program is being conducted under Congressionally mandated time frames, and EPA recognizes both the need to make timely reregistration decisions and to involve the public. Therefore, EPA is issuing these REDs as final documents with a 60–day comment period. Although the 60–day public comment period does not affect the registrant's response due date, it is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the RED. All comments will be carefully considered by the Agency. If any comment significantly affect a RED, EPA will amend the RED by publishing the amendment in the **Federal Register**.

List of Subjects

Environmental protection.

Dated: June 21, 1994.

Peter Caulkins,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 94–15579 Filed 6–28–94; 8:45 am]

BILLING CODE 6560–50–F

[PP 1G3930/T661; FRL 4867–9]

Abamectin; Amendment and Renewal of a Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces amendment and renewal of a temporary tolerance for the combined residues of the pesticide abamectin and its delta 8,9-isomer in or on the raw agricultural commodity apples at 0.02 part per million (ppm).

DATES: This temporary tolerance expires December 31, 1995.

FOR FURTHER INFORMATION CONTACT: By mail: George LaRocca, Product Manager (PM) 13, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 202, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, 703–305–6100.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of August 7, 1991 (56 FR 37546), stating that a temporary tolerance had been established for the combined residues of the pesticide abamectin and its delta 8,9-isomer in or on the raw agricultural commodity apples at 0.035 ppm. Merck and Co., Inc., P.O. Box 450, Three Bridges, NJ 08888–0450, has requested an amendment to (PP) 1G3930 to renew the temporary tolerance for the combined residues of the pesticide abamectin and its delta 8,9-isomer in or on the raw agricultural commodity apples at 0.02 ppm.

This tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of the experimental use permit 618–EUP–13, which is being renewed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136). The scientific data reported and other relevant material were evaluated, and it was determined that a renewal of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been renewed on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Merck and Co., Inc., must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires December 31, 1995. Residues not in excess of this amount remaining in or on the above raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12866.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects

Environmental protection, Administrative practice and procedures, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Authority: 21 U.S.C. 346a(j).

Dated: June 15, 1994.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 94–15409 Filed 6–28–94; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL MARITIME COMMISSION

Notice of 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 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 section 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.: 202–002744–078.

Title: West Coast of South America Agreement.

Parties:

A.P. Moller-Maersk

Compania Chilena de Navigacion Interoceania, S.A.
Compania Sud Americana de Vapores, S.A.
Crowley American Transport, Inc.
Flota Mercante Grancolombiana, S.A.
Lykes Bros. Steamship Co., Inc.
Medlloyd Lijnen, B.V.
Sea-Land Service, Inc.
South Pacific Shipping Company Ltd.

Synopsis: The proposed amendment revises Article 8(d) to provide that matters referred to the Principals Committee shall require the unanimous vote of all members entitled to vote.

Agreement No.: 232–011459.

Title: CMA/Tecomar Space Charter and Sailing Agreement.

Parties:

Compagnie Maritime D'Affretement Tecomar, S.A. de C.V.

Synopsis: The proposed Agreement authorizes the parties to charter space to each other, rationalize sailings, jointly enter into terminal and similar arrangements, and lease equipment to each other in the trades between ports and points in the U.S. Atlantic and Gulf and Mexican, Spanish, Portuguese and Mediterranean ports and points. The parties have requested a shortened review period.

Agreement No.: 224–200867

Title: Alabama State Docks Department/Tri-State Maritime Services, Inc.

Parties:

Alabama State Docks Department
Tri-State Maritime Services, Inc. ("Tri-State")

Synopsis: The proposed Agreement permits Tri-State to perform cargo and freight handling services at the Port of Mobile.

By Order of the Federal Maritime Commission.

Dated: June 23, 1994.

Joseph C. Polking,

Secretary.

[FR Doc. 94–15708 Filed 6–28–94; 8:45 am]

BILLING CODE 6730–01–M

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. § 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 800 North Capitol Street, N.W., Room 1046. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in section 560.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 003–011455

Title: South Seas Steamship Co./South Pacific Interline Management, Cross-Space Charter and Sailing Agreement

Parties:

South Sea Steamship Co. ("South Seas")

South Pacific Interline, Ltd. ("South Pacific")

Filing Party:

R. Frederic Fisher, Esquire

Sher & Blackwell

Suite 3600

525 Market Street

San Francisco, California 94105

Synopsis: The proposed Agreement provides for the management of South Pacific by South Seas. It also permits the parties to charter space from one another and to coordinate their vessel schedules and deployment in the trade between United States West Coast ports (including Hawaii) and inland and coastal U.S. points via such ports and ports and points in America Samoa. The parties may also agree upon rates, charges, and service contract terms in the trade, but adherence to any such agreement will be voluntary.

By Order of the Federal Maritime Commission.

Dated: June 23, 1994.

Joseph C. Polking,

Secretary.

[FR Doc. 94–15709 Filed 6–28–94; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Announcement Number 487]

Computer Image-Based Cytology Proficiency Test Pilot Program

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of funds for fiscal year (FY) 1994 for a cooperative agreement with professional organizations to provide a Computer Image-Based Cytology Proficiency Test (PT) Pilot Program.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of "Healthy People 2000," a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Preventive Services. (For ordering a copy of "Healthy People 2000," see the section "Where To Obtain Additional Information.")

Authority

This program is authorized under sections 317 and 353 of the Public Health Service Act [42 U.S.C. 247b and 263a], as amended.

Smoke-Free Workplace

The Public Health Service strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Eligible Applicants

Assistance will be provided to private non-profit professional organizations whose membership includes cytopathologists and/or cytotechnologist who: (1) are concerned with the screening and interpretation of gynecologic cytology specimens and, (2) currently use computer imaging for testing purposes, or conducting cytology proficiency testing programs or other forms of performance evaluation in cytology.

These organizations would be the most appropriate applicants because:

1. The organization's membership has the expertise and experience needed to conduct quality proficiency tests.
2. The organizations have a demonstrated interest in improving the performance of cytology professionals.
3. The direct impact of proficiency tests on the membership of the

organizations provides a strong incentive to develop effective PT programs.

4. The memberships of the organization provide a ready source of participants for the pilot project. Participation would familiarize the professionals with computer-based PT.

Availability of Funds

Approximately $200,000 is available in FY 1994 to fund up to three cooperative agreements. It is expected that the average award will be $66,000. It is expected that the awards will begin on or about September 23, 1994, and will be made for a 12-month budget and project period.

Purpose

The purpose of this cooperative agreement program is to assist professional organizations in the development of effective alternatives to the use of glass slides in cytology proficiency tests by conducting computer image-based cytology PT pilot programs.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under A. (Recipient Activities), and CDC will be responsible for the activities listed under B. (CDC Activities).

A. Recipient Activities

1. Conduct a cytology PT pilot project that is patterned after the cytology PT requirements in the Clinical Laboratory Improvement Amendment (CLIA) regulations except that:

a. computer images will be used in lieu of glass slides,

b. testing may be performed off-site (for example, at national or regional meetings) but must be supervised, wherever it is conducted,

c. samples must be classified according to the Bethesda system,

d. participation will be voluntary,

e. individual results will be compiled, but without personal identifiers.

2. Develop computer images from glass slides, the classification of which has been agreed upon by three pathologists.

3. Evaluate participant acceptance of PT using a computer instead of a microscope.

4. Identify logistical or other issues that could affect the feasibility or acceptance of using computer imaging on an ongoing basis.

B. CDC Activities

1. Assist in the review of slide sets that are selected for digitizing.

2. Collaborate on the development of the computer imaging that is created and the computer software that is used.

3. Participate in the planning of scheduled testing events.

4. Provide technical assistance in the planning of measures to assess participant acceptance.

Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria:

1. Responsiveness to the objectives of the cooperative agreement including: a) applicant's understanding of the objectives of the proposed cooperative agreement; and b) relevance of the proposal to the stated objectives. (25 points)

2. Ability to provide staff, knowledge, participants, and other resources required to perform the applicant's responsibilities of this project. The qualifications and time allocations of key personnel, facilities, equipment and other resources available for performance of this project. Curricula vitae of key personnel should be provided. (25 points)

3. Methods to be used in carrying out the responsibilities of this project. Steps to be taken in planning and implementation of this project. (25 points)

4. Schedule for accomplishing the activities of this project and methods for evaluating the accomplishments. (25 points)

5. The budget will be evaluated to the extent that it is reasonable, clearly justified, and consistent with the intended use of funds. (Not scored)

Executive Order 12372 Review

This program is not subject to the Executive Order 12372 review.

Public Health System Reporting Requirement

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.283.

Application Submission and Deadline

The original and two copies of the application Form PHS–5161–1 (Revised 7/92, OMB Control Number 0937–0189) must be submitted to Elizabeth M. Taylor, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., room 305, Mailstop E–16, Atlanta, Georgia 30305, on or before August 3, 1994.

1. Deadline: Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for submission to the objective review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Where To Obtain Additional Information

A complete program description and information on application procedures are contained in the application package. Business management technical assistance may be obtained from Marsha D. Driggans, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., room 305, Mailstop E–16, Atlanta, Georgia 30305, telephone (404) 842–6523.

Programmatic technical assistance may be obtained from MariBeth C. Gagnon, Cytotechnologist, Centers for Disease Control and Prevention (CDC), Public Health Practice Program office, Division of Laboratory Systems, 4770 Buford Highway, NE., Mailstop F–11, Atlanta, Georgia 30341–3724, telephone (404) 488–7670.

Please refer to Announcement 487 when requesting information and submitting an application.

Potential applicants may obtain a copy of "Healthy People 2000" (Full Report, Stock No. 017–001–00474–0) or "Healthy People 2000" (Summary Report, Stock No. 017–001–00473–1) referenced in the "Introduction" through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 738–3238.

Dated: June 23, 1994.

Ladene H. Newton,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 94–15739 Filed 6–28–94; 8:45 am]

BILLING CODE 4163–18–P

[Announcement Number 460]

National Institute for Occupational Safety and Health; Cooperative Agreement Program for Occupational Training of Workforce Engaged in Hazardous Waste Clean-Up Activities

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1994 funds for a cooperative agreement program to establish a National Environmental Education and Training Center for training, education, manpower development, and research to meet the nation's environmental clean-up and hazardous-waste needs. The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Occupational Safety and Health. (For ordering a copy of Healthy People 2000, see the section "Where To Obtain Additional Information.")

Authority

This program is authorized under section 21 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 670).

Smoke-Free Workplace

The Public Health Service strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Eligible Applicants

Applications may be submitted by public and private, non-profit and for-profit organizations, and governments and their agencies. Thus, universities, colleges, research institutions, hospitals, other public and private organizations, State and local health departments or their bona fide agents, federally recognized Indian tribal governments, Indian tribes or Indian tribal organizations, and small, minority- and/or women-owned businesses are eligible to apply.

Availability of Funds

Approximately $114,000 will be available in FY 1994 to fund one award. The award is expected to begin on or about September 30, 1994, for a 12-month budget period within a project period of up to five years. Funding estimates may vary and are subject to change.

Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

Purpose

The purpose of this cooperative agreement is to develop a master plan for the establishment of a National Environmental Education and Training Center. This Center will bring together labor, management, government, and academia in a cooperative effort to develop and operate a program for the training and education of a national hazardous waste clean-up workforce.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient shall be responsible for conducting activities under A. (Recipient Activities) below, and CDC/NIOSH will be responsible for conducting activities under B. (CDC/NIOSH Activities) below:

A. Recipient Activities

1. Research and report on training curricula, evaluation, and certification.
2. Conduct site visits to top programs in curriculum development, training, education, and research.
3. Conduct faculty workshops to develop academic programs and identify gaps in traditional degree programs.
4. Conduct a national conference to explore linkages between vocational environmental training and degree programs, teaching across the curriculum, and career preparedness within traditional and non-traditional academic programs.
5. Conduct and disseminate research in the following areas:
   a. Manpower development and skills;
   b. Worker and community health and safety;
   c. Technology assessment; and
   d. Environmental engineering controls.
6. Identify possible partners for research activities.

B. CDC/NIOSH Activities

1. Provide technical assistance through site visits and correspondence in the areas of program development, implementation, maintenance, and priority setting related to the cooperative agreement.
2. Provide collaboration for appropriate aspects of the program.
3. Assist in the dissemination of relevant health and safety information to the employers and employees involved in hazardous waste clean-up programs.

Evaluation Criteria

The application will be reviewed and evaluated according to the following criteria:

1. Responsiveness to purpose of the cooperative agreement program, including applicant's understanding of purpose of the cooperative agreement, and relevance of proposal to purpose of the cooperative agreement. (20%)
2. Feasibility of meeting proposed goals of the cooperative agreement, including proposed schedule for initiating and accomplishing each of the activities and proposed methods for evaluating the accomplishments. (20%)
3. Strength of program design in addressing distinct characteristics and needs of the workforce engaged in hazardous waste clean-up programs. (30%)
4. Efficiency of resources and novelty of program including the efficient use of existing and proposed personnel, with assurances of a major time commitment of the project director to the program and the novelty of the program approach. (20%)
5. Training and experience of Program Director and staff with training or experience sufficient to accomplish the proposed program. (10%)
6. Budget evaluation to the extent it is reasonable, clearly justified, and consistent with the use of funds. (Not Scored)

Executive Order 12372 Review

This program is not subject to the Executive Order 12372.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number for this program is 94.262.

Other Requirements

Paperwork Reduction Act

Projects that involve the collection of information from 10 or more individuals and funded by this cooperative agreement will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Human Subjects

If the proposed project involves research on human subjects, the applicant must comply with the Department of Health and Human

Services Regulations, 45 CFR Part 46, regarding the protection of human subjects. Assurance must be provided to demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and form provided in the application kit.

In addition to other applicable committees, Indian Health Service (IHS) institutional review committees also must review the project if any component of IHS will be involved or will support the research. If any Native American community is involved, its tribal government must also approve that portion of the project applicable to it.

Application Submission and Deadline

The original and two copies of the application PHS Form 5161-1 (Revised 7/92, OMB Control Number 0937-0189) must be submitted to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE, Room 300, Mailstop E-13, Atlanta, GA 30305, on or before August 15, 1994.

1. Deadline: Applicants shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date, or

(b) Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailings.)

2. Late Applicants: Applications which do not meet the criteria in 1.(a) or 1.(b) above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where To Obtain Additional Information

To receive additional written information, call (404) 332-4561. You will be asked to leave your name, address, and telephone number and will need to refer to Announcement Number 460. You will receive a complete program description, information on application procedures, and application forms.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Oppie M. Byrd, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E-13, Atlanta, GA 30305, or by calling (404) 842-6630. Programmatic technical assistance may be obtained from Richard W. Niemeier, Ph.D., Division of Standards Development and Technology Transfer, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC), 4676 Columbia Parkway, Mailstop C14, Cincinnati, Ohio 45226, or by calling (513) 533-8302.

Please refer to Announcement Number 460 when requesting information and submitting an application.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017-001-00474-0) or Healthy People 2000 (Summary Report, Stock No. 017-001-00473-1) referenced in the "Introduction" through the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325, telephone (202) 783-3238.

Dated: June 23, 1994.

Linda Rosenstock,

Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC).

[FR Doc. 94-15741 Filed 6-28-94; 8:45 am]

BILLING CODE 4163-19-P

[Announcement Number 474]

RIN 0905-ZA72

1994 National Breast and Cervical Cancer Early Detection Program

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of funds in fiscal year (FY) 1994 for cooperative agreements to initiate State-based comprehensive breast and cervical cancer early detection programs.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of "Healthy People 2000," a PHS-led national activity to reduce morbidity and mortality and to improve the quality of life. This announcement is related to the priority area of Cancer. (To order a copy of "Healthy People 2000," see the section WHERE TO OBTAIN ADDITIONAL INFORMATION.)

Authority

This program is authorized by Sections 1501 and 1509 [42 U.S.C. 300k and 42 U.S.C. 300n-5] of the Public Health Service Act, as amended by Pub. L. 101-354, the Breast and Cervical Cancer Mortality Prevention Act of 1990.

Smoke-Free Workplace

The Public Health Service strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Eligible Applicants

Assistance will be provided only to the official health departments of States or their bona fide agents or instrumentalities. This includes the District of Columbia, American Samoa, the Commonwealth of Puerto Rico, the Virgin Islands, the Federated States of Micronesia, Guam, the Northern Mariana Islands, the Republic of the Marshall Islands, and the Republic of Palau. Excluded are the States of:

a. Maryland, Missouri, Nebraska, and North Carolina, which were funded in January 1992, under Program Announcement 121 entitled Early Detection and Control of Breast and Cervical Cancer.

b. California, Michigan, New Mexico, and Texas, which were funded in July 1991, under Program Announcement 121 entitled Early Detection and Control of Breast and Cervical Cancer.

c. Colorado, Minnesota, South Carolina, and West Virginia, which were funded in July 1991, under Program Announcement 122 entitled Early Detection and Control of Breast and Cervical Cancer.

d. New York, Pennsylvania, Ohio, Wisconsin, Massachusetts, and Washington, which were funded in September 1993, under Program Announcement 321 entitled Early Detection and Control of Breast and Cervical Cancer.

States currently receiving CDC funds under Program Announcement 221 entitled Breast and Cervical Cancer Core Capacity are eligible to apply for funding under this announcement. However, if funded under this announcement, funding under Program Announcement 221 will cease at the end of the current 12-month budget period since the activities performed under that announcement are

duplicated under this announcement. If not funded under this announcement, funding will continue as stated in the most recent award.

Availability of Funds

Approximately $8,000,000 is available in FY 1994 to fund approximately five states. It is expected that the average award will be $1,250,000 ranging from $750,000 to $2,000,000. It is expected that the awards will begin on or about September 29, 1994, and will be made for 12-month budget periods within a project period of up to 5 years. Funding estimates outlined above may vary and are subject to change. Continuation awards within the approved project period will be made on the basis of satisfactory progress, an acceptable application, and the availability of funds.

At the request of the applicant, Federal personnel may be assigned to a project in lieu of a portion of the financial assistance.

Purpose

The purpose of these awards is to establish a comprehensive public health approach to reduce breast and cervical cancer morbidity and mortality through screening, referral and follow-up, public education, professional education, quality assurance, surveillance and evaluation, coalition-building and cancer plan development, and to pay for the screening of women who are unable to afford these services. Special attention must be given to ensure the participation of women who are low-income, uninsured, underinsured, racial minorities, Native American, and coordination with the Health Resources and Services Administration (HRSA) primary care centers and Title X Family Planning organizations.

Program Requirements

In accordance with Pub. L. 101–354, an award may not be made unless the State involved agrees that:

1. Not less than 60 percent of cooperative agreement funds will be expended for screening, appropriate referral for medical treatment, and, to the extent practicable, the provision of appropriate follow-up services. The remaining 40 percent will be expended to support public education, professional education, quality assurance, surveillance, program evaluation, and related program activities. Section 1503(a)(1) and (4).

2. The screening, follow-up and referral services are initiated by the end of first budget year with the remaining activities of a comprehensive breast and cervical cancer early detection program (public education, professional education, quality assurance, surveillance and program evaluation, coalition building, and cancer plan development) fully operational by the end of the second budget year. Section 1503(a)(1) and (3).

3. Cooperative agreement funds will not be expended to provide inpatient hospital or treatment services. Section 1504(g). Treatment is defined as any service recommended by a clinician, including medical and surgical intervention provided in the management of a diagnosed condition.

4. Not more than 10 percent of funds will be expended annually for administrative expenses. These administrative expenses are in lieu of and replace indirect costs. Section 1504(f).

5. Matching funds are required from non-Federal sources in an amount not less than $1 for each $3 of Federal funds awarded under this program. Section 1502 (a) and (b)(1), (2), and (3).

6. If a new, or improved, and superior screening procedure becomes widely available and is recommended for use, this superior procedure shall be utilized in the program. Section 1503(b).

An award may not be made unless the State Medicaid program or plan provides coverage for:

1. In the case of breast cancer, a clinical breast examination and screening mammography.

2. In the case of cervical cancer, both a pelvic examination and Pap smear screening. Section 1502A.

In conducting activities to achieve the purpose of this program the recipient shall be responsible for the activities under A., below, and CDC shall be responsible for conducting activities under B., below:

A. Recipient Activities

1. Establish a system for screening women for breast and cervical cancer as a preventive health measure. Section 1501(a)(1).

The intent of this program announcement is to increase the utilization of screening services for breast and cervical cancer among all groups of women in the State, with special efforts to reach those who are age 50 years and older, low-income, uninsured, underinsured, racial and ethnic minorities, and Native Americans.

a. Ensure that screening procedures are available for both breast and cervical cancer and provided to women participating in the program, including a clinical breast exam, mammography, pelvic exam, and Pap smear. Section 1503(a)(2)(A) and (B).

Screening services should be made available according to the following guidelines:

(1) Only women age 40 years and older will be eligible for screening mammography tests; however, priority for services should be given to those age 50 and older because of the proven efficacy of screening among these women. At least 75 percent of women screened should be age 50 years and older.

(2) Screening will include a clinical breast examination and mammography according to the following guidelines:

(i) Breast Clinical Examination: Annually for all women.

(ii) Mammography: Every 2 years for women age 40–49 years. Every year for women age 50 years and older.

(3) All women who are, or who have been sexually active, or who have reached age 18 years, should have a pelvic examination and a Pap smear test annually.

(4) After a woman has had three or more consecutive normal annual examinations, the Pap smear test may be performed less frequently at the discretion of her personal physician.

(5) For diagnostic services following an abnormal screening result, cooperative agreement funds may be expended for the following services by using the same eligibility criteria required for screening:

(i) Cervical Cancer—repeat Pap smear, colposcopy and colposcopy-directed biopsy.

(ii) Breast Cancer—repeat screening mammogram, diagnostic mammogram, fine needle aspiration, and office visits for clinical breast examination and evaluation.

b. Provide priority for screening, follow-up, and referral services to women who are low-income and underserved. Section 1504(a).

An award may not be made under this announcement unless the State involved agrees to give priority to the provision of screening, follow-up, and referral services to women who are underserved and low income.

c. Establish breast and cervical cancer screening services statewide. Section 1504(c)(1).

Funds may not be awarded under this announcement, unless the State involved agrees that services and activities will be made available throughout the State, including availability to members of any Indian tribe or tribal organization (as such terms are defined in Section 4 of the Indian Self-Determination and Education Assistance Act).

CDC may waive the above requirement if it is determined that

compliance by the State would result in an inefficient allocation of resources with respect to carrying out a comprehensive breast and cervical cancer early detection program as described in Section 1501(a), Section 1504(c)(2).

d. Provide allowances for items and services reimbursed under other programs. Section 1504(d)(1) and (2).

Funds may not be awarded under this announcement, unless the State involved agrees that funds will not be expended to make payment for any item or service that will be paid or can reasonably be expected to be paid by:

(1) Any State compensation program, insurance policy, or Federal or State health benefits program.

(2) An entity that provides health services on a prepaid basis,

e. Establish a schedule of fees/charges for services. Section 1504(b)(1), (2), and (3).

Funds may not be awarded under this announcement, unless the State involved agrees that if charges are to be imposed for the provision of services or program activities, the fees/charges for allowable screening and follow-up services will be:

(1) Made according to a schedule of fees that is made available to the public. Section 1504(b)(1).

(2) Adjusted to reflect the income of the woman screened. Section 1504(b)(2).

(3) Totally waived for any woman with an income of less than 100 percent of the official poverty line as established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with Section 673(2) of the Omnibus Budget Reconciliation Act of 1981. Section 1504(b)(3).

Additionally, the schedule of fees/charges should not exceed the maximum allowable charges established by the Medicare Program administered by the Health Care Financing Administration (HCFA). Fees/charges for services covered by Medicare may vary by location, thus, States should determine the appropriate reimbursement rates for their areas and use them as the maximum allowance. Fee/charge schedules should be developed in accordance with guidelines described in 42 CFR Part 405.534 which implements Section 4163 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508), which provides limited coverage for screening mammography services.

2. Provide appropriate referrals for medical treatment of women screened in the program and ensure, to the extent practicable, the provision of appropriate follow-up services. Section 1501(a)(2).

A system for the follow-up and referral of women whose screening test results are abnormal or suspicious is an essential component of any comprehensive breast and cervical cancer early detection program.

a. Establish a system for the appropriate follow-up and referral of women with abnormal or suspicious screening tests.

Referral systems should include the regular updating of information on local resources available in the community to which health care providers can refer women for additional diagnostic and treatment services. Clients needing treatment services should be counseled about their eligibility for public-supported third party payment and reimbursement programs.

b. Develop and implement a tracking system for women screened in the breast and cervical cancer early detection program. Section 1501(a)(6).

Tracking the women screened is essential to ensure that those who have abnormal results receive appropriate and timely follow-up for repeat screening diagnostic procedures and treatment. Tracking also includes reminders and outreach to women with normal results to return for regular screening. A useful tracking system is one that can be effectively integrated into the State's health care delivery system for the breast and cervical cancer early detection program. The tracking system should be capable of documenting the outcome of individual screening tests, provide information on needed follow-up, and assure confidentiality. Additionally, the capability of monitoring the tracking system's timeliness, accuracy, and practical usefulness is important.

To meet the intent of Pub. L. 101–354 in ensuring the appropriate follow-up of women with abnormal screening results, the State's tracking system must include information on screening location (e.g., State, county, city), demographic characteristics (e.g., race, date of birth), and, screening procedures and results (e.g., mammography, Pap smear) for all women in the program. For women identified with abnormal screening results, additional information on diagnostic procedures and diagnoses (e.g., colposcopy), and treatment (e.g., date initiated) must be included.

In collaboration with CDC, the currently funded comprehensive screening States have compiled a list of some of the information necessary to ensure the appropriate follow-up of women. This list is available for the use of States awarded new funding under this announcement.

3. Develop and disseminate public information and education programs for the early detection and control of breast and cervical cancer. Section 1501(a)(3).

Public information and education includes the systematic design and sustained delivery of clear and consistent health messages, especially to older women, using a variety of creative methods that contribute to the early detection of breast and cervical cancer. Successful public education programs are those that increase the knowledge, attitudes, and practices of the targeted population related to breast and cervical cancer screening.

4. Improve the education, training, and skills of health professionals (including allied health professionals) in the detection and control of breast and cervical cancer. Section 1501(a)(4).

Health care providers and allied health professionals (including, but not limited to, nurse practitioners, physician's assistants, registered nurses, radiologists, mammography technicians,) play a central and key role in assuring that women are screened at appropriate intervals, screening tests are performed optimally, and that women with abnormal test results receive timely and appropriate diagnostic follow-up and treatment. A health care provider education program effectively transmits information on the efficacy and appropriate use of screening procedures, influences professional practices including the improved performance of screening procedures, improves quality of test interpretations, and promotes the timely diagnostic and treatment follow-up for abnormal results.

5. Establish mechanisms through which the State can monitor the quality of screening procedures for breast and cervical cancer, including the interpretation of such procedures. Section 1501(a)(5).

Cooperative agreement funds may not be awarded under Section 1501, Pub. L. 101–354, unless the State involved agrees to assure the implementation of quality assurance procedures for mammography and cytological screening for breast and cervical cancer. Section 1503 (c) and (d).

a. Develop and implement a quality assurance system for breast cancer screening.

The mammography services provided to women screened in the program must be conducted in accordance with the following guidelines issued by the Secretary of Health and Human Services. Section 1503(e):

(1) Facilities shall follow the rules for Medicare coverage of screening

mammography as promulgated by the HCFA.

(2) Mammography units shall be accredited by the American College of Radiology (ACR) or must have applied for accreditation for the unit(s) that will be used for screening or diagnostic mammography. The Mammography Quality Standards Act of 1992 requires similar accreditation for all mammography units in the United States by October 1994.

(3) Facilities shall undergo an annual performance evaluation by a medical physicist who is board certified by the American Board of Radiology (ABR) or who meets the criteria of the ACR for a medical physicist in mammography. The mammography facility must also undergo an annual compliance inspection by an individual from the State Radiation Control Program.

(4) Facilities shall use the American College of Radiology Breast Imaging Reporting System for reporting the interpretation of mammographic examinations.

(5) A report of the results of a mammography performed on a woman screened in the program shall be placed in her permanent medical records that are maintained by her health service provider.

b. Develop and implement a quality assurance system for cervical cancer screening.

The laboratory services provided to women in the program as part of cytological screening must be conducted in accordance with the following guidelines issued by the Secretary of Health and Human Services. Section 1503(e):

(1) Facilities shall meet the standards and regulations promulgated by the HCFA implementing the Clinical Laboratory Improvement Act (CLIA) of 1988.

(2) All cytological screening is required to be done on the premises of a qualified laboratory.

(3) A report of the results of cervical cancer screening performed on a woman through this program shall be placed in her permanent medical records that are maintained by her health service provider.

6. Evaluate activities conducted under Recipient Activities 1 through 5, above, through appropriate surveillance or program-monitoring activities. Section 1501(a)(6).

Measuring the impact of program activities on the screening behavior of women, and on morbidity and mortality, is important for the identification of effective intervention strategies for the early detection of breast and cervical cancer. Equally important is process evaluation or the assessment of factors that contributed to the successful or unsuccessful establishment and implementation of a comprehensive program and specific program activities.

a. Implement a surveillance system to monitor and evaluate program activities.

Monitoring the distribution and determinants of breast and cervical cancer incidence and mortality is necessary to effectively evaluate a comprehensive early detection program. To do this, a surveillance system should:

(1) Collect statewide, population-based information on the demographics, incidence, staging at diagnosis, and mortality from breast and cervical cancer.

(2) Identify segments of the population at higher risk for disease and for the failure to be screened.

(3) Identify factors contributing to the disease burden, such as behavioral risk factors and limited or inequitable access to early detection and treatment services.

(4) Monitor the number and characteristics of women screened in the program and the outcome of screening by analyzing data from the State's tracking system.

(5) Monitor screening resources, including the number of available mammography facilities, cytology laboratories, and providers of cytology screening.

b. Develop and implement an evaluation plan for each program component.

The design of each program component should ensure that there can be meaningful process and outcome evaluation. The evaluation plan should assess the implementation and effectiveness of each program component including:

(1) screening,
(2) follow-up and referral,
(3) public education,
(4) professional education,
(5) quality assurance, and
(6) surveillance and program evaluation.

At a minimum, the evaluation plan should identify what program activities will be evaluated, the process and outcome indicators to be measured, how they will be measured, the proposed time lines, and resources needed. Specific evaluation activities should include but not be limited to:

(1) An inventory of specific services provided with cooperative agreement funds.

(2) A description of who and how many women received services, including demographic information such as age, race, and ethnicity.

(3) An assessment of the referral system including the number of women referred for diagnostic and treatment services, number who received services, and the capacity of the system in identifying resources in the community and assisting women to access available services.

(4) An assessment of the availability and accessibility of breast and cervical cancer screening services and an estimation of the extent of unmet needs, particularly for women who are age 50 years and older, underserved, low-income, racial and ethnic minorities, and Native Americans.

(5) An assessment of the planning, development, implementation, and accomplishment of program activities (e.g., goals, objectives, timelines, recruiting, hiring, and retaining staff; training staff; establishing and maintaining contracts with provider agencies, and assuring the quality of contractor performance).

(6) An assessment of changes in participant and provider knowledge, attitudes, behaviors, and practices with respect to screening for breast and cervical cancer.

7. Ensure the coordination of services and program activities with other similar programs and establish a broad-based coalition to advise and support the program. Section 1504(e).

Coordination with other similar programs maximizes the availability of services and program activities, promotes consistency in screening procedures and educational messages, and reduces duplication. An award may not be made under this program announcement unless the State agrees that the services and activities provided in this program are coordinated with other Federal, State, and local breast and cervical cancer programs. Section 1504(e).

Linkages should be established with federally funded programs such as the HRSA primary care centers and community health centers, Title X Family Planning programs, State Offices for Aging and Minority Health, the Indian Health Service (IHS), especially in States with Native American populations, and appropriate State and local agencies.

Additionally, the success of a comprehensive breast and cervical cancer early detection program is improved by broad-based support in the community and active public and private sector involvement. Coalition members bring valuable knowledge, skills, other expertise, and financial resources to the program as well as provide access to populations of women who need to be screened. Effective

coalitions are diverse, include active minority participation and have well-defined objectives, roles, responsibilities, and strong leadership.

Linkages and active collaboration are strongly encouraged with public and private sector organizations such as the American Cancer Society (ACS), Young Women's Christian Association (YWCA) and the American Association of Retired Persons (AARP), and survivors of breast and cervical cancer, local women's groups, community leaders, and other agencies and businesses in the community that provide health care and related support services to women. Interagency agreements to collaborate on joint breast and cervical cancer early detection activities are encouraged especially with the divisions of ACS located in States. The evaluation of coalition activities to ensure the effective participation of members is encouraged.

8. Develop and implement a breast and cervical cancer control plan.

The success of a comprehensive breast and cervical cancer early detection program is increased by the existence of a well-thought-out, integrated, and realistic plan to address these disease conditions among all women, especially those who are low income, uninsured, underinsured, racial and ethnic minorities, and Native Americans. A comprehensive breast and cervical cancer early detection program should be guided by such a plan, developed with coalition involvement, and include an ongoing assessment of disease burden, unmet needs, and barriers to screening; measurable objectives; proposed implementation strategies; target dates for their achievement; and the identification of responsible individuals, organizational units, or agencies.

B. CDC Activities

1. Convene a meeting of the funded States for information sharing, problem solving, and training at least annually.

2. Provide funded States with ongoing consultation and technical assistance to plan, implement, and evaluate each component of the comprehensive program as described under Recipient Activities above. Consultation and technical assistance is defined as advice in the: (a) interpretation of current scientific literature related to the early detection of breast and cervical cancer; (b) practical application of Pub. L. 101–354 and nationally recognized clinical and quality assurance guidelines for the assessment and diagnosis of breast and cervical cancer including the establishment and maintenance of a comprehensive screening program; (c) design and implementation of public education, professional education, coalition building, and cancer plan development activities; (d) evaluation of each program component (process and outcome) through the analysis and interpretation of surveillance and other relevant data; and (e) overall program management including compliance with cooperative agreement requirements.

3. Conduct site visits to assess program progress and mutually resolve problems, as needed.

4. Provide consultation for effective program management.

5. At the request of the applicant, assign Federal personnel to a project in lieu of a portion of the financial assistance. Section 1507(b)

Evaluation Criteria (Total 100 Points)

Applications will be reviewed and evaluated according to the following criteria:

1. Background and Need

The extent of the disease burden and the need among the targeted population as measured by: a) the State's breast and cervical cancer age-adjusted mortality rates averaged over 2 and 5 years, respectively, and ranking nationally;

b) the incidence rates of these conditions; c) the number of women in the State, including minority and Native American women, especially those who are low income, uninsured, or underinsured; and d) existing access and barriers to early detection services, (e.g., social, financial, geographic). (20 points—5 points for each subpart)

2. Operational Plan

The feasibility and appropriateness of the Operational Plan to provide: a) screening services for breast and cervical cancer (15 points); b) follow-up and referral for medical treatment for women with malignant and premalignant conditions, and tracking system (15 points); c) public education (5 points); d) professional education (5 points); e) a quality assurance system (10 points); and f) a surveillance system and evaluation strategies (10 points). (60 points allocated as noted above)

3. Coalition and Community Involvement

The extent to which the applicant proposes to coordinate activities with other Federal, State and local cancer programs, other appropriate agencies, and private providers as evidenced by letters of support and proposed coalition development and coalition participation in program planning. (5 points)

4. Breast and Cervical Cancer Control Plan

The feasibility and appropriateness of the applicant's current breast and cervical cancer control plan or their proposal to develop such a plan with coalition input and the commitment to use it for program development and management. (5 points)

5. Capability

The extent to which the applicant appears likely to succeed in implementing the proposed activities as measured by:

(a) relevant past experiences; (b) feasible program objectives; (c) a realistic timetable for program implementation; (d) a sound management structure; and (e) the qualifications of management and technical staff, including the appropriateness of their proposed roles and responsibilities or job descriptions. (10 points—2 for each subpart noted above)

6. Budget and Justification

The extent to which the proposed budget is adequately justified, reasonable, and consistent with this program announcement. (Not weighted)

Recipient Financial Participation

Matching funds are required from non-Federal sources in an amount not less than $1 for each $3 of Federal funds awarded under this program. Section 1502(a) and (b)(1), (2), and (3).

The matching funds may be in cash or its equivalent in in-kind or donated services and include equipment, fairly evaluated. The contributions may be made directly or through donations from public or private entities.

In some States, non-Federal funds from a variety of sources may presently be used to support one or more of the breast and cervical cancer early detection activities described in this program announcement. Non-Federal funds in excess of the average amount expended during the 2 years preceding the first fiscal year that a State applies for funding may be used as match. Supplantation of existing program efforts funded through other Federal or non-Federal sources is unallowable. Applicants may also include as State matching funds, any non-Federal amounts expended pursuant to Title XIX of the Social Security Act for the screening, follow-up and referral of women for breast and cervical cancer subject to the limitations of section 1502(b)(3).

Matching funds may not include: (1) the payment for treatment services or the donation of treatment services (see

note below); (2) services assisted or subsidized by the Federal government; or (3) the indirect or overhead costs of an organization.

Note: Treatment is defined as any service recommended by a clinician including medical and surgical intervention provided in the management of a diagnosed condition.

Executive Order 12372 Review

Applications are subject to Intergovernmental Review of Federal Programs as governed by Executive Order 12372. This order sets up a system for State and local review of proposed Federal assistance applications. Applicants should contact their State Single Point of Contact (SPOC) as early as possible to alert them to expected announcements of cooperative agreement funds and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each State. A current list of SPOCs is included in the application kit. If SPOCs have any State process recommendations on applications submitted to CDC, they should forward them to Edwin L. Dixon, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 314, Mailstop E–18, Atlanta, GA 30305, no later than 60 days after the application due date. The granting agency does not guarantee to "accommodate or explain" the State process recommendations it receives after that date.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 93.919.

Other Requirements

Paperwork Reduction Act

Projects which involve the collection of information from ten or more individuals and funded by cooperative agreement will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Human Subjects

If the proposed project involves research on human subjects, the applicant must comply with the Department of Health and Human Services Regulations (45 CFR Part 46) regarding the protection of human subjects. Assurance must be provided to demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and form provided in the application kit.

Application Submission and Deadline

The Program Announcement and application kit were sent to all eligible applicants in June 1994.

Where To Obtain Additional Information

A complete program description, information on application procedures, an application package, and business management technical assistance may be obtained from Gordon R. Clapp, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 314, Mailstop E–18, Atlanta, GA 30305, telephone (404) 842–6508.

Programmatic technical assistance may be obtained from Faye L. Wong, M.P.H., R.D, Chief, Program Operations Section, Program Services Branch, Division of Cancer Prevention and Control, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, NE., Mailstop K–57, Atlanta, GA 30341–3724, telephone (404) 488–4880 and FAX (404) 488–4727. Please refer to Program Announcement Number 474 when requesting information and submitting an application.

Potential applicants may obtain a copy of "Healthy People 2000" (Full Report, Stock No. 017–001–00474–0) or "Healthy People 2000" (Summary Report, Stock No. 017–001–00473–1) referenced in the **Introduction** through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 783–3238.

Dated: June 23, 1994.

Ladene H. Newton,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 94–15748 Filed 6–28–94; 8:45 am]

BILLING CODE 4163–18–P

[Announcement Number 442]

RIN 0905–ZA41

1994 National Breast and Cervical Cancer Early Detection Program American Indian Initiative

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1994 funds for new competing cooperative agreements to initiate tribal and American Indian community-based comprehensive breast and cervical cancer early detection programs for American Indians.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of "Healthy People 2000," a PHS-led national activity to reduce morbidity and mortality and to improve the quality of life. This announcement relates to the priority area of Cancer. (To order a copy of "Healthy People 2000," see the section Where To Obtain Additional Information.)

Authority: This program is authorized by Sections 1501, 1507 and 1509 [42 U.S.C. 300k and 42 U.S.C. 300n–3] of the Public Health Service Act, as amended by Pub. L. 101–354, and Public Law 103–183, the Breast and Cervical Cancer Mortality Prevention Act of 1990.

Smoke-Free Workplace

The Public Health Service strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Eligible Applicants

Eligible applicants are Indian tribes and tribal organizations. The target populations for this announcement are the approximately 1.5 million American Indian, and Alaska Native women living in U.S. territory.

Indian tribe means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or group or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Tribal organization means the elected governing body of any Indian tribe or any legally established organization of Indians which is controlled by one or more such bodies or by a board of

directors elected or selected by one or more such bodies (or elected by the Indian population to be served by such organization) and which includes the maximum participation of Indians in all phases of its activities.

CDC considers it essential, where possible, for multiple and key American Indian community organizations and groups to work collectively in the design and implementation of this program. CDC recognizes the heterogeneity of American Indian women and their unique status of being from Sovereign Nations.

States and territories were recognized as eligible applicants for funding for breast and cervical cancer early detection programs under Program Announcement 321.

Availability of Funds

Approximately $1,500,000 is available in FY 1994 to fund approximately six organizations. It is expected that the average award will be $250,000, ranging from $200,000 to $300,000. It is expected that awards will begin on or about September 15, 1994, and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may vary and are subject to change.

Continuation awards within the project period will be based on satisfactory progress and the availability of funds.

Purpose

The purpose of these awards is to establish a comprehensive public health approach to reduce breast and cervical cancer morbidity and mortality through screening, follow-up and referral, public education, professional education, quality assurance, surveillance and evaluation, coalition-building and cancer plan development, and to pay for the screening of women who are unable to afford these services, i.e., uninsured, underinsured, and geographically isolated American Indian populations. Program activities should be coordinated with IHS, Health Resources and Services Administration (HRSA) primary care centers, State health departments and Title X Family Planning organizations.

Program Requirements

In accordance with Sections 1501–1509 of the Public Health Service Act, an award may not be made unless the tribe or tribal organization involved agrees that:

1. Not less than 60 percent of cooperative agreement funds will be expended for screening, appropriate referral for medical treatment, and, to the extent practicable, the provision of appropriate follow-up services. The remaining 40 percent will be expended to support public education, professional education, quality assurance, surveillance, and program evaluation. Section 1503(a) (1) and (4).

2. The screening, follow-up and referral services are initiated by the end of first budget year with the remaining activities of a comprehensive breast and cervical cancer early detection program (public education, professional education, quality assurance, surveillance and program evaluation) fully operational by the end of the second budget year. Section 1503(a) (1) and (3).

3. Cooperative agreement funds will not be expended to provide inpatient hospital or treatment services. Section 1504(g). Treatment is defined as any service recommended by a clinician, including medical and surgical intervention provided in the management of a diagnosed condition.

4. Not more than 10 percent of funds will be expended annually for administrative expenses. These administrative expenses are instead of and replace indirect costs. Section 1504(f).

5. Matching funds are required from non-Federal sources in an amount not less than $1 for each $3 of Federal funds awarded under this program. Section 1502.

6. If new, or improved, and superior screening procedures become widely available and are recommended for use, this superior procedure shall be utilized in the program instead of the procedures described in 1503(a)(2). Section 1503(b).

7. The tribe or tribal organization will establish such fiscal controls and fund accounting procedures as may be necessary to ensure the proper disbursal of, and accounting for, amounts received by the tribe or tribal organization under this announcement. Section 1504(h)(1).

8. Upon request, the tribe or tribal organization will provide records maintained for fiscal control and the accounting of funds to the Secretary or the Comptroller of the United States for purposes of auditing the expenditures of the cooperative agreement received under this announcement. Section 1504(h)(2).

Grantees are encouraged to seek State Medicaid program coverage for:

1. A clinical breast examination and screening mammography in the case of breast cancer.

2. Both a pelvic examination and Pap smear screening in the case of cervical cancer.

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under A. (Recipient Activities), and CDC will be responsible for the activities under B. (CDC Activities).

A. Recipient Activities

1. Establish a system for screening women for breast and cervical cancer as a preventive health measure. Section 1501(a)(1).

The intent of this program announcement is to increase the use of screening services for breast and cervical cancer among American Indian women, special efforts should be made, for both breast and cervical cancer, to reach low-income, uninsured, and underinsured women. For breast cancer, efforts should be made to reach those who are age 50 years and older.

a. Ensure that screening procedures are available for both breast and cervical cancer and provided to women participating in the program, including a clinical breast exam, mammography, pelvic exam, and Pap smear. Section 1503(a)(2) (A) and (B).

Screening services should be made available according to the following guidelines:

(1) Only women age 40 years and older will be eligible for screening mammography tests; however, priority for services is given to those age 50 and older, because of the proven efficacy of screening among these women. At least 75 percent of women screened should be age 50 years and older.

(2) Screening will include a clinical breast examination and mammography according to the following guidelines:

(i) Breast Clinical Examination: Annually for all women.

(ii) Mammography: Every two years for women ages 40–49 years. Every one to two years for women ages 50 years and older.

(3) All women who are, or who have been sexually active, or who have reached age 18 years, should have a pelvic examination and a Pap smear test annually. After a woman has had three or more consecutive normal annual examinations, the Pap smear test may be performed less frequently at the discretion of her health care provider.

(4) For diagnostic services following an abnormal screening result, cooperative agreement funds may be expended for the following services by using the same eligibility criteria required for screening:

(i) Cervical Cancer—repeat Pap smear, colposcopy and colposcopy-directed biopsy.

(ii) Breast Cancer—repeat screening mammogram, diagnostic mammogram,

fine needle aspiration, and office visits for clinical breast examination and evaluation.

b. Provide priority for screening, follow-up, and referral services to women who are low-income and underserved. Section 1504(a).

An award may not be made under this announcement unless the tribe or tribal organization involved agrees to give priority to the provision of screening, follow-up, and referral services to women who are underserved and low income.

c. Provide allowances for items and services reimbursed under other programs. Section 1504(d).

Funds may not be awarded under this announcement unless the tribe or tribal organization involved agrees that funds will not be expended to make payment for any item or service that will be paid or can reasonably be expected to be paid by:

(1) Any IHS program, State compensation program, including Medicaid, Medicare, insurance policy, or other Federal or State health benefits program.

(2) An entity that provides health services on a prepaid basis.

d. Establish a schedule of fees/charges for services. Section 1504(b).

Funds may not be awarded under this announcement, unless the tribe or tribal organization involved agrees that if charges are to be imposed for the provision of services or program activities, the fees/charges for allowable screening and follow-up services will be:

(1) Made according to a schedule of fees made available to the public. Section 1504(b)(1).

(2) Adjusted to reflect the income of the woman screened. Section 1504(b)(2).

(3) Totally waived for any woman with an income of less than 100 percent of the official poverty line as established by the Director of the Office of Management and Budget and revised by the Secretary of Health and Human Services in accordance with Section 673(2) of the Omnibus Budget Reconciliation Act of 1981. Section 1504(b)(3).

Additionally, the schedule of fees/charges for all services should not exceed the maximum allowable charges established by the Medicare Program administered by the Health Care Financing Administration (HCFA). Fees/charges for services covered by Medicare may vary by location, thus, tribes or tribal organizations should determine the appropriate reimbursement rates for their areas and use them as the maximum allowance. Fee/charge schedules should be developed in accordance with guidelines described in the interim final rule (42 CFR part 405.534) of the **Federal Register**, 55 FR 53510, December 31, 1990, which implements Section 4163 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508), which provides limited coverage for screening mammography services.

2. Provide appropriate referrals for medical treatment of women screened in the program and ensure, to the extent practicable, the provision of appropriate follow-up services. Section 1501(a)(2).

A system for the follow-up and referral of women whose screening test results are abnormal or suspicious is an essential component of any comprehensive breast and cervical cancer early detection program.

a. Establish a system for the appropriate follow-up and referral of women with abnormal or suspicious screening tests. Referral systems should include the regular updating of information on local resources available in the community to which health care providers can refer women for additional diagnostic and treatment services. Clients needing treatment services should be counseled about their eligibility for public-supported third party payment and reimbursement programs.

b. Develop and implement a tracking system for women screened in the breast and cervical cancer early detection program. Section 1501(a)(6).

Tracking the women screened is essential to ensure that those who have abnormal results receive appropriate and timely referral and follow-up for repeat screening and diagnostic procedures, and referral for treatment. Tracking also includes reminders and outreach to women with normal results to return for regular screening. A useful tracking system is one that can be effectively integrated into the existing health care delivery system for the breast and cervical cancer early detection program. The tracking system should be capable of documenting the outcome of individual screening tests, provide information on needed follow-up, and assure confidentiality. Additionally, the capability of monitoring the tracking system's timeliness, accuracy, and practical usefulness is important.

To meet the intent of Sections 1501–1509 to ensure the appropriate follow-up of women with abnormal screening results, the applicant's tracking system must include information on screening location (e.g., State, county, city), demographic characteristics (e.g., race, date of birth), and, screening procedures and results (e.g., mammography, Pap smear) for all women in the program. For women identified with abnormal screening results, additional information on diagnostic procedures and diagnoses (e.g., colposcopy), and treatment (e.g., date initiated) must be included. In collaboration with CDC, the currently funded comprehensive screening programs have compiled a list of information necessary to ensure the appropriate follow-up of women. This list is available upon request.

3. Develop and disseminate public information and education programs for the early detection and control of breast and cervical cancer. Section 1501(a)(3).

Public information and education include the systematic design and sustained delivery of clear and consistent health messages to all of the appropriate women, using a variety of creative methods that contribute to the early detection of breast and cervical cancer. Successful public education programs are those that increase the knowledge, attitudes, and practices of the targeted population related to breast and cervical cancer screening.

4. Improve the education, training, and skills of health professionals (including allied health professionals) in the detection and control of breast and cervical cancer. Section 1501(a)(4).

Health care providers, including primary care physicians, gynecologists, and radiologists, as well as allied health professionals play a central and key role in assuring that women are screened at appropriate intervals, screening tests are performed optimally, and that women with abnormal test results receive timely and appropriate diagnostic follow-up and treatment. A health care provider education program effectively transmits information on the efficacy and appropriate use of screening procedures, influences professional practices including the improved performance of screening procedures, improves quality of test interpretations, and promotes the timely diagnostic and treatment follow-up for abnormal results.

5. Establish mechanisms through which the applicant can monitor the quality of screening procedures for breast and cancer, including the interpretation of such procedures. Section 1501(a)(5).

Cooperative agreement funds may not be awarded under Section 1501, Public Law 101–354, unless the tribe or tribal organization involved agrees to assure the implementation of quality assurance procedures for mammography and cytological screening for breast and cervical cancer. Section 1503(c) and (d).

a. Develop and implement a quality assurance system for breast cancer

screening. The mammography services provided to women screened in the program must be conducted in accordance with the following guidelines issued by the Secretary of Health and Human Services. Section 1503(e):

(1) Facilities shall follow the rules for Medicare coverage of screening mammography as promulgated by the HCFA.

(2) Mammography units shall be accredited by the American College of Radiology or must have applied for accreditation for the unit(s) that will be used for screening or diagnostic mammography. The Mammography Quality Standards Act of 1992 requires similar accreditation for all mammography units in the United States by October 1994. Section 354.

(3) Facilities shall undergo an annual performance evaluation by a medical physicist who is board certified by the American Board of Radiology or who meets the criteria of the American College of Radiology for a medical physicist in mammography. The mammography facility must also undergo an annual compliance inspection by an individual from the State Radiation Control Program.

(4) Facilities shall use the American College of Radiology Breast Imaging Reporting System for reporting the interpretation of mammographies.

(5) A report of the results of a mammography performed on a woman screened in the program shall be placed in her permanent medical records maintained by her health service provider.

b. Develop and implement a quality assurance system for cervical cancer screening.

The laboratory services provided to women in the program as part of cytological screening must be conducted in accordance with the following guidelines issued by the Secretary of Health and Human Services. Section 1503(e):

(1) Facilities shall meet the standards and regulations promulgated by the HCFA implementing the Clinical Laboratory Improvement Act (CLIA) of 1988. Section 353.

(2) All cytological screening is required to be done on the premises of a qualified laboratory.

(3) A report of the results of cervical cancer screening performed on a woman through this program shall be placed in her permanent medical records that are maintained by her health service provider.

6. Evaluate activities conducted under Recipient Activities 1 through 5, above, through appropriate surveillance or program-monitoring efforts. Section 1501(a)(6).

Measuring the impact of program activities on the screening behavior of women, and on morbidity and mortality, is important for the identification of effective intervention strategies for the early detection of breast and cervical cancer. Equally important is process evaluation or the assessment of factors that contributed to the successful or unsuccessful establishment and implementation of a comprehensive program and specific program activities.

a. Assure the implementation of a surveillance system to monitor and evaluate program activities. Federal and State governments may support tribal efforts in the development of and implementation of culturally acceptable data collection techniques which utilize a common protocol for collecting and recording cancer data. Monitoring the distribution and determinants of breast and cervical cancer incidence and mortality is necessary to effectively evaluate a comprehensive early detection program. To do this, a surveillance system should:

(1) Collect tribal and American Indian community-specific population-based information on the demographics, incidence, staging at diagnosis, and mortality from breast and cervical cancer.

(2) Identify segments of the population at higher risk for disease and for the failure to be screened.

(3) Identify factors contributing to the disease burden, such as behavioral risk factors and limited or inequitable access to early detection and treatment services.

(4) Monitor the number and characteristics of women screened in the program and the outcome of screening by analyzing data from the applicant's tracking system.

(5) Monitor screening resources, including the number of available mammography facilities, cytology laboratories, and providers of cytology screening.

b. Develop and implement an evaluation plan for each program component.

The design of each program component should ensure that there can be meaningful process and outcome evaluation.

(1) The evaluation plan should assess the implementation and effectiveness of each program component including: (a) Screening, (b) follow-up and referral, (c) public education, (d) professional education, (e) quality assurance, and (f) surveillance and program evaluation.

(2) At a minimum, the evaluation plan should identify program activities evaluated, the process and method of measuring outcome indicators, proposed time lines, and resources needed. Specific evaluation activities should include but not be limited to:

(a) An inventory of specific services provided with cooperative agreement funds.

(b) A description of outreach services provided and of notification procedures implemented.

(c) A description of whom and how many women received services, including demographic information such as age, race, and ethnicity.

(d) An assessment of the referral system including the number of women referred for diagnostic and treatment services, number who received services, and the capacity of the system in identifying resources in the community and assisting women to access available services.

(e) An assessment of the availability and accessibility of breast and cervical cancer screening services and an estimate of the extent of unmet needs, particularly for women who are age 50 years and older, underserved, and low-income.

(f) An assessment of the planning, development, implementation, and accomplishment of program activities (e.g., goals, objectives, time lines, recruiting, hiring, and retaining staff, training staff, establishing and maintaining contracts with provider agencies, and assuring the quality of contractor performance).

(g) An assessment of changes in participant and provider knowledge, attitudes, behaviors, and practices with respect to screening for breast and cervical cancer.

7. Ensure the coordination of services and program activities with other similar programs and establish a broad-based coalition to advise and support the program. Section 1504(e).

Coordination with other similar programs maximizes the availability of services and program activities, promotes consistency in screening procedures and educational messages, and reduces duplication. An award may not be made under this program announcement unless the tribe or tribal organization agrees that the services and activities provided in this program are coordinated with other Federal, State, and local breast and cervical cancer programs. Section 1504(e).

Linkages should be established with American Indian organizations, Federally-funded programs such as Indian Health Service, Health Resources and Services Administration primary

care programs including community health centers, Title X Family Planning programs, State Offices for Aging and Minority Health, and appropriate State and local health agencies.

Additionally, the success of a comprehensive breast and cervical cancer early detection program is improved by broad-based support in the community and active public and private sector involvement. Coalition members bring valuable knowledge, skills, expertise, and financial resources to the program as well as provide access to populations of women who need screening. Effective coalitions are diverse, include active community participation, and have well-defined objectives, roles, responsibilities, and strong leadership.

Linkages and active collaboration are strongly encouraged with public and private sector organizations such as the American Cancer Society (ACS), Young Women's Christian Association (YWCA), and the American Association of Retired Persons (AARP), survivors of breast and cervical cancer, local women's groups, community leaders, and other agencies and businesses in the community that provide health care and related support services to women. Formal agreements to collaborate on joint breast and cervical cancer early detection activities are encouraged, especially with the divisions of ACS located in States. The evaluation of coalition activities to ensure the effective participation of members is encouraged.

8. Develop and implement a tribal or tribal organization breast and cervical cancer early detection and control plan.

The success of a comprehensive and realistic plan to reach the targeted population and to address these diseases is increased by the existence of a well-thought-out, integrated, and realistic plan to address these diseases, especially for women who are low income, uninsured, or underinsured. A comprehensive breast and cervical cancer early detection program should be guided by such a plan, developed with coalition involvement, and include an ongoing assessment of total screening population, disease burden, unmet needs, and barriers to screening. The Program's plan should include measurable objectives, implementation strategies with target dates for their achievement, and identification of responsible individuals, organizational units, or agencies.

B. CDC Activities

1. Convene a meeting of the funded grantees for information sharing, problem solving, and training at least annually.

2. Provide grantees with ongoing consultation and technical assistance to plan, implement, and evaluate each component of the comprehensive program as described under "Recipient Activities" above. Consultation and technical assistance is defined as advice in the:

(a) Interpretation of current scientific literature related to the early detection of breast and cervical cancer;

(b) Practical application of Sections 1501–1509 and nationally recognized clinical and quality assurance guidelines for the assessment and diagnosis of breast and cervical cancer including the establishment and maintenance of a comprehensive screening program;

(c) Design and implementation of public education, professional education, coalition building, and cancer plan development activities;

(d) Evaluation of each program component (process and outcome) through the analysis and interpretation of surveillance and other relevant data; and

(e) Overall program management including compliance with cooperative agreement requirements. Section 1507(a).

3. Conduct site visits to assess program progress and mutually resolve problems, as needed.

4. Provide consultation for effective program management.

Evaluation Criteria (Total 100 Points)

Applications will be reviewed and evaluated according to the following criteria:

A. Background and Need

The extent of the disease burden and the need among the targeted population as measured by:

1. The tribe's breast and cervical cancer age-adjusted mortality rates averaged over 5 years;

2. The incidence rates for these cancers;

3. The number of women, age 40 and older, in the tribe or tribal organization, especially those who are low income, uninsured, or underinsured; and

4. Existing access and barriers to early screening and detection services, (e.g., cultural, social, financial, geographic). (20 points)

B. Operational Plan

The feasibility and appropriateness of the Operational Plan to provide:

1. Screening services for breast and cervical cancer;

2. Follow-up and referral for medical treatment for women with malignant and premalignant conditions, and a tracking system;

3. Public education;

4. Professional education;

5. A quality assurance system; and

6. A surveillance system and evaluation strategies.

(45 points)

C. Coalition and Community Involvement

The extent to which the applicant proposes to involve American Indian organizations, (e.g., tribal councils, American Indian health planning councils/committees, Native Health Boards, 93–638 health clinics, the IHS, Indigenous hospitals, cancer centers, State programs, etc.). (15 points)

D. Breast and Cervical Cancer Control Plan

The feasibility and appropriateness of the applicant's current breast and cervical cancer control plan or their proposal to develop such a plan with coalition input and the commitment to use it for program development and management. (10 points)

E. Capability

The extent to which the applicant appears likely to succeed in implementing the proposed activities as measured by: a) relevant experiences; b) feasible program objectives; c) a realistic timetable for program implementation; d) a sound management structure; and e) the qualifications of management and technical staff, including the appropriateness of their proposed roles and responsibilities or job descriptions. (10 points)

F. Budget and Justification

The extent to which the proposed budget is adequately justified, reasonable, and consistent with this program announcement. (Not Weighted)

Recipient Financial Participation

The Secretary may not make a grant under section 1501 unless the tribe or tribal organization involved agrees, with respect to the costs to be incurred in carrying out the purpose described in such section, to make available non-Federal contributions toward such costs in an amount equal to not less than $1 for each $3 of Federal funds provided in the grant. Such contributions may be made directly or through donations from public or private entities. Section 1502.

Non-Federal contributions ("matching funds") required may be in cash or in-kind, fairly evaluated, including equipment or services (and excluding indirect or overhead costs). Amounts

provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

In making a determination of the amount of non-Federal contributions for purposes the matching fund requirement, the Secretary may include only non-Federal contributions in excess of the average amount of non-Federal contributions made by the tribe involved toward the purpose described in section 1501 for the 2-year period preceding the first fiscal year for which the tribe or tribal organization is applying to receive a cooperative agreement under such section ("maintenance of effort requirement").

Matching funds may not include: (1) The payment for treatment services or the donation of treatment services (see note below); (2) services assisted or subsidized by the Federal Government; or (3) the indirect or overhead costs of an organization.

Note: Treatment means any service recommended by a clinician including medical and surgical intervention provided in the management of a diagnosed condition.

Executive Order 12372 Review

This program is not subject to the Executive Order 12372 review.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 93.919.

Other Requirements

Paperwork Reduction Act

Projects that involve the collection of information from 10 or more individuals and funded by the cooperative agreement will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Application Submission and Deadline

The Program Announcement and application kit were sent to all eligible applicants in April 1994.

Where To Obtain Additional Information

A complete program description, information on application procedures, an application package, and business management technical assistance may be obtained from Gordon R. Clapp, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 314, Mailstop E–18, Atlanta, GA 30305, telephone (404) 842–6508.

Programmatic technical assistance may be obtained from Ron Goodson, M.S.W., Program Services Branch, Division of Cancer Prevention and Control, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, NE., Mailstop K–57, Atlanta, GA 30341–3724, telephone (404) 488–4880.

Please refer to Announcement 442 when requesting information and submitting an application.

Potential applicants may obtain a copy of "Healthy People 2000" (Full Report, Stock No. 017–001–00474–0) or "Healthy People 2000" (Summary Report, Stock No. 017–001–00473–1) referenced in the "Introduction" through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 783–3238.

Dated: June 23, 1994.

Ladene H. Newton,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 94–15747 Filed 6–28–94; 8:45 am]

BILLING CODE 4163–18–P

Health Care Financing Administration

[BPD–781–PN]

RIN 0938–AG44

Medicare Program; Limitations on Medicare Coverage of Intermittent Positive Pressure Breathing Machine Therapy

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

ACTION: Proposed notice.

SUMMARY: Intermittent positive pressure breathing (IPPB) machine therapy is currently covered under Medicare as durable medical equipment for patients whose ability to breathe is severely impaired. Based on a Public Health Service recommendation, we propose to limit Medicare coverage of IPPB machine therapy to: (1) Patients at risk of respiratory failure because of decreased respiratory function secondary to kyphoscoliosis or neuromuscular disorders; (2) patients with acute severe bronchospasm or exacerbated chronic obstructive pulmonary disease who fail to respond to other standard therapy; and (3) the management of atelectasis that has not improved with simple therapy (that is, incentive spirometry, postural drainage, or aerosol therapy).

DATES: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on August 29, 1994.

ADDRESSES: Mail written comments (1 original and 3 copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BPD–781–PN, P.O. Box 26688, Baltimore, MD 21207.

If you prefer, you may deliver your written comments (1 original and 3 copies) 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.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code BPD–781–PN. 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: New Orders, Superintendent of Documents, 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. As an alternative, you can view and photocopy the **Federal Register** document at most libraries designated as Federal Depository Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Francina Spencer, (410) 966–4614

SUPPLEMENTARY INFORMATION:

I. Background

A. Program Description

Section 1862(a)(1)(A) of the Social Security Act (the Act) generally prohibits payment for any expenses incurred for items or services "which, * * * are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member." We have interpreted this statutory provision to exclude from Medicare coverage medical and health care services and items that are not demonstrated to be safe and effective by acceptable clinical evidence. This prohibition applies to items for which claims are submitted under Medicare's durable medical equipment (DME) benefit.

Currently, intermittent positive pressure breathing (IPPB) machine therapy is covered under Medicare's DME benefit when ordered by a physician for a patient whose ability to breathe is severely impaired. IPPB machine therapy is also covered in the hospital setting, in accordance with the program's respiratory therapy guidelines.

IPPB machine therapy uses a pressure-limited respirator to deliver a gas, with or without humidity or an aerosol solution (a product that is packaged under pressure and contains therapeutically or chemically active ingredients for topical application, inhalation, or introduction into body orifices), at various preset intervals, to mechanically aid lung expansion, to deliver drugs, or assist respiration. It is commonly administered through a mouthpiece for short periods of time in spontaneous breathing and cooperative patients. Alternatively, this technique has been used in patients with reversible acute respiratory failure to forestall or prevent intubation. IPPB machine therapy has been used in the treatment of acute bronchospasm (the contraction of smooth muscle in the walls of the bronchi and broncheolus, causing narrowing of the lumen), croup, chronic obstructive pulmonary disease (COPD), cystic fibrosis, and neurological disorders affecting spontaneous breathing, as well as a prophylaxis (the prevention of a disease or of a process that can lead to disease) against the pulmonary complications commonly seen after various surgeries.

During IPPB machine therapy, the lungs are actively inflated by means of device-regulated positive pressure during inspiration; passive deflation occurs during expiration as a consequence of the elasticity of the lungs and chest wall. The IPPB machine therapy apparatus involves a precision flow-sensitive valve that opens to a low set level of inspiratory negative pressure (in patients with spontaneous respiration). This is immediately followed by a gradual increase of airway pressure to a preset level. At onset of expiration, the valve closes and the airway pressure drops to the ambient atmospheric level, permitting expiration without external resistance. The expired air is released through a second valve, providing a minimal dead space.

While compressed or room air is commonly used to deliver aerosolized medications, mixtures of helium and oxygen have also been used in IPPB machine therapy. Although home use by patients is not common, IPPB machine therapy has often been administered by hospital respiratory therapists three or four times a day for 15- to 20-minute sessions commonly using pressure and rate levels for adults of 15 to 20 cm water and 8 to 10 respirations per minute.

B. Recommendation to Limit Coverage of IPPB Machine Therapy

The medical efficacy of IPPB machine therapy had been seriously questioned by well-known and respected authorities in the field of pulmonary medicine. Consequently, the National Heart, Lung and Blood Institute sponsored a 5-year clinical trial study from 1978 through 1982 on IPPB machine therapy for COPD. The study concluded that IPPB machine therapy appeared to be no more effective in treating patients than the use of a simple hand-held nebulizer. As a result of this study, a compilation of the latest medical and scientific literature on the subject of IPPB machine therapy was presented to the HCFA Physicians Panel on May 7, 1986.

In 1986, the HCFA Physicians Panel, which met approximately once every 6 to 8 weeks, was comprised of physicians and other health professionals in HCFA's Central Office and their counterparts from the Public Health Service (PHS). HCFA's chief source of medical assessments on issues of medical safety and efficacy of services and items is PHS. The Panel recommended that PHS's Office of Health Technology Assessment (OHTA) conduct an assessment of the safety and effectiveness of IPPB machine therapy. The use of OHTA to conduct this assessment is consistent with HCFA's long-standing procedures for making coverage decisions, as discussed in the proposed rule entitled "Medicare Program; Criteria and Procedures for Making Medical Services Coverage Decisions that Relate to Health Care Technology" published on January 30, 1989, in the **Federal Register** (54 FR 4302).

OHTA announced in the **Federal Register** on June 17, 1986 (51 FR 21984), on August 29, 1988 (53 FR 32941), and on April 10, 1990 (55 FR 13325), that it was coordinating an assessment of the safety and effectiveness of IPPB machine therapy. The notices requested information as to the risks and benefits associated with the use of this mode of treatment. OHTA also requested information pertaining to the advantages and disadvantages of IPPB machine therapy in the treatment of acute bronchospasm, COPD, or other forms of lung diseases. In addition, it requested information on other uses of IPPB machine therapy either as a therapeutic modality or as a preventive measure against pulmonary complications following abdominal surgery. OHTA sought the information to determine if this treatment method offers any advantages over using a compression nebulizer or a meter-dose inhaler with or without the drug B-agonists. OHTA also requested information about the clinical results of IPPB machine therapy as compared to deep breathing exercises (DBE) or incentive spirometry (IS) (pulmonary measurement with a spirometer) as well as comparison of complications with the use of a hand-held nebulizer. Finally, the notices requested whether there were conditions or circumstances under which IPPB machine therapy is not only a reasonable and necessary therapy but is the preferred therapy.

The notices invited relevant information from any person or group wishing to respond. In response to the three OHTA **Federal Register** notices and the solicitation of information and opinions from physicians and institutions involved with IPPB machine therapy, OHTA received 12 comments. They included information and advice from PHS components, including the Food and Drug Administration (FDA) and the National Institutes of Health (NIH), and from medical specialty groups and other respondents to the notices. OHTA evaluated this information.

On March 12, 1991, OHTA provided us with recommendations concerning Medicare coverage for IPPB machine therapy, based substantially on the information and advice it received in response to its solicitation. (The assessment, by the U.S. Department of Health and Human Services, Public Health Service, Agency for Health Care Policy Research (AHCPR), was entitled "Intermittent Positive Pressure

Breathing Therapy (IPPB)." The AHCPR Health Technology Assessment Report, Number 1, was published in December 1991. Copies of the assessment may be obtained from the Publications and Information Branch, National Center for Health Services Research, 5600 Fishers Lane, Parklawn Building, Room 18–12, Rockville, Maryland 20857.) OHTA finds that the only categories for which the technology is useful are: (1) Patients at risk of respiratory failure because of decreased respiratory function secondary to kyphoscoliosis (the convex backward and lateral curvature of the spine: Severe, congestive heart failure is not infrequently a complication) or neuromuscular disorders (referring to the relationship between nerve and muscle, in particular to the motor innervation of skeletal muscles and its pathology); (2) patients with acute severe bronchospasm or exacerbated COPD who fail to respond to other standard therapy; and (3) the management of atelectasis (the absence of gas from a part or the whole of the lungs as a result of the failure of expansion or resorption of gas from the alveoli) that has not improved with simple therapy (that is, IS, postural drainage, or aerosol therapy). While these specified conditions are generally treated in a hospital, it is conceivable that in certain circumstances, and for selected patients, the clinical condition could be effectively treated in an outpatient setting. There are no data that support the conclusion that IPPB machine therapy must be furnished in the inpatient setting in order to treat these conditions. We have reviewed the record of current medical opinion on this therapy since 1991 and believe that the conclusions reached by PHS in 1991 remain valid.

Although there is currently a lack of scientific data regarding the efficacy of IPPB machine therapy, there was, however, some rationale for its wide application. According to the OHTA report, after the 1947 demonstration by H. Motley, L. Werko, A. Cournand, and others, described in the article entitled "Observations on the Clinical Use of Intermittent Positive Pressure" (J Aviation Med 1947; 18:417–435), which indicated that the use of IPPB machine therapy can increase lung volume and improve blood gases, proponents of this technology offered the rationale that, especially for patients with COPD, IPPB machine therapy would—

(1) Provide better distribution of inhaled aerosols or gases to poorly ventilated areas of the lungs;

(2) Augment humidity and decrease airway obstruction to facilitate removal of excessive pulmonary secretions;

(3) Decrease effort of breathing;

(4) Induce cough; and

(5) Increase inspired volume.

In addition, it was recognized that postoperative pulmonary complications are the most frequent cause of postoperative morbidity; these complications occur in 20 to 40 percent of patients, particularly those subjected to abdominal or thoracic surgery. In an article entitled "Role of Intermittent Positive Pressure Breathing Postoperatively" (JAMA 1958; 167:1093–1096), N.E. Rudy and J. Crepeau first proposed the use of IPPB machine therapy as a method of preventing the common postoperative sequence of progressive alveolar collapse, atelectasis, and pneumonia. Proponents of IPPB machine therapy have promoted its widespread use as a routine postoperative prophylactic technique, especially for patients with COPD, obesity, or cardiovascular diseases, and for the elderly.

OHTA advises that clinical studies have not adequately addressed optimal techniques for the delivery of respiratory therapy and patient selection criteria. The use of IPPB machine therapy, however, has evolved as a controversial modality in medicine. Despite the immense popularity of IPPB machine therapy in the 1960's and the early 1970's, the increasing number of reports questioning its clinical utility and the conflicting data from controlled trials of its efficacy in the prevention or treatment of pulmonary conditions have resulted in a marked reduction of its use. In recent years, IPPB machine therapy has represented only a very small percentage of the total volume of respiratory therapy services.

The failure of the medical literature to document the efficacy of IPPB machine therapy has resulted in physicians and respiratory therapists often recommending alternative therapies, including postural change, IS, DBE, cough regimens, chest physiotherapy, and aerosols for therapy or prophylaxis. Generally agreed upon specifications for the administration of IPPB machine therapy do not exist. Volumes, flows, pressures, duration and frequency of therapy, and associated medication have not been standardized for the treatment of any condition. All the mechanical effects of IPPB machine therapy are short-lived, lasting only about 1 hour after treatment, and its long-term effects have not been adequately evaluated.

Some case studies have suggested that IPPB machine therapy might be valuable for the treatment of atelectasis in the patients failing DBE or IS, those with severe bronchospasm, and in patients whose respiratory muscles are fatigued. However, subsets of patients for whom beneficial effects of IPPB machine therapy can be derived have not been conclusively identified. In addition, P.P. Sutton, D. Pavia, and J.R.M. Bateman have stated in "Chest Physiotherapy: A Review" (Eur J Respir Dis 1982; 63:188–201) that it is excessively optimistic to expect IPPB machine therapy (provided for only 15 minutes, three or four times daily) to result in significant clinical benefits.

A beneficial effect of IPPB machine therapy derives from its ability to deliver aerosolized medications. However, most reported studies have failed to separate the pharmacological effects of the bronchodilator from the mechanical effects of the IPPB machine therapy. If IPPB machine therapy is effective in the treatment of severe COPD or bronchospasm, these positive effects appear to be readily duplicated by more physiologic and simpler techniques than IPPB machine therapy. Explanations for the lack of efficacy of IPPB machine therapy, when using the commonly applied pressure cycled devices to prevent or treat postoperative pulmonary complications, relate to the fact that the machines used to deliver IPPB therapy allow only for a pressure adjustment, without measurement or control of maximum lung volume. Therefore, a reduction in functional residual capacity combined with the typical postoperative decrease in pulmonary compliance results in a smaller volume of gas delivered for the same pressure, which can lead to more shallow ventilation. In the presence of atelectasis, increased inflation pressures could overextend normal alveoli and lead to a ventilation-perfusion mismatch and exacerbation of hypoxemia.

Additional risks of IPPB machine therapy include infection, excessive ventilation and excessive oxygenation (when using oxygen as the gas source), decreased partial pressure of carbon dioxide during treatment, the induction or exacerbation of pneumothorax (the presence of air or gas in the pleural cavity), and the exacerbation of hemoptysis (the expectoration of blood or of blood-stained sputum).

The following is a summary of the 12 comments OHTA received in response to its **Federal Register** notices of its assessment and the solicitation of information and opinions from physicians and institutions involved with IPPB machine therapy:

One professional society and one university medical center believed that there is no evidence that IPPB machine therapy is useful or desirable for home use. Two other professional organizations believed there is little

evidence to support the concept that IPPB machine therapy is of value as a preventive measure against the pulmonary complications following any type of major surgery. They further stated that for the prevention or treatment of postoperative atelectasis, IS and DBE are more effective than routine IPPB machine therapy. One clinic stated there is no evidence to show that IPPB machine therapy has any advantage in bronchitis and emphysema COPD. The clinic stated, however, that IPPB machine therapy might be beneficial in individuals whose respiratory muscles fail because of paralysis or chest wall deformity (for example, kyphoscoliosis) resulting in respiratory "pump" failure. In addition, the clinic commented that there is no clear-cut evidence that IPPB machine therapy used routinely after abdominal surgery prevents pulmonary complications.

Three other professional associations and a university medical department believed that IPPB machine therapy is of value in specific limited circumstances and should not be regarded as a routine therapeutic modality. One professional association believed that, in patients unable to coordinate their breathing pattern to obtain maximal benefit from aerosols delivered by simple devices, the use of IPPB machine therapy may allow more effective aerosol therapy. This professional association recommended IPPB machine therapy, coupled with DBE and chest physiotherapy, to help decrease or control unstable carbon dioxide tension in patients with exacerbated COPD and severe ventilatory impairment. In addition, the association stated that the use of IPPB machine therapy in the prophylaxis of atelectasis remains controversial. However, the association believed that IPPB machine therapy can be beneficial in treating acute lobar atelectasis. It also supported the use of IPPB machine therapy as the preferred mode of therapy for hospitalized kyphoscoliosis patients who may be at risk of developing respiratory failure.

The position of another professional association concerning IPPB machine therapy is that it offers no advantage over alternative modes of routine treatment for most patients with stable asthma, chronic bronchitis, and emphysema, and there is no evidence that IPPB machine therapy offers any advantage over standard bronchial hygiene therapy. In addition, the association stated that IPPB machine therapy is of value for the following circumstances and should not be regarded as a routine therapeutic modality: For therapeutic purposes, IPPB machine therapy (with or without aerosol) may be appropriate for the following purposes: (1) For pulmonary atelectasis (segmental or greater) when alternative modes of therapy have been unsuccessful; (2) for patients unable to raise secretions adequately because of the presence of a pathological process that severely limits their ability to ventilate deeply and cough effectively, and who have been unresponsive to, or are judged to be unsuited for, other modes of treatment; and (3) for the temporary treatment of hypoventilating patients when it may be appropriate to use IPPB machine therapy as an alternative to tracheal intubation and continuous mechanical ventilation. For prophylactic purposes, IPPB machine therapy may be appropriate to prevent postoperative complications in patients with limited ability to cough or breathe deeply.

Another professional organization believed the usefulness of IPPB machine therapy is limited to patients with obstructive airway disease with acute carbon dioxide retention, and to facilitate aerosolized bronchodilator delivery in patients having tachypnea (excessive rapidity of respiration) and confusion. The organization stated that IPPB machine therapy has been abandoned for the delivery of aerosol therapy per se and recommended that its use for otherwise uncomplicated atelectasis, mucus retention, or postsurgical prophylaxis be discouraged.

One university medical department stated there is no current indication for the use of IPPB machine therapy as a treatment for acute bronchospasm or COPD, since the use of a spontaneous aerosol is as good as, if not better than, IPPB machine therapy, and DBE or IS have been shown to be the best ways to treat or prevent pulmonary complications following surgery. The only indication for IPPB machine therapy, according to this medical department, is to support an individual who has stopped breathing until the patient can be placed on an appropriate, sophisticated volume-cycled ventilator.

In addition, although a university hospital stated that it no longer uses IPPB machine therapy for the administration of aerosol solutions, the hospital believed some benefit may be obtained in administering these solutions by IPPB machine therapy in patients with severe kyphoscoliosis.

After a 5-year study, the National Heart, Lung and Blood Institute reached the conclusion that IPPB machine therapy appears to offer no advantage over simple aerosol nebulizer therapy in the treatment of patients with stable, chronic asthma. NIH stated that the randomized trial supported by the National Heart, Lung and Blood Institute demonstrated no significant difference between IPPB machine therapy and compressor nebulizer therapy in the long-term management of patients with COPD. NIH noted that studies of IPPB machine therapy for the treatment of acute episodes of bronchospasm have produced conflicting results, and there is increasing evidence that IPPB machine therapy is not superior, and may be inferior, to other prophylactic treatments designed to reduce respiratory complications following abdominal surgery.

In its summary, OHTA indicates that the early widespread application of IPPB machine therapy has now dramatically diminished in response to published reports of more recent clinical trials that either question its utility or document its futility in the prophylaxis or treatment of the numerous conditions for which it was commonly prescribed. As indicated by the OHTA assessment, the associated risks of IPPB machine therapy include more shallow ventilation, ventilation perfusion mismatch and exacerbation of hypoxemia, infection, decreased partial pressure of carbon dioxide during treatment, the induction or exacerbation of pneumothorax, blood-stained sputum, and precipitate cardiac failure. Moreover, no study has shown IPPB machine therapy to have unequivocal clinical effectiveness, in terms of morbidity, mortality, or lung function, when used either alone or in combination with other modalities. However, IPPB machine therapy may be useful in the following circumstances: (1) In patients at risk of respiratory failure because of decreased respiratory function secondary to kyphoscoliosis or neuromuscular disorders; (2) in patients with acute severe bronchospasm or exacerbated COPD who failed to respond to other standard therapy; and (3) in the management of atelectasis that has not improved with simpler therapy (that is, IS, postural drainage, or aerosol therapy).

However, the article by Scott F. Davies and Roland H. Ingram entitled "Pulmonary Rehabilitation" (Scientific American Medicine 1992; 14:3, 15) states that the use of IPPB machine therapy and instruction in special patterns of breathing (also called breathing retraining) have been abandoned for the most part because beneficial results, if demonstrated at all, were not sustained beyond the actual period during which the techniques were practiced.

II. Provisions of the Proposed Notice

Medicare's policy has been to cover the general use of IPPB machine therapy if the patient's breathing is severely impaired (Medicare Coverage Issues Manual (HCFA Pub. 6) section 60–9, Durable Medical Equipment Reference List) and if the therapy is effective for the breathing impairment. However, after reviewing the medical evidence and recommendations included in the OHTA assessment, provided to us on March 12, 1991, we believe the coverage should be limited to three specific uses of IPPB machine therapy.

OHTA's study does not support the complete withdrawal of coverage of IPPB machine therapy. The National Heart, Lung and Blood Institute had suggested the complete withdrawal of IPPB machine therapy because of its belief that IPPB machine therapy is of minimal therapeutic benefit and that it exposes the patient to undue risk, for example, precipitate cardiac failure. The OHTA information, however, does support limiting IPPB machine therapy use to three specific categories, namely: (1) Patients at risk of respiratory failure because of decreased respiratory function secondary to kyphoscoliosis or neuromuscular disorders; (2) patients with acute severe bronchospasm or exacerbated COPD who fail to respond to other standard therapy; and (3) in the management of atelectasis that has not improved with simple therapy (that is, IS, postural drainage, or aerosol therapy).

Since OHTA's assessment indicates that uses other than those identified above are not established as effective, we propose, under the authority of section 1862(a)(1)(A) of the Act, to withdraw from Medicare coverage any uses except the three conditions identified above. Issuance of this notice is consistent with the January 30, 1989, **Federal Register** proposed rule that describes the process for making Medicare coverage decisions and states that the process for withdrawal of coverage of services includes the publication of a proposed notice of that withdrawal in the **Federal Register**. We would not exclude payment for conditions other than the three identified above until 30 days after the date the final notice is published in the **Federal Register**. We welcome public comments on this proposal.

The provisions of this notice would not affect any currently existing Medicare regulations. However, they would affect the Medicare Coverage Issues Manual (HCFA Pub. 6) section 60–9, Durable Medical Equipment Reference List.

III. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

IV. Response to Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the DATES section of this preamble, and, if we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

V. Regulatory Impact Statement

A. Introduction

Currently, IPPB machine therapy is covered under Medicare's DME benefit if ordered by a physician for a patient whose ability to breathe is severely impaired. We propose to limit Part B Medicare coverage of IPPB machine therapy to the three categories listed in section I.B. of this preamble for which the technology is considered useful by OHTA. Despite the immense popularity of IPPB in the 1960's and the early 1970's, the increasing number of reports questioning its clinical utility and the conflicting data from controlled trials of its efficacy in the prevention or treatment of pulmonary conditions have resulted in a marked reduction of its use. In recent years, IPPB machine therapy has represented only a very small percentage of the total volume of respiratory therapy services. Because of the low total payments currently made by Medicare Part B for this service, less than $6 million in calendar year 1992, we believe these additional limits would result in negligible savings during calendar years 1994 through 1998.

B. Regulatory Flexibility Act

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 notice would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, all physicians, respiratory therapists, facilities that are providing this therapy, and suppliers of IPPB machines are considered to be small entities.

In addition, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a notice 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 50 beds.

The early widespread application of IPPB machine therapy has now dramatically diminished in response to published reports of more recent clinical trials that either question its utility or document its futility in the prevention or treatment of the numerous conditions for which it was commonly prescribed. Section 1862(a)(1)(A) of the Act states in general terms that no payment may be made under Part A or Part B of Medicare for any expenses incurred for items or services that are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member. Because of the limited use of IPPB machine therapy in recent years, this proposed notice, imposing limits on coverage, would have only a minimal effect on small entities. We would not exclude payment for any therapy until 30 days after the date the final notice is published, which should allow sufficient time for physicians to reevaluate a beneficiary's condition and prescribe alternative therapy if appropriate.

Therefore, 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 notice would not result in a significant economic impact on a substantial number of small entities and would not have a significant impact on the operations of a substantial number of small rural hospitals.

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

(Sections 1861 and 1862 of the Social Security Act (42 U.S.C. 1395x and 1395y))

(Catalog of Federal Domestic Assistance Program No 93.774, Medicare Supplementary Medical Insurance)

Dated: May 11, 1994

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

Dated: June 22, 1994

Donna E. Shalala,

Secretary.

Addendum

U.S. Department of Health and Human Services, Public Health Service, Agency for Health Care Policy Research, "Intermittent Positive Pressure Breathing Therapy (IPPB)," AHCPR Health Technology Assessment Report, Number 1, December 1991

BILLING CODE 4120-01-P

AHCPR

Intermittent Positive Pressure Breathing (IPPB) Therapy

Number 1

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
Public Health Service
Agency for Health Care Policy and Research

December 1991
DHHS Publication No. AHCPR 92-0013

Foreword

The Office of Health Technology Assessment (OHTA) evaluates the risks, benefits, and clinical effectiveness of new or unestablished medical technologies that are being considered for coverage under Medicare. These assessments are performed at the request of the Health Care Financing Administration (HCFA). They are the basis for recommendations to HCFA regarding coverage policy decisions under Medicare.

Questions about Medicare coverage for certain health care technologies are directed to HCFA by such interested parties as insurers, manufacturers, Medicare contractors, and practitioners. Those questions of a medical, scientific, or technical nature are formally referred to OHTA for assessment.

OHTA's assessment process includes a comprehensive review of the medical literature and emphasizes broad and open participation from within and outside the Federal Government. A range of expert advice is obtained by widely publicizing the plans for conducting the assessment through publication of an announcement in the *Federal Register* and solicitation of input from Federal agencies, medical specialty societies, insurers, and manufacturers. The involvement of these experts helps assure inclusion of the experienced and varying viewpoints needed to round out the data derived from individual scientific studies in the medical literature.

After OHTA receives information from experts and the scientific literature, the results are analyzed and synthesized into an assessment report. Each report represents a detailed analysis of the risks, clinical effectiveness, and uses of new or unestablished medical technologies considered for Medicare coverage. These *Health Technology Assessment Reports* form the basis for the Public Health Service recommendations to HCFA and are disseminated widely. Individual reports are available to the public once HCFA has made a coverage decision regarding the subject technology.

OHTA is one component of the Agency for Health Care Policy and Research (AHCPR), Public Health Service, Department of Health and Human Services.

Thomas V. Holohan, M.D.
Director
Office of Health Technology Assessment

J. Jarrett Clinton, M.D.
Administrator

Questions regarding this assessment should be directed to:
Office of Health Technology Assessment
AHCPR
Executive Office Center
2101 East Jefferson Street, Suite 400
Rockville, MD 20857; (301) 227-8337

Intermittent Positive Pressure Breathing (IPPB) Therapy

Prepared by: Harry Handelsman, D.O.

Introduction

Intermittent positive pressure breathing (IPPB) therapy consists of the use of a pressure-limited respirator to deliver a gas, with or without humidity and/or an aerosol solution, at various preset intervals to mechanically aid lung expansion, to deliver drugs, or to assist respiration.[1,2] It is commonly administered through a mouthpiece for short periods of time in a spontaneously breathing and cooperative patient. Alternatively, this technique has been used in patients with reversible acute respiratory failure to forestall or prevent intubation. IPPB has been used in the treatment of acute bronchospasm, croup, chronic obstructive pulmonary disease (COPD), cystic fibrosis, neurologic disorders affecting spontaneous breathing, and as a prophylactic against the pulmonary complications commonly seen after various surgeries.[3-10] During IPPB, the lungs are actively inflated by means of device-regulated positive pressure during inspiration; passive deflation occurs during expiration as a consequence of the elasticity of the lungs and chest wall.[11] The IPPB apparatus includes a precision flow-sensitive valve which opens to a low preset level of inspiratory negative pressure (in patients with spontaneous respiration). This is immediately followed by a gradual increase of airway pressure to a preset level. At the onset of expiration, the valve closes and the airway pressure drops to the ambient atmospheric level, permitting expiration without external resistance. The expired CO_2 is released through a second valve, providing a minimal dead space.[12] Compressed or room air is generally used to deliver aerosolized medications, but mixtures of helium and oxygen have also been used in IPPB. Although home use by patients is not uncommon, IPPB is often administered by hospital respiratory therapists three or four times a day for 15-20 minute sessions, usually at pressure and rate levels for adults of 15-20 cm water and 8-10 respirations per minute.[2,13]

Background

Mechanical ventilators provide two basic physiologic functions: maintenance of appropriate alveolar ventilation and of adequate lung volumes and elasticity.[2] Ventilators have been designed and developed to assist, control, or replace a patient's ventilatory effort.[14]

The most common mechanical ventilator is the positive pressure device. The prototype apparatus was initially devised and used during World War II to treat pulmonary edema.[15] Two types are currently in use: the pressure-cycled ventilator, which terminates the inspiratory phase when a predetermined pressure is attained, and the volume-cycled ventilator, which is programmed to deliver a preset volume of gas to the lungs, subject to preset intra-airway pressure as a safety feature. Pressure-cycled ventilators are generally used to deliver IPPB. When a pressure-cycled ventilator is used as an assist device, the negative pressure generated by the patient at inspiration triggers the flow of gas from the ventilator. This type of ventilator can also be operated automatically, i.e., independent of patient inspiratory effort. Volume-cycled ventilators have the advantage of delivering a predetermined volume of gas relatively independent of changes in pulmonary compliance or airway resistance.[14]

Positive pressure ventilators replaced the cumbersome tank-type respirators, and IPPB, originally named inhalation therapy, was introduced into general clinical use in 1947 for providing short-term ventilatory support in the treatment of obstructive lung disease, atelectasis, pneumonitis, and other acute and chronic pulmonary conditions.[16,17] In the ensuing years IPPB and other forms of respiratory therapy (vide infra) that emphasize maximal alveolar inflation have been widely applied as treatment or prophylaxis for a variety of lung disorders despite the general lack of supporting scientific data.[18] By 1974, IPPB was regularly used in 93% of hospitals having 100-199 beds and in 55% of smaller hospitals.[19] However, the efficacy of this technique has been the subject of controversy because the evidence from numerous studies describing its use is conflicting or inconclusive.[8,20-23]

Rationale

Subsequent to the 1947 demonstration by Motley et al[17] that the use of IPPB can increase lung volume and improve blood gas values, proponents of this technology offered the rationale that it would provide the following benefits (especially for patients with COPD)[14,24-26]:

1. Improve distribution of inhaled aerosols or gases to poorly ventilated areas of lung
2. Augment humidity and decrease airway obstruction to facilitate removal of excessive pulmonary secretions
3. Decrease work of breathing
4. Induce cough
5. Increase inspired volume

In addition, it was recognized that postoperative pulmonary complications are the most frequent cause of postoperative morbidity; these complications occur in 20%-40% of patients, particularly those subjected to abdominal or thoracic surgery.[21] In 1958, Rudy and Crepeau[27] first proposed the use of IPPB as a method of preventing the common postoperative sequence of progressive alveolar collapse, atelectasis, and pneumonia. Proponents of IPPB have promoted the widespread use of IPPB as a routine postoperative prophylactic technique, especially for patients with COPD, obesity, or cardiovascular diseases and for elderly patients.[28]

Review of Available Information

The effectiveness of IPPB as a means of administering bronchodilators for the treatment of both acute and chronic bronchospastic diseases has been described in a number of studies. Light et al[29] reported excellent bronchodilation with minimal cardiovascular effects in 12 patients with reversible airway obstruction. Branscomb[30] reported an increased effectiveness of bronchodilator plus IPPB vs placebo plus IPPB in the treatment of asthma. His study of 40 patients demonstrated prolonged clinical relief of bronchospasm measured by pulmonary function tests such as airway resistance (AR), forced vital capacity (FVC), forced expiratory volume in 1 second (FEV_1), and forced midexpiratory flow. A substantial placebo response was suggested by the author to be related to the effect of IPPB. Webber et al[6] evaluated 45 patients with severe asthma in a randomized trial of bronchodilator delivered via a simple nebulizer or IPPB and found a slight additional benefit of IPPB in terms of peak expiratory flow rate, when the aerosolized medication was nebulized with IPPB. Anderson et al[31] investigated 10 patients with chronic asthma in a double-blind crossover study of a bronchodilator given by a pressure-packed aerosol or IPPB and found both techniques equally effective in improving measured FEV_1 and FVC.

Other studies have compared IPPB with nebulizers in treating various pulmonary diseases. Pederson and Bungaard[32] studied the effectiveness of a bronchodilator inhaled from different types of apparatus in the treatment of adult asthmatics. In this randomized crossover study, 13 patients used IPPB, two types of pressurized aerosols, or a nebulizer. No significant differences in bronchodilation (measured by flow-volume curves and FEV_1) were demonstrated by any technique. Fergusson et al[33] conducted a double-blind crossover trial of nebulized bronchodilator with or without IPPB in 20 patients with life-threatening asthma. They reported no difference in the two forms of treatment as measured by the peak expiratory flow rate, arterial oxygenation, and decrease in heart and respiration rates. Klein et al[34] compared the daily home use of IPPB vs oxygen therapy in 44 patients with chronic bronchitis or emphysema plus respiratory insufficiency. Both groups of patients were treated for 22 months and there were no differences in arterial blood gas values or pulmonary function tests (AR, FEV_1, FVC, total lung and functional residual capacities). After 4 years of treatment, the survival rate with oxygen therapy was twice as high as that with IPPB (47% vs 23%).

In an evaluation of long-term home use of IPPB, Curtis et al[35] periodically followed a group of 187 patients with chronic bronchitis and emphysema for an average of more than 4 years to determine whether objective benefit was obtained by using IPPB. Seventy-eight patients using IPPB were compared with 109 controls, and no benefit of treatment was observed in terms of FEV_1, blood gas values, body weight, or mortality. In a pairing of 50 IPPB patients with 50 controls, significantly fewer patients using IPPB exhibited improvement in FEV_1.

In 1977 the National Institutes of Health (NIH) sponsored a five-center controlled trial comparing IPPB with compressor nebulizer therapy in 985 ambulatory, stable COPD patients.[8] A bronchodilator aerosol was administered to all patients, who were then randomized and followed for an average of 33 months. Clinical measurements included hospitalizations, mortality, quality of life (measured by standardized questionnaires), and changes in lung function (FEV_1, lung capacities, and diffusing capacity for carbon monoxide). The 1983 report of this trial concluded that IPPB provided no advantage over nebulizer therapy. Although no differences were seen between the two treatments, it was possible, but untested, that neither therapy was effective in this group of patients.[8,18]

Criticism of this trial included the contention that comparing IPPB and compressor nebulizers at the same tidal volume and less than maximum total lung volume does not address the fact that the effect of volume is an important characteristic differentiating these two types of treatment.[18,36]

Sutton et al[37] conducted a general review of chest physiotherapy techniques and concluded that IPPB does not improve the delivery of bronchodilators and is of no

benefit (and possibly harmful by causing pneumothorax) in the long-term treatment of chronic bronchitis.

A review of 10 studies of IPPB in the treatment of acute asthma by Eggertsen[38] in 1983 indicated inconsistent and conflicting results, with only three studies reporting the technique to be clinically effective.

Fogel et al[7] studied nebulization of epinephrine alone vs nebulization with IPPB in 14 patients with croup. In this prospective randomized clinical trial, both treatment methods were effective but not distinguishable in croup score reduction; however, treatment was better tolerated with nebulization alone.

In a randomized trial of rehabilitation of 32 patients with COPD, Levine et al[39] compared IPPB vs ventilatory muscle endurance training; they found no difference in exercise tolerance after 6 weeks of daily treatments. In this study, IPPB with a bronchodilator was administered to both groups, followed in 2 hours by another course of IPPB or ventilatory muscle training.

Patients with neuromuscular disorders who are unable to take periodic deep breaths would theoretically appear to be candidates for IPPB. However, in a study of IPPB in 10 patients with chronic respiratory muscle weakness associated with generalized neuromuscular disorders, DeTroyer and Deisser[40] reported that these patients did not benefit from IPPB as generally administered (15 minutes four times daily). Measurements included vital capacity, FEV_1, functional residual and total lung capacities, pressure volume curves, and minimal inspiratory pleural pressures.

In a 1984 review of the status of IPPB in treating various pulmonary conditions, Gonzalez and Burke[25] summarized the results of 15 studies (including the NIH trial) comparing IPPB with nebulizer or inhaler therapy in 1,390 patients. Eleven studies failed to demonstrate a significant difference, three studies concluded that IPPB was superior, and one study concluded that IPPB was inferior to other forms of bronchodilator delivery.

There have been a number of reports of the application of IPPB for the prevention or treatment of postoperative pulmonary complications. Gale and Sanders[9] reported no difference in the rate of postoperative atelectasis in 109 heart surgery patients randomized between IPPB and incentive spirometry (IS), a technique in which a patient withdraws a predetermined volume of air from a cylinder, thus tripping a switch that turns on a light. There is a small constant leak in the spirometer so that the patient must continue to inhale to keep the light on for as long as possible. Dohi and Gold[4] randomized 64 postoperative abdominal surgery patients to IPPB or IS and found that although measured spirometric differences were minimal, the rate of development of pneumonia, atelectasis, or bronchitis was significantly higher with IPPB (57% vs 29%). In another randomized trial of IPPB vs IS, Van De Water et al[10] evaluated 30 postoperative adrenalectomy patients and found that 6 of 15 patients treated with IPPB and 3 of 15 treated with IS developed pulmonary complications.

In a randomized trial comparing postoperative pulmonary function following chest physiotherapy with or without IPPB in 30 cholecystectomy patients, Ali et al[41] found no additional benefit of added IPPB. Schuppisser et al[42] compared chest physiotherapy and IPPB in 17 patients following abdominal surgery. Using measurements of whole body plethysmography and arterial blood gases, the investigators noted that neither of the modalities was more effective than the other in preventing postoperative pulmonary complications.

Anderson et al,[43] in an early study of IPPB (1963) for the prevention of postoperative pulmonary complications after varied surgeries, administered IPPB to 43 patients. One hundred sixty patients who did not receive IPPB were used as a control group. There was no description of how patients were selected for treatment. Pulmonary complications (fever, cough, rales, or abnormal x-ray) were seen in 2.5% of the IPPB group and 19.5% of the controls.

Jung et al[44] compared IPPB, IS, or resistance breathing as postoperative respiratory care in 126 patients following upper abdominal surgery. There were no uniform standards of usage of any of the techniques, and no significant difference in the incidence of respiratory complications was noted.

In a case series in which postoperative atelectasis was treated with inspiratory techniques designed to increase functional residual capacity, Paul and Downs[45] studied eight patients after coronary bypass surgery and found that face-mask positive end-expiratory pressure was effective, IS had little or no effect, and IPPB was effective during treatment but had an adverse effect after treatment because residual capacity levels fell below control values. That phenomenon was believed to be secondary to hypoventilation[45] because acute alveolar hypoventilation has been described following IPPB.[46]

Celli et al[1] conducted a randomized trial of IPPB, IS, and deep breathing exercises (DBE) in 172 patients following abdominal surgery. The frequency of pulmonary complications was 48% in the untreated control group, 22% in the IPPB group, 21% in the IS group, and 22% in the DBE group. Criticism of most studies of IPPB involves the failure to describe whether the treatment was optimally delivered and the absence of criteria for what constitutes effective treatment.[47] Data from selected published studies of IPPB are in Tables 1 and 2.

Table 1. Selected published studies of IPPB

Reference	No. of patients	Clinical conditions	Treatment	Parameters*	Increased benefit of IPPB
Webber[6]	45	Asthma	Bronchodilator in nebulizer or in IPPB	1	Yes
Anderson[31]	10	Asthma	Bronchodilator in nebulizer or in IPPB	2,3	No
Pederson[32]	13	Asthma	Bronchodilator in nebulizer or in IPPB	2,4	No
Fergusson[33]	20	Asthma	Bronchodilator in nebulizer or in IPPB	1,5,6,7	No
Klein[34]	44	COPD	IPPB vs 0_2 therapy	2,3,5,8,9	No
Curtis[35]	187	COPD	Routine treatment ± IPPB	2,5,10	No
IPPB Trial Group[8]	985	COPD	Bronchodilator in nebulizer or in IPPB	2,9,10,11,12	No
Fogel[7]	14	Croup	Bronchodilator in nebulizer or in IPPB	13	No
Levine[39]	32	COPD	IPPB vs ventilatory muscle endurance training	14	No
Gale[9]	109	After cardiac surgery	IPPB vs IS	15	No
Dohi[4]	64	After abdominal surgery	IPPB vs IS	2,3,15,16	No
Van De Water[10]	30	After varied surgeries	IPPB vs IS	15,16	No
Ali[41]	30	After cholecystectomy	Chest physiotherapy ± IPPB	3,5,9	No
Schuppisser[42]	17	After abdominal surgery	Chest physiotherapy vs IPPB	2,3,5,9	No
Anderson[43]	203	After varied surgeries	IPPB vs control	17	No
Jung[44]	126	After abdominal surgery	IPPB vs IS or resistance breathing	15,16	No
Celli[1]	172	After abdominal surgery	IPPB vs IS or DBE	15,16	Yes+

*1 = Peak expiratory flow
2 = FEV_1
3 = FVC
4 = Flow-volume curves
5 = Arterial blood gases
6 = Heart rate
7 = Respiratory rate
8 = Total lung volume
9 = Functional residual capacity
10 = Survival
11 = Hospitalization
12 = Codiffusion
13 = Clinical signs/symptoms
14 = Exercise capacity
15 = Atelectasis
16 = Pneumonia
17 = Fever, cough, rales

+IPPB > no therapy, but not different from DBE or IS.

Table 2. Adverse effects of IPPB

Reference	Complications
Dohi[4]	Increased incidence of pneumonia, atelectasis, bronchitis
Van De Water[10]	"Pulmonary complications"
Paul[45]	Decreased functional residual capacity
Israel[46]	Acute hypoventilation
Schilling[24]	Infection, hypocarbia, pneumothorax, hemoptysis
Gonzalez[25]	Infection, hypocarbia, pneumothorax, hemoptysis

Discussion

Optimal techniques for the delivery of respiratory therapy and patient selection criteria have not been adequately addressed by clinical studies.[22,48] However, the use of IPPB has evolved as a controversial modality in medicine.[5] Despite the immense popularity of IPPB in the 1960s and early 1970s, the increasing number of reports questioning its clinical utility and the conflicting data from controlled trials of its efficacy in the prevention or treatment of pulmonary conditions have resulted in a marked reduction of its use.[49-53] Increasingly, IPPB has represented only a very small percentage of the total volume of respiratory therapy services.[22] The failure of the medical literature to document the efficacy of IPPB has resulted in physicians and respiratory therapists often recommending alternative therapies, including postural change, IS, DBE, cough regimens, chest physiotherapy, and aerosols for therapy and/or prophylaxis.[22,54] Generally agreed upon specifications for the administration of IPPB do not exist. Volumes, flow rates, pressures, duration and frequency of therapy, and associated medication have not been standardized for the treatment of any condition. All the mechanical effects of IPPB are short-lived, lasting only about 1 hour after treatment, and its long-term effects have not been adequately evaluated.[24]

Some case studies have suggested that IPPB might be valuable for the treatment of atelectasis in patients failing DBE or IS, in those with severe bronchospasm, and in patients whose respiratory muscles are fatigued. However, subsets of patients for whom beneficial effects of IPPB can be derived have not been conclusively identified.[5] In addition, it has been stated that it is excessively optimistic to expect IPPB, provided for only 15 minutes three or four times daily, to result in significant clinical benefits.[37]

A beneficial effect of IPPB derives from its ability to deliver aerosolized medications.[6] However, most reported studies have failed to separate the pharmacologic effects of the bronchodilators from the mechanical effects of the IPPB.[5] If IPPB is effective in the treatment of severe COPD or bronchospasm, these positive effects appear to be readily duplicated by more physiologic, simpler, and less costly techniques than IPPB.[1,24,25] The lack of efficacy of IPPB delivered by the commonly applied pressure-cycled devices to prevent or treat postoperative pulmonary complications may be explained by the fact that the machines used to deliver IPPB allow only for a pressure adjustment, without measurement or control of maximum lung volume. Therefore, a reduction in functional residual capacity combined with the typical postoperative decrease in pulmonary compliance results in a smaller volume of gas delivered for the same pressure, which can lead to more shallow ventilation.[54] In the presence of atelectasis, increased inflation pressures could overextend normal alveoli and lead to a ventilation-perfusion mismatch and exacerbation of hypoxemia.

Additional risks of IPPB include infection, excessive ventilation and excessive oxygenation (when using oxygen as the gas source), decreased partial pressure of carbon dioxide during treatment, the induction or exacerbation of pneumothorax, and the exacerbation of hemoptysis.[24,25]

In response to the *Federal Register* notices of this assessment[55-57] and the solicitation of information and opinions from physicians and institutions involved with IPPB, the Office of Health Technology Assessment has received the following input:

The American Thoracic Society stated that there is no evidence that IPPB is useful or desirable for home use. Possible selected indications for IPPB in hospital may include the management of refractory atelectasis and as a technique in lieu of intubation in patients with acute ventilatory failure.

The American Association for Respiratory Care (AARC) believes that in patients unable to coordinate their breathing pattern to obtain maximal benefit from aerosols delivered by simple devices, the use of IPPB may allow more effective aerosol therapy. IPPB appears to offer no advantage over simple aerosol nebulizer therapy in the treatment of patients with stable, chronic asthma. The AARC recommends IPPB coupled with DBE and chest physiotherapy to help decrease or control unstable carbon dioxide tension in patients with exacerbated COPD and severe ventilatory impairment. In addition, AARC stated that the use of IPPB in the prophylaxis of atelectasis remains controversial. However, IPPB can be beneficial in treating acute lobar atelectasis. The AARC also supports the use of IPPB as

coliosis patients who may be at risk of developing respiratory failure.

The National Association of Medical Directors of Respiratory Care position concerning IPPB is that it offers no advantage over alternative modes of routine treatment for most patients with stable asthma, chronic bronchitis, and emphysema, and there is no evidence that IPPB offers any advantage over standard bronchial hygiene therapy. In addition, they stated that IPPB is of value for the following circumstances and should not be regarded as a routine therapeutic modality:

For therapeutic purposes, IPPB (with or without aerosol) may be appropriate for pulmonary atelectasis (segmental or greater) where alternative modes of therapy have been unsuccessful; for patients unable to raise secretions adequately because of the presence of a pathologic process that severely limits their ability to ventilate deeply and cough effectively and who have been unresponsive to, or are judged to be unsuited for, other modes of treatment; and for the temporary treatment of hypoventilating patients where it may be appropriate to use IPPB as an alternative to tracheal intubation and continuous mechanical ventilation. For prophylactic purposes, IPPB may be appropriate to prevent postoperative complications in patients with limited ability to cough or breathe deeply.

The American College of Surgeons believes that there is little evidence to support the concept that IPPB is of value as a preventive measure against the pulmonary complications following any type of major surgery. For the prevention or treatment of postoperative atelectasis, an incentive spirometer and DBE are more effective and less expensive than routine IPPB treatment.

The American College of Chest Physicians believes that IPPB, when used for mechanical ventilation, is clearly indicated as a life-support measure. In addition, for those patients who are unable to breathe slowly and deeply, it is possible that the delivery of a bronchodilator may be more effective with an IPPB device in selected patients. They also believe that there is a role for periodic IPPB administered by skilled therapists in the treatment of pulmonary atelectasis.

The Mayo Clinic stated that there is no evidence to show that IPPB has any advantage in bronchitis and emphysema (COPD). However, IPPB might be of advantage in individuals who have failure of the respiratory muscles due to paralysis or chest wall deformity (eg, kyphoscoliosis), resulting in respiratory "pump" failure. In addition, there is no clear-cut evidence that IPPB used routinely after abdominal surgery prevents pulmonary complications.

The University of Pittsburgh, Division of Pulmonary and Critical Care Medicine, stated that there is no current indication for the use of IPPB as a treatment for acute bronchospasm or COPD, where a spontaneous aerosol is as good as, if not better than, IPPB, and DBE or IS has been shown to be the best way to treat or prevent pulmonary complications following surgery. The only indication for IPPB is to support someone who has stopped breathing until an appropriate, sophisticated, volume-cycled ventilator can be connected.

University of California Los Angeles Medical Center believes that the use of IPPB in the outpatient home setting has no substantive value. IPPB in the acute setting may be useful, in selected patients, in obtaining larger tidal volumes than other techniques.

Boston University Hospitals no longer use IPPB therapy for simple administration of aerosol solutions. However, they believe some benefit may be obtained from administering these solutions by IPPB in patients with severe kyphoscoliosis.

The Midwest Center for Environmental Medicine believes that the usefulness of IPPB is limited to patients with obstructive airway disease with acute carbon dioxide retention and to facilitate aerosolized bronchodilator delivery in patients having tachypnea and confusion. IPPB has been abandoned for the delivery of aerosol therapy per se, and its use for otherwise uncomplicated atelectasis, mucus retention, or postsurgical prophylaxis is to be discouraged.

Consultation with Public Health Service agencies prompted the following responses:

The Food and Drug Administration has classified IPPB devices as Class II medical devices.

The NIH stated that the randomized trial supported by the National Heart, Lung, and Blood Institute demonstrated no significant differences between IPPB and compressor nebulizer therapy in the long-term management of patients with COPD. Studies of IPPB for the treatment of acute episodes of bronchospasm have produced conflicting results, and it appears there is increasing evidence that IPPB is not superior and may be inferior to other prophylactic treatments designed to reduce respiratory complications following abdominal surgery.

Summary

IPPB uses a mechanical respirator to deliver a controlled pressure of a gas to assist in ventilation or expansion of the lungs, thereby providing an increased tidal volume for patients with a variety of pulmonary conditions. IPPB machines are also used for the delivery of aerosol medications.

The early widespread application of IPPB has dramatically diminished in response to published reports of more recent clinical trials that either question its utility or document its futility in the prophylaxis or treatment

of the numerous conditions for which it was commonly prescribed.

The effects of IPPB are short-lived, lasting approximately 1 hour, and the long-term consequences have not been adequately evaluated. In no study has IPPB been shown to have unequivocal clinical effectiveness, in terms of morbidity, mortality, or lung function, when used either alone or in combination with other modalities. In general, IPPB is not thought to offer any advantage over simpler therapies in the treatment of COPD or asthma or in preventing or treating postoperative atelectasis. However, IPPB may be useful in the following circumstances: 1) in patients at risk of respiratory failure because of decreased respiratory function secondary to kyphoscoliosis or neuromuscular disorders; 2) in patients with acute severe bronchospasm or exacerbated COPD, who fail to respond to other standard therapy; and 3) in the management of atelectasis that has not improved with simpler therapy (e.g., IS, postural drainage, aerosol therapy).

References

1. Celli BR, Rodriguez KS, Snider GL. A controlled trial of intermittent positive pressure breathing, incentive spirometry, and deep breathing exercises in preventing pulmonary complications after abdominal surgery. Am Rev Respir Dis 1984;130:12-15.

2. Popovich J Jr. The physiology of mechanical ventilation and the mechanical zoo: IPPB, PEEP, CPAP. Med Clin North Am 1983;67:621-631.

3. Craven JL, Evans GA, Davenport PJ, et al. The evaluation of the incentive spirometry in the management of postoperative pulmonary complications. Br J Surg 1974;61:793-797.

4. Dohi S, Gold MI. Comparison of two methods of postoperative respiratory care. Chest 1978;73:592-595.

5. O'Donohue WJ Jr. Respiratory therapy: Maximum volume IPPB for the management of pulmonary atelectasis. Chest 1979;76:683-687.

6. Webber CA, Collins JV, Branthwaite MA. Severe acute asthma: A comparison of three methods of inhaling salbutamol. Br J Dis Chest 1982;76:69-74.

7. Fogel JM, Berg J, Gerber MA, et al. Racemic epinephrine in the treatment of croup: Nebulization alone versus nebulization with intermittent positive pressure breathing. J Pediatr 1982;101:1028-1031.

8. IPPB Trial Group. Intermittent positive pressure breathing therapy of chronic obstructive pulmonary disease: A clinical trial. Ann Intern Med 1983;99:612-620.

9. Gale GD, Sanders DE. Incentive spirometry: Its value after cardiac surgery. Can Anaesth Soc J 1980; 27: 475-480.

10. Van De Water JM, Watring WG, Linton LA, et al. Prevention of postoperative pulmonary complications. Surg Gynecol Obstet 1972;132:229-233.

11. McCool FD, Mayewski RF, Shayne DS, et al. Intermittent positive pressure breathing in patients with respiratory muscle weakness: Alterations in total respiratory system compliance. Chest 1986;90:546-552.

12. Pfeinninger J, Roth F. Intermittent positive pressure breathing (IPPB) versus incentive spirometry (IS) therapy in the postoperative period. Intensive Care Med 1977;3:279-281.

13. Hart SK, Dubbs W, Gil A, et al. The effect of therapist evaluation of orders and interaction with physicians on the appropriateness of respiratory care. Respir Care 1989;34:185-190.

14. Geer RT. Mechanical ventilation, in Fishman AP (Ed) Pulmonary Diseases and Disorders. New York, McGraw-Hill; 1980, pp 1607-1617.

15. Brewer LA III. A historical account of the 'Wet Lung of Trauma' and the introduction of intermittent positive-pressure oxygen therapy in World War II. Ann Thorac Surg 1981;31:386-393.

16. Krumpe PE, McNair R. Successful substitution of aerosol nebulization therapy for IPPB at a Veterans Administration medical center. Milit Med 1981;146:689-692.

17. Motley HL, Werko L, Cournand A, et al. Observations on the clinical use of intermittent positive pressure. J Aviat Med 1947;18:417-435.

18. Braun SR, Smith FR, McCarthy TM, et al. Evaluating the changing role of respiratory therapy services of two hospitals. JAMA 1981;245:2033-2037.

19. Russell LB. The diffusion of new hospital technologies in the United States. Int J Health Sci 1976;6:557-580.

20. Baker JP. Intermittent positive pressure breathing or compressor nebulizer therapy? Ann Intern Med 1983; 99:715-716.

21. Stein M, Cassara EL. Preoperative pulmonary evaluation and therapy for surgery patients. JAMA 1970; 211: 787-790.

22. Leigh IG, Ecker RR, Fox HE, et al. A comparative study of IPPB, the incentive spirometer, and blow-bottles: The prevention of atelectasis following cardiac surgery. Ann Thorac Surg 1978;25:197-200.

23. Bartlett RH. Gazzaniga AB. Geraghty TR. Respiratory maneuvers to prevent postoperative pulmonary complications: A critical review. JAMA 1973:224:1017-1021.

24. Schilling JP. Kasik JE. Intermittent positive pressure breathing: A continuing controversy. J Iowa Med Soc March 1980;99-103.

25. Gonzalez ER. Burke TG. Review of the status of intermittent positive pressure breathing therapy. Drug Intell Clin Pharm 1984;18:974-976.

26. Morrison DR. Powers WE. Boocks RD. A proposal for the more rational use of IPPB: Volume orientation. Respir Care 1976;21:318-322.

27. Rudy NE. Crepeau J. Role of intermittent positive pressure breathing postoperatively. JAMA 1958:167:1093-1096.

28. Pontoppidian H. Mechanical aids to lung expansion in non-intubated surgical patients. Am Rev Respir Dis 1980:122:109-119.

29. Light RW. Taylor RW. George RB. Albuterol and isoproterenol in bronchial asthma: Efficacy and toxicity of drugs administered via intermittent positive pressure breathing. Arch Intern Med 1979;139:639-643.

30. Branscomb BV. Metaproterenol solution in the treatment of asthmatic patients by intermittent positive pressure breathing. J Clin Pharmacol 1982;22:231-235.

31. Anderson PB. Goude A. Peake MD. Comparison of salbutamol given by intermittent positive pressure breathing and pressure-packed aerosol in chronic asthma. Thorax 1982:37:612-616.

32. Pederson JZ. Bungaard A. Comparative efficacy of different methods of nebulizing terbutaline. Eur J Clin Pharmacol 1983;25:739-742.

33. Fergusson RJ. Carmichael J. Rafferty P. et al. Nebulized salbutamol in life-threatening asthma: Is IPPB necessary? Br J Dis Chest 1983;77:255-261.

34. Klein G. Ruhle KH. Matthys H. Long-term oxygen therapy vs IPPB therapy in patients with COLD and respiratory insufficiency: Survival and pulmonary hemodynamics. Eur J Respir Dis 1986:69:409-415.

35 Curtis JK. Liska AP. Rasmussen HK. et al. IPPB therapy in chronic obstructive pulmonary disease: An evaluation of long-term home treatment. JAMA 1968:206:1037-1040.

36. Shapiro BJ. Welch MA Jr. Mercurio P. The IPPB trial. Ann Intern Med 1984;100:457-458.

37. Sutton PP. Pavia D. Bateman JRM. Chest physiotherapy: A review. Eur J Respir Dis 1982;63:188-201.

38. Eggertsen SC. Intermittent positive pressure breathing and the treatment of acute asthma. J Fam Pract 1983;16:909-913.

39. Levine S. Weise P. Gillen J. Evaluation of ventilatory muscle endurance training program in rehabilitation of patients with chronic obstructive pulmonary disease. Am Rev Respir Dis 1986;133:400-406.

40. DeTroyer A. Deisser P. The effects of intermittent positive pressure breathing on patients with respiratory muscle weakness. Am Rev Respir Dis 1981;124:132-137.

41. Ali J. Serrette C. Wood LDH. et al. Effect of postoperative intermittent positive pressure breathing on lung function. Chest 1984;85:192-196.

42. Schuppisser JP. Brandli O. Meili U. Postoperative intermittent positive pressure breathing versus physiotherapy. Am J Surg 1980;140:682-686.

43. Anderson WH. Dossett BE Jr. Hamilton GL. Prevention of postoperative pulmonary complications: Use of isoproterenol and intermittent positive pressure breathing on respiration. JAMA 1963;186:763-766.

44. Jung R. Wight J. Nusser R. et al. Comparison of three methods of respiratory care following upper abdominal surgery. Chest 1980;78:31-35.

45. Paul WL. Downs JB. Postoperative atelectasis: Intermittent positive pressure breathing. incentive spirometry. and face-mask positive end-expiratory pressure. Arch Surg 1981;116:861-863.

46. Israel RH. Poe RH. Insidious onset of acute alveolar hypoventilation following intermittent positive-pressure breathing (IPPB). Respiration 41;1981:199-201.

47. Welch MA. Shapiro BJ. Mercurio P. et al. Methods of intermittent positive pressure breathing. Chest 1980;78:463-467.

48. Welch MA Jr. Mercurio P. IPPB. SMI. gloves: Good or bad? Chest 1981;79:615-616.

49. Chase CR. Merz BA. Shinozaki T. et al. Use of a computerized respiratory care record system to study utilization of IPPB therapy. Respir Care 1983;28:309-314.

50. Walton JR. Shapiro BA. Harrison CH. Review of a bronchial hygiene evaluation program. Respir Care 1983;28:174-179.

51. Pierce AK. Saltzman HA. Conference on the scientific basis of respiratory therapy. Am Rev Respir Dis 1974:110:1-202.

52. Barach AL, Segal MS. The indiscriminate use of IPPB. JAMA 1975:231:1141-1142.

53. Schweiger I, Gamulin Z, Forster A, et al. Absence of benefit of incentive spirometry in low-risk patients undergoing elective cholecystectomy. Chest 1986:89: 652-656.

54. Ros AM, Vincent JL, Kahn RJ. Incentive spirometry: Prevention of pulmonary complications after abdominal surgery. Acta Anaesthesiol Belg 1981:2:167-174.

55. Federal Register. June 17, 1986:51:21984.

56. Federal Register. August 29, 1988:53:32941.

57. Federal Register. April 10, 1990:55:13325.

[FR Doc. 94-15773 Filed 6-28-94; 8:45 am]
BILLING CODE 4120-01-C

National Institutes of Health

National Institute of Environmental Health Sciences; Meeting of Environmental Health Sciences Review Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Environmental Health Sciences Review Committee on August 1–2, 1994 at the National Institute of Environmental Health Sciences, Building 101 Conference Room, South Campus, Research Triangle Park, North Carolina. The meeting will be open to the public August 1 from 8:30 a.m. until approximately 9:30 a.m. for general discussion. Attendance by the public is limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Public L. 92–463, the meeting will be closed to the public, from approximately 9:30 a.m. on August 1 until adjournment, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Ethel Jackson, Scientific Review Administrator, Environmental Health Sciences Review Committee, National Institute of Environmental Health Sciences, National Institutes of Health, P.O. Box 12233, Research Triangle Park, North Carolina 27709, (telephone 919–541–7826), will provide a summary of the meeting and the roster of committee members. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Dr. Ethel Jackson in advance of the meeting.

(Catalog of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93–114, Applied Toxicological Research and Testing; 93–115, Biometry and Risk Estimation; 93–894, Resource and Manpower Development, National Institutes of Health.)

Dated: June 23, 1994.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 94–15684 Filed 6–28–94; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Closed Meetings

Pursuant to section 10-(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review Small Business Innovation Research Program grant applications.
Name of SEP: Behavioral and Neurosciences.
Date: July 11–12, 1994.
Time: 8:30 a.m.
Place: River Inn, Washington, DC
Contact Person: Dr. Anita Sostek, Scientific Review Administrator, 5333 Westbard Ave., Room 319C, Bethesda, MD 20892, (301) 594–7358.

Name of SEP: Behavioral and Neurosciences.
Date: July 15, 1994.
Time: 8:30 a.m.
Place: Holiday Inn Bethesda, Bethesda, MD.
Contact Person: Dr. Peggy McCardle, Scientific Review Administrator, 5333 Westbard Ave., Room 305, Bethesda, MD 20892, (301)594–7293.

Name of SEP: Behavioral and Neurosciences.
Date: July 27–28, 1994.
Time: 8:30 a.m.
Place: Holiday Inn, Chevy Chase, MD.
Contact Person: Dr. Teresa Levitin, Scientific Review Admin., 5333 Westbard Ave., Room 303, Bethesda, MD 20892, (301) 594–7141.

Purpose/Agenda: To review individual grant applications.
Name of SEP: Behavioral and Neurosciences.
Date: July 19–20, 1994.
Time: 8:30 a.m.
Place: River Inn, Washington, DC
Contact Person: Dr. Anita Sostek, Scientific Review Administrator, 5333 Westbard Ave., Room 319C, Bethesda, MD 20892, (301) 594–7358.

Name of SEP: Behavioral and Neurosciences.
Date: July 28, 1994.
Time: 9:00 a.m.
Place: Holiday Inn, Chevy Chase, MD.
Contact Person: Dr. Herman Teitelbaum, Scientific Review Admin., 5333 Westbard Ave., Room 321, Bethesda, MD 20892, (301) 594–7245.

Name of SEP: Behavioral and Neurosciences.
Date: August 3, 1994.
Time: 2:00 p.m.
Place: Westwood Bldg., Room 321, (Telephone Conference).
Contact Person: Dr. Herman Teitelbaum, Scientific Review Admin., 5333 Westbard Ave., Room 321, Bethesda, MD 20892, (301) 594–7245.

The meetings will be closed in accordance with the provisions set forth in sec. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.337–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 23, 1994.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 94–15685 Filed 6–28–94; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

The Effect of Managed Care on Academic Medical Centers—Request for Comments

AGENCY: Office of the Assistant Secretary for Health.

ACTION: Notice of request for comments.

SUMMARY: The Public Health Service (PHS) is seeking public commentary concerning the effect of managed care organizations on academic medical centers. PHS is interested in examining the role of academic medical centers and their financial viability under a health reform system that would significantly expand the number of people insured through managed care organizations. Respondents are asked to identify issues of interest, to be analyzed in a future study.

DATES: The deadline for submission of comments is July 11, 1994.

ADDRESSES: Comments should be sent to: Dan Ermann, Room 740G, 200 Independence Ave. SW., Washington DC 20201.

SUPPLEMENTARY INFORMATION: Academic Medical Centers (AMCs) are a cornerstone of the current medical educational system, and undertake three distinct activities: teaching, research, and patient care. Funding for AMC programs currently relies heavily on patient revenues.

Managed care organization (MCOs) have grown rapidly over the past decade and are projected to account for approximately 40 percent of all insurance coverage by 2000. Under most health reform plans being debated, the market share of MCOs would grow even more rapidly than this projection. MCOs contract with specific providers to serve their enrollees, focusing on providing quality health care at the lowest negotiated price. AMCs, with higher charges than most non-teaching

hospitals, may not be able to offer competitive prices to MCOs for many services. With MCOs managing an increasing share of health care expenditures and patient volume, and with a growing emphasis on price competition in the insurance market, it is possible that relatively expensive AMCs will face a reduced patient volume and lower revenues. This is likely to affect the way AMCs operate, potentially jeopardizing teaching and research quality and/or patient access to specialized care procedures.

The goals and practices of AMCs and MCOs are in many ways incompatible. First, since patient expenditures are expected to subsidize teaching, research, and the training of interns, many types of health services are more expensive at AMCs than at non-academic hospitals. Since MCOs seek efficient and low-cost health care providers, they may be less likely to contract with an AMC than a non-academic hospital. Second, most AMCs emphasize hospital-based medical education, and a high proportion of their resident physicians are training for medical specialties. MCOs emphasize the use of primary care physicians to manage patient care and to provide treatment. Referral specialties are used only when the primary care physician determines that this level of care is required. Third, a common perception of academic medicine is that patients find the care to be cold and distant and fragmented. MCOs emphasize the relationship between the primary care physician and patients, and they were structured to provide coordinated health care that assures that the primary care physicians is fully involved in all decisionmaking about the patient's care.

In spite of these differences, AMCs and MCOs could benefit through cooperation. AMCs would benefit through association with MCOs by: (1) having access to a larger, more varied patient base; (2) increased market share; and, (3) increased exposure to primary care practice and coordination of care. In addition, MCOs could provide AMCs with an excellent model for the study of innovations in primary ambulatory care delivery. Finally, centralized record keeping, as required by many MCOs, would increase the quality of data used and generated by AMCs.

MCOs could benefit through association with AMCs in several ways: (1) AMCs could provide educational opportunities for MCO-affiliated physicians, which could increase job satisfaction for these practitioners; (2) the quality of health services provided through the MCO network could be increased, overall; and (3) affiliation with an AMC would be a positive factor in MCO physician recruitment. In addition, affiliation with AMCs could provide a positive marketing advantage to MCOs, to the extent that potential enrollees judge the quality of care offered by the MCO on the basis of the participation of a prestigious AMC in the provider network.

At the present time, there is anecdotal evidence, but little data, on the extent to which MCOs contract with AHCs and their teaching hospitals. In addition, if they do contract with teaching hospitals, MCOs may permit enrollees to use these hospitals for routine hospital care or may limit use of these hospitals to specific diagnoses and treatments for which they are particularly well-qualified. It would be useful to obtain information on these issues, in order to assess the potential impact of further growth in managed care on the viability of AHCs and their teaching hospitals.

PHS thus is seeking comment on the potential impact of the growth of managed care enrollments on AMCs and their future patient volume and financial viability. Responses to the following questions are specifically sought (as well as all other pertinent commentary).

Issues for Managed Care Organizations

- Do you have contracts with AHCs and their teaching hospitals?
- If you have contracts with AHCs, are your physicians permitted to refer patients to the AHC hospital for routine conditions or is access limited to patients with specific diagnoses and treatment requirements?
- Have you been successful in negotiating discounts with AHCs that compare to the prices negotiated with non-teaching hospitals?
- Who in your organization makes the decision about whether to contract with a specific hosptial or not? What are the key factors in making that decision?

Issues for Academic Medical Centers

- How many contracts with MCOs do you currently have?
- What proportion of patients treated in your hospitals are enrolled in MCOs?
  - —With which you have a formal contract?
  - —With which you have no formal contract?
- If you have contracts with MCOs, do you treat patients for routine conditions or is treatment limited to patients with specific diagnoses and treatment requirements?
- What is the average negotiated price under managed care contracts relative to the full charges and to discounts you offer traditional insurers?
- Who in your organization makes the decision to contract with a specific MCO or not? What are the key factors in making that decision?

Background

AMCs are defined by the functions that they provide to the medical community: research, education, and health care services. They are composed of three related entities that perform the broadly defined tasks undertaken by AMCs: (1) the teaching hospital, (2) the faculty practice plan (FPP), and (3) the medical school. The teaching hospital and the FPP serve as revenue sources, as well as an avenue for the applied teaching of students and a locus of research activity. In particular, the FPP bills patients for physicians' services and distributes revenues to the medical school, its clinical departments, and its faculty. AMCs have become increasingly dependent on FPP revenue, with the FPP providing approximately 30 percent of all medical school revenue in 1990.

MCOs are structured to provide quality health services in a cost-effective manner. Preferred provider organizations (PPOs) provide financial incentives for patients to use specific providers. In exchange for higher volumes of patients, these providers agree to receive discounted fees for services. The staff model health maintenance organization (HMO) vertically integrates health care providers. The physicians are employed by the health plan and are paid a fixed salary. Group model and network model HMOs generally contract with physicians for comprehensive services on a capitation basis. Independent practice model (IPA) HMOs contract with physicians on either a discount fee-for-service or capitation basis. While some staff and group model HMOs own hospitals, most HMOs contract for hospital services on a preferred financial basis.

The goals and practices of MCOs are in many ways inconsistent with those of AMCs. MCOs seek efficient medical providers that operate at a low cost, while AMCs must use patient revenues to subsidize research and teaching, and thus tend to be relatively more expensive. MCOs tend to emphasize primary ambulatory care, while AMCs tend to provide specialized and inpatient hospital care. MCOs must be concerned about patient satisfaction in order to maintain their customer base, while the focus of AMCs includes the training of new physicians and the development of cutting edge techniques,

often at a substantial cost in dollars and convenience to the patient.

Historical Overview

AMCs have been tied historically to federal support and influence. The National Institutes of Health (NIH) have provided extensive support in the areas of research and research training, and has been responsible for a significant share of the expansion of full-time medical faculties. The NIH has provided grant-based support, allowing researchers a degree of independence from routine institutional duties.

Congress has made several legislative attempts to stimulate medical training. The Health Professions Educational Assistance Act of 1963 authorized federal funds for the construction and renovation of medical schools, and made substantial loans available for medical training. The Health Manpower Act of 1968 and the Comprehensive Manpower Training Act of 1971 provided additional financial incentives to students studying medicine and other health-related fields. The Family Practice Medicine Act of 1970 and the Health Professions Educational Assistance Act of 1976 attempted to target the financial assistance provided to medical students to a desired mix of primary care and specialist physicians.

The Department of Medicine and Surgery was established within the Veterans Administration (VA) to ensure that veterans of World War II would have access to high-quality health care. The Department affiliated itself with a large number of medical schools, providing expanded full-time faculty, additional residency positions, and research funding. In 1972 the VA provided assistance to several affiliated medical schools, allowing the creation of new medical centers.

An additional government-sponsored revenue source was provided in 1965 with the creation of Medicare and Medicaid, increasing the number of insured patients, and dramatically increasing FPP revenues. Direct and indirect payments to AMC's from the federal government, including NIH, Medicare and Medicaid, have reached $5 billion annually. Funding for research and teaching are also provided by state and local government, as well as through higher charges by AMC's to patients. In recent years, direct federal payments to medical centers have fallen as a share of total revenues and patient revenues have increased. In 1990, patient revenues accounted for nearly 30 percent of AMC funding. Thus, AMCs are dependent on a continuous stream of patients to fund their teaching and research programs, in addition to funding received from government sources.

MCOs are rapidly becoming the dominant players in the market for health care. The number of HMO enrollees increased from 10.2 million to 38.8 million in the ten years ending in 1992. PPO enrollment is thought to equal or even exceed that of HMOs. Over the past decade, both Medicare and Medicaid have encouraged the growth of managed care options for their recipients. In addition, most health reform proposals currently being discussed include provisions that would increase the market share of MCOs beyond the currently projected growth. In markets where managed care is a well-established option, AMCs and MCOs are involved in a number of arrangements or have limited contacts. The experience that these organizations have gained, and the outcomes with respect to negotiations, payment arrangements, and the volume of patients directed to AMCs by MCOs can provide information and insight into the potential effects of future growth in managed care enrollments on AMCs.

Areas of Conflict

The primary area of conflict between AMCs and MCOs is the cost of AMC services. AMCs require that their facility members split their time between patient and academic research or teaching pursuits. Thus, AMC physicians may be less efficient in providing services than are physicians in non-teaching environments. This inefficiency is partly offset by the utilization of resident physicians who work for relatively little pay, but these less experienced staff members tend to order more tests and hold patients longer for observation. In addition, AMCs tend to attract a sicker-than-average distribution of patients, which results in higher average costs per patient overall.

Traditionally, these higher costs per patient to support teaching activities and due to a sicker case mix have been passed on to the patient in the form of higher charges. Insurers paying these higher charges pass the cost on in the form of higher insurance premiums. MCOs may be unwilling to pay these higher than average rates, because they emphasize efficient health services and competitive premiums. These plans often negotiate payment arrangements on a per diem or per case basis that allow, in part, for the sicker patient mix, but do not provide a payment sufficient to subsidize the academic objectives of the AMC. In addition, by contracting on a per diem or per case basis with MCOs that serve Medicare and Medicaid enrollees, the AMCs stand to lose the supplemental teaching reimbursement portion of Medicare and Medicaid payments for these patients.

Aside from the cost issue, there are several other aspects of AMC practice that may be inconsistent with MOC's goals:

1. *Inefficient organization.* AMCs tend to be organized very much like a medical school department, usually divided by function, and again by subspecialty. These departments often operate independently of one another, and are allowed to determine their own sets of policies, priorities, and business practices. There is no centralized authority and little communications between departments. This lack of centralized control make the implementation of consistent MCO arrangements problematic.

2. Resistance to medical oversight. Each department within an AMC operates, for the most part, independently of all the other departments. There is no mechanism in place that provides a physician with oversight regarding what care is appropriate for any given patient.

3. Patient satisfaction. MCOs are concerned about their patients' satisfaction. Patients' perception of physician competency is influenced by many things, including how much the physician values the patient's time. Measurable influences include: (a) Elapsed time between requesting an appointment and the time of the appointment; (b) time required to register a new patient; (c) elapsed time between the scheduled appointment and actually being seen by the doctor; and (d) the length of time they are "put on hold" while calling with problems or for information. AMC physicians often must weigh their academic duties against the desires of their patients, which tends to lead to lower patient satisfaction rates.

Current practices in many AMCs may represent significant barriers to participation in Managed Care plans. Most of these non-cost issues stem from the traditional structure of the AMCs, and are not necessarily required for the institutions to pursue their academic function. However, physicians employed within the academic environment may be resistant to the standardization and coordination among departments that may be necessary to satisfactory arrangements with many MCOs.

Areas of Mutual Benefit

Despite the differences in goals and practices between MCOs and AMCs, there are benefits available to both types

of organizations through cooperation. These benefits may account for the fact that some MCOs and AMCs are already working together under ongoing relationships. In 1990, 15 percent of all HMOs responding to one survey indicated that they were directly involved to some extent in medical education; and 14 percent had an agreement to serve as an ambulatory care rotation site with an AMC or teaching hospital that was not owned or operated by the HMO. The HMOs most likely to report involvement in medical education were those that were older and well-established.

AMCs stand to benefit substantially, both financially and by expanding their research opportunities, through ongoing relationships with MCOs. These benefits could include:

1. Access to a more varied patient base.
2. Access to a larger market share.
3. Increased primary care practice opportunities.
4. Centralized record keeping.

MCOs would also profit from associating with an AMC in several ways:

1. Increased MCO physician satisfaction.
2. Improved continuing education opportunities.
3. Improved physician recruitment.
4. Marketing to new enrollees.

Conclusion

The proposition of the population enrolled in MCOs has grown dramatically over the past two decades. Under a number of health reform proposals, this trend would accelerate, with the result that within a few years nearly all Americans would obtain health services through managed care provider networks. If MCOs choose not to contract with AMCs and their teaching hospitals, because of their higher prices or inefficiencies related to their educational role, then the implications of these trends for the current system of training health professionals may be profound. This announcement seeks comments and suggestions on issues related to this topic, that may be analyzed in a future study.

Dated: June 23, 1994.

John Gallivan,

Federal Register Liaison Officer.

Bibliograpy

David Blumenthal, M.D., M.P.P., and Gregg S. Meyer, Maj. U.S.A.F., M.C. "The Future of The Academic Medical Center Under Health Care Reform," *The New England Journal of Medicine* December 9, 1993, 329(24), pages 1812–1814.

Gerard N. Burrow, M.D. "Tensions within the Academic Health Center" *Academic Medicine*, August 1993 68(8), pages 585–587.

Janet M. Corrigan, Ph.D., and Laurie M. Thompson, M.H.S.A. "Inovolvement of Health Maintenance Organizations in Graduate Medical Education" *Academic Medicine*, November 1991, 66(11), pages 645–661.

Frederick A. Creighton, Annette M. Bernard, and Laurence F. McMahon, Jr., "An Integrated Inpatient Management Model" *Health Care Management Review*, Winter 1990, 15(1), pages 61–70.

Robert H. Ebert, M.D., D.Phil., and Sara Brown, M.P.H. "Academic Health Centers" *The New England Journal of Medicine*, May 19, 1983, 308, pages 1200–1208.

John A. Eudes and Kathy L. Davis, "Marketing The Academic Medical Center Group Practice," *Managed Care Management Journal*, May/June 1992, pages 50–53.

Peter D. Fox and Jeff Wasserman "Academic Medical Centers and Managed Care: Uneasy Partners" *Health Affairs*, Spring 1993, pages 87–93.

Harold I. Goldberg, M.D., Diane P. Martin, Ph.D., Dale B. Christensen, Ph.D., William E. Neighbor, M.D., Thomas S. Inui, Sc.M., M.D., and James Lo Gerfo, M.D., M.P.H. "The Health of the Public Program at the University of Washington: A New Role for Academic Medical Centers" *Academic Medicine*, September 1991, 66(9), pages 499–505.

Gilad S. Gordon, M.D., M.B.A., Stephan E. Sefcik, C.P.A., Ph.D., and James P. Lo Gerfo, M.D., M.P.H. "Charges for Comprehensive Obstetric Care at Teaching and Nonteaching Hospitals: A Comparison" *The Western Journal of Medicine*, December 1991, 155((6), pages 616–620.

H. Wilson Graves, M.A., M.P.A., "Can an Association be Mutually Beneficial" *Managed Care Management Journal*, July/August 1993, pages 27–34.

Alan L. Hillman, M.D., M.B.A., Neil Goldfarb, John M. Eisenberg, M.D., M.B.A., and Mark A. Kelley, M.D. "An Academic Medical Center's Experience with Mandatory Managed Care for Medicaid Recipients" *Academic Medicine*, 1991, 66, pages 134–138.

Lewin-VHI, Inc. *Estimated Indirect Medical Education Payments: Briefing for Public Health Service*, March 10, 1994.

Gordon T. Moore "HMOs and Medical Education: Fashioning A Marriage" *Health Affairs*, Spring 1986, pages 147–153.

Rick J. Schuch, M.D., Patrick A. Tranmer, M.D., Rambha Bhatia, M.D., Allan J. Olthoff, D.O., Sherly Bloom, M.P.H., Mary Lou Adamek, and Phillip M. Forman, M.D., "A Student Health HMO as a Partnership Model Within an Academic Medical Center" *The Journal of Family Practice*, 1990, 30((5), pages 585–591.

Kent J. Sheets, Ph.D., Barbara S. Caruthers, M.D., and Thomas L. Schwenk, M.D. "Assessing Patients' Satisfaction with Care Provided by Residents in an Academic HMO Setting" *Academic Medicine*, July 1990, 65(7), pages 482–483.

Frank A. Sloan and Joseph Valvona "Uncovering the High Costs of Teaching Hospitals" *Health Affairs*, Fall 1986, pages 68–85.

William H. Straub, M.D., M.B.A., F.A.C.R. "Managed Competition: Implications for Radiology" *Radiology*, August 1993, (188), pages 51A–44A.

[FR Doc. 94–15772 Filed 6–28–94; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of 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.*):

Applicant: Donald Gates, Harrisburg, IL, PRT–790761

The applicant requests a permit to import the sport-hunted trophy of one Black-faced impala (*Aepyceros melampus*) from Namibia, for the purpose of enhancement of survival of the species.

Applicant: Southwestern Field Biologists, Tucson, AZ, PRT–790350

The applicant requests a permit to survey using taped vocalizations to determine the presence or absence of least Bell's vireo (*Vireo bellii pusillus*) in southern California to enhance the survival of the species.

Applicant: Division of Marine Resources, Koror, Republic of Palau, PRT–791489

The applicant requests a permit to collect blood samples, dead hatchlings, eggs, and salvaged parts (as tissue samples) at the main Palauan Archipelago and the Southwest Palauan Islands from green (*Chelonia mydas*) and hawksbill (*Eretmochelys imbricata*) sea turtles for genetic studies to enhance the survival of the species.

Applicant: Division of Marine Resources, Koror, Republic of Palau, PRT–790348

The applicant requests a permit to export blood samples, dead hatchlings, eggs, and salvaged parts (as tissue samples) collected at the main Palauan

Archipelago and the Southwest Palauan Islands from green (*Chelonia mydas*) and hawksbill (*Eretmochelys imbricata*) sea turtles to Queensland Department of Environment and Heritage, Research and Monitoring Manager, North Quay, Australia, genetic studies to enhance the survival of the species.

Applicant: Walter Johnson, Ft. Myers, FL, PRT–791246

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) culled from the captive-herd maintained by Mr. M. Winard, "Longwood", Bedford, South Africa, for the purpose of enhancement of survival of the species.

Applicant: Saint Louis Zoological Park, Saint Louis, MO, PRT–791463

The applicant requests a permit to import one female captive born jaguar (*Panthera onca*) from Guadalajara Zoo, Jalisco, Mexico to enhance the survival of the species through propagation.

Applicant: Exotic Feline Breeding Compound, Rosamond, CA, PRT–791666

The applicant requests a permit to import one female captive born Amur leopard (*Panthera pardus orientalis*) from Assiniboine Park Zoo, Winnipeg, Canada for the purpose of enhancement of the survival of the species through propagation.

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: June 24, 1994.

Caroline Anderson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 94–15791 Filed 6–28–94; 8:45 am]

BILLING CODE 4310–55–P

Bureau of Land Management

[NM–920–4210–06; NMNM 012318]

Notice of Proposed Continuation of Withdrawal; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Department of Agriculture, Forest Service, proposes that a 715.02-acre withdrawal for the Ben Lilly, Ben Lilly Monument, Indian Creek, Iron Creek Forest Camp, Little Walnut Picnic Ground, Negrito Tower Picnic Ground, Pine Flat, Upper and Lower Black Canyon Campground, Whitewater Forest Camp, Willow Creek, and Wright's Cabin Forest Camp Recreation Areas; and Glenwood Ranger Station, Signal Peak, Snow Creek, White Creek, and Willow Creek Administrative Sites, all in the Gila National Forest, continue for an additional 20 years. The lands will remain closed to mining, but will be opened to such forms of disposition as may by law be made of the National Forest System lands. The lands have been and will remain open to mineral leasing.

DATES: Comments should be received by September 27, 1994.

ADDRESSES: Comments would be sent to State Director, BLM New Mexico Office, P.O. Box 27115, Santa Fe, New Mexico 87502, 505–438–7502.

FOR FURTHER INFORMATION CONTACT: Georgiana E. Armijo, BLM New Mexico State Office, 505–438–7594.

SUPPLEMENTARY INFORMATION: The United States Department of Agriculture, Forest Service, proposes that the existing land withdrawal made by Public Land Order No. 1119, be continued for a period of 20 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988).

The land is described as follows:

New Mexico Principal Meridian

Gila National Forest

Iron Creek Forest Camp Recreation Area (60 acres)

T. 16 S., R. 9 W., (unsurveyed)
Sec. 18, S½ S½ SE¼;
Sec. 19, N½ N½ N½ NE¼.

Upper and lower Black Canyon Campground Recreation Area (206.44 acres)

T. 13 S., R. 11 W.,
Sec. 7, lots 1 and 2.
T. 13 S., R. 12 W.,
Sec. 12, S½ N½ NE¼ and S½ NE¼.

Signal Peak Administrative Site (40 acres)

T. 16 S., R. 13 W.,
Sec. 15, NE¼ NW¼.

Little Walnut Picnic Ground Recreation Area (160 acres)

T. 17 S., R. 14 W.,
Sec. 3, S½ SE¼ and S½ N½ SE¼;
Sec. 10, N½ N½ NE¼.

Willow Creek Administrative Site (78.75 acres)

T. 10 S., R. 17 W.,
Sec. 34, That portion lying outside of the Gila Wilderness described as E½ SW¼ NW¼, SE¼ NW¼, S½ NE¼ NW¼, SW¼ NW¼ NE¼, and W½ SW¼ NE¼.

Whitewater Picnic and Day Use Area (formerly Whitewater Forest Camp Recreation Area) (55.10 acres)

T. 11 S., R. 19 W.,
Sec. 6, lot 18, and the S½ of lot 19.

Glenwood Ranger Station Administrative Site (114.73 acres)

T. 11 S., R. 20 W.,
Sec. 26, lot 6;
Sec. 27, lot 5;
Sec. 34, NE¼ NE¼.

The areas described aggregate 715.02 acres in Catron and Grant Counties.

The purpose of the withdrawal is to protect the Ben Lilly, Ben Lilly Monument, Indian Creek, Iron Creek Forest Camp, Little Walnut Picnic Ground, Negrito Tower Picnic Ground, Pine Flat, Upper and Lower Black Canyon Campground, Whitewater Forest Camp, Willow Creek, and Wright's Cabin Forest Camp Recreation Areas; and Glenwood Ranger Station, Signal Peak, Snow Creek, White Creek, and Willow Creek Administrative Sites, all in the Gila National Forest. The withdrawal segregates the land from settlement, sale, location, and entry, including location and entry under the mining laws, but not the mineral leasing laws. No change is proposed in the purpose of the withdrawal, but the lands will be opened to such forms of disposition as may by law be made of the National Forest System lands, and will remain closed to mining.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the State Director in the New Mexico State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and the Congress, who will determine whether or not the withdrawal will be continued and, if so, for how long. The final determination of the continuation of the withdrawal will be published in the

Federal Register. The existing withdrawal will continue until such final determination is made.

Dated: June 20, 1994.

William C. Calkins,

State Director.

[FR Doc. 94–15727 Filed 6–28–94; 8:45 am]

BILLING CODE 4310–FB–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–360]

Notice Decision Not To Review Initial Determinations Granting Joint Motions To Terminate the Investigation With Respect to Respondents Full Enterprises Corp. and Ji-Haw Industrial Co., Ltd. on the Basis of Settlement Agreements

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review two initial determinations (IDs) (Order Nos. 28 and 29) issued on May 19, 1994, by the presiding administrative law judge (ALJ) in the above-captioned investigation granting the joint motions of complainant Farallon Computing, Inc. ("Farallon") and respondents Full Enterprises Corp. ("Full") and Ji-Haw Industrial Co., Ltd. ("Ji-Haw") to terminate the investigation as to Full and Ji-Haw on the basis of settlement agreements.

FOR FURTHER INFORMATION CONTACT: Elizabeth C. Rose, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436. Telephone: (202) 205–3113.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation, which concerns allegations of violations of section 337 of the Tariff Act of 1930 in the importation and sale of certain devices for connecting computers via telephone lines, on November 12, 1993; a notice of the institution was published in the **Federal Register** on November 17, 1993 (58 Fed. Reg. 60671). Complainant Farallon alleges infringement of certain claims of U.S. Letters Patent 5,003,579.

On May 10, 1994, Farallon and respondent Full filed a joint motion to terminate the investigation with respect to Full on the basis of a settlement agreement. On May 13, 1994, Farallon and respondent Ji-Haw filed a joint motion to terminate the investigation with respect to Ji-Haw also on the basis of a settlement agreement. The Commission investigative attorney supported the joint motions. The ALJ issued two IDs granting the joint motions and terminating the investigation as to Full and Ji-Haw. No petitions for review of the IDs were filed. No agency or public comments were received.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, and Commission interim rule 210.53, 19 CFR 210.53.

Copies of the nonconfidential version of the IDs and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202–205–2000. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at 202–205–1810.

Issued: June 20, 1994.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 94–15790 Filed 6–28–94; 8:45 am]

BILLING CODE 7020–02–P

[Investigations Nos. 303–TA–25 (Preliminary) and 731–TA–700–701 (Preliminary)]

Disposable Lighters From the People's Republic of China and Thailand

Determinations

On the basis of the record [1] developed in the subject investigations, the Commission determines,[2] pursuant to sections 303 and 733(a) of the Tariff Act of 1930 (19 U.S.C. §§ 1303 and 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured, or threatened with material injury, by reason of allegedly subsidized imports from Thailand and allegedly less than fair value (LTFV) imports from the People's Republic of China and Thailand of disposable pocket lighters, whether or not liquefied hydrocarbon, provided for in subheadings 9613.10.00 and 9613.20.00 of the Harmonized Tariff Schedule of the United States.

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR §207.2(f)).

[2] Vice Chairman Nuzum dissenting.

Background

On May 9, 1994, a petition was filed with the Commission and the Department of Commerce by the BIC Corporation, Milford, CT, alleging that an industry in the United States is materially injured or threatened with material injury by reason of subsidized and LTFV imports of disposable lighters from the People's Republic of China and Thailand. Accordingly, effective May 9, 1994, the Commission instituted countervailing duty investigation No. 303–TA–25 (Preliminary) and antidumping investigation Nos. 731–TA–700–701 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of May 16, 1994 (59 FR 25502). The conference was held in Washington, DC, on June 1, 1994, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in these investigations to the Secretary of Commerce on June 23, 1994. The views of the Commission are contained in USITC Publication 2792 (June 1994), entitled "Disposable Lighters from the People's Republic of China and Thailand: Investigations Nos. 303–TA–25 and 731–TA–700–701 (Preliminary)."

Issued: June 24, 1994.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 94–15787 Filed 6–28–94; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 337–TA–366]

Notice of Change of Commission Investigative Attorney

In the matter of certain microsphere adhesives, process for making same, and products containing same, including self-stick repositionable notes

Notice is hereby given that, as of this date, James B. Coughlan, Esq. of the Office of Unfair Import Investigations is designated as the Commission investigative attorney in the above-captioned investigation instead of John M. Whealan, Esq.

The Secretary is requested to publish this Notice in the **Federal Register**.

Dated: June 21, 1994.

Lynn I. Levine,

Director, Office of Unfair Import Investigations.

[FR Doc. 94–15789 Filed 6–28–94; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 731–TA–686 (Final)]

Certain Steel Wire Rod From Belgium

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of a final antidumping investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731–TA–686 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Belgium of certain steel wire rod,[1] provided for in subheadings 7213.31.30, 7213.31.60, 7213.39.00, 7213.41.30, 7213.41.60, 7213.49.00, 7213.50.00, 7227.20.00, and 7227.90.60 of the Harmonized Tariff Schedule of the United States.

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: June 9, 1994.

FOR FURTHER INFORMATION CONTACT: Brad Hudgens (202–205–3189), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. Information can also be obtained by calling the Office of Investigations' remote bulletin board system for personal computers at 202–205–1895 (N,8,1).

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of certain steel wire rod from Belgium are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. § 1673b). The investigation was requested in a petition filed on on February 14, 1994, by Connecticut Steel Corp., Wallingford, CT; Georgetown Steel Corp., Georgetown, SC; North Star Steel Texas, Inc., Beaumont, TX; Co-Steel Raritan River Steel Co., Perth Amboy, NJ; Keystone Steel & Wire Corp., Peoria, IL; and Northwestern Steel & Wire Co., Sterling, IL.

Participation in the Investigation and Public Service List

Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 3 of the Commission's rules, not later than twenty-one (21) days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this final investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in this investigation will be placed in the nonpublic record on August 10, 1994, and a public version will be issued thereafter, pursuant to section 207.21 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on August 30, 1994, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before August 19, 1994. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on August 23, 1994, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.23(b) of the Commission's rules. Parties are strongly encouraged to submit as early in the investigation as possible any requests to present a portion of their hearing testimony in camera.

Written Submissions

Each party is encouraged to submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.22 of the Commission's rules; the deadline for filing is August 24, 1994. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.24 of the Commission's rules. The deadline for filing posthearing briefs is September 8, 1994; witness testimony must be filed no later than three (3) days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before September 8, 1994. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any

---

[1] For purposes of this investigation, certain steel wire rod is defined as hot-rolled carbon steel and alloy steel wire rod, in irregularly wound coils, of approximately round cross section, between 5.08 mm (0.20 inch) and 19.0 mm (0.75 inch) in diameter. The following products are excluded from the scope of this investigation:

—steel wire rod 5.5 mm or less in diameter, with tensile strength greater than or equal to 1040 Mega-Pascals (MPa), and having the following chemical content, by weight: carbon greater than or equal to 0.79 percent, aluminum less than or equal to 0.005 percent, phosphorus plus sulfur less than or equal to 0.04 percent, and nitrogen less than or equal to 0.006 percent (termed "1080 tire cord" quality wire rod);

—free-machining steel containing 0.03 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.4 percent of phosphorus, more than 0.05 percent of selenium, and/or more than 0.01 percent of tellurium;

—stainless steel rods, tool steel rods, ball bearing steel rods, and concrete reinforcing bars and rods; and

—wire rod 7.9 to 18 mm in diameter, containing 0.48 to 0.73 percent carbon by weight, and having partial decarburization and seams no more than 0.075 mm in depth (termed valve spring quality wire rod).

submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.20 of the Commission's rules.

By order of the Commission.

Issued: June 24, 1994.

Donna R. Koehnke,

Secretary.

[FR Doc. 94–15788 Filed 6–28–94; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Department of Justice Notice of Lodging of Stipulation Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA)

Consistent with 28 CFR § 50.7, notice is hereby given that on June 13, 1994, a stipulation in *In re Coated Sales, Inc., et al.*, Bank. Nos. 88 B 11331 through 88 B 11336 (CB) was lodged with the United States Bankruptcy Court for the Southern District of New York. The United States' proof of claim sought recovery of response costs under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) against Coated Sales and its wholly-owned subsidiary, Kenyon Industries, Inc., which are responsible for hazardous substances found at the Rose Hill Superfund Site located in South Kingston, Rhode Island, a National Priorities List facility. The stipulation provides that the debtors will pay $700,000 in response costs to the United States in connection with the Rose Hill Superfund Site.

The Department of Justice will receive comments relating to the proposed stipulation for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *In re Coated Sales, Inc., et al.*, D.J. Ref. 90–11–2–440.

The proposed stipulation may be examined at the office of the United States Attorney, 100 Church St., New York, New York 10007 and at the Region I office of the Environmental Protection Agency, One Congress St., Boston, MA 02203. The proposed stipulation may also be examined at the Consent Decree Library, 1120 G St., NW., 4th Floor, Washington, DC 20005, 202–624–0892. A copy of the proposed stipulation may be obtained in person or by mail from the Consent Decree Library, 1120 G. St., N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check in the amount of $4.50 (25 cents per page reproduction cost) payable to the "Consent Decree Library."

John C. Cruden,

Chief, Environmental Enforcement Section, Environment & Natural Resources Division.

[FR Doc. 94–15729 Filed 6–28–94; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on June 1, 1994, Penick Corporation, 158 Mount Olivet Avenue, Newark, New Jersey 07114, made written request to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance Methylphenidate (1724).

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issue of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than July 29, 1994.

Dated: June 22, 1994.

Gene R. Haislip,

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

[FR Doc. 94–15707 Filed 6–28–94; 8:45 am]

BILLING CODE 4410–09–M

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on May 20, 1994, Wildlife Laboratories, Inc., 1401 Duff Drive, Suite 600, Ft. Collins, Colorado 80524, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Etorphine Hydrochloride (9059)	II
Carfentanil (9743)	II

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than July 29, 1994.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I and II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21

CFR 1311.42 (a), (b), (c), (d), (e), and (f) are satisfied.

Dated: June 22, 1994.

Gene R. Haislip,

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

[FR Doc. 94–15706 Filed 6–28–94; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Office of the Secretary

Women's Bureau; Announcement of Competition for Grant Applications for the Women in Apprenticeship and Nontraditional Occupations (WA–NTO) Act for Fiscal Year 1994

AGENCY: Office of the Secretary, Women's Bureau, DOL.

ACTION: Notice.

SUMMARY: The National Office (Washington, D.C.) of the Women's Bureau, U.S. Department of Labor, announces the Women in Apprenticeship and Nontraditional Occupations (WA–NTO) Act competition and anticipates awarding between five (5) to ten (10) grants to Community-Based Organizations (CBOs) to provide technical assistance to employers and labor unions (and related employee labor organizations) to encourage the recruitment, training, retention and promotion of women in their workplaces in apprenticeship and other apprenticeable nontraditional occupation.

For Fiscal Year 1994, the WA–NTO Act was funded at the $750,000 level to enable the Department to make grants to CBOs according to the provisions of the Act. In addition to seeking the best programs to encourage employers to increase the number of women in apprenticeship and other nontraditional fields of employment, the Department will also consider geographic diversity and occupational impact in making grant awards to CBOs.

In making awards, the Department may assign CBOs to cover geographic areas to provide national coverage (to the extent possible) and to minimize travel time and costs to and from employer and/or labor sites. Further, as necessary, the Department will match employers and labor organizations requesting technical assistance (TA) to community-based organizations (CBOs) with grants to provide the requested TA. Further, CBOs may propose partnerships with selected employers and/or labor organizations.

Finally, the Department will award only one grant per CBO. Single grant awards can include: An application for grant assistance may be for one geographic area with or without a reference to employer(s) or labor organization(s); or an application for grant assistance may be submitted by a CBO with multiple sites for a program of technical assistance that uses several of their site/service providers under one grant proposal.

DATES: One (1) ink-signed original, complete grant application (plus five (5) copies of the Technical Proposal and two (2) copies of the Business Proposal) shall be submitted to the U.S. Department of Labor, Office of Procurement Services, Room S–5220, 200 Constitution Avenue N.W., Washington, D.C. 20210, not later than 4:45 p.m. EDT, August 5, 1994. Hand delivered applications must be received by the Office of Procurement Services by that time.

Any application received at the Office of Procurement Services after 4:45 p.m. EDT will not be considered unless it is received before award is made and:

1. It was sent by registered or certified mail not later than the fifth calendar day before August 5, 1994, (*i.e.*, not later than July 31, 1994);

2. It is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the U.S. Department of Labor at the above address; or

3. It was sent by the U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two working days, excluding weekends and Federal holidays, prior to August 5, 1995, (*i.e.*, not later than 5:00 p.m. August 3, 1994.

The only acceptable evidence to establish the date of mailing of a late application sent by registered or certified mail is the U.S. Postal Service postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. If the postmark is not legible, an application received after the above closing time and date shall be processed as if mailed late. "Postmark" means a printed, stamped or otherwise placed impression (*not* a postage meter machine impression) that is readily identifiable without further action as having been applied and affixed by an employee of the U.S. Postal Service on the date of mailing. Therefore applicants shall request that the postal clerk place a legible hand cancellation bull's-eye postmark on both the receipt and the wrapper or envelope.

The only acceptable evidence to establish the date of mailing of a late application sent by U.S. Postal Service Mail Next Day Service-Post Office Addressee is the date entered by the post office receiving clerk on the "Express Mail Next Day Service-Post Office to Addressee" label and the postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. "Postmark" has the same meaning as defined above. Therefore, applicants shall request that the postal clerk place a legible hand cancellation bull's-eye postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the time of receipt at the U.S. Department of Labor is the date/time stamp of the Office of Procurement Services on the application, wrapper or other documentary evidence of receipt maintained by that Office.

Applications sent by telegram or facsimile (FAX) will not be accepted. Applications received after the deadline will be considered to be nonresponsive and will not be reviewed.

ADDRESSES: A Community-Based Organization (as described below) interested in submitting a grant application for review under this competition must request in writing a copy of Solicitation for Grant Applications (SGA) #94–03 from the Office of Procurement Services, U.S. Department of Labor, 200 Constitution Avenue NW., Room S–5220, Washington, DC 20210, Attention: Ms. Lisa Harvey.

FOR FURTHER INFORMATION CONTACT: Ms. Lisa Harvey, at the above address or on 202–219–6445.

SUPPLEMENTARY INFORMATION:

I. Background

Improving women's employment opportunities and other employment related equity and social issues to promote women in the work force has been the driving force of the Women's Bureau since its inception in 1920. Within the Department of Labor, the Director serves as the policy advisor on women's issues to the Secretary and other DOL agencies charged with improving the economic and workplace life of American workers.

The Women's Bureau has a history of encouraging women to consider the wide array of apprenticeable and other occupations nontraditional to women. These jobs include skilled manual trades such as those in the construction industry, technical jobs that require computer-based skills to customize services, build and repair precision machinery in manufacturing, and other service sector industries such as health care, finance, telecommunications and

transportation. In fulfilling their responsibilities to promote profitable employment opportunities for women, the Employment and Training Administration, Bureau of Apprenticeship and Training, and the Women's Bureau have come together to jointly administer the Women in Apprenticeship and Nontraditional Occupations (WA–NTO) Act.

The purpose of the WA–NTO Act is to provide technical assistance to employers and labor unions to encourage the employment of women in apprenticeable occupations and other nontraditional occupations. Such assistance will enable business to meet the challenge of Workforce 2000 by preparing employers and labor unions to successfully recruit, train, and retain women in apprenticeable occupations and will expand the employment and self-sufficiency options of women.

Grant Authority. The technical assistance grants are authorized under the Women in Apprenticeship and Nontraditional Occupations (WA–NTO) Act, Public Law 102–530, approved October 27, 1992. (The Employment and Training Administration transferred the allocated $750,000 for Fiscal Year 1994 to the Women's Bureau to implement the competitive grant process.)

II. Eligible Applicants

1. Community-based organizations (CBOs) are eligible applicants to receive technical assistance grants.

The term "community-based organization" as defined in section 4(5) of the Job Training Partnership Act (29 U.S.C. 1501(5)), means private nonprofit organizations which are representative of communities or significant segments of communities and which provide job training services. For this solicitation the significant segment of communities are the private nonprofit organizations which are representative of organizations that have demonstrated experience administering programs that *train women for apprenticeship and other apprenticeable nontraditional occupations.*

2. Employers and Labor Unions (E/LUs) are eligible to be selected to receive technical assistance provided by community-based organizations receiving WA–NTO grants to provide technical assistance. Labor unions include other related organizations that work on behalf of employees. To be selected to receive technical assistance, employers and labor unions must submit a technical assistance request sheet either directly to the Department of Labor, Office of Procurement Services or with a CBO requesting funds as described below under Program Key Features. (For convenience, a technical assistance request sheet is attached to this SGA.)

III. Funding Levels

The Department anticipates awarding between five (5) to ten (10) grants to community-based organizations. Applications for funding may range from $75,000 to $150,000. Applications exceeding $150,000 will be deemed nonresponsive to the SGA and will not be evaluated.

IV. Program Design—Key Features

1. CBO Experience and Qualifications: Applicants are required to address the following as a part of their proposal for grant funding:

(a) Describe your organization's current services.

(b) Describe current levels and sources of funding you receive for your services.

(c) What is your experience and success in the provision of services to women in preparing them for gainful employment in apprenticeship and other nontraditional occupations?

(d) What is your organization's relationship and experience with employers and labor unions who offer apprenticeship and nontraditional occupations?

(e) What type(s) of technical assistance to employees have you provided previously? What were the results of these services?

(f) If selected, how will funds received be utilized to expand or improve the services you currently provide if proposed services are similar to those currently provided?

2. Statement of Need. Community-based organizations applying for funds must describe their need, including the following items:

(a) describe geographic location for assistance;

(b) describe target group to be served using statistical data including employment and unemployment rates and relevant data to support the need;

(c) describe availability and types of occupations and justification for selection of these occupations.

(d) describe anticipated level of employer participation;

(e) describe employer and labor unions' need for technical assistance;

(f) describe employers relationship with the Bureau of Apprenticeship and Training, employers and labor unions.

3. Technical assistance provided by CBOs may include, but is not limited to, the following activities:

(a) development of outreach and orientation sessions and services to recruit women into the employers' apprenticeable occupations and nontraditional occupations;

(b) development of outreach and recruitment strategies to ensure the participation of employers and labor unions for apprenticeship and nontraditional occupations;

(c) development of preapprenticeable occupations or nontraditional skills training to prepare women for apprenticeable occupations or nontraditional occupations;

(d) provision of ongoing orientations for employers, unions, and workers on creating a successful environment for women in apprenticeable occupations or nontraditional occupations;

(e) establishment of support groups and to facilitate networks for women in nontraditional occupations on or off the job site to improve their retention;

(f) establishment of a local computerized data base referral system to maintain a current list of tradeswomen who are available for work and employers and local labor unions who have available job openings or apprenticeship opportunities;

(g) Development of intervention strategies to address workplace issues related to gender;

(h) Provision for liaison between tradeswomen and employers and tradeswomen and labor unions to address workplace issues related to gender;

(i) conducting exit interviews with tradeswomen to evaluate their on-the-job experience and to assess the effectiveness of the program; and

(j) Development of assessment tools to evaluate the effectiveness of the program, to be used by the customers; i.e., tradeswomen, women, employers and labor unions.

4. Priority in awarding grants. The Department will give priority to applications from CBOs that:

(a) demonstrate experience preparing women to gain employment in apprenticeable occupations or other nontraditional occupations;

(b) demonstrate experience working with the business community to prepare business to place women in apprenticeable occupations or other nontraditional occupations;

(c) have tradeswomen or women in nontraditional occupations as active members of the organization, as either employed staff or board members; and

(d) have experience delivering technical assistance.

A Community-Based Organization (as described above in II. Eligible Applicants) interested in submitting a grant application for review under the FY 1994 competition should request a copy of SGA 94–03 from the Office of

Procurement Services, U.S. Department of Labor, 200 Constitution Avenue N.W., room S–5220, Washington, D.C. 20210, Attention: Ms. Lisa Harvey.

Signed at Washington, DC, this 22nd day of June 1994.

Karen Nussbaum,

Director, Women's Bureau.

[FR Doc. 94–15744 Filed 6–28–94; 8:45 am]

BILLING CODE 4510–23–M

Pension and Welfare Benefits Administration

[Application No. D–9705]

Proposed Exemptions; B&B Securities, Inc. Money Purchase Pension Plan, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restriction of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

Unless otherwise stated in the Notice of Proposed Exemption, all interested persons are invited to submit written comments, and with respect to exemptions involving the fiduciary prohibitions of section 406(b) of the Act, requests for hearing within 45 days from the date of publication of this **Federal Register** Notice. Comments and request for a hearing should state: (1) the name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

B&B Securities, Inc. Money Purchase Pension Plan (the Plan) Located in Seaford, New York

[Application No. D–9705]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 C.F.R. Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed purchase by the individual accounts in the Plan of Barry Reich and Robert McGrath of a condominium (the Property) from Mr. Reich, a party in interest with respect to the Plan, provided that the following conditions are satisfied:

(a) The proposed purchase will be a one-time cash transaction;

(b) The price paid by the Accounts will be the lesser of $121,600 [1] or the fair market value of the Property at the time of the purchase as determined by an independent, qualified appraiser less a sales commission, which may have otherwise been paid by Mr. Reich in a sale of the Property to an unrelated party;

(c) The Accounts will pay no expenses associated with the transaction;

(d) The transaction will enable the Accounts to acquire the Property which is expected to yield rental income;

(e) the fair market value of the Property will at no time exceed 25% of either Account's total assets or the Plan's total assets; and

(f) Mr. Reich and Mr. McGrath are the only participants of the Plan that would be affected by the proposed transaction.

Summary of Facts and Representations

1. The Plan is a money purchase pension plan with 3 participants, including Mr. Reich and Mr. McGrath. Mr. Reich and Mr. McGrath are the trustees of the Plan and co-owners of B&B Securities, Inc. (the Employer). The Plan provides for individually directed accounts. As of July 31, 1993, the Plan had a total balance of $590,903. As of the same date, Mr. Reich's account in the Plan had a balance of $300,002, and Mr. McGrath's account in the Plan had a balance of $267,031. The Employer is a corporation which is a New York Stock Exchange specialist trader.

2. The Property, located in Lake Harmony, Pennsylvania, is improved residential real estate and consists of 4 rooms, 2 bedrooms, and 2 baths. The Property was appraised on November 10, 1993, by Byron E. Long (Mr. Long), an independent qualified appraiser certified in the state of Pennsylvania. Mr. Long primarily relied on the sales comparison appraisal method and concluded that the fair market value of the Property as of November 10, 1993, was $128,000. In a supplemental letter of April 22, 1994 to the Appraisal, Mr. Long stated that the Property has an excellent location, and that current

---

[1] This figure represents the fair market value of the Property determined by an independent qualified appraiser as of November 10, 1993 less a 5% sales commission, which it is represented is the standard sales commission in the state of Pennsylvania.

economic indicators point to an improving real estate market due to an increase in recent sales.

3. Mr. Reich proposes to sell the Property via a one-time cash transaction to his own Account and to Mr. McGrath's Account, such that each Account will own an undivided ½ interest. Subsequent to the acquisition by the Accounts, the Property will be managed and rented to unrelated third parties by the Condominium Association's Management Company, an unrelated management company.[2] All association fees will be paid by the management company, and management fees will be withheld such that the Accounts will receive net rental income.

4. The transaction, which will involve 20% of Mr. Reich's Account and 23% of Mr. McGrath's Account, will be a one-time cash purchase, and neither the Accounts nor the Plan will sustain any expenses as a result of the purchase transaction. Also, the applicants represent that the transaction is protective of the Accounts because the fair market value of the Property has been determined by an independent qualified appraiser. The price paid by the Accounts in this transaction will be the lesser of $121,600, or the fair market value of the Property at the time of the purchase as determined by an independent, qualified appraiser less a sales commission, which may have otherwise been paid by Mr. Reich in a sale of the Property to an unrelated party. It is also represented that in the State of Pennsylvania and in particular in the region where the Property is located, typical sales commission rate is 5% of the sales price. The purchase is in the best interest of the Accounts because the Accounts will derive rental income from the Property, and also because the transaction will affect only the Accounts and not any other Plan participant.

5. In summary, the applicant represents that the transaction satisfies the statutory criteria of section 408(a) of the Act and section 4975(c)(2) of the Code because:

(a) The proposed purchase will be a one-time cash transaction;

(b) The price paid by the Accounts will be the lesser of $121,600, or the fair market value of the Property at the time of the purchase as determined by an independent, qualified appraiser less a sales commission, which may have otherwise been paid by Mr. Reich in a sale of the Property to an unrelated party;

(c) The Accounts will pay no expenses associated with the transaction;

(d) The transaction will enable the Accounts to acquire the Property which is expected to yield rental income;

(e) the fair market value of the Property will at no time exceed 25% of the either Account's total assets or Plan's total assets; and

(f) Mr. Reich and Mr. McGrath are the only participants of the Plan that would be affected by the proposed transaction.

Notice to Interested Persons

Because the only Plan assets involved in the proposed transaction are those in Mr. Reich's And Mr. McGrath's Accounts, and they are the only participants affected by the proposed transaction, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons. Comments and requests for a hearing on the proposed exemption are due by July 29, 1994.

FOR FURTHER INFORMATION CONTACT: Ekaterina A. Uzlyan of the Department, telephone (202) 219–8883. (This is not a toll-free number.)

Long Mfg. N.C. Inc. Employee's Retirement Plan (the Plan) Located in Tarboro, North Carolina

[Application No. D–9616]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 C.F.R. Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990.) If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the prospective sale of certain real property (the Tarboro Property) by the Plan to Long Mfg. N.C. Inc. (the Employer), the Plan sponsor and a party in interest with respect to the Plan; provided that the following conditions are satisfied:

(1) The proposed sale will be a one-time cash transaction;

(2) The Plan will incur no expenses as a result of the transaction;

(3) the Plan will receive the greater of: (a) $188,548, representing the Plan's total investment in the Tarboro Property; or (b) the fair market value of the Tarboro Property as determined at the time of the sale by an independent, qualified appraiser; and

(4) the Employer will file form 5330 (return of Initial Excise Taxes for Pension Plans and Profit Sharing Plans) with the Internal Revenue Service (the IRS) and pay the appropriate excise taxes due with respect to the past prohibited leasing of the Tarboro Property by the Plan to the Employer within 90 days of the date of the publication of the proposed exemption, if granted, in the **Federal Register.**

Summary of Facts and Representations

1. The Plan is a defined contribution profit sharing plan, which as of October 31, 1992, had 185 participants and beneficiaries and $2,913,465 in net assets. The current trustees are James H. Long, Faye M. Britt and Alton H. Cobb., Jr. Mr. Long is the vice president and chief operating officer of the Employer, and Mr. Cobb is the vice president, chief financial officer and secretary of the Employer. The Employer is a North Carolina corporation in the business of manufacturing and selling farm equipment and machinery.

2. On June 14, 1974, the Employer purchased 85.582 acres of undeveloped real estate (the Land) from Austin Estate, an unrelated party, for $203,000, of which $50,000 was paid in cash and the remaining $153,000 with a promissory note, which was paid off within that year. It is represented that 6.61 acres (the Parcel) were segregated from the Land for purposes of constructing a building for the use by the Employer. In November 1974, the Parcel was contributed to the Plan while construction was still in progress. The construction was completed between March and June of 1975. The Parcel and the completed building comprise the Tarboro Property. The applicant indicates that when the Tarboro Property was contributed to the Plan its value was $188,548, which was approximately 8.4% of the Plan's total assets at the time. This value was determined by adding the construction cost of $140,483 of the building incurred through the date of transfer, plus the value of the Parcel of $36,350, plus the additional construction costs of $11,715 which were paid by the Plan to an unrelated construction company. Therefore, the Plan's total investment in the Tarboro Property was $188,548.

3. The Tarboro Property was subsequently leased (the Tarboro Lease) by the Plan to the Employer or its subsidiaries from June 1975 to the present.[3] The original term of the

[2] The Department notes that any use or lease of the Property by individuals who are parties in interest with respect to the Plan under section 3(14) of the Act would constitute a violation of section 406 of the Act. Accordingly, no relief for such transaction is provided herein.

[3] The applicant maintains that at the time that the Tarboro Property was contributed to the Plan, the

Tarboro Lease was in effect from 1975 through 1983. Annual rental of $21,898, or a monthly rental of $1,825, was agreed upon to provide a 10% return on the purchase price of the Parcel and a 12% return for the construction cost of the building. In 1979, the Tarboro Lease was renegotiated and the monthly rent was increased to $2,037.50, and this rental amount was effective through 1983. The current Tarboro Lease was entered into on November 1, 1983, with an initial term of one year but with an option to renew in one year increments. Under the current Tarboro Lease, for the period 1983 through 1994, the rent being paid by the Employer to the Plan was $2,350 per month. Also, pursuant to the terms of the Tarboro Lease, the Plan has paid the annual ad valorem property taxes and fire and casualty insurance, and the Employer has paid all other expenses, including utilities, maintenance and other insurance.

4. In 1978 the Plan acquired another property (the Palestine Property) from unrelated third parties, and leased that Property to the Employer or its subsidiaries (the Palestine Lease). However, in May 1985, the subsidiary of the Employer which was leasing the Palestine Property from the Plan was dissolved, and its assets and liabilities were transferred to an unrelated third party, and subsequently the Palestine Lease involving the Palestine Property was also transferred to the third party. As a result, by virtue of the Plan's disposal of the Palestine Property, the Tarboro Property and the Tarboro Lease no longer met the definition of qualifying employer real property contained in section 407(d)(4) of the Act. Also, as a result the statutory exemption contained in section 408(e) of the Act, regarding acquisition, sale or lease by a plan of qualifying employer real property was no longer available due to the fact that the Tarboro Property was the sole, remaining parcel of real property leased by the Plan to the Employer. As such, effective May 1985, the continuing leasing of the Tarboro Property by the Plan to the Employer became prohibited under sections 406(a)(1)(A) and 406(a)(2) of the Act.[4] In this regard, the Employer has agreed to file form 5330 (return of Initial Excise Taxes for Pension Plans and Profit Sharing Plans) with the Internal Revenue Service (the IRS) and pay the appropriate excise taxes due with respect to the past prohibited leasing of the Tarboro Property within 90 days of the date of the publication of the proposed exemption, if granted, in the **Federal Register**.[5]

5. The applicant is now requesting prospective relief in order to purchase the Tarboro Property from the Employer. The Employer currently utilizes the Tarboro Property for agricultural and equipment sales and servicing. Also, the Employer at its own expense made minor improvements, such as addition of gas heaters, to the Tarboro Property in the amount of $4,099.37.

6. The Tarboro Property was appraised (the Appraisal) on August 27, 1993, by John L. Jenkins, II, an independent, state-certified residential real estate appraiser (Mr. Jenkins). The Tarboro Property is located at 1201 West Northern Boulevard, Tarboro, North Carolina. The Tarboro Property consists of 6.61 acres which are improved with a one story metal prefabed building with a metal roof. The interior of the building includes approximately 4,800 square feet of heated and cooled sales area and offices and 16,000 square feet of storage/shop area. In the Appraisal, Mr. Jenkins relied on the cost approach and the market data approach, and determined that as of August 27, 1993, the fair market value of the Tarboro Property is $207,500.[6] On February 3, 1994, in an update to the Appraisal, Mr. Jenkins indicated that while the Tarboro Property is adjacent to property owned by the Employer (the Employer Property), the adjacency factor does not merit a premium above fair market value, because the Employer Property has been on the market for over eight years, and there has been no active buyer.

7. The applicant maintains that the Tarboro Property has yielded revenue for the Plan, with the Plan receiving positive cash flow as a result of its investment. The applicant submitted a "return on investment" analysis (the Analysis) on the Plan's investment in the Tarboro Property, covering the period from 1975 through 1992. Return on investment value ratios were derived by the applicant by dividing the estimated net rental income by the fair market value of the Tarboro Property for each year of ownership.[7] An average of the "return on investment" figures was determined to be 9.42%. Therefore, according to the Analysis, the Plan received an average yield of 9.42% for its investment in the Tarboro Property.

8. The applicant represents that the transaction is administratively feasible, in the interest and protective of the Plan's participants and beneficiaries. The Employer has the financial resources to purchase the Tarboro Property at its fair market value in a one-time cash transaction. The transaction is protective and in the best interest of the Plan because the aggregate fair market value of the Tarboro Property was determined by an independent qualified appraiser, and because as a result of this transaction, the Plan will receive the greater of: (1) $188,548, representing the Plan's total investment in the Tarboro Property; or (2) the fair market value of the Tarboro Property as determined at the time of the sale by an independent, qualified appraiser. The transaction would also be in the interest of the Plan because it will enable the Plan to sell an illiquid asset which had little appreciation in value over time. The applicant also represents that the Plan will incur no expenses as

---

Plan held and leased to the Employer nine other pieces of property which met the definition of "qualifying employer real property" contained in section 407(d)(4) of the Act. The applicant represents that these properties were geographically dispersed, suitable for more than one use and leased to the Employer at a fair market rental value. The applicant further represents that these nine properties were sold out of the Plan between July, 1977 and April 1984.

[4] Section 406 of the Act prohibits, among other things, the sale or exchange, or leasing, of any property between the plan and a party in interest.

Section 407(d)(2) of the Act defines the term "employer real property" as real property which is leased to the employer of employees covered by the Plan, or to an affiliate of such employer.

Section 407(d)(4) of the Act defines the term "qualifying employer real property" as parcels of employer real property—

(A) if a substantial number of the parcels are dispersed geographically;

(B) if each parcel of real property and the improvements thereon are suitable (or adaptable without excessive cost) for more than one use; and

(C) even if all of such real property is leased to one lessee (which may be an employer, or an affiliate of an employer).

Section 408(e) of the Act provides, in relevant part, for the acquisition, sale, or lease by a plan of qualifying employer real property—

(1) if such acquisition, sale, or lease is for adequate consideration * * *

(2) if no commission is charged with respect thereto, and

(3) if— * * * (B) in the case of an acquisition or lease of qualifying employer real property by a plan which is not an eligible individual account plan * * * the lease or acquisition is not prohibited by section 407(a).

[5] In this regard, the applicant represents that the excise taxes were paid to the IRS for the following Plan years, November 1, 1990–October 31, 1991, and November 1, 1991–October 31, 1992.

[6] Mr. Jenkins states that the income approach was not used in the Appraisal because the leasing arrangement involved a short term lease (12 month, annually renewable), and therefore the income approach could not have been used to determine the return on investment.

[7] With respect to the Analysis, the applicant represents that the fair market values of the Tarboro Property were determined using independent appraisals for the years when such appraisals were made. For the years when no appraisals were made, the fair market values were obtained from the Plan's audited financial statements.

a result of the transaction described herein.

9. In summary, the applicant represents that the transaction satisfies the statutory criteria of section 408(a) of the Act and section 4975(c)(2) of the Code because:

(1) the proposed sale will be a one-time cash transaction;

(2) the Plan will receive the greater of: (a) $188,548, representing the Plan's total investment in the Tarboro Property; or (b) the fair market value of the Tarboro Property as determined at the time of the sale by an independent, qualified appraiser.

(3) the Plan will pay no expenses associated with the sale; and

(4) the Employer will file form 5330 with the IRS and pay the appropriate excise taxes due with respect to the past prohibited leasing of the Tarboro Property by the Plan to the Employer within 90 days of the date of the publication of the proposed exemption, if granted, in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ekaterina A. Uzlyan of the Department, telephone (202) 219–8883. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, DC, this 24th day of June 1994.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 94–15798 Filed 6–28–94; 8:45 am]

BILLING CODE 4510–29–P

[Prohibited Transaction Exemption 94–51; Exemption Application No. D–9341]

Grant of Individual Exemptions; Prudential Insurance Company of America (Prudential), et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Prudential Insurance Company of America (Prudential) Located in Newark, New Jersey

[Prohibited Transaction Exemption 94–51; Exemption Application No. D–9341]

Exemption

Section I—Exemption for Certain Transactions Involving the Management of Investments Shared by Two or More Accounts Maintained by Prudential

The restrictions of certain sections of the Act and the sanctions resulting from the application of certain parts of section 4975 of the Code shall not apply to the following transactions if the conditions set forth in Section IV are met:

(a) *Transfers Between Accounts*

(1) The restrictions of section 406(b)(2) of the Act shall not apply to the sale or transfer of an interest in a shared investment (including a shared joint venture interest) between two or more Accounts (except the General Account), provided that each ERISA-Covered Account pays no more, or receives no less, than fair market value for its interest in a shared investment.

(2) The restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and

the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sale or transfer of an interest in a shared investment (including a shared joint venture interest) between ERISA-Covered Accounts and the General Account, provided that such transfer is made pursuant to stalemate procedures, described in the notice of proposed exemption, adopted by the independent fiduciary for the ERISA-Covered Account, and provided further that the ERISA-Covered Account pays no more or receives no less than fair market value for its interest in a shared investment.

(b) *Joint Sales of Property*—The restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sale to a third party of the entire interest in a shared investment (including a shared joint venture interest) by two or more Accounts, provided that each ERISA-Covered Account receives no less than fair market value for its interest in the shared investment.

(c) *Additional Capital Contributions*—The restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply either to the making of a pro rata equity capital contribution by one or more of the Accounts to a shared investment; or to the making of a Disproportionate [as defined in Section V(e)] equity capital contribution by one or more of such Accounts which results in an adjustment in the equity ownership interests of the Accounts in the shared investment on the basis of the fair market value of such interests subsequent to such contribution, provided that each ERISA-Covered Account is given an opportunity to make a pro rata contribution.

(d) *Lending of Funds*—The restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the lending of funds from the General Account to an ERISA-Covered Account to enable the ERISA-Covered Account to make an additional pro rata contribution, provided that such loan—

(A) is unsecured and non-recourse with respect to participating plans,

(B) bears interest at a rate not to exceed the prevailing rate on 90-day Treasury Bills,

(C) is not callable at any time by the General Account, and

(D) is prepayable at any time without penalty.

(e) *Shared Debt Investments*—In the case of a debt investment that is shared between two or more Accounts, including one or more of the ERISA-Covered Accounts, (1) the restrictions of sections 406(a) and 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to any material modification in the terms of the loan agreement resulting from a request by the borrower, any decision regarding the action to be taken, if any, on behalf of the Accounts in the event of a loan default by the borrower, or any exercise of a right under the loan agreement in the event of such default, and (2) the restrictions of section 406(b)(2) of the Act shall not apply to any decision by Prudential thereof on behalf of two or more ERISA-Covered Accounts: (A) not to modify a loan agreement as requested by the borrower; or (B) to exercise any rights provided in the loan agreement in the event of a loan default by the borrower, even though the independent fiduciary for one (but not all) of such Accounts has approved such modification or has not approved the exercise of such rights.

Section II—Exemption for Certain Transactions Involving the Management of Joint Venture Interests Shared by Two or More Accounts Maintained by Prudential

The restrictions of certain sections of the Act and the sanctions resulting from the application of certain parts of section 4975 of the Code shall not apply to the following transactions resulting from the sharing of an investment in a real estate joint venture between two or more Accounts, if the conditions set forth in Section IV are met:

(a) *Additional Capital Contributions*—(1) The restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the making of additional pro rata equity capital contributions by one or more Accounts participating in the joint venture.

(2) The restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the lending of funds from the General Account to an ERISA-Covered Account to enable the ERISA-Covered Account to make an additional pro rata capital contribution, provided that such loan—

(A) is unsecured and non-recourse with respect to the participating plans,

(B) bears interest at a rate not to exceed the prevailing rate on 90-day Treasury Bills,

(C) is not callable at any time by the General Account, and

(D) is prepayable at any time without penalty.

(3) The restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975 (c)(1) (A) through (E) of the Code shall not apply to the making of Disproportionate [as defined in section V(e)] additional equity capital contributions (or the failure to make such additional contributions) in the joint venture by one or more Accounts which result in an adjustment in the equity ownership interests of the Accounts in the joint venture on the basis of the fair market value of such joint venture interests subsequent to such contributions, provided that each ERISA-Covered Account is given an opportunity to provide its proportionate share of the additional equity capital contributions; and

(4) In the event a co-venturer fails to provide all or any part of its pro rata share of an additional equity capital contribution, the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the making of Disproportionate additional equity capital contributions to the joint venture by the General Account and an ERISA-Covered Account up to the amount of such contribution not provided by the co-venturer which result in an adjustment in the equity ownership interests of the Accounts in the joint venture on the basis provided in the joint venture agreement, provided that such ERISA-Covered Account is given an opportunity to participate in all additional equity capital contributions on a proportionate basis.

(b) *Third Party Purchase Offers*—(1) In the case of an offer by a third party to purchase any property owned by the joint venture, the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A)

through (E) of the Code shall not apply to the acquisition by the Accounts, including one or more ERISA-Covered Account[s], on either a proportionate or Disproportionate basis of a co-venturer's interest in the joint venture in connection with a decision on behalf of such Accounts to reject such purchase offer, provided that each ERISA-Covered Account is first given an opportunity to participate in the acquisition on a proportionate basis; and

(2) The restrictions of section 406(b)(2) of the Act shall not apply to any acceptance by Prudential on behalf of two or more Accounts, including one or more ERISA-Covered Account[s], of an offer by a third party to purchase a property owned by the joint venture even though the independent fiduciary for one (but not all) of such ERISA-Covered Account[s] has not approved the acceptance of the offer, provided that such declining ERISA-Covered Account[s] are first afforded the opportunity to buy out both the co-venturer and "selling" Account's interests in the joint venture.

(c) *Rights of First Refusal*—(1) In the case of the right to exercise a right of first refusal described in a joint venture agreement to purchase a co-venturer's interest in the joint venture at the price offered for such interest by a third party, the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the acquisition by such Accounts, including one or more ERISA-Covered Account[s], on either a proportionate or Disproportionate basis of a co-venturer's interest in the joint venture in connection with the exercise of such a right of first refusal, provided that each ERISA-Covered Account is first given an opportunity to participate on a proportionate basis; and

(2) The restrictions of section 406(b)(2) of the Act shall not apply to any decision by Prudential on behalf of the Accounts not to exercise such a right of first refusal even though the independent fiduciary for one (but not all) of such ERISA-Covered Accounts has approved the exercise of the right of first refusal, provided that none of the ERISA-Covered Accounts that approved the exercise of the right of first refusal decides to buy-out the co-venturer on its own.

(d) *Buy-Sell Options*—(1) In the case of the exercise of a buy-sell option set forth in the joint venture agreement, the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the acquisition by one or more of the Accounts on either a proportionate or Disproportionate basis of a co-venturer's interest in the joint venture in connection with the exercise of such a buy-sell option, provided that each ERISA-Covered Account is first given the opportunity to participate on a proportionate basis; and

(2) The restrictions of section 406(b)(2) of the Act shall not apply to any decision by Prudential on behalf of two or more Accounts, including one or more ERISA-Covered Account[s], to sell the interest of such Accounts in the joint venture to a co-venturer even though the independent fiduciary for one (but not all) of such ERISA-Covered Account[s] has not approved such sale, provided that such disapproving ERISA-Covered Account is first afforded the opportunity to purchase the entire interest of the co-venturer.

Section III—Exemption for Transactions Involving a Joint Venture or Persons Related to a Joint Venture

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply, if the conditions in Section IV are met, to any additional equity or debt capital contributions to a joint venture by an ERISA-Covered Account that is participating in an interest in the joint venture, or to any material modification in the terms of, or action taken upon default with respect to, a loan to the joint venture in which the ERISA-Covered Account has an interest as a lender, where the joint venture is a party in interest solely by reason of the ownership on behalf of the General Account of a 50 percent or more interest in such joint venture.

Section IV—General Conditions

(a) The decision to participate in any ERISA-Covered Account that shares real estate investments must be made by plan fiduciaries who are totally unrelated to Prudential and its affiliates. This condition shall not apply to plans covering employees of Prudential.

(b) Each contractholder or prospective contractholder in an ERISA-Covered Account which shares or proposes to share real estate investments is provided with a written description of potential conflicts of interest that may result from the sharing, a copy of the notice of pendency, and a copy of the exemption as granted.

(c) An independent fiduciary must be appointed on behalf of each ERISA-Covered Account participating in the sharing of investments. The independent fiduciary shall be either

(1) a business organization which has at least five years of experience with respect to commercial real estate investments,

(2) a committee composed of three to five individuals who each have at least five years of experience with respect to commercial real estate investments, or

(3) the plan sponsor (or its designee) of a plan (or plans) that is the sole participant in an ERISA-Covered Account.

(d) The independent fiduciary or independent fiduciary committee member shall not be or consist of Prudential or any of its affiliates.

(e) No organization or individual may serve as an independent fiduciary for an ERISA-Covered Account for any fiscal year if the gross income (other than fixed, non-discretionary retirement income) received by such organization or individual (or any partnership or corporation of which such organization or individual is an officer, director, or ten percent or more partner or shareholder) from Prudential, its affiliates and the ERISA-Covered Accounts for that fiscal year exceeds five percent of its or his or her annual gross income from all sources for the prior fiscal year. If such organization or individual had no income for the prior fiscal year, the five percent limitation shall be applied with reference to the fiscal year in which such organization or individual serves as an independent fiduciary. The income limitation shall not include compensation for services rendered to a single-customer ERISA-Covered Account by an independent fiduciary who is initially selected by the Plan sponsor for that ERISA-Covered Account.

The income limitation will include income for services rendered to the Accounts as independent fiduciary under any prohibited transaction exemption(s) granted by the Department. Notwithstanding the foregoing, such income limitation shall not include any income for services rendered to a single customer ERISA-Covered Account by an independent fiduciary selected by the Plan sponsor to the extent determined by the Department in any subsequent prohibited transaction exemption proceeding.

In addition, no organization or individual who is an independent fiduciary, and no partnership or corporation of which such organization or individual is an officer, director or

ten percent or more partner or shareholder, may acquire any property from, sell any property to, or borrow any funds from, Prudential, its affiliates, or any Account maintained by Prudential or its affiliates, during the period that such organization or individual serves as an independent fiduciary and continuing for a period of six months after such organization or individual ceases to be an independent fiduciary, or negotiate any such transaction during the period that such organization or individual serves as independent fiduciary.

(f) The independent fiduciary acting on behalf of an ERISA-Covered Account shall have the responsibility and authority to approve or reject recommendations made by Prudential or its affiliates for each of the transactions in this exemption. In the case of a possible transfer or exchange of any interest in a shared investment between the General Account and an ERISA-Covered Account, the independent fiduciary shall also have full authority to negotiate the terms of the transfer. Prudential and its affiliates shall involve the independent fiduciary in the consideration of contemplated transactions prior to the making of any decisions, and shall provide the independent fiduciary with whatever information may be necessary in making its determinations.

In addition, the independent fiduciary shall review on an as-needed basis, but not less than twice annually, the shared real estate investments in the ERISA-Covered Account to determine whether the shared real estate investments are held in the best interest of the ERISA-Covered Account.

(g) Prudential maintains for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (h) of this Section to determine whether the conditions of this exemption have been met, except that a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of Prudential or its affiliates, the records are lost or destroyed prior to the end of the six-year period.

(h)(1) Except as provided in paragraph (2) of this subsection (h) and notwithstanding any provisions of subsection (a)(2) and (b) of section 504 of the Act, the records referred to in subsection (g) of this Section are unconditionally available at their customary location for examination during normal business hours by—

(A) Any duly authorized employee or representative of the Department or the Internal Revenue Service,

(B) Any fiduciary of a plan participating in an ERISA-Covered Account who has authority to acquire or dispose of the interests of the plan, or any duly authorized employee or representative of such fiduciary,

(C) Any contributing employer to any plan participating in an ERISA-Covered Account or any duly authorized employee or representative of such employer, and

(D) Any participant or beneficiary of any plan participating in an ERISA-Covered Account, or any duly authorized employee or representative of such participant or beneficiary.

(2) None of the persons described in subparagraphs (B) through (D) of this subsection (h) shall be authorized to examine trade secrets of Prudential, any of its affiliates, or commercial or financial information which is privileged or confidential.

Section V—Definitions

For the purposes of this exemption:

(a) An "affiliate" of Prudential includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with Prudential,

(2) Any officer, director or employee of Prudential or person described in section V(a)(1), and

(3) Any partnership in which Prudential is a partner.

(b) An "Account" means the General Account (including the general accounts of Prudential affiliates which are managed by Prudential), any separate account managed by Prudential, or any investment advisory account, trust, limited partnership or other investment account or fund managed by Prudential.

(c) The "General Account" means the general asset account of Prudential and any of its affiliates which are insurance companies licensed to do business in at least one State as defined in section 3(10) of the Act.

(d) An "ERISA-Covered Account" means any Account (other than the General Account) in which employee benefit plans subject to Title I or Title II of the Act participate.

(e) "Disproportionate" means not in proportion to an Account's existing equity ownership interest in an investment, joint venture or joint venture interest.

The exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on October 15, 1993 at 58 FR 53565.

EFFECTIVE DATE: This exemption is effective December 20, 1988.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Waterman Medical Center, Inc., Productivity Incentive Program (the Plan) Located in Eustis, Florida

[Prohibited Transaction Exemption 94–52; Exemption Application No. D–9587]

Exemption

The restrictions of sections 406(a) and 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale of a group annuity policy (the Policy) from the Plan to Florida Hospital/Waterman (the Employer), a party in interest with respect to the Plan, provided that the following conditions are met:

1. The fair market value of the Policy is established by a party independent of the Employer and the Plan;

2. The Employer pays the greater of the current fair market value of the Policy or the total amount the Plan has expended on the Policy as of the date of sale;

3. The sale is a one-time transaction for cash; and

4. The Plan pays no fees or commissions in regard to the sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on April 22, 1994, at 59 FR 19253.

FOR FURTHER INFORMATION CONTACT: Paul Kelty of the Department, telephone (202) 219–8883. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his

duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, DC, this 24th day of June, 1994.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 94–15797 Filed 6–28–94; 8:45 am]

BILLING CODE 4510–29–P

[Prohibited Transaction Exemption 94–50; Exemption Application Nos. D–9337 and D–9415]

Smith Barney, Inc.; Notice of Technical Correction

AGENCY: Pension and Welfare Benefits Administration.

On June 21, 1994, the Department of Labor published in the **Federal Register** (59 FR 32024) a notice granting an individual exemption that modifies and replaces Prohibited Transaction Exemption 92–77 (57 FR 45833, October 5, 1992) involving Shearson Lehman Brothers, Inc. The exemption was improperly designated as "Prohibited Transaction Exemption 94–4S." The correct designation for this exemption is "Prohibited Transaction Exemption 94–50."

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department at (202) 219–8881. (This is not a toll-free number.)

Signed at Washington, DC, this 24th day of June 1994.

Ivan L. Strasfeld

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 94–15796 Filed 6–28–94; 8:45 am]

BILLING CODE 4510–29–P

Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Working Group on Defined Contribution Plans of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held from 9:30 a.m. until 12:00 noon, Tuesday, July 26, 1994, in Suite N–3437 AB, U.S. Department of Labor Building, Third and Constitution Avenue, N.W., Washington, D.C. 20210.

This work group was formed by the Advisory Council to study issues relating to defined contribution plans covered by ERISA.

The purpose of the July 26 meeting is to take testimony regarding five areas of defined contribution plans, *i.e.*, the role of the trend toward participant self-directed investments in determining benefit levels; the impact of the current regulatory scheme on benefit levels for defined contribution plans in general and 401(k) plans in particular; from a retirement policy perspective, the level of benefits provided by defined contribution plans in general and 401(k) plans in particular; mandatory employer contributions to defined contribution plans as a possible source of increase in the overall retirement income for most employees; the impact of increased educational efforts on benefit levels; and the impact of increased disclosure on benefit levels. The work group will also take testimony and or submissions from employee representatives, employer representatives and other interested individuals and groups regarding the subject matter.

Individuals or representatives of organizations wishing to address the work group should submit a written request on or before July 21, 1994 to William E. Morrow, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5677, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Oral presentations will be limited to ten (10) minutes, but witnesses may submit an extended statement for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statement should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before July 21, 1994.

Signed at Washington, DC, this 23rd day of June, 1994.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 94–15743 Filed 6–28–94; 8:45 am]

BILLING CODE 4510–29–M

Advisory Council on Employee Welfare and Pension Benefits Plan; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Working Group on Healthcare Reform of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held from 1:00 p.m., until 3:30 p.m., Tuesday, July 26, 1994, in Suite N–3437 AB, U.S. Department of Labor Building, Third and Contitution Avenue N.W., Washington, D.C. 20210.

This work group was formed by the Advisory Council to study issues relating to healthcare reform for employee benefit plans covered by ERISA.

The purpose of the July 26 meeting is to receive testimony from invited interested persons on the impact of proposed federal healthcare reform legislation on self-insured, ERISA-covered employee welfare benefit plans as well as participating employees and their families. The work group will also take testimony and or submissions from employee representatives, employer representatives and other interested individuals and groups regarding the subject matter.

Individuals or representatives of organizations wishing to address the work group should submit a written request on or before July 21, 1994 to William E. Morrow, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5677, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Oral presentations will be limited to ten (10) minutes, but witnesses may submit an extended statement for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of

such statement should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before July 21, 1994.

Signed at Washington, DC, this 23d day of June, 1994

Olenda Berg,

Assistant Secretary Pension and Welfare Benefits Administration.

[FR Doc. 94–15742 Filed 6–28–94; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

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 Opera-Musical Theater Program in the administration of artistic and administration evaluations of grant applicants. Responsibilities include coordinating reporters' travel arrangements through a travel agent, examining and approving reporters' travel and expenditure reports, disbursing funds to reporters, maintaining financial records, and furnishing reports. Those interested in receiving the Solicitation package should reference Program Solicitation PS 94–11 in their written request and include two (2) self-addressed labels. Verbal requests for the Solicitation will not be honored.

DATES: Program Solicitation PS 94–11 is scheduled for release approximately July 5, 1994 with proposals due on August 8, 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. 94–15759 Filed 6–28–94; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

All Boiling-Water Reactors Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has taken action with regard to a Petition by Mr. Paul M. Blanch for action under 10 CFR 2.206. The Petition, dated August 12, 1993, pertains to all boiling-water reactors (BWRs).

The Petitioner requested that the NRC institute a proceeding pursuant to 10 CFR 2.206 and require that the licensees of all BWRs take certain actions with regard to the reactor vessel water level instrumentation. The Petitioner requested that the licensee of each BWR either conclusively demonstrate the operability of the condensate pots and associated level instruments, interlocks, and emergency core cooling system functions or be granted a plant-specific license exemption with a plant-specific safety analysis. The Petitioner further requested that, if operability cannot be demonstrated and the NRC does not grant plant-specific relief from the regulations, each plant comply with the action statements of the plant's technical specifications for inoperable level instrumentation.

The Director, Office of Nuclear Reactor Regulation has determined to deny the petition. The reasons for this denial are explained in the "Director's Decision Pursuant to 10 CFR 2.206" (DD–94–07), which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C. 20555. A copy of the Decision will be filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206(c) of the Commission's regulations. As provided by this regulation, the Decision will constitute the final action of the Commission 25 days after the date of issuance unless the Commission on its own motion institutes a review of the Decision within that time.

Dated at Rockville, Maryland, this 22nd day of June 1994.

For the Nuclear Regulatory Commission.

William T. Russell,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 94–15751 Filed 6–28–94; 8:45 am]

BILLING CODE 7590–01–M

Indiana University School of Medicine; Indianapolis, IN; Atomic Safety and Licensing Board; Notice of Hearing

[Docket No. 030–09792–CivP; ASLBP No. 94–689–02–CivP; Byproduct Material License No. 13–02752—08 EA 93–111]

June 23, 1994.

Notice is hereby given that an evidentiary hearing in this matter, which involves a proposed civil monetary penalty, will commence at 9:00 a.m. on August 31, 1994, and will continue on September 1, if necessary. The hearing will be held in the School of Nursing (Nursing Bldg.) at Indiana University, 1111 West Middle Drive, Indianapolis, Indiana.

In accordance with 10 CFR § 2.715(a), any person not a party to this proceeding may make a limited appearance statement, either orally or in writing, setting forth their position on the issues. Oral statements will be heard at the conclusion of the hearing sessions, and the time allotted for each statement may be limited depending on the number of persons requesting an appearance. Written statements may be presented at any time, and requests to make oral statements should be submitted to the Office of the Secretary, Docketing and Service Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555. A copy of such a statement or request should be served on the Chairman, Atomic Safety and Licensing Board.

Documents related to this proceeding are on file at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555 as well as at the Commission's Region III Office, 801 Warrenville Road, Lisle, Illinois 60532–4351.

Bethesda, Maryland, June 23, 1994.

For the Atomic Safety and Licensing Board.

James P. Gleason,

Chairman, Administrative Judge.

[FR Doc. 94–15750 Filed 6–28–94; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–247]

Consolidated Edison Co. of New York, Inc.; Indian Point Nuclear Generating Unit No. 2 Exemption

I

The Consolidated Edison Company of New York, Inc. (the licensee) is the holder of Facility Operating License No. DPR–26. which authorizes operation of the Indian Point Nuclear Generating Unit No. 2 (IP2). The license provides, among other things, that the licensee is subject to all rules, regulations, and

orders of the U.S. Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facility consists of a pressurized water reactor at the licensee's site located in Westchester County, New York.

II

By letter dated January 28, 1994, the licensee requested an amendment to the Technical Specifications (TSs) that would allow containment isolation valve leak rate tests to be performed at intervals up to 30 months. In addition, the licensee's letter requested an exemption from the requirements of the Code of Federal Regulations (CFR) since 10 CFR Part 50, Appendix J, Paragraph III.D.3, requires that licensees perform Type C tests during each reactor shutdown for refueling but in no case at intervals greater than 2 years. Type C tests are tests that measure containment isolation valve leakage rates.

The licensee commenced operating on 24-month fuel cycles, instead of the previous 18-month fuel cycles, with fuel cycle 12. Fuel cycle 12 started in April 1993. In order to conform with the requirements of 10 CFR Part 50, Appendix J, Paragraph III.D.3, the licensee could be required to shutdown IP2 and enter a forced outage prior to the next scheduled refueling outage. The next refueling outage is scheduled to commence in the February 1995 time frame.

III

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public health and safety, and are consistent with the common defense and security and (2) when special circumstances are present. According to 10 CFR 50.12(a)(2)(ii), special circumstances are present when, "Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.* * *"

The CFR at 10 CFR Part 50, Appendix J, Paragraph III.D.3, states: "Type C tests shall be performed during each reactor shutdown for refueling but in no case at intervals greater than 2 years.* * *" The underlying purpose of the requirement to perform Type B and Type C containment leak rate tests of intervals not to exceed 2 years, is to ensure that any potential leakage pathways through the containment boundary are identified within a time span that prevents significant degradation from continuing or being unknown and long enough to allow the tests to be conducted during scheduled refueling outages. This requirement to perform Type C leak rate tests at intervals no greater than 2 years presumed the 2-year time interval was adequate to accommodate the 12-month fuel cycles which were common when Appendix J to 10 CFR Part 50 was published in 1993. However, IP2, along with other facilities, is utilizing a core design which allows operation on a 24-month cycle.

The NRC staff recognized that the current 2-year intervals for Type C leak rate tests would likely require a facility to shutdown to perform these tests before completion of the facility's 24-month fuel cycle. Consequently, the NRC staff issued Generic Letter (GL) 91–04, "Changes in Technical Specification Surveillance Intervals to Accommodate a 24-Month Fuel Cycle." This GL provides guidance to licensees on how to prepare requests for TS amendments and CFR exemptions which are needed to accommodate a 24-month fuel cycle. Enclosure 3 to GL 91–04 indicated, in part, that two issues should be addressed to justify extending the 2-year Type C test interval: (1) a possible reduction in the combined leakage limit for Types B and C tests and (2) the basis for concluding that the containment leakage rate would be maintained within the acceptable limits with a Type C test interval of up to 30 months. The licensee's letter of January 28, 1994, addressed both of these issues.

The first issue is a reduction in the combined containment penetration and isolation valve leakage rate limit for Types B and C tests which increases the margin to the maximum allowable leakage rate. The maximum allowable leakage rate, which is referred to as L_a, is specified in the facility's TSs. The acceptance criterion for Types B and C leak rate tests is that the combined leakage rate shall be less than 0.60 L_a. This constitutes a margin of 0.40 L_a (40 percent of L_a). Enclosure 3 to GL 91–04 states, in part, that in order to justify an exemption to the Appendix J requirements and extend Type C test intervals up to 30 months, licensees should either: (1) use leak rate test data to demonstrate that the margin of 0.40 L_a will not be reduced as a result of the test interval increase or (2) propose an acceptance criterion limit of less than 0.60 L_a change. The licensee has proposed an acceptance criterion limit of 0.50 L_a for IP2. This constitutes a 25 percent increase in margin (40 percent to 50 percent). The staff has reviewed the proposed reduction in the combined leakage rate limit to 0.50 L_a and finds that it is consistent with the recommendations of Enclosure 3 to GL 91–04 and is, therefore, acceptable.

The second issue is the basis for concluding that containment leakage would be maintained within acceptable limits with a Type C test interval of up to 30 months. Eleven leak rate tests have been performed at IP2 since the beginning of commercial operation. The first three tests (1976, 1978, and 1979) did not meet the allowable leakage limit due to excessive leakage from several valves which were subsequently repaired and retested. The as-found results of the next eight tests were below the allowable leakage limit. The licensee has concluded that there has been a noticeable downward trend in the as-found valve leakage over the last seven years. The as-found value for testing during the 1993 refueling outage was 9.093 L_a. The NRC staff has considered the test result information provided by the licensee and concluded that there is reasonable assurance that containment leakage rate would be maintained within acceptable limits with a Type C test interval of up to 30 months.

Therefore, the application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. Thus, these are special circumstances present which satisfy the requirements of 10 CFR 50.12(a)(2)(ii).

IV

Accordingly, the Commission has determined, pursuant to 10 CFR 50.12, that (1) the exemption as described in Section III is authorized by law, will not endanger life or property, and is otherwise in the public interest and (2) special circumstances exist pursuant to 10 CFR 50.12(a)(2)(ii). Therefore, the Commission hereby grants the following exemption:

The Consolidated Edison Company of New York, Inc. is exempt from the requirement of 10 CFR Part 50, Appendix J, Paragraph III.D.3, in that the interval for Type C tests may be extended greater than 2 years but in no case greater than 30 months for the Indian Point Nuclear Generating Unit No. 2.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment (59 FR 25130).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 20th day of June 1994.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director of Reactor Projects—I/II Office of Nuclear Reactor Regulation.

[FR Doc. 94–15752 Filed 6–28–94; 8:45 am]

BILLING CODE 7590–01–M

POSTAL RATE COMMISSION

[Docket No. A94–10; Order No. 1016]

Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)

Issued June 23, 1994.

In the Matter of: Fairfield, New York 13336 (Jane Dieffenbacher, et al., Petitioners).

Before Commissioners: Edward J. Gleiman, Chairman; W. H. "Trey" LeBlanc III, Vice-Chairman; George W. Haley; H. Edward Quick, Jr.; Wayne A. Schley.

Docket Number: A94–10.

Name of Affected Post Office: Fairfield, New York 13336.

Name(s) of Petitioner(s): Jane Dieffenbacher and others.

Type of Determination: Closing.

Date of Filing of Appeal Papers: June 17, 1994.

Categories of Issues Apparently Raised:

1. Effect on postal services [39 U.S.C. 404(b)(2)(C)].
2. Effect on the community [39 U.S.C. 404(b)(2)(A)].
3. Whether the Postal Service gave the users an adequate opportunity to present their views [39 U.S.C. 404(b)(1)].

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above. Or, the Commission may find that the Postal Service's determination disposes of one or more of those issues.

The Postal Reorganization Act requires that the Commission issue its decision within 120 days from the date this appeal was filed (39 U.S.C. 404 (b)(5)). In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service to submit memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request and the Postal Service shall serve a copy of its memoranda on the petitioners. The Postal Service may incorporate by reference in its briefs or motions, any arguments presented in memoranda it previously filed in this docket. If necessary, the Commission also may ask petitioners or the Postal Service for more information.

The Commission orders

(a) The Postal Service shall file the record in this appeal by July 5, 1994.

(b) The Secretary of the Postal Rate Commission shall publish this Notice and Order and Procedural Schedule in the **Federal Register**.

By the Commission.

Charles L. Clapp,

Secretary.

Appendix

June 17, 1994: Filing of Appeal letters

June 23, 1994: Commission Notice and Order of Filing of Appeal

July 12, 1994: Last day of filing of petitions to intervene [*see* 39 CFR 3001.111(b)]

July 22, 1994: Petitioners' Participant Statements or Initial Briefs [*see* 39 CFR 3001.115(a) and (b)]

August 11, 1994: Postal Service's Answering Brief [*see* 39 CFR 3001.115(c)]

August 26, 1994: Petitioners' Reply Briefs should Petitioners choose to file them [*see* 39 CFR 3001.115(d)]

September 2, 1994: Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [*see* 39 CFR 3001.116]

October 14, 1994: Expiration of the Commission's 120-day decisional schedule [*see* 39 U.S.C. 404(b)(5)]

[FR Doc. 94–15686 Filed 6–28–94; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–34241; International Series Release No. 676; File No. SR–CBOE–94–18]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Options on the CBOE Mexico Index

June 22, 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 June 16, 1994, the Chicago Board Options Exchange, Inc. ("CBOE" 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 Exchange. 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 CBOE proposes to list and trade options on the CBOE Mexico Index ("Mexico Index" or "Index"). The text of the proposed rule change is available at the Office of the Secretary, the CBOE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange 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 Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to permit the Exchange to list and trade cash-settled, European-style [1] stock index options on the Mexico Index. The Exchange represents that the Mexico Index meets the generic criteria for listing options on narrow-based indexes as set forth in Exchange Rule 24.2 and the Commission's order approving that Rule.[2] Accordingly, the CBOE is submitting this proposed rule change pursuant to, and in accordance with, the procedures set forth in the Generic Index Approval Order. In accordance with the Generic Index Approval Order, the CBOE proposes to list and trade options on the Mexico Index at a time no sooner than 30 days after June 16, 1994, the filing date of this proposed rule change.

The Mexico Index consists of the stocks of ten Mexican companies.[3] The Exchange represents that no proxy for the performance of the Mexican economy is currently available in the U.S. derivative markets. The Exchange believes, therefore, that options on the Index will provide investors with a low-

[1] European-style options may only be exercised during a specified period prior to expiration of the options.

[2] See Securities Exchange Act Release NO. 34157 (June 3, 1994), 59 FR 30062 (June 10, 1994) ("Generic Index Approval Order").

[3] The components of the Index are: Consorcio G Grupo Dina SA de CV; Empresas La Moderna SA de CV; Grupo Mexicano de Desarro; Grupo Tribasa SA de CV; Empresas ICA Sociedad Con; Coca Cola Femsa SA de CV; Grupo Financiero Serfin SA de CV; Transportacion Maritima Mexi; Telefonos de Mexico SA de CV; and Grupo Televisa SA Global.

cost means of participating in the performance of the Mexican economy or hedging against the risk of investing in that economy.

Stocks Comprising the Index

All of the stocks in the Index currently trade in the U.S. on the New York Stock Exchange either as American Depositary Receipts or American Depositary Shares (collectively "ADRs"). Moreover, the CBOE represents that the U.S. is the primary market for nine of the stocks, representing 90% of the stocks in the Index and 90% of the weight of the Index. According to the CBOE, the primary market for the tenth security (Grupo Financiero Serfin SA de CV) is the Bolsa Mexicana de Valores or Mexican Stock Exchange.

The Generic Index Approval Order specifies that no more than 20% of the stocks in the index, by weight, may be comprised of foreign securities or ADRs overlying foreign securities that are not subject to comprehensive surveillance sharing agreements.[4] The Commission, however, further specified that an ADR would not be subject to this limitation if at least 50% of the worldwide trading volume in the foreign security occurs in the U.S. market.[5] Because nine of the ten stocks in the Mexico Index meet that standard, the CBOE believes that the Mexico Index satisfies this criteria for options trading under the Generic Index Approval Order.

The Exchange also represents that nine of the ten stocks in the Mexico Index presently meet the Exchange's listing criteria for equity options.[6] According to the Exchange, therefore, 90% of the stocks in the index, both by number and by weight, are eligible to be underlying securities pursuant to the CBOE's rules. The Exchange further represents that all nine of such stocks are currently the subject of listed options trading in the U.S.[7]

As of June 7, 1994, the stocks comprising the Index ranged in capitalization from $477.17 million to $26.01 billion. The mean and median capitalizations of the components as of that date were $7.882 billion and $2.781 billion, respectively. The Exchange represents that each of the stocks in the index has a market capitalization well in excess of $75 million. The Exchange further represents that each of the component stocks in the index has had average monthly trading volume well in excess of one million shares over the six month period from December 1, 1993 through May 31, 1994. Accordingly, the Exchange represents that its generic listing standards set forth in CBOE Rule 24.2 are satisfied with respect to the criteria for market capitalization and trading volume.

Calculation

The Index will be calculated on a real-time basis by the CBOE or its designee using last-sale prices, and will be disseminated every 15 seconds by the CBOE. If a component stock is not currently being traded, the most recent price at which the stock trade will be used in the Index calculation. The value of the Index at the close on June 7, 1994 was 161.87, which reflects the changes in the prices of the component stocks relative to the base date established by the CBOE of January 3, 1994.

The Index is calculated using an "equal dollar-weighting" method, meaning that each of the component stocks is represented in approximately equal dollar amounts. To determine the initial dollar weighting of the stocks, the exchange calculated the number of shares (to the nearest whole share) that would represent an investment of $10,000 in each of the stocks continued in the Index using closing prices of the component stocks on December 17, 1993. The value of the Index equals the current market value (based on U.S. primary market prices) of the assigned number of shares of each of the stocks in the Index divided by the current Index divisor. The Index divisor was initially calculated to yield a benchmark value of 200.00 at the close of trading on January 3, 1994.

Maintenance

The Index will be maintained by the CBOE. The Index composition will be rebalanced quarterly, following the close of trading on the third Friday of each March, June, September, and December, by changing the number of shares of each component stock so that each company is again represented in $10,000 "equal" dollar amounts. If necessary, a divisor adjustment will be made to ensure continuity of the value of the Index. The newly adjusted portfolio becomes the basis for the Index's values on the first trading day following the quarterly adjustment.

In addition, to maintain continuity in the Index following an adjustment to a component security, the divisor will be adjusted. Changes which may result in divisor changes include, but are not limited to, spin-offs, certain rights issuances, and mergers and acquisitions.

The Index will be reviewed on approximately a monthly basis by the CBOE staff. The CBOE may change the composition of the Index at any time or from time to time to reflect changes affecting the components of the Index or the Mexican economy generally. If it becomes necessary to remove a stock from the Index (for example, because of a takeover or merger), the CBOE will either add a Mexican stock having characteristics that will permit the Index to remain within the maintenance criteria specified in the CBOE's Rules and the Generic Index Approval Order or make no change to the composition of the Index provided the Index is still comprised of at least nine components. The CBOE will take into account the capitalization, liquidity, volatility, and name recognition of any proposed replacement stock.

If the Index fails at any time to satisfy the maintenance criteria set forth in the Generic Index Approval Order, the Exchange will immediately notify the Commission of that fact and will not open for trading any additional series of options on the Index unless such failure is determined by the Exchange not to be significant and the Commission concurs in that determination, or unless the continued listing of options on the Mexico Index has been approved by the Commission under Section 19(b)(2) of the Exchange Act.

Absent prior Commission approval, the Exchange will not increase to more than 13, or decrease to fewer than 9, the number of stocks in the Index, nor will the CBOE make any change in the composition of the Index that would cause fewer than 90% of the stocks, by weight, or fewer than 80% of the total number of stocks in the index, to quality

[4] See Generic Index Approval Order, *supra* note 2.

[5] *Id.* at note 18.

[6] The CBOE's options listing standards, which are uniform among the options exchanges, provide that a security underlying an option must, among other things, meet the following requirements: (1) the public float must be at least 7,000,000; (2) there must be a minimum of 2,000 stockholders; (3) trading volume must have been at least 2.4 million over the preceding twelve months; and (4) the market price must have been at least $7.50 for a majority of the business days during the preceding three calendar months. See CBOE Rule 5.3. With respect to ADRs, in addition to the above standards: (1) the Exchange must have in place a comprehensive surveillance agreement with the primary exchange in the home country where the security underlying the ADR is traded: or (2) the trading volume in the U.S. markets where the ADR is traded represents (on a share-equivalent basis) at least 50% of the worldwide trading volume in the security underlying the ADR over the three month period preceding the date of selection of the ADR for options trading; or (3) the SEC must otherwise authorize the listing. See Securities Exchange Act Release No. 33554 (January 31, 1994), 59 FR 5622 (February 7, 1994).

[7] Grupo Financiero Serfin SA de CV is the only component of the Index on which standardized options currently are not traded in the U.S.

as stocks eligible for equity options trading under CBOE Rule 5.3.[8]

Index Option Trading

The Exchange proposes to base trading in options on the Mexico Index on the full value of that Index. The Exchange may also list full-value long-term index option series ("Index LEAPS") on the Mexico Index, as provided in Rule 24.9. The Exchange also may provide for the listing of reduced-value Index LEAPS, for which the underlying value would be computed at one-tenth of the value of the Index. The current and closing index value of any such reduced-value Index LEAPS will, after such initial computation, be rounded to the nearest one-hundredth.

Exercise and Settlement

Mexico Index options will have European-style exercise and will be "A.M.-settled index options" within the meaning of the Rules in Chapter XXIV, including Rule 24.9, which is being amended to refer specifically to Mexico Index options. The Index options will expire on the Saturday following the third Friday of the expiration month. Thus, the last day for trading in a expiring series will be the second business day (ordinarily a Thursday) preceding the expiration date.

Exchange Rules Applicable

Except as modified herein, the Rules in Chapter XXIV will be applicable to Mexico Index options. Index option contracts based on the Mexico Index will be subject to the position limit requirements of Rule 24.4A, which presently would result in position limits for Mexico Index options of 10,500 contracts. Ten reduced-value options will equal one full-value contract for such purposes.

The CBOE represents that it has the necessary systems capacity to support new series that would result from the introduction of Mexico Index options. The CBOE also represents that the Options Price Reporting Authority ("OPRA") has the capacity to support such new series.[9]

The CBOE represents that the proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5)[10] in particular in that it will permit trading in options based on the Mexico Index pursuant to rules designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any 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

Because the foregoing proposed rule change complies with the standards set forth in the Generic Index Approval Order, it has become effective pursuant to Section 19(b)(3)(A) of the Act. Pursuant to the Generic Index Approval Order, the Exchange may not list Mexico Index options for trading prior to 30 days after June 16, 1994, the date the proposed rule change was filed with the Commission. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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, N.W., Washington, D.C. 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. section 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–94–18 and should be submitted by July 20, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–15712 Filed 6–28–94; 8:45 am]

BILLING CODE 8010–01–M

[8] See *supra* note 6.

[9] See Letter from Joe Corrigan, Executive Director, OPRA, to Eileen Smith, Director, Product Development, Research Department, CBOE, dated June 9, 1994.

[10] 15 U.S.C. section 78f(b)(5) (1988).

[11] 17 CFR 200.30–3(a)(12) (1993).

[Release No. 34–34246; File No. SR–NYSE–94–21]

June 22, 1994.

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Notice of Filing of a Proposed Rule Change Relating to NYSE's Customer Account Transfer Contracts Rule and Its Related Interpretations.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on June 16, 1994, New York Stock Exchange, Inc. ("NYSE") 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 primarily by NYSE. 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 primary purpose of NYSE's proposed rule change is to amend Exchange Rule 412, Customer Account Transfer Contracts and its related Interpretations. The proposed amendments are an effort to incorporate into the account transfer process enhancements to the Automated Customer Account Transfer System ("ACATS") which have been developed by the National Securities Clearing Corporation (NSCC) and other registered clearing agencies.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NYSE included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NYSE has prepared summaries, set forth in

[1] 15 U.S.C. § 78s(b)(1) (1988).

sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to amend rule 412, Customer Account Transfer Contracts, and its related Interpretations. The proposed amendments are intended to increase the speed and efficiency of the account transfer process by reducing the time period for transferring customers' cash/margin and retirement accounts from ten to seven business days. This will be accomplished by reducing the five business day validation period for accounts to three business days and reducing the delivery period from five business days to four business days [Rule 412(b)]. The interpretation permitting a ten day validation period for retirement accounts will be deleted [Rule 412, Interpretation (f)/01].

NYSE's proposed rule change also will mandate the use of an automated system for transferring mutual fund positions where a member organization is a participant in a registered clearing agency which has such a facility. This will provide a link between broker-dealer participants and mutual fund participants for reregistration of mutual fund positions and will reduce fails. It also will reduce manual processing and the associated costs [Rule 412(e)(2)].

Under the proposed rule change, member organizations participating in a registered clearing agency with automated residual credit processing capabilities will be required to utilize such facilities to transfer residual credit positions (*e.g.*, dividends, interest, *etc.*) which accrue to an account after transfer. Credit balances accruing in a transferred account will have to be transferred within ten business days for a six month period following transfer. The required time periods will apply to all member organizations regardless of whether they are participants in a clearing agency [Rule 412(e)(3)].

The proposed rule change will permit partial customer account transfers to be accomplished through the existing automated transfer system. Presently, partial transfers are accomplished outside of the system. The time frames required by Rule 412 for transfer of entire accounts will not apply to partial transfers. However, member organizations are expected to expedite partial transfers of customer accounts [Rule 412, Interpretation (a)/01)].

NYSE's proposed rule change will facilitate communication between organizations and will improve exchange oversight by providing more explicit reason codes for when accounts may be rejected [Rule 412, Interpretation (b)(1)/02]. Member organizations that receive an account transfer related claim letter will be required to resolve the claim within five business days or respond in writing setting forth specific reasons for denying the claim [Rule 412(d)].

The shortening of the time period for transferring accounts from ten to seven days is appropriate in view of enhanced automation of the process by member organizations and clearing agencies and will be beneficial to both customers and member organizations. In addition, the reduction of time allowable for account transfers is consistent with the three day settlement period, which has been mandated by the Commission for June 1995.

The development by registered clearing agencies of automated systems to transfer mutual funds and residual credit balances and their mandatory use will benefit both customers and member organizations by increasing efficiency, reducing paperwork and providing significant cost savings. Permitting partial account transfers to be accomplished through existing automated account transfer systems will provide member organizations with the ability to utilize these facilities where they will provide the most efficient and expeditious transfer. The use of more explicit reject codes will reduce unnecessary back office operations functions and will allow the NYSE to be better able to determine the exact reason for excessive rejects. The amendments to require the resolution or denial of claim letters within five business days will provide a regulatory framework in an area where no specific requirements currently exist and will expedite resolution of such claims.

The amendments relating to use of an automated system for transferring mutual fund positions, Rule 412(e)(2), and residual credit processing, Rule 412(e)(3), will become effective one hundred eighty calendar days after Commission approval of the amendments. All other amendments referred to above will become effective ninety days after Commission approval.

The statutory basis for the proposed change is based upon Section 6(b)(5) of the Act in that it fosters cooperation and coordination with persons engaged in facilitating transactions in securities. This is so because the procedures contained in the proposed rule are intended to expedite transfer of customer securities accounts between member organizations. The change also generally protects investors and the public interest by requiring expeditious transfer of accounts.

B. Self-Regulatory Organization's Statement on Burden on Competition

NYSE believes that the proposal does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Statements were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five 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 ninety 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 the 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, N.W., Washington, D.C. 10549. 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, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to File No. SR–NYSE–94–21 and should be submitted by July 20, 1994.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–15711 Filed 6–28–94; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–20371; 812–8938]

New York Venture Fund, Inc., et al.; Notice of Application

June 23, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: New York Venture Fund, Inc., Venture Income (+) Plus, Inc., Venture Muni (+) Plus, Inc., and Retirement Planning Funds of America, Inc. (collectively, the "Companies"), on behalf of themselves and any existing or future services thereof (collectively, the "Applicant Funds"); and Selected/Venture Advisers, L.P. (the "Adviser"). Applicants also seek relief on behalf of any existing or future registered open-end management investment company or series thereof (collectively, with the Applicant Funds, the "Funds") for which the Adviser, or any person controlling, controlled by, or under common control with the Adviser, now or hereafter serves as investment adviser or principal underwriter[1]

RELEVANT ACT SECTIONS: Exemption requested under section 6(c) 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 a conditional order to permit the Funds to create multiple classes of shares and to assess and, under certain circumstances, waive a contingent deferred sales charge ("CDSC") upon the redemption of certain shares.

FILING DATES: The application was filed on April 12, 1994, and amended on June 1, 1994. By supplemental letter dated June 22, 1994, counsel to applicants agreed to file an amendment during the notice period to make certain changes to its application. 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 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 July 19, 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 who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicants, 124 East Marcy Street, Santa Fe, New Mexico 87501.

FOR FURTHER INFORMATION CONTACT: James J. Dwyer, Staff Attorney, at (202) 942–0581, or C. David Messman, Branch Chief, at (202) 942–0564 (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 Companies are Maryland corporations registered under the Act as open-end management investment companies. New York Venture Fund, Venture Income Plus, and Venture Muni Plus are single series Funds, and Retirement Planning Funds currently has six series: Growth Fund, Bond Fund, Government Money Market Fund, Global Value Fund, Convertible Securities Fund, and Real Estate Securities Fund. The board of directors of each Company may create additional series from time to time.

2. The Adviser, an investment adviser registered under the Investment Advisers of 1940 and a broker/dealer registered under the Securities Exchange Act of 1934, serves as each Applicant Fund's investment adviser and principal underwriter.[2]. The Adviser's sole general partner is Venture Advisers, Inc., a New York corporation.

3. New York Venture Fund, Venture Income Plus, and Retirement Planning Fund's Global Value Fund, Convertible Securities Fund, and Real Estate Securities Fund currently offer shares to the public at net asset value plus a front-end sales charge ("FESC"), and have adopted rule 12b–1 distribution plans providing for payment to the Distributor at an annual rate of up to .25% of such Fund's average daily net assets.

4. Venture Muni Plus and Retirement Planning Fund's Growth Fund and Bond Fund are authorized, pursuant to their rule 12b–1 distribution plans, to pay the Distributor at an annual rate of up to .75% of such Fund's average daily net assets, and to pay service fees, as defined in article III, section 26 of the Rules of Fair Practice of the National Association of Securities Dealers, Inc. (the "NASD"). These Funds also impose a CDSC upon certain redemptions of shares, pursuant to existing SEC exemptive orders (the "Prior Orders").[3]

5. Applicants seek relief to permit the Funds to offer multiple classes of shares, each class of shares representing a selection from an array of distribution options mixing different FESCs, CDSCs, asset-backed sales charges, shareholder services fees, and transfer agency fees. Each class of shares of a Fund would represent interests in the same portfolio of investments, and would be identical in all respects, except as set forth in condition 1 below. The sum of any FESC, CDSC, and asset-based sales charge will not exceed the maximum sales charge provided for in article III, section 26(d) of the NASD's Rules of Fair Practice.

6. Applicants initially contemplate that the non-money market Funds would offer four different classes of shares. "Class A" shares of a Fund would require payment of a FESC and impose a rule 12b–1 fee. The FESC may be subject to reductions for larger purchases and under rights of accumulation and letter of intent. "Class B" shares of a Fund would be subject to rule 12b–1 fees and a CDSC. "Class C" shares of a Fund would be subject to relatively high rule 12b–1 fees, and a CDSC may be imposed on shares redeemed within one year of purchase. "Class D" shares of a Fund would be subject to relatively low rule 12b–1 fees. Class D shares typically would be available only to owners of separate commingled accounts, certain institutional investors, or similar investors.

7. Applicants further contemplate that the money market Funds would offer two different distribution options. "Regular Class" shares would be offered

---

[1] Existing investment companies which presently do not intend to rely on the requested relief are not signatories to the application, but may rely on any exemption granted pursuant to the application if they create multiple classes of shares or impose a contingent deferred sales charge consistent with the representations and conditions in the application.

[2] The term "Distributor" shall refer to the Adviser, or an entity controlling, controlled by, or under common control with the Adviser, in its capacity as the Funds' principal underwriter.

[3] *Retirement Planning Funds of America*, Investment Company Act Release Nos. 14387 (Feb. 20, 1985) (notice) and 14424 (Mar. 19, 1985) (order), *amending* Investment Company Act Release Nos. 13873 (Apr. 9, 1984) (notice) and 13926 (May 4, 1984) (order). *Venture Muni (+) Plus*, Investment Company Act Release Nos. 14353 (Feb. 4, 1985) (notice) and 14398 (Mar. 4, 1985) (order).

without a FESC or CDSC, and would be subject to relatively low rule 12b–1 fees, if any. Shares of the Regular Class would be substantially similar to Class C shares of non-money market Funds. "Class B Exchange" shares would be identifical to the Class B shares of a non-money market Fund, and it is anticipated that they would be issued only upon the exchange of Class B shares for shares of a money market Fund.

8. Applicants contemplate that any class of shares of a Fund may be exchanged for shares of the same class of another Fund, or for shares of another Fund's class with a similar pricing structure or rule 12b–1 fees. Under certain circumstances, shares may be exchanged for a class of shares of another Fund with different pricing characteristics. Shares of a money market Fund are exchangeable for shares of any of the available classes in the Funds. All exchanges made at other than net asset value will comply with rule 11a–3 under the Act.

9. Shares of one or more classes (the "Higher 12b–1 Classes") automatically will convert to shares of another class with a lower rule 12b–1 fee. The conversion will occur after the shareholder has the Higher 12b–1 Class shares for a period of time,[4] approximately one to eight years. Such conversion will occur without the imposition of any additional sales charge. Shares of a Higher 12b–1 Class purchased through the reinvestment of dividends and other distributions will be considered held in a separate sub-account. Each time any shares of a Higher 12b–1 Class convert to shares of another class, all of the shares of the Higher 12b–1 Class held in the sub-account will convert to shares of that other class. Applicants may suspend this feature if an expert's opinion or Internal Revenue Service ruling that the conversion does not constitute a taxable event under Federal income tax law is not available.

10. Expenses properly attributable to a particular class of shares may be recorded separately and charged to the particular class. All other expenses incurred by a Fund will be borne *pro rata* by each class of shares of the Fund. Because of the differing class expense, rule 12b–1 fees, and shareholder services fees, the net income attributable to and the dividends payable on one class of shares of a Fund may be higher or lower than those of the other classes of shares of the same Fund. To the extent that a Fund has undistributed net income or net operating losses, the net asset value of the various classes of shares of the Fund may differ.

11. Applicants also seek exemptive relief to permit the Funds to impose a CDSC on redemptions of Class B and Class C shares of a non-money market Fund, Class B Exchange shares of a money market Fund, and possibly other classes of shares of any Fund. The CDSC will be assessed on an amount equal to the lesser of the then current market value or the cost of the shares being redeemed. The amount of the CDSC will depend on the number of years, set forth in the applicable prospectus, since the shareholder purchased the shares being redeemed. It is expected that the CDSC schedule and CDSC period will vary in part on the FESCs paid on certain classes of shares of a Fund and the compensation paid to representatives selling various classes of shares of a Fund.

12. No CDSC will be imposed on amounts representing capital appreciation, shares or amounts representing shares purchased through the reinvestment of dividends or other distributions (including capital gains distributions), or shares held for longer than the CDSC period. In determining whether a CDSC is applicable, it will be assumed that a redemption of shares not subject to a CDSC will be made first, followed by shares subject to a CDSC in the order in which such shares were purchased. No CDSC will be imposed on shares purchased prior to the date that the requested order is granted, unless such shares are subject to a CDSC pursuant to the Prior Orders, in which event the Prior Orders will continue to apply.

13. Applicants intend to waive or reduce the CDSC on redemptions of shares (a) held at the time of a shareholder's death or disability, as defined in section 72(m) of the Internal Revenue Code of 1986, as amended (the "Code"), provided that the redemption is requested within one year of death or initial determination of disability, and provided that the shareholder held the shares as an individual or as a joint tenant with right of survivorship, (b) in connection with certain distributions, as described below, from individual retirement accounts, Keogh plans, custodial accounts maintained pursuant to section 403(b)(7) of the Code, or pension or profit-sharing plans (collectively, "Retirement Plans"), (c) sold to trustees, directors, and officers, and members of their immediate families, of any registered investment company supervised and distributed by the Adviser, or to directors and officers of the Adviser's general partner (in both cases including former directors, trustees, and officers) and to full-time employees of the foregoing (and members of their immediate families) who have been employed at least 90 days, (d) made as tax-free returns of contributions to avoid tax penalty, (e) by shareholders who have invested more than a stated minimum dollar amount in a Fund or across the Funds and for purchases involving accumulation rights or letters of intent in the same way that the FESCs of other classes are subject to such discounts; (f) pursuant to a Fund's systematic withdrawal plan, (g) pursuant to the right of a Fund to liquidate a shareholder's account if the aggregate net asset value of the shares held in such account is less than the designated account size described in the Fund's prospectus; and (h) acquired by any state, county, or city, or any instrumentality, department, authority, or agency thereof, which is prohibited by applicable law from paying a sales charge or commission in connection with the acquisition or redemption of shares of any investment company.

14. With respect to waiver category (b) above, the Funds may waive the CDSC for shares redeemed in connection with a lump-sum distribution or other distribution from Retirement Plans after termination of employment or on any distributions after retirement, or, in the case of an individual retirement account or a custodial account under section 403(b) of the Code, after attaining age 59½. The CDSC also may be waived or reduced on any redemption resulting from the return of an excess contribution pursuant to section 408(d)(4) or (5) of the Code, the return of excess deferral amounts pursuant to sections 401(k)(8) or 402(g)(2) of the Code, the return of excess aggregate contributions pursuant to section 401(m)(6) of the Code, or from the death or disability of the employee. The waiver or reduction will not apply in the case of a tax-free rollover or transfer of assets, other than one following a separation from service. These conditions in which the CDSC would be waived or reduced are designed to accommodate the majority of Retirement Plan distributions that are made without penalty pursuant to the Code.

15. If the Funds waive or reduce the CDSC, such waiver or reduction will be uniformly applied to all offerees in the class specified. Shares are subject to the waivers, deferrals, or reductions of the CDSC as provided in the applicable

[4] For purposes of calculating the holding period, the shares will be deemed to have been purchased on the last day of the month in which the purchase order for the shares was accepted. Shares acquired in an exchange or series of exchanges will be deemed to be purchased on the last day of the month in which the purchase order for the original shares was accepted.

prospectus at the time the shares were purchased.

Applicants' Legal Analysis

1. Applicants request an exemptive order to the extent that the proposed issuance and sale of various classes of shares representing interests in the same Fund might be deemed to result in a "senior security" within the meaning of section 18(g) and to be prohibited by section 18(f)(1), and to violate the equal voting provisions of section 18(i).

2. Applicants believe that the proposed multi-class arrangement will better enable the Funds to meet the competitive demands of today's financial services industry. Under the multi-class arrangement, an investor will be able to choose the method of purchasing shares that is most beneficial given the amount of his or her purchase, the length of time the investor expects to hold his or her shares, and other relevant circumstances. The proposed arrangement would permit the Funds to facilitate both the distribution of their securities and provide investors with a broader choice as to the method of purchasing shares without assuming excessive accounting and bookkeeping costs or unnecessary investment risks.

3. Applicants further believe that the proposed allocation of expenses and voting rights relating to the rule 12b–1 distribution plans in the manner described in the application is equitable and would not discriminate against any group of shareholders. In addition, such arrangements should not give rise to any conflicts of interest because the rights and privileges of each class of shares are substantially identical.

4. Applicants submit that the proposed multi-class arrangement does not present any concerns that section 18 was designed to ameliorate. The multi-class arrangement does not involve borrowings, does not affect a Fund's existing assets or reserves, and does not involve a complex capital structure. The multi-class arrangement will not increase the speculative character of the shares of the Funds. No class of shares will have preference or priority over any other class of shares in a Fund with respect to particular assets, and no class of shares will be protected by any reserve or other account.

5. Applicants submit that the requested exemption to permit the Funds to implement the proposed CDSC is appropriate in the public interest, and is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. The proposed CDSC arrangements will provide shareholders the option of having greater investment dollars working for them from the time of their purchase than if a sale load had been imposed at such time.

Applicants' Conditions

Applicants agree that any order granting the requested relief shall be subject to the following conditions:

1. Each class of shares of a Fund will represent interests in the same portfolio of investments and will be identical in all respects, except as set forth below. The only differences among the classes of shares of a Fund will relate solely to: (a) the impact of the disproportionate payments made under any rule 12b–1 distribution plan and shareholder services plan applicable to such class of shares; (b) expenses that may be allocated to a particular class of shares, which are limited to the following: (i) the incremental transfer agency costs attributable to such class of shares; (ii) the cost of preparing, printing, and mailing materials such as shareholder reports, prospectuses, and proxy materials to current shareholders of the class; (iii) any SEC and Blue Sky registration fees incurred by such class; (iv) directors' fees or expenses incurred as a result of issues relating solely to such class; (v) legal and accounting expenses relating solely to such class; and (vi) any other incremental expenses subsequently identified that should be properly allocated to a particular class which shall be approved by the SEC pursuant to an amended order; (c) the fact that each class will vote separately with respect to any rule 12b–1 distribution plan, except as provided in condition 16 below; (d) the different exchange privileges of each class of shares; (e) the different conversion features of each class of shares; and (f) the name or designation of each class of shares.

2. The directors of each Fund, including a majority of the independent directors, will approve the multi-class system. The minutes of the meetings of the directors of a Fund regarding the deliberations of the directors with respect to the approvals necessary to implement the multi-class system will reflect in detail the reasons for the directors' determination that the multi-class system is in the best interests of both the Fund and its shareholders.

3. The initial determination of the class expenses that will be allocated to a particular class and any subsequent changes thereto will be reviewed and approved by a vote of the board of directors of the Fund including a majority of the directors who are not interested persons of the Fund. Any person authorized to direct the allocation and disposition of monies paid or payable by the Fund to meet class expenses shall provide to the board or directors, and the directors shall review, at least quarterly, a written report of the amounts so expended and the purposes for which such expenditures were made.

4. On an ongoing basis, the directors of each Fund that adopts the multi-class system, pursuant to their fiduciary responsibilities under the Act and otherwise, will monitor the Fund for the existence of any material conflicts among the interests of the various classes of shares offered by that Fund. The directors, including a majority of the independent directors, will take such action as is reaonsably necessary to eliminate any such conflicts that may develop. The Adviser and Distributor will be responsible for reporting any potential or existing conflicts to the directors. If a conflict arises, the Adviser or Distributor, at its own cost, will remedy such conflict up to and including establishing a new registered management investment company.

5. The directors of each Fund will receive quarterly and annual statements concerning distribution and shareholder servicing expenditures complying with paragraph (b)(3)(ii) of rule 12b–1, as it may be amended from time to time. In the statements, only expenditures properly attributable to the sale or servicing of a particular class of shares will be used to justify any distribution or servicing fee charged to that class. Expenditures not related to the sale or servicing of a particular class will not be presented to the directors to justify and fee attributable to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the independent directors in the exercise of their fiduciary duties.

6. Any shareholder services plan will be adopted and operated in accordance with the procedures set forth in rule 12b–1(b) through (f) as if the expenditures made thereunder were subject to rule 12b–1, except that shareholders need not enjoy the voting rights specified in rule 12b–1.

7. Dividends paid by a Fund with respect to its various classes of shares, to the extent any dividends are so paid, will be calculated in the same manner, at the same time, on the same day, and will be in the same amount, except that class expenses relating to each class of shares will be borne exclusively by that class.

8. The methodology and procedures for calculating the net asset value and dividends and distributions of the classes and the proper allocation of expenses among the classes have been

reviewed by an expert (the "Expert"). The Expert has rendered a report to applicants, which has been provided to the staff of the SEC, that such methodology and procedures are adequate to ensure that such calculations and allocations will be made in an appropriate manner, subject to the conditions and limitations in that report. On an ongoing basis, the Expert, or an appropriate substitute Expert, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to each Fund offering any of the proposed classes that the calculations and allocations are being made properly. The reports of the Expert will be filed as part of the periodic reports filed with the SEC pursuant to sections 30(a) and 30(b)(1) of the Act. The work papers of the Expert with respect to such reports, following request by a Fund (which each Fund agrees to make), will be available for inspection by the SEC staff upon written request for such work papers by a senior member of the Division of Investment Management, limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director, and any Regional Administrators or Associate and Assistant Administrators. The initial report of the Expert is a "report on policies and procedures placed in operation" and the ongoing reports will be "reports on policies and procedures placed in operation and tests of operating effectiveness" as defined and described in SAS No. 70 of the AICPA, as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

9. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividends and distributions of the various classes of shares and the proper allocation of expenses among the various classes of shares, and this representation has been concurred with by the Expert in the initial report referred to in condition 8 above and will be concurred with by the Expert, or an appropriate substitute Expert, on an ongoing basis at least annually in the ongoing reports referred to in condition 8 above. Applicants will take immediate corrective measures if this representation is not concurred in by the Expert or appropriate substitute Expert.

10. The prospectus of each Fund which issues two or more classes of shares will contain a statement to the effect that a salesperson and any other person entitled to receive compensation for selling or servicing Fund shares may receive different compensation with respect to one particular class of shares over another in the Fund.

11. The Distributor will adopt compliance standards as to when each class of shares may appropriately be sold to particular investors. Applicants will require all persons selling shares of the Funds to agree to conform to such standards.

12. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the boards of directors of the Funds with respect to the multi-class system will be set forth in guidelines which will be furnished to the directors.

13. Each Fund will disclose the respective expenses, performance data, distribution arrangements, services, fees, sales loads, deferred sales loads, and exchange privileges applicable to each class of shares of the Fund in every prospectus, regardless of whether all classes of shares are offered through each prospectus. Each Fund will disclose the respective expenses and performance data applicable to each class of shares of the Fund in such Fund's shareholder report. The shareholder reports will contain, in the statement of assets and liabilities and statement of operations, information related to a Fund as a whole generally and not on a per class basis. A Fund's per share data, however, will be prepared on a per class basis with respect to all classes of shares of such Fund. To the extent any advertisement or sales literature describes the expenses or performance data applicable to a particular class of shares, it will also disclose the respective expenses and/or performance data applicable to all classes of shares. The information provided by applicants for publication in any newspaper or similar listing of the Fund's net asset value and public offering price will present each outstanding class of shares separately.

14. Applicants acknowledge that the grant of the exemptive order requested by this application will not imply SEC approval, authorization, or acquiescence in any particular level of payments that the Funds may make pursuant to their rule 12b–1 distribution plans or shareholder services plan in reliance on the exemptive order.

15. Any class of shares with a conversion feature ("Purchase Class") will convert into another class ("Target Class") of shares on the basis of the relative net asset values of the two classes, without the imposition of any sales load, fee, or other charge. After conversion, the converted shares will be subject to an asset-based sales charge and/or service fee (as those terms are defined in Article III, Section 26 of the NASD's Rules of Fair Practice), if any, that in the aggregate are lower than the asset-based sales charge and service fee to which they were subject prior to the conversion.

16. If a Fund implements any amendment to any rule 12b–1 distribution plan (or, if presented to shareholders, adopts or implements any amendment of a shareholder services plan) that would increase materially the amount that may be borne by the Target Class shares under the plan, existing Purchase Class shares will stop converting into Target Class unless the Purchase Class shareholders, voting separately as a class, approve the proposal. The directors shall take such action as is necessary to ensure that existing Purchase Class shares are exchanged or converted into a new class of shares ("New Target Class"), identical in all material respects to Target Class as it existed prior to implementation of the proposal, no later than the date such shares previously scheduled to convert into Target Class. If deemed advisable by the directors to implement the foregoing, such action may include the exchange of all existing Purchase Class shares for a new class ("New Purchase Class"), identical to existing Purchase Class shares in all material respects except that New Purchase Class will convert into New Target Class. New Target Class or New Purchase Class may be formed without further exemptive relief. Exchanges or conversions described in this condition shall be effected in a manner that the directors reasonably believe will not be subject to Federal taxation. In accordance with condition 4, any additional cost associated with the creation, exchange, or conversion of New Target Class or New Purchase Class shall be borne solely by the Adviser and Distributor. Purchase Class shares sold after the implementation of the proposal may convert into Target Class shares subject to the higher maximum payment, provided that the material features of the Target Class plan and the relationship of such plan to the Purchase Class are disclosed in an effective registration statement.

17. Applicants will comply with the provisions of 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 reproposed, adopted or amended.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–15714 Filed 6–28–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34249; File No. SR–Phlx–94–13]

Self-Regulatory Organizations; Order Granting Approval to Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Regulation 2 (Foods, Liquids and Beverages)

June 23, 1994.

I. Introduction

On March 10, 1994, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Phlx Regulation 2 (Foods, Liquids and Beverages) to permit the respective floor standing committees to waive the Regulation's prohibition against foods, liquids and beverages on the trading floor.[3]

The proposed rule change was published for comment in Securities Exchange Act Release No. 33815 (March 25, 1994), 59 FR 15474 (April 1, 1994). No comments were received on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

Currently, Regulation 2, which was adopted pursuant to Rule 60, prohibits foods, liquids and beverages on the trading floor and the lower level areas adjacent to the trading floor, except for the lunchrooms. The first violation of Regulation 2 is punishable by an official warning, with the second and third violations punishable by a fine of $100 and $200, respectively. The fourth violation and any violation thereafter is punishable by a sanction that is discretionary with the Business Conduct Committee.

The Phlx proposes to add a provision to Regulation 2 (Foods, Liquids and Beverages) stating that any provision of Regulation 2 may be waived by the chairperson of the appropriate floor standing committee or a designee thereof. Any waiver of the prohibition must be for a specified period of time and would require prior notice to the trading floor. In addition, reinstituting the prohibition would require prior notice to the floor.

The Exchange states that the proposed rule change is consistent with Section 6(b)(5) of the Act, in that it is designed to promote just and equitable principles of trade and protect investors and the public interest by fostering an orderly environment on the trading floor. The Exchange also believes that the proposal is consistent with Section 6(b)(6) of the Act because it would continue to provide that members of the Exchange be appropriately disciplined for violations of the rules of the Exchange.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with the requirements of Section 6(b)(5) of the Act.[4]

The Commission believes that the ability to waive the prohibition against foods, liquids and beverages on the trading floor and the lower level areas adjacent to the trading floor [5] is consistent with Section 6(b)(5) of the Act, which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade and protect investors and the public interest. The ability to waive the prohibition against bringing foods, liquids and beverages on the trading floor for a specific period of time would provide the Exchange with the flexibility to permit floor personnel to bring foods and beverages to the floor work area when necessary or prudent, such as during periods of market volatility or high volume trading. As a result, the ability to waive the restrictions in Regulation 2 should enhance the members' ability to engage in transactions in securities and, thereby, protect investors and the public interest.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[6] that the proposed rule change (SR-Phlx-94-13) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–15754 Filed 6–28–94; 8:45 am]

BILLING CODE 8010–01–M

---

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1993).

[3] Regulation 2 is a regulation of order and decorum adopted pursuant to Phlx Rule 60. Rule 60 permits Exchange officials and Floor officials to assess fines not exceeding $1,000 for violations of regulations pertaining to the administration of, and order, decorum, health, safety and welfare on the Exchange, or to refer such violations to the Exchange's Business Conduct Committee where higher fines or other sanctions may be imposed, in accordance with Phlx Rule 960.

[4] 15 U.S.C. 78f (1988).

[5] The prohibitions in Regulation 2 do not apply to the Exchange lunchrooms. *See* Regulation 2.

[6] 15 U.S.C. 78s(b)(2) (1988).

[7] 17 CFR 200.30–3(a)(12) (1991).

[Release No. IC–20372; 812–9036]

AIM Funds Group, et al.; Notice of Application

June 23, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: AIM Funds Group; AIM International Funds, Inc.; AIM Tax-Exempt Funds, Inc.; A I M Advisors, Inc. (the "Adviser"); and AIM Distributors, Inc. (the "Distributor").

RELEVANT ACT SECTIONS: Order requested under section 6(c) to amend a previous order granting 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 amending a prior order that permits the issuance of multiple classes of shares and the imposition, and under certain circumstances the waiver, of a contingent deferred sales charge ("CDSC"). The prior order would be amended to permit applicants to modify the circumstances in which the CDSC may be waived, and to include additional applicants.

FILING DATE: The application was filed on June 6, 1994.

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 July 19, 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, N.W., Washington, D.C. 20549.

Applicants, 11 Greenway Plaza, Suite 1919, Houston, Texas 77046–1173.

FOR FURTHER INFORMATION CONTACT: Marc Duffy, Staff Attorney, at (202) 942–0565, or C. David Messman, Branch Chief, at (202) 942–0564 (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. AIM Funds Group ("AFG") is an open-end management company consisting of nine investment portfolios. AIM International Funds, Inc. ("AIM International") and AIM Tax-Exempt Funds, Inc. ("AIM Tax-Exempt") are open-end management companies consisting of one investment portfolio and three investment portfolios, respectively (together with AFG, the "Funds"). The Adviser acts as investment adviser for each of the Funds. The Distributor acts as principal underwriter for each of the Funds.

2. AFG previously obtained an order under section 6(c) of the Act to permit (a) the issuance of an unlimited number of classes of shares representing interests in the same portfolio of securities, and (b) the imposition, and under certain circumstances the waiver or reduction, of a CDSC on redemptions of shares (the "Existing Order").[1] Pursuant to the Existing Order, AFG currently offers each of its portfolios with two classes of shares, except its AIM Money Market Fund portfolio, which offers three classes of shares.

3. AIM International and AIM Tax-Exempt were not parties to the application for the Existing Order. Applicants request that the relief granted by the Existing Order be extended to AIM International, AIM Tax-Exempt, and all future portfolios of those investment companies. AIM International and AIM Tax-Exempt have agreed to be subject to the Existing Order, as amended by this application, with respect to the Funds' creation, issuance, and sale of multiple classes of shares.

4. The Existing Order permits the waiver or reduction of the CDSC on certain specified categories of redemptions. One such CDSC waiver category applies to "distributions from individual retirement accounts, Keogh plans and custodial accounts maintained pursuant to Internal Revenue Code ("IRC") section 403(b)(7)." Applicants now seek to revise the types of retirement plans and accounts that may be entitled to a waiver or reduction of a CDSC. As revised, the CDSC waiver category would apply to individual retirement accounts, custodial accounts maintained pursuant to IRC section 403(b), deferred compensation plans qualified under IRC section 457 and plans qualified under IRC section 401 (collectively "Retirement Plans").

5. Applicants also seek to revise the circumstances in which redemptions by Retirement Plans may be entitled to a waiver or reduction of a CDSC. Currently, the CDSC may be waived or reduced for any redemption in connection with a tax-free lump sum or other distribution to a participant or beneficiary, other than tax-free rollovers or transfers of assets, provided that the CDSC waiver or reduction would apply only to that portion of such redemptions which does not exceed, on an annual basis, 12% of such participant's or beneficiary's account value. Applicants now also wish to permit such a waiver or reduction of the CDSC for redemptions which result from required minimum distributions to participants or beneficiaries of Retirement Plans who are age 70½ or older.

6. Applicants agree that they will be subject to all of the conditions contained in the application for the Existing Order.

Applicants' Legal Analysis

1. Applicants seek to amend the Existing Order with respect to the relief requested from sections 2(a)(32), 2(a)(35), 22(c), and 22(d) of the Act and rule 22c–1 thereunder to permit applicants to add additional investment company applicants and to modify the circumstances in which the CDSC may be waived.

2. Applicants wish to encourage greater investments by Retirement Plans in the Funds by permitting the waiver of the CDSC for most distributions that are permitted to be made without penalty pursuant to the IRC. Applicants believe such increased investments would be in the best interest of shareholders and that the imposition of a CDSC in these circumstances likely would deter such investments.

3. Applicants believe that the requested exemptive relief 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.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–15713 Filed 6–28–94; 8:45 am]

BILLING CODE 8010–01–M

[1] Investment Company Act Release Nos. 19547 (June 29, 1993) (notice) and 19599 (July 27, 1993) (order).

SMALL BUSINESS ADMINISTRATION

Northwood Capital Partners, L.P. (Application No. 99000126); Notice of Filing of an Application for a License to Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1994)) by Northwood Capital Partners L.P. at 485 Underhill Boulevard, Suite 205, Syosset, NY 11791, for a license to operate as a small business investment company (SBIC) under the Small Business Investment Act of 1958, as amended, (15 U.S.C. *et. seq.*), and the Rules and Regulations promulgated thereunder.

Northwood Capital Partners L.P. will be managed by Northwood Management Corp. Northwood Management Corp.'s officers and directors include:

Name	Position
Peter G. Schiff	Chairman, CEO, Treasurer, and Director.
Henry T. Wilson	President, Secretary and Director.
Marc Keller	Director.

Northwood Capital Partners L.P., a Delaware limited partnership, will be owned by Northwood Management Corp. (43.3%), the general partner, and Rabbit Hollow Partners (30.5%), JMS Trust f/b/o ETS *et. al.* (14.2%), and Henry T. Wilson (1.4%), the limited partners.

The applicant has Regulatory Capital of $7.0 million and will be a source of equity financing for qualified small business concerns throughout the United States concentrating primarily in the greater New York area.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including profitability and financial soundness in accordance with the Act and Regulations.

Notice is hereby given that any person may, not later than 30 days from the

date of publication of this Notice, submit written comments on the proposed SBIC to the Associate Administrator for Investment, Small Business Administration, 409 3rd Street, SW., Washington, DC 20416.

A copy of this Notice will be published in a newspaper of general circulation in New York, NY.

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies).

Dated: June 20, 1994.

Robert D. Stillman,

Associate Administrator for Investment.

[FR Doc. 94–15697 Filed 6–28–94; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CCD 94–052]

Coast Guard Wooden Boat Inspection Workshop

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Coast Guard will hold a workshop to obtain information to be used in revising Navigation and Vessel Inspection Circular (NVIC) 1–63 "Inspection and Repair of Wooden Hulls". The workshop will address modern construction and repair technologies, repair and inspection procedures, and development of a fastener inspection policy. Persons from different areas of the country, expert in wooden boat construction and repair, have been invited to attend. The workshop will be open to the public. Written comments are encouraged.

DATES: The workshop will be held July 14 and 15, 1994, from 8:30 a.m. to 5 p.m. daily. Written material should be submitted no later than July 12, 1994.

ADDRESSES: The workshop will be held at the U.S. Coast Guard Reserve Training Center, Hamilton Hall, Room 126, Yorktown, Virginia 23690. Written material should be submitted to LCDR William Uberti, Project Officer, Commandant (G–MVI–1), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593.

FOR FURTHER INFORMATION CONTACT: LCDR William Uberti, Project Officer, Commandant (G–MVI–1), U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593, telephone (202) 267–1464.

SUPPLEMENTARY INFORMATION: The workshop will include discussion of the following topics:

(1) Required physical examination or assessment of fasteners in Coast Guard inspected wooden hull vessels;

(2) Fastener pulling interval, amount, and location including normally non-removable fasteners;

(3) Fastener deterioration caused by galvanic and electrolytic corrosion;

(4) Evaluation/examination of enclosed or inaccessible hull structural members;

(5) Revision of frame sistering and other repair techniques, including use of modern adhesives and methods; and

(6) Technologies to restore strength and watertightness to wooden hulls.

Due to space and security constraints, public attendance may be limited. The Coast Guard also reserves the right to limit comments based on time available. Persons wishing to express their views are encouraged to prepare written statements for discussion by the workshop. Persons wishing to attend should notify the Project Officer prior to the meeting.

Dated: June 21, 1994.

Joseph J. Angelo,

Acting Chief, Office of Marine Safety Security and Environmental Protection.

[FR Doc. 94–15688 Filed 6–28–94; 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

[Docket No. 27782]

Proposed Policy Regarding Airport Rates and Charges

AGENCY: Department of Transportation, Federal Aviation Administration.

ACTION: Notice of meeting.

SUMMARY: On June 9, 1994, the Department of Transportation and the Federal Aviation Administration published a notice of a proposed policy statement in the **Federal Register**, with respect to fair and reasonable and nondiscriminatory airport rates and charges, and announced that a public meeting for oral views would be held in Washington, DC. The proposed policy statement sets forth DOT/FAA policy regarding airport practices that DOT/FAA would consider to be consistent with Federal requirements for airport rates and charges for aeronautical uses. This notice announces the date, time, location, and procedures for the meeting.

DATES: The public meeting will be held on July 15, 1994, starting at 9 a.m. Pursuant to the June 9, 1994, Notice of Proposed Policy, written comments are also invited and must be received on or before August 8, 1994.

ADDRESSES: The public meeting will be held at the U.S. Department of Agriculture, 14th & Independence Avenue, SW., South Building, Washington, DC. Persons unable to attend the meeting may mail their comments in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Rules Docket (AGC–200), Docket No. 27782, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Requests to present a statement at the meeting or questions regarding the logistics of the meeting should be directed to Effie Upshaw, Office of Rulemaking, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7626.

Questions concerning the subject matter of the meeting be directed to Barry Molar, Federal Aviation Administration, Airports Law Branch, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3423.

SUPPLEMENTARY INFORMATION:

Participation at the Meeting

Requests from persons who wish to present oral statements at the public meeting should be received by the FAA no later than July 12, 1994. Such requests should be submitted to Effie Upshaw as listed in the section titled **FOR FURTHER INFORMATION CONTACT** and should include a written summary of oral remarks to be presented, and an estimate of time needed for the presentation. Requests received after the date specified above will be scheduled if there is time available during the meeting; however, the name of those individuals may not appear on the written agenda. The FAA will prepare an agenda of speakers that will be available at the meeting. To accommodate as many speakers as possible, the amount of time allocated to each speaker may be less than the amount of time requested.

Background

On June 9, 1994, the DOT and FAA jointly published in the **Federal Register** a notice of proposed policy regarding fair and reasonable and nondiscriminatory airport rates and charges (59 FR 29874). Specifically, the proposed policy statement sets forth DOT/FAA policy regarding airport practices that DOT/FAA would consider to be consistent with Federal requirements for airport rates and charges for aeronautical uses.

The proposed policy statement is intended to assist in maintaining a balance between airport infrastructure

development and the preservation of safe and efficient transportation. Airlines should benefit from assurances that airport-related costs will be fair and reasonable. Airport operators should benefit from being afforded the flexibility necessary to tailor financial management, pricing, and investment strategies to meet local needs and conditions. The DOT/FAA recognize that there is no single procedure or fixed methodology for establishing rates and charges in use in the industry and that the standard of reasonableness does not compel a single approach or a single fee. Airport proprietors may adopt procedures and methodologies that serve their objectives so long as they comply with applicable Federal requirements, including the requirement to keep airport revenues employed in the airport system.

Meeting Procedures

The following procedures are established to facilitate the meeting:

(1) There will be no admission fee or other charge to attend or to participate in the meeting. The meeting will be open to all persons who have requested in advance to present statements or who register on the day of the meeting (between 8:30 a.m. and 9 a.m.) subject to availability of space in the meeting room.

(2) There will be a morning and afternoon break as well as a break for lunch.

(3) The meeting may adjourn early if scheduled speakers complete their statements in less time than currently is scheduled for the meeting.

(4) An individual, whether speaking in a personal or a representative capacity on behalf of an organization, may be limited to a 10-minute statement. If possible, we will notify the speaker if additional time is available.

(5) The FAA will try to accommodate all speakers. If the available time does not permit this, speakers generally will be scheduled on a first-come-first-served basis. However, the FAA reserves the right to exclude some speakers if necessary to present a balance of viewpoints and issues.

(6) Sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested at the above number 10 calender days before the meeting.

(7) Representatives of the FAA will preside over the meeting. A panel of FAA personnel involved in this issue will be present.

(8) The meeting will be recorded by a court reporter. A transcript of the meeting and any material accepted by the panel during the meeting will be included in the public docket. Any person who is interested in purchasing a copy of the transcript should contact the court reporter directly. This information will be available at the meeting.

(9) The DOT/FAA will review and consider all material presented by participants at the meeting. Position papers or material presenting views or information related to the proposed policy statement may be accepted at the discretion of the presiding officer and subsequently placed in the public docket. The FAA requests that persons participating in the meeting provide 10 copies of all materials to be presented for distribution to the panel members; other copies may be provided to the audience at the discretion of the participant.

(10) Statements made by members of the meeting panel are intended to facilitate discussion of the issues or to clarify issues. Any statement made during the meeting by a member of the panel is not intended to be, and should not be construed as, a position of the FAA.

(11) The meeting is designed to solicit public views and more complete information on the proposed policy statement. Therefore, the meeting will be conducted in an informal and nonadversarial manner. No individual will be subject to cross-examination by any other participant; however, panel members may ask questions to clarify a statement and to ensure a complete and accurate record.

Issued in Washington, DC on June 22, 1994.

Cynthia Rich,

Assistant Administrator for Airports.

[FR Doc. 94–15767 Filed 6–28–94; 8:45 am]

BILLING CODE 4910–13–M

Proposed Establishment of Class C Airspace at Myrtle Beach, SC; Public Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: This notice announces an informal airspace meeting for the purpose of gathering additional aeronautical facts and to solicit information concerning a proposal under study to establish Class C airspace at Myrtle Beach, SC. Interested persons will be provided an opportunity to comment on this proposal. All comments received during this meeting will be considered prior to the issuance of a Notice of Proposed Rulemaking.

TIME AND DATE: This meeting will be held from 7:00 p.m. to 10:00 p.m., on Tuesday, August 16, 1994. Comments must be received on or before October 17, 1994.

PLACE: E. Craig Wall School of Business, Coastal Carolina University, Highway 501 West, Conway, SC.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ASO–500, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

CONTACT PERSON FOR MORE INFORMATION: Ed Wiseman; Manager, Airport Traffic Control Tower; FAA; 2558 Avenue E, Myrtle Beach, SC 29577; telephone: (803) 238–3008.

SUPPLEMENTARY INFORMATION:

Meeting Procedures

(a) This meeting will be informal in nature and will be conducted by a representative of the Administrator, FAA Southern Region. Each participant will be given an opportunity to make a presentation, although a time limit may be imposed.

(b) This meeting will be open to all persons on a space-available basis. There will be no admission fee or other charge to attend and participate.

(c) Any person wishing to make a presentation to the panel will be asked to sign in and estimate the amount of time needed for such presentation so that timeframes can be established. This will permit the panel to allocate an appropriate amount of time for each presenter. The panel may allocate the time available for each presentation in order to accommodate all speakers. This meeting will not be adjourned until everyone on the list has had an opportunity to address the panel. This meeting may be adjourned at any time if all persons present have had the opportunity to speak.

(d) Position papers or other handout material relating to the substance of the meeting may be accepted. Participants wishing to submit handout material should present *three* copies to the presiding officer. There should be additional copies of each handout available for other attendees.

(e) This meeting will not be formally recorded. However, a summary of the comments made at this meeting will be filed in the docket.

Agenda for Each Meeting

—Opening Remarks and Discussion of Meeting Procedures
—Briefing on Background for Proposal
—Public Presentations
—Closing Comments

Issued in Washington, DC, on June 23, 1994.

Harold W. Becker,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 94–15770 Filed 6–28–94; 8:45 am]

BILLING CODE 4910–13–P

[Summary Notice No. PE–94–24]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before July 19, 1994.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. D. Michael Smith, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7470.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on June 23, 1994.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: 26667
Petitioner: FlightSafety International
Sections of the FAR Affected: 14 CFR 121.411 (a)(2), (a)(3), and (b)(2); 121.413(b), (c), and (d); and appendix H of part 121
Description of Relief Sought/ Disposition: To permit Flight Safety International (FSI), without holding an air carrier operating certificate, to continue to train part 121 certificate holders' pilots, flight engineers, and check airmen in initial, transition, upgrade, differences, and recurrent training. The training is conducted in FAA-approved simulators without FSI's instructor pilots meeting all the applicable training requirements of subpart N and the employment requirements of appendix H of part 121.

GRANT, June 14, 1994, Exemption No. 5408B

Docket No.: 26690
Petitioner: American Eagle Training Center
Sections of the FAR Affected: 14 CFR 121.411 (a) (2), (3), and (b) (2); 121.413 (b), (c), and (d); appendix H of part 121; 135.303; 135.337(a)(2), (a)(3), and (b)(2); 135.339(a)(2), (b), and (c)
Description of Relief Sought/ Disposition: To permit certain highly qualified AMR Eagle or AMR Eagle-affiliated instructor pilot and check airmen to use certain FAA-approved simulators to train and check part 135 certificate holder's pilots without AMR Eagle or AMR Eagle-affiliated instructor pilots and check airmen meeting all the applicable training requirements of subpart N of part 121, the employment requirements of appendix H of part 121, the applicable training requirements of subpart H of part 135, and without AMR Eagle holding an air carrier operating certificate.

GRANT, June 14, 1994, Exemption No. 5486A

Docket No.: 27456
Petitioner: Seven Stars International Inc.
Sections of the FAR Affected: 14 CFR 121.411(a)(2), (3), and (b)(2); 121.413(b), (c), and (d); and appendix H of part 121
Description of Relief Sought/ Disposition: To permit Seven Stars International Inc. (SSI), without SSI holding an air carrier operating certificate, to train and check a certificate holder's pilots and flight engineers in initial, transition, upgrade, differences, and recurrent training in approved simulators. SSI's instructors do not meet all the applicable training requirements of subpart N or the employment requirements of appendix H of part 121.

GRANT, June 15, 1994, Exemption No. 5925

Docket No.: 27771
Petitioner: Hapag-Lloyd Fluggesellschaft mbH
Sections of the FAR Affected: 14 CFR 129.18
Description of Relief Sought/ Disposition: To permit Hapag-Lloyd Fluggesellschaft mbH to operate a Boeing 737-500 without a traffic alert and collision avoidance system (TCAS) II within the United States airspace and at airports in Orlando, Florida; New Orleans, Louisiana; Los Angles, California; Grand Canyon, Arizona; Las Vegas, Nevada; San Francisco, California; and Dallas/Fort Worth Texas. This Boeing 737-500 would be operated on a special charter flight and used in U.S. airspace only from March 11 through March 25, 1995.

DENIAL, June 14, 1994, Exemption No. 5924

Docket No.: 27772
Petitioner: Martinair Holland
Sections of the FAR Affected: 14 CFR 129.18(a)
Description of Relief Sought/ Disposition: To permit Martinair Holland to operate a McDonnell Douglas DC-10 without a traffic alert and collision avoidance system (TCAS) II within United States airspace and at airports in the United States.

DENIAL, June 6, 1994, Exemption No. 5926

[FR Doc. 94–15768 Filed 6–28–94; 8:45 am]

BILLING CODE 4910–13–M

[Summary Notice No. PE–94–25]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summery of certain

petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before July 19, 1994.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC-200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-200), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-3132.

FOR FURTHER INFORMATION CONTACT: Mr. D. Michael Smith, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-7470.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on June 23, 1994.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 26847
Petitioner: FlightSafety International
Sections of the FAR Affected: 14 CFR 141.65
Description of Relief Sought: To allow FlightSafety International (FSI) to continue to recommend graduates of its approved certification course for flight instructor certificates and ratings without taking the Federal Aviation Administration's (FAA) written tests, in accordance with the provisions of subpart D of part 141. The amendment, if granted, also would allow FSI to recommend graduates of its approved certification course for the airline transport pilot certificates without taking the FAA written test.

Docket No.: 27750
Petitioner: Trans World Airlines, Inc. (TWA)
Sections of the FAR Affected: 14 CFR 121.339(a)(3)
Description of Relief Sought: To allow TWA to operate in extended overwater operations with high-intensity hand-held strobe lights in life raft survival kits instead of pyrotechnic flares.

Dispositions of Petitions

Docket No.: 24283
Petitioner: American Flyers, Inc.
Sections of the FAR Affected: 14 CFR 141.65
Description of Relief Sought/ Disposition: To extend Exemption No. 4287, which allows American Flyers, Inc., to hold examining authority for flight instructor and airline transport pilot (ATP) written tests.
GRANT, June 16, 1994, Exemption No. 4287E

Docket No.: 26710
Petitioner: Skydive DeLand, Inc.
Sections of the FAR Affected: 14 CFR 105.43(a)
Description of Relief Sought/ Disposition: To allow Skydive Deland, Inc., to continue to allow non-student foreign nationals to use parachutes not meeting the requirements of § 105.43(a) to participate in events conducted by Skydive Deland, Inc., at their facilities.
GRANT, June 21, 1994, Exemption No. 5542A

Docket No.: 27388
Petitioner: Rockwell International Corporation
Sections of the FAR Affected: 14 CFR 21.195(a)
Description of Relief Sought/ Disposition: To amend Exemption No. 5849, which allows North American Aircraft—Rockwell International Corporation to apply for an experimental certificate for the purpose of market survey and sales demonstrations or customer crew training, subject to certain conditions and limitations. The amendment, which does not affect the current expiration date of February 28, 1996, reflects that the Ranger 2000 aircraft S/N 001 referenced in the exemption is the same aircraft identified as FR-06 RPO1, and the Ranger 2000 aircraft S/N 003 referenced in the exemption is the same aircraft identified as FR-06 RPO3.
GRANT, June 21, 1994, Exemption No. 5849A

Docket No.: 27747
Petitioner: Polynesian Airlines
Sections of the FAR Affected: 14 CFR 129.18
Description of Relief Sought/ Disposition: To permit Polynesian Airlines to operate one Boeing 737 (B-737) aircraft, registration no. 5W-ILF, without an approved traffic alert and collision avoidance system (TCAS II) until August 1, 1994.
DENIAL, June 20, 1994, Exemption No. 5928

Docket No.: 27777
Petitioner: Air Resorts Airlines
Sections of the FAR Affected: 14 CFR 121.343(c)(11)
Description of Relief Sought/ Disposition: To amend Exemption No. 5916, which permits Air Resorts Airlines to operate one Convair aircraft, registration number N969N, that is equipped with a digital flight data recorder that is not capable of recording the trust of each engine. The amendment adds another Convair aircraft, registration number N968N.
GRANT, June 21, 1994, Exemption No. 5916A

Docket No.: 27794
Petitioner: Polynesian Airlines
Sections of the FAR Affected: 14 CFR 129.18
Description of Relief Sought/ Disposition: To permit Polynesian Airlines to operate one Boeing 767 (B-767) aircraft, registration no. 5W-TEA, without an approved traffic alert and collision avoidance system (TCAS II) until July 15, 1994.
GRANT, June 21, 1994, Exemption No. 5929

Docket No.: 27799
Petitioner: John E. Drury
Sections of the FAR Affected: 14 CFR 129.18(a)
Description of Relief Sought: To permit Compania De Transporturii Aeriene Romane (TAROM) to operate an Ilushian-62M (IL-62) without a traffic alert and collision avoidance system (TCAS) II within United States airspace at JFK airport on June 17 and June 27, 1994.
DENIAL, June 17, 1994, Exemption No. 5927

Correction

Docket No.: 26178
Petitioner: Continental Airlines, Inc.
Sections of the FAR Affected: 14 CFR 121.358
Description of Correction: To notify all concerned that this petition appeared inadvertently in two separate issues of the **Federal Register**—once on June 6 (59FR3921) and once on June 8 (59FR29657). In the June 8 issue, the docket number was incorrectly given as 27178; the correct docket number (26178) appeared in the June 6 issue. Therefore, the June 8 issue should be

disregarded, and all information in the June 6 issue should be used for all references.

Good Cause

Docket No.: 25892
Petitioner: Reflectone Training Center—Dulles
Sections of the FAR Affected: 14 CFR 61.55(b)(2), 61.56(b)(1); 61.57 (c) and (d); 61.58(c)(1) and (d); 61.63(c)(2) and (d)(2) and (3); 61.67(d)(2); 61.157(d)(1) and (2) and (e)(1) and (2); and appendix A of part 61
Description of Relief Sought: To allow Reflectone Training Center—Dulles (RTC–D) and persons who contract for service from RTC–D to continue to use FAA-approved flight simulators to meet the training and testing requirements described by the aforementioned sections of the FAR.

Docket No.: 26187
Petitioner: IASCO
Sections of the FAR Affected: 14 CFR 145.45(f)
Description of Relief Sought: To allow IASCO to continue to keep one set of repair station inspection procedures manuals available for review by all supervisory and inspection personnel in each library of its two certificated repair stations operating under certificate numbers WV3R959L and NN3R716L, instead of providing a copy to each individual as specified by the FAR.

[FR Doc. 94–15769 Filed 6–28–94; 8:45 am]
BILLING CODE 4910–13–M

Aviation Rulemaking Advisory Committee Meeting on Noise Certification Issues

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Aviation Rulemaking Advisory Committee to discuss noise certification issues.

DATES: The meeting will be held on July 27, 1994, at 9 a.m. Arrange for oral presentations by July 17, 1994.

ADDRESSES: The meeting will be held at the General Aviation Manufacturers Association, suite 801, 1400 K Street, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Marisa Mullen, Federal Aviation Administration, Office of Rulemaking (ARM–205), 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–9681; fax (202) 267–5075.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee to be held on July 27, 1994, at the General Aviation Manufacturers Association, Suite 801, 1400 K Street, NW., Washington, DC 20005. The agenda will include:

- Committee administration.
- Working group memberships.
- Work plan.
- A discussion of future meeting dates, activities, and plans.

Attendance is open to the interested public, but will be limited to the space available. The public must make arrangements by July 17, 1994, to present oral statements at the meeting. The public may present written statements to the committee at any time by providing 25 copies to the Executive Director, or by bringing the copies to the meeting. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on June 21, 1994.

Paul R. Dykeman,
Assistant Executive Director for Noise Certification Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 94–15771 Filed 6–28–94; 8:45 am]
BILLING CODE 4910–13–M

Federal Railroad Administration

Northeast Corridor Safety Committee; Public Meeting

Pursuant to Section 11 of the Rail Safety Improvement Act of 1988 (Pub. L. 100–342), notice is hereby given that a public meeting of the Northeast Corridor Safety Committee will be held on July 7, 1994, at 10 a.m. in room 6244 of the Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

The meeting is called for the purpose of providing counsel and advice to the Department of Transportation on safety improvements on the main line of the Northeast Corridor (NEC). The major topic on the agenda is a briefing by the Authur D. Little Company on their risk assessment for Amtrak associated with higher speeds and more frequent service between New York and Boston.

Issued in Washington, DC, on June 24, 1994.

Bruce M. Fine,
Acting Associate Administrator for Safety.

[FR Doc. 94–15821 Filed 6–28–94; 8:45 am]
BILLING CODE 4910–06–M

National Highway Traffic Safety Administration

[Docket No. 94–24; Notice 2]

Determination That Nonconforming 1987 Alfa Romeo Spider Passenger Cars Are Eligible for Importation

AGENCY: National HIghway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of determination by NHTSA that nonconforming 1987 Alfa Romeo Spider passenger cars are eligible for importation.

SUMMARY: This notice announces the determination by NHTSA that 1987 Alfa Romeo Spider passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards (the U.S.-certified version of the 1987 Alfa Romeo Spider), and they are capable of being readily modified to conform to the standards.

DATES: The determination is effective as of June 19, 1994.

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. § 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards must be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 of the Act, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the Federal Register of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the Federal Register.

Champagne Imports Inc. of Lansdale, Pennsylvania (Registered Importer R–90–009) petitioned NHTSA to determine whether 1987 Alfa Romeo Spider passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on April 25, 1994 (59 FR 19744) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has determined to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final determination must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP 70 is the vehicle eligibility number assigned to vehicles admissible under this determination.

Final Determination

Accordingly, on the basis of the foregoing, NHTSA hereby determines that a 1987 Alfa Romeo Spider not originally manufactured to comply with all applicable Federal motor vehicle safety standards is substantially similar to a 1987 Alfa Romeo Spider originally manufactured for importation into and sale in the United States and certified under section 114 of the National Traffic and Motor Vehicle Safety Act, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(I) abd (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: June 22, 1994.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 94–15725 Filed 6–28–94; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 94–50; Notice 1]

Notice of Receipt of Petition for Determination That Nonconforming 1991 BMW 750iL Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for determination that nonconforming 1991 BMW 750iL passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a determination that a 1991 BMW 750iL that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily modified to conform to the standards.

DATES: The closing date for comments on the petition is July 29, 1994.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9:30 a.m. to 4 p.m.]

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. § 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 of the Act, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily modified to comform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the Federal Register of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the Federal Register.

G&K Automative Conversion, Inc. of Santa Ana, California ("G&K") (Registered Importer R–90–007) has petitioned NHTSA to determine whether 1991 BMW 750iL passenger cars that were originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States. The vehicle that G&K believes is substantially similar is the 1991 BMW 750iL which was manufactured for importation into and sale in the United States and certified by its manufacturer, Bayerische Motoren-Werke A.G., as conforming to all applicable Federal motor vehicle safety standards.

The petitioner states that it has carefully compared the non-U.S. certified 1991 BMW 750iL to its U.S. certified counterpart, and found the two vehicles to be substantially similar with respect to most applicable Federal motor vehicle safety standards.

G&K submitted information with its petition intended to demonstrate that the non-U.S. certified 1991 model 750iL, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S. certified counterpart, or is capable of being readily modified to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1991 model 750iL is identical to its U.S. certified counterpart with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence* * * *, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 106 *Brake Hoses*, 107 *Refelecting Surfaces*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 203 *Impact Protection for the Driver From the Steering Control System*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 211 *Wheel Nuts, Wheel*

Discs and Hudcaps, 212 *Windshield Retention*, 216 *Roof Crush Resistance*, 219 *Winshield Zone Instrusion*, and 302 *Flammability of Interior Materials*.

Petitioner also contends that the 1991 BMW 750iL is capable of being readily modified to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp; (b) installation of a seat belt warning lamp; (c) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 105 *Hydraulic Brake Systems:* modification of the electrical circuit so that the brake failure indicator lamp activities when the ignition is switch on.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment*: (a) installation of U.S.-model headlamp assemblies which incorporate sealed beam headlamps and front sidemarkers; (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarkers; (c) installation of a high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims*: installation of a tire information placard.

Standard No. 111 *Rearview Mirrors*: replacement of the passenger side rearview mirror, which is convex but lacks the required warning statement.

Standard No. 114 *Theft Protection*: installation of a warning buzzer microswitch in the steering lock electrical circuit, and a warning buzzer.

Standard No. 115 *Vehicle Identification Number:* installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 118 *Power-Operated Window Systems*: rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection*: (a) installation of an ignition switch-actuated seat belt warning buzzer; (b) replacement of the existing Type 1 rear seat belts with U.S.-model belts equipped with retractors; (c) installation of knee bolsters (in vehicles that are not so equipped) to augment the passive restraint system. The petitioner states that the 1991 model 750iL is equipped with an automatic restraint system consisting of air bags and knee bolsters that are identical to those found on its U.S. certified counterpart.

Standard No. 214 *Side Door Strength*: installation of reinforcing beams.

Standard No. 301 *Fuel System Integrity*: installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions canister.

Additionally, the petitioner states that the bumpers on the 1991 model 750iL must be reinforced to comply with the Bumper Standard found in 49 CFR Part 581.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109; 400 Seventh Street, SW, Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: June 22, 1994.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 94–15723 Filed 6–28–94; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 94–14; Notice 2]

Determination That Nonconforming 1992 Mercedes-Benz 300SE Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of determination by NHTSA that nonconforming 1992 Mercedes-Benz 300SE passenger cars are eligible for importation.

SUMMARY: This notice announces the determination by NHTSA that 1992 Mercedes-Benz 300SE passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards (the U.S.-certified version of the 1992 Mercedes-Benz 300SE), and they are capable of being readily modified to conform to the standards.

DATES: The determination is effective as of June 29, 1994.

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202–366–5306)

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. § 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards must be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 of the Act, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register**.

Champagne Imports, Inc. of Lansdale, Pennsylvania (Registered Importer R–90–009) petitioned NHTSA to determine whether 1992 Mercedes-Benz 300SE passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on April 25, 1994 (59 FR 19746) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has determined to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final determination must indicate on the form HS–7

accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP 69 is the vehicle eligibility number assigned to vehicles admissible under this determination.

Final Determination

Accordingly, on the basis of the foregoing, NHTSA hereby determines that a 1992 Mercedes-Benz 300SE (Model 140.032) not originally manufactured to comply with all applicable Federal motor vehicle safety standards is substantially similar to a 1992 Mercedes-Benz 300SE originally manufactured for importation into and sale in the United States and certified under section 114 of the National Traffic and Motor Vehicle Safety Act, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: June 22, 1994.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 94–15724 Filed 6–28–94; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Depository Institutions Disaster Relief Act Study

AGENCY: Department of the Treasury.

ACTION: Request for comments.

SUMMARY: The Secretary of the Treasury (Secretary), in consultation with the federal bank regulatory agencies, is conducting a study of the effectiveness of the federal banking agencies' response to recent disasters, as directed by section 5 of the Depository Institutions Disaster Relief Act (DIDRA) of 1993, Pub. L. No. 103–76. Pursuant to DIDRA, the study group intends to complete the study by February 12, 1995, and will submit to Congress a final report containing a detailed statement of findings, conclusions, and, as appropriate, recommendations for administrative or legislative action.

In recognition of the need to consult the private sector and gather information needed for the study, this notice invites all interested parties to present their views on the topics discussed below and on any other issues relating to the study that they may wish to bring to the attention of the study group. The study group strongly encourages all interested parties to submit comments for the record.

DATES: Comments must be received by August 29, 1994.

ADDRESSES: Interested parties are requested to submit written data, views, or arguments regarding any or all of the topics discussed below or otherwise relevant to the study. A public file containing all the public comments will be maintained at the Department of the Treasury.

Comments should be sent via mail or facsimile to: Depository Institutions Disaster Relief Act Study, Department of the Treasury, Room 3025, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. Facsimile number (202) 622–0256.

FOR FURTHER INFORMATION CONTACT: For further information, please contact: Gordon Eastburn, Director of the Office of Financial Institutions Policy, at 202–622–2730; F. Bruce Cohen, Financial Analyst, at 202–622–2157; or John B. Lewis, Financial Analyst, at 202–622–0715.

SUPPLEMENTARY INFORMATION: On August 12, 1993, the President signed into law the Depository Institutions Disaster Relief Act of 1993 (DIDRA), Pub. L. No. 103–76. Section 5 of DIDRA directed the Secretary of the Treasury to conduct a study evaluating the effectiveness of the Depository Institutions Disaster Relief Act of 1992 (Pub. L. No. 102–485) and DIDRA 1993 in facilitating recovery from disasters consistent with the safety and soundness of depository institutions. The Secretary is directed to consult with the Comptroller of the Currency (OCC), the Office of Thrift Supervision (OTS), the Federal Reserve Board (FRB), and the Federal Deposit Insurance Corporation (FDIC).

Need for Depository Institutions Disaster Relief Act Study

In the last three years, many regions of the United States have suffered various types of disasters, from hurricanes in Hawaii, Florida, and Louisiana to flooding in the Midwest to earthquakes and civil unrest in California. Such disasters not only disrupt the financial system, but also strain its ability to cope with borrowers who may fall behind on loan payments because of income fluctuations; home and business owners who seek to combine, en masse, insurance proceeds and borrowed funds in order to rebuild; and the need of all parties to obtain faster access to cash despite rules concerning the availability of deposited funds.

The federal government has sought to alleviate such problems through regulation and the enactment of two laws that streamline the financial transactions process. We are now conducting a study to determine whether these legislative and administrative actions have in fact helped. In addition, we request comments on whether additional administrative or legislative actions would be beneficial. Disasters cannot be prevented, but we can learn how best to cope with them.

Depository Institutions Disaster Relief Act of 1992

As a result of disasters in 1991 and 1992, namely, Hurricanes Andrew and Iniki and civil unrest in Los Angeles, Congress passed the Depository Institutions Disaster Relief Act of 1992. The Act was designed to facilitate recovery from the disasters by providing greater flexibility for depository institutions and their customers. The Act allowed the agencies to grant temporary waivers of certain regulations for institutions located in disaster areas if the waiver would facilitate recovery from the disaster and was consistent with safety and soundness. The major provisions of the Act are delineated below.

- The agencies received permanent authority to make exceptions to certain appraisal requirements in disaster areas consistent with safe and sound banking practices. The waivers would expire within three years after the date of declaration. This allowed borrowers to rebuild their homes or businesses with borrowed funds without incurring the delay and expense of such requirements as obtaining an appraisal.
- The agencies received temporary authority to make certain exceptions to the Truth in Lending and the Expedited Funds Availability Acts. Exceptions would expire one year after the date of a disaster declaration.
- The agencies received authority to accommodate extraordinary asset growth at financial institutions resulting from the deposit of governmental assistance and insurance proceeds after a disaster. Specifically, regulators could permit certain qualified institutions to subtract governmental assistance and insurance proceeds from their asset base when calculating their leverage ratio. The allowances would last for up to 18 months after the date of enactment.

The Act also expanded the community development authority of national banks and state member banks to invest up to ten percent—rather than five percent—of their capital to promote the welfare of low- and moderate-income communities. The Act also encouraged depository institutions in disaster areas to meet community credit needs.

Depository Institutions Disaster Relief Act of 1993

As a result of flooding in the Midwest during the spring and summer of 1993, the Congress passed the Depository Institutions Disaster Relief Act of 1993. Like DIDRA of 1992, the Act was designed to facilitate recovery from the disaster by providing greater flexibility for depository institutions and their customers. Under DIDRA of 1992, the agencies maintained authority to waive real estate appraisal regulations for real estate-related transactions affected by the disaster. However, because the waivers concerning the Truth in Lending Act, Expedited Funds Availability Act, asset growth, and the notice provisions of the Administrative Procedures Act were temporary, they were reenacted in DIDRA 1993.

- Under section 2 of DIDRA of 1993 exceptions may be granted from the Truth in Lending Act and the Expedited Funds Availability Act.
- Under section 3 of DIDRA of 1993, financial institutions may seek until April 1, 1995, relief from regulations governing leverage capital requirements if they are experiencing a temporary increase of assets due to the influx of insurance proceeds or government assistance funds.

Other Regulatory Actions

In addition to the statutory measures provided for under the two laws discussed, above, the federal bank regulatory agencies have exercised preexisting authority in assisting financial activity in disaster areas.

Office of the Comptroller of the Currency: The OCC encouraged national banks in disaster areas to work with borrowers by extending terms of repayment or restructuring borrowers' debt obligations and to ease credit-extension terms for new loans with certain borrowers, consistent with prudent banking practices. Moreover, the OCC stated that it would take into account the unusual circumstances in dealing with any increases in the level of delinquent and nonperforming loans caused by the Floods.

Office of Thrift Supervision: The OTS encouraged savings associations operating in the affected areas to: work with sound borrowers to restructure or increase their loans if necessary to finance reconstruction or repair activities; consider temporarily waiving charges for late payments and early withdrawal penalties on deposits; reach out to local communities, governments, and community organizations to assess local credit needs and determine what assistance might facilitate disaster recovery; take advantage of disaster relief programs available in the community; and, if necessary, request a temporary waiver of the Qualified Thrift Lender Test to enable the thrift to provide credit to small businesses in affected areas.

Federal Reserve Board: The FRB adopted a supervisory statement that encouraged regulated financial institutions to work constructively with borrowers who are experiencing difficulties due to conditions beyond their control. The Federal Reserve stated that it would consider the unusual circumstances the institutions in disaster areas face in determining any supervisory action. Further, the Federal Reserve would consider granting an extension for filing reports to institutions encountering difficulty in meeting reporting requirements and would give positive consideration in its Community Reinvestment Act (CRA) compliance assessment to a bank's efforts to provide loans to low- and moderate-income borrowers affected by the disaster. The Federal Reserve also approved temporary relief from Regulation Z (which implements the Truth in Lending Act) regarding consumer waivers of the right to cancel certain home-secured loans so that borrowers could more readily gain access to loan funds.

Federal Deposit Insurance Corporation: The FDIC undertook a number of administrative actions including: notifying banks that they would not be criticized for prudent efforts to restructure or extend terms for borrowers; extending its "low documentation loan program" to affected areas; giving positive consideration in its CRA compliance assessment to a bank's efforts to provide loans to low- and moderate-income borrowers affected by the disaster; and notifying its banks that it would consider any causes beyond the control of a reporting institution in considering how long a delay in filing reports would be acceptable.

Questions for Respondents

Bank Customers

(1) Did your depository institution offer special services to borrowers and depositors to facilitate disaster recovery
Yes _____ No_____
Please explain.

(2) If so, did you find them beneficial?

Depository Institutions

(3) Please identify your institution's primary federal financial regulator:
OCC_____ OTS_____ FRB_____
FDIC_____
Other _____ Please identify _____

(4) Did you use the Depository Institutions Disaster Relief Acts (DIDRA) of 1992 and 1993 provisions relating to:
Yes _____ No_____ real estate appraisals _____ (number of times, if known);
Yes _____ No_____ Truth-in-Lending Act _____ (number of times, if known);
Yes _____ No_____ Expedited Funds Availability Act _____ (number of times, if known);
Yes _____ No_____ leverage capital ratio requirements?

(5) Did you utilize the administrative actions taken by the regulators relating to:
Yes _____ No_____ restructuring debt for borrowers _____ (number of times, if known);
Yes _____ No_____ delaying filing reports _____ (number of times, if known);
Yes _____ No_____ waiving charges for late payments or early withdrawal _____ (number of times, if known);

(6) Should any of the DIDRA provisions be made permanent? If so, why? Please identify any specific problems you believe would arise without those provisions.

All Interested Parties

(7) Are you located in an area that has been designated a "disaster area" by the President in the last five years?
Yes _____ No_____ Year _____
Disaster _____

(8) If so, did you encounter any financial transaction problems in the disaster?

(9) What other legislative and/or administrative actions should be taken in future disaster areas to facilitate financial transactions?

Dated: June 15, 1994.

Richard S. Carnell,

Assistant Secretary (Financial Institutions), Department of the Treasury.

[FR Doc. 94–15757 Filed 6–28–94; 8:45 am]

BILLING CODE 4810–25–M

[Directive 34–01]

Waiver of Claims for Erroneous Payments

1. *Purpose.* This Directive delegates authority to waive claims of the Government against an employee for erroneous payments of pay and allowances, and erroneous payments of travel, transportation, and relocation expenses and allowances.

2. *Scope.* This Directive applies to all bureaus, the Departmental Offices (DO), and the Office of Inspector General (OIG).

3. *Policy.* It is the policy of the Department of the Treasury that standards and procedures for granting waiver of claims to an employee for erroneous payments of pay and allowances, and erroneous payments of travel, transportation, and relocation expenses and allowances, pursuant to 5 U.S.C. 5584 and 4 CFR Parts 91 and 92, shall be in compliance with the applicable laws and regulations.

4. *Background.*

a. 5 U.S.C. 5584, as amended, authorizes the waiver, in certain instances, of claims due to the United States by an employee for erroneous payments of pay and allowances, and erroneous payments of travel, transportation, and relocation expenses and allowances.

b. Public Law (Pub. L.) 102–190 (1991) amended 5 U.S.C. 5584 to increase from $500 to $1,500 the amount of a claim that an agency may waive under that statute. The General Accounting Office (GAO) published a final rule at 56 FR 67467 (1991) which revised the GAO waiver regulations at 4 CFR Parts 91 and 92 accordingly. The head of an agency, or the designated official, now has the authority for granting waiver of claims in the aggregated amount of not more than $1,500.

c. Waiver of a claim in the aggregated amount of more than $1,500 shall be submitted to GAO for a consideration.

5. *Delegation.* This Directive authorizes the Deputy Assistant Secretary (Administration), the heads of bureaus, and the Inspector General to perform the following functions for their respective organizations.

a. Waive, in whole or in part, a claim of the United States against an employee arising out of an erroneous payment of pay and allowances, for an erroneous payment of travel, transportation, and relocation expenses and allowances, aggregating not more than $1,500, in accordance with the limitations and standards set forth in 5 U.S.C. 5584, and the regulations of the Comptroller General in 4 CFR Parts 91 and 92.

b. Deny requests for waivers in any amount. If a request for waiver is denied, the employee from whom collection is sought must be advised of the right to appeal the denial to GAO pursuant to the procedures in 4 CFR Part 92.

c. Refer a report or investigation to the Comptroller General for a determination, where appropriate under the applicable regulations. Such referrals shall be governed by this Directive, rather than the procedures of Treasury Directive (TD) 32–09, "Correspondence with the General Accounting Office."

6. *Redelegation.* The Deputy Assistant Secretary (Administration), the heads of bureaus, and the Inspector General may redelegate this authority, in writing, only to the senior management officials at headquarters and regional locations, for their respective organizations. Appropriate management controls must be maintained for each redelegation of authority. Copies of the redelegation shall be submitted to the Departmental Deputy Chief Financial Officer.

7. *Responsibilities.* The Deputy Assistant Secretary (Administration), the heads of bureaus, the Inspector General, their deputies or assistants, or the Bureau Chief Financial Officer or equivalent, for their respective organizations, shall:

a. promptly notify an employee upon discovery of an erroneous payment to that employee;

b. compile the written report described in 4 CFR 92.3;

c. notify the employee, in writing, of the disposition of a request for waiver and any right to appeal, as required by 4 CFR 92.4;

d. pay a refund when appropriate if a waiver is granted; and

e. fulfill any other responsibility of the agency imposed by 5 U.S.C. 5584 or 4 CFR Parts 91 and 92, or other applicable laws or regulations.

8. *Reporting Requirements.*

a. The Department is not required to submit an annual written report to GAO. However, the Department still is required to maintain a register of waiver actions, subject to GAO review. In addition, each bureau is required to retain the written record of each waiver action for 6 years and 3 months. The written record is defined at 4 CFR 92.7.

b. Treasury bureaus are required to submit an annual waiver of claims report for the fiscal year ending September 30 to the Department's Deputy Chief Financial Officer (CFO) not later than December 31 of each year. The Deputy CFO will issue a call letter and the report format to the Deputy Assistant Secretary (Administration) and Bureau CFOs.

c. The bureau annual waiver of claims report shall contain the following information.

(1) The total amount waived by the bureau.

(2) The number and dollar amount of waiver applications granted in full.

(3) The number and dollar amount of waiver applications granted in part and denied in part.

(4) The number and dollar amount of waiver applications denied in their entirety.

(5) The number of waiver applications referred to the GAO for action.

(6) The dollar amount refunded as a result of waiver action by the bureau.

(7) The dollar amount refunded as a result of waiver action by the GAO.

9. *Cancellation.* TD 34–01, "Waiver of Claims for Erroneous Payments," dated January 6, 1994, is superseded.

10. *Authorities.*

a. 5 U.S.C. 5584, as amended, "Claims for Overpayment of Pay and Allowances, and of Travel, Transportation and Relocation Expenses and Allowances."

b. 4 CFR Part 91, "Standards for Waiver."

c. 4 CFR Part 92, "Procedure."

d. GAO Title 4, "Claims," GAO Policy and Procedures Manual for Guidance of Federal Agencies.

11. *Expiration Date.* This Directive expires three years from the date of issuance unless superseded or cancelled prior to that date.

12. *Office of Primary Interest.* Office of Accounting and Internal Control, Financial Services Directorate, Office of the Deputy Assistant Secretary (Departmental Finance and Management), Office of the Assistant Secretary (Management)/Chief Financial Officer.

Dated: June 20, 1994.

George Muñoz,

Assistant Secretary (Management)/Chief Financial Officer.

[FR Doc. 94–15776 Filed 6–28–94; 8:45 am]

BILLING CODE 3410–01–P

Sunshine Act Meetings

Federal Register
Vol. 59, No. 124
Wednesday, June 29, 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).

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

MEETING STATUS: Open.

DATE AND TIME:

Thursday, July 28, 1994, 10:00 a.m. to 5:00 p.m.

Friday, July 29, 1994, 9:00 a.m. to 3:30 p.m.

PLACE: Hotel Washington, Pennsylvania Avenue and 15th St., N.W., Washington, DC 20004.

MATTERS CONSIDERED: The meeting will involve sessions to plan NCLIS' activities for August 1994–September 1996 related to reauthorization of the Library Services and Construction Act and the realignment of federal roles in support of libraries.

To request further information or to make special arrangements for physically challenged persons, contact Barbara Whiteleather (202–606–9200) no later than one week in advance of the meeting.

Dated: June 23, 1994.

Jane Williams,

Acting NCLIS Executive Director.

[FR Doc. 94–15962 Filed 6–27–94 2:22 pm]

BILLING CODE 7527–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 59 FR 33040, Monday, June 27, 1994.

STATUS: Open meeting.

PLACE: 450 Fifth Street, N.W., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: June 23, 1994.

CHANGE IN THE MEETING: Additional Item.

The following item will be considered at an open meeting scheduled for Wednesday, June 29, 1994, at 10:00 a.m.

The Commission will consider whether to issue an order approving a proposed Interpretation to the Rules of Fair Practice of the National Association of Securities Dealers ("NASD") that would prohibit member firms that hold their own customer limit orders from trading ahead of those orders and would make trading in disregard of the prohibition a violation of just and equitable principles of trade. For further information, please contact Scott Kursman at (202) 942–0168.

Commissioner Roberts, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Bruce Rosenblum at (202) 942–0500.

Dated: June 27, 1994.

Jonathan G. Katz,

Secretary.

[FR Doc. 94–15921 Filed 6–27–94; 12:39 pm]

BILLING CODE 8010–01–M

federal register

Wednesday,
June 29, 1994

Part II

Department of Education

34 CFR Part 682

Federal Family Education Loan Program; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Part 682

RIN 1840–AB99

Federal Family Education Loan Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations governing the Federal Family Education Loan (FFEL) Program. The FFEL Program consists of the Federal Stafford, Federal Supplemental Loans for Students (SLS), Federal PLUS, and the Federal Consolidation Loan programs. These amendments are needed to implement changes made to the Higher Education Act of 1965, as amended (HEA), by the Higher Education Amendments of 1992, and certain technical changes made by the Omnibus Budget Reconciliation Act of 1993, the National and Community Service Trust Act of 1993, and the Higher Education Technical Amendments of 1993. The regulations amend the FFEL Program repayment, deferment, and forbearance provisions, and enhance the ability of lenders and guaranty agencies to service and collect FFEL Program loans.

EFFECTIVE DATE: Pursuant to section 482(c) of the Higher Education Act of 1965, as amended (20 U.S.C. 1089(c)), these regulations take effect July 1, 1995, with the exception of the information collection requirements in §§ 682.209, 682.210, and 682.211. The information collection requirements in §§ 682.209, 682.210, and 682.211 will become effective on July 1, 1995, or after the information collection requirements contained in those sections have been submitted by the Department of Education and approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980, whichever is later. A document announcing the effective date will be published in the **Federal Register.**

During the period before July 1, 1995, the Secretary will provide guidance to all FFEL Program participants to ensure effective and uninterrupted administration of the FFEL Program, and to ensure that eligible borrowers receive the benefits provided by the statutory provisions reflected in these regulations.

FOR FURTHER INFORMATION CONTACT: George Harris, Senior Program Specialist, Loans Branch, Division of Policy Development, Policy, Training, and Analysis Service, U.S. Department of Education, 400 Maryland Avenue, SW. (room 4310, ROB-3), Washington, DC. 20202–5449. Telephone: (202) 708–8242. 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 Secretary is amending 34 CFR part 682 to implement changes made to the HEA by the Higher Education Amendments of 1992 (Pub. L. 102–325), enacted July 23, 1992, and certain technical changes made by the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103–66), enacted August 10, 1993, the National and Community Service Trust Act of 1993 (Pub. L. 103–82), enacted September 21, 1993, and the Higher Education Technical Amendments of 1993 (Pub. L. 103–208), enacted December 20, 1993. These regulations seek to improve the efficiency of federal student aid programs, and, by so doing, to improve their capacity to enhance opportunities for postsecondary education.

On March 24, 1994, the Secretary published a notice of proposed rulemaking (NPRM) for part 682 in the **Federal Register** (59 FR 14070). The NPRM included a discussion of the major issues surrounding the proposed changes which will not be repeated here. The following list summarizes those issues and identifies the pages of the preamble to the NPRM on which a discussion of those issues may be found:

- Amendment to § 682.209 to provide income-sensitive repayment schedules for borrowers (page 14071);
- Amendment to § 682.210 to provide economic hardship deferments for borrowers (page 14072);
- Amendments to § 682.211 to provide mandatory and administrative forbearances for borrowers (page 14072).

Substantive Revisions to the Notice of Proposed Rulemaking

Section 682.209 Repayment of a Loan

- The Secretary has modified the requirement that a lender grant a choice of repayment options to a borrower to specify that this requirement applies only if the borrower responds to the lender's offer within 45 days after the lender made the offer.
- The Secretary has revised the borrower income documentation requirements that apply if a borrower wants to repay a loan under an income-sensitive repayment schedule. The modified requirements apply only if a borrower reports income that would cause the amount of his or her monthly payment to be insufficient to repay the loan within the maximum 10-year repayment period.
- The Secretary has deleted the provision that would have required a lender to obtain a copy of a borrower's federal income tax return if the borrower wants to repay a loan under an income-sensitive repayment schedule.
- The final regulations have been revised to require a lender either to make adjustments to the amount of the borrower's installment payments to reflect annual changes in the variable interest rate on the borrower's loan or, if the lender declines to make such adjustments, to grant the administrative forbearance described in § 682.211(j)(5)(i) so that the borrower can repay the loan within the maximum repayment period.
- The final regulations have been revised to require a lender to grant the administrative forbearance described in § 682.211(j)(5)(ii) in cases where the effect of decreased installment amounts paid under an income-sensitive repayment schedule would result in the loan not being repaid within the maximum repayment period.

Section 682.210 Deferment

- The regulations have expanded the types of debts that can be considered when determining a borrower's eligibility for an economic hardship deferment. Section 682.210(s)(6) has been revised to include any debt, whether in default or otherwise, owed by a borrower for a postsecondary education loan obtained through a federal program in determining the borrower's eligibility for an economic hardship deferment.
- The Secretary has modified the provision that would have required a lender to obtain a copy of a borrower's federal income tax return if the borrower requested an economic hardship deferment. This requirement will now apply only if the borrower requests an additional period of economic hardship deferment that begins less than one year after the end of an economic hardship deferment, other than a deferment based solely on the borrower's status as a public assistance recipient.
- The Secretary has deleted the criterion that would have permitted a borrower to receive an economic hardship deferment if the borrower did not have monthly disposable income exceeding four times the minimum wage or the poverty level for a family of two and the borrower had monthly student loan payments of at least 20 percent of the borrower's monthly disposable income. That criterion has been replaced with one under which a

borrower whose total monthly gross income was not more than twice the minimum wage or the poverty level for a family of two would qualify for an economic hardship deferment by not having remaining total monthly gross income, from employment or from other sources, that exceeds the greater of the minimum wage rate or the poverty level for a family of two after deducting an amount equal to what the borrower would owe for monthly payments on postsecondary education loans obtained through a federal program.

• In addition to the criterion discussed above, the Secretary has added two other criteria under which a borrower may establish eligibility for an economic hardship deferment: (1) by being granted an economic hardship deferment under either the Federal Direct Student Loan (FDSL) or Federal Perkins Loan programs for the period of time for which the borrower has requested an economic hardship deferment for his or her FFEL loan; or (2) by being eligible for a payment under a federal or state public assistance program, such as Aid to Families with Dependent Children, Supplemental Security Income, Food Stamps, or state general public assistance.

Section 682.211 Forbearance

• The regulations have been amended to add a provision to require a lender to grant a forbearance to a borrower who serves in a national service position for which the borrower receives a national service educational award under Pub. L. 103–82, or to a borrower who is eligible for forgiveness of a Federal Stafford Loan under the Federal Stafford Loan Forgiveness Demonstration Program because of certain public service under the terms of section 428J of the HEA, if that program is funded.

• The regulations have been amended to add a provision to require a lender to grant a forbearance to a borrower who would be eligible for a partial repayment of a loan under the Student Loan Repayment Programs administered by the Department of Defense under 10 U.S.C. 2171.

• The one-year forbearance period proposed in the NPRM to cover the effect that variable interest rate changes may have on a borrower's ability to repay the loan within 10 years under a fixed-amount (now referred to as a standard repayment schedule) or graduated repayment schedule has been lengthened to three years.

• The three-year forbearance period proposed in the NPRM to cover the effect that a borrower's decreased income may have on his or her ability to repay the loan within 10 years under an income-sensitive repayment schedule has been increased to five years.

• The provision in the NPRM that would have required a lender to obtain a copy of a borrower's federal income tax return if the borrower requested a mandatory forbearance based on a high debt-to-income ratio has been deleted.

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, 32 parties submitted comments on the proposed regulations. An analysis of the comments and of the changes made to the regulations as a result of those comments follows.

Major issues are grouped according to subject, with references to the appropriate sections of the regulations. Other substantive issues are discussed under the section of the regulations to which they pertain. Technical and other minor changes, and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority, generally are not addressed.

Section 682.209 Repayment of a Loan

1. *Comments:* Some commenters noted that paragraph (a)(6)(i) of § 682.209 was not included in the NPRM, but needed to be updated to reflect the new regulations for income-sensitive repayment schedules.

Discussion: The Secretary agrees with the commenters.

Changes: Section 682.209(a)(6)(i) has been revised to state that a borrower's installment payment may increase or decrease during the repayment period.

Section 682.209(a)(6)(iii)

2. *Comments:* Some commenters asked if a lender could establish a repayment schedule for a borrower at the time the loan is made, providing the borrower is permitted to choose another schedule, if desired, six months before the first payment is due. If the borrower does not notify the lender that he or she wishes a different type of repayment schedule, the lender can assume that the borrower continues to agree with the schedule established by the lender when the loan was made.

Discussion: Section 428(b)(1)(E)(i) of the HEA prohibits a lender from offering a choice of repayment schedules to a borrower more than six months prior to the date on which the borrower's first payment is due. A lender may not establish a repayment schedule for the borrower when the loan is made (frequently several years before repayment is due) and inform the borrower that the lender will presume that the borrower is agreeable to that type of repayment schedule in the absence of the borrower's later request for a different repayment schedule. The Secretary believes that a borrower may not recall that he or she has that option if the lender does not remind the borrower of it shortly (three to six months) before the first payment is due.

Changes: None.

3. *Comments:* Some commenters asked if a lender would be required to permit a borrower to repay multiple loans under several different repayment schedules, if that was what the borrower wished.

Discussion: Section 432(l)(1) of the HEA directs the Secretary to prescribe procedures to standardize servicing of FFEL Program loans. In addition, section 485C of the HEA directs eligible lenders, to the extent practicable, to treat all loans made under the same section of the HEA as one loan and to send the borrower one bill for such loans. The Secretary believes that the effective implementation of these statutory provisions would be advanced by allowing a lender to require a borrower to repay all loans held by the lender in accordance with a single repayment schedule.

Changes: Section 682.209(a)(6)(ix) has been added to the final regulations to permit a lender to require that all FFEL loans owed by a borrower to the lender be combined and repaid under one repayment schedule.

4. *Comments:* Some commenters asked if the requirement to offer a choice of repayment schedules would apply in the case of a borrower who received a loan on or after a date specified in the proposed regulations, but who was already in repayment under a schedule established by the lender.

Discussion: As required by section 428(b)(1)(E)(i) of the HEA, a new borrower who receives a loan on or after July 1, 1993 must be offered a choice of repayment schedules. If a borrower has entered the repayment period on the loan, the lender must notify the borrower of the new repayment options, and if a new option is selected, provide the borrower with a new repayment schedule prior to the effective date of these regulations (July 1, 1995).

Changes: None.

5. *Comments:* Some commenters requested clarification of what is meant by a loan "first disbursed on or after July 1, 1993." The commenters asked if the requirement to offer a choice of repayment schedules would apply if any disbursement of a loan was made on or after that date.

Discussion: A lender is required to offer a choice of repayment schedules to a new borrower whose initial

disbursement of a loan is made on or after July 1, 1993.

Changes: None.

6. *Comments:* Some commenters objected to the requirement that a lender must offer a choice of a standard, graduated, or income-sensitive repayment schedule to certain borrowers. The commenters believed that section 428(b)(1)(E)(i) of the HEA permits a lender to offer a borrower a choice of two repayment schedules: (1) a standard schedule; or (2) a flexible repayment schedule (either graduated or income-sensitive) chosen by the lender. The commenters stated their view that there is little or no difference between a graduated repayment schedule and an income-sensitive repayment schedule. Therefore, the commenters contended, there would be no harm done if the lender made the choice for the borrower.

Discussion: It appears that the rationale that the commenters have based their recommendations upon does not acknowledge the fundamental differences between graduated and income-sensitive repayment schedules: a graduated schedule is a modified standard repayment schedule with preset yearly payment amounts specified when the schedule is established; an income-sensitive schedule establishes payment amounts for one year at a time, subject to the borrower's income. The Secretary believes that Congress intended that the dramatically different method of repaying a loan under an income-sensitive repayment schedule would be of great assistance to a borrower because the installment amounts can be adjusted to reflect the borrower's ability to repay the loan. Although lenders could have used income-sensitive repayment schedules in the past, almost none of them chose to do so. As a result, if a borrower was locked into a standard repayment schedule and was unable to make scheduled payments or qualify for a deferment, a default was inevitable if the lender declined to grant forbearance. Congress therefore concluded, and the Secretary agrees, that a remedy to this problem (in conjunction with mandatory forbearances and a new economic hardship deferment) would be to permit the borrower to repay the loan under an income-sensitive repayment schedule. The Secretary believes that defaults will decrease if borrowers are given that option.

Changes: None.

7. *Comments:* Some commenters recommended that the regulations specifically permit a borrower who has selected one type of repayment option to later choose a different one. The commenters proposed that a borrower be restricted to two changes during the repayment period. Some commenters believed that the lender should be permitted to grant an administrative forbearance to a borrower during the change, so that any existing delinquency status on the loan can be waived before the new repayment schedule commences.

Discussion: Section 428(b)(1)(E)(i) of the HEA neither prohibits a lender from permitting a borrower to change his or her mind about a chosen repayment schedule nor requires a lender to comply with a borrower's request to change the repayment schedule. The Secretary encourages lenders to revise repayment schedules in response to borrower requests, if practicable, but does not believe that the borrower's repayment of the loan needs to be interrupted while the lender develops a new repayment schedule. The borrower simply continues to pay under the existing schedule until the new one is in place.

Changes: None.

8. *Comments:* Some commenters recommended that the regulations address a lender's obligation to offer a choice of repayment schedules to a borrower if the lender received notification of the borrower's withdrawal from school after the repayment period on the borrower's loan had already begun, or if the notification was received less than 90 days before the repayment period on the loan was due to commence.

Discussion: The Secretary agrees with the commenters. The Secretary's longstanding policy has been to require a lender to establish a first payment due date that is not more than 75 days after the date the lender received the notification that the borrower had entered the repayment period. Section 428(b)(1)(E)(i) of the HEA requires the lender to offer a choice of repayment schedules to a borrower prior to the date that the borrower's first payment is due. If, because of late notification, the lender does not have sufficient time to establish an income-sensitive repayment schedule for the borrower, the lender must convert the loan to a repayment status by establishing a standard repayment schedule. After receiving the required documentation from a borrower who wishes to repay his or her loan through an income-sensitive repayment schedule, the lender must follow the procedures prescribed in § 682.209(a)(6)(viii).

Changes: Section 682.209(a)(6)(viii)(B) of the final regulations has been revised to permit a lender to request income documentation from a borrower for the purpose of estimating an income-sensitive repayment schedule less than 90 days before the borrower's first payment is due if the lender receives late notification that the borrower has entered the repayment period.

Section 682.209(a)(6)(iv)

9. *Comment:* Some commenters recommended that the requirement that each scheduled payment equal at least the interest that accrues during the interval between payments should not apply to an income-sensitive repayment schedule. The commenters believed that the income of some borrowers would occasionally be so low that they could not afford to pay the interest on their loans. The commenters believed that a more realistic approach would be to recognize that a repayment schedule that was truly sensitive to a borrower's income may result in scheduled payments that are less than the interest that accrues. The commenters recommended that the lender be permitted to schedule payments that are less than the accruing interest, and capitalize any unpaid interest.

Discussion: With the exception of a loan made under the Federal Consolidation Loan Program, the maximum repayment period that applies to an FFEL Program loan is 10 years. Given this constraint, negative amortization (in which payments are less than the interest that accrued since the last payment) is not a workable option in the FFEL Program. Some commenters may have believed that the FFEL repayment regulations should mirror the regulations that will be promulgated for the Federal Direct Student Loan (FDSL) Program's income contingent repayment plan. Although the FFEL and FDSL programs will have comparable repayment provisions in many respects, the 10-year repayment limit in the FFEL Program does not exist in the income contingent repayment plan provided in the FDSL Program under section 455(d)(1)(D) of the HEA. In addition, unlike in the FFEL Program, negative amortization is specifically permitted for FDSL loans under section 455(d)(1)(C) of the HEA.

The Secretary believes that if a borrower finds his or her scheduled FFEL payment amount to be too difficult to maintain, even though the borrower's scheduled payment represents accrued interest only, the borrower's difficulties can be ameliorated through the use of appropriate forbearances and deferments.

Changes: The final regulations have been revised to require a lender to grant

an administrative forbearance under § 682.211(j)(5) for up to 5 years of borrower payments where the effect of decreased installment amounts under an income-sensitive repayment schedule would cause the loan to be in repayment for more than 10 years.

Section 682.209(a)(6)(v)

10. *Comments:* Some commenters recommended that the regulations include a time limit for the borrower to choose a repayment schedule after being notified of the option to choose one.

Discussion: The Secretary agrees with the commenters.

Changes: The final regulations have been revised to require a lender to grant the borrower's choice of repayment schedule only if the borrower responds to the lender's offer within 45 days after the lender makes the offer. As discussed in response to comment 7, a lender is encouraged to agree to a borrower's request to revise an established repayment schedule if this request is made after the 45-day period.

11. *Comments:* Some commenters were confused about the reference to a borrower who did not "qualify" for a graduated repayment schedule and asked what procedures a lender must follow to determine if a borrower "qualifies" for a graduated repayment schedule.

Discussion: The Secretary agrees that the use of the word "qualifies" in the proposed regulation was confusing.

Changes: The final regulations have been revised to require the lender to establish a standard repayment schedule for a borrower who does not select an income-sensitive or graduated schedule, or who does not provide the documentation required for an income-sensitive schedule.

12. *Comments:* Some commenters recommended that the regulations clarify a lender's obligation concerning the offer of an income-sensitive repayment schedule to a co-maker of a loan.

Discussion: A co-maker of a loan is a borrower of a loan. Any requirement that applies to a borrower also applies to a co-maker.

Changes: None.

13. *Comments:* Some commenters recommended that a lender be permitted to establish either a graduated or a standard repayment schedule if the borrower does not choose a repayment schedule, or does not provide income documentation for an income-sensitive repayment schedule.

Discussion: The Secretary believes that the interests of promoting consistent treatment of borrowers and simplification of the FFEL Program is best served if there is one standard repayment schedule that applies in these situations. Therefore, a lender must establish a standard repayment schedule if the borrower does not choose a repayment schedule, or does not provide income documentation for an income-sensitive repayment schedule. As discussed in response to comment 7, a lender could agree to a borrower's later request to revise an established repayment schedule.

Changes: The final regulations have been revised to require a lender to establish a standard repayment schedule for a borrower who does not select an income-sensitive repayment schedule or does not provide the documentation required for an income-sensitive repayment schedule.

Section 682.209(a)(6)(vi)

14. *Comments:* Some commenters recommended that a lender be allowed to adjust the borrower's monthly payment amount owed under a standard repayment schedule to reflect annual variable interest rate changes.

Discussion: The Secretary believes that such adjustments would be beneficial to borrowers and that lenders should have the option of adjusting annual variable interest payment amounts in much the same way that lenders routinely adjust installment amounts for other variable interest rate loans they make, *e.g.*, adjustable rate mortgage loans.

Changes: Section 682.209(a)(6) of the final regulations has been revised to provide a lender the option of making adjustments to the amount of the borrower's installment payments to reflect annual changes in the variable interest rate on the borrower's loan, or to grant the administrative forbearance described in § 682.211(j)(5)(i) for a period of up to 3 years of payments in cases where the effect of a variable interest rate on a standard or graduated repayment schedule would result in a loan not being repaid within the maximum repayment term.

Section 682.209(a)(6)(vii)

15. *Comments:* Some commenters believed that a lender should be permitted to offer a graduated repayment schedule that establishes an installment amount that exceeds three times the amount of any other installment. The commenters believed that the income of a borrower during the early years of repayment may be so low that a strict adherence to the "three times rule" would not be helpful to the borrower.

Discussion: The Secretary believes that the "three times rule" is needed to prevent excessively large payment amounts that the borrower may not be able to afford. If a borrower does not have sufficient income to make scheduled payments that are scheduled within the constraints of the "three times rule" and the lender's application of the mandatory forbearance described in § 682.211(j)(5)(ii), the borrower could request assistance through deferments and other forbearances that would normally be available.

Changes: None.

Section 682.209(a)(6)(viii)(A)

16. *Comments:* Some commenters believed that there should be an absolute prohibition against any repayment schedule that establishes an installment amount that exceeds three times the amount of any other installment. The commenters were concerned that the Secretary's encouragement to lenders to stay within the "three times rule" for income-sensitive repayment schedules would be insufficient protection for some borrowers who initially would be given artificially low repayment schedules, only to experience significant payment increases in later years.

Discussion: The Secretary has no reason to believe that lenders would not have heeded his encouragement in the NPRM to attempt to stay within the "three times rule" for income-sensitive repayment schedules. However, in the interest of ensuring consistent and equitable treatment of all borrowers, the Secretary agrees that the "three times rule" should apply to all types of repayment schedules. The Secretary believes that if a borrower finds his or her scheduled FFEL payment amount to be too difficult to maintain, the borrower's difficulties can be ameliorated through the use of appropriate forbearances and deferments.

Changes: The final regulations will retain the "three times rule" contained in § 682.209(a)(6)(ii) of the current regulations for all types of repayment schedules.

17. *Comments:* Some commenters believed that an income-sensitive repayment schedule should be based on the borrower's family income, rather than only on the borrower's income. The commenters believed that a borrower whose spouse has substantial earnings should be expected to repay a loan more quickly than a borrower who does not have access to such resources. The commenters recommended that the regulations specifically address the treatment of income received by a borrower's spouse.

Discussion: The statutory provisions governing repayment of an FFEL Program loan consistently rely on consideration of the borrower's income. In contrast, in the FDSL Program, section 455(e) of the HEA specifically authorizes consideration of family income. These regulations reflect the statutory restrictions in the FFEL Program.

Changes: None.

18. *Comments:* Some commenters recommended that an income-sensitive repayment schedule be based on a borrower's gross income, instead of disposable income. The commenters believed that the term "gross income" is more widely understood and more easily explained. Other commenters believed exactly the opposite—that the term "disposable income" would be easier to explain and more readily understood by borrowers.

Discussion: The Secretary believes that the various opinions presented by the commenters show a need for a simplified and easily understood definition to be used to determine a borrower's income.

Changes: The final regulations have been revised to add the concept of "total monthly gross income." This term will mean the gross amount of income received by the borrower from employment and from other sources.

19. *Comments:* Some commenters recommended that the regulations specify the minimum and maximum monthly payment amounts that the Secretary would consider reasonable based on the borrower's income. For example, some commenters suggested that an acceptable range for monthly payments would be $10 to $20 for each $100 of monthly income.

Discussion: The minimum payment amount must be equal to at least the interest that accrues during the interval between scheduled payments. If the borrower finds that payment amount to be too difficult to maintain, the borrower's difficulties may be ameliorated through the use of forbearances and deferments. The maximum payment amount may not exceed three times the amount of any other scheduled payment requested from the borrower. The Secretary believes that the borrower and the lender are the parties that can best establish a reasonable payment amount that falls within these two extremes.

Changes: None.

20. *Comments:* Some commenters believed that, in addition to a borrower's income, a lender should be required to take the borrower's monthly living expenses into consideration when determining the amount of the borrower's monthly repayment amount under an income-sensitive repayment schedule. The commenters believed that a lender should be required to subtract specified monthly living expenses, based on family size, from the borrower's monthly income.

Discussion: The Secretary does not agree with the commenters. A lender may take factors other than income into consideration when establishing a borrower's payment amount, but the Secretary sees no need to prescribe in the regulations what those factors should be. A lender's discretion to consider such other factors is limited only by the basic rule that the borrower's scheduled installment amount must equal at least the interest accruing on the loan.

Changes: None.

21. *Comments:* Some commenters believed that an income-sensitive repayment schedule should be limited to the borrower's initial three years of repayment. The commenters believed that three years was an adequate amount of time for a borrower to develop an ability to manage his or her debt. Following this three-year period, the loan would be repaid under a standard or a graduated repayment schedule.

Discussion: The HEA permits certain borrowers to repay their loans through income-sensitive repayment schedules. The HEA does not restrict the borrower's ability to select this option to only a certain number of years of the borrower's total repayment period. The Secretary recognizes, however, that a borrower who has had low monthly payments scheduled for several years under an income-sensitive repayment schedule would eventually reach a point where such low payments could no longer be scheduled in accordance with the maximum 10-year repayment period, even if the borrower received the maximum 5-year administrative forbearance authorized under § 682.211(j)(5)(ii). The Secretary believes that lenders should counsel borrowers on the drawbacks of a borrower's over-reliance on the ability to continue to have small scheduled payments under an income-sensitive repayment plan. The Secretary strongly encourages lenders to counsel borrowers that the income-sensitive option should be considered a "safety net" for borrowers who are truly in financial need, and that there are many advantages in repaying loans more rapidly under a standard or graduated repayment schedule.

Changes: None.

22. *Comments:* Some commenters recommended that the regulations be revised to state that an income-sensitive repayment schedule is based on a borrower's current income, rather than expected income. The commenters believed it is more appropriate to require a borrower to certify current income (which is known) than to expect a borrower to certify an amount of income that is expected in the future.

Discussion: The commenters have overlooked the fact that a borrower's future payments are based on the borrower's expected income for the next 12 months. The borrower is not required to "certify" events that have not yet occurred, but is merely being asked to provide recent documentation that could reasonably be used by the lender as a guide to establish the appropriate installment amount for the borrower to pay during the next 12 months.

Changes: None.

23. *Comments:* Some commenters stated that they understood that the Secretary had agreed during the negotiated rulemaking process to permit a 13-year repayment schedule to be established for a borrower who chooses to repay a loan under an income-sensitive repayment schedule. Other commenters recommended that the three-year forbearance period authorized in § 682.211(f)(10) be increased to five years.

Discussion: During the negotiated rulemaking sessions, the Department made it clear that the Secretary had no authority to extend the 10-year statutory length of the repayment schedule. However, the Secretary agreed to the creation of a specific forbearance for borrowers repaying their loans under an income-sensitive repayment schedule. Periods of authorized forbearance are not included in the repayment period. The Secretary agrees that a five-year forbearance period would be more helpful to borrowers and lenders than the three-year forbearance period that was proposed in the NPRM.

Changes: As discussed in response to comment 55, the final regulations have been revised to relocate this forbearance from § 682.211(f)(10) to § 682.211(j)(5)(ii) and to increase it to five years.

Section 682.209(a)(6)(viii)(C)

24. *Comments:* Some commenters noted that section 428C(c)(4) of the HEA mandates that repayment of a Consolidation Loan must begin within 60 days after the consolidating lender has repaid the loans selected by the borrower for consolidation. The commenters did not believe that the consolidating lender would have sufficient time to comply with the provision in § 682.209(a)(6)(viii)(C) for requesting, obtaining, and evaluating

the income documentation submitted by the borrower.

Discussion: The Secretary is not persuaded that a consolidating lender will not have sufficient time for establishing a borrower's income-sensitive repayment schedule. The Secretary notes that a lender could gain additional time to accomplish this process by requesting the borrower's income documentation at the time the borrower submits an application for a Consolidation Loan.

Changes: None.

25. *Comments:* Some commenters believed that a lender should be permitted to request documentation from a borrower more than 90 days before the borrower's initial payment is due under an income-sensitive repayment schedule. The commenters recommended 180 days, rather than 90 days.

Discussion: The Secretary believes that a timely request for documentation is important, and should be made between 90 days and six months before the borrower's first payment is due. The Secretary did not intend for the 90-day restriction to be interpreted as a bar to a lender's request for additional documentation from the borrower if the lender believed it to be necessary. However, except in the case of a late notification (see comment 8), the initial request must be made not less than 90 days before the borrower's first payment is due.

Changes: None.

26. *Comments:* Some commenters objected to the requirement that a borrower must submit documentation of income. The commenters believed that the borrower should be permitted to self-certify his or her income, and that the documentation requirements are burdensome and conflict with the Paperwork Reduction Act of 1980. The commenters also expressed their belief that there would be little incentive for a borrower to misrepresent his or her income by providing inaccurate income data because the cost savings to a borrower increase more quickly as a loan is repaid. Some commenters suggested that borrowers would have an incentive to correctly self-certify their income if the Secretary enforced appropriate penalties against borrowers who submitted false or incomplete information. Other commenters questioned why self-certification of income is acceptable for the determination of eligibility for federal student financial aid but is not acceptable for purposes of establishing an income-sensitive repayment schedule. The commenters suggested that the Secretary could ensure that borrowers correctly self-certify their income by using verification techniques similar to those that exist for determining eligibility for federal student financial aid. Some commenters believed that a borrower's federal income tax return from the previous year would have no relevance in determining the appropriate amount of the borrower's monthly repayment amount under an income-sensitive repayment schedule. The commenters believed that the information on the tax return reflects a financial status for the borrower that no longer exists. The commenters recommended a deletion of this requirement.

Discussion: The Secretary disagrees with the presumption that a borrower would have little incentive to misrepresent his or her income by providing inaccurate income data. The Secretary has an obligation to the taxpayers to ensure that their tax dollars are effectively spent. The Secretary believes that some borrowers may be tempted to misrepresent their income so that their scheduled monthly payment amounts can be inappropriately low. As a consequence of earlier payments that are inappropriately low, the borrower's future payments may have to be much larger than the borrower could afford, thereby increasing the risk of default and the exposure of the taxpayers to increased default costs. Permitting a borrower to self-certify incorrect income data would also cause the borrower's loan balance to remain higher than it should for a longer time than it should. The taxpayer would then be unfairly obligated to pay excessive amounts of interest benefits (during deferments) and special allowance payments, in addition to a larger default payment if the borrower defaults.

However, the Secretary has reconsidered the type of documentation that should be provided by the borrower, and no longer believes it is necessary to require the lender to obtain a copy of the borrower's federal income tax return (although a lender could still require one if the lender thought it was needed). The Secretary believes that evidence of income is not needed if a borrower voluntarily reports an amount of income that would result in monthly installment amounts that would be projected to repay the loan within the maximum 10-year repayment period. The Secretary also believes that the information on the tax return may have little or no bearing on the borrower's current or future financial situation, and would reflect only past income. A lender could still require a tax return if the lender thought it was needed to clarify questionable income documentation submitted by the borrower. If the borrower later requested an additional period of income-sensitive repayment, a lender may find the information on the tax return more relevant because it contains information that the lender can compare to the amount of recent income reported by the borrower for purposes of establishing the appropriate amount of the borrower's monthly payment.

The Secretary does not believe that the taxpayers should be expected to incur the costs associated with permitting a borrower to make very low monthly payments under an income-sensitive repayment schedule simply on the strength of the borrower's undocumented assertion that he or she has a very low income. The Secretary believes that the public interest justifies the collection of minimal documentation from a borrower who reports a very low income in order to obtain the benefit of smaller scheduled monthly payments under an income-sensitive repayment schedule. The documentation requirements therefore comply with the provisions of the Paperwork Reduction Act of 1980. The Secretary believes the required documentation of income is reasonable, easily obtainable by the borrower, and necessary to maintain the integrity of the FFEL Program. A need for documentation of a borrower's income exists for other purposes (for example, documentation of income from a borrower who requests an economic hardship deferment) and the Secretary believes that documentation also should be provided by a borrower who requests very low payments under an income-sensitive repayment schedule. It is the Secretary's belief that FFEL lenders have sufficient experience and expertise in obtaining and verifying borrower-supplied income documentation for other purposes (such as for mortgage applications or car loans), and will be able to do the same for their FFEL borrowers. The Secretary will, of course, take appropriate action against individuals who provide fraudulent information to obtain a federal benefit. The existing enforcement powers available to the Secretary in this regard are sufficient, and no new powers specifically created for the purpose of preventing potential fraud by borrowers in this area are needed.

Changes: The final regulations have been revised to require a borrower to present evidence of his or her income only if the borrower reports an amount of income that would be so low that the scheduled installment amounts would be insufficient to repay the loan within the maximum 10-year repayment period

permitted under the HEA. The final regulations have deleted the requirement that the lender must require the borrower to submit a copy of his or her federal income tax return to be eligible for an income-sensitive repayment schedule.

Section 682.209(a)(6)(viii)(C)(1)

27. *Comments:* Some commenters recommended that the regulations require a borrower to certify that he or she has reported all of his or her monthly income to the lender. The commenters noted that the lender would not know if the borrower had income other than what the borrower divulged. The commenters also believed that a borrower who claimed to have not filed a federal income tax return for the most recent year should be required to certify the truthfulness of that claim.

Discussion: As discussed in response to comment 26, the requirement to obtain a borrower's federal income tax return has been deleted. The Secretary would not object if a lender required the certifications suggested by the commenters, but does not believe they should be mandated in the regulations. It is the Secretary's belief that the lender, who may possess other information about the borrower, is the most appropriate party to decide if the borrower should provide verifying information or certifications. As further discussed in response to comment 26, the Secretary believes that FFEL lenders have sufficient experience and expertise in obtaining and verifying borrower-supplied income documentation for other purposes (such as for mortgage applications or car loans), and will be able to do the same for their FFEL borrowers.

Changes: None.

28. *Comments:* Some commenters recommended the deletion of the requirement that a borrower document his or her income "from all sources." The commenters believed that this requirement is ambiguous and burdensome. The commenters also believed that most of the "other sources" would be reluctant to provide documentation to the borrower. Some commenters interpreted it to mean that the income received by a borrower's spouse would be included in this determination.

Discussion: The point of a repayment schedule that is based on the borrower's income is to determine the appropriate monthly installment amount that the borrower can afford to pay. It would serve no purpose, other than to establish an artificially low payment amount, if certain types of income received by the borrower were excluded from this consideration. As discussed in response to comment 17, for the purposes of establishing a borrower's income-sensitive repayment schedule for an FFEL loan (unlike under the FDSL Program), the HEA does not require the consideration of a borrower's family income.

Changes: None.

Section 682.209(a)(6)(viii)(E)

29. *Comments:* Some commenters believed that a borrower's monthly payment amount should not have to be adjusted following three consecutive months of increased income if there would only be a few months remaining before the borrower's next scheduled annual adjustment. The commenters recommended that an adjustment be required only if the increased income occurred during the first six months of the borrower's current annual repayment schedule. Other commenters recommended a complete deletion of the requirement that a borrower's payment amount be adjusted following three consecutive months of increased income. The commenters believed this requirement not only is unduly burdensome for borrowers and lenders, particularly if the borrower's income is seasonal, it is unnecessary because the next annual adjustment would take the borrower's increased income into consideration.

Discussion: The Secretary agrees with the commenters, and encourages the lender and the borrower to establish realistic monthly payment amounts that reflect the borrower's expected average monthly income during the course of the year so as to anticipate periods of increased seasonal income.

Changes: The requirements contained in paragraphs 682.209(a)(6)(viii) (E) and (F) of the proposed regulations have been deleted from the final regulations.

Section 682.209(h)(4)

30. *Comments:* Some commenters believed that the regulations should state that a defaulted loan that has been included in a Federal Consolidation Loan is not considered to be in default. Other commenters recommended that the regulations state that the only defaulted loans that can be consolidated are loans made under the FFEL Program.

Discussion: A loan that is repaid through consolidation no longer exists as a separate loan obligation for FFEL Program purposes. It is therefore unnecessary to say that a non-existent loan obligation is not a defaulted loan. The commenters' second recommendation conflicts with the Secretary's policy of permitting a borrower to consolidate a defaulted Title IV loan if the borrower has made satisfactory arrangements to repay the loan. However, the Secretary agrees that a clarification of the type of defaulted loans that may be consolidated is needed in the regulations.

Changes: The final regulations have been revised to clarify that a defaulted loan made under Title IV of the HEA may be consolidated if the borrower has made satisfactory arrangements with the holder to repay the loan.

Section 682.210 Deferment

31. *Comments:* Some commenters recommended that the regulations state that deferments are loan-specific, and not borrower-specific.

Discussion: The Secretary's longstanding policy has been that deferments are borrower-specific, with the sole exception of the parental-leave deferment described in § 682.210(o). That exception has been created because a borrower may be pregnant or caring for a newborn or newly adopted child more than once.

Changes: Section 682.210(a) of the final regulations has been revised to clarify that deferments are borrower-specific, with the sole exception of the parental-leave deferment described in § 682.210(o).

32. *Comments:* Some commenters stated that it was impractical to expect that both co-makers must meet the same deferment requirements to qualify for a deferment. The commenters suggested that if the co-makers individually qualified for different deferments, the co-makers should be permitted to decide which of those deferments they would receive.

Discussion: The Secretary agrees with the commenters.

Changes: Section 682.210(a)(11) of the final regulations has been revised to permit a co-maker to receive a deferment if both co-makers are simultaneously eligible to receive the same, or different deferments.

33. *Comments:* Some commenters believed that the way that the regulations are written would cause people to conclude that a student deferment was permitted only if the student was enrolled as a half-time student, with no other enrollment status acceptable for deferment eligibility. The commenters recommended that the regulations be revised to state that the student's status had to be "at least half-time."

Discussion: The Secretary did not intend that the regulations be interpreted in a manner that would deny a student deferment to a borrower

whose enrollment status was greater than half-time.

Changes: Section 682.210(s)(2) of the final regulations have been revised to read "at least half-time study."

Section 682.210(s)(6)(i)

34. *Comments:* Some commenters recommended that a definition of "working full-time" be included in the regulations.

Discussion: The Secretary agrees with the commenters.

Changes: Section 682.210(s)(6)(vii) of the final regulations will incorporate the definition of "full-time employment" that has been used for the purposes of the unemployment deferment authorized under § 682.210(h)(4). For the purposes of an economic hardship deferment, a borrower will be considered to be "working full-time" if the borrower is expected to be employed for at least three consecutive months at 30 hours per week.

35. *Comments:* Some commenters recommended that the regulations should require the Secretary to publish the minimum wage rates and the poverty levels for a family of two.

Discussion: The Secretary does not agree with the commenters. This information is in the public domain and readily available to all parties. It need not be reprocessed through the FFEL Program regulations. Information concerning the minimum wage rate may be obtained by calling the Wage and Hour Division of the U.S. Department of Labor at (202) 219–7043. Annual updates of the poverty level for a family of two are published in the **Federal Register** by the U.S. Department of Health and Human Services. The most recent update was published on February 10, 1994 (59 FR 6277). The 1994 poverty level for a family of two in Alaska is $12,300; in Hawaii, $11,320; for all other states and the District of Columbia, $9,840. Further information may be obtained by calling the Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, (202) 690–6141.

Changes: None.

Section 682.210(s)(6)(ii)

36. *Comments:* Some commenters recommended that an economic hardship deferment be based on a borrower's gross income, instead of disposable income. The commenters believed that the term "gross income" is more widely understood and more easily explained.

Discussion: The discussion following comment 18 also applies to an economic hardship deferment.

Changes: None.

37. *Comments:* Some commenters believed that any borrower who receives public assistance should automatically qualify for an economic hardship deferment.

Discussion: The Secretary agrees with the commenters. It is likely that almost all borrowers who receive some form of public assistance would be eligible for an economic hardship deferment. While there may be a few borrowers on public assistance who effectively have access to greater amounts of income than other borrowers, the Secretary believes those excess amounts would be marginal and would not justify the need to inconvenience the vast majority of borrowers who receive some form of public assistance.

Changes: The final regulations have added a new paragraph (s)(6)(ii) to § 682.210. A borrower will automatically qualify for an economic hardship deferment if the borrower provides documentation to the lender showing that he or she is receiving payment under a federal or state public assistance program, such as Aid to Families with Dependent Children, Supplemental Security Income, Food Stamps, or state general public assistance.

38. *Comments:* Some commenters believed there should be no income cap for an economic hardship deferment. The commenters believed that a debt-to-income ratio would be sufficient by itself. Other commenters recommended a lower debt-to-income ratio than the 20 percent ratio that was proposed in the NPRM. Some commenters pointed out that the proposed regulations would deny a deferment to a borrower who was not working full-time, but who had very low income (for example, $300 per month) if the borrower's monthly student loan payments were less than 20 percent of income (for example, $50). The commenters stated that the borrower in this example is in a much more disadvantageous financial position than another borrower who may have $3,000 per month in income and who owes $600 (20 percent of income) in monthly student loan payments. The commenters noted that the borrower in the second case would have much more money available ($2,400) after loan payments had been made than the first borrower, who would only have $250 available. However, the borrower with less available money would not qualify for an economic hardship deferment, while the borrower who had nearly ten times as much available income, even after accounting for larger student loan debts, would be considered in need of an economic hardship deferment, including interest subsidies from the federal government on the borrower's subsidized loans. The commenters believed that this type of inequitable result was not intended by Congress.

Discussion: The Secretary agrees that the debt-to-income ratio that was developed through the negotiated rulemaking process contained the flaws noted by the commenters. Therefore, the Secretary has decided to replace that criterion with other measures of a borrower's need for an economic hardship deferment. A borrower may now receive an economic hardship deferment by qualifying under any one of the following criteria: (1) By being granted an economic hardship deferment under either the FDSL or Federal Perkins Loan Programs for the period of time for which the borrower has requested an economic hardship deferment for his or her FFEL loan; (2) by being eligible for a payment under a federal or state public assistance program, such as Aid to Families with Dependent Children, Supplemental Security Income, Food Stamps, or state general public assistance; (3) by working full-time and earning an amount that does not exceed the greater of the minimum wage rate or the poverty level for a family of two; or (4) if the borrower's total monthly gross income was not more than twice the minimum wage or the poverty level for a family of two, by not having remaining total monthly gross income, from employment or from other sources, that exceeds the greater of the minimum wage rate or the poverty level for a family of two after deducting an amount equal to what the borrower would owe for monthly payments on postsecondary education loans obtained through a federal program.

The Secretary believes that the income limitation specified in the additional eligibility criterion described in (4) above is a reasonable amount that is consistent with the intent of Congress that an economic hardship deferment should be restricted to only those borrowers who do not have substantial incomes. Therefore, although a borrower could have a total monthly gross income up to twice the greater of the minimum wage rate or the poverty level for a family of two, the regulations focus on the amount of such income that would be available to the borrower after subtracting an amount that represents what the borrower would have been expected to pay each month on federal postsecondary education loan debts. If those projected monthly payments would cause a borrower's remaining total monthly gross income to fall below a certain level, then the borrower would

be considered eligible to receive an economic hardship deferment. Thus, borrowers with differing amounts of total income or debts could have approximately the same amount of remaining total monthly gross income after subtracting their projected monthly federal postsecondary education loan payments. A borrower on a standard or graduated repayment schedule who would not qualify under this criterion because of insufficient debt could request an income-sensitive repayment schedule or a Federal Consolidation Loan (or both) that would reduce his or her monthly loan payments and minimize the need for a deferment.

As an example of the criterion described in (4) above, if the minimum wage/poverty level was $820 per month, a borrower who had total monthly gross income of $1,000 and who had projected monthly payments of $180 per month for federal postsecondary education loans would be (if those payments were actually made) in approximately the same financial situation as a borrower working full-time and not earning more than the minimum wage/poverty level. Both borrowers would have approximately $820 per month in total income, and would have the same financial need for a deferment.

Changes: Section 682.210(s)(6) of the final regulations has been revised to permit a borrower to receive an economic hardship deferment if the borrower provides documentation to the lender showing that he or she is on public assistance. In addition, because the same rules will apply for determining a borrower's eligibility under the FDSL and Federal Perkins loan programs, a borrower will be eligible to receive a deferment on an FFEL loan for the same period of time that an economic hardship deferment is granted on an FDSL or Federal Perkins loan. A borrower also may be eligible if he or she is not receiving total monthly gross income greater than twice the amounts specified in section 435(o)(1)(A) of the HEA, and the borrower's remaining total monthly gross income, after subtracting an amount equal to the borrower's monthly payments owed on federal postsecondary education loans, would not exceed the greater of the minimum wage rate or the poverty level for a family of two.

39. *Comments:* Some commenters believed that a borrower whose income fell below a specified floor should not be expected to make any loan payment, regardless of the borrower's debt-to-income ratio. The commenters then went on to propose the concept of "sliding scales" that would set the ratios at progressively higher levels as the borrower's income increased, for example, a borrower whose monthly income was $1,000 would have a 5 percent ratio, a borrower whose monthly income was $1,500 would have a 10 percent ratio, a borrower whose monthly income was $2,000 would have a 15 percent ratio, etc. Other commenters recommended a similar plan: counting income that exceeds a threshold amount and increasing the debt-to-income ratio to 25 or 30 percent of the amount by which the borrower's income exceeds the threshold amount. The commenters believed that this would ensure that low-income borrowers would qualify for a deferment, as well as borrowers with higher incomes who also had large debts.

Discussion: While some of the aspects of the various recommendations made by the commenters have merit, none of the proposals have the overall fairness and simplicity inherent in the criteria described in response to comments 37 and 38.

Changes: None.

40. *Comments:* Some commenters recommended that the regulations state that a borrower is not required to be working full-time to qualify for a deferment under § 682.210(s)(6)(ii). The commenters understood that full-time employment was required for a deferment under § 682.210(s)(6)(i), but were concerned that others may not notice the absence of such a requirement in § 682.210(s)(6)(ii) unless it was specifically stated.

Discussion: The Secretary agrees that a clarification would be helpful for some readers.

Changes: The final regulations will include a new paragraph § 682.210(s)(6)(ix) that will define total monthly gross income as the gross amount of income received by the borrower from employment (either full-time or part-time) and from other sources.

41. *Comments:* Some commenters believed there would be widespread confusion if the Secretary did not specifically list all of the federal programs through which borrowers could obtain loans for their education.

Discussion: A list of all federal education loan programs would be extensive, ever-changing, and would lead to errors in transmission to and among program participants. It is the Secretary's understanding that all federal postsecondary education loan programs are clearly identified as such, and that the vast majority of those programs are administered through the U.S. Department of Education and the U.S. Department of Health and Human Services.

Changes: None.

42. *Comments:* Some commenters objected to the definition of debt that can be considered when determining a borrower's eligibility for an economic hardship deferment. The commenters believed that by limiting eligible debt to only non-defaulted education loans obtained through a federal program, many borrowers who owe education loans to non-federal entities may be forced into default on their FFEL Program loans because they cannot qualify for an economic hardship deferment. The commenters recommended the inclusion of all education related debts owed by the borrower, regardless of the source or default status.

Discussion: The Secretary agrees with the commenters that payments due on a loan obtained through a federal postsecondary education loan program should be included, even if the borrower is in default on that loan. However, the Secretary does not believe that Congress intended to indirectly subsidize non-federal loan programs (by making it easier for borrowers to repay non-federal debts) by permitting borrowers to use their non-federal debts as a means to qualify for deferments on their federal debt.

Changes: The final regulations have been revised to permit any loan debt (defaulted or otherwise) owed by the borrower for a postsecondary education loan obtained through a federal educational loan program to be considered when determining the borrower's eligibility for an economic hardship deferment. To allow for the consistent and equitable treatment of borrowers who have repayment obligations based on different periods of repayment or different repayment options, the Secretary believes that, for purposes of determining the projected monthly payment amount that can be considered as a payment that would have been owed during the deferment period, a federal postsecondary education loan owed by a borrower should be treated as if it had been scheduled to be repaid in 10 years from the date the borrower entered repayment.

Section 682.210(s)(6)(ii)(B)

43. *Comments:* Some commenters objected to the requirement that a borrower must submit documentation of income. The commenters believed that the borrower should be permitted to self-certify his or her income. The commenters believed that the

documentation requirements are burdensome, and conflict with the Paperwork Reduction Act of 1980. Some commenters recommended a deletion of the requirement that a borrower provide a copy of his or her federal income tax return. The commenters believed that the income reported on the tax return would be of little relevance in determining that a borrower was currently in need of a deferment, because the tax return will be for a previous calendar year. Other commenters believed it would be an invasion of the borrower's privacy to require a copy of his or her federal income tax return.

Discussion: The Secretary has reconsidered the type of documentation that should be provided by the borrower to qualify for an economic hardship deferment, and no longer believes it is necessary to require the lender to obtain a copy of the borrower's federal income tax return unless the borrower wishes to receive the deferment for more than one year. For the initial period of deferment, the information on the tax return would have little or no bearing on the borrower's current or future financial situation, and would reflect only past income. A lender could still require a tax return if the lender thought it was needed to clarify questionable income documentation submitted by the borrower. If the borrower later requested an additional period of deferment, the information on the tax return becomes more relevant because it contains information that the lender can compare to the amount of recent income reported by the borrower for purposes of establishing eligibility for the additional period of deferment.

The Secretary does not believe that the taxpayers should be expected to incur the substantial costs associated with providing an economic hardship deferment to a borrower simply on the strength of the borrower's undocumented assertion that he or she does not have enough money to repay his or her loan. The Secretary believes that the public interest justifies the collection of minimal documentation from a borrower who requests a federal benefit such as an economic hardship deferment. The documentation requirements therefore comply with the provisions of the Paperwork Reduction Act of 1980. The Secretary believes the required documentation of income is reasonable, easily obtainable by the borrower, and necessary to maintain the integrity of the FFEL Program. A need for documentation of a borrower's eligibility status exists for all other deferments, (for example, documentation of in-school status from a borrower who claims to be enrolled in school), and the Secretary believes that some form of documentation also should be provided by a borrower who requests a deferment because of an economic hardship.

Changes: The final regulations have deleted the requirement that the borrower must submit a copy of his or her federal income tax return to be eligible for an initial period of deferment based on the borrower's economic hardship. To qualify for a period of economic hardship deferment that begins less than one year after the end of a previous economic hardship deferment, other than one based solely on the borrower's status as a recipient of public assistance, the lender must require the borrower to submit a copy of the borrower's federal income tax return if the borrower filed a tax return within eight months prior to the date the deferment is requested. This requirement does not apply if the borrower provides documentation to the lender showing that he or she has been granted an economic hardship deferment under either the FDSL or Federal Perkins Loan Programs for the period of time for which the borrower has requested an economic hardship deferment for his or her FFEL loan.

44. *Comments:* Some commenters believed that a borrower who requests an economic hardship deferment from a lender should not be required to provide documentation of the amount owed on loans held by that lender. The commenters suggested that the regulations be revised to require the borrower to provide such documentation only for loans owed to other lenders.

Discussion: The Secretary agrees with the commenters.

Changes: The final regulations have clarified that the lender may only require the borrower to provide documentation of federal postsecondary educational debts owed to another entity.

Section 682.211 Forbearance

Section 682.211(a)(4)

45. *Comments:* Some commenters were opposed to the rule that forbearance would apply only if both co-makers of a loan had their ability to make scheduled repayments impaired.

Discussion: A co-maker is an individual who is responsible for repaying a loan. If a co-maker's ability to make scheduled repayments has not been impaired, he or she does not need a forbearance.

Changes: None.

46. *Comments:* Some commenters noted that the language in § 682.211(a)(4) is essentially the same as in § 682.211(a)(3) of the existing regulations. The commenters suggested that the existing paragraph (a)(3) be deleted.

Discussion: The Secretary agrees with the commenters.

Changes: Section 682.211(a)(4) of the NPRM is redesignated as § 682.211(a)(3) in the final regulations.

47. *Comments:* Some commenters recommended that the regulations include a provision to permit a lender to administratively convert a forbearance previously granted for partial payment amounts to a forbearance of the entire payment amount if the borrower fails to remit the partial payments.

Discussion: The Secretary believes that the borrower's sense of obligation to repay the loan would be undermined if the lender administratively ignored the borrower's failure to make the loan payments that the borrower had agreed to make. The Secretary reminds the commenters that the borrower and the lender are expected to communicate with each other, and a further reduction of payments could be agreed to if the borrower experiences difficulty in making previously promised payments.

Changes: None.

Section 682.211(f)

48. *Comments:* Some commenters recommended that all forbearances authorized under § 682.211(f) be classified as "administrative forbearances" to reflect the common usage of that term by FFEL Program participants.

Discussion: The Secretary has no objection to this terminology.

Changes: The introductory sentence for § 682.211(f) has been revised to read: "A lender may grant administrative forbearance * * *."

49. *Comments:* Some commenters observed that some of the proposed changes would permit forbearances prospectively (for example, during a military mobilization), even if the borrower would not be delinquent during such future periods. The commenters recommended that the introductory sentence in § 682.211(f), which currently refers only to payments that are overdue, be revised accordingly.

Discussion: The Secretary agrees with the commenters.

Changes: In addition to the change discussed in comment 48, the introductory sentence for § 682.211(f) has been further revised to read: "A lender may grant administrative forbearance, upon notice to the borrower or if applicable, the endorser, with respect to payments of interest and

principal that are overdue or that would be overdue."

50. *Comments:* Some commenters recommended that the regulations permit a lender to grant a forbearance to a borrower to cover the period from the end of a deferment period to the date that the lender processed a borrower's deferment request and documentation. The commenters noted that borrowers frequently provide documentation of their deferment eligibility after the deferment period expired. The commenters believed it is important that the borrower not be considered delinquent when he or she resumes repayment after deferment.

Discussion: The Secretary does not believe that the commenters' proposal would promote the timely submission of deferment documentation by a borrower or strengthen the borrower's awareness of his or her obligation to repay the loan according to the repayment terms explained in the borrower's promissory note and other loan documents. The Secretary reminds the commenters that the borrower and the lender are expected to communicate with each other, and a forbearance could be agreed to if the borrower experienced difficulty in making overdue payments.

Changes: None.

51. *Comments:* Some commenters recommended that the regulations permit a lender to grant a forbearance to a borrower to cover the period between the date that a lender agrees to repurchase a loan and the date the lender resumes servicing the repurchased loan. The commenters noted that borrowers are frequently confused about the status of loans during repurchases, and lenders also have difficulty determining when to resume the appropriate due diligence activities and establishing an "interest paid through" date. The commenters believed it is important that the borrower not be considered delinquent when he or she resumes repayment after a repurchase.

Discussion: Lenders and guaranty agencies must comply with the requirements in § 682.208 that pertain to notifying a borrower when there is an assignment of a loan. In addition, specific notification requirements exist in cases of loans being repurchased under the loan rehabilitation program, or if the borrower is determined to be ineligible for a requested loan discharge under § 682.402. The Secretary has seen no evidence that lenders and guaranty agencies have not clearly informed borrowers of the date of the next payment due, the amount of the payment, and to who it should be sent. Without such evidence of a problem, the Secretary does not agree that a change is needed.

Changes: None.

52. *Comments:* Some commenters recommended that the regulations permit a lender to grant a forbearance to a borrower to cover the period between the date that a lender filed a claim and the date the lender resumes servicing the loan if it is returned by the guarantor in the event of the borrower's ineligibility for a loan discharge. The commenters believed it is important that the borrower not be considered delinquent when he or she resumes repayment after his or her request for a loan discharge has been denied.

Discussion: These types of forbearances have been authorized for many years in the discharge provisions of § 682.402.

Changes: None.

53. *Comments:* Some commenters recommended that the regulations permit a lender to grant a forbearance to a borrower during the time that a lender is attempting to resolve a dispute with the borrower, or during periods when the lender is awaiting forbearance or deferment documentation from the borrower.

Discussion: If a borrower has a dispute with a lender, the dispute does not negate the borrower's ongoing obligation to repay the loan, or justify a lender's suspension of collection efforts. A borrower also has an obligation to provide timely forbearance or deferment documentation to the lender. The types of forbearances that were recommended by the commenters would not provide incentives to lenders and borrowers to promptly resolve disputes or establish eligibility for deferments or forbearances. In fact, the Secretary believes they would undermine those incentives.

Changes: None.

Section 682.211(f)(9)

54. *Comments:* Some commenters believed that one year was an insufficient forbearance period to cover the effect that variable interest rate changes may have on a standard or graduated repayment schedule. Some commenters recommended a three-year period if interest changes caused the extension of the maximum repayment term; others recommended an unlimited extension.

Discussion: As discussed in response to comment 14, the final regulations have been revised to provide a lender the option of making adjustments to the amount of the borrower's installment payments to reflect annual changes in the variable interest rate on the borrower's loan, or to grant the administrative forbearance described in § 682.211(j)(5)(i) so that the borrower can repay the loan within the maximum repayment period.

The Secretary agrees that a three-year forbearance period is reasonable, but believes that an unlimited forbearance period would not provide an incentive to a borrower to increase the amount of his or her monthly payments.

Changes: The final regulations have been revised to relocate this forbearance from § 682.211(f)(9) to § 682.211(j)(5)(i) and to increase it to three years.

Section 682.211(f)(10)

55. *Comments:* Some commenters believed that three years was an insufficient forbearance period to assist a borrower who had low income during the course of an income-sensitive repayment schedule. Some commenters recommended that this period be expanded to five years beyond the maximum repayment term; others recommended ten years.

Discussion: The Secretary agrees that a five-year period is reasonable, but believes that a 10-year forbearance period would not provide an adequate incentive to a borrower to increase the amount of his or her monthly payments.

Changes: The final regulations have been revised to relocate this forbearance from § 682.211(f)(10) to § 682.211(j)(5)(ii) and to increase it to five years.

Section 682.211(f) (9) and (10)

56. *Comments:* Some commenters asked how a lender would apply a forbearance under this paragraph in light of the general rule in § 682.211(h) that prohibits a lender from requiring payments from a borrower during any period of forbearance. The commenters believed that the borrower should be required to make payments during the extension period.

Discussion: For those cases where a forbearance would apply, the Secretary agrees that a clarification is appropriate and the following example may be helpful: If a borrower was repaying a loan under a 10-year repayment schedule with standard payments that would not be adjusted to reflect changes in the variable interest rate on the loan, the loan could not be repaid within 10 years if the interest rate increased during the repayment period. The lender would then be required to schedule one or more extra months of borrower payments so that the loan will be completely repaid. Those additional monthly payments will be considered payments made under an administrative forbearance.

Changes: Section 682.211(f)(9) has been relocated to § 682.211(j)(5)(i) and revised for clarity to read: "The lender shall grant a mandatory administrative forbearance to a borrower (or endorser, if applicable) during a period when the borrower (or endorser, if applicable) is making payments for a period of up to 3 years of payments in cases where the effect of a variable interest rate on a standard or graduated repayment schedule would result in a loan not being repaid within the maximum repayment term." Section 682.211(f)(10) has been relocated to § 682.211(j)(5)(ii) and revised for clarity to read: "The lender shall grant a mandatory administrative forbearance to a borrower (or endorser, if applicable) during a period when the borrower (or endorser, if applicable) is making payments for a period of up to 5 years of payments in cases where the effect of decreased installment amounts paid under an income-sensitive repayment schedule would result in the loan not being repaid within the maximum repayment term." Section 682.211(h) has been revised for clarity to read: "In granting a forbearance under this section, except for a forbearance under paragraph (j)(5), a lender shall grant a temporary cessation of payments, unless the borrower chooses another form of forbearance subject to paragraph (a)(1) of this section."

Section 682.211(i)(1)

57. *Comments:* Some commenters recommended that the Secretary define what would constitute "sufficient supporting documentation" from a borrower serving in a medical or dental internship or residency program.

Discussion: The Secretary agrees with the commenters.

Changes: Section 682.211(i)(1) of the final regulations has been amended by inserting "as described in § 682.210(n)" after the phrase "sufficient supporting documentation."

Section 682.211(i)(2)(i)

58. *Comments:* Some commenters objected to the restriction that only Title IV loans be considered when determining the amount of a borrower's debt under the mandatory forbearance provision. The commenters believed it would be unfair to exclude education loans from other sources, either private or public.

Discussion: The regulations were written in accordance with section 428(c)(3)(A)(i)(II) of the HEA, which refers to "the borrower's debt burden under this title * * *"

Changes: None.

Section 682.211(i)(2)(ii)

59. *Comments:* Some commenters believed that Congress did not intend that the definition of income would include public assistance benefits, food stamps, Aid to Families with Dependent Children, Social Security benefits, etc. The commenters recommended that all public assistance benefits be excluded.

Discussion: The Secretary believes that a true measure of a borrower's actual need for a forbearance would consider all income received by the borrower, no matter what the source. Therefore, the Secretary believes that the concept of "total monthly gross income" as described in response to comment 18 also should apply in the case of a forbearance based on the borrower's income.

Changes: The final regulations have been revised to add the concept of "total monthly gross income." This term will mean the gross amount of income received by the borrower from employment and from other sources.

60. *Comments:* Some commenters recommended that the regulations incorporate the Secretary's policy of permitting a lender to grant a forbearance to a borrower who would be eligible for a partial repayment of his or her loan under the Student Loan Repayment Programs administered by the Department of Defense under 10 U.S.C. 2171.

Discussion: The Secretary agrees with the commenters.

Changes: Section 682.211(i)(2)(ii)(C) has been added to the final regulations to permit a lender to grant forbearances in increments of one year for as long as a borrower is eligible to receive a partial repayment of his or her loan under the Student Loan Repayment Programs administered by the Department of Defense. The borrower must provide documentation to his or her lender showing the beginning and ending dates that the Department of Defense considers the borrower to be eligible for such payments. The lender may then grant a forbearance to the borrower in anticipation of receiving a payment on his or her behalf from the Department of Defense.

61. *Comments:* Some commenters recommended that the regulations include a provision for granting a forbearance to a borrower who served in a national service position for which the borrower received a national service educational award under Public Law 103–82. Other commenters recommended that forbearances be permitted if the borrower is engaged in certain public service under the terms of section 428J of the HEA.

Discussion: The Secretary agrees with the commenters.

Changes: Section 682.211(i)(2)(ii) of the final regulations has been added to require a lender to grant forbearances in increments of one year for as long as a borrower is serving in a national service position for which the borrower receives a national service educational award under the National and Community Service Trust Act of 1993. A lender shall also grant forbearances to a borrower who is eligible under the Federal Stafford Loan Forgiveness Demonstration Program, if that program is funded. Those forbearances shall be in increments of one year, for as long as a borrower is performing the type of service described in § 682.215(b).

Section 682.211(i)(3)

62. *Comments:* Some commenters objected to the requirement that a borrower must submit documentation of income to receive a mandatory forbearance. The commenters believed that the borrower should be permitted to self-certify his or her income. The commenters believed that the documentation requirements are burdensome, and conflict with the Paperwork Reduction Act of 1980. The commenters also expressed their belief that because the cost savings to a borrower increase more quickly as a loan is repaid, there would be little incentive for a borrower to misrepresent his or her income by providing inaccurate income data.

Discussion: The Secretary has reconsidered the type of documentation that should be provided by the borrower who requests a mandatory forbearance, and no longer believes it is necessary to require the lender to obtain a copy of the borrower's federal income tax return. The information on the tax return would have little or no bearing on the borrower's current or future financial situation, and would reflect only past income. A lender could still require a tax return if the lender thought it was needed to clarify questionable income documentation submitted by the borrower. If the borrower later requested an additional period of mandatory forbearance, the lender may find information on the tax return more relevant because it contains information that the lender can compare to the amount of recent income reported by the borrower for purposes of establishing eligibility for the additional period of mandatory forbearance.

The Secretary does not believe that the taxpayers should be expected to incur the increased costs resulting from the delayed repayment of a loan on which payments have been forborne

simply on the strength of the borrower's undocumented assertion that he or she does not have enough money to repay his or her loan. The Secretary believes that the public interest justifies the collection of minimal documentation of recent income and Title IV debt from a borrower who requests the federal benefit of a mandatory forbearance that is based on the borrower's income and Title IV debt. The documentation requirements therefore comply with the provisions of the Paperwork Reduction Act of 1980. The Secretary believes the required documentation of income is reasonable, easily obtainable by the borrower, and necessary to maintain the integrity of the FFEL Program. A need for documentation of a borrower's eligibility status exists for other forbearances, and the Secretary believes that some form of documentation also should be provided by a borrower who requests a mandatory forbearance because of a high debt-to-income ratio. It is the Secretary's belief that FFEL lenders have sufficient experience and expertise in obtaining and verifying borrower-supplied income documentation for other purposes (such as for mortgage applications or car loans), and will be able to do the same for their FFEL borrowers.

Changes: The final regulations have deleted the requirement that the borrower must submit a copy of his or her federal income tax return to be eligible for a mandatory forbearance based on the borrower's high debt-to-income ratio.

63. *Comments:* Some commenters recommended that a mandatory forbearance be based on a borrower's gross income, instead of disposable income. The commenters believed that the term "gross income" is more widely understood and more easily explained.

Discussion: The discussion following comment 18 also applies to a mandatory forbearance.

Changes: None.

Section 682.211(j) Mandatory Administrative Forbearance

64. *Comments:* Some commenters recommended a deletion of all references to an endorser.

Discussion: The only time that an endorser becomes obligated to repay a loan is when the borrower fails to do so. Therefore, the references to a borrower in the regulations are qualified by the parenthetical phrase (or endorser, if applicable). The Secretary believes that if an endorser has become obligated to repay a loan, then the interests of the endorser and the taxpayers are served if forbearances are available to the endorser.

Changes: None.

Section 682.211(j)(1)

65. *Comments:* Some commenters believed that the prohibition against a lender requiring a borrower to provide documentation for a mandatory administrative forbearance would be unworkable if a borrower claimed to be subject to a military mobilization. The commenters noted that the lender would not know if the borrower was subject to a military mobilization unless documentation supporting that claim was provided to the lender. The commenters recommended that a definition of "military mobilization" be included in the regulations, and suggested that the Secretary use the same rules that applied during Operations Desert Shield and Desert Storm in 1990 and 1991.

Discussion: The Secretary agrees that documentation will be needed to establish a borrower's eligibility for a mandatory administrative forbearance that is based on the borrower's military status. The Secretary also agrees that the definition of "military mobilization" that was suggested by the commenters is appropriate, and it will be added to the final regulations.

Changes: The final regulations have been revised to define a "military mobilization" to mean a situation in which the Department of Defense orders members of the National Guard or Reserves to active duty under sections 672(a), 672(g), 673, 673b, 674, or 688 of title 10, United States Code. This term will also include the assignment of other members of the Armed Forces to duty stations at locations other than the locations at which they were normally assigned, only if the military mobilization involved the activation of the National Guard or Reserves. Before granting an administrative forbearance, the lender must obtain documentation of the borrower's military status (which may be supplied by any party).

66. *Comments:* Some commenters believed that the regulatory references to an "automatic" forbearance should be changed to "administrative" forbearance to reflect the term commonly used by servicers and lenders.

Discussion: The Secretary agrees with the commenters.

Changes: The references to an "automatic forbearance" in § 682.211(j) have been replaced with "administrative forbearance" in the final regulations.

Section 682.211(j)(2)

67. *Comments:* Some commenters recommended that a guaranty agency, rather than the Secretary, be permitted to notify a lender that borrowers be granted mandatory administrative forbearances based on local emergencies. The commenters believed that a guaranty agency would frequently be able to know about local emergencies earlier than the Secretary, and would be able to notify lenders more quickly than the Secretary.

Discussion: Borrowers who reside in an area where a local emergency occurs may owe loans to lenders who do not participate with the guaranty agency in that state, or may owe loans directly to other guaranty agencies. The Secretary believes it is important that all holders of loans owed by borrowers affected by a local emergency receive identical and accurate guidance concerning the treatment of such borrowers and the dates of the emergency situation. The Secretary believes that he can communicate that information to all loan holders in the nation more effectively than could an individual guaranty agency.

Changes: None.

68. *Comments:* Some commenters recommended that the regulations permit a lender to grant a forbearance for a period of delinquency that may have existed before a borrower is granted a forbearance because of exceptional circumstances or disasters. The commenters believed it is important that the borrower not be considered delinquent when he or she resumes repayment after such forbearance periods.

Discussion: A borrower who has not made scheduled payments prior to a natural disaster or some other exceptional circumstance is still responsible for those delinquent payments. After the natural disaster/exceptional circumstance forbearance ends, the borrower resumes the delinquency status that existed before that forbearance was granted. As previously discussed in response to comment 50, the borrower and the lender are expected to communicate with each other, and a forbearance could be agreed to if the borrower experienced difficulty in making those overdue payments.

Changes: None.

Section 682.211(j)(2)(ii)

69. *Comments:* Some commenters were concerned that a lender would have difficulty identifying borrowers in a "geographical area" if the Secretary did not specify the precise locations commonly used by a lender, such as postal zip codes, or telephone area codes.

Discussion: The Secretary will relay the description of the "geographical

area" as it is described to him by the state, local, or federal government officials responsible for making those determinations. If those descriptions are designated according to geographical areas other than postal zip codes, or telephone area codes, the Secretary is confident that all lenders will be able to convert the information into zip codes or area codes, or any other geographical unit the lender uses.

Changes: None.

70. *Comments:* Some commenters were opposed to granting a forbearance to all borrowers whose residence was located in a disaster area. The commenters believed that not only would this requirement be burdensome, it would result in forbearances being granted to many borrowers who may have experienced no actual hardship from the disaster.

Discussion: The Secretary believes that fairness to borrowers in difficult situations would be in the best interests of the United States. In trying to help all such borrowers, the Secretary is willing to accept the possibility that others may receive unneeded forbearances.

Changes: None.

Section 682.211(j)(3)

71. *Comments:* Some commenters noted that if the lender did not know how long the exceptional conditions would exist for a forbearance under this paragraph, the lender would be required to send two notices to a borrower who had been granted a mandatory administrative forbearance: one notice "as soon as feasible, or by the date specified by the Secretary" and a later notice informing the borrower of the date that regular payments would resume. The commenters questioned the usefulness of granting forbearances for potentially brief periods of time, and of being required to send two notices to a borrower during those brief periods. The commenters recommended that the minimum period for a mandatory administrative forbearance should be six months, unless the borrower chooses a lesser period of time.

Discussion: The Secretary will authorize forbearance periods that will be long enough to assist borrowers and minimize the administrative burdens on the holders of their loans.

Changes: None.

Executive Order 12866

These regulations have 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 final regulations are those resulting from statutory requirements and those determined by the Secretary to be necessary for administering this program effectively and efficiently. In assessing the potential costs and benefits—both quantitative and qualitative—of these final regulations, the Secretary has determined that the benefits of the final regulations justify the costs.

The Secretary has also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by, or is available from, any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not 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 682

Administrative practice and procedure, Colleges and universities, Education, Loan programs-education, Student aid, Vocational education.

(Catalog of Federal Domestic Assistance Numbers: 84.032 Federal Family Education Loan Program)

Dated: June 23,1994.

Richard W. Riley,

Secretary of Education.

The Secretary amends part 682 of title 34 of the Code of Federal Regulations as follows:

PART 682—FEDERAL FAMILY EDUCATION LOAN PROGRAM

1. The authority citation for part 682 continues to read as follows:

Authority: 20 U.S.C. 1071 to 1087–2, unless otherwise noted.

2. Section 682.209 has been amended by revising paragraph (a)(6)(i); by adding paragraphs (a)(6) (iii) through (ix); and by revising paragraphs (a)(7)(ii) and (h)(4)(ii) to read as follows:

§ 682.209 Repayment of a loan.

(a) * * *

(6)(i) The repayment schedule may provide for substantially equal installment payments or for installment payments that increase or decrease in amount during the repayment period. If the loan has a variable interest rate that changes annually, the lender may establish a repayment schedule that—

(A) Provides for adjustments of the amount of the installment payment to reflect annual changes in the variable interest rate; or

(B) Contains no provision for an adjustment of the amount of the installment payment to reflect annual changes in the variable interest rate, but requires the lender to grant a forbearance to the borrower (or endorser, if applicable) for a period of up to 3 years of payments in accordance with § 682.211(j)(5) in cases where the effect of a variable interest rate on a standard or graduated repayment schedule would result in a loan not being repaid within the maximum repayment term.

* * * * *

(iii) Not more than six months prior to the date that the borrower's first payment is due, the lender shall offer a choice of a standard, graduated, or income-sensitive repayment schedule to a new borrower who receives a Stafford or SLS loan first disbursed on or after July 1, 1993. For purposes of this section, a "new borrower" is an individual who has no outstanding principal or interest balance on an FFEL Program loan as of July 1, 1993 or on the date he or she obtains a loan on or after July 1, 1993. This term also includes a borrower who obtains a Federal Consolidation Loan on or after July 1, 1993 if the borrower has no other outstanding FFEL Program loan when the Consolidation Loan is made. The lender shall also offer a choice of repayment schedules to any individual whose Consolidation loan application is received by the lender on or after January 1, 1993. The Secretary encourages lenders to offer the choice of repayment schedules to all other borrowers.

(iv) The repayment schedule must require that each payment equal at least the interest that accrues during the interval between scheduled payments.

(v) The lender shall require the borrower to repay the loan under a standard repayment schedule described in paragraph (a)(6)(vi) of this section if the borrower—

(A) Does not select an income-sensitive or a graduated repayment schedule within 45 days after being notified by the lender to choose a repayment schedule; or

(B) Chooses an income-sensitive repayment schedule, but does not provide the documentation requested by

the lender under paragraph (a)(6)(viii)(C) of this section within the time period specified by the lender.

(vi) Under a standard repayment schedule, the borrower is scheduled to pay either—

(A) The same amount for each installment payment made during the repayment period, except that the borrower's final payment may be slightly more or less than the other payments; or

(B) An installment amount that will be adjusted to reflect annual changes in the loan's variable interest rate.

(vii) Under a graduated repayment schedule—

(A) The amount of the borrower's installment payment is scheduled to change (usually by increasing) during the course of the repayment period; and

(B) An agreement as specified in paragraph (c)(1)(ii) of this section is not required if the schedule provides for less than the minimum annual payment amount specified in paragraph (c)(1)(i) of this section.

(viii) Under an income-sensitive repayment schedule—

(A) The amount of the borrower's installment payment is adjusted annually, based on the borrower's expected total monthly gross income received by the borrower from employment and from other sources during the course of the repayment period;

(B) In general, the lender shall request the borrower to inform the lender of his or her income no earlier than 90 days prior to the due date of the borrower's initial installment payment and subsequent annual payment adjustment under an income-sensitive repayment schedule. The income information must be sufficient for the lender to make a reasonable determination of what the borrower's payment amount should be. If the lender receives late notification that the borrower has dropped below half-time enrollment status at a school, the lender may request that income information earlier than 90 days prior to the due date of the borrower's initial installment payment;

(C) If the borrower reports income to the lender that the lender considers to be insufficient for establishing monthly installment payments that would repay the loan within the maximum 10-year repayment period, the lender shall require the borrower to submit evidence showing the amount of the most recent total monthly gross income received by the borrower from employment and from other sources including, if applicable, pay statements from employers and documentation of any income received by the borrower from other parties;

(D) The lender shall grant a forbearance to the borrower (or endorser, if applicable) for a period of up to 5 years of payments in accordance with § 682.211(j)(5) in cases where the effect of decreased installment amounts paid under an income-sensitive repayment schedule would result in a loan not being repaid within the maximum repayment term; and

(E) The lender shall inform the borrower that the loan must be repaid within the time limits specified under paragraph (a)(7) of this section.

(ix) For purposes of this section, a lender may require that all FFEL loans owed by a borrower to the lender be combined into one account and repaid under one repayment schedule. In that event, the word "loan" in this section shall mean all of the borrower's loans that were combined by the lender into that account.

(7) * * *

(ii) If the borrower receives an authorized deferment or is granted forbearance, as described in § 682.210 or § 682.211 respectively, the periods of deferment or forbearance are excluded from determinations of the 5-, 10-, and 15-year periods, and from the 12-, 15-, 20-, 25-, and 30-year periods for repayment of a Consolidation loan pursuant to § 682.208(h).

* * * * *

(h) * * *

(4) * * *

(ii) Does not include the unpaid balance on any loan not made under Title IV of the HEA on which the borrower is in default, but may include the unpaid balance on a defaulted loan made under Title IV of the HEA if the borrower has made satisfactory repayment arrangements with the holder to repay that loan.

* * * * *

(Authority: 20 U.S.C. 1077, 1078, 1078–1, 1078–2, 1078–3, 1079, 1082, 1085)

3. Section 682.210 has been amended by revising paragraph (a)(1); by adding a new paragraph (a)(11); by revising paragraph (c)(4); and by adding a new paragraph (s) to read as follows:

§ 682.210 Deferment.

(a) General. (1)(i) A borrower is entitled to have periodic installment payments of principal deferred during authorized periods after the beginning of the repayment period, pursuant to paragraph (b) of this section.

(ii) With the exception of a deferment authorized under paragraph (o) of this section, a borrower may continue to receive a specific type of deferment that is limited to a maximum period of time only if the total amount of time that the borrower has received the deferment does not exceed the maximum time period allowed for the deferment.

* * * * *

(11) If two individuals are jointly liable for repayment of a PLUS loan or a Consolidation loan, the lender shall grant a request for deferment if both individuals simultaneously meet the requirements of this section for receiving the same, or different deferments.

* * * * *

(c) * * *

(4) A borrower serving in a medical internship residency program, except for an internship in dentistry, is prohibited from receiving or continuing a deferment on a Stafford, SLS, or Consolidation loan under paragraph (c) of this section.

* * * * *

(s) *Deferments for new borrowers on or after July 1, 1993*—

(1) *General.* A new borrower who receives an FFEL Program loan first disbursed on or after July 1, 1993 is entitled to receive deferments under paragraphs (s)(2) through (s)(6) of this section. For purposes of this section, a "new borrower" is an individual who has no outstanding principal or interest balance on an FFEL Program loan as of July 1, 1993 or on the date he or she obtains a loan on or after July 1, 1993. This term also includes a borrower who obtains a Federal Consolidation Loan on or after July 1, 1993 if the borrower has no other outstanding FFEL Program loan when the Consolidation Loan was made.

(2) *Student deferment.* An eligible borrower is entitled to a deferment for at least half-time study in accordance with the rules prescribed in § 682.210(c), except that the borrower is not required to obtain a Stafford or SLS loan for the period of enrollment covered by the deferment.

(3) *Graduate fellowship deferment.* An eligible borrower is entitled to a graduate fellowship deferment in accordance with the rules prescribed in § 682.210(d).

(4) *Rehabilitation training program deferment.* An eligible borrower is entitled to a rehabilitation training program deferment in accordance with the rules prescribed in § 682.210(e).

(5) *Unemployment deferment.* An eligible borrower is entitled to an unemployment deferment in accordance with the rules prescribed in § 682.210(h) for periods that, collectively, do not exceed 3 years.

(6) *Economic hardship deferment.* An eligible borrower is entitled to an

economic hardship deferment for periods of up to one year at a time that, collectively, do not exceed 3 years, if the borrower provides documentation satisfactory to the lender showing that the borrower—

(i) Has been granted an economic hardship deferment under either the FDSL or Federal Perkins Loan Programs for the period of time for which the borrower has requested an economic hardship deferment for his or her FFEL loan;

(ii) Is receiving payment under a federal or state public assistance program, such as Aid to Families with Dependent Children, Supplemental Security Income, Food Stamps, or state general public assistance;

(iii) Is working full-time and earning a total monthly gross income that does not exceed the greater of—

(A) The minimum wage rate described in section 6 of the Fair Labor Standards Act of 1938; or

(B) An amount equal to 100 percent of the poverty line for a family of two, as determined in accordance with section 673(2) of the Community Service Block Grant Act; or

(iv) Is not receiving total monthly gross income that exceeds twice the amount specified in paragraph (s)(6)(iii) of this section and, after deducting an amount equal to the borrower's monthly payments on federal postsecondary education loans, as determined under paragraph (s)(6)(viii) of this section, the remaining amount of that income does not exceed the amount specified in paragraph (s)(6)(iii) of this section.

(v) For a deferment granted under paragraph (s)(6)(iv) of this section, the lender shall require the borrower to submit at least the following documentation to qualify for an initial period of deferment—

(A) Evidence showing the amount of the borrower's most recent total monthly gross income, as defined in paragraph (s)(6)(ix) of this section; and

(B) Evidence that would enable the lender to determine the amount of the monthly payments that would have been owed by the borrower during the deferment period to other entities for federal postsecondary education loans in accordance with paragraph (s)(6)(viii) of this section.

(vi) To qualify for a subsequent period of deferment that begins less than one year after the end of a period of deferment under paragraphs (s)(6)(iii) or (iv) of this section, the lender shall require the borrower to submit a copy of the borrower's federal income tax return if the borrower filed a tax return within eight months prior to the date the deferment is requested.

(vii) For purposes of paragraph (s)(6)(iii) of this section, a borrower is considered to be working full-time if the borrower is expected to be employed for at least three consecutive months at 30 hours per week.

(viii) In determining a borrower's eligibility for an economic hardship deferment under paragraph (s)(6) of this section, the lender shall count only the monthly payment amount (or a proportional share if the payments are due less frequently than monthly) that would have been owed on a federal postsecondary education loan if the loan had been scheduled to be repaid in 10 years from the date the borrower entered repayment, regardless of the length of the borrower's actual repayment schedule or the actual monthly payment amount (if any) that would be owed during the period that the borrower requested an economic hardship deferment.

(ix) For purposes of paragraph (s)(6) of this section, a borrower's total monthly gross income shall be the gross amount of income received by the borrower from employment (either full-time or part-time) and from other sources.

(Authority: 20 U.S.C. 1077, 1078, 1078–1, 1078–2, 1078–3, 1082, 1085)

4. Section 682.211 has been amended by revising paragraph (a)(3); by adding new paragraphs (f) (6) through (8); by revising paragraph (h); and by adding new paragraphs (i) and (j) to read as follows:

§ 682.211 Forbearance.

(a) * * *

(3) If two individuals are jointly liable for repayment of a PLUS loan or a Consolidation loan, the lender may grant forbearance on repayment of the loan only if the ability of both individuals to make scheduled payments has been impaired.

* * * * *

(f) A lender may grant administrative forbearance, upon notice to the borrower or if applicable, the endorser, with respect to payments of interest and principal that are overdue or that would be overdue—

* * * * *

(6) For a period not to exceed 60 days after the lender receives reliable information indicating that the borrower (or student in the case of a PLUS loan) has died, or the borrower has become totally and permanently disabled, until the lender receives documentation of death or total and permanent disability, pursuant to § 682.402(b) or (c);

(7) For periods necessary for the Secretary or guaranty agency to determine the borrower's eligibility for discharge of the loan because of attendance at a closed school or false certification of loan eligibility, pursuant to § 682.402(d) or (e), or the borrower's or, if applicable, endorser's bankruptcy, pursuant to § 682.402(f); or

(8) For a period of delinquency at the time a loan is sold or transferred, if the borrower or endorser is less than 60 days delinquent on the loan at the time of sale or transfer.

* * * * *

(h) In granting a forbearance under this section, except for a forbearance under paragraph (j)(5), a lender shall grant a temporary cessation of payments, unless the borrower chooses another form of forbearance subject to paragraph (a)(1) of this section.

(i) *Mandatory forbearance.* (1) *Medical or dental interns or residents.* Upon receipt of a written request and sufficient supporting documentation, as described in § 682.210(n), from a borrower serving in a medical or dental internship or residency program, a lender shall grant forbearance to the borrower in yearly increments (or a lesser period equal to the actual period during which the borrower is eligible) if the borrower has exhausted his or her eligibility for a deferment under § 682.210(n), or the borrower's promissory note does not provide for such a deferment—

(i) For the length of time remaining in the borrower's medical or dental internship or residency that must be successfully completed before the borrower may begin professional practice or service; or

(ii) For the length of time that the borrower is serving in a medical or dental internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training.

(2) *Borrowers who are not medical or dental interns or residents, and endorsers.* Upon receipt of a written request and sufficient supporting documentation from an endorser (if applicable), or from a borrower (other than a borrower who is serving in a medical or dental internship or residency described in paragraph (i)(1) of this section), a lender shall grant forbearance—

(i) In increments up to one year, for periods that collectively do not exceed three years, if—

(A) The borrower or endorser is currently obligated to make payments on Title IV loans; and

(B) The amount of those payments each month (or a proportional share if the payments are due less frequently

than monthly) is collectively equal to or greater than 20 percent of the borrower's or endorser's total monthly income;

(ii) In yearly increments (or a lesser period equal to the actual period during which the borrower is eligible) for as long as a borrower—

(A) Is serving in a national service position for which the borrower receives a national service educational award under the National and Community Service Trust Act of 1993;

(B) Is eligible for loan forgiveness under the Federal Stafford Loan Forgiveness Demonstration Program, if the program is funded, for performing the type of service described in § 682.215(b); or

(C) Is performing the type of service that would qualify the borrower for a partial repayment of his or her loan under the Student Loan Repayment Programs administered by the Department of Defense under 10 U.S.C. 2171.

(3) *Documentation.* (i) Before granting a forbearance to a borrower or endorser under paragraph (i)(2)(i) of this section, the lender shall require the borrower or endorser to submit at least the following documentation:

(A) Evidence showing the amount of the most recent total monthly gross income received by the borrower or endorser from employment and from other sources; and

(B) Evidence showing the amount of the monthly payments owed by the borrower or endorser to other entities for the most recent month for the borrower's or endorser's Title IV loans.

(ii) Before granting a forbearance to a borrower or endorser under paragraph (i)(2)(ii)(B) of this section, the lender shall require the borrower or endorser to submit documentation showing the beginning and ending dates that the borrower is expected to perform the type of service described in § 682.215(b).

(iii) Before granting a forbearance to a borrower or endorser under paragraph (i)(2)(ii)(C) of this section, the lender shall require the borrower or endorser to submit documentation showing the beginning and ending dates that the Department of Defense considers the borrower to be eligible for a partial repayment of his or her loan under the Student Loan Repayment Programs.

(j) *Mandatory administrative forbearance.* (1) The lender shall grant a mandatory administrative forbearance for the periods specified in paragraph (j)(2) of this section until the lender is notified by the Secretary or a guaranty agency that the forbearance period no longer applies. The lender may not require a borrower who is eligible for a forbearance under paragraph (j)(2)(ii) of this section to submit a request or supporting documentation, but shall require a borrower (or endorser, if applicable) who requests forbearance because of a military mobilization to provide documentation showing that he or she is subject to a military mobilization as described in paragraph (j)(4) of this section.

(2) The lender is not required to notify the borrower (or endorser, if applicable) at the time the forbearance is granted, but shall grant a forbearance to a borrower or endorser during a period, and the 30 days following the period, when the lender is notified by the Secretary that—

(i) Exceptional circumstances exist, such as a local or national emergency or military mobilization; or

(ii) The geographical area in which the borrower or endorser resides has been designated a disaster area by the president of the United States or Mexico, the prime minister of Canada, or by a governor of a state.

(3) As soon as feasible, or by the date specified by the Secretary, the lender shall notify the borrower (or endorser, if applicable) that the lender has granted a forbearance and the date that payments should resume. The lender's notification shall state that the borrower or endorser—

(i) May decline the forbearance and continue to be obligated to make scheduled payments; or

(ii) Consents to making payments in accordance with the lender's notification if the forbearance is not declined.

(4) For purposes of paragraph (j)(2)(i) of this section, the term "military mobilization" shall mean a situation in which the Department of Defense orders members of the National Guard or Reserves to active duty under sections 672(a), 672(g), 673, 673b, 674, or 688 of title 10, United States Code. This term also includes the assignment of other members of the Armed Forces to duty stations at locations other than the locations at which they were normally assigned, only if the military mobilization involved the activation of the National Guard or Reserves.

(5) The lender shall grant a mandatory administrative forbearance to a borrower (or endorser, if applicable) during a period when the borrower (or endorser, if applicable) is making payments for a period of—

(i) Up to 3 years of payments in cases where the effect of a variable interest rate on a standard or graduated repayment schedule would result in a loan not being repaid within the maximum repayment term; or

(ii) Up to 5 years of payments in cases where the effect of decreased installment amounts paid under an income-sensitive repayment schedule would result in the loan not being repaid within the maximum repayment term.

(Authority: 20 U.S.C. 1077, 1078, 1078–1, 1078–2, 1078–3, 1080, 1082)

[FR Doc. 94–15666 Filed 6–28–94; 8:45 am]

BILLING CODE 4000–01–P

federal register

Wednesday
June 29, 1994

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 29
Airworthiness Standards; Transport Category Rotorcraft Performance; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 29

[Docket No. 24802; Notice No. 90–1A]

RIN 2120–AB36

Airworthiness Standards; Transport Category Rotorcraft Performance

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (SNPRM).

SUMMARY: This document modifies previously proposed new and revised airworthiness standards for the performance requirements of transport category rotorcraft. Comments submitted in response to the NPRM and a proposal by the European Joint Airworthiness Authorities suggest that rotorcraft should not descend below a specified minimum height during continued takeoff or balked landing procedures following an engine failure. This SNPRM modifies the previous notice to include a minimum descent height of 15 feet and seeks comments on the amended proposal.

DATES: Comments must be received on or before August 29, 1994.

ADDRESSES: Comments on this notice should be mailed in triplicate to Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–10), Docket No. 24802, 800 Independence Avenue, SW., Washington, DC 20591, or delivered in triplicate to: Room 915G, 800 Independence Avenue, SW., Washington, DC 20591. Comments may be examined in Room 915G weekdays between 9:00 a.m. and 5:00 p.m. except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Archer, FAA, Policy and Procedures Group (ASW–112), Rotorcraft Directorate, Aircraft Certification Service, Fort Worth, Texas 76193–0111, telephone number (817) 222–5112.

SUPPLEMENTARY INFORMATION:

Comments Invited

This supplemental notice modifies Notice No. 90–1. Comments on the effect of this change on the proposed rules are invited. Comments should be limited to the changes proposed in this document. This notice does not serve to reopen the comment period on the remainder of the original proposal. Interested persons are invited to comment on any portion of this supplemental notice by submitting written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impact that might result from adopting the proposals as modified in this document are also invited. Communications should identify the regulatory docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered before taking further rulemaking action. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this supplemental notice must submit with those comments a self-addressed stamped postcard on which the following statement is made: "Comments to Docket No. 24802." The postcard will be date stamped and mailed to the commenter.

Availability of SNPRM

Any person may obtain a copy of this SNPRM by submitting a request to the FAA, Office of Public Affairs, Attention: Public Inquiry Center, APA–430, 800 Independence Ave., SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify SNPRM No. 90–1A. Persons interested in being placed on the mailing list for future notices should request a copy of Advisory Circular (AC) No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

On January 2, 1990, the FAA issued Notice No. 90–1 (55 FR 698, January 8, 1990), which proposed new and revised airworthiness standards for the performance requirements of transport category rotorcraft.

As proposed, the revised standards would have removed the current 35-foot minimum descent height requirement from Federal Aviation Regulations (FAR) § 29.59 Takeoff path: Category A and § 29.77 Balked landing: Category A. Under that proposal, rotorcraft could descend after engine failure during a continued takeoff or balked landing, as long as it did "not touch down."

Several commenters object to the proposal and recommend a designated minimum ground clearance be established. The commenters neither recommended a specific minimum ground clearance height nor provided justification for a specified height greater than the minimum ground clearance proposed. Also, after Notice 90–1 was issued, an international team of specialists, including United States participants, agreed on a minimum descent height of 15 feet while developing a new European Joint Airworthiness Requirement (JAR) Number 29. This international team of specialists was formed by the European Joint Airworthiness Authorities as a Performance Subgroup to the Helicopter Airworthiness Study Group (HASG) which developed JAR 29. The HASG invited the FAA and members of the Aerospace Industries Association (AIA) to participate in the Performance Subgroup deliberations. The Subgroup agreed with deletion of the arbitrary minimum descent height of 35 feet as proposed by Notice 90–1 but now believes that practical flight test capabilities necessitate the establishment of a finite height above the landing surface as a minimum descent height. For example, if the minimum height were zero, practical flight test limitations would necessitate extensive use of analyses, or extensive damage to flight test aircraft might occur during flight testing. A minimum descent height of 15 feet was developed by a team of flight test specialists as a standard that could be met by a practical combination of tests and analyses. This standard was published in the European Notice of Proposed Amendment (NPA) No. 29–2, which otherwise proposed standards compatible with Notice 90–1. A copy of NPA 29–2 is contained in Rules Docket No. 24802. After review of the comments to NPRM No. 90–1 and the justification for NPA 29–2, the FAA agrees that a minimum descent height of 15 feet should be required for rotorcraft with takeoff or landing decision points (TDP, LDP) in excess of 15 feet. Accordingly, a new § 29.59(g) is proposed and proposed § 29.85(c) is revised by this supplemental notice to require that the rotorcraft not descend below 15 feet during certain continued takeoff or balked landing maneuvers.

Supplemental Regulatory Evaluation Summary

The FAA has considered the economic impact of this proposed change to Notice 90–1. Executive Order 12866 dated September 30, 1993, directs Federal agencies to promulgate new regulations or modify existing regulations only if the potential benefits to society from the regulatory changes outweigh the potential costs that would be imposed on society. The FAA performed a benefit/cost analysis for Notice 90–1 and found that proposed changes to the existing rule would have negligible or no cost impact. In the case of this supplemental notice, the FAA has determined that an additional benefit/cost analysis is unwarranted

because the performance standards proposed herein would also have negligible cost impact on previously proposed standards.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 was enacted to ensure that small entities are not unnecessarily or disproportionately burdened by Government regulations. The Act requires that a Regulatory Flexibility Analysis be conducted if a rule will have a significant economic impact, either positive or negative, on a substantial number of small business entities. The proposed modification of Notice 90–1 will not have a significant economic impact on a substantial number of small entities. Consequently, the FAA has determined that, under the criteria of the Regulatory Flexibility Act of 1980, a regulatory flexibility analysis of this supplemental notice of proposed rulemaking is not required.

International Trade Impact Analysis

The rule will have little or no impact on trade for either U.S. firms doing business in foreign markets or foreign firms doing business in the United States. Foreign firms must meet U.S. requirements when conducting business in the U.S. and thus will gain no competitive advantage. In foreign countries, U.S. manufacturers are not bound by part 29 requirements and could choose whether or not to implement the provisions of this rule on the basis of competitive considerations. Both Notice No. 90–1 and this SNPRM propose a lesser certification burden than is currently contained in the FAR. Notice No. 90–1 proposed a lesser certification burden for compliance with the FAR than for the JAR for applicants for type certificates. However, the proposed requirements of this SNPRM will provide the benefits of harmonization of the FAR with the proposed European JAR 29 standards and thus reduce costs resulting from the need to certificate rotorcraft to differing standards; i.e., prevent future additional costs required in dual certification.

Federalism Implications

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

Conclusion

This SNPRM specifies a minimum descent height standard that is lower than the existing standard and higher than that proposed by Notice 90–1. For the reasons discussed in the preamble to the previous notice and this supplemental notice, and based on the findings in the regulatory evaluation and the International Trade Impact Analysis, the FAA has determined that this proposed regulation is not "significant regulatory action" under Executive Order 12866. In addition, it is certified that Notice No. 90–1, as revised by this supplemental notice, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This proposal, including this supplemental notice, is considered to be nonsignificant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A draft regulatory evaluation of the proposal has been placed in the regulatory docket. A copy may be obtained by contacting the person identified under the caption **FOR FURTHER INFORMATION CONTACT.**

List of Subjects in 14 CFR Part 29

Air transportation, Aircraft, Aviation safety, Rotorcraft, Safety.

The Proposed Amendments

In consideration of the foregoing, the Federal Aviation Administration amends Notice No. 90–1 (55 FR 698, January 8, 1990) as follows:

PART 29—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY ROTORCRAFT

1. The authority citation for part 29 continues to read as follows:

Authority: 49 U.S.C. 1344, 1354(a), 1355, 1421, 1423, 1424, 1425, 1428, 1429, and 1430; 49 U.S.C. 106(g).

2. Proposed § 29.59 is amended by adding a new paragraph (g) to read as follows:

§ 29.59 Takeoff path: Category A.

* * * * *

(g) During the continued takeoff the rotorcraft shall not descend below 15 feet above the takeoff surface when the TDP is above 15 feet.

3. Proposed § 29.85 is amended by revising the first sentence of paragraph (c) to read as follows:

§ 29.85 Balked landing: Category A.

* * * * *

(c) The rotorcraft does not descend below 15 feet above the landing surface. * * *

Issued in Washington, DC, on June 15, 1994.

Elizabeth Yoest,

Acting Director, Aircraft Certification Service.

[FR Doc. 94–15145 Filed 6–28–94; 8:45 am]

BILLING CODE 4910–13–M

federal register

Wednesday
June 29, 1994

Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Part 135

Exit Seating for On-Demand Operations; Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 135

[Docket No. 25821; Amendment No. 135–50]

RIN 2120–AE44

Exit Seating for On-Demand Operations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is amending the exit seat rule to exclude from the applicability of the rule commuter operations with aircraft having 9 or fewer passenger seats and on-demand air taxi operations with aircraft having 19 or fewer passenger seats. These revisions relieve certain part 135 operators and persons with disabling conditions of unnecessary burdens. They eliminate requirements that are not necessary for safe, expeditious evacuations in the event of an emergency.

EFFECTIVE DATE: July 29, 1994.

FOR FURTHER INFORMATION CONTACT: Donell Pollard, AFS–203, Air Transportation Division, Office of Flight Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8166.

SUPPLEMENTARY INFORMATION:

Background

On March 2, 1990, the FAA adopted Amendment No. 135–36, which revised § 135.129 of the Federal Aviation Regulations to increase the chances of occupant survival following a crash. The section provides that certificate holders operating aircraft affected by the section (except on-demand operations with nine or fewer passenger seats) may not seat a passenger in an exit row seat who is not willing and able, without assistance, to activate an emergency exit and to take certain additional actions needed to ensure safe use of the exit in an emergency in which a crewmember is not available to perform those functions.

After further consideration, the FAA has determined that § 135.129 should be amended to exclude from its coverage scheduled operations in aircraft having nine or fewer passenger seats. Certificate holders attempting to comply with the rule in regard to those aircraft have raised several issues concerning application of the rule. First, the limited number of seats in such aircraft increases the likelihood that persons not meeting the criteria in paragraph (b) of the rule could be denied transportation. Such a denial is especially likely in cases where the passenger seating configuration results in most or all of the seats being designated as exit seats. Due to the limited number of passengers involved, it may not always be possible to find someone willing, and qualified, to move into an exit seat when it must be vacated by an unqualified person. In a fully occupied flight, application of the rule could result in that passenger being denied transportation. Additionally, persons who do not meet the criteria for exit seating established by § 135.129 would be completely barred from certain aircraft (e.g., Cessna 206, Cessna 207, Beechcraft 36, Beechcraft 58, and Beechcraft 55) with passenger seating configurations that result in every seat in the aircraft being designated as an exit seat.

Consideration of such consequences, in view of the objective of the rule and in light of various seating configurations known to be used in operations to which the rule would apply, indicated that safety would not require these results. The aircraft involved are uniformly quite small, with short distances between exits. Passengers may choose one or another exit without concern for the distance factor. The ratio of exits to passengers in such aircraft is very high in comparison to larger aircraft, thus affording more opportunities for emergency evacuation. The seats in such aircraft are often in single units, around a central open space in the cabin, as opposed to being in rows and aisles, thus providing ready access to window and door exits for all passengers. The exits in such aircraft are typically small, light, and close to the ground, involving no slides, such as those that are found in larger aircraft, thus obviating some of the criteria in paragraph (b) of the rule. In addition, § 135.177 requires that each passenger be briefed orally on the location and means of operation of each passenger entry door and emergency exit.

The FAA further determined that safety does not require that the rule apply to on-demand operations with aircraft having 19 or fewer passenger seats. Seating configurations in those aircraft tend to be different from the standard aisle and row seating found in aircraft used in commuter operations, and frequently include single units around a central open space in the cabin, couch seats, and club seating, which provide numerous undefined, unobstructed paths to the exits. Generally, affinity groups charter these aircraft, and individual seat assignments are not made. Passengers using these aircraft who travel in affinity groups are more likely to be aware of each other's physical condition than is the case when passengers are drawn from the general population mix. And, as is the case in all operations under part 135, § 135.117 requires that each passenger receive an oral briefing on the location and means of operation of each passenger entry door and emergency exit.

Based on the above discussion, the FAA published a notice of proposed rulemaking (NPRM) on October 26, 1992 (57 FR 48666). The comment period closed on November 27, 1992.

At a few places in the preamble to the NPRM, the FAA inadvertently used the phrases "air carrier" and "air carriers" to identify certain part 135 certificate holders that would be the intended beneficiaries of this rule. The FAA did not intend to limit the relief that this rule would provide to only those part 135 certificate holders that are air carriers. In fact, in the proposed rule and in the rule language adopted today, the relief is not limited to part 135 operators that are air carriers. This relief also gives the same relief to all part 135 operators that operate aircraft with the specified passenger seating capacity.

Finally, it was the FAA's intention to make the exception provision in paragraph (a)(1) of § 135.129 applicable to all paragraphs in that section. Unfortunately, as presently written, the exception might be read to only apply to paragraph (a)(1). The FAA intended that certain operations (as defined in the exception clause) would not have to comply with any portion of the rule. In fact, the FAA originally stated, "This rule does not affect exit row seating in the on-demand operations of air taxis that have nine or fewer passenger seats." (55 FR 8054, March 6, 1990) The FAA did not merely state that the exception was only applicable to that part of the rule dealing with the certificate holder's duty to make a determination about the suitability of the person occupying the exit seat. To clarify its intention, the FAA has reorganized § 135.129(a). This reorganization eliminates any ambiguity that might lead someone to incorrectly conclude that the exception provision only applies to § 135.129(a).

Discussion of Comments

Eight comments were received in response to the notice of proposed rulemaking (NPRM). Commenters included three associations, three air carriers, one aviation insurance company, and one special interest group, the Paralyzed Veterans of

America (PVA). All eight commenters, including the Regional Airline Association (RAA) and the Helicopter Association International (HAI), supported the proposed rule. They offered additional comments in support of the proposed rule.

Two commenters stated that an exemption for smaller aircraft categories is necessary because the intent of the current exit seat rule is clearly for large airplanes. Four commenters stated that the seating configurations in small aircraft are different than larger aircraft and, as such, the density of seating and the ratio of passengers to available exits is very good, thus making it unnecessary to have the exit seat rule apply to the smaller aircraft categories. One commenter stated that under the current rule, too high a percentage of the seats in a small aircraft are required to be exit seats.

Two commenters indicated that the aircraft under on-demand operations are typically configured with seating arrangements different from the standard aisle and row seating found in aircraft used in commuter operations. They stated that passengers using these aircraft who travel in groups where the passengers know one another are more likely to be aware of each other's physical condition and be able to respond as necessary.

Three commenters indicated that a large percentage of the Alaskan population—student passengers under age 15 and older passengers—would be unable to use its scheduled operations to access health, educational, and other essential services.

In addition to its support, the Paralyzed Veterans of America recommended extending the rule to cover small aircraft with 29 or fewer seats. The FAA considered but disagrees with PVA's recommendation because aircraft with 20 to 29 passenger seats are more likely to have a sufficient number of non-exit seats.

Paperwork Reduction Act

This rule contains no information collection requests requiring approval of the Office of Management and Budget pursuant to the Paperwork Reduction Act (44 U.S.C. 3507 et seq.).

Regulatory Evaluation Summary

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effects of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this rule (1) would generate benefits that would justify its costs and is not a "significant regulatory action" as defined in the executive order; (2) is not "significant" as defined in DOT's Policies and Procedures: (3) would not have a significant impact on a substantial number of small entities; and (4) would not constitute a barrier to international trade.

The FAA has determined that the expected economic impact of the amendment will be minimal and does not warrant a full regulatory evaluation. As indicated in the above discussion, the exclusion of commuter operations with 9 or fewer passenger seats and on-demand aircraft operations having 19 or fewer passenger seats from the rule is not expected to result in significant impediments to successful emergency evacuations. This conclusion is based on a review of the typical passenger configurations and exit availability of these smaller aircraft. The FAA did not give adequate consideration to the unique characteristics of these aircraft and their operations at the time it prepared the regulatory evaluation of Amendment No. 135–36.

The amendment is beneficial in that it will prevent situations in which smaller aircraft might otherwise be restricted from carrying handicapped persons; this benefit is unquantifiable.

International Trade Impact Statement

This rule is not anticipated to affect the import of foreign products or services into the United States or the export of U.S. products or services to foreign countries.

Regulatory Flexibility Determination

The Regulatory Flexibility Act (RFA) of 1980 was enacted by Congress to ensure that small entities are not unnecessarily or disproportionately burdened by Government regulations. The RFA requires a Regulatory Flexibility Analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. Based on the potential relief that the rule will provide and the criteria of implementing FAA Order 2100.14A, Regulatory Flexibility Criteria and Guidance, the FAA has determined that the rule will not have a significant economic impact on a substantial number of small entities.

Federalism Implications

The rule 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 (52 FR 41685; October 30, 1987), it is determined that this rule would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

For the reasons previously addressed, the FAA has determined that this amendment involves a regulation which is not significant under Executive Order 12866 or the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). For this same reason, it is certified under the criteria of the Regulatory Flexibility Act that the rule will not have a significant economic impact, positive or negative, on a substantial number of small entities. The FAA has determined that the expected impact of the amendment is so minimal that it does not warrant a full regulatory evaluation.

List of Subjects in 14 CFR Part 135

Air taxis, Aircraft, Airmen, Aviation safety, Handicapped safety, Reporting and recordkeeping requirements.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends part 135 of the Federal Aviation Regulations (14 CFR part 135) as follows:

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

1. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355(a), 1421 through 1431, and 1502; 49 U.S.C. 106(g).

2. In § 135.129, paragraphs (a)(2) and (a)(3) are redesignated as paragraphs (a)(3) and (a)(4) and headings are added, paragraph (a)(1) is revised, and paragraph (a)(2) is added to read as follows:

§ 135.129 Exit seating.

(a)(1) *Applicability.* This section applies to all certificate holders operating under this part, except for on-demand operations with aircraft having 19 or fewer passenger seats and

commuter operations with aircraft having 9 or fewer passenger seats.

(2) *Duty to make determination of suitability.* Each certificate holder shall determine, to the extent necessary to perform the applicable functions of paragraph (d) of this section, the suitability of each person it permits to occupy an exit seat. For the purpose of this section—

(i) *Exit seat* means—

(A) Each seat having direct access to an exit; and

(B) Each seat in a row of seats through which passengers would have to pass to gain access to an exit, from the first seat inboard of the exit to the first aisle inboard of the exit.

(ii) A passenger seat having *direct access* means a seat from which a passenger can proceed directly to the exit without entering an aisle or passing around an obstruction.

(3) *Persons designated to make determination.* * * *

(4) *Submission of designation for approval.* * * *

* * * * *

Issued in Washington, DC, on June 21, 1994.

David R. Hinson,

Administrator.

[FR Doc. 94–15617 Filed 6–28–94; 8:45 am]

BILLING CODE 4910–13–M

federal register

Wednesday
June 29, 1994

Part V

Federal Election Commission

11 CFR Part 107 et al.

Presidential Election Campaign Fund and Federal Financing of Presidential Nominating Conventions; Rule

FEDERAL ELECTION COMMISSION

11 CFR Parts 107, 114, and 9008

[Notice 1994–9]

Presidential Election Campaign Fund and Federal Financing of Presidential Nominating Conventions

AGENCY: Federal Election Commission.

ACTION: Final rules; transmittal of regulations to Congress.

SUMMARY: The Federal Election Commission is revising its regulations governing publicly-financed Presidential nominating conventions. These regulations implement the Federal Election Campaign Act of 1971, as amended (FECA or the Act), and the Presidential Election Campaign Fund Act (Fund Act). The revisions update the provisions governing the audit and repayment process, and address vendor discounts, items provided for promotional consideration, legal and accounting expenses, civil penalties, and donations to host committees and municipalities. The changes also reorganize these rules and make them more consistent with the rules governing other publicly-financed committees.

DATES: Further action, including the announcement of an effective date, will be taken after these regulations have been before Congress for 30 legislative days pursuant to 2 U.S.C. 438(d) and 26 U.S.C. 9009(c). A document announcing the effective date will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street NW., Washington, DC 20463, (202) 219–3690 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Commission is publishing today the final text of revisions to its regulations at 11 CFR part 107, section 114.1, and part 9008, which concern the public financing of Presidential nominating conventions. The Commission had earlier sought comments on a previous attempt to revise the convention regulations by publishing a Notice of Proposed Rulemaking (1990 NPRM) on August 22, 1990. *See* Notice of Proposed Rulemaking, 55 FR 34267 (Aug. 22, 1990). Written comments were received from the Republican National Committee and the Democratic National Committee in response to the 1990 NPRM. Subsequently, the Commission decided to take no further action on that rulemaking until after the 1992 conventions had been held. *See* Suspension of Rulemaking, 56 FR 14319 (April 9, 1991).

On August 12, 1993, the Commission issued a new Notice of Proposed Rulemaking (NPRM), thereby initiating a new rulemaking and again seeking comments on potential revisions to the convention regulations. 58 FR 43046 (Aug. 12, 1993). This NPRM differed significantly from the 1990 NPRM, as the Commission sought to take into account additional issues, including some derived from the 1988 and 1992 party conventions, and altered some of the proposals contained in the 1990 NPRM. Comments were received from the Republican National Committee, the Democratic National Committee, Jan Witold Baran, Common Cause, and the Internal Revenue Service. In response to a written request, a public hearing was held on October 27, 1993. Two witnesses presented testimony on behalf of the Republican National Committee, and two witnesses presented testimony on behalf of the Democratic National Committee.

Section 438(d) of title 2, United States Code and 26 U.S.C. 9009(c) require that any rules or regulations prescribed by the Commission to carry out the provisions of titles 2 and 26 of the United States Code be transmitted to the Speaker of the House of Representatives and the President of the Senate 30 legislative days before they are finally promulgated. These regulations were transmitted to Congress on June 23, 1994.

Explanation and Justification

Part 107—Presidential Nominating Convention, Registration and Reports

There are no substantive changes in this part. However, it has been reorganized so that reporting by convention committees is covered in § 107.1, and host committee reporting is addressed in § 107.2.

Part 114—Corporate and Labor Organization Activity

Section 114.1 Definitions

In paragraph 114.1(a)(2)(viii), the citations to the convention rules have been amended to correspond to the proposed reorganization of 11 CFR Part 9008.

Part 9008—Federal Financing of Presidential Nominating Conventions

The Commission has revised and reorganized its rules governing public financing of Presidential nominating conventions to address several issues that have arisen, and to make the convention regulations more consistent with the rules applying to publicly-financed Presidential campaign committees. The reorganization of 11 CFR Part 9008 separates the rules concerning convention committees from those addressing host committee and local government activity. Thus, Subpart A of Part 9008 covers only convention committees and Subpart B contains the rules regarding host committees and local government activity.

Subpart A—Expenditures By National Committees and Convention Committees

Under the reorganization of Part 9008, Subpart A sets forth the rules relating to convention committees set up by the national party committees to make arrangements for the party's presidential nominating convention. Within Subpart A, the sequence of §§ 9008.1 through 9008.12 has been rearranged to follow the progression of convention activity from registration through use of funds and sources of contributions to, finally, audits and repayments. New §§ 9008.13 through 9008.16 have been added to follow similar provisions for publicly-financed Presidential candidates.

Section 9008.1 Scope

Section 9008.1 continues to explain the scope of the convention rules found in 11 CFR Part 9008. However, the provisions in previous paragraph § 9008.1(b) regarding reporting by host committees, government agencies and local municipalities have been deleted because they duplicate portions of new § 9008.51.

Section 9008.2 Definitions

This section generally follows former 11 CFR 9008.2.

Section 9008.3 Eligibility for Payments; Registration and Reporting

Paragraph 9008.3(a) now sets forth the eligibility requirements for receiving public financing, which were previously located in 11 CFR 9008.8(b). Paragraph (a) of § 9008.3 also reflects several changes in the agreements convention committees must submit as a condition of eligibility to receive public funding. First, the revised rules eliminate the requirement in previous paragraph § 9008.8(b)(4)(iv) that convention committees agree to establish a separate account for handling private contributions. One commenter supported the elimination of this requirement. If a convention committee were to accept private funds, either due to a decision not to accept its full entitlement of federal funds or due to a deficiency in the Presidential Election Campaign Fund, the new rules provide

the option of either setting up a separate account or depositing private contributions with payments received from the Fund. *See*, paragraph § 9008.6(a)(3). This approach is consistent with the rules governing Presidential candidates who accept public financing for the general election.

Second, a new provision has also been added at paragraph § 9008.3(a)(4) requiring convention committees to agree to comply with the relevant provisions of title 2, United States Code, and the Commission's regulations implementing those provisions. This new condition parallels the candidate agreements for publicly-financed primary and general election Presidential candidates.

New language in the convention agreement provisions in paragraph § 9008.3(a)(4)(v) pertains to the production of computerized information on magnetic tapes or diskettes under new paragraph § 9008.10(h). This new language follows similar requirements set forth in 11 CFR 9003.1 and 9033.1 governing candidate agreements.

Language has also been added to paragraph (a)(4)(v) of § 9008.3 to indicate that the convention committee shall agree to provide the Commission, upon request, with copies of contracts with its vendors, and documentation regarding reductions, discounts, and items received in exchange for promotional consideration. The Commission received a wide range of comments on this requirement. One witness indicated a preference for including in the reports certain information on items provided at no charge, and supplying contracts during the Commission's audit, instead of attaching the contracts to the publicly-filed reports. Others saw no reason to provide or disclose documentation of discounts, deductions, and free items because, in their view, these are not contributions or expenditures and are not subject to convention spending limits. In contrast, one commenter urged the Commission to reverse its policy of permitting private in-kind contributions to host committees and convention committees because public funds were meant to replace large contributions from corporations, labor unions and wealthy individuals, which would, in the commenter's view, otherwise undermine the intent of the Federal Election Campaign Act and the integrity of public financing.

The Commission has concluded that its long-standing approach regarding vendor contracts is consistent with Congressional intent, and should be explicitly reflected in the regulations. Accordingly, the new language follows the Commission's current practice of requesting contracts, when necessary, during the audit process. The provision of vendor contracts helps the Commission ensure that corporations are following their ordinary course of business in their transactions with political committees. Under revisions to paragraph § 9008.9, however, copies of vendor contracts need not be attached to convention committees' reports. Instead, paragraph § 9008.9(b) specifies the information to be reported by the convention committee when commercial vendors provide goods or services in exchange for promotional consideration arrangements.

The new rules at paragraph § 9008.3(a)(4)(v) follow previous 11 CFR 9008.8(b) by requiring convention committees to provide the Commission with copies of their contracts with host committees and municipalities upon request. The NPRM had proposed requiring convention committees to attach copies of these contracts to their regular reports.

The comments generally opposed additional reporting requirements, arguing that host committees do not utilize public funds, that the current requirement that contracts be made available upon request during Commission audits is sufficient, and that host committees are motivated by economic (not political) considerations. One commenter suggested that it would be onerous to require both the contract between the host committee and the convention committee, and documentation of vendor's contracts or discounts. The final rules in this section and section 9008.9 reduce the amount of documentation to be provided by convention committees with respect to vendor transactions and contracts with cities and host committees.

Paragraph § 9008.3(b) sets forth the registration and reporting requirements for convention committees previously found in 11 CFR 9008.12(b). The revised rules delete language in previous paragraph § 9008.12(b)(1)(ii) which had indicated that other committees and organizations representing political parties in making convention arrangements must register and report as political committees. This language is not necessary because these entities are already clearly subject to the registration and reporting requirements of the FECA. The reporting requirements have also been revised to track the reporting dates for political committees filing quarterly reports under Title 2. *See*, 11 CFR 104.5.

The NPRM proposed requiring that convention committees file their first quarterly report following either the quarter in which they receive their first payment from the Fund or when they begin receiving funds or making disbursements for convention activity, whichever is earlier. These committees are able to obtain loans and begin making convention-related disbursements well before they receive their first public financing payment. However, this activity is not disclosed until three months after that payment is received. Earlier disclosure was suggested to provide a more contemporaneous picture of convention committee activity and to ease the burden of filing a comprehensive first report covering as much as a year's disbursements. When this change was suggested in the 1990 NPRM, one commenter indicated that it already files reports for the first quarter after beginning to make disbursements for the convention, and did not object to the earlier filing requirements. However, in its response in the current rulemaking, the commenter objected to earlier reporting where no public funds have been transferred to the convention committee. In contrast, another commenter supported the earlier reporting requirement, and suggested a threshold of no less than $5,000 to trigger the filing requirements.

The final rules have been revised to follow the previous rules to reduce the number of reports that must be filed by convention committees.

Section 9008.4 Entitlement to Payments from the Fund

Section 9008.4 has been reorganized so that paragraphs (a) and (b) incorporate the rules previously found in § 9008.3 concerning entitlements to payments from the Fund. Paragraph (c) of § 9008.4 contains the provisions concerning the limitation on payments, which were previously located at 11 CFR 9008.5.

Section 9008.5 Adjustment of Entitlements

The provisions entitled "Adjustment of entitlement" have been moved to § 9008.5 from previous § 9008.4. With regard to the income from the investment of public funds, previous paragraph (b) of § 9008.4 has been removed and replaced with new 11 CFR 9008.12(b)(6). The new provision more closely follows the approach taken in the rules governing Presidential candidates who accept public funding. *See* 11 CFR 9007.2(b)(4) and 9038.2(b)(4).

Section 9008.6 Payment and Certification Procedures

Section 9008.6, "Payment and certification procedures", has been

moved from 11 CFR 9008.8 of the previous rules. In addition, paragraph (a)(2) has been revised by combining the rules for major and minor parties on when they may accept private contributions for convention expenses, and by addressing the possibility of a deficiency in the Fund. Unless there is a deficiency in the Fund, or the national committee does not accept all the public financing to which it is entitled, contributions cannot be accepted because they would cause the convention committee to exceed its spending limits, unless the committee had surplus funds left over. The Commission notes that under new section 116.5, payments by committee staff for convention expenses are treated as advances, and therefore as contributions, until reimbursed. Thus, the question has arisen as to the maximum amount a convention committee can accept in staff advances if it provides reimbursement and accepts full public funding. Given that the convention committee is established, financed, maintained and controlled by the national committee, and is therefore affiliated with the national committee, it shares the national committee's $20,000 contribution limit. The NPRM sought comment on including in the convention regulations language to this effect.

The witnesses at the hearing agreed that convention committees are affiliated with the national party committees, and believed the existing rules and exceptions regarding staff advances that apply to political committees should control. While one thought additional language was unnecessary, the other witness suggested specifically stating that the maximum amount an individual may contribute to the convention committee per year is $20,000, and that a convention committee may accept up to $20,000 in staff advances if it provides reimbursement and accepts full public funding. Further, this witness suggested amending proposed paragraph § 9008.12(c) to indicate that the convention committee is not obligated to repay a staff advance to the U.S. Treasury if it has made full reimbursement to the staff member and has not utilized the private contribution (even to the extent of the permissible $20,000) to defray convention expenses.

The Commission agrees with this commenter's views, but does not believe additional language is needed in the regulations. While the Commission has reached this conclusion to accommodate the practice of staff advances, it should be noted that other private contributions may be received only in accordance with paragraph (a) of this section.

As noted in the earlier discussion of § 9008.3, paragraph (a)(3) of 11 CFR 9008.6 offers convention committees the choice of setting up a separate account for private contributions or depositing them in the account used for payments from the Fund. This approach parallels that provided for publicly-financed general election candidates in 11 CFR 9005.2(c). Thus, convention committees' accounts must be maintained at depository institutions insured by the Federal Deposit Insurance Corporation. The 1979 amendments to the FECA also permitted political committees to establish campaign depositories at institutions insured by the National Credit Union Administration. However, the Commission has not made this option available to Presidential candidates or convention committees choosing to receive public funding because credit unions do not return canceled checks, thus preventing committees from providing adequate documentation for disbursements drawn upon credit union accounts. *See, e.g.*, 11 CFR 9005.2(c). In the final version of paragraph (a)(3), the references to accounts insured by the Federal Savings and Loan Insurance Corporation have been deleted because these accounts are now insured by the Federal Deposit Insurance Corporation.

Finally, this section continues to permit the receipt of federal funds either in one lump sum or in a series of payments if the convention committee so requests.

Section 9008.7 Uses of Funds

With some minor changes for clarity, § 9008.7, "Use of funds," follows previous 11 CFR 9008.6.

The NPRM sought comments on whether a revision to this section is warranted to clarify the distinction between items which are convention expenses and must be defrayed with public funds (and count against the convention committee's expenditure limit) and expenses which are related to ongoing business of the national committee and are not properly paid for with public funds. Given that the convention not only serves as the vehicle for nominating the party's Presidential candidate, but is also used to conduct ongoing party business, the line between convention expenses and party expenses can be a fine one. However, the Commission has encountered instances in which the national committee has sought to pay for expenses that are clearly convention-related, particularly if the convention is close to the expenditure limit. The Commission also wishes to ensure that public funds are used solely for running the nominating convention, and not for expenses related to party business.

The NPRM did not propose creating a presumption that expenses are convention-related if they are incurred by the convention committee or national committee around the time of the convention or within the convention city's locale (a suggestion which had been included in the 1990 NPRM). Comments on the 1990 NPRM opposed the creation of such a presumption, citing situations where they believed it could improperly result in the use of federal funds for party business.

The NPRM in this rulemaking indicated that the Commission had decided not to include such a presumption in the convention regulations. However, additional comments were sought on whether to amend the list of permissible convention expenses to exclude part or all of the salary and travel costs for those whose primary role is to conduct ongoing party business while at the convention. In particular, the Commission welcomed comments on how to allocate salary and travel costs for those who may split their time between party business and convention-related duties.

Subsequently, two commenters repeated their previous views that the convention regulations should provide assurances that public funds are spent on legitimate convention expenses, but that ultimately any attempt to spell out convention expenses would be both subjective and unworkable. Instead, they argued that the determination of what is considered a convention expense should be made on a case-by-case basis. The Commission heard testimony that it should not judge how committees spent their money, that increased regulation could infringe on First Amendment freedoms, and that convention committees should be allowed to allocate employees' salaries and expenses between the convention and the national committee on a reasonable basis, subject to review during the convention committee audit. A key criterion would be the amount of time spent on each function, and would require the committee to prorate the amount of time spent on each set of responsibilities. In contrast, another commenter opposed changing the current regulation, arguing that any additional formula is unnecessary. The comment urged adoption of a presumption that the national committee staff is working on national

committee business and not convention business.

The Commission has decided to continue its previous approach of listing in the rules the types of expenses that are convention-related, and thus subject to the convention spending limits. Adopting a completely case-by-case approach to this area would provide no guidance to committees trying to properly attribute their expenses. Accordingly, new § 9008.7 follows previous § 9008.6 by setting out the general principle that convention expenses include all expenses incurred by or on behalf of the national party committee or the convention committee with respect to, and for the purpose of conducting, the convention or convention-related activity. This includes all national committee activity in the convention city except for events clearly separate from the convention, such as fund raising events for the party committees, and meetings of the national committee unrelated to the convention.

New language has also been included in paragraph § 9008.7(a)(4)(xii) to reflect the Commission's policy that the convention committee may defray the costs of gifts or monetary bonuses for committee staff and convention officials for convention-related services, as long as the bonuses or gifts do not exceed $150 per individual and $20,000 total. Another new provision, paragraph § 9008.7(a)(4)(xiii), clarifies that the production costs of a biographical film or similar materials about a Presidential or Vice Presidential candidate may be paid for by the convention committee. However, if part or all of the film, or similar materials, is previously or subsequently aired or otherwise distributed by the candidate's primary or general election campaign committee or by a party committee, or is used in connection with fundraising, the campaign committee or party committee must pay the convention committee for the reasonably allocated costs of the films or materials used.

Paragraph (a)(5) of § 9008.7 has been modified so that it follows the Commission's past practice of seeking a repayment of interest earned on the investment of public funds, less any tax paid on the interest earned. This change is consistent with 11 CFR 9004.5, which governs interest earned by publicly-funded Presidential candidates.

Another issue raised in the NPRM concerns the sources of funds used to pay civil or criminal penalties pursuant to 2 U.S.C. 437g. Both previous paragraph § 9008.6(b)(3) and new paragraph 9008.7(b)(3) indicate that such funds are subject to the prohibitions of 11 CFR 110.4 and Parts 114 and 115. Comments were sought as to whether these funds should also be subject to the contribution limits set forth in 11 CFR Part 110. One commenter urged the Commission to continue to permit convention committees to pay civil and criminal penalties with funds subject to the prohibitions, but not the limitations set forth in the Act, and not to treat amounts received or expended to pay such penalties as contributions or expenditures. The commenter pointed out that Congressional candidate committees and party committees are permitted to pay civil and criminal penalties with funds that do not meet the limitations or prohibitions of FECA, while publicly-financed primary and general election presidential candidates may pay penalties from funds not meeting the FECA's contribution limits. Another commenter noted that public funds may not be used to pay these penalties, and restrictions on private funds would deter violators from paying their fines, given that fines are levied months or years after the convention. A third commenter opposed both limiting the sources of penalty payments and subjecting penalty payments to contribution limits, arguing that penalties are not paid for the purpose of influencing federal elections, and thus, are not contributions under FECA.

The Commission views civil and criminal penalties as an outgrowth of election activities, and therefore properly subject to the Act's prohibitions, even if the funds received and expended are not contributions or expenditures. Consequently, paragraph § 9008.7(b)(3) generally follows the previous provision. However, the Commission is continuing to consider possible changes to the present approach in the ongoing rulemaking regarding its compliance regulations at 11 CFR part 111. *See* Notice of Proposed Rulemaking, 58 FR 36764 (July 8, 1993).

Section 9008.8 Limitation of Expenditures

Section 9008.8 generally follows previous § 9008.7 by setting out the expenditure limits for convention committees and an explanation of the categories exempted from application to that limit. Former § 9008.7 had also included rules pertaining to activities by state and local governments and host committees. As part of the reorganization of Part 9008, the substantive provisions governing contributions to and expenditures by host committees and local governments have been moved to new §§ 9008.52 and 9008.53. New language in paragraph § 9008.8(b)(3) provides some examples of the types of candidate expenses that may not be paid from the convention committee's public funds, including the costs of the candidate's transportation, meals and lodging.

Paragraphs (b)(1) and (b)(2) of § 9008.8 follow previous paragraph § 9008.7(d)(4) by indicating that expenditures made by government agencies and municipal corporations, or by host committees, will not count against the convention committee's expenditure limit if the funds are spent in accordance with the provisions of proposed §§ 9008.52 and 9008.53. Consequently, there may be situations in which host committees make impermissible expenditures which count against the convention committee's spending limits. As noted below, such situations could also be resolved through enforcement actions under 2 U.S.C. 437g.

In addition, the Commission sought comments on revised language in paragraph 9008.8(b)(4)(ii) restating the current policy that payments made by the national committee for legal and accounting expenses count against the convention spending limits if these expenses are incurred in connection with the convention or convention-related activities. As an alternative, comments were welcomed on exempting payments by the national party committee for legal and accounting expenses solely for complying with the FECA and the Fund Act, provided that such funds are raised in accordance with the limits and prohibitions of the Act. Under this alternative, such amounts would be reported, and need not be placed in a separate account.

Two commenters and witnesses generally urged that convention legal and compliance costs should be exempt from the spending limits. The reasons they advanced included the following: similar expenses are exempt for publicly-financed presidential candidates; such a policy would encourage compliance; and it would not be appropriate to spend public funds on noncompliance legal costs tangentially-related to the convention, such as a slip-and-fall case or litigation over vendors' contracts.

In light of the comments and testimony, the Commission has decided to change the provisions governing legal and accounting costs. Accordingly, revised paragraph § 9008.8(b)(4) creates a narrow exception to the convention spending limits for legal and accounting costs incurred in complying with the FECA and the Fund Act, so long as the contributions raised for this purpose

comply with the contribution limits and prohibitions. Thus, these contributions will be counted against the annual limit on contributions to the political committees established and maintained by the national political party of $20,000 per person, and $15,000 per multicandidate political committee. These contributions and payments must be reported by the convention committee on separate schedules of receipts and disbursements. This rule does not, however, prohibit the use of public funds to pay compliance expenses.

New paragraph (b)(5) has been added to section 9008.8 to indicate that the costs of complying with the technical requirements for submission of computerized records are not treated as convention committee expenditures, and therefore, are not subject to the expenditure limits set out in section 9008.8. This was suggested in response to the 1990 NPRM, which included provisions on computerized information in paragraph 9008.10(h). Although the comments reflected disagreement as to whether or not convention committees should be required to comply with the computerized magnetic media requirements (CMMR), they generally favored exempting the costs of producing, delivering and explaining the computerized information from the convention committee's spending limits. Another suggestion was that funds raised to pay the costs involved should not be considered contributions, and should not be subject to the contribution limits and prohibitions of the FECA.

The Commission has concluded that the costs of providing computerized information are similar to the costs of providing legal and accounting services. Therefore, the revised rules adopt the same approach for funds raised to pay CMMR expenses as for funds raised to pay legal and accounting costs.

Section 9008.9 Receipt of Goods and Services from Commercial Vendors

Section 9008.9 specifies the circumstances under which different types of businesses may make in-kind donations to convention committees. It has been substantially revised from previous 11 CFR 9008.7(c), and it resolves several questions that have arisen concerning in-kind donations.

(1) Terminology. This rulemaking presented the issue of the different terms used in different portions of the previous regulations to describe the kinds of businesses that may donate funds or make in-kind donations. For example, "retail businesses" were able to provide reductions or discounts to convention committees. *See* previous 11 CFR 9008.7(c)(1). "Local businesses" were able to donate promotional items of nominal value to convention attendees, and to donate funds and in-kind contributions to host committees to promote the convention city and its commerce. *See* previous 11 CFR 9008.7 (c)(2) and (d)(2). "Local retail businesses" were able to donate funds to the host committee to be used to defray convention expenses. *See* previous 11 CFR 9008.7(d)(3). Finally, under AO 1988–25, businesses of any type were permitted to seek official provider status, which would enable them to provide certain items at no charge, in exchange for being designated an official provider, or for other promotional consideration.

The NPRM questioned whether a basis continues to exist for these distinctions. The Commission considered whether to require that all businesses qualify as "local" to help ensure that their goal in offering goods and services is commercial rather than political. In the alternative, the Commission has considered whether these complex distinctions further the Commission's objectives of ensuring that corporations do not make prohibited contributions to political committees. The proposed rules would have retained the current distinctions, while clarifying the distinction between "retail" and "wholesale" businesses, and explaining when businesses qualify as "local" businesses under the Office of Management and Budget's *Revised Standards for Defining Metropolitan Areas in the 1990's*, 55 FR 12154 (March 30, 1990). In Advisory Opinion 1975–1, the Commission recognized two situations which would not violate 18 U.S.C. 610 (the predecessor to 2 U.S.C. 441b): volume discounts on goods or services purchased by the convention committee and donations to a group organized to promote the convention city. The rationale underlying these exceptions was that they reflected a commercial, rather than political, purpose by the business so involved.

The comments on the NPRM reflected no consensus on this issue. Some favored retaining the approach adopted in the current rules and Advisory Opinion 1988–25, while taking into account legitimate commercial interests of franchisees, branches and dealers affiliated with national corporations.

Some urged the Commission to apply these provisions to all businesses because the criteria for "local" and "retail" are confusing, the distinctions do not further the Commission's objectives, or because all businesses in a Metropolitan Area benefit from a successful convention. Others supported the retention of the present distinction between "retail," "local," and "other business," and advocated changing the definition of "local business" so that it includes any company doing a sufficient level of business within the Metropolitan Area, whether or not the company has a physical presence there. This approach would not provide a workable standard that would enable either the Commission or businesses to know whether they are considered "local."

The Commission has decided to revise § 9008.9 to do away with the complex distinctions between businesses that are "local," "retail," "local retail," and "official providers." Instead, the term "commercial vendor" is used to define the types of businesses that may provide goods or services to convention committees at reduced or discounted rates, or for promotional consideration, or at no charge. "Commercial vendor" is defined in 11 CFR 116.1(c) to mean persons providing goods or services to a candidate or political committee, whose usual and normal business involves the sale, rental, lease or provision of those goods or services. Please note that donations of funds to host committees are covered by new §§ 9008.52 and 9008.53. Thus, the revised rules build upon the Commission's decisions in AO 1975–1 and AO 1988–25.

(2) Standard commercial vendor reductions and discounts; goods or services provided for promotional consideration. A related question involves the determination that reductions and discounts offered to the convention committee are in the ordinary course of business, or are commercially reasonable. Language was proposed during the previous rulemaking to explain the documentation that must be provided to the convention committee to demonstrate that a reduction or discount, such as a volume discount on hotel rooms, is within the vendor's ordinary course of business. Although concerns were raised that these documentation requirements were burdensome and impractical, others urged the Commission to adopt that approach.

The NPRM also focused on the practice of offering free items to the convention, such as pianos or cars. Proposed language in § 9008.9 sought to incorporate the approach taken in Advisory Opinion 1988–25 by permitting businesses to provide products and services at no charge if it is in the ordinary course of that vendor's business to provide products or services

in an equivalent amount and on similar terms, such as in return for recognition as an "official provider" of such products or services, to non-political groups or events. The Commission had previously proposed incorporating in the regulations the conclusion reached in Advisory Opinion 1988–25, and had considered whether the approach taken in that advisory opinion should be modified to require that products or services be provided at no less than the vendor's cost, notwithstanding the fact that the same business provides items at no charge to non-political clients. *Compare* AO 1975–1. Comments were also sought as to whether to establish exemptions for certain types of official providers, or those that provide products or services of less than a specified dollar amount. The NPRM also included proposed rules to ensure that in-kind donations are only made consistently with the provisions of the Act. Thus, the NPRM would have required that the vendor provide the committee with a description of what is provided, the terms of the reduction or discount, and a signed affirmation that this is in the ordinary course of business. It contemplated that vendors who do not have established practices of offering such discounts would be able to offer reductions or discounts that are consistent with established practices in their trade or industry. Comments were sought on whether certain types of retail businesses, such as restaurants, should be excluded from these documentation requirements. The Commission also requested comments on whether retail businesses providing less than a certain dollar amount of goods and services, or providing less than a certain percentage discount should also be exempt from the documentation requirements, and if so, what the appropriate amount or percentage would be.

One commenter urged the Commission to completely reverse its policy of permitting corporations to enter promotional consideration arrangements in connection with publicly financed conventions. However, several other commenters opposed modifying the result of AO 9188–25, arguing that official providers offer discounts to gain publicity and increased sales for their product, and questioning whether any instances of abuse existed. Consequently, one witness suggested that the Commission establish a presumption that local business involvement in convention activity is motivated by economic interests and not political involvement. These commenters opposed requiring vendors to sign affirmations that they are acting in the ordinary course of their businesses. One argued that affirmations would go far beyond the Commission's established policy, and would deter vendor involvement because vendors would be reluctant to sign affirmations that include terms such as "established," "promotional," or "commercial benefit." Thus, one comment viewed the proposal as an attempt to second guess the business judgment of the vendor, and noted that it is sometimes difficult to value goods or services. Two comments urged the Commission to issue less burdensome rules, arguing that the additional documentation requirements are unnecessary because vendors offer discounts to obtain profitable business, not to influence federal elections. The witnesses at the hearing stated that the requirement that the in-kind donation not exceed the value of the commercial benefit was a subjective, hard to define standard. Instead of providing an affirmation, they preferred disclosing information on in-kind donations in their reports, such as the vendor's name, and the nature and value of the goods or services provided, if this could be done in a non-burdensome manner.

The final rules regarding items provided for promotional consideration have been modified in several respects. First, the final rules indicate that discounts, reductions and free items may be offered by all commercial vendors, and are not restricted to local or retail businesses. These transactions must be in the ordinary course of business. The rules further define ordinary course of business. In addition, the proposed vendor affirmation requirement has been dropped from the final rules. Instead, the revised rules require the convention committee to maintain certain documentation of promotional consideration arrangements and to disclose in its reports a general description of the goods or services provided, together with the name and address of the provider. This disclosure requirement is designed to be non-burdensome, yet sufficient to facilitate enforcement of the statutory prohibitions and limits by subjecting promotional consideration arrangements to public scrutiny.

One comment suggested that proposed paragraph § 9008.9(a)(2) be clarified to emphasize that "official provider" status is not the only form of promotional consideration since a convention committee may not want to provide exclusive rights to a particular vendor with respect to certain categories of goods or services. The Commission notes that § 9008.9 covers commercial vendors wishing to enter into a variety of promotional arrangements, and is not narrowly limited to "official providers."

The new rules generally continue the current policy of permitting commercial vendors to provide items of *de minimis* value, such as maps, pens, pencils or other similar items included in tote bags for those attending the convention. *See* previous 11 CFR 9008.7(c)(2). Finally, paragraph (d) of revised § 9008.9 specifies that goods and services received in accordance with this section do not count against the convention committee's spending limits.

(3) Reporting. Another issue raised during this rulemaking was whether convention committees should be required to report their receipt of reductions, discounts, and items provided for promotional consideration from businesses, including a statement of what was provided and its value, or whether the contracts themselves should be placed on the public record. There was little, if any, consensus among the commenters regarding these proposals. One comment noted that since issuing AO 1988–25, the Commission has required committees to demonstrate that donations or discounts were in the ordinary course of a vendor's business, but believed that it would be extraordinary for the Commission to require the disclosure of the actual contract or to require that the contract state that the vendor is following its ordinary course of business. One witness favored reporting items received at no charge, but opposed reporting discounts given in the ordinary course of business, or attaching contracts to reports. The witness noted that the Commission's long-standing policy has been that items provided in the ordinary course of business are not "contributions" to the committee. Finally, one comment opposed reporting in-kind donations because in-kind donations frequently take forms that are difficult to quantify, and the value of donations fluctuates according to changes in the market.

The final rules in section 9008.9 do not require convention committees to routinely report the receipt of standard volume discounts, or reduced rates normally made available to certain types of customers, although they do require reporting of promotional consideration arrangements. The rules also continue the previous policy that items of *de minimis* value, such as maps, pens, and tote bags, need not be reported. The new rules also do not require committees to file copies of vendor contracts with their reports. Instead, the contracts must be provided upon request during the audit. At any time, the Commission may seek additional information regarding

transactions with commercial vendors, particularly if questions are raised as to whether a transaction is in the ordinary course of business, or results in the making and acceptance of a contribution.

Section 9008.10 Documentation of Disbursements; Net Outstanding Convention Expenses

Under the previous regulations at 11 CFR 9008.8(b)(4)(v), committees were required to restate in the convention committee agreement all the documentation requirements for proving that expenses are convention-related. The revisions to these rules now follow the format of the regulations for publicly financed Presidential candidates by only stating in the convention committee agreement that the committee agrees to comply with the documentation requirements (*see* paragraph § 9008.3(a)(4)(iv)), and setting forth the actual documentation provisions in a separate section. Thus, § 9008.10 now contains the substantive rules regarding the production of evidence of convention expenses.

In addition, § 9008.10 has been redrafted to conform to the documentation requirements for publicly financed candidates. *See*, 11 CFR 9003.5 and 9033.11. For example, the term "particulars" has been changed to "purpose of the disbursement." Also, the language in paragraph § 9008.10(a)(4) regarding documentation of disbursements has been modified to indicate that pre-established written committee policies may include daily travel expense policies, but do not include general per diem policies which cover a longer time period or which include a broader range of expenses. This change is consistent with the approach the Commission took in revising the primary and general election rules for publicly funded candidates. *See*, 11 CFR 9003.5(b)(1)(iv) and 9033.11(b)(1)(iv). One commenter urged that convention committees be allowed to provide staff with fixed per diems in lieu of reimbursing actual expenses. Such an approach would be acceptable if it is reasonably calculated to cover the individual's actual expenses for transportation, lodging and meals, but not other expenses.

The Commission has added three new paragraphs to § 9008.10. New paragraph (f) clarifies that convention committees must retain records regarding their disbursements and receipts and present them for Commission review. The records retained by the committee should also reflect its compliance with 11 CFR 104.14. Paragraph (g) requires convention committees to provide a statement of net outstanding convention expenses no later than 60 days after the last day of the convention, which should reflect its financial position as of 45 days after the convention. The statement must also be updated to reflect the committee's financial position as of nine months after the last day of the convention. The statement must be filed 30 days thereafter, which is also the date for the interim repayment of unspent funds under 11 CFR 9008.12(b)(5). This provision parallels the requirements for publicly financed Presidential candidates. *See*, 11 CFR 9003.5(d), 9004.9, 9033.11(d) and 9034.5. Such statements are intended to enable the audit process to be completed more expeditiously.

Finally, new paragraph (h) applies the Computerized Magnetic Media Requirements (CMMR) to publicly financed convention committees. The purpose of the CMMR is to establish uniform standards for producing computerized records maintained by publicly financed committees at the time of the Commission's audit. Rules applying the CMMR to publicly financed Presidential candidates became effective on October 3, 1990. *See* 55 FR 40377 (Oct. 3, 1990); *see also*, 57 FR 4453 (Feb. 5, 1992) (updating the requirements and broadening certain technical standards). During that rulemaking, the Commission noted its intention to include parallel requirements in the convention regulations. *See* Explanation and Justification, 55 FR 26392 (June 27, 1990). The basic rationale and explanation offered in the June 27, 1990 Explanation and Justification applies equally to convention committees. *Id.* The categories of computerized records sought from convention committees are fewer, however, in view of the conventions' narrower focus.

Several comments were opposed to these proposals, due to the perceived financial costs associated with altering their existing accounting systems and converting their data to a new format. One urged that any costs involved should be exempt from spending limits. Given that the Commission has not encountered problems in the past with computerized records maintained and used by the national parties' convention committees, few if any, changes in these systems should be necessitated under the CMMR. As noted in the previous discussion of section 9008.8, the costs of complying with the CMMR are not expenditures by the convention committees, and are not subject to the national committees' spending limits for the convention.

Section 9008.11 Examinations and Audits

Section 9008.11 now contains the provisions on examinations and audits which were previously found at 11 CFR 9008.9. Also included is a new sentence signaling the Commission's intention to follow the same procedures during audits of convention committees as it now does when auditing the committees of publicly financed Presidential candidates. Please note that the December 31st time frame for conducting the audit, which is specified in this section and 26 U.S.C. 9008.8(g), refers to the time period in which the Commission will commence the audit.

The Commission has deleted from the convention rules previous paragraph § 9008.11(e), regarding judicial review of Commission repayment determinations because judicial review procedures are spelled out in 26 U.S.C. 9010 and 9011.

Section 9008.12 Repayments

Section 9008.12 includes the bases for Commission repayment determinations, previously found in 11 CFR 9008.10. The repayment determination procedures previously set out in 11 CFR 9008.11 have been replaced by new language indicating the Commission's intention to follow the same procedures and offer the same opportunities to convention committees as are provided for publicly financed candidates during the repayment process. *See* 11 CFR 9007.2 and 9038.2. If in the future the Commission makes changes to the repayment rules applicable to Presidential candidates, corresponding changes would be made for the convention regulations.

In addition, paragraph § 9008.12(b)(5)(ii) continues the current requirement that convention committees make an interim repayment of unspent funds, but changes the time frame to 30 days after the end of the ninth month after the last day of the convention. A final repayment of unspent funds must be made no later than 24 months after the end of the convention, both under previous paragraph § 9008.10(e)(3) and new paragraph § 9008.12(b)(5)(iii).

One commenter argued that the current requirement of an interim repayment six months after the convention should be eliminated because six months is an insufficient amount of time to determine the amount needed to satisfy remaining bills, claims, and disputes. Instead, the commenter supported an 18 month or 24 month overall time frame for making repayments.

As noted above, the final rules extend the time period for the interim

repayment and retain the 24 month deadline for the final repayment. The provisions in paragraph § 9008.12(b)(5)(ii) adequately address the commenter's concerns by allowing for the certification of payments to the convention committee of amounts needed to defray additional convention expenses, where the convention committee has already made an interim repayment.

With regard to the income from the investment of public funds, new 11 CFR 9008.12(b)(6) replaces previous paragraph § 9008.4(b). The new provision more closely follows the approach taken in the rules governing Presidential candidates who accept public funding. *See* 11 CFR 9007.2(b)(4) and 9038.2(b)(4).

The NPRM sought comments on how to address situations where a host committee receives contributions from impermissible sources, such as nonlocal businesses, which are than used to defray convention expenses or for other permissible purposes. In some cases, it may be appropriate to count these amounts against the convention committee's spending limits, although there may be situations where enforcement actions are warranted.

Several commenters argued that it would be more effective to handle these situations through enforcement than by imposing oversight responsibility and liability on the convention committees, because convention committees, host committees, and municipalities have different agendas. Several commenters and witnesses indicated that it may be appropriate to pursue the convention committee if it acts with knowledge, consent, or acquiescence in an unlawful act, but it would be unfair to impose accountability on convention committees when they are unaware of, or do not consent to, the unlawful actions of a host committee or city. Two witnesses testified that host committees conduct fundraising autonomously from the convention committees, although the two entities have an on-going daily relationship during the convention planning process.

In response to the concerns raised, the Commission notes that neither the current nor the revised rules in § 9008.12(b)(7) impose strict or vicarious liability on convention committees for the actions taken by cities or host committees. Instead, convention committees are accountable for the actions of cities or host committees when they knowingly help or assist or participate in conducting impermissible activities, including initiating or instigating the activity. Thus, the rules preserve the Commission's ability to proceed in the manner appropriate to a particular case, such as through the repayment process or enforcement.

Section 9008.13 Additional Audits

The Commission's authority to conduct other audits or investigations of a committee in an appropriate case is set forth in new § 9008.13. It follows similar provisions for publicly financed Presidential candidates. *See* 11 CFR 9007.4 and 9039.3.

Section 9008.14 Petitions for Rehearing; Stays of Repayment Determinations

This new section governs petitions for rehearing after the Commission's final repayment determination, and stays of repayment determinations pending appeal. It indicates that the Commission expects to follow the same procedures regarding rehearings and stays requested by convention committees as it uses for publicly funded Presidential candidates. *See* 11 CFR 9007.5 and 9038.5.

Section 9008.15 Extensions of Time

Section 9008.15 governs committee requests for extensions of time under Part 9008. This new provision conforms to the Commission's established policies concerning extensions of time. *See* 11 CFR 9007.3 and 9038.4.

Section 9008.16 Stale-Dated Committee Checks

Section 9008.16 has been added to provide procedures for handling stale-dated committee checks, and is based on similar provisions applicable to Presidential candidates accepting public funding. *See* 11 CFR 9007.6 and 9038.6. A minor change from the wording contained in the NPRM reflects that this provision applies to all stale-dated checks, not just those made out to creditors or contributors.

Subpart B—Host Committees Representing a Convention City; Convention Expenditures by Government Agencies and Municipal Corporations

This subpart has been created to separate the rules governing host committees, government agencies and local municipalities from the regulations on publicly financed convention committees. As explained below, it includes portions of previous §§ 9008.1, 9008.7, 9008.9 and 9008.12.

Section 9008.50 Scope

This new scope section alerts host committees, government agencies and municipalities to the registration and reporting requirements, and generally describes the areas covered by Subpart B. It follows previous paragraph 9008.1(b) by indicating that the reporting requirements do not apply to unsuccessful efforts to attract a convention.

Section 9008.51 Registration and Reports

This section contains the registration and reporting requirements applicable to host committees, which were previously located in 11 CFR 9008.12. It also includes new provisions regarding reporting by municipal corporations and other government agencies.

(1) Host committee reports. Paragraphs (a) and (b) of § 9008.51 contain the rules governing host committee registration and reporting found at former 11 CFR 9008.12(a). The NPRM had proposed requiring host committee to file reports beginning in the first quarter of the presidential election year, rather than with the post-convention report. Another proposal would have required host committees to itemize their receipts and disbursements to the extent required by 11 CFR Part 104. One comment argued against the dual burden of earlier disclosure deadlines and itemization of receipts, in the absence of a demonstrated defect in the current regulations. The Commission notes that section 437 of the FECA does not discuss pre-convention reporting by host committees. Consequently, 11 CFR 9008.51 (a) and (b) now follow the approach set out in previous § 9008.12(a), except that the deadline for filing quarterly reports was changed to correspond to the filing deadline for quarterly reports filed under Title 2.

(2) Reporting by municipalities. New paragraph 9008.51(c) addresses reporting by municipal corporations and other local government agencies. This provision implements 2 U.S.C. 437(1) by requiring reporting by committees or organizations representing "a State, or a political subdivision thereof, or any group of persons, in dealing with officials of a national political party" on matters relating to a national nominating convention to be held in that State or political subdivision. This statutory language can be read to require reporting by an entity established by a state or local government, other than a host committee, to receive funds and make disbursements for a convention in that locality, although in the past these entities have not had to register and report. Consequently, the Commission considered specific disclosure requirements for municipalities and other government agencies providing services and facilities to a national

nominating convention. Expenditures by these entities are largely for the same purposes as those permitted by the regulations for host committees. *See*, §§ 9008.52 and 9008.53. Advisory Opinions 1982–27 and 1983–29 permit the acceptance of private donations by these entities to defray convention expenses. *See* discussion of 11 CFR 9008.53. For these reasons, the Commission believes that reporting by these entities will serve an important disclosure function.

The opponents of new reporting rules suggested instead that municipalities file copies of written contracts between the national committees and the cities they select. In the NPRM, the Commission indicated that it was considering whether to require municipalities to file reports which include copies of these contracts. Although this approach would result in public disclosure of amounts specified in the contracts, it would fail to publicly disclose the amount actually spent or the amount raised from private funds. Accordingly, the Commission also considered alternative reporting provisions in light of the increased roles municipalities have played in recent conventions. The reporting proposals included in the NPRM were designed to accomplish meaningful disclosure with as little burden on municipalities as possible.

Four comments responded to the issues raised in the NPRM, and the proposed language in paragraph § 9008.51(c). One commenter endorsed the suggestion that municipalities be required to report the source of funds received for hosting the convention. However, three other comments opposed the reporting provision for various reasons. Some thought the Commission has misinterpreted the meaning of 2 U.S.C. 437(1) by seeking to apply it to municipalities and government agencies, instead of continuing to interpret the term "represent" a state, political subdivision or any group of persons to only apply to a host committee or other organization which deals with officials of a national party. One argued that this approach would be inconsistent with, and would undermine, Advisory Opinions 1982–27 and 1983–29. Some believed that the Commission has not demonstrated a change of circumstances to merit changing its policy, and that cities already make various kinds of reports regarding receipts and expenditures of their funds. Another concern was that disclosure would be costly and deter municipalities from hosting conventions. The commenters and witnesses indicated that municipalities host political conventions to showcase their cities, hoping to attract other events of economic benefit, such as the Olympics or the Super Bowl.

The Commission has concluded that changes in the way convention financing operates, which have occurred since AOs 1982–27 and 1983–29 were issued, have made it necessary to add new reporting provisions to ensure adequate public disclosure in the future. The new rules at paragraph § 9008.51(c) reflect a permissible interpretation of the statutory wording. In formulating new reporting requirements, the Commission has sought to ensure that adequate public disclosure is accomplished without imposing unduly burdensome requirements on municipalities and other governmental entities.

Under new paragraph § 9008.51(c), municipal corporations and government agencies must file a statement with the Commission listing general categories of convention-related facilities and services it provided to the convention, the total cost of providing such facilities and services, the total amount of general revenues and the total amount of private funds donated to a separate account to pay for these activities. The new rules also include a list of broad categories of expenses, to assist municipalities in providing the general information needed.

Section 9008.52 Receipts and Disbursements of Host Committees

The description of host committees has been moved from previous 11 CFR 9008.7(d)(1) to new paragraph § 9008.52(a). One commenter opposed the creation and use of host committees because they receive funds from sources that public funds were meant to replace, but favored earlier reporting by host committees.

Paragraph (b) of new § 9008.52 recognizes that host committees may accept goods and services from commercial vendors at reduced or discounted rates, as well as items provided in exchange for official provider status, subject to the requirements of § 9008.9, including reporting. One commenter argued that there should be a presumption that local businesses are motivated by commercial, not political gain; therefore, they should be exempt from additional documentation requirements when making these types of donations to host committees or municipalities. The elimination of the vendor affirmations, which is discussed above, addresses this concern.

Paragraph (c) of this section, and a cross-reference in new § 9008.53, indicate that both host committees and government agencies and municipalities may accept monetary and in-kind donations from local businesses and other local organizations and individuals to defray a variety of expenses for promoting the convention city and paying for convention-related facilities and services. Section 9008.52(c) is based on previous 11 CFR 9008.7 (b) and (d)(3). Please note that the revised rules do not permit host committees or municipalities to pay salaries of those working for the convention committee or the national party, or to pay the convention committee's or the national party's overhead and administrative expenses related to the convention.

The term "local" is also explained in paragraph (c) of this section. Revised language has also been included to clarify that banks do not qualify as local businesses under this section.

Section 9008.53 Receipts and Disbursements of Government Agencies and Municipal Corporations

New § 9008.53 sets forth rules on special municipal funds established by municipal corporations and government agencies for the purposes enumerated in 11 CFR 9008.52 relating to the promotion of the convention city and paying certain convention expenses. Section 9008.53 parallels § 9008.52 with regard to transactions with commercial vendors and the definition of local businesses that may make monetary or in-kind donations for certain purposes.

The Commission sought comment on proposed language in paragraph (a)(2) intended to incorporate the conclusions reached in Advisory Opinions 1982–27 and 1983–29. Under these advisory opinions, convention cities were permitted to establish a municipal fund to receive donations and make disbursements in connection with a nominating convention, provided certain conditions were met. First, the fund must have been created to attract conventions and other events to the locality on a broad scale, and cannot have been established for the sole purpose of providing services and facilities to the nominating convention. Second, donations to the fund must be unrestricted and may not be designated for any particular use, including the nominating convention. One question was whether the creation of such a fund must be necessitated by a prohibition under local law against the use of general tax revenue for these purposes. Concerns were raised that this would be inconsistent with Advisory Opinion

1983–29. Consequently, the Commission has not included a requirement restricting the creation of such municipal funds to situations where local law prohibits using tax revenues for convention purposes.

New paragraph § 9008.53(b) also clarifies that banks do not qualify as local businesses under this section. All bank loans must meet the requirements of 11 CFR 100.7(b)(11). The revised rules also remove the previous requirements that only retail businesses can donate funds.

Finally, the revised rules no longer include the requirement that the amount of the donation be proportionate to the commercial return reasonably expected during the life of the convention. In response to questions raised in the NPRM, one comment objected to applying this criterion to donations from businesses, particularly if the commercial return is measured only during the life of the convention. Accordingly, the new rules recognize that local businesses and organizations that donate to municipal funds are motivated by commercial and civic reasons, rather than election-influencing purposes.

Section 9008.54 Examinations and Audits

New § 9008.54 sets out the basic rule regarding Commission audits of host committees, which was previously set forth at 11 CFR 9008.9. Consistent with the rules applicable to convention committees, § 9008.54 includes a sentence indicating the Commission's intention to follow the same procedures during audits of host committees that it uses when auditing committees of publicly-financed Presidential candidates. In the case of host committees, however, the Commission does not make any repayment calculations because host committees do not receive public funds. Please note that the December 31st time frame for conducting the audit refers to the time period in which the Commission will commence the audit.

Additional Issues

The NPRM indicated that questions had been raised as to whether Title VI of the Civil Rights Act of 1964 is applicable to the selection of delegates to the federally funded national nominating conventions. Under Title VI, "[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." 42 U.S.C. 2000d. The U.S. District Court for the District of Columbia ordered the Commission to promulgate rules under Title VI governing the selection and allocation of delegates to the federally-funded nominating conventions. *Freedom Republicans Inc.* v. *Federal Election Commission*, 788 F. Supp. 600, 601 (D.D.C. 1992). However, on appeal the D.C. Circuit vacated the district court's decision on jurisdictional grounds. *Freedom Republicans Inc.* v. *Federal Election Commission*, No. 92–5214, slip op. at 2, 15 (D.C. Cir. Jan. 18, 1994). While awaiting the decision of the Court of Appeals, the Commission welcomed public comments on what impact, if any, Title VI may have on federally-funded national nominating conventions. One of the witnesses stated that it was inappropriate to comment because this particular rulemaking does not address the issue. Another witness indicated that his party would meet any foreseeable delegate selection standard the Commission might adopt, and therefore had no opinion on the issue. In view of the D.C. Circuit decision, the Commission has decided not to issue regulations under Title VI regarding delegate selection at this time.

Certification of No Effect Pursuant to 5 U.S.C. 605(b) [Regulatory Flexibility Act]

The attached final rules will not, if promulgated, have a significant economic impact on a substantial number of small entities. The basis for this certification is that few, if any, small entities will be affected by these rules.

List of Subjects

11 CFR Part 107

Political committees and parties, Reporting requirements.

11 CFR Part 114

Business and industry, Elections.

11 CFR Part 9008

Campaign funds, Political committees and parties, Reporting requirements.

For the reasons set out in the preamble, Subchapters A and E, Chapter I of Title 11 of the Code of Federal Regulations are amended as follows:

1. 11 CFR Part 107 is revised to read as follows:

PART 107—PRESIDENTIAL NOMINATING CONVENTION, REGISTRATION AND REPORTS

Sec.

107.1 Registration and Reports by Political Parties.

107.2 Registration and Reports by Host Committees, and Committees, Organizations or Other Groups Representing a State, City or Other Local Government Agency.

Authority: 2 U.S.C. 437, 438(a)(8).

§ 107.1 Registration and reports by political parties.

Each convention committee established under 11 CFR 9008.3(a)(2) by a national committee of a political party and each committee or other organization, including a national committee, which represents a political party in making arrangements for that party's convention held to nominate a presidential or vice presidential candidate shall register and report in accordance with 11 CFR 9008.3(b).

§ 107.2 Registration and reports by host committees, and committees, organizations or other groups representing a state, city or other local government agency.

Each host committee, and each committee or other organization or group of persons which represents a State, municipality, local government agency or other political subdivision in dealing with officials of a national political party with respect to matters involving a presidential nominating convention, shall register and report in accordance with 11 CFR 9008.51.

PART 114—CORPORATE AND LABOR ORGANIZATION ACTIVITY

2. The authority citation for Part 114 continues to read as follows:

Authority: 2 U.S.C. 431(8)(B), 431(9)(B), 432, 437d(a)(8), 438(a)(8), and 441b.

3. Section 114.1 is amended by revising paragraph (a)(2)(viii) to read as follows:

§ 114.1 Definitions.

(a) * * *

(2) * * *

(viii) Activity permitted under 11 CFR 9008.9, 9008.52 and 9008.53 with respect to a presidential nominating convention;

* * * * *

4. 11 CFR Part 9008 is revised to read as follows:

PART 9008—FEDERAL FINANCING OF PRESIDENTIAL NOMINATING CONVENTIONS

Subpart A—Expenditures by National Committees and Convention Committees

Sec.
9008.1 Scope.
9008.2 Definitions.
9008.3 Eligibility for payments; registration and reporting.
9008.4 Entitlement to payments from the fund.
9008.5 Adjustment of entitlement.
9008.6 Payment and certification procedures.
9008.7 Use or funds.
9008.8 Limitation of expenditures.
9008.9 Receipt of goods and services from commercial vendors.
9008.10 Documentation of disbursements; net outstanding convention expenses.
9008.11 Examinations and audits.
9008.12 Repayments.
9008.13 Additional audits.
9008.14 Petitions for rehearing: Stays of repayment determinations.
9008.15 Extensions of time.
9008.16 Stale-dated committee checks.

Subpart B—Host Committees Representing a Convention City; Convention Expenditures by Government Agencies and Municipal Corporations

Sec.
9008.50 Scope.
9008.51 Registration and reports.
9008.52 Receipts and disbursements of host committees.
9008.53 Receipts and disbursements of government agencies and municipal corporations.
9008.54 Examinations and audits.

Authority: 2 U.S.C. 437, 438(a)(8); 26 U.S.C. 9008, 9009(b).

Subpart A—Expenditures by National Committees and Convention Committees

§ 9008.1 Scope.

(a) This Part interprets 2 U.S.C. 437 and 26 U.S.C. 9008. Under 26 U.S.C. 9008(b), the national committees of both major and minor parties are entitled to public funds to defray expenses incurred with respect to a Presidential Nominating convention. Under 26 U.S.C. 9008(d), expenditures with regard to such a convention by a national committee receiving public funds are limited to $4,000,000, as adjusted by the Consumer Price Index. New parties are not entitled to receive any public funds to defray convention expenses.

(b) Under 2 U.S.C. 437, each committee or organization which represents a national party in making arrangements for that party's presidential nominating convention is required to file disclosure reports. This reporting obligation extends to all such committees or organizations, regardless of whether or not public funds are used or available to defray convention expenses.

§ 9008.2 Definitions.

(a) *Commission* means the Federal Election Commission, 999 E Street, NW., Washington, DC 20463.

(b) *Fund* means the Presidential Election Campaign Fund established by 26 U.S.C. 9006(a).

(c) *Major party* means, with respect to any presidential election, a political party whose candidate for the office of President in the preceding presidential election received, as the candidate of such party, 25 percent or more of the total number of popular votes received by all candidates for such office.

(d) *Minor party* means, with respect to any presidential election, a political party whose candidate for the office of President in the preceding presidential election received, as the candidate of such party, 5 percent or more, but less than 25 percent, of the total number of popular votes received by all candidates for such office.

(e) *National committee* means the organization which, by virtue of the by-laws of the political party, is responsible for the day to day operation of that party at the national level.

(f) *New party* means, with respect to any presidential election, a political party which is neither a major party nor a minor party.

(g) *Nominating convention* means a convention, caucus or other meeting which is held by a political party at the national level and which chooses the presidential nominee of the party through selection by delegates to that convention or through other similar means.

(h) *Secretary* means the Secretary of the Treasury of the United States.

§ 9008.3 Eligibility for payments; registration and reporting.

(a) *Eligibility requirements.* (1) To qualify for entitlement under 11 CFR 9008.4 and 9008.5, the national committee of a major or minor political party shall establish a convention committee pursuant to paragraph (a)(2) of this section and shall file an application statement pursuant to paragraph (a)(3) of this section. The convention committee, in conjunction with the national committee, shall file an agreement to comply with the conditions set forth at paragraph (a)(4) of this section.

(2) The national committee shall establish a convention committee which shall be responsible for conducting the day to day arrangements and operations of that party's presidential nominating convention. The convention committee shall register with the Commission as a political committee pursuant to 11 CFR Part 102. The convention committee shall receive all public funds to which the national committee is entitled under 11 CFR 9008.4 and 9008.5 and all private contributions made for the purpose of defraying convention expenses. All expenditures on behalf of the national committee for convention expenses shall be made by the convention committee.

(3) The national committee shall file with the Commission an application statement. Any changes in the information provided in the application statement must be reported to the Commission within 10 days following the change. The application statement shall include:

(i) The name and address of the national committee;

(ii) The name and address of the convention committee and of the officers of that committee;

(iii) The name of the city where the convention is to be held and the approximate dates;

(iv) The name, address, and position of the convention committee officers designated by the national committee to sign requests for payments; and

(v) The name and address of the depository of the convention committee.

(4) The convention committee shall, by letter to the Commission, agree to the conditions set forth in paragraph (a)(4)(i) through (viii) of this section. This agreement shall also be binding upon the national committee.

(i) The convention committee shall agree to comply with the applicable expenditure limitation set forth at 11 CFR 9008.8.

(ii) The convention committee shall agree to file convention reports as required under 2 U.S.C. 437 and 11 CFR 9008.3(b).

(iii) The convention committee shall agree to establish one or more accounts into which all public funds received under 11 CFR 9008.4 and 9008.5 must be deposited and from which all expenditures for convention expenses must be made. Such account(s) shall contain only public funds except as provided in 11 CFR 9008.6(a)(3).

(iv) The convention committee shall agree to keep and furnish to the Commission all documentation of convention disbursements made by the committee as required under 11 CFR 9008.10. The convention committee has the burden of proving that disbursements by the convention committee were for purposes of

defraying convention expenses as set forth at 11 CFR 9008.7(a)(4).

(v) The convention committee shall agree to furnish to the Commission any books, records (including bank records for all accounts), a copy of any contract which the national committee enters into with a host committee or convention city or vendor, a copy of documentation provided by commercial vendors in accordance with 11 CFR 9008.9(b), and any other information that the Commission may request. If the convention committee maintains or uses computerized information containing any of the categories of data listed in 11 CFR 9008.10(h)(1) (i) through (iv), the convention committee will provide computerized magnetic media, such as magnetic tapes or magnetic diskettes, containing the computerized information at the times specified in 11 CFR 9008.10(h)(2) that meet the requirements of 11 CFR 102.9 and 9008.10 (a) and (b). Upon request, documentation explaining the computer system's software capabilities shall be provided, and such personnel as are necessary to explain the operation of the computer system's software and the computerized information prepared or maintained by the convention committee shall also be made available.

(vi) The convention committee shall agree to permit an audit and examination pursuant to 26 U.S.C. 9008(g) and 11 CFR 9008.11 of all convention expenses; to facilitate such audit by making available office space, records, and such personnel as is necessary to the conduct of the audit and examination; and to pay any amounts required to be paid under 26 U.S.C. 9008(h) and 11 CFR 9008.12.

(vii) The convention committee shall agree to comply with the applicable requirements of 2 U.S.C. 431 *et seq.*, 26 U.S.C. 9008, and the Commission's regulations at 11 CFR Parts 100–116 and 9008.

(viii) The convention committee shall pay any civil penalties included in a conciliation agreement or imposed under 2 U.S.C. 437g.

(5) The application statement and agreement may be filed at any time after June 1 of the calendar year preceding the year in which a Presidential nominating convention of the political party is held, but no later than the first day of the convention.

(b) *Registration and reports by political parties.*

(1) *Registration.* (i) Each convention committee established by a national committee under paragraph (a)(2) of this section shall register with the Commission on FEC Form 1 as a political committee pursuant to 11 CFR Part 102 and shall file reports with the Commission as required at paragraph (b)(2) of this section. Each report filed by the committee shall contain the information required by 11 CFR Part 104.

(ii) A State party committee or a subordinate committee of a State party committee which only assists delegates and alternates to the convention from that State with travel expenses and arrangements, or which sponsors caucuses, receptions, and similar activities at the convention site, need not register or report under this section.

(2) *Quarterly and post convention reports; content and time of filing.* Each committee required to register under paragraph (b)(1) of this section shall file reports as follows:

(i) The first quarterly report shall be filed on FEC Form 4 no later than 15 days following the end of the calendar quarter in which the committee either receives payment under 11 CFR 9008.6, or for parties which do not accept public funds, no later than 15 days after the calendar quarter in which the committee receives contributions or makes expenditures to defray convention expenses. The committee shall continue to file reports on a quarterly basis no later than the 15th day following the close of each calendar quarter, except that the report for the final calendar quarter of the year shall be filed on January 31 of the following calendar year. Quarterly reports shall be completed as of the close of the quarter and shall continue to be filed until the committee ceases activity in connection with that party's presidential nominating convention.

(ii) Any quarterly report due within 20 days before or after the convention shall be suspended and the committee shall in lieu of such quarterly report file a post convention report. The post convention report shall be filed on the earlier of: 60 days following the last day the convention is officially in session; or 20 days prior to the presidential general election. The post convention report shall be complete as of 15 days prior to the date on which the report must be filed.

(c) *Cessation of activity.* A convention committee which has received payments under 11 CFR 9008.6 shall cease activity no later than 24 months after the convention, unless the committee has been granted an extension of time. The Commission may grant any extension of time it deems appropriate upon request of the committee at least 30 days prior to the close of the 24 month period.

§ 9008.4 Entitlement to payments from the fund.

(a) *Major parties.* Subject to the provisions of this Part, the national committee of a major party shall be entitled to receive payments under 11 CFR 9008.6 with respect to any presidential nominating convention, in amounts which, in the aggregate, shall not exceed $4 million, as adjusted by the Consumer Price Index under 11 CFR 9008.5(a).

(b) *Minor parties.* Subject to the provisions of this Part, the national committee of a minor party shall be entitled to payments under 11 CFR 9008.6 with respect to any presidential nominating convention in amounts which, in the aggregate, shall not exceed an amount which bears the same ratio to the amount which the national committee of a major party is entitled to receive under 11 CFR 9008.5 as the number of popular votes received in the preceding presidential election by that minor party's presidential candidate bears to the average number of popular votes received in the preceding presidential election by all of the major party presidential candidates.

(c) *Limitation on payments.* Payments to the national committee of a major party or a minor party under 11 CFR 9008.6 from the account designated for such committee shall be limited to the amounts in such account at the time of payment.

§ 9008.5 Adjustment of entitlement.

(a) The entitlements established by 11 CFR 9008.4 shall be adjusted on the basis of the Consumer Price Index pursuant to the provisions of 2 U.S.C. 441a(c).

(b) The entitlements established by 11 CFR 9008.4 shall be adjusted so as not to exceed the difference between the expenditure limitations of 11 CFR 9008.8(a) and the amount of private contributions received under 11 CFR 9008.6(a) by the national committee of a political party. Except as provided in 11 CFR 9008.12(b)(7), in calculating these adjustments, amounts expended by Government agencies and municipal corporations in accordance with 11 CFR 9008.53; in-kind donations by businesses to the national committee or convention committee in accordance with 11 CFR 9008.9; expenditures by host committees in accordance with 11 CFR 9008.52; expenditures to participate in or attend the convention under 11 CFR 9008.8(b)(2); and legal and accounting services rendered in accordance with 11 CFR 9008.8(b)(4) will not be considered private contributions or expenditures counting against the limitation.

§ 9008.6 Payment and certification procedures.

(a) *Optional payments; private contributions.* (1) The national committee of a major or minor party may elect to receive all, part, or none of the amounts to which it is entitled under 11 CFR 9008.4 and 9008.5.

(2) If a national committee of a major or minor party elects to receive part of the amounts to which it is entitled under 11 CFR 9008.4 and 9008.5, or if the Secretary determines there is a deficiency in the Fund under 26 U.S.C. 9008(b)(4), the national committee may receive and use private contributions, so long as the sum of the contributions which are used to defray convention expenses and the amount of entitlements elected to be received does not exceed the total expenditure limitation under 11 CFR 9008.8.

(3) All private contributions received by the national committee to defray convention expenses shall be subject to all reporting requirements, limitations and prohibitions of Title 2, United States Code. The convention committee may establish a separate account for private contributions or may deposit such contributions with payments received from the Fund pursuant to paragraph (d) of this section. The account(s) shall be maintained at a State bank, federally chartered depository institution or other depository institution, the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation.

(b) *Increase in certified amount.* If the application statement is filed before it is possible to determine the cost of living increase for the year preceding the convention, that amount determined by the increase shall be paid to the national committee promptly after the increase has been determined.

(c) *Availability of payments.* The national committee of a major or minor party may receive payments under this section beginning on July 1 of the calendar year immediately preceding the calendar year in which a Presidential nominating convention of the political party involved is held.

(d) *Certification of payment.* After a national committee has properly submitted its application statement and agreement as required under 11 CFR 9008.3(a) (3) and (4), and upon receipt of a written request, payment of the committee's entitlement will be certified by the Commission to the Secretary of the Treasury.

§ 9008.7 Use of funds.

(a) *Permissible uses.* Any payment made under 11 CFR 9008.6 shall be used only for the following purposes:

(1) Such payment may be used to defray convention expenses (including the payment of deposits) incurred by or on behalf of the national committee receiving such payments; or

(2) Such payment may be used to repay the principal and interest, at a commercially reasonable rate, on loans the proceeds of which were used to defray convention expenses; or

(3) Such payment may be used to restore funds (including advances from the national committee to the convention committee), other than contributions to the committee for the purpose of defraying convention expenses, where such funds were used to defray convention expenses.

(4) "Convention expenses" include all expenses incurred by or on behalf of a political party's national committee or convention committee with respect to and for the purpose of conducting a presidential nominating convention or convention-related activities. Such expenses include, but are not limited to:

(i) Expenses for preparing, maintaining, and dismantling the physical site of the convention, including rental of the hall, platforms and seating, decorations, telephones, security, convention hall utilities, and other related costs;

(ii) Salaries and expenses of convention committee employees, volunteers and similar personnel, whose responsibilities involve planning, management or otherwise conducting the convention;

(iii) Salary or portion of the salary of any national committee employee for any period of time during which, as a major responsibility, that employee performs services related to the convention;

(iv) Expenses of national committee employees, volunteers or other similar personnel if those expenses were incurred in the performance of services for the convention in addition to the services normally rendered to the national committee by such personnel;

(v) Expenses for conducting meetings of or related to committees dealing with the conduct and operation of the convention, such as rules, credentials, platform, site, contests, call, arrangements and permanent organization committees, including printing materials and rental costs for meeting space.

(vi) Expenses incurred in securing a convention city and facility;

(vii) Expenses incurred in providing a transportation system in the convention city for use by delegates and other persons attending or otherwise connected with the convention;

(viii) Expenses for entertainment activities which are part of the official convention activity sponsored by the national committee, including but not limited to dinners, concerts, and receptions; except that expenses for the following activities are excluded:

(A) Entertainment activities sponsored by or on behalf of candidates for nomination to the office of President or Vice President, or State delegations;

(B) Entertainment activities sponsored by the national committee if the purpose of the activity is primarily for national committee business, such as fund-raising events, or selection of new national committee officers;

(C) Entertainment activities sponsored by persons other than the national committee; and

(D) Entertainment activities prohibited by law;

(ix) Expenses for printing convention programs, a journal of proceedings, agendas, tickets, badges, passes, and other similar publications;

(x) Administrative and office expenses for conducting the convention, including stationery, office supplies, office machines, and telephone charges; but excluded from these expenses are the cost of any services supplied by the national committee at its headquarters or principal office if such services are incidental to the convention and not utilized primarily for the convention;

(xi) Payment of the principal and interest, at a commercially reasonable rate, on loans the proceeds of which were used to defray convention expenses;

(xii) Expenses for gifts or monetary bonuses for national committee or convention committee employees, volunteers and convention officials in recognition for convention-related activities or services, provided that the gifts and bonuses do not exceed $150 total per individual, and the total for all gifts and bonuses does not exceed $20,000; and

(xiii) Expenses for producing biographical films, or similar materials, for use at the convention, about candidates for nomination or election to the office of President or Vice President, but any other political committee(s) that use part or all of the biographical films or materials shall pay the convention committee for the reasonably allocated cost of the biographical films or materials used.

(5) Any investment of public funds or any other use of public funds to generate income is permissible only if the income so generated is used to defray convention expenses. Such income, less any tax paid on it, shall be

repaid to the United States Treasury as provided under 11 CFR 9008.12(b)(6).

(b) *Prohibited uses.* (1) No part of any payment made under 11 CFR 9008.6 shall be used to defray the expenses of any candidate, delegate, or alternate delegate who is participating in any presidential nominating convention except that the expenses of a person participating in the convention as official personnel of the national party may be defrayed with public funds even though that person is simultaneously participating as a delegate or candidate to the convention. This Part shall not prohibit candidates, delegates or alternate delegates who are participating in a presidential nominating convention from attending official party convention activities including but not limited to dinners, concerts and receptions, where such activities are paid for with public funds.

(2) Public funds shall not be used to defray any expense the incurring or payment of which violates any law of the United States or any law of the State in which such expense is incurred or paid, or any regulation prescribed under federal or State laws.

(3) Public funds shall not be used to pay civil or criminal penalties required or agreed to be paid pursuant to 2 U.S.C. 437g. Any amounts received or expended by the national committee or convention committee of a political party to pay such penalties shall not be considered contributions or expenditures, except that such amounts shall be reported in accordance with 11 CFR Part 104 and shall be subject to the prohibitions of 11 CFR 110.4 and Parts 114 and 115.

§ 9008.8 Limitation of expenditures.

(a) *National party limitations.* (1) *Major parties.* Except as provided by paragraph (a)(3) of this section, the national committee of a major party may not incur convention expenses with respect to a Presidential nominating convention which, in the aggregate, exceed the amount to which such committee is entitled under 11 CFR 9008.4 and 9008.5.

(2) *Minor parties.* Except as provided by paragraph (a)(3) of this section, the national committee of a minor party may not incur convention expenses with respect to a Presidential nominating convention which, in the aggregate, exceed the amount to which the national committee of a major party is entitled under 11 CFR 9008.4 and 9008.5.

(3) *Authorization to exceed limitation.* The Commission may authorize the national committee of a major party or minor party to make expenditures for convention expenses, which expenditures exceed the limitation established by paragraph (a) (1) or (2) of this section. This authorization shall be based upon a determination by the Commission that, due to extraordinary and unforeseen circumstances, the expenditures are necessary to assure the effective operation of the Presidential nominating convention by the committee. Examples of "extraordinary and unforeseen circumstances" include, but are not limited to, a natural disaster or a catastrophic occurrence at the convention site. In no case, however, will such authorization entitle a national committee to receive public funds greater than the entitlement specified under 11 CFR 9008.4 and 9008.5. All private contributions received to defray expenditures under this paragraph shall be subject to all reporting requirements, limitations (except for limitations imposed by paragraphs (a)(1) and (2) of this section) and prohibitions of the Federal Election Campaign Act (2 U.S.C. 431 et seq.).

(b) *Payments not subject to limit.* (1) *Host committee expenditures.* Expenditures made by the host committee shall not be considered expenditures by the national committee and shall not count against the expenditure limitations of this section provided the funds are spent in accordance with 11 CFR 9008.52.

(2) *Expenditures by government agencies and municipal corporations.* Expenditures made by government agencies and municipal corporations shall not be considered expenditures by the national committee and shall not count against the expenditure limitations of this section if the funds are spent in accordance with the requirements of 11 CFR 9008.53.

(3) *Expenditures to participate in or attend convention.* Expenditures made by presidential candidates from campaign accounts, by delegates, or by any other individual from his or her personal funds for the purpose of attending or participating in the convention or convention related activities, including, but not limited to the costs of transportation, lodging and meals, or by State or local committees of a political party on behalf of such delegates or individuals shall not be considered expenditures made by or on behalf of the national party, and shall therefore not be subject to the overall expenditure limitations of this section.

(4) *Legal and accounting services.* (i) The payment of compensation to an individual by his or her regular employer for legal and accounting services rendered to or on behalf of the national committee shall not be considered an expenditure and shall not count against the expenditure limitations of this section.

(ii) The payment by the national committee of compensation to any individual for legal and accounting services rendered to or on behalf of the national committee in connection with the presidential nominating convention or convention-related activities shall not be considered an expenditure and shall not count against the expenditure limitations of this section provided that:

(A) The legal and accounting services relate solely to compliance with the Federal Election Campaign Act (2 U.S.C. 431, et seq.) and the Presidential Election Campaign Fund Act (26 U.S.C. Chapter 95); and

(B) The contributions raised to pay for the legal and accounting services comply with the limitations and prohibitions of 11 CFR Parts 110, 114 and 115. These contributions, when aggregated with other contributions from the same contributor to the political committees established and maintained by the national political party, shall not exceed $20,000 per person, and $15,000 per multicandidate political committee in any calendar year.

(iii) The convention committee shall report contributions received to pay for legal and accounting services on a separate Schedule A, and shall report payments for legal and accounting services on a separate Schedule B, attached to its reports.

(5) *Computerized information.* Payments to defray the costs of producing, delivering and explaining the computerized information and materials provided pursuant to 11 CFR 9008.10(h), and explaining the operation of the computer system's software, shall not be considered expenditures and shall not count against the expenditure limitations of this section, provided that the contributions raised to pay these expenses comply with the limitations and prohibitions of 11 CFR Parts 110, 114 and 115.

§ 9008.9 Receipt of goods and services from commercial vendors.

Commercial vendors may sell, lease, rent or provide their goods or services to the national committee with respect to a presidential nominating convention at reduced or discounted rates, or at no charge, provided that the requirements of either paragraph (a), paragraph (b), or paragraph (c) of this section are met. For purposes of this section, *commercial vendor* shall have the same meaning as provided in 11 CFR 116.1(c).

(a) *Standard reductions or discounts.* A commercial vendor may provide

reductions or discounts in the ordinary course of business. A reduction or discount shall be considered in the ordinary course of business if the commercial vendor has an established practice of providing the same reductions or discounts for the same amount of its goods or services to non-political clients, or if the reduction or discount is consistent with established practice in the commercial vendor's trade or industry. Examples of reductions or discounts made in the ordinary course of business include standard volume discounts and reduced rates for corporate, governmental or preferred customers. Reductions or discounts provided under paragraph (a) of this section need not be reported.

(b) *Items provided for promotional consideration.*

(1) A commercial vendor may provide goods or services in exchange for promotional consideration provided that doing so is in the ordinary course of business.

(2) The provision of goods or services shall be considered in the ordinary course of business under this paragraph:

(i) If the commercial vendor has an established practice of providing goods or services on a similar scale and on similar terms to non-political clients, or

(ii) If the terms and conditions under which the goods or services are provided are consistent with established practice in the commercial vendor's trade or industry in similar circumstances.

(3) In all cases, the value of the goods or services provided shall not exceed the commercial benefit reasonably expected to be derived from the unique promotional opportunity presented by the national nominating convention.

(4) The convention committee shall maintain documentation showing: the goods or services provided; the date(s) on which the goods or services were provided, the terms and conditions of the arrangement; and what promotional consideration was provided. In addition, the convention committee shall disclose in its report covering the period the goods or services are received, in a memo entry, a description of the goods or services provided for promotional consideration, the name and address of the commercial vendor, and the dates on which the goods or services were provided (e.g., "Generic Motor Co., Detroit, Michigan—ten automobiles for use 7/15–7/20, received on 7/14", or "Workers Inc., New York, New York—five temporary secretarial assistants for use 8/1–8/30, received on 8/1").

(c) *Items of de minimis value.* Commercial vendors (including banks) may sell at nominal cost, or provide at no charge, items of *de minimis* value, such as samples, discount coupons, maps, pens, pencils, or other items included in tote bags for those attending the convention. The items of *de minimis* value may be distributed by or with the help of persons employed by the commercial vendor, or employed by or volunteering for the national party or a host committee. The value of the items of *de minimis* value provided under this paragraph need not be reported.

(d) *Expenditure Limits.* The value of goods or services provided pursuant to this section will not count toward the national party's expenditure limitation under 11 CFR 9008.8(a).

§ 9008.10 Documentation of disbursements; net outstanding convention expenses.

The convention committee must include as part of the evidence of convention expenses the following documentation:

(a) For disbursements in excess of $200 to a payee, either:

(1) A receipted bill from the payee that states the purpose of the disbursement; or

(2) If such a receipted bill is not available, the following documents;

(i) A canceled check negotiated by the payee; plus

(ii) One of the following documents generated by the payee—a bill, invoice, voucher or contemporaneous memorandum that states the purpose of the disbursement;

(iii) Where the documents specified at paragraph (a)(2)(ii) of this section are not available, a voucher or contemporaneous memorandum from the committee that states the purpose of the disbursement;

(3) If neither a receipted bill nor the supporting documentation specified in paragraph (a)(2) (ii) or (iii) of this section is available, a canceled check negotiated by the payee that states the purpose of the disbursement.

(4) Where the supporting documentation required above is not available, the committee may present a canceled check and collateral evidence to document the convention expense. Such collateral evidence may include but is not limited to:

(i) Evidence demonstrating that the disbursement is part of an identifiable program or project which is otherwise sufficiently documented, such as a disbursement which is one of a number of documented disbursements relating to the operation of a committee office;

(ii) Evidence that the disbursement is covered by a preestablished written committee policy, such as a daily travel expense policy.

(b) For all other disbursements:

(1) If from the petty cash fund, a record that states the full name and mailing address of the payee and the amount, date and purpose of the disbursement; or

(2) A canceled check which has been negotiated by the payee and states the identification of the payee, and the amount and date of the disbursement.

(c) For purposes of this section, "payee" means the person who provides the goods or services to the committee in return for the disbursement, except that an individual will be considered a payee under this section if he or she receives $2,000 or less advanced for travel and/or subsistence and if he or she is the recipient of the goods or services purchased.

(d) For purposes of this section, the term "purpose" means the full name and mailing address of the payee, the date and amount of the disbursement, and a brief description of the goods or services purchased.

(e) Upon the request of the Commission the convention committee shall supply an explanation of the connection between the disbursement and the convention.

(f) The committee shall retain records with respect to each disbursement and receipt, including bank records, vouchers, worksheets, receipts, bills and accounts, journals, ledgers, fundraising solicitation material, accounting systems documentation, and any related material documenting campaign receipts and disbursements, for a period of three years pursuant to 11 CFR 102.9(c), and shall present these records to the Commission on request.

(g) *Net outstanding convention expenses.* A convention committee that is eligible to receive payments under 11 CFR 9008.3 shall file, no later than sixty days after the last day of the convention, a statement of that committee's net outstanding convention expenses. The convention committee shall file a revised statement of net outstanding convention expenses which shall reflect the financial position of the convention committee as of the end of the ninth month following the last day of the convention. The revised statement shall be filed no later than 30 calendar days after the end of the ninth month following the last day of the convention, and shall be accompanied by the interim repayment, if required under 11 CFR 9008.12(b)(5)(ii). The committee's net outstanding convention expenses under this section equal the difference between paragraphs (g) (1) and (2) of this section:

(1) The total of:

(i) All outstanding obligations for convention expenses as of 45 days after the last day of the convention; plus

(ii) An estimate of the amount of convention expenses that will be incurred after the 45th day and before the end of the ninth month following the last day of the convention; plus

(iii) An estimate of necessary winding down costs; less

(2) The total of:

(i) Cash on hand as of 45 days after the last day of the convention, including: all receipts dated on or before that date; currency; balances on deposit in banks, savings and loan institutions, and other depository institutions; traveler's checks; certificates of deposit; treasury bills; and any other committee investments valued at fair market value;

(ii) The fair market value of capital assets and other assets on hand; and

(iii) Amounts owed to the committee in the form of credits, refunds of deposits, returns, receivables, or rebates of convention expenses; or a commercially reasonable amount based on the collectibility of those credits, returns, receivables or rebates.

(3) The amount submitted as the total of outstanding convention obligations under paragraph (g)(1) of this section shall not include any accounts payable for non-convention expenses nor any amounts determined or anticipated to be required as a repayment under 11 CFR 9008.12 or any amounts paid to secure a surety bond under 11 CFR 9008.14(c).

(4) *Capital assets.* For purposes of this section, the term "capital asset" means any property used in the operation of the convention whose purchase price exceeded $2000 when acquired by the committee. Property that must be valued as capital assets under this section includes, but is not limited to, office equipment, furniture, vehicles and fixtures acquired for use in the operation of the convention, but does not include property defined as "other assets" under 11 CFR 9008.10(g)(5). A list of all capital assets shall be maintained by the committee, which shall include a brief description of each capital asset, the purchase price, the date it was acquired, the method of disposition and the amount received in disposition. The fair market value of capital assets may be considered to be the total original cost of such items when acquired less 40%, to account for depreciation. If the committee wishes to claim a higher depreciation percentage for an item, it must list that capital asset on the statement separately and demonstrate, through documentation, the fair market value of each such asset.

(5) *Other assets.* The term "other assets" means any property acquired by the committee for use in raising funds or as collateral for loans. "Other assets" must be included on the committee's statement of net outstanding convention expenses if the aggregate value of such assets exceeds $5000. The value of "other assets" shall be determined by the fair market value of each item as of 45 days after the last day of the convention, unless the item is acquired after this date, in which case the item shall be valued on the date it is acquired. A list of other assets shall be maintained by the committee, which shall include a brief description of each such asset, the fair market value of each asset, the method of disposition and the amount received in disposition.

(6) *Collectibility of accounts receivable.* If the committee determines that an account receivable of $500 or more, including any credit, refund, return or rebate, is not collectible in whole or in part, the committee shall demonstrate through documentation that the determination was commercially reasonable. The documentation shall include records showing the original amount of the account receivable, copies of correspondence and memoranda of communications with the debtor showing attempts to collect the amount due, and an explanation of how the lesser amount or full write-off was determined.

(7) *Winding down costs.* The term "winding down costs" means:

(i) Costs associated with the termination of the convention such as complying with the post-convention requirements of the Act and other necessary administrative costs associated with winding down the convention, including office space rental, staff salaries and office supplies; and

(ii) Costs incurred by the convention committee prior to 45 days after the last day of the convention for which written arrangements or commitment was made on or before that date.

(8) *Review of convention committee statement.* The Commission will review the statement filed by each convention committee under this section. The Commission may request further information with respect to statements filed pursuant to 11 CFR 9008.10 during the audit of that committee under 11 CFR 9008.11.

(h) *Production of computer information.* (1) *Categories of computerized information to be provided.* If the convention committee maintains or uses computerized information containing any of the categories of data listed in paragraphs (h)(1)(i) through (h)(1)(iv) of this section, the committee shall provide computerized magnetic media, such as magnetic tapes or magnetic diskettes, containing the computerized information at the times specified in paragraph (h)(2) of this section:

(i) Information required by law to be maintained regarding the committee's receipts or disbursements;

(ii) Records used to reconcile bank statements;

(iii) Records relating to the acquisition, use and disposition of capital assets; and

(iv) Any other information that may be used during the Commission's audit to review the committee's receipts, disbursements, loans, debts, obligations, or bank reconciliations.

(2) *Time for Production.* If the committee maintains or uses computerized information containing any of the data listed in paragraph (h)(1) of this section, the Commission generally will request such information prior to commencement of audit fieldwork. Such request will be made in writing. The committee shall produce the computerized information no later than 15 calendar days after service of such request. During or after audit fieldwork, the Commission may request additional or updated computerized information which expands the coverage dates of computerized information previously provided. During or after audit fieldwork, the Commission may also request additional computerized information which was created by or becomes available to the committee that is of assistance in the Commission's audit. The committee shall produce the additional or updated computerized information no later than 15 calendar days after service of the Commission's request.

(3) *Organization of computerized information and technical specifications.* The computerized magnetic media shall be prepared and delivered at the committee's expense and shall conform to the technical specifications, including file requirements, described in the Federal Election Commission's Computerized Magnetic Media Requirements for Title 26 Candidates/Committees Receiving Federal Funding. The data contained in the computerized magnetic media provided to the Commission shall be organized in the order specified by the Computerized Magnetic Media Requirements.

(4) *Additional materials and assistance.* Upon request, the committee shall produce documentation explaining the computer system's software capabilities, such as user guides, technical manuals, formats, layouts and

other materials for processing and analyzing the information request. Upon request, the committee shall also make available such personnel as are necessary to explain the operation of the computer system's software and the computerized information prepared or maintained by the committee.

§ 9008.11 Examinations and audits.

The Commission shall conduct an examination and audit of the convention committee no later than December 31 of the calendar year of the convention and may at any time conduct other examinations and audits as it deems necessary. The Commission will follow the same procedures during the audit, and will afford the committee the same right to respond, as are provided for audits of publicly funded candidates under 11 CFR 9007.1 and 9038.1.

§ 9008.12 Repayments.

(a) *General.*

(1) A national committee that has received payments from the Fund under 11 CFR Part 9008 shall pay the United States Treasury any amounts which the Commission determines to be repayable under this section. In making repayment determinations under this section, the Commission may utilize information obtained from audits and examinations conducted pursuant to 11 CFR 9008.11 or otherwise obtained by the Commission in carrying out its responsibilities under this subchapter.

(2) The Commission will notify the committee of any repayment determinations made under this section as soon as possible, but not later than 3 years after the last day of the Presidential nominating convention. The Commission's issuance of an interim audit report to the committee will constitute notification for purposes of the three year period.

(3) Once the committee receives notice of the Commission's final repayment determination under this section, the committee should give preference to the repayment over all other outstanding obligations of the committee, except for any federal taxes owed by the committee.

(b) *Bases for repayment.* The Commission may determine that the national committee of a political party that has received payments from the Fund must repay the United States Treasury under any of the circumstances described below.

(1) *Excess payments.* If the Commission determines that any portion of the payments to the national committee or convention committee under 11 CFR 9008.6(b) was in excess of the aggregate payments to which the national committee was entitled under 11 CFR 9008.4 and 9008.5, it shall so notify the national committee, and the national committee shall pay to the Secretary an amount equal to such portion.

(2) *Excessive expenditures.* If the Commission determines that the national committee or convention committee incurred convention expenses in excess of the limitations under 11 CFR 9008.8(a), it shall notify the national committee of the amount of such excessive expenditures, and the national committee shall pay to the Secretary an amount equal to the amount specified.

(3) *Excessive contributions.* If the Commission determines that the national committee accepted contributions to defray convention expenses which, when added to the amount of payments received, exceeds the expenditure limitation of such party, it shall notify the national committee of the amount of the contributions so accepted, and the national committee shall pay to the Secretary an amount equal to the amount specified.

(4) *Improper usage or documentation.* If the Commission determines that any amount of any payment to the national committee or convention committee under 11 CFR 9008.6(b) was used for any purposes other than the purposes authorized at 11 CFR 9008.7 or was not documented in accordance with 11 CFR 9008.10, it shall notify the national committee of the amount improperly used or documented and the national committee shall pay to the Secretary an amount equal to the amount specified.

(5) *Unspent funds.* (i) If any portion of the payment under 11 CFR 9008.4 remains unspent after all convention expenses have been paid, that portion shall be returned to the Secretary of the Treasury.

(ii) The national committee or convention committee shall make an interim repayment of unspent funds based on the financial position of the committee as of the end of the ninth month following the last day of the convention, allowing for a reasonable amount as determined by the Commission to be withheld for unanticipated contingencies. The interim repayment shall be made no later than 30 calendar days after the end of the ninth month following the last day of the convention. If, after written request by the national committee or convention committee, the Commission determines, upon review of evidence presented by either committee, that amounts previously refunded are needed to defray convention expenses, the Commission shall certify such amount for payment.

(iii) All unspent funds shall be repaid to the U.S. Treasury no later than 24 months after the last day of the convention, unless the national committee has been granted an extension of time. The Commission may grant any extension of time it deems appropriate upon request of the national committee.

(6) *Income on investments of payments from the Fund.* If the Commission determines that the national committee or the convention committee received any income as a result of investment or other use of payments from the Fund pursuant to 11 CFR 9008.7(a)(5), it shall so notify the committee and the committee shall pay to the United States Treasury an amount equal to the amount determined to be income, less any Federal, State or local taxes on such income.

(7) The Commission may seek repayment, or may initiate an enforcement action, if the convention committee knowingly helps, assists or participates in the making of a convention expenditure by the host committee, government agency or municipal corporation which is not in accordance with 11 CFR 9008.52 or 9008.53, or the acceptance of a contribution by the host committee or government agency or municipal corporation from an impermissible source, such as a nonlocal business.

(c) *Repayment determination procedures.* The Commission will follow the same repayment determination procedures, and the committee has the same rights and obligations as are provided for repayment determinations involving publicly funded candidates under 11 CFR 9007.2 (c) through (h).

§ 9008.13 Additional audits.

In accordance with 11 CFR 104.16(c), the Commission, pursuant to 11 CFR 111.10, may upon affirmative vote of four members conduct an audit and field investigation of any committee in any case in which the Commission finds reason to believe that a violation of a statute or regulation over which the Commission has jurisdiction has occurred or is about to occur.

§ 9008.14 Petitions for rehearing: stays of repayment determinations.

Petitions for rehearing following the Commission's final repayment determination and requests for stays of repayment determinations will be governed by the procedures set forth at 11 CFR 9007.5 and 9038.5. The Commission will afford convention

committees the same rights as are provided to publicly funded candidates under 11 CFR 9007.5 and 9038.5.

§ 9008.15 Extensions of time.

(a) It is the policy of the Commission that extensions of time under 11 CFR Part 9008 will not be routinely granted.

(b) Whenever a committee has a right or is required to take action within a period of time prescribed by 11 CFR Part 9008 or by notice given thereunder, the committee may apply in writing to the Commission for an extension of time in which to exercise such right or take such action. The committee shall demonstrate in the application for extension that good cause exists for its request.

(c) An application for extension of time shall be made at least 7 calendar days prior to the expiration of the time period for which the extension is sought. The Commission may, upon a showing of good cause, grant an extension of time to a committee that has applied for such extension in a timely manner. The length of time of any extension granted hereunder shall be decided by the Commission and may be less than the amount of time sought by the committee in its application.

(d) If a committee fails to seek an extension of time, exercise a right or take a required action prior to the expiration of a time period prescribed by 11 CFR Part 9008, the Commission may, on the committee's showing of excusable neglect:

(1) Permit such committee to exercise its right(s), or take such required action(s) after the expiration of the prescribed time period; and

(2) Take into consideration any information obtained in connection with the exercise of any such right or taking of any such action before making decisions or determinations under 11 CFR Part 9008.

§ 9008.16 Stale-dated committee checks.

If the committee has checks outstanding that have not been cashed, the committee shall notify the Commission. The committee shall inform the Commission of its efforts to locate the payees, if such efforts have been necessary, and its efforts to encourage the payees to cash the outstanding checks. The committee shall also submit a check for the total amount of such outstanding checks, payable to the United States Treasury.

Subpart B—Host Committees Representing a Convention City; Convention Expenditures by Government Agencies and Municipal Corporations

§ 9008.50 Scope.

Subpart B governs registration and reporting by host committees representing convention cities and by government agencies and municipalities. Unsuccessful efforts to attract a convention need not be reported by any city, committee or other organization. Subpart B also describes permissible sources of funds and other permissible donations to host committees, government agencies and municipal corporations. In addition, Subpart B describes permissible expenditures by government agencies, municipal corporations and host committees to defray convention expenses and to promote the convention city and its commerce.

§ 9008.51 Registration and reports.

(a) *Registration by host committees.* (1) Each committee, including a host committee, other organization or group of persons which represents a State, municipality, local government agency or other political subdivision in dealing with officials of a national political party with respect to matters involving a presidential nominating convention shall register with the Commission on the Convention Registration Form within 10 days of the date on which such party chooses the convention city. The following information shall be required of the registrant: the name and address; the name and address of its officers; and a list of the activities which the registering entity plans to undertake in connection with the convention.

(2) Any such committee, organization or group which is unsuccessful in its efforts to attract the convention to a city need not register under this section.

(b) *Post-convention and quarterly reports by host committees; content and time of filing.* (1) Each committee, organization or group required to register under this section shall file a post convention report with the Commission on FEC Form 4. The report shall be filed on the earlier of: 60 days following the last day the convention is officially in session; or 20 days prior to the presidential general election. This report shall disclose all receipts and disbursements, including in-kind contributions, made with respect to a presidential nominating convention.

(2) If such committee, organization or group has receipts or makes disbursements after the completion date of the post convention report, it shall begin to file quarterly reports no later than 15 days after the end of the following calendar quarter. This report shall disclose all transactions completed as of the close of that calendar quarter. Quarterly reports shall be filed thereafter until the committee, organization or group ceases all activity which must be reported under this section.

(3) Such committee, organization or group shall file a final report with the Commission not later than 10 days after it ceases activity which must be reported under this section, unless such status is reflected in either the post convention report or a quarterly report.

(c) *Registration and post-convention statements by municipalities and local government agencies.* Each organization or group of persons which represents a State, municipality, local government agency or other political subdivision in dealing with officials of a national political party with respect to matters involving a presidential nominating convention shall file, by letter, a statement with the Commission reporting the total amount spent to provide facilities and services for the convention under 11 CFR 9008.53(c), a list of the categories of facilities and services the municipality or government agency provided for the convention, the total amount spent for each category of facilities and services provided, the total amount defrayed from general revenues, and the total amount of all private donations received to defray these expenses. This statement shall be filed on the earlier of: 60 days following the last day the convention is officially in session; or 20 days prior to the presidential general election. Categories of facilities and services may include construction, security, communications, transportation, utilities, clean up, meeting rooms and accommodations.

§ 9008.52 Receipts and disbursements of host committees.

(a) *Definition of host committee.* A host committee includes any local organization, such as a local civic association, business league, chamber of commerce, real estate board, board of trade, or convention bureau: Which is not organized for profit; whose net earnings do not inure to the benefit of any private shareholder or individual; and whose principal objective is the encouragement of commerce in the convention city, as well as the projection of a favorable image of the city to convention attendees. A host committee must register in accordance with 11 CFR 9008.51.

(b) *Receipt of goods or services from commercial vendors.* Host committees

may accept goods or services from commercial vendors under the same terms and conditions (including reporting requirements) set forth at 11 CFR 9008.9 for convention committees.

(c) *Receipt of donations from local businesses and organizations.* (1) Local businesses (excluding banks), local labor organizations, and other local organizations or individuals may donate funds or make in-kind donations to a host committee to be used for the following purposes:

(i) To defray those expenses incurred for the purpose of promoting the suitability of the city as a convention site;

(ii) To defray those expenses incurred for welcoming the convention attendees to the city, such as expenses for information booths, receptions, and tours;

(iii) To defray those expenses incurred in facilitating commerce, such as providing the convention and attendees with shopping and entertainment guides and distributing the samples and promotional material specified in 11 CFR 9008.9(c);

(iv) To defray the administrative expenses incurred by the host committee, such as salaries, rent, travel, and liability insurance;

(v) To provide the national committee use of an auditorium or convention center and to provide construction and convention related services for that location such as: construction of podiums; press tables; false floors, camera platforms; additional seating; lighting, electrical, air conditioning and loudspeaker systems; offices; office equipment; and decorations;

(vi) To defray the costs of various local transportation services, including the provision of buses and automobiles;

(vii) To defray the costs of law enforcement services necessary to assure orderly conventions;

(viii) To defray the cost of using convention bureau personnel to provide central housing and reservation services;

(ix) To provide hotel rooms at no charge or a reduced rate on the basis of the number of rooms actually booked for the convention;

(x) To provide accommodations and hospitality for committees of the parties responsible for choosing the sites of the conventions; and

(xi) To provide other similar convention-related facilities and services.

(2) For purposes of this section, any business (including a branch of a national or regional chain, a franchise, or a licensed dealer) or labor organization or other organization with offices or facilities located within the Metropolitan Area (MA) of the convention city shall be considered local. There shall be a rebuttable presumption that any such entity located outside the MA is not local. This presumption may be rebutted by a showing that the volume of business or activity in an area lying outside the MA would be directly affected by the presence of the convention.

§ 9008.53 Receipts and disbursements of government agencies and municipal corporations.

(a) *Receipt of goods and services provided by commercial vendors.* Government agencies and municipal corporations may accept goods or services from commercial vendors for convention uses under the same terms and conditions (except reporting requirements) set forth at 11 CFR 9008.9 for convention committees.

(b) *Receipt of donations to a separate fund or account.*

(1) Local businesses (excluding banks), local labor organizations, and other local organizations or individuals may donate funds or make in-kind donations to a separate fund or account of a government agency or municipality to pay for expenses listed in 11 CFR 9008.52(c), provided that:

(i) The fund or account is not restricted to use in connection with any particular convention; and

(ii) Donations to the fund or account are unrestricted and are not solicited or designated for use in connection with any particular convention, event or activity.

(2) For purposes of this section, any business (including a branch of a national or regional chain, a franchise, or a licensed dealer) or labor organization or other organization with offices or facilities located within the Metropolitan Area (MA) of the convention city shall be considered local. There shall be a rebuttable presumption that any such entity located outside the MA is not local. This presumption may be rebutted by a showing that the volume of business of activity in an area lying outside the MA would be directly affected by the presence of the convention.

§ 9008.54 Examinations and audits.

The Commission shall conduct an examination and audit of each host committee registered under 11 CFR 9008.51. The Commission will follow the same procedures during the audit, and will afford the committee the same right to respond, as are provided for audits of publicly funded candidates under 11 CFR 9007.1 and 9038.1, except that the Commission will not make any repayment calculations under this section.

Dated: June 23, 1994.

Trevor Potter,

Chairman.

[FR Doc. 94–15710 Filed 6–28–94; 8:45 am]

BILLING CODE 6715–01–M

federal register

Wednesday
June 29, 1994

Part VI

Federal Emergency Management Agency

Changes to the Hotel and Motel Fire Safety Act National Master List; Notice

FEDERAL EMERGENCY MANAGEMENT AGENCY

Changes to the Hotel and Motel Fire Safety Act National Master List

AGENCY: United States Fire Administration, FEMA.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA or Agency) gives notice of additions and corrections/changes to, and deletions from, the national master list of places of public accommodations which meet the fire prevention and control guidelines under the Hotel and Motel Fire Safety Act.

EFFECTIVE DATE: July 29, 1994.

ADDRESSES: Comments on the master list are invited and may be addressed to the Rules Docket Clerk, Federal Emergency Management Agency, 500 C Street, SW., room 840, Washington, D.C. 20472, (fax) (202) 646–4536. To be added to the National Master List, or to make any other change to the list, see Supplementary Information below.

FOR FURTHER INFORMATION CONTACT: John Ottoson, Fire Management Programs Branch, United States Fire Administration, Federal Emergency Management Agency, National Emergency Training Center, 16825 South Seton Avenue, Emmitsburg, MD 21727, (301) 447–1272.

SUPPLEMENTARY INFORMATION: Acting under the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. 2201 note, the United States Fire Administration has worked with each State to compile a national master list of all of the places of public accommodation affecting commerce located in each State that meet the requirements of the guidelines under the Act. FEMA published the national master list in the **Federal Register** on Tuesday, November 29, 1993, 58 FR 62718, and published changes approximately monthly since then.

Parties wishing to be added to the National Master List, or to make any other change, should contact the State office or official responsible for compiling listings of properties which comply with the Hotel and Motel Fire Safety Act. A list of State contacts was published in 58 FR 17020 on March 31, 1993. If the published list is unavailable to you, the State Fire Marshal's office can direct you to the appropriate office. Periodically FEMA will update and redistribute the national master list to incorporate additions and corrections/changes to the list, and deletions from the list, that are received from the State offices.

Each update contains or may contain three categories: "Additions;" "Corrections/changes;" and "Deletions." For the purposes of the updates, the three categories mean and include the following:

"Additions" are either names of properties submitted by a State but inadvertently omitted from the initial master list or names of properties submitted by a State after publication of the initial master list;

"Corrections/changes" are corrections to property names, addresses or telephone numbers previously published or changes to previously published information directed by the State, such as changes of address or telephone numbers, or spelling corrections; and

"Deletions" are entries previously submitted by a State and published in the national master list or an update to the national master list, but subsequently removed from the list at the direction of the State.

Copies of the national master list and its updates may be obtained by writing to the Government Printing Office, Superintendent of Documents, Washington, DC 20402–9325. When requesting copies please refer to stock number 069–001–00049–1.

The update to the national master list follows below.

Dated: June 24, 1994.

John P. Carey,

General Counsel.

HOTEL AND MOTEL FIRE SAFETY ACT NATIONAL MASTER LIST 06/22/94

Index, Property name	PO Box/Rt No.	Street address	City	State/zip	Telephone
ADDITIONS					
Arkansas					
AR0059 Motel 6 #552		2980 N. College Ave.	Fayetteville	AR 72701–	(501)443–4351
AR0060 Capital Hotel		111 W. Markham St.	Little Rock	AR 72201–	(501)374–7474
AR0058 Motel 6 #1081		10524 W. Markham St.	Little Rock	AR 72205–	(501)225–7366
AR0056 Motel 6 #1265		7501 I–30	Little Rock	AR 72209–	(501)568–8888
AR0061 Park Inn International		901 Hwy. 67 N.	Newport	AR 72112–	(501)523–5851
AR0057 Motel 6 #1264		1716 Fayetteville Road	Van Buren	AR 72956–	(501)474–8001
Arizona					
AZ0194 Motel 6 No. 1116		1616 Highway 95	Bullhead City	AZ 86442–	(602)763–1002
AZ0187 Motel 6 No. 1263		4965 N. Sunland Gin Rd.	Casa Grande	AZ 85222–	(602)836–3323
AZ0198 Motel 6 No. 1000		2745 S. Woodlands Village	Flagstaff	AZ 86001–	(602)779–3757
AZ0200 Motel 6 No. 1357		2500 E. Lucky Lane	Flagstaff	AZ 86001–	(602)779–6184
AZ0199 Motel 6 No. 301		2010 E. Butler	Flagstaff	AZ 86004–	(602)774–1801
AZ0197 Motel 6 No. 1114		424 W. Beale St.	Kingman	AZ 86401–	(602)753–9222
AZ0201 Motel 6 No. 1366		3351 E. Andy Devine Ave	Kingman	AZ 86401–	(602)757–7151
AZ0190 Motel 6 No. 378		336 W. Hampton	Mesa	AZ 85210–	(602)844–8899
AZ0186 Best Western Inn Suites Phoenix Squaw Peak.		1615 E. Northern	Phoenix	AZ 85020–	(602)997–6285
AZ0185 Crown Sterling Suites		2630 E. Camelback Rd.	Phoenix	AZ 85016–	(602)955–3992
AZ0191 Motel 6 No. 344		2330 W. Bell Rd.	Phoenix	AZ 85023–	(602)993–2353
AZ0189 Motel 6 No. 696		1530 N. 52nd Dr.	Phoenix	AZ 85043–	(602)272–0220
AZ0203 Phoenix Knights Court		5050 N. Black Canyon Hwy	Phoenix	AZ 85017–	(602)242–8011
AZ0196 Motel 6 No. 1193		1720 S. Priest Dr.	Tempe	AZ 85281–	(602)968–4401
AZ0195 Motel 6 No.		4950 S. Cutlet Center Dr.	Tucson	AZ 85706–	(602)746–0030
AZ0192 Motel 6 No. 050		960 S. Freeway	Tucson	AZ 85745–	(602)628–1339
AZ0193 Motel 6 No. 022		11133 Grand Ave	Youngtown-Sun City.	AZ 85363–	(602)977–1318

HOTEL AND MOTEL FIRE SAFETY ACT NATIONAL MASTER LIST 06/22/94—Continued

Index, Property name	PO Box/Rt No.	Street address	City	State/zip	Telephone
AZ0188 Motel 6 No. 1031		1445 E. 16th St.	Yuma	AZ 85365–	(602)782–9521
AZ0202 Motel 6 No. 383		1640 S. Arizona	Yuma	AZ 85364–	(602)782–6561
California					
CA1160 Best Western Stovall's Pavilions.		1176 W. Katella Ave.	Anaheim	CA 92802–	(714)776–0140
CA1148 Crystal Suites Hotel		1752 So. Clementine St.	Anaheim	CA 92802–	(714)535–8255
CA1149 Peacock Suites Hotel		1745 S. Haster St.	Anaheim	CA 92802–	(714)535–8255
CA1179 Motel 6, #351		9400 El Camino Real	Atascadero	CA 93422–	(805)466–6701
CA1181 Motel 6, #1019		8223 E. Brundage Lane	Bakersfield	CA 93307–	(805)366–7231
CA1168 Motel 6, #1322		1350 Easton Dr.	Bakersfield	CA 93309–	(805)327–1686
CA1250 Motel 6, #262		2727 White Ln.	Bakersfield	CA 93304–	(805)834–2828
CA1180 Motel 6, #329		5241 Olive Tree Court	Bakersfield	CA 93308–	(805)392–9700
CA1186 Motel 6, #1355		150 Yucca Ave.	Barstow	CA 92311–	(619)256–1752
CA1187 Motel 6, #164		31951 E. Main St.	Barstow	CA 92311–	(619)256–0653
CA1175 Motel 6, #1052		17220 Downey Ave.	Bellflower	CA 90706–	(310)531–3933
CA1184 Motel 6, #062		333 McMurray Blvd.	Buellton	CA 93427–	(805)688–7797
CA1185 Motel 6, #1053		7051 Valleyview	Buena Park	CA 90622–	(714)522–1200
CA1153 Crown Sterling Suites, San Francisco Airport.		150 Anza Blvd.	Burlingame	CA 94010–	(415)342–4600
CA1183 Motel 6, #1354		20638 Tracy Ave.	Buttonwillow	CA 93206–	(805)764–5153
CA1182 Motel 6, #266		3810 Tracy Blvd.	Buttonwillow	CA 93206–	(805)764–5207
CA1155 Best Western Beach Terrace Inn.		2775 Ocean St.	Carlsbad	CA 92008–	(619)729–5951
CA1178 Motel 6, #1021		1006 Carlsbad Village Dr.	Carlsbad	CA 92008–	(619)434–7135
CA1176 Motel 6, #1351		6117 Paseo del Norte	Carlsbad	CA 92008–	(619)438–1242
CA1177 Motel 6, #471		750 Raintree Dr.	Carlsbad	CA 92009–	(619)431–0745
CA1174 Motel 6, #1353		5550 Carpinteria Ave.	Carpentena	CA 93103–	(805)684–8602
CA1189 Motel 6, #1017		12266 Central Ave.	Chino	CA 91710–	(909)591–3877
CA1209 Motel 6, #1356		25008 W. Dorris	Coalinga	CA 93210–	(209)935–1536
CA1188 Motel 6, #325		25278 W. Dorris	Coalinga	CA 93210–	(209)935–2063
CA1166 Best Western Kings Inn.		1084 Pomona Road	Corona	CA 91720–	(909)734–4241
CA1157 Dublin Park Hotel		6680 Regional Street	Dublin	CA 94568–	(510)828–7750
CA1195 Motel 6, #1044		550 Montrose Ct.	El Cajon	CA 92020–	(619)588–6100
CA1194 Motel 6, #1047		900 N. Quince St.	Escondido	CA 92025–	(619)745–9252
CA1253 Red Lion Hotel		1929 Fourth St.	Eureka	CA 95501–	(707)445–0844
CA1193 Motel 6, #1035		1473 Holiday Lane	Fairfield	CA 94533–	(707)425–4565
CA1192 Motel 6, #249		10195 Sierra Ave.	Fontana	CA 92335–	(909)823–8686
CA1190 Motel 6, #006		4245 N. Blackstone Ave.	Fresno	CA 93726–	(209)221–0800
CA1191 Motel 6, #1032		445 N. Parkway Dr.	Fresno	CA 93706–	(209)485–5011
CA1196 Motel 6, #1008		1440 N. State College	Fullerton	CA 92806–	(714)956–9690
CA1167 Motel 6, #025		6110 Monterey Hwy.	Gilroy	CA 95020–	(408)842–6061
CA1164 Tsewenaldin Best Western Motel.		Highway 96	Hoopa	CA 95546–	(916)625–4294
CA1197 Motel 6, #1359		4673 Lassen Dr.	Livermore	CA 94550–	(510)443–5300
CA1200 Motel 6, #1365		1521 N. H St.	Lompoc	CA 93436–	(805)735–7631
CA1256 Howard Johnson Plaza Hotel.		1133 Atlantic Ave.	Long Beach	CA 90813–	(310)590–8858
CA1255 Wyndham Checkers Hotel.		535 So. Grand	Los Angeles	CA 90071–	(213)624–0000
CA1251 Motel 6, #274		14685 Warren St.	Los Hills	CA 93249–	(805)797–2346
CA1202 Motel 6, #1029		1410 V St.	Merced	CA 95340–	(209)384–2181
CA1201 Motel 6, #23		1983 E. Childs Ave.	Merced	CA 95340–	(209)384–3702
CA1206 Milpitas Super 8 Motel		485 South Main St.	Milpitas	CA 95035–	(408)946–1615
CA1203 Motel 6, #1026		100 Reservation Road	Monterey	CA 93933–	(408)384–1000
CA1204 Motel 6, #1072		24630 Sunnymead Blvd.	Moreno Valley	CA 92553–	(909)243–0075
CA1158 El Ranch Best Western		2460 Main St.	Morro Bay	CA 93442–	(805)772–2212
CA1205 Motel 6, #004		4301 El Camino Real	Morro Bay	CA 94306–	(415)949–0833
CA1171 Motel 6, #1262	942		N. Palm Springs	CA 92258–	(619)251–1425
CA1199 Motel 6, #1015		8480 Edes Ave.	Oakland	CA 94621–	(510)638–1180
CA1198 Motel 6, #1080		1801 Embarcadero	Oakland	CA 94606–	(510)436–0103
CA1165 Best Western Oceanside Inn.		1680 Oceanside Blvd.	Oceanside	CA 92054–	(619)722–1821
CA1215 Motel 6, #679		3708 Plaza Dr.	Oceanside	CA 92056–	(619)941–1011
CA1252 Motel 6, #1009		1560 E. Fourth St.	Ontario	CA 91764–	(909)984–2424
CA1242 Motel 6, #1004		2920 W. Chapman	Orange	CA 92668–	(714)634–2441
CA1152 Mandalay Beach Resort.		2101 Mandalay Beach Road	Oxnard	CA 93035–	(805)984–2500
CA1212 Motel 6, #009		595 E. Palm Canyon Dr.	Palm Springs	CA 92264–	(619)325–6129
CA1216 Motel 6, #689		660 S. Palm Canyon Dr.	Palm Springs	CA 92262–	(619)327–4200

HOTEL AND MOTEL FIRE SAFETY ACT NATIONAL MASTER LIST 06/22/94—Continued

Index, Property name	PO Box/Rt No.	Street address	City	State/zip	Telephone
CA1214 Motel 6, #292		407 W. Palmdale Blvd.	Palmdale	CA 93550–	(805)272–0660
CA1172 Motel 6, #41		4301 El Camino Real	Palo Alto	CA 94306–	(415)949–0833
CA1238 Motel 6, #1372		1134 Black Oak Dr.	Paso Royales	CA 93446–	(805)239–9090
CA1239 Motel 6, #1369		1368 N. McDowell Blvd.	Petaluma	CA 94952–	(707)765–0333
CA1240 Motel 6, #1049		1501 Fitzgerald Dr.	Pinole	CA 94561–	(510)222–8174
CA1213 Motel 6, #270		860 4th St.	Pismo Beach	CA 93449–	(805)773–2665
CA1156 Residence Inn Placentia.		700 W. Kimberly Ave.	Placentia	CA 92670–	(714)996–0555
CA1232 Motel 6, #1371		2385 Bechelli Ln.	Redding	CA 96001–	(916)221–0562
CA1236 Motel 6, #674		1250 Twin View Blvd.	Redding	CA 96003–	(916)246–4470
CA1228 Motel 6, #95		1640 Hilltop Dr.	Redding	CA 96002–	(916)221–1800
CA1241 Motel 6, #1038		6145 Commerce Blvd.	Rohnert Park	CA 94928–	(707)585–8888
CA1223 Motel 6, #013		1415 30th St.	Sacramento	CA 95816–	(916)457–0777
CA1210 Motel 6, #1005		7850 College Town Dr.	Sacramento	CA 95826–	(916)383–8110
CA1254 Red Lion Hotel		1401 Arden Way	Sacramento	CA 95815–	(916)922–8041
CA1233 Motel 6, #1370		140 Kern St.	Salinas	CA 93901–	(408)753–1711
CA1237 Motel 6, #639		1257 Dela Torre Blvd.	Salinas	CA 93905–	(408)757–3077
CA1150 Comfort Inn Sea-world Area.		4610 De Soto St.	San Diego	CA 92109–	(619)483–9800
CA1208 Motel 6, #014		2424 Hotel Circle North	San Diego	CA 92108–	(619)296–1612
CA1163 The Abigail Hotel		246 McAllister St.	San Francisco	CA 94102–	(415)861–9728
CA1161 The Holiday Lodge		1901 Van Ness Street	San Francisco	CA 94109–	(415)775–4469
CA1162 The Phoenix Inn		601 Eddy St.	San Francisco	CA 94109–	(415)776–1380
CA1159 The Raphael Hotel		386 Geary St.	San Francisco	CA 94102–	(415)986–2000
CA1231 Motel 6, #103		2560 Fontaine Rd.	San Jose	CA 95121–	(408)270–3131
CA1227 Motel 6, #1373		1625 Calle Joaquin	San Luis Obispo	CA 93401–	(805)541–6992
CA1249 Motel 6, #138		1433 Calle Joaquin	San Luis Obispo	CA 93401–	(805)549–9595
CA1170 Motel 6, #1212		9070 Castillo Dr.	San Simeon	CA 93452–	(805)927–8691
CA1226 Motel 6, #98		160 E. Calle Primaro	San Ysidro	CA 92173–	(619)690–6663
CA1151 Crown Sterling Suites, Orange County Airport.		1325 E. Dyer Rd.	Santa Ana	CA 92705–5615	(714)241–3800
CA1235 Motel 6, #738		1623 E. First St.	Santa Ana	CA 92701–	(714)558–0500
CA1229 Motel 6, #346		4200 Via Real	Santa Barbara	CA 93013–	(805)684–6921
CA1211 Motel 6, #675		2040 N. Preisler Lane	Santa Maria	CA 93454–	(805)928–8111
CA1225 Motel 6, #294		12733 S. Hwy. 33	Santa Nella	CA 95322–	(209)826–6644
CA1230 Motel 6, #1362		3145 Cleveland Ave.	Santa Rosa	CA 95403–	(707)525–9010
CA1220 Motel 6, #250		2375 Lake Tahoe Blvd.	South Lake Tahoe.	CA 96150–	(916)542–1400
CA1154 Crown Sterling Suites, South San Francisco.		250 Gateway Blvd.	South San Francisco.	CA 94080–	(415)589–3400
CA1224 Motel 6, #251		7450 Katella Ave.	Stanton	CA 90680–	(714)891–0717
CA1234 Motel 6, #1054		775 N. Mathilda Ave.	Sunnyvale	CA 94086–	(408)736–4595
CA1248 Motel 6, #743		41900 Moreno Dr.	Temecula	CA 92590–	(909)676–7199
CA1246 Motel 6, #1360		1516 Newbury Rd.	Thousand Oaks	CA 91320–	(805)499–0711
CA1218 Motel 6, #278		3810 Tracy Blvd.	Tracy	CA 95376–	(209)836–4900
CA1219 Motel 6, #264		111 N. Blackstone	Tulare	CA 93274–	(209)686–1611
CA1217 Motel 6, #287		250 S. Walnut Rd.	Turlock	CA 95380–	(209)667–4100
CA1169 Motel 6, #1085		72562 Twentynine Pals Hwy.	Twentynine Pals	CA 92227–	(619)367–2833
CA1221 Motel 6, #233		107 Lawrence Dr.	Vacaville	CA 95688–	(707)447–5550
CA1244 Motel 6, #1050		458 Fairgrounds Dr.	Vallejo	CA 94589–	(707)642–7781
CA1247 Motel 6, #1361		597 Sandy Beach Rd.	Vallejo	CA 94500–	(707)552–2912
CA1243 Motel 6, #524		125 Silver Leaf Dr.	Watsonville	CA 95076–	(408)728–4144
CA1245 Motel 6, #1137		13100 Goldenwest	Westminster	CA 92683–	(714)895–0042
CA1173 Motel 6, #147		6266 Westminster Ave.	Westminster	CA 92683–	(714)891–5366
CA1222 Motel 6, #197		1564 E. Main St.	Woodland	CA 95776–	(916)666–6777
CA1207 Motel 6, #286		17855 Main St.	Yreka	CA 96097–	(916)842–4111
Florida					
FL4204 Hampton Inn, Orlando/Altamonte Springs.		151 Douglas Avenue	Altamonte Springs.	FL 32714–	(407)869–9000
FL4174 La Quinta Inn #3683		150 South Westmonte Drive	Altamonte Springs.	FL 32714–4209	(407)788–1411
FL4176 Orlando North Hilton and Towers.		350 South Northlake Boulevard	Altamonte Springs.	FL 32701–5297	(310)205–4353
FL4211 Econolodge		2511 US 27 South	Avon Park	FL 33825–	(813)453–2000
FL4207 Crown Sterling Suites		701 NW 53rd Street	Boca Raton	FL 33487–	(407)997–9500
FL4212 Econolodge Airport		6727 142nd Street West	Bradenton	FL 34207–	(813)758–7199
FL4209 Hampton Inn		30301 Cortez Boulevard	Brooksville	FL 34602–	(904)769–1000
FL4213 Quality Inn Beach Resort.		655 S. Gulfview Boulevard	Clearwater	FL 34630–	(813)442–7171
FL4177 Clearwater Beach Hilton Resort.		715 South Gulf View Boulevard	Clearwater Beach.	FL 34630–2694	(310)205–4353

HOTEL AND MOTEL FIRE SAFETY ACT NATIONAL MASTER LIST 06/22/94—Continued

Index, Property name	PO Box/Rt No.	Street address	City	State/zip	Telephone
FL4214 Comfort Inn & Suite Resort.		3901 North Atlantic Avenue	Cocoa Beach	FL 32931–	(407)783–2221
FL4175 Sea Esta Villas		686 S. Atlantic Avenue	Cocoa Beach	FL 32931–2540	(407)783–1739
FL4184 Holiday Inn University of Miami.		1350 S. Dixie Highway	Coral Gables	FL 33146–	(305)667–5611
FL4185 La Quinta Inn #4904		2725 Volusia Avenue	Daytona Beach	FL 32114–	(904)255–7412
FL4178 Sandestin Beach Hilton Golf & Tennis Resort.		5540 Hwy 98 East	Destin	FL 32541–4214	(310)205–4353
FL4208 Crown Sterling Suites		555 NW 62nd Street	Fort Lauderdale	FL 33309–	(305)772–5400
FL4186 La Quinta Inn #819		4850 S. Cleveland Avenue	Ft. Myers	FL 33907–1320	(813)275–3300
FL4229 Motel 6 #1071		3350 Marianatown Lane	Ft. Myers	FL 33903–	(813)656–5544
FL4192 La Quinta Inn #4669		920 NW 69th Terrace	Gainesville	FL 32605–6618	(904)332–6466
FL4215 Melbourne Oceanfront Quality Suites.		1665 North A1A	Indialantic	FL 32903–	(9) –
FL4216 Quality Suites Hotel Oceanfront.		1665 A1A	Indialantic	FL 32935–	(407)723–4222
FL4187 B/W Bradbury Suites		3277 Western Way Circle	Jacksonville	FL 32256–	(904)737–4477
FL4194 La Quinta Inn #551		8555 Blanding Boulevard	Jacksonville	FL 32244–5795	(904)778–9539
FL4193 La Quinta Inn #637		812 Dunn Avenue	Jacksonville	FL 32218–4803	(904)751–6960
FL4195 La Quinta Inn #2818		8255 Dix Ellis Trail	Jacksonville	FL 32256–8209	(904)731–9940
FL4190 Best Western Suites at Key Largo.		201 Ocean Drive	Key Largo	FL 33037–	(305)451–5081
FL4218 Econo Lodge Maingate East.		4311 West 192	Kissimmee	FL 34746–	(407)396–7100
FL4206 Orlando Main Gate East/Knights Inn.		2880 Poinciana Boulevard	Kissimmee	FL 34746–	(1) –
FL4217 Quality Inn Maingate		7675 W. 192	Kissimmee	FL 34747–	(407)396–4000
FL4219 Econo Lodge South		Rt 3, Box 173	Lake City	FL 32055–	(904)755–9311
FL4221 Econo Lodge		I–10 and U.S. 129	Live Oak	FL 32060–	(904)362–7459
FL4222 Econo Lodge		I–10 and State Road 121	MacClenny	FL 32063–	(904)259–3000
FL4223 Comfort Inn		2175 State Road 71	Marianna	FL 32447–	(904)526–5600
FL4210 Best Western Miami Airport Inn.		1550 NW Le Jeune Road	Miami	FL 33126–	(305)871–2345
FL4196 La Quinta Inn #2667		7401 NW 36th Street	Miami	FL 33166–6706	(305)599–9902
FL4225 Quality Inn Airport		2373 N.W. 42nd Avenue	Miami	FL 33142–	(305)871–3230
FL4226 Clarion Suite Crystal Beach.		6985 Collins Avenue	Miami Beach	FL 33141–	(305)865–9555
FL4224 Quality Inn South		14501 South Dixie Highway	Miami	FL 33176–	(305)251–2000
FL4227 Comfort Inn		16630 Highway 441	Mt. Dora	FL 32757–	(904)383–3400
FL4191 Best Western Naples Inn.		2329 9th Street North	Naples	FL 33740–	(813)261–1748
FL4189 Holiday Inn at Orlando Arena.		304 W. Colonial Drive	Orlando	FL 32801–	(407)843–8700
FL4197 La Quinta Inn #4642		7931 Daetwyler Drive	Orlando	FL 32812–4809	(407)857–9215
FL4198 La Quinta Inn #598		7750 North Davis Highway	Pensacola	FL 32514–7557	(813)287–0440
FL4230 Clarion Suites Resort and Convention Center.		20 Via Deluna	Pensacola Beach.	FL 32561–	(904)932–4300
FL4199 La Quinta Inn #2638		7500 US 19 North	Pinellas Park	FL 34665–2700	(813)545–5611
FL4232 Econolodge		4100 Tamiami Trail	Port Charlotte	FL 33952–	(813)743–2442
FL4231 Quality Inn		3400 Tamiami Trail	Port Charlotte	FL 33852–	(813)625–4181
FL4228 Motel 6 #1231		9300 Knights Drive	Punta Gorda	FL 33950–	(813)639–9585
FL4233 Sleep Inn of Sarasota		900 University Parkway	Sarasota	FL 34234–	(813)359–8558
FL4234 Quality Resort of the Palm Beaches.		3800 North Ocean Drive	Singer Island	FL 33404–	(407)848–5502
FL4220 Quality Inn Interstate		2445 State Road 16	St. Augustine	FL 32092–	(904)829–1999
FL4200 La Quinta Inn #3684		4999 34th Street North	St. Petersburg	FL 33714–3050	(813)527–8421
FL4180 St. Petersburg Hilton and Towers.		333 First Street South	St. Petersburg	FL 33701–4342	(310)205–4353
FL4179 St. Petersburg Beach Hilton Resort.		5250 Gulf Boulevard	St. Petersburg	49 33706–2408	(310)205–4353
FL4236 Comfort Inn		2727 Graves Road	Tallahassee	FL 32303–	(904)562–7200
FL4235 Econo Lodge		2681 North Monroe Street	Tallahassee	FL 32303–	(904)385–6155
FL4203 La Quinta Inn #2538		2905 North Monroe	Tallahassee	FL 32303–3636	(904)385–7172
FL4182 Budgetel Inn Tampa Southern.		602 South Falkenburg Road	Tampa	FL 33619–	(813)684–4007
FL4202 La Quinta Inn #590		2904 Melbourne Boulevard	Tampa	FL 33605–2457	(813)623–3591
FL4201 La Quinta Inn #2597		4730 Spruce Street	Tampa	FL 33607–1497	(813)287–0440
FL4205 West Palm Beach Knights Inn.		2200 45th Street	West Palm Beach.	FL 33407–2016	(407)478–1554

HOTEL AND MOTEL FIRE SAFETY ACT NATIONAL MASTER LIST 06/22/94—Continued

Index, Property name	PO Box/Rt No.	Street address	City	State/zip	Telephone
Iowa					
IA0133 Best Western Jesse James Inn.		Exit 76–I 80	Adair	IA 50002–	(515)742–5251
IA0132 Best Western Longbranch Motor Inn.		90 Twixt Town Road N.E	Cedar Rapids	IA 52402–	(319)377–6386
IA0130 Heartland Inn Davenport.		6605 Brady St	Davenport	IA 52806–	(319)386–8336
IA0128 Comfort Inn Mason City		410 5th Street S.W	Mason City	IA 50401–	(515)423–4444
IA0131 Heartland Inn Mt. Pleasant.		Hwy 218 N.	Mt. Pleasand	IA 52641–	(319)385–2102
IA0127 Best Western Starlite—Waterloo.		214 Washington St	Waterloo	IA 50701–	(319)235–0321
IA0129 Heartland Inn Waterloo		3052 Marnie Ave	Waterloo	IA 50701–	(319)232–7467
Illinois					
IL0505 Budgetel Inn		5688 N. Ridge Rd	Gurnee	IL 60031–	(708)662–7600
IL0503 Best Western Inn Motor Lodge.		4850 E. State St	Rockford	IL 61108–	(815)398–5050
IL0504 Wyndham Garden Hotel Schaumburg.		800 National Pkwy	Schaumburg	IL 60173–	(708)605–9222
Kansas					
KS0126 Best Western Golden Plains Motel.	Rt. 1 Box 3		Oakley	KS 67748–	(913)672–3254
Kentucky					
KY0398 Best Western Harlan	2325 South	Hwy 421	Harlan	KY 40831–	(606)573–3385
KY0399 Studio Plus Hotel		2750 Gribbin Dr	Lexington	KY 40517–	(606)255–4800
KY0400 Studio Plus Hotel		3575 Tates Creek Rd	Lexington	KY 40517–	(606)271–6160
Louisiana					
LA0104 Motel 6 #458		546 McArthur Dr	Alexandria	LA 71301–	(318)445–2336
LA0107 Motel 6 #391		210 John Welsley Blvd	Bossier City	LA 71112–	(318)742–3472
LA0105 Motel 6 #461		2724 NE Evangelina Thruway	Lafayette	LA 70507–	(318)233–2055
LA0106 Motel 6 #443		335 Hw. 171	Lake Charles	LA 70601–	(318)433–1773
LA0108 Comfort Inn		5362 Hwy. 6 W	Natchitoches	LA 71457–	(318)352–7500
Maryland					
MD0269 Comfort Inn Hotel and Conference Center.		US 301 and US 50 at MD 3	Bowie	MD 20716–	(301)464–0089
MD0268 Cambridge Maryland Knights Inn.		2831 Ocean Gateway	Cambridge	MD 21613–	(410)221–0800
MD0270 Econo Lodge West		5801 Baltimore National Pike	Catonsville	MD 21228–	(410)744–5000
MD0271 Frederick Knights Inn		6500 Urbana Pike	Frederick	MD 21701–	(301)698–0555
MD0274 Beaver Creek House Bed and Breakfast.		20432 Beaver Creek Rd	Hagerstown	MD 21740–	(301)797–4764
MD0273 Motel 6 #1259		11321 Massey Blvd	Hagerstown	MD 21740–	(301)582–4445
MD0272 Laurel Knights Inn		3380 Ft. Meade Rd	Laurel	MD 20724–	(301)498–5553
MD0267 Baltimore East Days Inn.		8801 Loch Raven Blvd	Towson	MD 21204–	(800)666-0900
Maine					
ME0035 Howard Johnson Lodge.		356 Main St	Bangor	ME 04901–	(207)873–3335
ME0039 Bar Harbor Quality Inn		40 Kebo St	Bar Harbor	ME 04609–	(207)288–5403
ME0040 Ellsworth Comfort Inn		130 High St	Ellsworth	ME 04605–	(207)667–1345
ME0037 Holiday Inn		High St	Ellsworth	ME 04605–	(207)667–9341
ME0036 Howard Johnson Hotel		155 Riverside St	Portland	ME 04103–	(207)774–5861
ME0034 Sonesta Hotel		157 High St	Portland	ME 04101–	(207)775–5411
ME0038 Best Western Merry Manor Inn.		700 Main St	South Portland	ME 04106–	(207)774–6151
ME0041 Econo Lodge		445 Kennedy Memorial Dr	Waterville	ME 04901–	(207)872–5577
Minnesota					
MN0244 Super 8 Motel		1100 W. Burnsville Pkwy	Burnsville	MN 55337–	(612)894–3400
MN0242 Best Western Edgewater East.		2400 London Rd	Duluth	MN 55812–	(218)728–3601
MN0243 Best Western Gold Pine Motor Inn.	Rt. 2	Box 384	Hinckley	MN 55037–	(612)384–6112

HOTEL AND MOTEL FIRE SAFETY ACT NATIONAL MASTER LIST 06/22/94—Continued

Index, Property name	PO Box/Rt No.	Street address	City	State/zip	Telephone
Missouri					
MO0251 Holiday Hills Resort, Nightly Condominiums.		640 East Rockford Dr	Branson	MO 65616–	(417)334–4030
MO0252 Studio Plus at the Airport.		155 Chapel Ridge Rd	Hazelwood	MO 63042–	(314)731–2707
MO0254 Comfort Inn—North		2550 North Glenstone Ave	Springfield	MO 65803–4738	(417)866–5255
MO0253 Hampton Inn		3720 W. Clay	St. Charles	MO 63301–	(314)947–6300
North Carolina					
NC0319 Comfort Inn Cross Creek.		1922 Skibo Road	Fayetteville	NC 28314–	(910)867–1777
NC0317 Motel 6 #1075		2076 Cedar Creek Road	Fayetteville	NC 28301–	(910)485–8122
NC0316 Motel 6 #1068		605 S. Regional Road	Greensboro	NC 27409–	(910)668–2085
NC0318 Motel 6 #1234		1408 Sandhills Boulevard	Pinehurst-Aberdeen.	NC 28315–	(910)944–5633
North Dakota					
ND0073 Econo Lodge		1401 35th St. SW	Fargo	ND 58103–	(701)232–3412
ND0076 Best Western Town House.		710 1st Ave N	Grand Falls	ND 58203–	(701)746–5411
ND0074 Econo Lodge of Grand Forks.		900 N. 43rd St	Grand Forks	ND 58203–	(701)746–6666
ND0075 Comfort Inn		1515 22nd Ave. SW	Minot	ND 58701–	(701)852–2201
Nebraska					
NE0101 Super 8 Motel		15 W. 8th Street	Kearney	NE 68847–	(308)234–5513
NE0098 Econo Lodge		5600 Cornhusker	Lincoln	NE 68507–	(402)464–5971
NE0099 Great Plains Motel Inc		2732 "O" Street	Lincoln	NE 68510–	(402)476–3253
NE0096 Comfort Inn		2901 S. Jeffers	North Platte	NE 69101–	(308)532–6144
NE0102 Best Western Stagecoach Inn.		201 Stagecoach Trail	Ogallala	NE 69153–	(308)284–3656
NE0097 Econo Lodge		3511 S. 84th St	Omaha	NE 68124–	(402)391–4321
NE0100 York Comfort Inn		3815 South Lincoln Avenue	York	NE 68467–	(402)362–6555
New Jersey					
NJ0181 Motel 6 #1083		244 State Route 18	East Brunswick	NJ 08816–	(908)390–4545
NJ0180 Fort Lee Hilton		2117 Route 4 Eastbound	Fort Lee	NJ 07024–	(201)461–9000
NJ0182 Motel 6 #1084		1012 Stelton Rd	Piscataway	NJ 08854–	(908)981–9200
NJ0177 Summerfield Suites Hotel—Princeton.		4375 Route 1	Princeton	NJ 08543–	(609)951–0009
NJ0178 Summerfield Suites Hotel—Somerset.		260 Davidson Ave	Somerset	NJ 08873–	(908)356–8000
NJ0179 Sunrise Suites		3 Centre Plaza	Tinton Falls	NJ 07724–	(908)389–4800
New York					
NY0577 Motel 6 (#1227)		100 Watervliet Ave	Albany	NY 12206–	(518)438–7447
NY0585 Omni Albany Hotel		State and Lodge Streets	Albany	NY 12207–	(518)462–6611
NY0581 Motel 6 (#1222)		1012 Front Street	Binghamton	NY 13905–	(607)771–0400
NY0578 Motel 6 (#1226)		4400 Maple Road	Buffalo-Amherst	NY 14226–	(716)834–2231
NY0575 Best Western—Clifton Park.	P.O Box 2070	Rte. 146 and Plank Rd	Clifton Park	NY 12065–	(518)371–1811
NY0582 Motel 6 (#1217)		151 Route 17	Elmira-Horseheads.	NY 14845–	(607)739–2525
NY0586 Best Western Homestead Inn.		749 West Main Street	Endicott	NY 13760–	(607)754–1533
NY0584 Motel 6 (#1216)		485 Hamilton Street	Geneva	NY 14456–	(315)789–4050
NY0583 Motel 6 (#1215)	Box 455	1980 East Main Street	Jamestown-Falconer.	NY 14733–	(716)665–3670
NY0576 Marketplace Inn		800 Jefferson Road	Rochester	NY 14623–	(716)475–9190
NY0580 Motel 6 (#1224)		6577 Court Street Road	Syracuse	NY 13057–	(315)433–1300
NY0579 Motel 6 (#1225)		150 North Genesee Street	Utica	NY 13502–	(315)797–8743
Ohio					
OH0543 Akron West Hilton Inn		3180 W Market St	Akron	OH 44333–	(216)867–5000
OH0536 Knights Inn Youngstown West.		5431 Seventy Six Dr	Austintown	OH 44515–1194	(216)793–9305
OH0542 Studio Plus at Blue Ash.		4260 Hunt Rd	Blue Ash	OH 45242–	(513)793–2022
OH0541 Holiday Inn Eastgate		4501 Eastgate Blvd	Cincinnati	OH 45245–	(513)752–4400
OH0535 La Quinta Inn		11335 Chester Rd	Cincinnati	OH 45246–4094	(513)772–3140
OH0538 Knights Inn Elyria Lorain.		523 Griswold Rd	Elyria	OH 44035–	(216)324–3911

HOTEL AND MOTEL FIRE SAFETY ACT NATIONAL MASTER LIST 06/22/94—Continued

Index, Property name	PO Box/Rt No.	Street address	City	State/zip	Telephone
OH0537 Knights Inn Akron East		4423 SR 43	Kent	OH 44240–6921	(216)678–5250
OH0539 Knights Inn Toledo North.		445 E Alexis Rd	Toledo	OH 43612–	(419)476–0170
OH0540 Knights Inn Akron West.		810 High St	Wadsworth	OH 44281–9419	(216)336–6671
Oklahoma					
OK0068 Comfort Inn—NW 39th Expw.		4017 N.W. 39th Expressway	Oklahoma City	OK 73112–	(405)947–0038
OK0070 Econo Lodge		1307 S.E. 44th St	Oklahoma City	OK 73129–	(405)672–4533
OK0073 Motel 6—#1128		4200 West I–40	Oklahoma City	OK 73108–	(405)947–6550
OK0074 Motel 6—#116		820 S Meridian Ave	Oklahoma City	OK 73108	(405)947–6662
OK0072 Motel 6—#1182		12121 N.E. Hwy	Oklahoma City	OK 73131–	(405)478–4030
OK0069 Rodeway Inn		4601 S.W. 3rd St	Oklahoma City	OK 73128–	(405)947–2400
OK0071 Motel 6—#1236		4981 N. Harrison St	Shawnee	OK 74801–	(405)275–5310
Pennsylvania					
PA0399 Comfort Inn of Bethlehem.		3191 Highfield Drive	Bethlehem	PA 18017–	(215)865–6300
PA0403 Comfort Suites Bethlehem.		120 West Third Street	Bethlehem	PA 18015–	(215)882–9700
PA0400 Comfort Inn of Blairsville.	RR #1 Box 22		Blairsville	PA 15717–	(412)459–7100
PA0408 Econo Lodge Breezewood.	Route 1	P.O. Box 101A	Breezewood	PA 15533–	(814)735–4341
PA0401 Comfort Inn Chambersburg.		3301 Black Gap Road	Chambersburg	PA 17201–	(717)263–6655
PA0410 Friendship Inn	RR#2	P.O. Box 297B	Clearfield	PA 16830–	(814)765–7587
PA0404 Econo Lodge		1027 O'Neill Highway	Dunmore	PA 18512–	(717)348–8782
PA0405 Econo Lodge	RD #1	P.O. Box 5005	Grantville	PA 17028–	(717)469–0631
PA0412 Quality Inn Riverfront		525 South Front Street	Harrisburg	PA 17104	(717)233–1611
PA0411 Friendship Inn—Kittanning.	RD #6	Friendship Plaza	Kittaning	PA 16201–	(412)543–1100
PA0397 Comfort Inn		6401 Bristol Pike	Levittown	PA 19057–	(215)547–5000
PA0406 Econo Lodge	US 322/22 and PA 35.	Mifflintown	PA 17059–0202	(717)436–5981.	
PA0413 Harrisburg South Knights Inn.		300 Commerce Drive	New Cumberland.	PA 17070–2400	(717)774–5990
PA0398 Comfort Inn		624 West Main Street	New Holland	PA 17557–	(717)355–9900
PA0409 Pittsburgh West Econo Lodge.		4800 Steubenville Pike	Pittsburgh	PA 15205–	(412)922–6900
PA0407 Econo Lodge		2310 Fraver Drive	Reading	PA 19605–	(215)378–1145
PA0414 Radnor Hotel		591 East Lancaster Avenue	St. Davids	PA 19087–	(610)688–5800
PA0415 Best Western State College Inn.		1663 South Atherton Street	State College	PA 16801–	(814)237–8005
PA0402 Comfort Inn of York		140 Leader Heights Road	York	PA 17403–	(717)741–1000
South Carolina					
SC0205 Motel 6 #1250		1834 W. Lucas St	Florence	SC 29501–	(803)667–6100
Tennessee					
TN0231 Studio Plus at Brentwood.		9025 Church Street East	Brentwood	TN 37027–	(615)373–4272
TN0206 Comfort Hotel River Plaza.		407 Chestnut St	Chattanooga	TN 37402–	(615)756–5150
TN0207 Comfort Suites		7324 Shallowford Rd	Chattanooga	TN 37421–	(615)892–1500
TN0208 Econo Lodge/Airport		7421 Bonny Oaks Drive	Chattanooga	TN 37421–1084	(615)499–9550
TN0209 Friendship Inn/Airport		7725 Lee Hwy	Chattanooga	TN 38421–	(615)899–2288
TN0210 Quality Inn		6710 Ringgold Road	Chattanooga	TN 37412–	(615)894–6820
TN0211 Econo Lodge		201 Holiday Rd	Clarksville	TN 37040–	(615)645–6300
TN0212 Quality Inn Downtown		803 North 2nd Street	Clarksville	TN 37040–	(615)645–9084
TN0213 Econo Lodge		1548 Bear Creek Pike	Columbia	TN 38401–	(615)381–1410
TN0215 Comfort Inn		140/Hwy 92 Exit 417	Dandridge/J'son City.	TN	(615)397–5090
TN0216 Comfort Inn		1515 19E Bypass	Elizabethton	TN 37643–	(615)542–4466
TN0217 Quality Inn		1414 Princeton Place	Hermatige	TN 37076–	(615)871–4545
TN0227 Best Western of Hurricane Mills.	Rt 1 Box 80	140 & Hwy 13 (Exit 143)	Hurricane Mills	TN 37078–	(615)296–4251
TN0220 Comfort Inn of Kingston.	POB 367	905 N Kentucky St	Kingston	TN 37763–	(615)376–4965
TN0218 Comfort Inn East		7524 Strawberry Plains Pike	Knoxville	TN 37924–	(615)932–1217
TN0205 Luxbury Hotel		420 Peters Rd	Knoxville	TN 37922–	(615)539–0058

HOTEL AND MOTEL FIRE SAFETY ACT NATIONAL MASTER LIST 06/22/94—Continued

Index, Property name	PO Box/Rt No.	Street address	City	State/zip	Telephone
TN0233 Motel 6 #1252		402 Lovell Road	Knoxville	TN 37922–	(615)675–7200
TN0219 Quality Inn East		1500 Cherry Street	Knoxville	TN 37917–	(615)546–7110
TN0228 Radisson Summit Hill		401 Summit Hill Dr	Knoxville	TN 37902–	(615)522–2600
TN0229 Studio Plus at West Town.		1700 Winston Road	Knoxville	TN 37919–	(615)694–4178
TN0221 Econo Lodge/Martin Econo Inc.		853 University Street	Martin	TN 38237–	(901)587–4241
TN0223 Comfort Inn		2889 Austin Peay Hwy	Memphis	TN 38128–	(901)386–0033
TN0222 Econo Lodge/Airport		3456 Lamar Ave	Memphis	TN 38118–	(901)365–7335
TN0234 Red Roof Inn #125		3875 American Way	Memphis	TN 38118–	(901)363–2335
TN0235 Red Roof Inn #056		6055 Shelby Oaks Dr	Memphis	TN	(901)388–6111
TN0230 Studio Plus at Apple Tree.		6085 Apple Tree Drive	Memphis	TN 38115–	(901)360–1114
TN0224 Comfort Suites		3660 West Andrew Johnson Hwy.	Morristown	TN 37814–	(615)585–4000
TN0203 Holiday Inn Vanderbilt		2613 West End Avenue	Nashville	TN 37203–	(615)327–4707
TN0214 Quality Inn Hall of Fame.		1407 Division Street	Nashville	TN 37204–	(615)242–1631
TN0232 Studio Plus at Nashville Airport.		2511 Elm Hill Pike	Nashville	TN 37214–	(615)871–9669
TN0225 Comfort Suites		2615 Elm Hill Pike	Nashville	TN 37214–	(615)883–0114
TN0226 Comfort Inn		323 East Emory Road	Powell	TN 37849–	(615)938–5500
TN0204 Savanna Lodge		420 Pickwick Rd	Savanna	TN 38372–	(901)925–8586
Texas					
TX0458 Comfort Inn West		2100 S. Coulter	Amarillo	TX 79106–	(806)358–6141
TX0502 Motel 6 #1146		6030 IH–40 West	Amarillo	TX 79106–	(806)359–7651
TX0460 Comfort Inn		7928 Gessner Dr	Austin	TX 78753–	(512)339–7311
TX0498 Motel 6 #1118		5330 N. IH–35	Austin	TX 78751–	(512)467–9111
TX0459 Quality Inn Airport		909 E. Koenig Ln	Austin	TX 78751–	(512)452–4200
TX0491 Motel 6 #1136		8911 State Hwy. 146	Baytown	TX 77520–	(713)576–5777
TX0452 Best Western Jefferson Inn.		1610 I–10 South	Beaumont	TX 77707–	(409)842–0037
TX0462 Econo Lodge		1155 IH–10 S	Beaumont	TX 77701–	(409)835–5913
TX0461 Rodeway Inn		1520 S. IH–35	Belton	TX 76513–	(817)939–0744
TX0456 Travelers Inn		2377 N. Exprwy 83	Brownsville	TX 78520–	(210)504–2300
TX0463 Comfort Inn Riverside Hotel.		410 E. Commerce	Brownwood	TX 76801–	(915)646–3511
TX0488 Best Western Garden Inn.		11217 I.H. 37	Corpus Christi	TX 78410–	(512)241–6675
TX0464 Comfort Inn Airport		6301 IH–37	Corpus Christi	TX 78409–	(512)289–6925
TX0496 Motel 6 #1119		2660 Forest Lane	Dallas	TX 75234–	(214)484–9111
TX0494 Motel 6 #1125		4325 Beltline Rd	Dallas	TX 75214–	(214)386–4577
TX0457 Best Western Inn of Del Rio.		810 Ave. F	Del Rio	TX 78840–	(210)775–7511
TX0453 Best Western La Siesta		2000 Ave. F	Del Rio	TX 78840–	(210)775–6323
TX0465 Econo Lodge		1719 S. Dumas Ave	Dumas	TX 79029–	(806)935–9098
TX0497 Motel 6 #1130		202 Jellison Blvd	Duncanville	TX 75116–	(214)296–0345
TX0501 Motel 6 #1367		1330 Lomaland Dr	El Paso	TX 79935–	(915)592–6386
TX0466 Quality Inn		6201 Gateway West	El Paso	TX 79925–	(915)778–6611
TX0467 Econo Lodge		800 E. Dickinson	Fort Stockton	TX 79735–	(915)336–9711
TX0510 Motel 6 #737		4433 South Frwy. @ Seminary	Fort Worth	TX 76115–	(817)921–4900
TX0468 Comfort Inn		908 S. Adams St	Fredricksburg	TX 78224–	(210)997–9811
TX0508 Motel 6 #343		7404 Ave. "J"	Galveston	TX 77551–	(409)740–3794
TX0469 Rodeway Inn		1821 W. Tyler	Harlingen	TX 78550–	( ) –
TX0485 Allen Park Inn		2121 Allen Parkway	Houston	TX	(713)521–9321
TX0470 Comfort Inn Galleria Westchase.		9041 Westheimer	Houston	TX 77063–	(713)783–1400
TX0484 Gulf Freeway Inn		2391 S. Wayside Dr	Houston	TX 77023–	(713)928–5321
TX0487 Howard Johnson		4225 N. Freeway	Houston	TX 77022–	(713)695–6011
TX0504 Motel 6 #1086		8800 Airport Blvd	Houston	TX 77061–	(713)941–0990
TX0503 Motel 6 #1139		14833 Katy Frwy	Houston	TX 77094–	(713)497–5000
TX0492 Motel 6 #1140		16884 Northwest Freeway	Houston	TX 77040–	(713)937–7056
TX0483 Premier Inn		2929 S.W. Freeway	Houston	TX 77098–	(713)528–6161
TX0471 Comfort Inn DFW Airport.		8205 Esters Blvd	Irving	TX 75063–	(214)929–0066
TX0511 Crown Sterling Suites		4650 West Airport Frwy	Irving	TX 75062–	(214)790–0093
TX0499 Inn of the Hills River Resort.		1001 Junction Hwy	Kerrville	TX 78028–	(210)895–5000
TX0482 Best Western Classic Inn.		901 W. Young	Llano	TX	(915)247–4101

HOTEL AND MOTEL FIRE SAFETY ACT NATIONAL MASTER LIST 06/22/94—Continued

Index, Property name	PO Box/Rt No.	Street address	City	State/zip	Telephone
TX0472 Comfort Inn		203 N. Spur 63	Longview	TX 75601–	(903)757–7858
TX0505 Motel 6 #422		300 IH–20 East	Marshall	TX 75670–	(903)935–4393
TX0473 Comfort Inn		1307 Ave. A	Ozona	TX 76943–	(915)392–3791
TX0474 Comfort Inn		3505 NE Loop 286	Paris	TX 75460–	(903)784–7481
TX0475 Rodeway Inn Pasadena.		114 S. Richey	Pasadena	TX 77506–	(713)477–6871
TX0495 Motel 6 #1121		2550 North Central Exprwy	Plano	TX 75074–	(214)578–1626
TX0476 Comfort Inn		1703 N. Hwy. 181	Portland	TX 78374–	(512)643–2222
TX0477 Econo Lodge		218 SW. W. White Rd	San Antonio	TX 78219–	(210)333–3346
TX0507 Motel 6 #1122		211 N. Pecos St	San Antonio	TX 78207–	(210)225–1111
TX0493 Motel 6 #1123		9400 Wurzbach Rd	San Antonio	TX 78240–	(210)593–0013
TX0509 Motel 6 #1208		16500 IH–10 West	San Antonio	TX 78257–	(210)697–0731
TX0486 St. Anthony Hotel		300 E. Travis	San Antonio	TX 78205–	(210)227–4392
TX0512 Windsor Park Knights Court.		6370 IH–35 North	San Antonio	TX 78218–	(210)646–6336
TX0748 Econo Lodge		3013 N. Hwy. 123	Seguin	TX 78155–	(210)372–3990
TX0506 Motel 6 #1237		4013 Padre Island Blvd	South Padre Island.	TX 78597–	(210)761–7911
TX0490 Motel 6 #1261		19606 Cypresswood Court	Spring	TX 77388–	(713)350–6400
TX0455 Best Western Trail Dust Inn.		1521 Shannon Rd./IH–30 E	Sulphur Springs	TX 57482–	(903)885–7515
TX0479 Econo Lodge		1001 N. General Bruce Dr	Temple	TX 76504–	(817)771–1688
TX0480 Econo Lodge		4505 N. Stateline	Texarkana	TX 75503–	(903)793–5546
TX0500 Mansion on Main Bed & Breakfast Inn.		802 Main St	Texarkana	TX 75501–	(903)792–1835
TX0489 Motel 6 #1198		3120 Kulten Freeway	Waco	TX 76706–	(817)662–4622
TX0481 Comfort Inn	P.O. Box 555	IH–35 & Hwy. 287	Waxahachie	TX 75165–	(214)937–4202
TX0454 Best Western Towne Crest Inn.		1601 8th St	Wichita Falls	TX 76301–	(817)322–1182
Virginia					
VA0538 Guest Quarters Suite Hotel.		100 South Reynolds St	Alexandria	VA 22304–0000	(703)370–9600
VA0541 Econolodge North		3335 Lee Hwy	Arlington	VA 22207–0000	(703)524–9800
VA0542 Econo Lodge		20080 Brewers Neck Blvd	Carrollton	VA 23314–0000	(804)357–9057
VA0540 Motel 6	#1258	701 Woodlake Dr	Chesapeake	VA 23320–0000	(804)420–2976
VA0543 Comfort Inn North		557 Warrenton Rd	Fredericksburg	VA 22406–0000	(703)371–8900
VA0536 Hampton Inn Fredericksburg.		2310 William St	Fredericksburg	VA 22401–0000	(703)371–0330
VA0539 Motel 6	#1243	797 J Clyde-Morris Blvd	Newport News	VA 23601–0000	(804)595–6336
VA0546 Comfort Inn		11974 S. Crater Rd	Petersburg	VA 23805–0000	(804)732–2900
VA0545 Econo Lodge South		16905 Parksdale Rd	Petersburg	VA 23805–0000	(804)862–2717
VA0547 Econolodge Interstate		12202 S. Crater Rd	Petersburg	VA 23805–0000	(804)732–2000
VA0544 Quality Inn Steven Kent.		12205 South Crater Rd	Petersburg	VA 23805–0000	(804)733–0600
VA0548 Quality Inn Raphine	Rt 1 Box 438		Raphine	VA 24472–0000	(703)377–2604
VA0555 Best Western Coachman Inn.	P.O. Box 7329.		Roanoke	VA –	(703)992–1234
VA0549 Econolodge Skippers		1200 Moore Ferry Road	Skippers	VA 23879–0000	(804)634–6124
VA0550 Troutville Comfort Inn		2654 Lee Highway South	Troutville	VA 24175–0000	(703)992–5600
VA0551 Comfort Inn Tysons Corner.		1587 Springhill Rd	Vienna	VA 22182–0000	(703)448–8020
VA0552 Clarion Resort Hotel		501 Atlantic Avenue	Virginia Beach	VA 23451–0000	(804)422–3186
VA0553 Northampton Econolodge.		5819 Northampton Blvd	Virginia Beach	VA 23455–0000	(804)464–9306
VA0554 Econolodge Central		1900 Richmond Rd	Williamsburg	VA 23185–0000	(804)229–6600
VA0537 Embassy Suites		152 Kingsgate Parkway	Williamsburg	VA 23185–0000	(804)229–6800
Wisconsin					
WI0202 Ramada Inn		3431 Milton Ave	Janesville	WI 53545–	(608)756–2341
WI0203 Concourse Hotel Inc		1 West Dayton St	Madison	WI 53703–	(608)257–6000
WI0204 Madison Residence Inn		4862 Hays Rd	Madison	WI 53704–	(608)244–5074
WI0201 Marc Plaza Hotel		509 West Wisconsin Ave	Milwaukee	WI 53203–	(414)271–7250
CORRECTIONS/CHANGES					
Alaska					
AK0030 Ingersoll Hotel		303 Mission St	Ketchikan	AK 99901–	(907)225–2124
Arizona					
AZ0086 Thunder Mountain Inn		1631 S. Hwy. 92	Sierra Vista	AZ 85635–	(602)458–7900

HOTEL AND MOTEL FIRE SAFETY ACT NATIONAL MASTER LIST 06/22/94—Continued

Index, Property name	PO Box/Rt No.	Street address	City	State/zip	Telephone
AZ0106 Chilton Inn and Conference Center.		300 E. 32nd St	Yuma	AZ 85364–	(602)344–1050
California					
CA0179 Best Western Beach Terrace Inn.		2795 Ocean St	Carlsbad	CA 92008–	(619)729–5951
CA0215 Concord Hilton		1970 Diamond Blvd	Concord	CA 94520–	(510)827–2000
CA0354 Wyndham Garden Hotel—Orange Co. Airport.		3350 Avenue of the Arts	Costa Mesa	CA 92626–	(714)751–5100
CA1062 Hyatt Regency Los Angeles.		711 S. Hope St	Los Angeles	CA 90017–	(213)683–1234
CA0232 Clarion Hotel San Francisco Airport.		401 E. Millbrae Ave	Millbrae	CA 94030–	(415)692–6363
CA0075 Holiday Inn Monrovia		924 W. Huntington Dr	Monrovia	CA 91016–	(818)357–1900
CA0442 Park Hyatt San Francisco.		333 Battery St	San Francisco	CA 94111–	(415)392–1234
Florida					
FL4130 Econo Lodge/Bomita Springs.		28090 Quail's Nest Ln	Bonita Springs	FL 33923–	(813)947–3366
FL3323 E Parc Inn		11333 US Hwy. 19	Clearwater	FL 34624–7404	( ) –
FL3322 La Quinta Inn #688		3301 Ulmerton Rd	Clearwater	FL 34622–2218	(813)572–7222
FL0020 Indigo Lakes Golf & Tennis Resort.		2620 Volusia Ave	Daytona Beach	FL 32114–	(904)258–6333
FL0782 La Quinta Motor Inn 658.		349 W. Hillsboro Blvd	Deerfield Beach	FL 33441–1801	(305)421–1004
FL2085 Comfort Suites Ft. Myers.		13651 Indian Paint Ln	Ft. Myers	FL 33912–1837	(813)768–0005
FL3565 Econo Lodge (FL–496)		7050 Okeechobee Rd	Ft. Pierce	FL 34945–2606	(407)465–8600
FL4141 Best Western Cypress Creek Road.		999 W. Cypress Creek Rd	Ft. Lauderdale	FL 33309–	(305)491–7666
FL0085 Econo Lodge		2649 SW 13th St	Gainesville	FL 32608–2012	(904)373–7816
FL0087 Gainesville Inn		2900 SW 13th St	Gainesville	FL 32608–3099	( ) –
FL2675 Best Western		2661 E. Irlo Bronson Hwy	Kissimmee	FL 34744–	(407)846–2221
FL1962 Econo Lodge		1115 W. North Blvd	Leesburg	FL 32748–3952	(904)787–3131
FL1421 Howard Johnson		6261 Collins Ave	Miami Beach	FL 33140–	(305)868–1200
FL4111 Quality Shawnee Beach Resort.		4343 Collins Ave	Miami Beach	FL 33140–	(305)532–3311
FL2051 Econo Lodge		13301 N. Cleveland Ave	North Ft Myers	FL 33903–	(813)995–0571
FL4156 Comfort Inn		11360 US Hwy. 1	North Palm Beach.	FL 33408–	(407)624–7186
FL0885 Best Western Hotel of Orange Park.		300 Park Avenue North	Orange Park	FL 32073–2997	(904)264–1211
FL2671 Clarion Plaza Hotel		9700 International Dr	Orlando	FL 32819–8114	(407)352–9700
FL4157 Comfort Inn		830 Lee Rd	Orlando	FL 32810–	(407)629–4000
FL1624 Econo Lodge		7194 Pensacola Blvd	Pensacola	FL 32505–1262	(904)479–8600
FL3135 Best Western Sirate Beach Resort.		5390 Gulf Blvd	St. Petersburg Beach.	FL 33706–2394	(813)367–2771
FL4114 Quality Suites Hotel		3001 University Ctr. Dr	Tampa	FL 33612–	(813)971–8930
Iowa					
IA0032 Best Western Frontier Motor Inn.		2300 Lincolnway	Clinton	IA 52732–	(319)242–7112
IA0006 Best Western Steeplegate Inn.		100 W. 76th St	Davenport	IA 52806–	(319)386–6900
IA0049 Heartland Inn Dubuque		2090 Southpart Ct	Dubuque	IA 52001–	(319)556–6555
IA0118 Muscatine Fairfield Inn		305 Cleveland St	Muscatine	IA 52761–	(319)264–5566
Illinois					
IL0367 Danville Super 8		377 Lynch	Danville	IL 61832–	(217)443–4499
IL0060 Best Western Brandywine.		443 IL. Rt. 2	Dixon	IL 61021–	(815)284–1890
IL0147 Best Western Chicago South Lansing.		2505 Bernice Rd	Lansing	IL 60438–	(708)895–7810
IL0209 Best Western Airport Inn		2550 52nd Ave	Moline	IL 61265–	(309)762–9191
Kentucky					
KY0138 Best Western Gratz Park Inn.		120 W. Second	Lexington	KY 40507–	(606)231–1777
KY0267 Motel 6		5120 Hinkleville	Paducah	KY 42001–	( ) –

HOTEL AND MOTEL FIRE SAFETY ACT NATIONAL MASTER LIST 06/22/94—Continued

Index, Property name	PO Box/Rt No.	Street address	City	State/zip	Telephone
Louisiana					
LA0020 Best Western Hotel Acadiana.		1801 W. Pinhook Rd	Lafayette	LA 70508–	(318)233–8120
Maryland					
MD0158 Patuxent Inn	PO Box 778	Rt. 235	Lexington Park	MD 20653–	(301)862–4100
MD0253 Clarion Hotel and Suites.		1251 W. Montgomery Ave	Rockville	MD 20850–	(301)424–4940
Maine					
ME0024 Interstate Oasis Econo Lodge.		Rt. 1 & I–95	Brunswick	ME 04011–	(207)729–9991
Minnesota					
MN0023 Best Western Holland Motel.		615 Hwy. 10 E	Detroit Lakes	MN 56501	(218)847–4483
MN0205 Best Western Kelly Inn		Hwy. 23 and 4th Ave. S	St. Cloud	MN 56301–	(612)253–0606
MN0233 Holiday Inn Express		1010 Bandana Blvd. W	St. Paul	MN 55108–	(612)647–1637
Missouri					
MO0060 Best Western Westport Park Hotel.		2434 Old Dorsett	Maryland Heights.	MO 63043–	(314)291–8700
North Carolina					
NC0287 Holiday Inn Bordeaux		1707 Owen Drive	Fayetteville	NC 28304–	(910)323–0111
NC0091 Gastonia Knights Inn		1721 Broadcast St	Gastonia	NC 28052–1821	(704)868–4900
North Dakota					
ND0021 Best Western Kelly Inn		3800 Main Ave	Fargo	ND 58103–	(701)282–2143
Nebraska					
NE0041 Super 8 Motel		1025 E. 4th St	Ainsworth	NE 69210–	(402)387–0700
NE0042 Super 8 Motel		3210 N. 6th St	Beatrice	NE 68310–	(402)223–3536
NE0043 American Family Inn		1110 Fort Crook Rd. S	Bellevue	NE 68005–	(402)291–0804
NE0044 Bellevue Super 8 Motel		303 S. Fort Crook Rd	Bellevue	NE 68005–	(402)291–1518
NE0045 Best Western White House Inn.		305 N. Fort Crook Rd	Bellevue	NE 68005–	(402)293–1600
NE0092 Bell Motor Inn & Rest	PO Box 854	North Highway 385	Bridgeport	NE 69336–	(308)262–0557
NE0046 Broken Bow Super 8 Motel.		215 E. S. E St	Broken Bow	NE 68822–	(800)848–8888
NE0047 Bunkhouse Motel		E. Hwy. 6 & 34	Cambridge	NE 69022–	(308)697–4540
NE0048 Economy 9 Motel		1201 W. Hwy. 20	Chadron	NE 69337–	(308)432–3119
NE0093 The Cottonwood Inn	PO Box 446	802 2nd St	Chappell	NE 69129–0446	(308)874–3250
NE0050 Columbus Super 8 Motel.		3324 20th St	Columbus	NE 68601–	(402)563–3456
NE0049 Econo Lodge		3803 23rd St	Columbus	NE 68601–	(402)564–9955
NE0080 New World Inn		265 33rd Ave	Columbus	NE 68601–	(402)564–1492
NE0051 Holiday Lodge	PO Box 409	1220 E. 23rd St	Fremont	NE 68025–	(402)727–1110
NE0053 Bunk House Bed & Breakfast.	HC 91 Box 29.		Gordon	NE 69343–	(308)282–0679
NE0054 Days Inn		2620 N. Diers Ave	Grand Island	NE 68803–	(308)384–8624
NE0055 Econo Lodge		3205 S. Locust St	Grand Island	NE 68801–	(308)384–1333
NE0057 Rath Travelers Inn	RR 1 Box 138.		Greenwood	NE 68366–	(402)944–3313
NE0058 Plains Motel		619 W. Hwy. 6	Holdrege	NE 68949–	(308)995–8646
NE0059 Holiday Inn		301 S. Second Ave	Kearney	NE 68848–	(308)237–3141
NE0060 Super 8 Motel	PO Box 117	I–80 & Hwy 71Y 71	Kimball	NE 69145–	(308)235–4888
NE0061 Econo Lodge	PO Box 775	I–80 & Hwy 283	Lexington	NE 68850–	(308)324–5601
NE0062 Super 8 Motel		RR 2, Box 149U	Lexington	NE 68850–	(308)324–7434
NE0063 Cornhusker Hotel		333 S. 13th St	Lincoln	NE 68508–	(402)474–7474
NE0064 Days Inn of Lincoln		2920 NW 12th St	Lincoln	NE 68521–	(402)475–3616
NE0065 Hampton Inn		1301 W. Bond Cir	Lincoln	NE 68521–	(402)474–2080
NE0066 Kings Inn Motel		3510 Cornhusker Hwy	Lincoln	NE 68504–	(402)466–2324
NE0077 Lincoln Comfort Inn		2940 NW 12th St	Lincoln	NE 68521–	(402)475–2200
NE0067 Ramada Hotel Downtown.		141 N. 9th St	Lincoln	NE 68508–	(402)475–4011
NE0068 Residence Inn by Marriott.		200 S. 68th Pl	Lincoln	NE 68510–	(402)483–4900
NE0081 Sharon Motel		1717 Cornhusker Hwy	Lincoln	NE 68521–	(402)475–2691
NE0069 Town House Motel		1744 M St.	Lincoln	NE 68508–	(402)475–3000
NE0082 Cedar Motel		1300 E. C St	McCook	NE 69001–	(308)345–7091

HOTEL AND MOTEL FIRE SAFETY ACT NATIONAL MASTER LIST 06/22/94—Continued

Index, Property name	PO Box/Rt No.	Street address	City	State/zip	Telephone
NE0083 Super 8 Motel		1103 E. B St	McCook	NE 69001–	(308)345–1141
NE0070 Apple Inn		502 S. 11th St	Nebraska City	NE 68410–	(402)873–6616
NE0084 Two Rivers Saloon and Hotel.		254–12 Park Ave	Niobrara	NE 68760–	(402)857–3340
NE0071 Eco Lux Inn		1909 Krenzien Dr	Norfolk	NE 68701–	(402)371–7157
NE0085 Holiday Inn North Platte.		Jct. US 83 & I–80	North Platte	NE 69101–	(308)532–9090
NE0094 Luxury Inn		3102 S. Jeffers	North Platte	NE 69101–	(308)532–9321
NE0095 Motel 6		1520 S. Jeffers	North Platte	NE 69101–	(308)534–6200
NE0072 Super 8 Motel		220 Eugene Ave	North Platte	NE 69101–	(308)532–4224
NE0086 The Stockman Inn	PO Box 2003		North Platte	NE 69103–	(308)534–3630
NE0073 Travelers Inn		602 E. 4th St	North Platte	NE 69101–	(308)534–4020
NE0074 Golden Hotel		406 E. Douglas St	O'Neill	NE 68763–	(402)336–4436
NE0075 O'Neill Super 8 Motel		E. Hwy. 20	O'Neill	NE 68763–	(402)336–3100
NE0076 Ogallala Comfort Inn		110 Pony Express Rd	Ogallala	NE 69153–	(308)284–4028
NE0001 Super 8 Motel		500 E. A St. S	Ogallala	NE 69153–	(308)284–2076
NE0004 Ben Franklin Motel		144th St. & I–80	Omaha	NE 68138–	(402)895–2200
NE0002 Best Western New Tower Inn.		7764 Dodge St	Omaha	NE 68114–	(402)393–5500
NE0005 Best Western Regency West.		909 S. 107th St	Omaha	NE 68114–	(402)397–8000
NE0006 Clubhouse Inn		11515 Miracle Hills Dr	Omaha	NE 68154–	(402)496–7500
NE0007 Days Inn Downtown		3001 Chicago St	Omaha	NE 68131–	(402)345–2222
NE0087 Fireside Suites		11025 N St	Omaha	NE 68137–	(402)331–0101
NE0008 Hampton Inn		9720 W. Dodge Rd.	Omaha	NE 68114–	(402)391–5300
NE0010 Hampton Inn SW		10728 L St	Omaha	NE 68127–	(402)593–2380
NE0011 Homewood Suites		7010 Hascall St	Omaha	NE 68106–	(402)397–7500
NE0013 Leisure Inn		4815 L St	Omaha	NE 68117–	(402)733–4000
NE0014 Motel 6		10708 M St	Omaha	NE 68127–	(402)331–3161
NE0015 Oak Creek Inn		2808 S. 72nd St	Omaha	NE 68124–	(402)397–7137
NE0079 Omaha Comfort Inn		10919 S. St	Omaha	NE 68137–	(402)592–2882
NE0016 Omaha Marriott Hotel		10220 Regency Cir	Omaha	NE 68114–	(402)399–9000
NE0017 Omaha Sleep Inn		2525 Abbott Dr	Omaha	NE 68110–	(402)342–2525
NE0018 Park Inn Hotel		9305 S. 145th St	Omaha	NE 68138–	(402)895–2555
NE0019 Radisson Redick Tower Hotel.		1504 Harney St	Omaha	NE 68102–	(402)342–1500
NE0020 Red Lion Hotel		1616 Dodge St	Omaha	NE 68102–	(402)346–7600
NE0021 Residence Inn by Marriott.		6990 Dodge St	Omaha	NE 68132–	(402)553–8898
NE0022 Savannah Suites Hotel		4809 S. 107 Ave	Omaha	NE 68127–	(402)592–8000
NE0023 Sheraton Inn Omaha		4888 S. 118th St	Omaha	NE 68137–	(402)895–1000
NE0024 Town House Inn		13929 Gold Cir	Omaha	NE 68144–	(402)333–3777
NE0026 Airport Motel		N. Hwy. 11	Ord	NE 68862–	(308)728–3649
NE0027 Pump & Pantry Motel		2320 L St	Ord	NE 68862–	(308)728–7996
NE0028 Liberty Lodge Motel		1409 Gold Coast Rd	Papillion	NE 68128–	(402)339–0555
NE0029 Wayward Inn Motel		117 S. Nebraska St	Ponca	NE 68770–	(402)755–2237
NE0030 Meadowlark Manor		241 W. 9th Ave	Red Cloud	NE 68970–	(402)746–3550
NE0031 Johnnie's Motel		222 W. 16th St	Schuyler	NE 68661–	(402)352–5454
NE0032 Scottsbluff Comfort Inn		2018 Delta Dr	Scottsbluff	NE 69361–	(308)632–7510
NE0033 Super 8 Motel		2202 Delta Dr	Scottsbluff	NE 69361–	(308)635–1600
NE0035 Super 8 Motel		S. Hwy. 15	Seward	NE 68434–	(402)643–3388
NE0034 Sidney Econo Lodge		730 E. Jennifer Ln	Sidney	NE 69162–	(308)254–5011
NE0036 The Old Boarding House B&B.		1300 11th Ave	Sidney	NE 69162–	(308)254–3685
NE0037 Marina Inn		4th & B Streets	South Sioux City	NE 68776–	(402)494–4000
NE0038 Plains Motel		1540 Idaho St	Superior	NE 68978–	(402)879–3245
NE0039 K D Inn Motel		311 E. 7th St	Wayne	NE 68787–	(402)375–1770
NE0089 Hotel Wilber B&B		203 S. Wilson	Wilber	NE 68465–	(402)821–2020
NE0040 Super 8 Lodge	PO Box 532	I–80 & Hy 81	York	NE 68467–	(402)362–3388
NE0090 Yorkshire Motel		3402 South Lincoln Ave	York	NE 68467–	(402)362–6633
New Jersey					
NJ0157 Novotel Hotel Princeton		100 Independence Way	Princeton	NJ 08540–	(609)520–1200
New York					
NY0264 Huntington Hilton Hotel		598 Broadhollow Rd	Melville	NY 11747–	(516)845–1000
Ohio					
OH0316 Hyatt Regency Columbus.		350 N. High St	Columbus	OH 43215–	(614)463–1234
OH0325 Knights Court Suites Columbus.		1001 Schrock Rd	Columbus	OH 43229–	(614)431–0208

HOTEL AND MOTEL FIRE SAFETY ACT NATIONAL MASTER LIST 06/22/94—Continued

Index, Property name	PO Box/Rt No.	Street address	City	State/zip	Telephone
OH0429 Knights Inn Cleveland East.		8370 Broadmoor	Mentor	OH 44060–7508	(216)953–8835
OH0425 Knights Inn Cleveland East Mentor.		7677 Reynolds Rd.	Mentor	OH44060–5126	(216)946–0749
OH0001 Hampton Inn St Clairsville.		51130 National Rd. East	Saint Clairsville	OH 43950–	(614)695–3961
OH0177 Knights Court Streetsboro.		9789 SR 14	Streetsboro	OH 44241–	(216)626–5511
Oklahoma					
OK0043 Econo Lodge		1401 N. Elm Pl	Broken Arrow	OK 74012–	(918)258–6617
OK0044 Econo Lodge Airport		11620 E. Skelly Dr	Tulsa	OK 74128–	(918)437–9200
Pennsylvania					
PA0023 Econo Lodge	Test	2115 Downyflake Ln	Allentown	PA 18103–	(215)797–2200
PA0051 Ramada Inn Breezewood.	PO Box 157	US Route 30	Breezewood	PA 15533–	(814)735–4005
PA0053 Econo Lodge		235 Allegheny Blvd	Brookville	PA 15825–	(814)849–8381
PA0016 Econo Lodge of Douglasville.	Route 422W	387 Ben Franklin Hwy	Douglasville	PA 19518–	(215)385–3016
PA0014 Econo Lodge	PO Box 304	I–80 & Route 93	Drums	PA 18222–	(717)788–5887
PA0113 Econo Lodge		70 Robinhood Drive	Etters	PA 17319–	(717)938–6200
PA0140 Best Western Hotel Crown Park.		765 Eisenhower Blvd	Harrisburg	PA 17111–	(717)558–9500
PA0136 Econo Lodge		150 Nationwide Dr	Harrisburg	PA 17110–	(717)545–9089
PA0015 Econo Lodge Hershey	PO Box 737	115 Lucy Ave	Hershey	PA 17033–	(717)533–2515
PA0181 Econo Lodge South		2165 US Highway 30 East	Lancaster	PA 17602–	(717)397–1900
PA0187 Friendship Inn Italian Villa.		2331 Lincoln Hwy East	Lancaster	PA 17602–	(717)397–4973
PA0201 Best Western Country Cupboard Inn.	PO Box 46	Route 15 North	Lewisburg	PA 17837–	(717)524–5500
PA0225 Best Western Montgomeryville.		969 Bethlehem Pike	Montgomeryville	PA 18936–	(215)699–8800
PA0244 Knights Court	PO Box 747	110 N. Main St	New Stanton	PA 15672–	(414)925–6755
PA0260 Best Western Independence Park Hotel.		235 Chestnut St	Philadelphia	PA 19106–	(215)922–4443
PA0251 Best Western Hotel Philadelphia NE.		11580 Roosevelt Blvd	Philadelphia	PA 19116–	(215)464–9500
PA0252 Comfort Inn Penn's Landing.		100 N. Christopher Columbus Bl	Philadelphia	PA 19106–	(215)627–7900
PA0276 Econo Lodge	PO Box 585	RR 1	Pine Grove	PA 17963–	(717)345–4099
PA0359 Econo Lodge		107 Vip Dr	Wexford	PA 15090–	(412)935–1000
PA0363 Best Western East Mountain Inn.		2400 E. End Blvd	Wilkes-Barre	PA 18702—	(717)822–1011
Tennessee					
TN0169 Ho Inn by Howard Johnson.		975 Volunteer Pkwy	Bristol	TN 37620–	(615)968–9474
TN0093 LA Quinta Inn		2345 Atrium Way	Nashville	TN 39236–	(615)885–3000
Texas					
TX0145 Best Western Beaumont Inn.		2155 N. 11th St	Beaumont	TX 77703–	(409)898–8150
TX0031 Best Western Windsor Suites.		2363 Stemmons Trail	Dallas	TX 75220–	(214)350–2300
TX0414 Best Western Dumas Inn.		1712 S. Dumas Ave	Dumas	TX 79029–	(806)935–6441
TX0074 Quality Inn		107 Wagon Wheel Dr	ennis	TX 75119–	(214)875–9641
TX0097 Butterfield Inn		2000 Main St	Fort Davis	TX 79734–	(915)426–3252
TX0122 Clarion Hotel		2000 Beach St	Fort Worth	TX 76103–	(817)534–4801
TX0219 Country Suites by Carlson.		8401 W. I–30	Fort Worth	TX 76116–	(817)560–0060
TX0275 Courtyard by Marriott Ft. Worth.		3150 Riverfront Dr	Fort Worth	TX 76107–	(817)335–1300
TX0042 Holiday Inn North Conference Center.		2540 Meacham Blvd	Fort Worth	TX 76106–	(817)625–9911
TX0155 LA Quinta Inn #451		7888 I–30	Fort Worth	TX 76108–3606	(817)246–5511
TX0449 Residence Inn by Marriott.		1701 S. University Dr	Fort Worth	TX 76107–	(817)870–1011
TX0253 Econo Lodge		2825 61st St	Galveston	TX 77551–	(409)744–7133
TX0028 Best Western Inn & Suites.		1216 I–30 W	Greenville	TX 75402–	(903)454–1792

HOTEL AND MOTEL FIRE SAFETY ACT NATIONAL MASTER LIST 06/22/94—Continued

Index, Property name	PO Box/Rt No.	Street address	City	State/zip	Telephone
TX0044 Clarion Inn		500 N. Sam Houston Pkwy	Houston	TX 77060–	(713)931–0101
TX0108 Days Inn Cavalcade		100 W. Cavalcade	Houston	TX 77009–	(713)869–7121
TX0376 Wyndham Warwick Hotel.		5701 Main St	Houston	TX 77005–1895	(713)526–1991
TX0075 Omni Mandalay Hotel at Las Colinas.		221 E. Las Colinas Blvd	Irving	TX 75039–	(214)556–0800
TX0061 Best Western Classic Inn.		6624 Hwy 84 W	Waco	TX 76712–	(817)776–3194
Virginia					
VA0497 Omni Waterside Hotel at Norfolk.		777 Waterside Drive	Norfolk	VA 23510–0000	(804)622–6644
Wisconsin					
WI0120 Sheraton Inn Fond Du Lac.		One N. Main St	Fond Du Lac	WI 54935–	(414)923–3000
DELETIONS					
Arizona					
AZ0116 Best Western Inn Suites.		1615 E. Northern Ave	Phoenix	AZ 85020–	(602)997–6285
Iowa					
IA0134 Best Western Holiday Lodge.		I–35 Hwy 18	Clear Lake	IA 50428–	(515)357–5253
Kansas					
KS0113 Garden City Hilton Inn		1911 E. Kansas Ave	Garden City	KS 67846–	(316)275–7471
Texas					
TX0383 Rodeway Inn		1520 SW. Hwy IH–35	Belton	TX 76513–	(817)939–0745
TX0235 Excel Inn		8205 Esters Blvd	Irving	TX 75063–	(214)929–0066

[FR Doc. 94–15783 Filed 6–28–94; 8:45 am]
BILLING CODE 6718–26–U

Reader Aids

Federal Register

Vol. 59, No. 124

Wednesday, June 29, 1994

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	202–523–5227
Public inspection announcement line	523–5215
Corrections to published documents	523–5237
Document drafting information	523–3187
Machine readable documents	523–3447

Code of Federal Regulations

Index, finding aids & general information	523–5227
Printing schedules	523–3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523–6641
Additional information	523–5230

Presidential Documents

Executive orders and proclamations	523–5230
Public Papers of the Presidents	523–5230
Weekly Compilation of Presidential Documents	523–5230

The United States Government Manual

General information	523–5230

Other Services

Data base and machine readable specifications	523–3447
Guide to Record Retention Requirements	523–3187
Legal staff	523–4534
Privacy Act Compilation	523–3187
Public Laws Update Service (PLUS)	523–6641
TDD for the hearing impaired	523–5229

ELECTRONIC BULLETIN BOARD

Free **Electronic Bulletin Board** service for Public Law numbers, Federal Register finding aids, and list of documents on public inspection. 202–275–0920

FAX-ON-DEMAND

The daily Federal Register Table of Contents and the list of documents on public inspection are available on the National Archives fax-on-demand system. You must call from a fax machine. There is no charge for the service except for long distance telephone charges. 301–713–6905

FEDERAL REGISTER PAGES AND DATES, JUNE

28207–28458 1
28459–28758 2
28759–29184 3
29185–29350 6
29351–29534 7
29535–29710 8
29711–29936 9
29937–30276 10
30277–30500 13
30501–30662 14
30663–30862 15
30863–31106 16
31107–31502 17
31503–31916 20
31917–32074 21
32075–32308 22
32309–32646 23
32647–32870 24
32871–33192 27
33193–33412 28
33413–33640 29

CFR PARTS AFFECTED DURING JUNE

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
6695 28459
6696 28461
6697 28463
6698 28757
6699 30663
6700 30665
6701 31101
6702 32309
6703 32643

Administrative Orders:
Memorandums:
June 20, 1994 33413

Presidential Determinations:
No. 94–24 of May 16, 1994 28759
No. 94–26 of June 2, 1994 31103
No. 94–27 of June 2, 1994 31105
No. 94–28 of June 6, 1994 31107

Executive Orders:
3406 (Revoked in part by PLO 7048) 29661
4257 (Revoked in part by PLO 7056) 29206
8248 (Superseded or revoked in part by EO 12919) 29525
10222 (Superseded or revoked by EO 12919) 29525
10480 (Superseded or revoked by EO 12919) 29525
10647 (Superseded or revoked by EO 12919) 29525
10789 (Amended by EO 12919) 29525
11179 (Superseded or revoked by EO 12919) 29525
11355 (Superseded or revoked by EO 12919) 29525
11790 (Amended by EO 12919) 29525
11912 (Superseded or revoked in part by EO 12919) 29525
11988 (See HUD final rule of June 20) 33198
12148 (Superseded or revoked in part by EO 12919) 29525
12521 (Superseded or revoked by EO 12919) 29525
12649 (Superseded or revoked by EO 12919) 29525
12773 (Superseded or revoked in part by EO 12919) 29525
12775 (See EO 12920 and 12922) 30501, 32645
12779 (See EO 12920 and 12922) 30501, 32645
12853 (See EO 12922) 32645
12864 (Amended by EO 12921) 30667
12872 (See EO 12922) 32645
12914 (See EO 12920 and 12922) 30501, 32645
12914 (See DOT notice of June 24) 32744
12917 (See EO 12920) 30501
12918 (See State Dept. notice of May 27) 28583
12919 29525
12920 (See EO 12922) 30501, 32645
12921 30667
12922 32645

5 CFR
330 32871
332 32871
351 32871
532 30503
550 33415
591 29351
1201 ..... 30863, 31109
1209 31109
2100 30669
Ch. XIV 30503

Proposed Rules:
300 ..... 30717, 32042
532 30533
870 31171
871 31171
872 31171
873 31171
874 31171
890 31171
1320 29738

7 CFR
2 31917
51 31503
271 29711
272 ..... 29711, 30864
273 ..... 29711, 30864
275 29711
276 29711
278 29711

279 ... 29711
658 ... 31110
723 ... 28207
801 ... 31505
911 ... 29535
915 ... 30866, 33417
916 ... 31118
917 ... 31118
922 ... 30672
923 ... 31917
926 ... 30872
932 ... 30873
944 ... 30866
1040 ... 33418
1735 ... 29536
1753 ... 31120
1755 ... 30505, 31120
1980 ... 28465

Proposed Rules:
0 ... 32138
1 ... 32138
6 ... 28495
7 ... 32138
47 ... 32138
50 ... 32138
51 ... 32138
52 ... 32138
53 ... 32138
54 ... 32138
180 ... 32138
210 ... 30218
220 ... 30218
246 ... 29549
301 ... 31561
319 ... 29557
372 ... 28814
400 ... 30533
406 ... 30536
457 ... 30537
920 ... 33451
944 ... 33451
980 ... 33451
1137 455
1208 ... 33400
1250 ... 31174
1530 ... 28286
1710 ... 28495
1726 ... 28924
1942 ... 30717
1948 ... 30717
1951 ... 30717
1980 ... 30717, 32660

8 CFR
103 ... 30516

Proposed Rules:
1 ... 29386
3 ... 29386
103 ... 29386
208 ... 29386
242 ... 29386

9 CFR
77 ... 29185, 31921
78 ... 31922
92 ... 28214, 29186, 31923
94 ... 28216, 28218
317 ... 30875
381 ... 30875

Proposed Rules:
53 ... 33214
71 ... 33214
82 ... 33214
91 ... 31956
92 ... 33214
94 ... 31957, 33214
161 ... 33214
202 ... 32138
391 ... 32940

10 CFR
2 ... 29187
40 ... 28220

Proposed Rules:
9 ... 30308
20 ... 30724
30 ... 32138
35 ... 30724
40 ... 32138
52 ... 29965
70 ... 32138
72 ... 28496, 32138

11 CFR
8 ... 32311
107 ... 33606
114 ... 33606
9008 ... 33606

12 CFR
27 ... 31924
34 ... 29482
201 ... 29537
208 ... 28761
225 ... 29482
323 ... 29482
327 ... 29714
412 ... 31136
545 ... 29482
563 ... 29482
564 ... 29482
574 ... 28468
701 ... 29066, 33420
741 ... 33420

Proposed Rules:
26 ... 29740
203 ... 30310
304 ... 29965
327 ... 29965
333 ... 30316
362 ... 29559
366 ... 32661
563b ... 29480, 29975
567 ... 30538, 32143
575 ... 29480, 29975
617 ... 31562

13 CFR
107 ... 28471
121 ... 28231

Proposed Rules:
123 ... 33456

14 CFR
25 ... 28234, 28762, 29538, 32050
29 ... 32050
39 ... 28475, 28763, 29351, 29353, 29354, 29355, 29540, 30277, 30278, 30282, 30283, 30285, 30673, 31507, 31508, 31512, 31516, 31517, 32325, 32327, 32329, 32331, 32647, 32874, 32875, 32877, 32879, 32881, 32882
71 ... 28245, 28449, 28476, 28477, 28478, 29189, 29190, 29542, 29937, 29938, 29939, 29944, 29945, 29946, 29947, 29948, 29949, 30288, 30832, 31518, 32075, 32076, 33421
91 ... 29716, 32050
97 ... 28479, 30675, 30676, 30680, 33422, 33424, 33428
121 ... 32050
125 ... 32050
135 ... 32050, 33602

Proposed Rules:
Ch. I ... 29210, 29561, 32668, 32941, 33457
13 ... 29880
16 ... 29800
27 ... 29976
29 ... 29976, 33598
39 ... 29210, 29212, 29391, 29744, 29745, 30543, 32144, 33233
71 ... 28498, 28499, 29213, 29215, 29562, 30832, 32146, 32669, 33235
91 ... 31098, 31886
135 ... 31886
189 ... 29934

15 CFR
770 ... 30682
771 ... 30682, 30684
773 ... 30684
775 ... 30682
779 ... 30684
785 ... 30684
786 ... 30684
799 ... 30684

Proposed Rules:
990 ... 32148

16 CFR
1014 ... 32077
1610 ... 33193

Proposed Rules:
423 ... 30733
600 ... 31176
803 ... 30545
1640 ... 30735

17 CFR

Proposed Rules:
1 ... 30885
240 ... 29393, 29398, 33236
249 ... 29393, 29398
270 ... 28286
402 ... 32155
404 ... 32155

18 CFR
161 ... 32885
250 ... 32884, 32885
284 ... 29716, 32885

Proposed Rules:
35 ... 28297
803 ... 29563
804 ... 29563
805 ... 29563

19 CFR
10 ... 30289
12 ... 31519, 32902
101 ... 30289
111 ... 30289
123 ... 30289
128 ... 30289
141 ... 30289
143 ... 30289
145 ... 30289
148 ... 30289
159 ... 30289

Proposed Rules:
141 ... 32942
177 ... 32942
191 ... 31177

20 CFR
200 ... 28764
404 ... 30389

21 CFR
5 ... 31138, 33430
16 ... 29950
73 ... 28765
101 ... 28480
131 ... 32078
176 ... 33194
178 ... 33195
270 ... 29950
341 ... 29172
346 ... 28766
347 ... 28767
510 ... 28768, 31138, 31139, 33196, 33197
520 ... 28768, 33196, 33198
522 ... 31139, 33197
524 ... 28768, 33196
529 ... 31139
558 ... 33196, 33198
821 ... 31138
1270 ... 29950
1306 ... 30832

Proposed Rules:
Ch. I ... 29977
333 ... 31402
352 ... 29706
369 ... 31402
600 ... 28821
601 ... 28821
606 ... 28822
607 ... 28822
610 ... 28821
640 ... 28822
660 ... 28822
810 ... 30656, 32489
1301 ... 30555, 30738

22 CFR
123 ... 29950
124 ... 29950
126 ... 29950
220 ... 28769
222 ... 28769

23 CFR
657 ... 30392
658 ... 30392
660 ... 30296
710 ... 30302
712 ... 30302
713 ... 30302
720 ... 30302
1260 ... 30695

24 CFR
Ch. I ... 33362
9 ... 31036
42 ... 29326
55 ... 33198
200 ... 31521
207 ... 28246, 31140
213 ... 28246, 31140
215 ... 29326, 32648
220 ... 28246
221 ... 28246, 29326, 31140
232 ... 28246
236 ... 29326, 32648
241 ... 28246
242 ... 28246, 31140

244 ... 28246
291 ... 29506
510 ... 29326
813 ... 32648
850 ... 29326
881 ... 29326
882 ... 29326
883 ... 29326
884 ... 29326
900 ... 29326
905 ... 31521, 31927
913 ... 32648
941 ... 29326, 31521
965 ... 31927
968 ... 30472, 31521
Proposed Rules:
880 ... 30557
881 ... 30557
883 ... 30557
884 ... 30557
886 ... 30557
888 ... 32492

25 CFR

Proposed Rules:
Ch. I ... 33236
256 ... 30276

26 CFR

1 ... 30100, 32078, 32903, 32911, 33199, 33431
20 ... 30100
25 ... 30100
301 ... 29356, 29359
602 ... 29359, 30100, 32078, 33431
Proposed Rules:
1 ... 30180, 32160, 32670
20 ... 30180
25 ... 30180

27 CFR

70 ... 29366
Proposed Rules:
4 ... 30560
6 ... 29215
8 ... 29215
10 ... 29215
11 ... 29215

28 CFR

0 ... 29717
16 ... 29717
65 ... 30520
549 ... 31882
552 ... 30468
Proposed Rules:
9 ... 33457
16 ... 29747
35 ... 31808
36 ... 31808
37 ... 31808

29 CFR

0 ... 32610
70 ... 29900
1952 ... 32649
2619 ... 30698
2676 ... 30698
2509 ... 32606
Proposed Rules:
103 ... 28501
417 ... 31056
452 ... 30834
1910 ... 28594, 30389, 30560
1915 ... 30560
1917 ... 28594, 30389
1918 ... 28594, 30389
1926 ... 30560, 32943
1928 ... 30560
2609 ... 29661

30 CFR

756 ... 29719
906 ... 28248
914 ... 30875
916 ... 28769
Proposed Rules:
Ch. II ... 28304, 32944
206 ... 32943
701 ... 28744
773 ... 28744
785 ... 28744
816 ... 28744
817 ... 28744
901 ... 28302
917 ... 28823
920 ... 32388
935 ... 29748
938 ... 33236

31 CFR

10 ... 31523
205 ... 28260
356 ... 28773
515 ... 31142
550 ... 31143

32 CFR

251 ... 29368
367 ... 29952
552 ... 31144
701 ... 29721
706 ... 32333, 32334
Proposed Rules:
199 ... 33465
241 ... 32670
701 ... 28304

33 CFR

100 ... 28775, 30523, 30832, 31529, 31530, 31531, 32650, 33433, 33434
117 ... 28776, 28778, 30524, 31931, 32652
165 ... 28262, 28263, 28778, 28780, 29368, 29369, 29370, 29371, 30523, 31532, 31533, 31534, 31535, 31536, 31537, 31932, 31933, 31933, 31934, 31935, 31936, 31937, 32652, 32654, 32655, 33200, 33434, 33435
167 ... 28499
209 ... 31146
Proposed Rules:
100 ... 29403, 31567
117 ... 28324, 29405, 29406
151 ... 31959
165 ... 28824, 30389

34 CFR

21 ... 32656
75 ... 30258, 32656
81 ... 32656
219 ... 32656
232 ... 32656
303 ... 32656
346 ... 32656
347 ... 32656
354 ... 32656
355 ... 32656
356 ... 32656
357 ... 32656
358 ... 32656
359 ... 32656
360 ... 32656
363 ... 32656
369 ... 32656
371 ... 32656
373 ... 32656
374 ... 32656
375 ... 32656
376 ... 32656
377 ... 32656
378 ... 32656
379 ... 32656
380 ... 32656
381 ... 32656
385 ... 32656
386 ... 31060
387 ... 32656
389 ... 32656
390 ... 32656
462 ... 32656
472 ... 32656
600 ... 32081, 32656
602 ... 32656
608 ... 32656
609 ... 32656
610 ... 32656
614 ... 32656
631 ... 32656
632 ... 32656
633 ... 32656
634 ... 32656
635 ... 32656
636 ... 32656
642 ... 32656
643 ... 32656
644 ... 32656
645 ... 32656
646 ... 32656
648 ... 32656
649 ... 32656
650 ... 32656
653 ... 32656
654 ... 32656
655 ... 32656
656 ... 32656
657 ... 32656
658 ... 32656
660 ... 32656
661 ... 32656
667 ... 32656
668 ... 32656
669 ... 32656
671 ... 32656
674 ... 32656
675 ... 32656
676 ... 32656
682 ... 32656, 32862, 32922, 33334, 33580
685 ... 32656
690 ... 32656
692 ... 32656
693 ... 32656
698 ... 32656
776 ... 32656
777 ... 32656
778 ... 32656
779 ... 32656
785 ... 32656
786 ... 32656
787 ... 32656
Proposed Rules:
Ch. VI ... 28502
668 ... 32264
674 ... 32264
675 ... 32264
676 ... 32264

36 CFR

242 ... 28922, 29032, 32923
261 ... 31146
290 ... 31146
292 ... 30492
1191 ... 31676, 32751
1220 ... 28781
1252 ... 29191
1254 ... 29191
1260 ... 29191
Proposed Rules:
1 ... 31886
2 ... 31886
3 ... 31886
4 ... 31886
5 ... 31886
6 ... 31886
7 ... 31886

37 CFR

1 ... 32658
201 ... 33201
253 ... 33201
255 ... 33201
259 ... 33201

38 CFR

3 ... 29723, 32658
17 ... 28264
Proposed Rules:
21 ... 32671

39 CFR

111 ... 30701, 32335, 32336
233 ... 31154
241 ... 29724
946 ... 29372
953 ... 31538
Proposed Rules
Ch. I ... 31178
111 ... 31178, 32165
262 ... 30739
266 ... 30739

40 CFR

9 ... 31306, 31540, 32082, 32339, 32340, 32341
51 ... 32343
52 ... 28785, 29730, 29731, 29732, 29953, 29956, 29957, 30302, 30702, 31154, 31544, 31548, 32343, 32353, 32354, 32355, 32360, 32362, 32365, 32370, 33202
60 ... 32340
61 ... 31157
63 ... 29196
79 ... 33042
81 ... 28326, 28480
89 ... 31306
144 ... 29958
170 ... 30264
180 ... 28482, 29543, 32083, 32084, 33204, 33436, 33437
260 ... 28484
261 ... 31551
264 ... 29958
268 ... 31551
270 ... 29372
271 ... 29734, 30525, 32377, 32489

272 ... 30528
280 ... 29958
281 ... 29201
302 ... 31551
372 ... 33205
710 ... 30652
721 ... 29202, 29203, 29204
763 ... 33208
799 ... 33184

Proposed Rules:
Ch. I ... 29750, 32389
51 ... 33237
52 ... 28503, 29977, 30326, 30562, 30564, 30741, 30742, 31568, 31962, 32390, 32392, 32395, 32397, 33240
63 ... 29196, 29750, 32165
70 ... 31183
81 ... 29977, 30326, 32397
124 ... 28680
180 ... 29576, 30746, 30748, 30750, 32167, 32169, 32170, 32172, 32173, 33240
185 ... 32172
260 ... 31568
261 ... 31568
262 ... 31568
264 ... 28504, 31568
265 ... 28504, 31568
266 ... 31964
268 ... 31568
270 ... 28504, 28680, 31568
271 ... 28504
273 ... 31568
280 ... 30448
281 ... 30448
300 ... 30752, 32673
372 ... 29252
435 ... 31186
455 ... 30753
721 ... 29255, 29258
799 ... 33187

41 CFR

128–1 ... 33439

42 CFR

405 ... 32086
412 ... 30389, 32378
489 ... 32086
1003 ... 32086

Proposed Rules:
50 ... 33242
410 ... 32754
412 ... 31303
413 ... 29578, 31303
414 ... 32754
435 ... 31569
436 ... 31569
482 ... 31303
485 ... 31303
489 ... 31303

43 CFR

1720 ... 29205
2070 ... 29205
2510 ... 29205
4700 ... 28275
8350 ... 29205

Proposed Rules:
11 ... 32175
426 ... 33251

Public Land Orders:
1800 (Revoked in part by PLO 7062) ... 28791
7048 ... 29661
7056 ... 29206
7057 ... 28788
7058 ... 28789
7059 ... 28789
7060 ... 28790
7061 ... 29545
7062 ... 28791
7063 ... 29544

Proposed Rules:
3160 ... 29407

44 CFR

64 ... 30705
65 ... 28484, 28485, 32127, 32128, 33439, 33441
67 ... 32130, 33442

Proposed Rules
67 ... 28505

45 CFR

46 ... 28276
95 ... 30707
205 ... 30707
2525 ... 30709
2526 ... 30709
2527 ... 30709
2528 ... 30709
2529 ... 30709

Proposed Rules:
94 ... 33242
1607 ... 30885

46 CFR

12 ... 28791
16 ... 28791

Proposed Rules:
40 ... 29259
67 ... 31580
154 ... 29259
502 ... 31584
540 ... 30567

47 CFR

0 ... 30984, 32131
1 ... 30984, 31009, 32489
2 ... 32830
15 ... 32830
24 ... 32830
61 ... 32925
64 ... 32925
69 ... 32925
73 ... 29272, 29273, 31161, 31162, 31552, 32133
74 ... 31552
90 ... 30304, 31557

Proposed Rules:
Ch. I ... 33483
2 ... 31966
22 ... 30890, 31186
61 ... 30754
64 ... 30754
69 ... 30754
73 ... 29408, 30331, 30891, 32176, 32177, 32945

48 CFR

516 ... 32383
533 ... 29480
552 ... 32383
701 ... 33444
702 ... 33444
703 ... 33444
706 ... 33444
710 ... 33444
715 ... 33444
724 ... 33444
725 ... 33444
728 ... 33444
737 ... 33444
749 ... 33444
750 ... 33444
752 ... 33444
753 ... 33444
Appendix H ... 33444
1501 ... 32133
1801 ... 29960
1802 ... 29960
1804 ... 29960
1805 ... 29960
1807 ... 29960, 29962
1809 ... 29960
1810 ... 29962
1815 ... 29960
1822 ... 29960
1823 ... 29960
1825 ... 29960
1839 ... 29960
1843 ... 29963
1852 ... 29960, 29963

Proposed Rules:
7 ... 29696
10 ... 29696
37 ... 29696
211 ... 31584, 33253
215 ... 31189
227 ... 31584, 33253
245 ... 28327
252 ... 28327, 31584, 33253
546 ... 32405
552 ... 32405
1601 ... 28487
1602 ... 28487
1609 ... 28487
1615 ... 28487
1632 ... 28487
1642 ... 28487
1646 ... 28487
1652 ... 28487
1831 ... 33254
1852 ... 33254

49 CFR

1 ... 32134
107 ... 30530, 32930
171 ... 28487
172 ... 28487, 30530, 31822
173 ... 28487
174 ... 28487
176 ... 30530
178 ... 28487
179 ... 28487
195 ... 29379, 33388
214 ... 30879
541 ... 31162
591 ... 31558
592 ... 31558
826 ... 30531

Proposed Rules:
27 ... 31818
37 ... 31818
192 ... 30567
194 ... 30755, 32178
195 ... 30567
571 ... 30756
575 ... 33254
1002 ... 29586
1023 ... 32178

50 CFR

14 ... 33211
17 ... 30254, 31094, 32932
100 ... 28922, 29032
216 ... 30305, 31165
217 ... 29545
222 ... 31094
226 ... 28793, 30715
227 ... 29545, 33447
229 ... 31165
301 ... 29207, 30307
625 ... 28809, 29207
630 ... 32136
638 ... 32938
649 ... 31938
651 ... 32134
661 ... 31170
663 ... 29736
671 ... 28276
672 ... 28811, 29208, 29548, 33212
675 ... 28811, 29208, 29737, 29964, 30307, 32385, 32386
676 ... 28281
678 ... 33450
685 ... 28499

Proposed Rules:
Ch. II ... 28838
15 ... 28826
17 ... 28328, 28329, 28508, 29778, 31620, 31970, 32178, 32946, 33484
20 ... 29700
22 ... 30892
285 ... 30896, 31621
630 ... 29779
641 ... 30389
642 ... 28330
644 ... 30903
671 ... 28827
672 ... 28827
675 ... 28827
676 ... 28827, 31189, 33272

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List June 21, 1994

Printed on recycled paper