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Contents

Federal Register

Vol. 59, No. 144

Thursday, July 28, 1994

Agriculture Department
See Forest Service
See Rural Development Administration
See Rural Electrification Administration
NOTICES
Agency information collection activities under OMB review, 38428

Air Force Department
RULES
Aircraft:
Civil reserve air fleet program, 38366–38367
PROPOSED RULES
Privacy Act; implementation, 38389–38399

Army Department
See Engineers Corps
NOTICES
Privacy Act:
Systems of records, 38440–38442

Centers for Disease Control and Prevention
NOTICES
Committees; establishment, renewal, termination, etc.:
Diabetes Translation and Community Control Programs Technical Advisory Committee, 38477–38478
Grants and cooperative agreements; availability, etc.:
State immunization information systems; development demonstration projects, 38478–38481

Children and Families Administration
NOTICES
Agency information collection activities under OMB review, 38477

Commerce Department
See Economic Analysis Bureau
See Foreign-Trade Zones Board
See International Trade Administration
See Minority Business Development Agency
See National Oceanic and Atmospheric Administration
NOTICES
Agency information collection activities under OMB review, 38430

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Malaysia, 38439–38440
Poland, 38439

Copyright Office, Library of Congress
RULES
Special services; fees, 38369–38372
PROPOSED RULES
Deposit account services; fees, 38400–38402

Customs Service
RULES
North American Free Trade Agreement (NAFTA):
Express consignments; formal and informal merchandise entries; administrative exemptions, 38548

Defense Department
See Air Force Department
See Army Department
See Defense Logistics Agency
See Defense Nuclear Agency
See Engineers Corps
See Navy Department
NOTICES
Meetings:
Electron Devices Advisory Group, 38440

Defense Logistics Agency
NOTICES
Privacy Act:
Computer matching programs, 38442–38444

Defense Nuclear Agency
NOTICES
Privacy Act:
Systems of records, 38444–38445

Drug Enforcement Administration
NOTICES
Applications, hearings, determinations, etc.:
Dupont Pharmaceuticals, 38492
Roche Diagnostic Systems, Inc., 38492

Economic Analysis Bureau
PROPOSED RULES
International services surveys:
Foreign direct investments in U.S.—
BE-80; benchmark survey of financial services transactions between U.S. financial services providers and unaffiliated foreign persons, 38387–38389

Education Department
RULES
Vocational and adult education:
State vocational and applied technology, national tech-prep, and State-administered tech-prep education programs; amendments, 38512–38514
NOTICES
Agency information collection activities under OMB review, 38446
Grants and cooperative agreements; availability, etc.:
Educational media research, production, distribution, and training program, 38516–38518
Special education and rehabilitative services:
Blind vending facilities; arbitration panel decisions under Randolph-Sheppard Act, 38446–38447

Employment and Training Administration
NOTICES
Adjustment assistance:
Cooper Industries, 38493
Martin Marietta Magnesia Specialties, Inc., 38493–38494
Adjustment assistance and NAFTA transitional adjustment assistance:
Sealy Mattress et al., 38494–38495
NAFTA transitional adjustment assistance:
Ameriplas Inc. et al., 38495–38496

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Grant and cooperative agreement awards:
South Carolina Health and Environmental Control Department, 38447

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
Snake and Gros Ventre Rivers, WY; project access improvements, 38440

Environmental Protection Agency
RULES
Air pollution control; new motor vehicles and engines:
On-board diagnostic systems on 1994 and later model year light-duty vehicles and trucks; reporting and recordkeeping requirements, 38372
Air quality implementation plans; approval and promulgation; various States:
Massachusetts, 38372–38374
Hazardous waste:
Identification and listing—
Solid waste, definition, 38536–38545
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
Arizona, 38402–38408
California, 38408–38410
Air quality planning purposes; designation of areas:
New Jersey and New York, 38410–38411
Superfund program:
Toxic chemical release reporting; community right-to-know—
Alternate threshold for low-level releases and transfers, 38524–38533
NOTICES
Agency information collection activities under OMB review, 38453
Clean Air Act:
Acid rain provisions—
State permits, 38454–38455
Fuel and fuel additives; reformulated gasoline standards—
Kentucky, 38453–38454
Environmental auditing; policies restatement, 38455–38460
Indian program operations improvement; comment solicitation, 38460–38463
Meetings:
Effluent Guidelines Task Force, 38460
Gulf of Mexico Program Technical Advisory Committee, 38463
Municipal solid waste landfill permit programs; adequacy determinations:
New York, 38463–38465
Superfund program:
Procedures for submitting petitions and review of petitions; guidance availability, 38465
Toxic and hazardous substances control:
Chemical testing—
Data receipt, 38472
Water pollution; discharge of pollutants (NPDES):
Seafood processors in Alaska in U.S. waters, 38473–38474
Water pollution control:
National pollutant discharge elimination system; State programs—
Maine et al., 38465–38472

Federal Aviation Administration
RULES
Airworthiness directives:
Enstrom Helicopter Corp., 38355–38357
Fokker, 38350–38354
Schweizer et al., 38354–38355
Class D and E airspace, 38357–38358
PROPOSED RULES
Air traffic operating and flight rules:
Slot use and loss provisions for air carrier and commuter operator slots at high density airports, 38508–38509
Airworthiness directives:
AlliedSignal Aerospace, 38384–38386
Pratt & Whitney, 38387
Class E airspace, 38386
NOTICES
Committees; establishment, renewal, termination, etc.:
RTCA, Inc., 38500–38502
Meetings:
RTCA, Inc., 38500–38502
Passenger facility charges; applications, etc.:
Southwest Florida International Airport, FL, 38502–38503

Federal Communications Commission
RULES
Practice and procedures:
Multipoint distribution services and multichannel multipoint distribution, 38374–38375

Federal Election Commission
NOTICES
Meetings; Sunshine Act, 38505

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
Arizona Public Service Co. et al., 38447–38449
Natural gas certificate filings:
Transcontinental Gas Pipe Line Corp. et al., 38449–38450
Preliminary permits surrender:
Peak Power Corp., 38450
Applications, hearings, determinations, etc.:
AES Power, Inc., 38450–38451
Algonquin Gas Transmission Co., 38451
NorAm Gas Transmission Co., 38451
Ozark Gas Transmission System, 38451
Panhandle Eastern Pipe Line Co., 38452
Texas Eastern Transmission Corp., 38452
Williams Natural Gas Co., 38452–38453

Federal Highway Administration
NOTICES
Environmental statements; notice of intent:
Pinellas and Pasco Counties, FL, 38501

Federal Maritime Commission
PROPOSED RULES
Filing and service fees; revisions, 38411–38418
Independent Offices Appropriation Act:
Filing fees, 38418–38424

Federal Reserve System
NOTICES
Applications, hearings, determinations, etc.:
Carolina First BancShares, Inc., et al., 38474
Heritage Bancshares, Inc., et al., 38474–38475
IBS Financial Corp., 38475
King Bancshares, Inc., 38475
Morris, Winford Hughes, et al., 38475–38476
Sisler, Rufus, et al., 38476
West Coast Bancorp, Inc., 38476

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
California gnatcatcher, 38426
Findings on petitions, etc., 38424–38426

Food and Drug Administration
NOTICES
Human drugs:
Export applications—
Naprosyn E (naproxen enteric coated tablets) 375 mg and 500 mg, 38481–38482
Medical devices:
Class III devices; strategy document availability, 38482
Organization, functions, and authority delegations:
Women's Health Office, 38482

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
Illinois
Sanofi Winthrop L.P.; pharmaceutical warehouse/distribution facility, 38431
Kansas
Sanofi Winthrop L.P.; pharmaceutical manufacturing facilities, 38431
New York
Sanofi Winthrop L.P.; pharmaceutical manufacturing facilities, 38431

Forest Service
NOTICES
Environmental statements; availability, etc.:
Eldorado National Forest, CA, 38428–38429

General Services Administration
NOTICES
Environmental statements; availability, etc.:
Tucson, AZ; Federal Building-U.S. Courthouse, 38476–38477
Interagency Committee for Medical Records:
Muscle function by nerve distribution; face, neck, and upper extremity (SF 528); form stocking change, 38477

Health and Human Services Department
See Centers for Disease Control and Prevention
See Children and Families Administration
See Food and Drug Administration
See National Institutes of Health

Immigration and Naturalization Service
PROPOSED RULES
Nationality:
Naturalization revocation; administrative processes, 38381–38384

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See Minerals Management Service
See National Indian Gaming Commission
See National Park Service
See Reclamation Bureau

International Boundary and Water Commission, United States and Mexico
NOTICES
Environmental statements; availability, etc.:
Lower Rio Grande Flood Control Project, Main Floodway; Quisto Energy Corp. gas well, 38489–38490

International Trade Administration
NOTICES
Antidumping:
Class 150 stainless steel threaded pipe fittings from—
Taiwan, 38432–38435
Glycine from—
China, 38435–
Export trade certificates of review, 38346
Meetings:
Automotive Parts Advisory Committee, 38438
Applications, hearings, determinations, etc.:
University of—
Minnesota et al., 38438–39439

Interstate Commerce Commission
NOTICES
Agency information collection activities under OMB review, 38490
Motor carriers:
Compensated intercorporate hauling operations, 38490–38491

Justice Department
See Drug Enforcement Administration
See Immigration and Naturalization Service
See Juvenile Justice and Delinquency Prevention Office
NOTICES
Pollution control; consent judgments:
Harrah, Terry T., 38491
Lassen Gold Mining, Inc., 38491–38492

Juvenile Justice and Delinquency Prevention Office
NOTICES
Grants and cooperative agreements; availability, etc.:
Juvenile mentoring program guidelines, 38520–38522

Labor Department
See Employment and Training Administration
See Mine Safety and Health Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Women in Apprenticeship and Nontraditional Occupations Act competition, 37492
North American Agreement on Labor Cooperation; submission acceptance for review:
International Brotherhood of Teamsters et al., 38492–38493

Land Management Bureau
NOTICES
Closure of public lands:
Arizona, 38483
Nevada, 38483–38485

Survey plat filings:
Arizona, 38485

Library of Congress
See Copyright Office, Library of Congress
RULES
Federal claims collection:
Salary offset, 38367–38369

Mexico and United States, International Boundary and Water Commission
See International Boundary and Water Commission, United States and Mexico

Minerals Management Service
RULES
Royalty management:
Federal offshore mineral leases; offsets, recoupments and refunds of excess payments of royalties, rentals, bonuses, or other amounts, 38359–38365

Mine Safety and Health Administration
RULES
Coal mine safety and health:
Underground coal mines—
Ventilation; safety standards, 38358–38359

Minority Business Development Agency
NOTICES
Business development center program applications:
Illinois, 38346–38348

National Aeronautics and Space Administration
NOTICES
Agency information collection activities under OMB review, 38496

National Highway Traffic Safety Administration
NOTICES
Meetings:
Rulemaking, research, and enforcement programs, 38503
Motor vehicle safety standards; exemption petitions, etc.:
Accuride Corp., 38503–38504

National Indian Gaming Commission
NOTICES
Indian Gaming Regulatory Act:
Class III tribal gaming ordinances; approval, 38496–38497

National Institutes of Health
NOTICES
Meetings:
Research Grants Division Behavioral and Neurosciences Special Emphasis Panel, 38482–38483

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fishery conservation and management:
Western Pacific Region crustacean, 38426–38427

National Park Service
NOTICES
National Register of Historic Places:
Pending nominations, 38485–38487

Navy Department
RULES
Navigation, COLREGS compliance exemptions:
USS Boxer, 38365–38366
NOTICES
Patent licenses; non-exclusive, exclusive, or partially exclusive:
Anderson Laboratories, Inc., 38445
Cellco, Inc., 38445
Etrema Products, Inc., 38445–38446

Nuclear Regulatory Commission
RULES
Plants and materials; physical protection:
Security personnel at Category I licensee fuel cycle facilities; annual physical fitness performance testing, 38347–38349
NOTICES
Applications, hearings, determinations, etc.:
Western Nuclear, Inc., 38497

Personnel Management Office
PROPOSED RULES
Retirement:
Federal Employees Retirement System—
Coverage exclusions for employees with at least 5 years of service under Civil Service Retirement System, 38376–38377

Postal Rate Commission
NOTICES
Meetings; Sunshine Act, 38505

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration
See National Institutes of Health

Reclamation Bureau
NOTICES
Contract negotiations:
Tabulation of water service and repayment; quarterly status, 38488–38489

Rural Development Administration
RULES
Cooperative agreements:
Federal-State research on cooperatives program, 38342–38347
NOTICES
Grants and cooperative agreements; availability, etc.:
Federal-State research on cooperatives program, 38429–38430

Rural Electrification Administration
RULES
Rural development:
Rural economic development loan and grant program Correction, 38341–38342
PROPOSED RULES
Rural development:
Rural economic development loan and grant program, 38377–38381

Securities and Exchange Commission
NOTICES
Agency information collection activities under OMB review, 38498–38499
Self-regulatory organizations; proposed rule changes:
Pacific Stock Exchange, Inc., 38497–38498

Small Business Administration
NOTICES
Disaster loan areas:
Alabama, 38499
California, 38499
Florida, 38499
Georgia, 38499

State Department
NOTICES
Pipeline facilities on U.S. borders; permit applications:
Lakehead Pipe Line Co., 38499–38500

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See National Highway Traffic Safety Administration

Treasury Department
See Customs Service

Separate Parts In This Issue

Part II
Department of Transportation, Federal Aviation Administration, 38508–38509

Part III
Department of Education, 38512–38514

Part IV
Department of Education, 38516–38518

Part V
Department of Justice, Office of Juvenile Justice and Delinquency Prevention, 38520–38522

Part VI
Environmental Protection Agency, 38524–38533

Part VII
Environmental Protection Agency, 38536–38545

Part VIII
Department of the Treasury, United States Customs Service, 38548

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

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CFR PARTS AFFECTED IN THIS ISSUE

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

5 CFR
Proposed Rules:
842 38376

7 CFR
1703 (2 documents) 38341
4285 38342
Proposed Rules:
1703 38377

8 CFR
Proposed Rules:
340 38381

10 CFR
73 38347

14 CFR
39 (3 documents) 38350, 38354, 38355
71 38357
Proposed Rules:
39 (3 documents) 38384, 38387, 38508
71 38366

15 CFR
Proposed Rules:
801 38387

19 CFR
10 38548
101 38548
123 38548
128 38548
141 38548
143 38548
145 38548
148 38548
159 38548

30 CFR
75 38358
230 38359

32 CFR
706 38365
855 38366
Proposed Rules:
806b 38389

34 CFR
403 38512
405 38512
406 38512

36 CFR
705 38367

37 CFR
201 38369
211 38369
Proposed Rules:
201 38400

40 CFR
9 38372
52 38372
261 38536
266 38536
Proposed Rules:
52 (2 documents) 38402, 38408
81 38410
372 38524

46 CFR
Proposed Rules:
502 38411
503 38411
510 38411
514 (2 documents) 38411, 38418
540 38411
552 38418
560 38418
572 38418
583 38411

47 CFR
0 38374
1 38374

50 CFR
Proposed Rules:
17 (2 documents) 38424, 38426
681 38426

Rules and Regulations

Federal Register
Vol. 59, No. 144
Thursday, July 28, 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.

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DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1703

RIN 0572–AA87

Rural Economic Development Loan and Grant Program; Grants; Correction

AGENCY: Rural Electrification Administration, USDA.

ACTION: Correction to final regulations.

SUMMARY: The Rural Electrification Administration (REA) published amendments to its regulation on the Rural Economic Development Loan and Grant Program at 59 FR 11702 on March 14, 1994. Due to minor errors in the final rule that may prove to be misleading, REA is publishing this correction.

EFFECTIVE DATE: April 13, 1994.

FOR FURTHER INFORMATION CONTACT: Ms. Jill M. Eberhart, Management Analyst, Program Support Staff, Rural Electrification Administration, room 2242, South Building, U.S. Department of Agriculture, Washington, DC 20250–1500, telephone number (202) 720–0380.

SUPPLEMENTARY INFORMATION:

Background

REA published a final rule in the **Federal Register** on March 14, 1994, which amended its Rural Economic Development Loan and Grant Program. These corrections are necessary to correct minor errors in the regulatory text.

Need for Correction

As published, the final regulations contain minor errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication on March 14, 1994, of the final regulation, which was the subject of FR Doc. 94–5740, is corrected as follows:

§ 1703.18 [Corrected]

1. On page 11706, in § 1703.18(b), in the second column, in line 12, and in § 1703.18(c), in the third column, in line 12, remove the term "§ 1703.19(i)" and replace with "§ 1703.19".

§ 1703.22 [Corrected]

2. On page 11708, in § 1703.22(a)(10), in the third column, in line 4, remove the term "§ 1703.17" and replace with "§ 1703.18".

§ 1703.30 [Corrected]

3. On page 11711, in the parentheticals at the end of § 1703.30, in the third column, in line 2, remove the Office of Management and Budget control number "0572–090090" and add, in its place, the number "0572–0090".

Dated: July 23, 1994.

Bob J. Nash,

Under Secretary, Small Community and Rural Development.

[FR Doc. 94–18412 Filed 7–27–94; 8:45 am]

BILLING CODE 3410–15–P

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7 CFR Part 1703

Rural Economic Development Loan and Grant Program; Grants; Correcting Amendments

AGENCY: Rural Electrification Administration, USDA.

ACTION: Correcting amendments.

SUMMARY: The Rural Electrification Administration (REA) is correcting its regulations on the Rural Economic Development Loan and Grant Program in order to update Office of Management and Budget (OMB) control numbers and internal references.

EFFECTIVE DATE: July 28, 1994.

FOR FURTHER INFORMATION CONTACT: Ms. Jill M. Eberhart, Management Analyst, Program Support Staff, Rural Electrification Administration, room 2242, South Building, U.S. Department of Agriculture, Washington, DC 20250–1500, telephone number (202) 720–0380.

SUPPLEMENTARY INFORMATION:

Background

The Rural Economic Development Loan and Grant Program contained in part 1703 in the Code of Federal Regulations is in need of correction for two reasons: (1) § 1703.34 contains a non-current Office of Management and Budget control number which was inadvertently overlooked when the regulation was updated on March 14, 1994, at 59 FR 11702. The current control number is being inserted; and (2) Internal references need to be redesignated in § 1703.46 as the paragraphs in which they are found were redesignated in the rule published on March 14, 1994, at 59 FR 11702.

List of Subjects in 7 CFR Part 1703

Community development, Grant programs—housing and community development, Loan programs—housing and community development, Reporting and recordkeeping requirements, Rural areas.

PART 1703—RURAL DEVELOPMENT

Accordingly, 7 CFR part 1703 is corrected by making the following correcting amendments:

1. The authority citation for 7 CFR part 1703 continues to read as follows:

Authority: 7 U.S.C. *et seq.* and 950aaa *et seq.*

§ 1703.34 [Amended]

2. At the end of § 1703.34, remove the Office of Management and Budget control number "0572–0086" in the parentheticals, and add, in its place, the number "0572–0090".

§ 1703.46 [Amended]

3. In the list below, for each paragraph indicated in the left column, remove the term indicated in the middle column from wherever it appears in the paragraph, and add the term indicated in the right column:

Paragraph	Remove	Add
1703.46 (a) ...	1703.46(k) ...	1703.46(j)
	(g) and (h) ...	(f) and (g)
	1703.46(j)	1703.46(i)
1703.46(d) introductory text.	(g) and (h) ...	(f) and (g)
1703.46 (e) ...	(g)	(f)
	(h)	(g)

Paragraph	Remove	Add
1703.46 (g)(6)(iii).	(h)(6)(ii)	(g)(6)(ii)
1703.46 (h) introductory text.	1703.46(g) ... 1703.46(h) ...	1703.46(f) 1703.46(g)

Dated: July 23, 1994.

Bob J. Nash,

Under Secretary, Small Community and Rural Development.

[FR Doc. 94–18413 Filed 7–27–94; 8:45 am]

BILLING CODE 3410–15–P

Rural Development Administration

7 CFR Part 4285

RIN 0537–AA00

Federal-State Research on Cooperatives Program

AGENCY: Rural Development Administration, USDA.

ACTION: Final rule.

SUMMARY: This rulemaking establishes within the Rural Development Administration (RDA) a matching fund cooperative research agreement program to State Departments of Agriculture, State Agricultural Experiment Stations, and other related State Agencies to conduct marketing research related to cooperatives. This rule establishes the procedures to be followed annually in the solicitation of cooperative agreement proposals, the evaluation of such proposals, and the award of the cooperative agreements under this program. These rules are necessary to award the funds appropriated to Agricultural Marketing Service in fiscal year 1994 for research on cooperatives under the Federal-States Marketing Improvement Program. The intended effect is to encourage more research at state levels that will enhance the well-being of agricultural cooperatives and their members.

EFFECTIVE DATE: July 28, 1994.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas H. Stafford, Director, Cooperative Marketing Division, Cooperative Services, Rural Development Administration, USDA, Ag Box 3252, Washington, DC 20250–3252, Phone: 202–690–0368.

SUPPLEMENTARY INFORMATION:

Classification

This rule has been determined to be not-significant for purposes of Executive Order 12866 and therefore has not been reviewed by OMB.

Paperwork Reduction Act

The information collection or recordkeeping requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provision of 44 U.S.C. Chapter 35 and have been assigned OMB control number 0570–0005 in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). This final rule does not revise or impose any new information collection or recordkeeping requirement from those approved by OMB.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities.

Environmental Impact Statement

This regulation does not significantly affect the environment. Therefore, an environmental impact statement is not required under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*).

Intergovernmental Review

This program is considered a part of "Technical Assistance To Cooperatives" as listed as No. 10.350 in the "Catalog of Federal Domestic Assistance". For reasons set forth in the Final Rule-related Notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), this program is excluded from the scope of Executive Order No. 12372 which requires intergovernmental consultation with State and local officials.

Civil Justice Reform

This document has been reviewed in accordance with Executive Order (E.O.) 12778. It is the determination of RDA that this action does not unduly burden the Federal Court System in that it meets all applicable standards provided in section 2 of the E.O.

Discussion of Rule

A proposed rule was issued on this subject on May 9, 1994 (59 FR 23804–10). No comments were received on the proposed rule. The proposed rule, therefore, is adopted as final except for the administrative changes discussed below.

In error, the proposed rule indicated in one place the Federal-State Research On Cooperatives (FSROC) Program was subject to Executive Order 12372 requiring intergovernmental consultations and in another place that it was exempt from the Order. The FSROC Program is excluded from the scope of the Executive Order No. 12372; therefore, the incorrect reference in the proposed rule was removed.

In addition, the definition of "State agencies" eligible under the program has been changed to include State Agricultural Experiment stations and State Departments of Agriculture in the 50 States, the Virgin Islands, and Guam, and other appropriate State agencies. The proposed rule included experiment stations and State Departments of Agriculture in the 50 States and all territories or possessions of the United States. The change was made to conform to the limiting language of 7 U.S.C. 1626 which defines "state" to include the Virgin Islands and Guam. The Agency has interpreted the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–27) as providing no authority to fund marketing research by agencies of other United States territories or possessions.

List of Subjects in 7 CFR Part 4285

Agricultural commodities, Agricultural research, Cooperatives, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, 7 CFR Ch. XLII is amended by adding Part 4285 to read as follows:

PART 4285—COOPERATIVE AGREEMENTS

Subpart A—Federal-State Research on Cooperatives Program

Sec.

4285.1 Objective.
4285.2 Cooperative agreement purposes.
4285.3 Definitions.
4285.4–4285.23 [Reserved]
4285.24 Eligibility.
4285.25 Authorized use of cooperative agreement funds.
4285.26–4285.45 [Reserved]
4285.46 Prohibited use of cooperative agreement funds.
4285.47 Limitations.
4285.48–4285.57 [Reserved]
4285.58 How to apply for cooperative agreement funds.
4285.59–4285.68 [Reserved]
4285.69 Evaluation and disposition of applications.
4285.70 Evaluation criteria.
4285.71–4285.80 [Reserved]
4285.81 Cooperative agreement awards.
4285.82 Use of funds; changes.
4285.83–4285.92 [Reserved]
4285.93 Other Federal statutes and regulations that apply.
4285.94 Other conditions.
4285.95–4285.99 [Reserved]
4285.100 OMB control number.

Authority: 7 U.S.C. 1623; Public Law 103–111, 107 Stat. 1046; 7 U.S.C. 2201; USDA Secretary's Memorandum 1020–39, dated September 30, 1993; and Public Law 103–211, 108 Stat. 3.

Subpart A—Federal-State Research on Cooperatives Program

§ 4285.1 Objective.

This subpart sets forth the policies and procedures and delegates authority for providing Federal-State Research on Cooperatives cooperative agreement funds to finance programs of research on cooperatives as authorized under Section 204 (b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623 (b)). The primary purpose of this matching fund program, via cooperative agreements, is to encourage State Departments of Agriculture and State Agricultural Experiment Stations in conducting research related to agricultural cooperatives.

§ 4285.2 Cooperative agreement purposes.

Rural Development Administration (RDA) may enter into a cooperative agreement with a State agency to provide funds to the State agency to:

(a) Conduct marketing research related to agricultural cooperatives.

(b) Assist other organizations in conducting marketing research related to agricultural cooperatives.

§ 4285.3 Definitions.

As used in this part:

Agreement period. The total period of time approved by the Assistant Administrator for Cooperative Services for conducting the proposed project as outlined in an approved application. The time period is normally no more than 3 years, renewable for cause not to exceed a total of 4 fiscal years.

Agricultural products. Agricultural products include agricultural, horticultural, viticultural, and dairy products, livestock and poultry, bees, forest products, fish and shellfish, and any products thereof, including processed or manufactured products, and any and all products raised or produced on farms and any processed or manufactured product thereof.

Assistant Administrator for Cooperative Services. The Assistant Administrator for Cooperative Services, Rural Development Administration, USDA or any authorized delegate.

Awarding official. The Assistant Administrator for Cooperative Services or authorized delegate.

Cooperative agreement. A legal instrument reflecting a relationship between the United States Government and a State where:

(1) The principal purpose of the relationship is the transfer of money, property, services, or anything of value to the State agency to carry out research related to cooperatives; and

(2) Substantial involvement is anticipated between RDA, acting for the Federal Government, and the State or other recipient during performance of the research in the agreement.

Cooperator. The State agency designated in the cooperative agreement award document as the responsible legal entity to whom a cooperative agreement is awarded under this part.

Department. The U.S. Department of Agriculture.

Methodology. The research approach to be followed to carry out the project.

Principal investigator. A single individual who is responsible for the scientific and technical direction of the project, as designated by the cooperator in the cooperative agreement application and approved by the Assistant Administrator for Cooperative Services.

Project. The particular activity within the scope of one or more of the research program areas identified in the annual program solicitation that is supported by a cooperative agreement under this part.

State agencies. State agencies include, among others, State Agricultural Experiment Stations and State Departments of Agriculture in the 50 States, the Virgin Islands, and Guam, and other appropriate State agencies. Final determination of whether certain 1890 or 1862 Land Grant institutions qualify as state agencies will be determined on a case-by-case basis by the Office of the General Counsel (OGC), USDA.

§§ 4285.4–4285.23 [Reserved]

§ 4285.24 Eligibility.

To enter into a cooperative agreement for these funds, the applicant must:

(a) Be a State Agency as defined in § 4285.3 of this subpart;

(b) Have the financial, legal, administrative, and actual capacity to assume and carry out the responsibilities imposed by the Agreement. To meet the requirement of actual capacity it must either:

(1) Have necessary background and experience with proven ability to perform responsibly in the field of economic, business management, or other needed research area; or

(2) Have the necessary administrative and supervisory controls in place to assure an agreed upon contracting organization has the proven ability to perform responsibly in the field of economic, business management, or other needed research area;

(c) Legally obligate itself to administer cooperative agreement funds, provide adequate accounting of the expenditure of such funds, and comply with the cooperative agreement;

(d) Provide at least 50 percent of the funds necessary to conduct the research from non-federal funds; and

(e) Agree to conduct proposed research related to cooperatives and agricultural marketing.

§ 4285.25 Authorized use of cooperative agreement funds.

Funds received for research under cooperative agreements in this program shall only be used for:

(a) Payment of salaries and necessary employee benefits of personnel as agreed upon in the Cooperative Agreement. Included are salaries and benefits of State employees assigned full-time to one or more projects, or the percent of the salaries and benefits related to project work for State employees assigned part-time to research on one or more projects. Salaries and benefits include basic salary, other compensation such as holiday pay, sick or annual leave, and personnel benefits (quarters allowance, payments to other funds such as employees' life insurance, health benefits, retirement, Federal Insurance Contributions Act (FICA), accident compensation, and similar payments). For any of the benefit items when the State usually pays the employer share, Federal funds may be used to pay the proportionate share of such employer contributions.

(b) Payment of necessary and reasonable office expenses such as office rental, office utilities, and office equipment rental. The purchase of office equipment is permissible when the cooperator determines it to be more economical than renting. However, as a general rule, these types of expenses would be classified as indirect costs in multiple funded organizations and would not be an allowable expense. Planned purchases of equipment costing more than $200 per unit must be approved by RDA. Equipment purchased becomes State property pursuant to the cooperative agreement.

(c) Payment of necessary and reasonable costs of printing publications of research project results. However, all such publications should show the RDA as cooperator in the project and bear the following statement: "State funds for this project (publication) were matched with Federal funds under the Federal-State Research on Cooperatives Program of the U.S. Department of Agriculture, Rural Development Administration, Cooperative Services, as provided by the Agricultural Marketing Act of 1946 and (appropriate) fiscal year appropriations."

(d) Purchase of office supplies (such as paper, pens, pencils, and trade

magazines) and postage needed for project activities.

(e) Payment of necessary and reasonable travel expenses.

§§ 4285.26–4285.45 [Reserved]

§ 4285.46 Prohibited use of cooperative agreement funds.

(a) The Agricultural Marketing Act prohibits the use of Federal funds to pay for newspaper or periodical space and radio and television time, either directly to the media or indirectly though an advertising agency or other firm. County and State fair exhibits, as well as commodity months and weeks, are also excluded as the research on cooperatives program activities.

(b) Federal funds cannot be used to purchase products or samples of products to give away to the public.

(c) Federal program funds cannot be used to purchase:

(1) Promotional pieces such as point-of-sale materials, promotional kits, billboard space and signs, streamers, automobile stickers, table tents, and placemats; or

(2) Promotion items of a personal gift nature.

(d) Cooperative agreement funds cannot be used to conduct general publicity or information programs designed to build the image of the State's agriculture or of a particular State Department of Agriculture or Agricultural Experiment Station.

(e) Project funds cannot be used to pay for the salary and travel of employees of cooperatives, trade associations, commodity groups, and other industry organizations, or of State personnel while engaged in managing market orders, cooperatives, or other group endeavors.

(f) Commissioners, Directors, and Secretaries of State Departments of Agriculture, Agricultural Experiment Stations, and other State agencies cannot charge their salaries and travel to project funds, with the exception of travel to workshops or conferences devoted to the Federal-State Research On Cooperatives Program.

(g) Funds made available for this program shall not be subject to reduction for indirect costs or for tuition remission.

§ 4285.47 Limitations.

The amount of funds available for the cooperative agreements under this program is limited to the amount appropriated for the fiscal year.

§§ 4285.48–4285.57 [Reserved]

§ 4285.58 How to apply for cooperative agreement funds.

(a) A program solicitation will be prepared and announced through publications such as the **Federal Register**, professional trade journals, agency or program handbooks, and/or any other appropriate means, as early as practicable each fiscal year in which funds are appropriated for the program.

(b) The annual program solicitation will contain information sufficient to enable all eligible applicants to prepare proposals including:

(1) Desired research topics. The FY–94 solicitation will encourage studies:

(i) To improve the efficiency and effectiveness of marketing of agricultural cooperatives;

(ii) To measure the impact of rural cooperatives on the local economies;

(iii) That help identify opportunities to develop cooperatives for new or alternative market uses of agricultural products;

(iv) That help identify ways to develop agricultural marketing cooperatives; and

(v) Addressing other cooperative marketing objectives;

(2) Explanation of eligibility requirements as outlined in § 4285.24 of this subpart;

(3) The notice of availability of application forms and instructions for submission of applications;

(4) The notice of deadline dates for postmarking proposal packages.

(c) *Format for proposals.* Unless otherwise indicated by the Department in the annual program solicitation, the following information must be submitted for the preparation of proposals under this program:

(1) Form SF–424, "Application for Federal Assistance."

(2) Form SF–424A, "Budget Information—Non-Construction Programs."

(3) Form SF–424B, "Assurances—Non-Construction Programs."

(4) *Statement of Work.* The application must include a narrative statement describing the nature of the proposed research. The Statement of Work must include at least the following:

(i) Title of the Project. The title of the proposal must be brief, yet represent the major thrust of the project.

(ii) Project Leaders. List the name(s) of the principal investigator(s). Minor collaborators or consultants should be so designated and not listed as principal investigators.

(iii) Need for the Project. A concisely worded rationale behind the proposed research must be presented. The need for the proposed research must be clearly related to marketing and to the needs of agricultural cooperatives.

(iv) Objectives of the project. The specific description of the overall project goal(s) and supporting objectives must be presented.

(v) Procedures for conducting the research. The hypotheses or questions being asked and the methodology being applied to the proposed project must be described. A description of any subcontracting arrangements that will be used for conducting the research must be included. A tentative schedule for conducting major steps involved in the investigation must also be included.

(vi) The expected output of the project. A description of how the results of the research will be disseminated should be presented. Responsibility for publishing any research reports or other types of output should also be identified.

(5) *Collaborative arrangements.* If the nature of the proposed project requires collaboration or subcontractual arrangements with other research scientists, corporations, organizations, agencies, or entities, the applicant must identify the collaborator(s) and provide a full explanation of the nature of the collaboration. Evidence (*i.e.*, letters of intent) should be provided to assure reviewers that the collaborators involved have agreed to render this service. In addition, the proposal must indicate whether or not such a collaborative arrangement(s) has the potential for conflict(s) of interest.

(6) *Personnel support.* To assist reviewers in assessing the competence and experience of the proposed project staff, key personnel who will be involved in the proposed project must be identified clearly. For each principal investigator involved, and for all senior associates and other professional personnel who expect to work on the project, whether or not funds are sought for their support, the following must be included:

(i) An estimate of the time commitments necessary;

(ii) Curriculum Vitae. The curriculum vitae should be limited to a presentation of academic and research credentials, *e.g.*, educational, employment and professional history, and honors and awards. Unless pertinent to the project, it should not include meetings attended, seminars given, or personal data such as birth date, martial status, or community activities; and

(iii) Publication List(s). A chronological list of all publications in refereed journals during the past five years, including those in press, must be

provided for each professional project member for whom a curriculum vitae is provided. Also list other non-refereed technical publications that have relevance to the proposed project. Authors should be listed in the same order as they appear on each paper cited, along with the title and complete reference as these usually appear in journals.

§§ 4285.59–4285.68 [Reserved]

§ 4285.69 Evaluation and disposition of applications.

(a) *Evaluation.* (1) All proposals received from eligible applicants and postmarked in accordance with deadlines established in the annual program solicitation shall be evaluated by the Assistant Administrator for Cooperative Services through an RDA staff panel. The Assistant Administrator for Cooperative Services will select the evaluation panel from staff determined to be highly qualified in the subject matter areas that were emphasized in the current year's solicitation and from those with no potential conflict of interest with the applicants.

(2) Prior to technical examination, a preliminary review will be made for responsiveness to the program solicitation (*e.g.*, relationship of proposal to research topic(s) listed in solicitation). Proposals that do not fall within the guidelines as stated in the program solicitation will be eliminated from competition and will be returned to the applicant.

(3) Proposals will be ranked based on evaluation criteria established in § 4285.70 of this subpart, and financial support levels will be recommended to the Assistant Administrator for Cooperative Services by the panel within the limitation of the total funding available in the fiscal year. The purpose of these evaluations is to provide information upon which the Assistant Administrator for Cooperative Services may make informed judgments in selecting proposals. Such recommendations are advisory only and are not binding on the awarding official of RDA. To ensure a comprehensive evaluation, all applications should be written with the care and thoroughness accorded papers for publication.

(b) *Disposition.* (1) On the basis of the Assistant Administrator for Cooperative Services's evaluation of an application in accordance with paragraph (a) of this section, the Assistant Administrator for Cooperative Services will either:

(i) Approve support using currently available funds;

(ii) Defer support due to lack of funds or need for further evaluation; or

(iii) Disapprove support for the proposed project in whole or in part.

(2) With respect to any approved project, the Assistant Administrator for Cooperative Services will determine the project period during which the project may be funded.

(3) Any deferral or disapproval of an application will not preclude its reconsideration or reapplication during subsequent fiscal years. However, applicants must reapply if reconsideration is desired.

(4) The Assistant Administrator for Cooperative Services will not make a cooperative agreement funding award, based upon an application covered by this part, unless the application has been properly reviewed in accordance with the provisions of this part and unless said reviewers have made recommendations concerning the scientific merit and relevance to the program of such application.

§ 4285.70 Evaluation criteria.

(a) In evaluating the proposal, the RDA staff review panel and the awarding official will take into account the degree to which the proposal demonstrates the following:

(1) Focus on a practical solution to a significant problem involving one or more of the following on a cooperative business basis: the preparation for market, processing, packaging, handling, storing, transporting, distributing, or marketing of agricultural products. (35%)

(2) Adequacy, soundness, and appropriateness of the proposed approach to solve the identified problem. (30%)

(3) Feasibility and probability of success of project solving the problem. (10%)

(4) Qualifications, experience in related work, competence, and availability of project personnel to direct and carry out the project. (25%)

(b) In addition, the cost relative to the expected research results will be considered in determining the awarding of the agreements.

§§ 4285.71–4285.80 [Reserved]

§ 4285.81 Cooperative agreement awards.

(a) *General.* Within the limit of funds available for such purpose, the awarding official shall make awards for cooperative agreements to those applicants whose proposals are judged most meritorious in the announced program areas under the evaluation criteria and procedures set forth in this part. The date specified by the Assistant Administrator for Cooperative Services as the beginning of the project period shall be no later than September 30 of the Federal fiscal year in which the project is approved and funds are appropriated for such purpose, unless otherwise permitted by law. All funds awarded under this part shall be expended solely in accordance with the methods identified in approved application and budget, the regulations of this part, the terms and conditions of the award, the applicable Federal cost principles, and the Department's "Uniform Federal Assistance Regulations" (part 3015 of this title) and the Department's "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments" (part 3016 of this title).

(b) *Cooperative agreement award document and notice of award.* (1) Cooperative agreement award document. The award document shall include at a minimum the following:

(i) Legal name and address of performing organization or institution to whom the Assistant Administrator for Cooperative Services has competitively awarded funds under the terms of this part;

(ii) Title of project;

(iii) Name(s) and address(es) of principal investigator(s) chosen to direct and control approved activities;

(iv) Identifying cooperative agreement number assigned by RDA;

(v) Project period, specifying the amount of time the Agency intends to support the project without requiring recompetition for funds;

(vi) Total amount of Agency financial assistance approved by the Assistant Administrator for Cooperative Services during the project period;

(vii) Legal authority(ies) under which the cooperative agreement is awarded;

(viii) Approved budget plan for categorizing allocable project funds to accomplish the stated purpose of the cooperative agreement award; and

(ix) Other information or provisions deemed necessary by RDA to carry out its agreement activities or to accomplish the purpose of a particular cooperative agreement.

(2) Notice of award. The notice of award of funds for the cooperative agreement will be in the form of a letter providing pertinent instructions or information to the cooperator.

(c) *Types of cooperative agreement instruments.* The types of cooperative agreements shall be as follows:

(1) New agreement. This is an agreement instrument by which RDA agrees to support a specified level of effort for a project not supported previously under this program. This type of agreement is approved on the

basis of an RDA Staff evaluation review and recommendation.

(2) Renewal agreement. This is an agreement instrument by which RDA agrees to provide additional funding for a project beyond the period approved in an original or amended agreement, provided that the cumulative period does not exceed the statutory limitation. When a renewal application is submitted, it must include a summary of progress to date from the previous agreement period. A renewal agreement shall be based upon new application, de novo review and staff evaluation, new recommendation and approval, and a new award instrument.

(3) Supplemental agreement. This is an instrument by which RDA agrees to provide small amounts of additional funding under a new or renewal cooperative agreement as specified in paragraphs (c)(1) and (c)(2) of this section and may involve a short-term (usually one year or less) extension of the project period beyond that approved in an original or amended award, but in no case may the cumulative period for the project exceed the statutory limitation. A supplement is awarded only if required to assure adequate completion of the original scope of work and if there is sufficient justification to warrant such action. A request of this nature will not require additional review.

(d) *Obligation of the Federal Government.* The approval of any application or the award of any funds for a cooperative agreement shall not commit nor obligate the United States in any way to make any renewal, supplemental, continuation, or other award with respect to any approved application or portion of an approved application.

(e) *Obligation of the cooperator.* The cooperator shall be responsible for:

(1) Making a brief quarterly progress reports at the end of each December, March, June and September to the FSROC program staff for the duration of the research project;

(2) Presenting a final administrative report on the project at the end of the research project; and

(3) Preparing and publishing a report(s) of research findings for dissemination to interested producers, cooperatives, and agencies. Include recognition to financial and other assistance received from the FSROC program.

§ 4285.82 Use of funds; changes.

(a) *Delegation of fiscal responsibility.* The cooperator may not, in whole or in part, delegate or transfer to another person, institution, or organization the responsibility for use or expenditure of cooperative agreement funds.

(b) *Change in project plans.* (1) The permissible changes by the cooperator, principal investigator(s), or other key project personnel in the approved cooperative agreement shall be limited to changes in methodology, techniques, or other aspects of the project to expedite achievement of the project's approved goals. If the cooperator and/or the principal investigator(s) is uncertain whether a particular change complies with this provision, the question must be referred to the Assistant Administrator for Cooperative Services for a final determination.

(2) Changes in approved goals, or objectives, shall be requested by cooperator and approved in writing by the Assistant Administrator for Cooperative Services, or authorized delegate, prior to effecting such changes. Normally, no requests for such changes outside the scope of the original approved project will be approved.

(3) Changes in approved project leadership or the replacement or realignment of other key project personnel shall be requested by the cooperator and approved in writing by the Assistant Administrator for Cooperative Services, or authorized delegate, prior to effecting such changes.

(4) Transfers of actual performance of the substantive programmatic work in whole or in part and provisions for payment of funds, whether or not Federal funds are involved, shall be requested by the cooperator and approved in writing by the Assistant Administrator for Cooperative Services, or authorized delegate, prior to effecting such changes, except as may be allowed in the terms and conditions of a cooperative agreement award.

(c) *Changes in project period.* The project period determined pursuant to § 4285.81(b) of this subpart may be extended by the Assistant Administrator for Cooperative Services without additional financial support, for such additional period(s) as the Assistant Administrator for Cooperative Services determines may be necessary to complete, or fulfill the purposes of, an approved project. Any extension, when combined with the originally approved or amended project period, shall not exceed four (4) years and shall be further conditioned upon prior request by the cooperator and approval in writing by the Assistant Administrator for Cooperative Services, or authorized delegate, except as may be allowed in the terms and conditions of a cooperative agreement award.

(d) *Changes in approved budget.* The terms and conditions of a cooperative agreement will prescribe circumstances under which written Agency approval must be requested and obtained prior to instituting changes in an approved budget.

§§ 4285.83–4285.92 [Reserved]

§ 4285.93 Other Federal statutes and regulations that apply.

Several other Federal statutes and regulations apply to cooperative agreement proposals considered for review or to agreements awarded under this part. These include but are not limited to:

(a) 7 CFR Part 1, Subpart A—USDA implementation of the Freedom of Information Act;

(b) 7 CFR Part 3—USDA implementation of OMB Circular A–129 regarding debt collection;

(c) 7 CFR Part 15, Subpart A—USDA implementation of title VI of the Civil Rights Act of 1964 in order to assure nondiscrimination;

(d) 7 CFR Part 1473—National Agricultural, Research, Extension, and Teaching Policy Act Amendments of 1981 if the project involves a college or university;

(e) 7 CFR Part 3015—USDA Uniform Federal Assistance Regulations implementing OMB directives (i.e., Circular Nos. A–110, A–21, and A–122) and incorporating provisions of 31 U.S.C. 6301–6308 (formerly, the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95–224, 92 Stat. 3), as well as general policy requirements applicable to recipients of Departmental financial assistance;

(f) 7 CFR Part 3016—USDA Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments;

(g) 7 CFR Part 3017—USDA implementation of Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants);

(h) 7 CFR Part 3018—USDA implementation of New Restrictions on Lobbying. Imposes new prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans;

(i) 7 CFR Part 3051—Audits of Institutions of Higher Education and Other Nonprofit Institutions;

(j) 29 U.S.C. 794, section 504—Rehabilitation Act of 1973, and 7 CFR Part 15B prohibiting discrimination based upon physical or mental handicap in Federally assisted programs;

(k) 35 U.S.C. 200 *et seq.*—Bayh-Dole Act, controlling allocation of rights to

inventions made by employees of small business firms and domestic nonprofit organizations, including universities, in Federally assisted programs (implementing regulations are contained in 37 CFR part 401).

§ 4285.94 Other conditions.

Post-award requirements. Upon awarding the cooperative agreement, the post-award requirements of subparts C and D of part 3016 of this title apply.

§§ 4285.95–4285.99 [Reserved]

§ 4285.100 OMB control number.

The reporting and recordkeeping requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 0570–0005. Public reporting burden for this collection of information is estimated to vary from 10 minutes to 36 hours per response with an average of 3.48 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, Ag Box 7630, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB # 0570–0005), Washington, DC 20503.

Dated: July 18, 1994.

Karl N. Stauber,

Acting Under Secretary for Small Community and Rural Development.

[FR Doc. 94–18287 Filed 7–27–94; 8:45 am]

BILLING CODE 3410–32–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 73

RIN 3150–AD30

Annual Physical Fitness Performance Testing for Tactical Response Team Members, Armed Response Personnel, and Guards at Category I Licensees

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations regarding annual physical fitness performance testing for Tactical Response Team members, armed response personnel, and guards at fuel cycle facilities possessing formula quantities of strategic special nuclear material (Category I licensees). This action is necessary to ensure that these personnel are able to perform their assigned duties under conditions of strenuous tactical engagements. Tactical Response Team members, armed response personnel, and guards at these facilities will be required to participate in a continuing physical fitness program and, according to new criteria, pass an annual performance test. As an alternative to the fitness program and the performance test, the licensee will be permitted to develop and submit for NRC approval a content-based site specific test, to be administered quarterly, and to justify that this test duplicates the response duties that are expected of Tactical Response Team members, armed response personnel, and guards in the event of a strenuous tactical engagement.

EFFECTIVE DATE: August 29, 1994.

FOR FURTHER INFORMATION CONTACT: Harry S. Tovmassian, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6231.

SUPPLEMENTARY INFORMATION:

Background

On December 13, 1991 (56 FR 65024), the Commission published proposed amendments to 10 CFR Part 73 that contained requirements relative to the physical fitness programs and day firing qualifications for security personnel at Category I fuel cycle facilities. Those amendments would have required Tactical Response Team (TRT) members, armed response personnel, and guards to participate in annual physical fitness performance testing and in a continuing physical fitness training program to ensure that these individuals achieve and maintain the required fitness level.

During the resolution of the public comments for those proposed amendments, the NRC concluded that an acceptable alternative to the approach specified in the proposed rule would be for licensees to develop and submit for NRC approval a site specific content-based physical fitness performance test. To provide the public the opportunity to comment on the modified requirements, the NRC published yet another proposed rule on the physical fitness performance testing requirements on October 6, 1993 (58 FR 52035).

Under the alternative included with the modified rule, the licensee will administer the test quarterly and justify that the test duplicates the response duties that a security force officer would perform during strenuous tactical engagements. The NRC recognizes that, in the absence of an ongoing physical fitness training program, the use of a content-based performance test may present risks of potential injury to security personnel. Each licensee should evaluate these risks of potential injury to unfit employees when choosing between the alternatives. The NRC will not object to the use of a content-based test on the basis of perceived risk of employee injury. Such risk of injury will be assumed by the licensee and/or the armed security persons.

The comment period expired on December 20, 1993, with no public comments being received. Therefore, the Commission is publishing the requirements proposed on October 6, 1993 (58 FR 52035), as a final rule without any modification.

Criminal Penalties

The Commission notes that these amendments are issued under Sections 161 (b) and (i) of the Atomic Energy Act of 1954, as amended. Therefore, violation of these regulations may subject a person to criminal sanctions under Section 223 of the Atomic Energy Act.

Finding of no Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that this rule is not a major Federal action significantly affecting the quality of the human environment, and therefore, an environmental impact statement is not required. The rule will not adversely affect either the safety of the operations carried out by licensees possessing formula quantities of strategic special nuclear material nor the routine release of, or exposure to, radioactivity. These amendments will specify (1) annual performance testing criteria and a minimum physical fitness training program or (2) a quarterly administered site specific content-based physical fitness performance test to assure that Tactical Response Team members, armed response personnel, and guards can adequately perform their duties under conditions of strenuous tactical engagement.

The environmental assessment and finding of no significant impact on which this determination is based is available for inspection at the NRC Public Document Room, 2120 L Street,

NW (Lower Level), Washington, DC. Single copies of the environmental assessment and finding of no significant impact are available from Mr. Harry Tovmassian, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6231.

Paperwork Reduction Act Statement

This rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). These requirements were approved by the Office of Management and Budget approval number 3150–0002.

The public reporting burden for this collection of information is estimated to average 41 hours per licensee respondent, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Information and Records Management Branch (T6 F33), U.S. Nuclear Regulatory Commission, Washington, DC 20555; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–3019, (3150–0002), Office of Management and Budget, Washington, DC 20503.

Regulatory Analysis

The Commission has prepared a regulatory analysis on this rule. The analysis examines the costs and benefits of the alternatives considered by the Commission and provides a decision rationale for the chosen approach. The analysis is available for inspection in the NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC. Single copies of the regulatory analysis may be obtained from Ms. Carrie Brown, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–8092.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rulemaking will not have a significant economic impact upon a substantial number of small entities. The rule will affect two Category I licensees. The companies that own these plants do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration in 13 CFR Part 121. Thus, this rule does not fall within the purview of the act.

Backfit Analysis

The Commission has determined that the backfit rule, 10 CFR 50.109, does not apply to this rule because these amendments do not impose requirements on existing 10 CFR Part 50 licensees. Therefore, a backfit analysis is not required for this rule.

List of Subjects in 10 CFR Part 73

Criminal penalties, Export, Hazardous materials transportation, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the Commission is adopting the following amendments to 10 CFR Part 73.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

1. The authority citation for 10 CFR Part 73 continues to read as follows:

Authority: Secs. 53, 161, 68 Stat. 930, 948, as amended, sec. 147, 94 Stat. 780 (42 U.S.C. 2073, 2167, 2201); sec. 201, as amended, 204, 88 Stat. 1242, as amended, 1245 (42 U.S.C. 5841, 5844).

Section 73.1 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 73.37(f) also issued under sec. 301, Pub. L. 96–295, 94 Stat. 789 (42 U.S.C. 5841 note). Section 73.57 is issued under sec. 606, Pub. L. 99–399, 100 Stat. 876 (42 U.S.C. 2169).

2. In § 73.46 paragraphs (b)(4) and paragraph (i) are revised and new paragraphs (b)(10), (b)(11), and (b)(12) are added to read as follows:

§ 73.46 Fixed site physical protection systems, subsystems, components, and procedures.

* * * * *

(b) * * *

(4) The licensee may not permit an individual to act as a Tactical Response Team member, armed response person, guard, or other member of the security organization unless the individual has been trained, equipped, and qualified to perform each assigned security duty in accordance with Appendix B of this part, "General Criteria for Security Personnel." In addition, Tactical Response Team members, armed response personnel, and guards shall be trained, equipped, and qualified for use of their assigned weapons in accordance with paragraphs (b)(6) and (b)(7) of this section. Tactical Response Team members, armed response personnel, and guards shall also be trained and qualified in accordance with either paragraphs (b)(10) and (b)(11) or paragraph (b)(12) of this section. Upon the request of an authorized representative of the Commission, the licensee shall demonstrate the ability of the physical security personnel, whether licensee or contractor employees, to carry out their assigned duties and responsibilities. Each Tactical Response Team member, armed response person, and guard, whether a licensee or contractor employee, shall requalify in accordance with Appendix B of this part. Tactical Response Team members, armed response personnel, and guards shall also requalify in accordance with paragraph (b)(7) of this section at least once every 12 months. The licensee shall document the results of the qualification and requalification. The licensee shall retain the documentation of each qualification and requalification as a record for 3 years after each qualification and requalification.

* * * * *

(10) In addition to the medical examinations and physical fitness requirements of paragraph I.C of Appendix B of this part, each Tactical Response Team member, armed response person, and guard, except as provided in paragraph (b)(10)(v) of this section, shall participate in a physical fitness training program on a continuing basis.

(i) The elements of the physical fitness training program must include, but not necessarily be limited to, the following:

(A) Training sessions of sufficient frequency, duration, and intensity to be of aerobic benefit, e.g., normally a frequency of three times per week, maintaining an intensity of approximately 75 percent of maximum heart rate for 20 minutes;

(B) Activities that use large muscle groups, that can be maintained continuously, and that are rhythmical and aerobic in nature, e.g., running, bicycling, rowing, swimming, or cross-country skiing; and

(C) Musculoskeletal training exercises that develop strength, flexibility, and endurance in the major muscle groups, e.g., legs, arms, and shoulders.

(ii) The licensee shall assess Tactical Response Team members, armed response personnel, and guards for general fitness once every 4 months to determine the effectiveness of the

continuing physical fitness training program. Assessments must include a recent health history, measures of cardiovascular fitness, percent of body fat, flexibility, muscular strength, and endurance. Individual exercise programs must be modified to be consistent with the needs of each participating Tactical Response Team member, armed response person, and guard and consistent with the environments in which they must be prepared to perform their duties. Individuals who exceed 4 months without being assessed for general fitness due to excused time off from work must be assessed within 15 calendar days of returning to duty as a Tactical Response Team member, armed response person, or guard.

(iii) Within 30 days prior to participation in the physical fitness training program, the licensee shall give Tactical Response Team members, armed response personnel, and guards a medical examination including a determination and written certification by a licensed physician that there are no medical contraindications, as disclosed by the medical examination, to participation in the physical fitness training program.

(iv) Licensees may temporarily waive an individual's participation in the physical fitness training program on the advice of the licensee's examining physician, during which time the individual may not be assigned duties as a Tactical Response Team member.

(v) Guards whose duties are to staff the central or secondary alarm station and those who control exit or entry portals are exempt from the physical fitness training program specified in paragraph (b)(10) of this section, provided that they are not assigned temporary response guard duties.

(11) In addition to the physical fitness demonstration contained in paragraph I.C of Appendix B of this part, Tactical Response Team members, armed response personnel, and guards shall meet or exceed the requirements in paragraphs (b)(11)(i) through (b)(11)(v) of this section, except as provided in paragraph (b)(11)(vi) of this section, initially and at least once every 12 months thereafter.

(i) For Tactical Response Team members the criteria are a 1-mile run in 8 minutes and 30 seconds or less and a 40-yard dash starting from a prone position in 8 seconds or less. For armed response personnel and guards that are not members of the Tactical Response Team the criteria are a one-half mile run in 4 minutes and 40 seconds or less and a 40-yard dash starting from a prone position in 8.5 seconds or less. The test may be taken in ordinary athletic attire under the supervision of licensee designated personnel. The licensee shall retain a record of each individual's performance for 3 years.

(ii) Incumbent Tactical Response Team members, armed response personnel, and guards shall meet or exceed the qualification criteria within 12 months of NRC approval of the licensee's revised Fixed Site Physical Protection Plan. New employees hired after the approval date shall meet or exceed the qualification criteria prior to assignment as a Tactical Response Team member, armed response person, or guard.

(iii) Tactical Response Team members, armed response personnel, and guards shall be given a medical examination including a determination and written certification by a licensed physician that there are no medical contraindications, as disclosed by the medical examination, to participation in the physical fitness performance testing. The medical examination must be given within 30 days prior to the first administration of the physical fitness performance test, and on an annual basis thereafter.

(iv) The licensee shall place Tactical Response Team members, armed response persons, and guards, who do not meet or exceed the qualification criteria, in a monitored remedial physical fitness training program and relieve them of security duties until they satisfactorily meet or exceed the qualification criteria.

(v) Licensees may temporarily waive the annual performance testing for an individual on the advice of the licensee's examining physician, during which time the individual may not be assigned duties as a Tactical Response Team member.

(vi) Guards whose duties are to staff the central or secondary alarm station and those who control exit or entry portals are exempt from the annual performance testing specified in paragraph (b)(11) of this section, provided that they are not assigned temporary response guard duties.

(12) The licensee may elect to comply with the requirements of this paragraph instead of the requirements of paragraphs (b)(10) and (b)(11) of this section. In addition to the physical fitness qualifications of paragraph I.C of Appendix B of this part, each licensee subject to the requirements of this section shall develop and submit to the NRC for approval site specific, content-based, physical fitness performance tests which will—when administered to each Tactical Response Team member, armed response person, or guard—duplicate the response duties these individuals may need to perform during a strenuous tactical engagement.

(i) The test must be administered to each Tactical Response Team member, armed response person, and guard once every 3 months. The test must specifically address the physical capabilities needed by armed response personnel during a strenuous tactical engagement at the licensed facility. Individuals who exceed 3 months without having been administered the test due to excused time off from work must be tested within 15 calendar days of returning to duty as a Tactical Response Team member, armed response person, or guard.

(ii) Within 30 days before the first administration of the physical fitness performance test, and on an annual basis thereafter, Tactical Response Team members, armed response personnel, and guards shall be given a medical examination including a determination and written certification by a licensed physician that there are no medical contraindications, as disclosed by the medical examination, to participation in the physical fitness performance test.

(iii) Guards whose duties are to staff the central or secondary alarm station and those who control exit or entry portals are exempt from the performance test specified in paragraph (b)(12) of this section, provided that they are not assigned temporary response guard duties.

* * * * *

(i) *Implementation schedule for revisions to physical protection plans.*

(1) By November 28, 1994, each licensee shall submit a revised Fixed Site Physical Protection Plan to the NRC for approval. The revised plan must describe how the licensee will comply with the requirements of paragraphs (b)(10) and (b)(11) of this section or the requirements of (b)(12) of this section. Revised plans must be mailed to the Director, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

(2) Each licensee shall implement the approved plan pursuant to paragraphs (b)(10) and (b)(11) of this section or (b)(12) of this section within 1 year after NRC approval of the revised Fixed Site Physical Protection Plan.

Dated at Rockville, Maryland, this 21st day of June 1994.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 94–18371 Filed 7–27–94; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–NM–76–AD; Amendment 39–8982; AD 94–15–11]

Airworthiness Directives; Fokker Model F–27 Mark 100, 200, 300, 400, 500, 600, and 700 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Fokker Model F–27 series airplanes, that requires the implementation of a corrosion prevention and control program either by accomplishing specific tasks or by revising the maintenance inspection program to include such a program. This amendment is prompted by reports of incidents involving corrosion and fatigue cracking in transport category airplanes that are approaching or have exceeded their economic design goal; these incidents have jeopardized the airworthiness of the affected airplanes. The actions specified by this AD are intended to prevent degradation of the structural capabilities of the airplane due to the problems associated with corrosion.

DATES: Effective August 29, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 29, 1994.

ADDRESSES: The service information referenced in this AD may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mark Quam, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2145; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Fokker Model F–27 series airplanes was published in the **Federal Register** on March 14, 1994 (59 FR 11739). That action proposed to require the implementation of a corrosion prevention and control program either by accomplishing specific tasks or by revising the maintenance inspection program to include such a program.

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

One commenter supports the proposal.

Another commenter suggests that the FAA reconsider the applicability of the proposed AD. This commenter requests that the applicability statement be worded so that it will not affect future models of this airplane, such as the Model F–27 Mark 800, which does not exist yet. The FAA concurs. Inclusion of a reference to that model in the applicability of the proposed rule was in error. The final rule has been revised to delete reference to it.

This same commenter points out that the latest version of the parallel Netherlands Airworthiness Directive (BLA) is BLA 91–113, Issue 3, dated November 1, 1993. The preamble to the notice referred to an earlier version of this BLA that was issued June 26, 1992. The FAA acknowledges this information.

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

The FAA estimates that 55 airplanes of U.S. registry will be affected by this proposed AD. It will take an average of approximately 7 work hours per basic task to accomplish the 75 basic tasks called out in the Document; this represents a total average of 525 work hours. The average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators for the 6-year average inspection cycle is estimated to be $1,588,125, or $28,875 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The FAA recognizes that the obligation to maintain aircraft in an airworthy condition is vital, but sometimes expensive. Because AD's require specific actions to address specific unsafe conditions, they appear to impose costs that would not otherwise be borne by operators. However, because of the general obligation of operators to maintain aircraft in an airworthy condition, this appearance is deceptive. Attributing those costs solely to the issuance of this AD is unrealistic because, in the interest of maintaining safe aircraft, most prudent operators would accomplish the required actions even if they were not required to do so by the AD.

A full cost-benefit analysis has not been accomplished for this AD. As a matter of law, in order to be airworthy, an aircraft must conform to its type design and be in a condition for safe operation. The type design is approved only after the FAA makes a determination that it complies with all applicable airworthiness requirements. In adopting and maintaining those requirements, the FAA has already made the determination that they establish a level of safety that is cost-beneficial. When the FAA, as in this AD, makes a finding of an unsafe condition, this means that this cost-beneficial level of safety is no longer being achieved and that the proposed actions are necessary to restore that level of safety. Because this level of safety has already been determined to be cost-beneficial, a full cost-benefit analysis for this AD would be redundant and unnecessary.

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

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

94–15–11 Fokker: Amendment 39–8982. Docket 93–NM–76–AD.

Applicability: Model F–27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes (does not include Model F–27 MK 050 series airplanes) airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

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

Note 1: This AD references Fokker Document SE–291, "F–27 Corrosion Control Program," including all revisions through October 1, 1993 (hereafter referred to as "the Document"), for basic tasks, definitions of corrosion levels, compliance times, and reporting requirements. In addition, this AD specifies inspection and reporting requirements beyond those included in the Document. Where there are differences between the AD and the Document, the AD prevails.

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

Note 3: The FAA recommends that priority for implementing the corrosion prevention and control program, specified in this AD, be given to older aircraft and areas requiring a significant upgrade of previous maintenance procedures to meet the program requirements.

(a) Except as provided in paragraph (b) of this AD, complete each of the basic tasks specified in Section 2.4 of the Document in accordance with the procedures of the Document, and the schedule specified in paragraphs (a)(1) and (a)(2) of this AD.

Note 4: A "basic task," as defined in Section 2.4 of the Document, includes inspections; procedures for a corrective action, including repairs, under identified circumstances; application of sealants or corrosion inhibitors; and other follow-on actions.

Note 5: Airplane "areas" are those items listed in columnar form in the "ACTION" statement of each task, as listed in the Document.

Note 6: Basic tasks completed in accordance with the Document before the effective date of this AD may be credited for compliance with the initial basic task requirements of paragraph (a)(1) of this AD.

Note 7: Where non-destructive inspection (NDI) methods are employed, in accordance with Section 2.4 of the Document, the standards and procedures used must be acceptable to the Administrator in accordance with FAR Section 43.13.

(1) Complete the initial basic task of each aircraft zone specified in Section 2.4 of the Document as follows:

(i) For airplane areas that have not yet exceeded the "Initial Inspection Time (IIT)" for a basic task as of one year after the effective date of this AD: Initial compliance must occur no later than the IIT, or no later than one Repeat Inspection Time (RIT) interval measured from a date one year after the effective date of this AD, whichever occurs later.

(ii) For airplane areas that have exceeded the IIT for a particular basic task as of one year after the effective date of this AD: Initial compliance must occur within one RIT interval for that task, or within 6 years, measured from a date one year after the effective date of this AD, whichever occurs first.

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

Note 8: This paragraph does not require inspection of any area that has not exceeded the IIT for that area.

Note 9: This minimum rate requirement may cause an undue hardship on some small operators. In those circumstances, requests for adjustments to the implementation rate will be evaluated on a case-by-case basis under the provisions of paragraph (h) of this AD.

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

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

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

(2) Subsequent to the accomplishment of the initial basic task, extensions of RIT intervals specified in the Document must be approved by the FAA.

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

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

(i) Submit a report of that determination to the FAA and complete the basic task in the affected aircraft zones on all Model F–27 series airplanes in the operator's fleet; or

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

(A) A proposed schedule for performing the basic tasks in the affected aircraft zones on the remaining Model F–27 series airplanes in the operator's fleet, which is adequate to ensure that any other Level 3 corrosion is detected in a timely manner, along with substantiating data for that schedule; or

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

Note 10: Notwithstanding the provisions of Section 2.1 of the Document, which would permit corrosion that otherwise meets the definition of Level 3 corrosion (i.e., which is determined to be a potentially urgent airworthiness concern requiring expeditious action) to be treated as Level 1 if the operator finds that it "can be attributed to an event not typical of the operator's usage of other airplanes in the same fleet," this paragraph requires that data substantiating any such finding be submitted to the FAA (ref. **Note 2** of this AD) for approval.

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

(3) Within the time schedule approved under paragraph (d)(1) or (d)(2) of this AD, accomplish the basic tasks in the affected aircraft zones of the remaining Model F–27 series airplanes in the operator's fleet.

(e) If, as a result of any inspection after the initial inspection conducted in accordance with paragraph (a) or (b) of this AD, it is determined that corrosion findings exceed Level 1 in any area, within 60 days after such

determination, implement a means, approved by the FAA, to reduce future findings of corrosion in that area to Level 1 or better.

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

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

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

(g) Within 7 days after the date of detection of any Level 3 corrosion, and within 3 months after the date of detection of any Level 2 corrosion, submit a report to Fokker of such findings, in accordance with Section 2.5 of the Document.

Note 11: Reporting to the FAA of Level 2 and Level 3 corrosion found as a result of any opportunity inspections is highly desirable.

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

Note 12: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

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

(k) The completion of the "basic tasks" shall be done in accordance with Fokker Document SE–291, "F–27 Corrosion Control Program," including all revisions through October 1, 1993, which contains the following list of effective pages:

Task No.	Page No.	Revision level shown on page	Date shown on page
Introduction			
	1, 6–8	1	October 1, 1993.
	2–5, 9–26	2	October 1, 1993.
Corrosion Inspections			
53–100–1	1	2	October 1, 1993.
53–120–1	1	2	October 1, 1993.
53–180–1	1	2	October 1, 1993.
53–180–2	1	2	October 1, 1993.
53–200–1	1	2	October 1, 1993.
53–210–1	1	2	October 1, 1993.
53–220–1	1	2	October 1, 1993.
53–230–1	1	2	October 1, 1993.
53–230–2	1	2	October 1, 1993.
53–240–1	1	2	October 1, 1993.
53–300–1	1	2	October 1, 1993.
53–310–1	1	2	October 1, 1993.
53–310–2	1	2	October 1, 1993.
53–330–1	1	2	October 1, 1993.
53–330–2	1	2	October 1, 1993.
53–330–3	1	2	October 1, 1993.
53–330–4	1	2	October 1, 1993.
53–340–1	1	2	October 1, 1993.
53–400–1	1	2	October 1, 1993.
53–400–2	1	2	October 1, 1993.
54–020–1	1	2	October 1, 1993.
54–025–1	1	2	October 1, 1993.
54–030–1	1	2	October 1, 1993.
54–035–1	1	2	October 1, 1993.
54–040–1	1	2	October 1, 1993.
54–045–1	1	2	October 1, 1993.
55–510–1	1	2	October 1, 1993.
55–520–1	1	2	October 1, 1993.
55–520–2	1	2	October 1, 1993.
55–520–3	1	2	October 1, 1993.
55–520–4	1	2	October 1, 1993.
55–523–1	1	2	October 1, 1993.
55–530–1	1	2	October 1, 1993.
55–530–2	1	2	October 1, 1993.
55–530–3	1	2	October 1, 1993.
55–533–1	1	2	October 1, 1993.
55–540–1	1	2	October 1, 1993.
55–543–1	1	2	October 1, 1993.
57–610–1	1	2	October 1, 1993.

Task No.	Page No.	Revision level shown on page	Date shown on page
57–611–1	1	2	October 1, 1993.
57–611–2	1	2	October 1, 1993.
57–611–3	1	2	October 1, 1993.
57–620–1	1	2	October 1, 1993.
57–621–1	1	2	October 1, 1993.
57–621–2	1	2	October 1, 1993.
57–621–3	1	2	October 1, 1993.
57–652–1	1	2	October 1, 1993.
57–652–2	1	2	October 1, 1993.
57–653–1	1	2	October 1, 1993.
57–662–1	1	2	October 1, 1993.
57–662–2	1	2	October 1, 1993.
57–663–1	1	2	October 1, 1993.
57–700–1	1	2	October 1, 1993.
57–700–2	1	2	October 1, 1993.
57–700–3	1	2	October 1, 1993.
57–711–1	1	2	October 1, 1993.
57–712–1	1	2	October 1, 1993.
57–713–1	1	2	October 1, 1993.
57–713–2	1	2	October 1, 1993.
57–713–3	1	2	October 1, 1993.
57–714–1	1	2	October 1, 1993.
57–714–2	1	2	October 1, 1993.
57–714–3	1	2	October 1, 1993.
57–715–1	1	2	October 1, 1993.
57–715–2	1	2	October 1, 1993.
57–715–3	1	2	October 1, 1993.
57–715–4	1	2	October 1, 1993.
57–720–1	1	2	October 1, 1993.
57–730–1	1	2	October 1, 1993.
57–730–2	1	2	October 1, 1993.
57–740–1	1	2	October 1, 1993.
57–750–1	1	2	October 1, 1993.
57–750–2	1	2	October 1, 1993.
57–750–3	1	2	October 1, 1993.
71–010–1	1	2	October 1, 1993.
71–015–1	1	2	October 1, 1993.
Illustrations			
53–100–1	1	2	October 1, 1993.
53–120–1	1	2	October 1, 1993.
53–330–4	1	2	October 1, 1993.
53–400–2	1	2	October 1, 1993.
55–520–3	1	2	October 1, 1993.
55–520–4	1	2	October 1, 1993.
55–530–2	1	2	October 1, 1993.
55–530–3	1	2	October 1, 1993.
57–611–2	1	2	October 1, 1993.
57–700–2	1	2	October 1, 1993.
57–700–3	1	2	October 1, 1993.
57–740–1	1	2	October 1, 1993.
57–750–3	1	2	October 1, 1993.
Appendix A			
	1–9	1	May 3, 1991.
Appendix B			
	1	2	October 1, 1993.
Appendix C			
	1	2	October 1, 1993.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314.

Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(l) This amendment becomes effective on August 29, 1994.

Issued in Renton, Washington, on July 18, 1994.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–17858 Filed 7–27–94; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 93–SW–09–AD; Amendment 39–8944; AD 94–13–04]

Airworthiness Directives: Schweizer Aircraft Corporation and Hughes Helicopters, Inc. Model 269A, 269A–1, 269B, 269C, and TH–55A Series Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Schweizer Aircraft Corporation and Hughes Helicopters, Inc. Model 269A, 269A–1, 269B, 269C, and TH–55A series helicopters, that requires mandatory replacement of all the clevis pins associated with the belt drive clutch control installation. This amendment is prompted by an accident involving the separation of the belt drive clutch control spring assembly (spring assembly) from the idler pulley assembly. The actions specified by this AD are intended to prevent separation of the spring assembly from the idler pulley assembly, loss of power to the main rotor system, and a subsequent forced landing.

DATES: Effective September 1, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 1, 1994.

ADDRESSES: The service information referenced in this AD may be obtained from Schweizer Aircraft Corporation, P.O. Box 147, Elmira, New York 14902. This information may be examined at the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond Reinhardt, Aerospace Engineer, New York Aircraft Certification Office, FAA, Propulsion Branch, ANE–174, New England Region, 181 South Franklin Avenue, Valley Stream, New York 11581, telephone (516) 791–7421, fax (516) 791–9024.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to Schweizer Aircraft Corporation and Hughes Helicopters, Inc. Model 269A, 269A–1, 269B, 269C, and TH–55A series helicopters was published in the **Federal Register** on August 4, 1993 (58 FR 41444). That action proposed to require replacement of all clevis pins associated with the belt drive clutch control installation.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed with one change. The AD proposed compliance on or before January 13, 1994, or within the next 400 hours' time-in-service (TIS), whichever comes first. Since January 13, 1994, has passed, the AD has been changed to now require compliance within 30 days after the effective date of the AD or within 400 hours' TIS, whichever comes first.

The FAA estimates that 1,100 helicopters of U.S. registry will be affected by this AD, that it will take approximately ½ work hour per helicopter to accomplish the required actions, and that the average labor rate is $55 per work hour. Required parts will cost approximately $10 per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $41,250.

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

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

AD 94–13–04 Schweizer Aircraft Corporation and Hughes Helicopters, Inc.: Amendment 39–8944. Docket Number 93–SW–09–AD.

Applicability: Model 269A, 269A–1, 269B, and TH–55A series helicopters, and Model 269C series helicopters with serial numbers (S/N) prior to S/N 1632, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent separation of the belt drive clutch control spring assembly (spring assembly) from the idler pulley assembly, loss of power to the main rotor system, and a subsequent forced landing, accomplish the following:

(a) Within the next 400 hours' time-in-service, or on or before 30 days after the effective date of this AD, whichever comes first, replace the clevis pins in the spring assembly with bolts in accordance with Part II of Schweizer Aircraft Corporation Service Bulletin B–256.2, dated June 11, 1993.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used when approved by the Manager, New York Aircraft Certification Office, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, New York Aircraft Certification Office.

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

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

(d) The replacement shall be done in accordance with Schweizer Aircraft Corporation Service Bulletin B–256.2, dated June 11, 1993. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from Schweizer Aircraft Corporation, P.O. Box 147, Elmira, New York 14902. Copies may be inspected at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective September 1, 1994.

Issued in Fort Worth, Texas, on June 14, 1994.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 94–17869 Filed 7–27–94; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 39

[Docket No. 93–SW–25–AD; Amendment 39–8943; AD 94–13–03]

Airworthiness Directives: The Enstrom Helicopter Corporation Model F–28C, F–28C–2, F–28F, 280C, 280F, and 280FX Series Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to The Enstrom Helicopter Corporation Model F–28C, F–28C–2, F–28F, 280C, 280F, and 280FX series helicopters. This action requires a visual inspection for cracks in the tail rotor spindle; a repetitive dye penetrant inspection for cracks; and removal and replacement of the tail rotor spindle upon reaching 1,200 hours' time-in-service (TIS). This amendment is prompted by five reports of cracked tail rotor spindles. The actions specified in this AD are intended to prevent failure of the tail rotor spindle, loss of directional control, and subsequent loss of control of the helicopter.

DATES: Effective August 12, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 12, 1994.

Comments for inclusion in the Rules Docket must be received on or before September 26, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 93–SW–25–AD, 2601 Meacham Boulevard, Room 663, Fort Worth, Texas 76137–4298.

The service information referenced in this AD may be obtained from The Enstrom Helicopter Corporation, Twin County Airport, P.O. Box 490, Menominee, Michigan 49858. This information may be examined at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Boulevard, Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Joe McGarvey, Aerospace Engineer, Chicago Aircraft Certification Office, Airframe Branch, FAA, 2300 East Devon Avenue, Room 202, Des Plaines, Illinois 60018, telephone (708) 294–7136, fax (708) 294–7834.

SUPPLEMENTARY INFORMATION: This amendment adopts a new airworthiness directive that is applicable to The Enstrom Helicopter Corporation (Enstrom) Model F–28C, F–28C–2, F–28F, 280C, 280F, and 280FX series helicopters equipped with tail rotor spindle (spindle), part number (P/N) 28–150064–11 or 28–150064–13. The manufacturer advises that there have been five reports of cracked spindles that had time-in-service (TIS) ranging from 282 to 3,449 hours. Three of the five defects were found during a visual preflight inspection. One of the reported incidents resulted in an emergency landing due to a tail rotor imbalance and the resultant high vibrations as a result of the cracked spindle. Based on an analysis and evaluation of the data, the FAA has determined that an unsafe condition exists in the spindle. This condition, if not corrected, could result in failure of the spindle, loss of directional control, and subsequent loss of control of the helicopter.

The FAA has reviewed and approved The Enstrom Helicopter Corporation Service Directive Bulletin (SDB) No. 0077, Revision B, dated November 16, 1992, that describes procedures for performing a visual inspection of the area around the spindle teeter bearing bores for cracks prior to the next flight and prior to each subsequent flight, and if cracks are found, removal and replacement of the spindle with an airworthy spindle; continuing the visual inspection before each flight and performing a dye penetrant inspection of the spindle for cracks within the next five hours' TIS; securing the spindle bearing caps with safety wire following the dye penetrant inspection; and removing and replacing spindles with 1,200 hours' or more total TIS.

Since an unsafe condition has been identified that is likely to exist or develop on other Enstrom Model F–28C, F–28C–2, F–28F, 280C, 280F, and 280FX series helicopters of the same type design, this AD is being issued to prevent failure of the spindle, loss of directional control, and subsequent loss of control of the helicopter. Before further flight, this AD requires a visual inspection of the spindle, part number (P/N) 28–150064–11 or 28–150064–13, for cracks in accordance with paragraph 5.2 of SDB 0077, Revision B, dated November 16, 1992. A dye penetrant inspection is required whenever track and balance procedures are required more than once within a 5 hours' TIS period. Additionally, within the next 25 hours' TIS and thereafter, at intervals not to exceed 25 hours' TIS, this AD requires an inspection of the spindle for cracks (without removing the tail rotor from the helicopter) using a visual and dye penetrant inspection in accordance with paragraph 5.3 of SDB 0077, Revision B, dated November 16, 1992. Also, this AD requires replacement of spindles with cracks or scratches, nicks, or surface discontinuities that are in excess of certain specified tolerances, or, if the spindle is not required to be replaced, returning the helicopter to service in accordance with paragraph 5.4 of SDB 0077, Revision B, dated November 16, 1992. Replacing a spindle, P/N 28–150064–11 or 28–150064–13, is also required within the next 100 hours' TIS, or on or before reaching 1,200 hours' TIS, whichever occurs later. Installing a spindle, P/N 28–150074–11, constitutes terminating action for the requirements of this AD. Since the unsafe condition requires an immediate inspection to ensure safety of the fleet, this AD needs to be adopted immediately, without prior public comment. The compliance requirements of this AD and take precedence over those stated in the Service Directive Bulletin, except where specifically referenced in this AD.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93–SW–25–AD." The postcard will be date stamped and returned to the commenter.

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

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

AD 94–13–03 The Enstrom Helicopter Corporation: Amendment 39–8943. Docket Number 93–SW–25–AD.

Applicability: Model F–28C, F–28C–2, F–28F, 280C, 280F, and 280FX series helicopters, equipped with tail rotor spindle (spindle), part number (P/N) 28–150064–11 or 28–150064–13, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the spindle, loss of directional control and subsequent loss of control of the helicopter, accomplish the following:

(a) Before further flight, visually inspect the spindle for cracks using a 5-power or higher magnifying glass in accordance with paragraph 5.2 of The Enstrom Helicopter Corporation Service Directive Bulletin (SDB) No. 0077, Revision B, dated November 16, 1992.

(b) Before further flight, whenever tail rotor (T/R) vibrations occur that cannot be corrected with track and balance procedures or track and balance procedures are required more than once within a 5 hours' TIS period, inspect the spindle teetering bearing bores for cracks using a dye penetrant method in accordance with paragraph 5.3 of SDB 0077, Revision B, dated November 16, 1992.

(c) Within the next 25 hours' time-in-service (TIS) after the effective date of this airworthiness directive (AD) and thereafter at intervals not to exceed 25 hours' TIS from the last inspection, without removing the tail rotor from the helicopter, inspect the spindle teetering bearing bores for cracks using a dye penetrant inspection and visually inspect for scratches, nicks, or surface discontinuities in accordance with paragraph 5.3 of SDB 0077, Revision B, dated November 16, 1992.

(d) If neither a crack nor any scratches, nicks, or surface discontinuities are found that exceed the tolerances specified in paragraph 5.3.4 and 5.3.5 of SDB 0077, Revision B, dated November 16, 1992, during the inspections required by paragraphs (a), (b), or (c) of this AD, return the helicopter to service in accordance with the procedures contained in paragraph 5.3.5 of the SDB 0077, Revision B, dated November 16, 1992, and the applicable maintenance manual.

(e) If a crack is found, or scratches, nicks, or surface discontinuities are found that exceed the tolerances specified in paragraph 5.3.4 and 5.3.5 of SDB 0077, Revision B, dated November 16, 1992, remove the spindle before further flight and install an airworthy spindle in accordance with the provisions of the appropriate maintenance manual.

(f) Within the next 100 hours' TIS or, on or before reaching 1,200 hours' TIS, whichever occurs later, remove spindle P/N 28–150064–11 or 28–150064–13, from service and replace it with an airworthy spindle in accordance with the appropriate maintenance manual.

(g) Installation of a spindle, P/N 28–150074–11, constitutes terminating action for the requirements of this AD.

(h) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used when approved by the Manager, Chicago Aircraft Certification Office, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Chicago Aircraft Certification Office.

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

(i) Except for the inspection required by paragraphs (a) and (b) of this AD, special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the other requirements of this AD can be accomplished.

(j) The inspections shall be done in accordance with The Enstrom Helicopter Corporation Service Directive Bulletin No. 0077, Revision B, dated November 16, 1992. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from The Enstrom Helicopter Corporation, Twin County Airport, P.O. Box 490, Menominee, Michigan 49858. Copies may be inspected at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Boulevard, Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(k) This amendment becomes effective on August 12, 1994.

Issued in Fort Worth, Texas, on June 14, 1994.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 94–17867 Filed 7–27–94; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 71

[Airspace Docket No. 94–AAL–05]

Modification of Class D Airspace and Establishment of Class E Airspace, Adak, Anchorage Merrill Field, Bethel, Juneau, Kenai, King Salmon, and Kodiak, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This document contains corrections to the final rule published on May 6, 1994. This final rule modified the Class D airspace areas at Adak, Anchorage Merrill Field, Bethel, Juneau, Kenai, King Salmon, and Kodiak, AK, by amending the areas' effective hours to coincide with the associated control tower's hours of operation. This action established Class E airspace at these areas when the associated control tower was closed. This action will correct these Class E airspace descriptions to reflect that they extend upward from the surface to the overlying or adjacent controlled airspace.

EFFECTIVE DATE: July 28, 1994.

FOR FURTHER INFORMATION CONTACT: Robert C. Durand, System Management Branch, AAL–531, Federal Aviation Administration, 222 West 7th Avenue #14, Anchorage, AK 99513–7587; telephone number: (907) 271–5898.

SUPPLEMENTARY INFORMATION: On April 26, 1994, the Federal Aviation Administration (FAA) published a final rule that modified the Class D airspace areas at Adak, Anchorage Merrill Field, Bethel, Juneau, Kenai, King Salmon, and Kodiak, AK, by amending the areas' effective hours to coincide with the associated control tower's hours of operation. This action also established Class E airspace at these areas when the associated control tower is closed (59 FR 23621; May 6, 1994). The FAA inadvertently modified the Class E airspace designation by including an altitude in feet MSL above the surface. This correction will allow the Class E area's to extend upward from the surface to the overlying or adjacent controlled airspace.

Correction of Final Rule

Accordingly, pursuant to the authority delegated to me, the publication on May 6, 1994, (59 FR 23621) and the description in FAA Order 7400.9A, which is incorporated by reference in 14 CFR 71.1, are corrected as follows:

§ 71.1 [Corrected]

On page 23622, in the third column, the description for "AAL AK E2, Adak, AK [New]" is corrected to read as follows:

* * * * *

AAL AK E2 Adak, AK [Corrected]

Adak NAS Airport, AK
(lat. 51°52′53″ N, long. 176°38′50″ W)
Within a 4.5-mile radius of the Adak NAS Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

On page 23623, in the first column, the description for "AAL AK E2 Anchorage Merrill Field, AK [New]" is corrected to read as follows:

* * * * *

AAL AK E2 Anchorage Merrill Field, AK [Corrected]

Anchorage Merrill Field, AK
(lat. 61°12′52″ N, long. 149°50′46″ W)
Elmendorf Localizer
(lat. 61°15′14″ N, long. 149°46′48″ W)
Within a line beginning at the mouth of Fish Creek, thence along Fish Creek to Northern Lights Boulevard, thence direct to the intersection of Tudor Road and the New Seward Highway, thence east along Tudor Road to its intersection with Muldoon Road, thence north along Muldoon Road to Glenn Highway, thence direct to the mouth of Ship Creek, thence southwest along the southeast shore of Knik Arm to a line 2 miles south of and parallel to the Elmendorf localizer southwest course, thence west along that line to a line direct from Point McKenzie to the mouth of Fish Creek; thence southeast along that line to the point of beginning. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

On page 23623, in the first column, the description for "AAL AK E2 Bethel, AK [New]" is corrected to read as follows:

* * * * *

AAL AK E2 Bethel, AK [Corrected]

Bethel Airport, AK
(lat. 60°46′47″ N, long. 161°50′17″ W)
Bethel VORTAC
(lat. 60°47′05″ N, long. 161°49′27″ W)
Within a 4.1-mile radius of the Bethel Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

On page 23623, in the first column, the description for "AAL AK E2 Juneau, AK [New]" is corrected to read as follows:

* * * * *

AAL AK E2 Juneau, AK [Corrected]

Juneau International Airport, AK
(lat. 58°21′18″ N, long. 134°34′34″ W)
Within a 3-mile radius of the Juneau International Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

On page 23623, in the first column, the description for "AAL AK E2 Kenai, AK [New]" is corrected to read as follows:

* * * * *

AAL AK E2 Kenai, AK [Corrected]

Kenai Municipal Airport, AK
(lat. 60°34′17″ N, long. 151°14′52″ W)
Kenai VOR/DME
(lat. 60°36′53″ N, long. 151°11′43″ W)
Within a 5.2-mile radius of the Kenai Municipal Airport; excluding the airspace below 1,100 feet MSL beyond 4 miles from the Kenai Municipal Airport extending from the 312° bearing clockwise to the 348° bearing from the Kenai Municipal Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice of Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

On page 23623, in the second column, the description for "AAL AK E2 King Salmon, AK [New]" is corrected to read as follows:

* * * * *

AAL AK E2 King Salmon, AK [Corrected]

King Salmon Airport, AK
(lat. 58°40′36″ N, long. 156°38′58″ W)
Within a 5.2-mile radius of the King Salmon Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

On page 23623, in the second column, the description for "AAL AK E2 Kodiak, AK [New]" is corrected to read as follows:

* * * * *

AAL AK E2 Kodiak, AK [Corrected]

Kodiak Airport, AK
(lat. 57°45′00″ N, long. 152°29′38″ W)

Within a 3.1-mile radius of the Kodiak Airport, excluding that airspace west of a line 1.8 miles west of and parallel to the Kodiak Airport Runway 18–36. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Anchorage, AK, on July 13, 1994.

Willis C. Nelson,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 94–18386 Filed 7–27–94; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 75

RIN 1219–AA11

Safety Standards for Underground Coal Mine Ventilation; Amendments

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Final rule; technical amendments.

SUMMARY: This document makes technical amendments to the final rule for safety standards for underground coal mine ventilation that appeared in the **Federal Register** on May 15, 1992 (57 FR 20868).

EFFECTIVE DATE: This regulation is effective July 28, 1994. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 28, 1994.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, MSHA, phone (703) 235–1910.

SUPPLEMENTARY INFORMATION: On May 15, 1992, MSHA published a final rule to revise its safety standards for underground coal mine ventilation. This document makes nonsubstantive technical amendments to §§ 75.301, 75.333 (a), (d)(1), (e)(3) and (f) and 75.335 (a)(1)(iv) and (a)(2). Sections 75.301, 75.333 (a), (d)(1), (e)(3) and (f) and 75.335 (a)(1)(iv) and (a)(2) are revised to include information concerning the availability of the incorporated documents, where the incorporated documents may be inspected, and the Federal Register approval for incorporation by reference of the documents.

List of Subjects in 30 CFR Part 75

Incorporation by reference, Mine safety and health, Underground coal mines, Ventilation.

Dated: July 20, 1994.

J. Davitt McAteer,

Assistant Secretary for Mine Safety and Health.

PART 75—MANDATORY SAFETY STANDARDS—UNDERGROUND COAL MINES

Subpart D—Ventilation

Accordingly, subpart D of part 75, subchapter O, chapter I, title 30 of the Code of Federal Regulations is corrected by making the following technical amendments:

1. The authority citation for Part 75 continues to read as follows:

Authority: 30 U.S.C. 811, 957, and 961.

§ 75.301 [Amended]

2. In § 75.301, the following definitions are revised to read as follows:

* * * * *

Noncombustible Structure or Area. Describes a structure or area that will continue to provide protection against flame spread for at least 1 hour when subjected to a fire test incorporating an ASTM E119–88 time/temperature heat input, or equivalent. The publication ASTM E119–88, "Standard Test Methods for Fire Tests of Building Construction and Materials" is incorporated by reference and may be inspected at any Coal Mine Health and Safety District and Subdistrict Office, or at MSHA's Office of Standards, 4015 Wilson Boulevard, Arlington, VA, and at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. In addition, copies of the document can be purchased from the American Society for Testing Materials (ASTM), 1916 Race Street, Philadelphia, Pennsylvania 19103. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

Noncombustible Material. Describes a material which when used to construct a ventilation control results in a control that will continue to serve its intended function for 1 hour when subjected to a fire test incorporating an ASTM E119–88 time/temperature heat input, or equivalent. The publication ASTM E119–88, "Standard Test Methods for Fire Tests of Building Construction and Materials" is incorporated by reference and may be inspected at any Coal Mine Health and Safety District and Subdistrict Office, or at MSHA's Office of Standards, 4015 Wilson Boulevard, Arlington, VA, and at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. In addition, copies of the document can be purchased from the American Society for Testing Materials (ASTM), 1916 Race Street, Philadelphia, Pennsylvania 19103. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

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§ 75.333 [Amended]

3. In § 75.333, paragraphs (a), (d)(1), (e)(3), and (f) are revised to read as follows:

(a) For purposes of this section; "doors" includes any doorframes, and "durable" describes a material and construction method that when used to construct a ventilation control results in a control that is structurally equivalent to an 8-inch hollow-core concrete block stopping with mortared joints as described in ASTM E72–80, "Standard Methods of Conducting Strength Tests of Panels for Building Construction" (Section 12—Transverse Load—Specimen Vertical). This publication is incorporated by reference and may be inspected at any Coal Mine Health and Safety District and Subdistrict Office, or at MSHA's Office of Standards, 4015 Wilson Boulevard, Arlington, VA, and at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. In addition, copies of the document can be purchased from the American Society for Testing Materials (ASTM), 1916 Race Street, Philadelphia, Pennsylvania 19103. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

* * * * *

(d) * * *

(1) Made of noncombustible material or coated on all accessible surfaces with flame-retardant material having a flame-spread index of 25 or less, as tested under ASTM E162–87, "Standard Test Method for Surface Flammability of Materials Using a Radiant Heat Energy Source." This publication is incorporated by reference and may be inspected at any Coal Mine Health and Safety District and Subdistrict Office, or at MSHA's Office of Standards, 4015 Wilson Boulevard, Arlington, VA, and at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. In addition, copies of the document can be purchased from

the American Society for Testing Materials (ASTM), 1916 Race Street, Philadelphia, Pennsylvania 19103. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

* * * * *

(e) * * *

(3) When timbers are used to create permanent stoppings in heaving or caving areas, the stoppings shall be coated on all accessible surfaces with a flame-retardant material having a flame-spread index of 25 or less, as tested under ASTM E162–87, "Standard Test Method for Surface Flammability of Materials Using a Radiant Heat Energy Source." This publication is incorporated by reference and may be inspected at any Coal Mine Health and Safety District and Subdistrict Office, or at MSHA's Office of Standards, 4015 Wilson Boulevard, Arlington, VA, and at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. In addition, copies of the document can be purchased from the American Society for Testing Materials (ASTM), 1916 Race Street, Philadelphia, Pennsylvania 19103. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

* * * * *

(f) When sealants are applied to ventilation controls, the sealant shall have a flame-spread index of 25 or less under ASTM E162–87, "Standard Test Method for Surface Flammability of Materials Using a Radiant Heat Energy Source." This publication is incorporated by reference and may be inspected at any Coal Mine Health and Safety District and Subdistrict Office, or at MSHA's Office of Standards, 4015 Wilson Boulevard, Arlington, VA, and at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. In addition, copies of the document can be purchased from the American Society for Testing Materials (ASTM), 1916 Race Street, Philadelphia, Pennsylvania 19103. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

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§ 75.335 [Amended]

4. In § 75.335, paragraphs (a)(1)(iv) and (a)(2) are revised to read as follows:

(a)(1) * * *

(iv) Coated on all accessible surfaces with flame-retardant material that will minimize leakage and that has a flame-spread index of 25 or less, as tested under ASTM E162–87, "Standard Test Method for Surface Flammability of Materials Using a Radiant Heat Energy Source." This publication is incorporated by reference and may be inspected at any Coal Mine Health and Safety District and Subdistrict Office, or at MSHA's Office of Standards, 4015 Wilson Boulevard, Arlington, VA, and at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. In addition, copies of the document can be purchased from the American Society for Testing Materials (ASTM), 1916 Race Street, Philadelphia, Pennsylvania 19103. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) Alternative methods or materials may be used to create a seal if they can withstand a static horizontal pressure of 20 pounds per square inch provided the method of installation and the material used is approved in the ventilation plan. If the alternative methods or materials include the use of timbers, the timbers also shall be coated on all accessible surfaces with flame-retardant material having a flame-spread index of 25 or less, as tested under ASTM E162–87, "Standard Test Method for Surface Flammability of Materials Using a Radiant Heat Energy Source." This publication is incorporated by reference and may be inspected at any Coal Mine Health and Safety District and Subdistrict Office, or at MSHA's Office of Standards, 4015 Wilson Boulevard, Arlington, VA, and at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. In addition, copies of the document can be purchased from the American Society for Testing Materials (ASTM), 1916 Race Street, Philadelphia, Pennsylvania 19103. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

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[FR Doc. 94–18302 Filed 7–27–94; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 230

RIN 1010–AB90

Offsets, Recoupments and Refunds of Excess Payments of Royalties, Rentals, Bonuses, or Other Amounts Under Federal Offshore Mineral Leases

AGENCY: Minerals Management Service, Interior.

ACTION: Final rule.

SUMMARY: The Royalty Management Program of the Minerals Management Service (MMS) is amending its regulations establishing procedures for obtaining refunds and credits of excess payments made under Federal mineral leases on the Outer Continental Shelf (OCS) which are subject to section 10 of the Outer Continental Shelf Lands Act of 1953 (OCSLA section 10). The rules also describe the circumstances in which a person may recover certain payments that are not subject to section 10's requirements.

EFFECTIVE DATE: August 29, 1994.

FOR FURTHER INFORMATION CONTACT: David S. Guzy, Chief, Rules and Procedures Staff, at (303) 231–3432.

SUPPLEMENTARY INFORMATION: The principal authors of this proposed rule are Paul A. Knueven, Technical Compliance Branch, Division of Verification, Royalty Management Program, MMS, Lakewood, Colorado, and Peter J. Schaumberg, Office of the Solicitor, Washington, DC.

I. Background

Excess payments of royalties, rentals, bonuses, or other amounts made under OCS mineral leases result from a variety of reasons (discussed in detail in the preamble to the Notice of Proposed Rulemaking (NOPR) at 58 FR 53470–53471, October 15, 1993). Section 10(a) requires that a request for refund or credit of an excess payment made in connection with any lease issued under that Act be filed with the Secretary of the Interior (Secretary) within 2 years after making the payment. Section 10(b) requires that all refunds or credits which the Secretary proposes to approve be reported to Congress, and that the Secretary wait at least 30 days while Congress is in continuous session before making a refund payment or authorizing a credit. Any repayment made pursuant to the Act must be without interest.

The purpose of these regulations is to codify the Department's interpretation and application of section 10,

incorporating the policies and decisions from the various legal opinions, administrative decisions, and administrative practice which are discussed in detail in the preamble to the NOPR.

II. Comments on Proposed Rule

The proposed rulemaking (58 FR 53470, October 15, 1993) provided for a 60-day public comment period, which ended December 14, 1993. Eleven commenters submitted written comments during this period. The principal comments are addressed in this section.

General Comments

(a) Several commenters requested that MMS revisit the reasoning and legal arguments contained in the 1981 M-opinion Refunds and Credits Under the Outer Continental Shelf Lands Act M–36942, 88 I.D. 1091 (December 15, 1981) ("1981 M-Opinion"). One commenter proposed that MMS not permit offsetting as a means to recover an overpayment for one production month to the extent underpayments exist on the same lease for another month. Another commenter requested MMS to reconsider the operation of the 2-year period for requesting refund or credit, suggesting it could start later than the date of payment in specific circumstances. This same commenter also suggested that section 10 should be construed to apply only to refunds, with credit adjustments not subject to section 10's limitation.

Response: MMS disagrees with these comments. The 1981 M-Opinion, and a second M-Opinion, Applicability of section 10 of the Outer Continental Shelf Lands Act, M–36977 (Jan. 15, 1993) ("1993 M-Opinion"), reflect the Department's interpretation of section 10's requirements. The Department is not convinced that its legal view is wrong. Therefore, the purpose of the rulemaking is to codify the Department's existing interpretation and application of section 10.

(b) A commenter suggested that the regulations should require the Government to act on a refund request within 90 days. Absent such action the lessee should automatically be authorized to process a credit adjustment.

Response: Section 10 is specific in the procedures that must be followed for approval of a refund or credit. Unless those preconditions are satisfied, MMS does not have the legal authority to allow a refund or credit to be processed. The MMS has recognized the obvious importance of approving refund requests quickly by changing procedures to expedite the process. For example, the purpose of approval subject to audit at § 230.455 is to eliminate the audit time delay required for recoupment authorizations. Such audits will still be required for certain cash refunds.

(c) Several commenters stated that MMS should make any new rules prospective, with an effective date on or after the date of publication.

Response: With one exception, the rulemaking codifies the Department's current interpretation and application of section 10. That exception is § 230.458(b), which imposes an assessment of $500 for each unauthorized credit adjustment. This assessment will apply only to transactions filed after the effective date of the regulations.

Specific Comments

(a) Most of the commenters objected to the inclusion of the definition of audit in § 230.452. These comments questioned the need to define a term that is used so little in the body of the regulations. One commenter pointed out that the word "audit" appears only three times in the rule (except in a section heading), and then only in conjunction with the word "review." Accordingly, it is suggested that the definition adds nothing to the comprehension of the regulations.

Response: MMS agrees with the comments and the definition of audit has been removed from the final regulations.

(b) Several commenters objected to the provisions of § 230.453(a)(3) which require MMS notification to the lessee that its request for refund or credit is authorized before a recoupment can be filed. Once MMS reviews the request, transmits it to Congress and the Congressional review period is satisfied, these commenters argue that they should be permitted to recoup. These commenters claim MMS is exceeding its authority by conditioning the lessee's right to a timely filed legitimate credit or refund on the receipt of a notice from the MMS.

Response: MMS disagrees with these comments. First, it is the Government's responsibility to assure that the technical requirements of section 10, including the 30-day congressional review period, have been satisfied before a recoupment is effected. Second, the requirement for MMS to give final approval allows for proper control. After MMS approves a recoupment, then it will know that when a credit adjustment appears on a Form MMS–2014, that credit adjustment is authorized. Further, there may be circumstances where a request for refund or credit is approved, but MMS may not allow the recoupment to be effected. MMS recently proposed rules related to administrative offset and to credit adjustments generally (58 FR 43582, August 17, 1993). There may be circumstances where a lessee owes money to MMS and MMS would want to retain the otherwise approved request for refund or credit as an offset. Thus, recoupments will not be permitted until MMS provides approval.

(c) Several commenters objected to the requirements of § 230.453(b)(5) that lessees certify the accuracy of the data submitted in the refund request. One commenter noted that there is no necessity for the certification since the provisions of the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA) already contain adequate protection of the Federal lessor. According to this commenter, the certification adds nothing but additional paperwork to the process.

Response: MMS disagrees with these comments. It has been a long standing practice of MMS to require the certification as a condition of processing the refund. This is not a new requirement. Most lessees have long made the certification part of their refund request form letter, so no additional burden will be imposed by this requirement.

(d) The provisions of § 230.453(c) specifically state that the submission of a credit adjustment on a Report of Sales and Royalty Remittance, Form MMS–2014, will not constitute a refund request, or a partially completed refund request as discussed in § 230.453(c). Additionally, § 230.459 does not include the filing of a Form MMS–2014 as a reason the 2-year period of section 10 will be tolled. MMS requested comment on this issue.

Eight responders offered comments on the status of a Form MMS–2014 as a section 10 refund request and if such filing should toll the 2-year limit. Four commenters stated that the Form MMS–2014 should toll the 2-year period since it includes nearly all elements of a properly completed refund request. Another commenter proposed that the Form MMS–2014 should serve as a conditional refund request. If during later audit it was judged valid, MMS should process the request for congressional review. If invalid, the lessee would be required to repay the amount of the credit with interest and apply for a refund. When more than 2 years had passed since making payment, the lessee would be time-barred from recovering the funds. It was urged that these procedures would serve as an incentive for lessees to only file credits

in which they had a high level of confidence in their validity.

While noting that tolling the 2-year period by filing a Form MMS–2014 would not benefit them, the sixth commenter observed that it would encourage lessees to file unauthorized recoupments on questionable properties "just in case."

The last two commenters noted that most of the unauthorized recoupments filed in the past resulted from MMS' failure to issue formal guidance on the application of section 10. They recognized that this rulemaking resolves that problem, and they see no value to lessees in the future to toll the 2-year period by filing an unauthorized credit adjustment. With the publication of these rules, the commenters stated that lessees will know what adjustments are and are not subject to section 10.

Response: MMS disagrees with the first four commenters. While Form MMS–2014 filings contain most of the information required for a refund request, they do not include the information necessary to constitute a proper request for refund or credit. Moreover, these credit adjustments do not request recoupments, instead they effect recoupments and thereby reduce Government receipts. Section 10 requires MMS and congressional review *before* the funds are recovered. The conditional refund request suggestion also would not meet this requirement.

MMS agrees with the last three commenters. Accepting Form MMS–2014 filing as tolling the 2-year period could increase the submission of unauthorized credit adjustments and increase review costs. Additionally, there is no logical reason to toll the section 10 2-year period by filing a Form MMS–2014 credit adjustment after the rules have been published.

(e) One commenter questioned the limited refund amendment rights provided by § 230.453(e)(1). This commenter stated that inadvertent errors of notation related to the lease or any particular month should be amendable.

Response: MMS disagrees with this commenter. Permitting exceptions to the rule in an effort to be fair usually has the opposite effect. In this case, MMS would be required to judge an "inadvertent error" exactly the same in every case, an impossible task. To assure clear understanding and equal application to all lessees, the rule provides for no exceptions and will be strictly applied.

(f) Several commenters questioned the approval of refund requests subject to later audit contained in § 230.455.

Reponse: The purpose of this section is to eliminate the time delay required to complete an audit prior to the lessee's recovery of the overpayment (see discussion of general comment (b) above). Without an analysis of the lessee's records, MMS cannot determine the validity of the refund request. Accepting refund requests as valid subject to audit provides the lessees more timely use of funds, and provides for MMS' recovery in the event the requests were improper.

(g) One commenter stated that MMS should clearly indicate that the 2-year requirement of section 10 does not apply to offsets described at § 230.456.

Response: Since section 10 does not apply to offsets, the 2-year requirement of section 10 does not apply.

(h) One commenter stated that MMS should clearly define the word "intentional" within the meaning of § 230.456, to protect lessees. This commenter expressed concern that if this determination were based upon the subjective judgment of the auditor, offsets would almost certainly be applied inequitably.

Response: MMS disagrees with this comment. To develop a finding of intentional underpayment for the purpose of § 230.456, an auditor would have to demonstrate that the lessee's policy is to recover overpayments by filing subsequent underpayments. This finding would not be a subjective audit determination.

(i) Three commenters objected to the provisions of § 230.458(b) which impose an assessment of $500 for each unauthorized credit adjustment. Because MMS often discovers the unauthorized recoupment more than 2 years after payment, one commenter stated that the recovery of the improperly taken credit with interest already exceeds the actual amounts required by lease terms. An additional penalty appears harsh to this commenter. Another commenter argued that if it costs MMS $500 to research and approve refunds, then all amounts less than that should be allowed without following § 230.453 procedures. The third commenter stated that the amount is arbitrary and excessive because unauthorized recoupments are generally unintentional and are incurred when attempting to make internal accounting adjustments. Since proposed Form MMS–2014 line entries must be submitted with a refund request, it is often necessary and more expedient to process accounting corrections, allow the MMS–2014 credit lines to be generated, and then eliminate those credit entries prior to the normal monthly royalty payment. If the adjustments are numerous or complex, a credit entry may fail to be pulled, resulting in an inadvertent unauthorized adjustment. This commenter further argued that the time delays in the process, both before the overpayment is discovered and after the refund request is filed and authorization issued, result in the Government receiving the time value of the funds at the expense of the lessees.

Response: MMS disagrees with these comments. First, the review of unauthorized recoupments within MMS is now an automated process. Once these regulations are effective MMS will begin reviewing for such recoupments on a current basis. The MMS plans to discover unauthorized recoupments in time for the lessee to file a refund request before the 2-year period after payment has expired. Without the penalty, lessees will incur no material costs as a consequence of filing an unauthorized recoupment. In such an environment, some lessees may decide not to establish internal controls to prevent unauthorized recoupments, but rely instead on the Government. This reliance would shift the costs from the lessees and provide protection from the effects of missing the 2-year limit. The MMS would not be properly enforcing section 10 if it allowed such a result. Moreover, even with the penalty, many lessees will incur less costs than with the less timely Government review that has occurred in the past.

The penalty is not established to recover the costs of refund request processing. Rather, MMS is recovering the costs of review recoupments and comparing them with approved refunds. Since MMS cannot determine the effect publishing these rules will have on the rate of unauthorized recoupments, the cost per incident is not quantifiable.

The concerns of the third commenter related to production and filing of proposed Forms MMS–2014 being eliminated when the regulations are effective, since the forms are not required by § 230.453.

(j) One commenter noted that the purpose of § 230.459(a)(3) as explained in the section-by-section analysis would be better served by changing the date of tolling from the date of "application" for unitization to the effective date of the unit. The commenter also noted that unit revisions should be added as covered by this section.

Response: MMS disagrees that the date of tolling should be changed to the effective date of the unit. As noted in the discussion of this commenter, the effective date is subject to the judgment of the Regional Supervisor. In contrast, the date of application is a fixed event.

Unit revisions are included in the operation of § 230.459(a)(3), as discussed in the proposed rule preamble.

(k) One commenter expressed concern that it may be impossible to comply with the requirements of § 230.459(a)(4). This section provides that to toll the 2-year period, lessees must specifically identify an action or proceeding that could result in payments becoming excess, the lease(s) and sales months affected, and an estimated of the amount that could be subject to refund or credit.

Response: When a person becomes aware of a pending administrative or judicial action, or other action that may affect its royalty obligation, prudence would require a complete analysis. While MMS realizes the exact impact may not be determinable, a list of all leases and sales months within those lease accounts which could possibly be affected can be compiled. Paragraph (a)(4) of § 230.459 requires only an estimated dollar impact. The 2-year period for leases and/or sales months not included in the tolling request will not be tolled. The purpose of this strict construction is to minimize subjective judgments in applying section 10 requirements.

(l) Two commenters objected to the provisions of § 230.460 which repeal the special treatment of advanced rental payments when leases are later subject to suspensions.

Response: The IBLA rulings discussed with the preamble (58 FR 53474) were issued prior to any regulations governing section 10. These cases concluded that under the unique fact situations presented, excess rental payments which otherwise were not subject to refund or credit under section 10 could be credited against future rentals. Upon review, MMS still concludes that IBLA's conclusion is not consistent with the Department's interpretation of section 10. Thus, after this rule is effective, the IBLA decision will not be followed. However, these cases are exactly the type of situation envisioned for tolling the 2-year limit by filing a request pursuant to § 230.459(a)(4).

(m) One commenter questioned the requirement of § 230.461(d) which disallows the recoupment of a payment amount that exceeds the reported amount. This commenter stated that if the overpayment is not subject to section 10, then the payor should not be required to file a refund request.

Response: In those cases to which § 230.461(d) applies, the payor may recover its funds without a section 10 refund request. A payment amount exceeding the total reported for more than one lease is not a payment "in connection with any lease." (See the detailed discussion in the 1993 M-Opinion). Such an amount cannot be recouped by reporting a credit entry for a specific lease since the funds were not applied to any lease. After the Form MMS–2014 lines are processed, amounts in excess of the total reported remain as an unapplied credit in the payor's account. The MMS accountants would then contact the payor for direction as to how the funds should be applied. In most cases, the payor could reduce the next payment by an equal amount to balance its payor account. In other situations, the funds could be applied to an underpaid invoice or other Forms MMS–2014. If these situations did not apply, the payor could request a non-section 10 cash refund as outlined in the MMS "Oil and Gas Payor Handbook" (1986), Volume II, page 4–25.

(n) One commenter stated that the provisions of § 230.461(g), which would not require a section 10 refund request after a successful challenge of an MMS order to pay, would be more useful if MMS specifies how such funds would be recovered.

Response: The overpayments may be recovered as explained in the response to comment (m).

(o) Seven commenters submitted responses to the proposed *de minimis* exception of § 230.461(h). One commenter stated that MMS does not have authority under the interpretations contained in the 1981 M-Opinion to establish such a provision. Another commenter stated that the amount should be set at ½ percent of the normal monthly payment to be meaningful. No support was received for the alternative of limiting section 10 refund requests to $100 or more.

The other five commenters supported the de minimis idea, but suggested the limit be increased from $25 to $100 per payor code per month.

Response: After considering the comments, MMS has concluded that instead of a fixed amount for the de minimis exception, MMS will periodically review the matter and establish a de minimis amount. Accordingly, the final regulations provide that a limit will be published periodically in the **Federal Register.** This limit will be based on the cost incurred to process a section 10 refund request. Based on the cost experience for fiscal year 1993, the initial limit is established at $250. Under these procedures, payors will be able to file credits for OCS leases totalling less than $250 for each reporting month, provided the payments subject to adjustment were made within 2 years of the date of the adjustments. Thus, even if a payor used this exception to avoid section 10's reporting requirements, the most it could recover for any lease is $6,000 (24 months × $250).

III. Summary of Final Rule

The MMS is adding new regulations at 30 CFR 230.451 through 230.461, which codify MMS' policy regarding the requirements of OCSLA section 10, 43 U.S.C. 1339. Except for the changes to the rules discussed above in response to the comments, MMS is adopting the rule as proposed with some minor working changes. A detailed discussion of each section is included in the preamble to the proposed rules, 58 FR 53470, explaining the purpose and effect of each section.

Procedural Matters

The Regulatory Flexibility Act

The Department certifies that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). There are not many small entities involved in offshore oil and gas operations.

Executive Order 12630

The Department certifies that the rule does not represent a governmental action capable of interference with constitutionally protected property rights. Thus, a Takings Implication Assessment need not be prepared under Executive Order 12630, "Government Action and Interference with Constitutionally Protected Property Rights."

Excutive Order 12778

The Department has certified to the Office of Management and Budget that the rule meets the applicable standards provided in sections 2(a) and 2(b)(2) of Executive Oder 12778.

Executive Order 12866

This document has been reviewed under Executive Order 12866 and is not a significant regulatory action.

Paperwork Reduction Act of 1980

This rule does contain information collection requirements which have been approved by the Office of Management and Budget as required by 44 U.S.C. 3501 et seq., and assigned approval number 1010–0094.

National Environment Policy Act of 1969

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the

quality of the human environment and a detailed statement pursuant to paragraph (2)(C) of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is not required.

List of Subjects in 30 CFR Part 230

Coal, Continental shelf, Electronic Funds transfers, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Penalties, Petroleum, Public land—mineral resources, Reporting and recordkeeping requirements.

Dated: June 24, 1994.

Bob Armstrong,

Assistant Secretary—Land and Minerals Management.

For the reasons set out in the preamble, 30 CFR part 230 is amended as follows:

PART 230—ROYALTY REFUNDS

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

Authority: 5 U.S.C. 301 et seq.; 25 U.S.C. 396 et seq.; 25 U.S.C. 396a et seq.; 25 U.S.C. 2101 et seq.; 30 U.S.C. 181 et seq.; 30 U.S.C. 351 et seq.; 30 U.S.C. 1001 et seq.; 30 U.S.C. 1701 et seq.; 31 U.S.C. 3716; 31 U.S.C. 3720A; 31 U.S.C. 9701; 43 U.S.C. 1301 et seq.; 43 U.S.C. 1331 et seq.; and 43 U.S.C. 1801 et seq.

2. A new subpart J is added under part 230 to read as follows:

Subpart J—Refunds and Recoupments of Overpayments Under Federal Leases on the Outer Continental Shelf; Impementation of Section 10 of the Outer Continental Shelf Lands Act

Sec.

230.451 Scope.
230.452 Definitions.
230.453 Request for refund or credit.
230.454 Interest on excess payments.
230.455 Authorization of refund or credit and subsequent audit.
230.456 Offsets of overpayment and underpayments on the lease (or unit) by the same person.
230.457 Offsets among different persons who reported and paid royalties on a lease for the same prior sales month.
450.458 Unauthorized credit adjustments.
230.549 Stopping or tolling of the section 10(a) 2-year period.
230.460 Lease suspension.
230.461 Transactions not subject to section 10.

Subpart J—Refunds and Recoupments of Overpayments Under Federal Leases on the Outer Continental Shelf; Implementation of Section 10 of the Outer Continental Shelf Lands Act

§ 230.451 Scope.

This subpart establishes the procedures that lessees and other persons who make royalty and other payments on Federal oil and gas leases on the Outer Continental Shelf (OCS) must follow to recover certain excess payments made in connection with their leases in accordance with section 10 of the Outer Continental Shelf Lands Act (section 10), 43 U.S.C. 1339. The requirements of this subpart apply to both requests for refund from the Treasury of excess payments and requests to recover excess payments by recouping the amount through a credit adjustment. This subpart applies only to Federal leases on the OCS.

§ 230.452 Definitions.

Terms used in this subpart shall have the same meaning as in 30 U.S.C. 1702. In addition, the following definitions apply to this subpart:

Credit or *crediting* means reduction of a current or future royalty or other payment made in connection with a lease as a result of reporting a credit adjustment.

Credit Adjustment means any adjustment reported on a Report of Sales and Royalty Remittance (Form MMS–2014) or any other royalty report form which reduces any royalty or other payment made in connection with a lease which was reported and paid in any previous period.

Offset means to net or cancel previous overpayments against previous underpayments on the same OCS lease or across lease boundaries if all the individual leases are part of an approved unit agreement.

Overpayment means any payment made in excess of the amount that the lessee was lawfully required to pay.

Payment means money MMS receives in satisfaction of a lessee's royalty, rental, bonus, net profit share, or late payment interest obligation as established by statute, regulation, or the terms of a lease.

Recoup or *recoupment* means to recover a previous overpayment through a credit against a current or future royalty or other payment or liability under an OCS lease. A recoupment occurs whenever a payor reports a credit adjustment on a Form MMS–2014 or other royalty report form resulting in a net negative dollar value for the transaction and the credit is taken against the royalty or other payment or liability shown in the balance of the report.

Refund means a repayment by the United States Treasury to a person of any overpayment.

Unit means an area of 2 or more leases subject to an agreement for the consolidated development and recovery of oil and gas contained on the leases which are part of the agreement approved by MMS.

§ 230.453 Request for refund or credit.

(a) Except as otherwise provided in this subpart, no person may recover an excess payment it has made in connection with an OCS lease unless:

(1) That person has made a request for refund or credit in accordance with the provisions of this subpart;

(2) MMS has transmitted a report on the request for refund or credit to the President of the Senate and the Speaker of the House of Representatives and 30 days have expired since the submission in accordance with section 10(b), 43 U.S.C. 1339(b); and

(3) MMS notifies the person that its request for refund or credit is authorized and that the person may receive its refund for, or may report a credit adjustment to recoup, the excess payment.

(b) A request for refund or credit must:

(1) Be in writing;

(2) Provide the person's MMS-established payor code;

(3) Identify the leases and sales months with respect to which the excess payments occurred;

(4) Identify the amount of the excess payment or, with specificity, describe a class of payments that are, or as a result of an administrative or judicial decision or other identified contingency, may become, excess payments;

(5) Provide the reasons why a refund or credit is due;

(6) Include a certification that, to the best of the person's knowledge or belief, the information provided in response to paragraphs (b)(2) through (b)(5) of this section is accurate and complete.

(c) If MMS determines that a request for refund or credit is incomplete, the person who submitted the request will have 30 days, or such time as MMS may specify, following notice from MMS, to supplement the request for refund or credit.

(d) A credit adjustment reported on a Form MMS–2014 does not constitute a request for refund or credit for purposes of this section, and does not constitute an incomplete request for refund or credit for purposes of paragraph (c) of this section.

(e) A person who has filed a request for refund or credit pursuant to this section may amend that request to add an additional amount if:

(1) The additional amount is for the same lease and sales month; and

(2) The reason for the excess payment for the additional amount is the same as for the originally requested amount.

(f) Except as otherwise provided in this subpart, no request for a refund or

credit will be approved unless the request is received at MMS at the address provided below within 2 years of the date that MMS received the excess payment.

(1) The request for refund or credit must be received at the following address:

(i) By mail: Minerals Management Service, Section 10 Refund Requests, P.O. Box 173702, Denver, CO 80217–3702.

(ii) By express delivery or courier: Minerals Management Service, Section 10 Refund Requests, Building 85, Denver Federal Center, Room A–212, Denver, CO 80225.

(2) If the last day of the 2-year period from the date MMS received the excess payment falls on a Saturday, Sunday, holiday or any other day that MMS is not open for business at the address specified in paragraph (f)(1) of this section, then the last day of the 2-year period will be the next regular business day. Requests received at the specified MMS address after 4 p.m. Mountain Time are considered received the following business day.

§ 230.454 Interest on excess payments.

No person is entitled to interest on any excess payment made in connection with a lease that is refunded or recouped pursuant to this subpart.

§ 230.455 Authorization of refund or credit and subsequent audit.

MMS may grant a refund or authorize a credit based upon satisfactory evidence that the payment for which a refund or credit is requested was made, and upon a determination that the payment was excess. An approved request for refund or credit may be subject to later review or audit by MMS. If, based upon later review or audit, MMS determines that the refund or credit should not have been granted or authorized, the person who requested the refund or credit must repay the amount refunded or recouped plus interest determined pursuant to 30 U.S.C. 1721(a) and 30 CFR 218.150 from the date the refund was made or the recoupment taken until the date it is repaid.

§ 230.456 Offsets of overpayments and underpayments on the same lease (or unit) by the same person.

If a person makes an overpayment on any OCS lease or unit in a prior month, it may offset that overpayment against an underpayment that same person made in any prior month on that same lease or unit for the same or a different product without submitting a request for refund or credit. This offset is permitted only if the underpayment was not created as a result of a credit adjustment to recoup the amount of the overpayment or was not otherwise created intentionally to provide an underpayment against which to offset the overpayment. This offset also is subject to any limitations imposed by other applicable law or regulations.

§ 230.457 Offsets among different persons who reported and paid royalties on a lease for the same prior sales month.

(a) This section applies to any reallocation of production for a prior sales month among different persons who reported and paid royalty for that month on a lease or unit, except for reallocations of production that result from the approval or amendment of a unit agreement subject to § 230.461(b).

(b) In the event of a reallocation of production as described in paragraph (a) of this section, the respective persons who reported and paid royalty may reconcile any resulting differences in royalty payment obligations between themselves without submitting revised royalty reports or requests for refund or credit to MMS under this subpart, except that:

(1) Any person who paid any amount which remains as a net overpayment after such reconciliation must file a request for refund or credit in accordance with the requirements of this subpart to recover the excess payment;

(2) Any person whose royalty obligation remains underpaid after such reconciliation must report the additional royalties due for the prior sales month on a Form MMS–2014 and pay interest on the underpayment from the last day of the month following the sales month until the date the additional royalties are paid; and

(3) All persons involved in such reconciliation must retain all documents pertaining to the reallocation of production, calculation of royalties due, and the subsequent reconciliation among the persons involved together with other records pertaining to production from that lease during the prior sales month and the royalty due and paid thereon, and make such documents available for review and audit in the same manner as other records pertaining to the lease.

(c) If persons who reported and paid royalty do not reconcile between themselves any differences in royalty payment obligations arising as a result of a reallocation as provided in paragraph (b) of this section, each person who pays royalties for the lease must report and pay any additional royalties due, or file a request for refund or credit in accordance with the requirements of this subpart to recover the excess payment, as applicable. Any person who reports additional royalties due for the prior sales month must pay interest pursuant to 30 CFR 218.54 on the underpayment from the last day of the month following the sales month until the date the additional royalties are paid.

§ 230.458 Unauthorized credit adjustments.

(a) If a person reports a credit adjustment on Form MMS–2014 that results in a credit before MMS approves the recoupment pursuant to § 230.455, and if the credit adjustment does not qualify as one of the transactions not subject to section 10 as provided in § 230.461, then that person has taken an unauthorized credit adjustment.

(1) If the unauthorized credit adjustment recouped a payment that MMS received more than 2 years before the date MMS received the Form MMS–2014 which includes the unauthorized credit adjustment, the person must repay the amount recouped plus late payment interest determined pursuant to 30 U.S.C. 1721(a) and 30 CFR 218.150 from the date the unauthorized recoupment was taken until the date it is repaid. Unless the person filed a request for refund or credit pursuant to § 230.453 within 2 years of the making of the excess payment for which the unauthorized credit adjustment was reported, the excess payment is not subject to refund or recoupment.

(2) If the unauthorized credit adjustment recouped a payment that MMS received less than 2 years before the date MMS received the Form MMS–2014 with the unauthorized credit adjustment, the person must repay the amount recouped plus late payment interest determined pursuant to 30 U.S.C. 1721(a) and 30 CFR 218.150 from the date the unauthorized recoupment was taken until the date it is repaid. The report of the unauthorized credit adjustment on the Form MMS–2014 does not constitute a request for refund or credit that tolls the 2-year period in section 10(a), 43 U.S.C. 1339(a). The person may file a request for refund or credit pursuant to section 230.453 for the payment for which the unauthorized credit adjustment was reported. MMS will review the request pursuant to the requirements of this subpart only if the request for refund or credit is received within 2 years of the making of the original payment for which the unauthorized credit adjustment was reported.

(b) A person who reports an unauthorized credit adjustment to MMS on a Form MMS–2014 will be assessed

$500 for each unauthorized credit adjustment reported.

§ 230.459 Stopping or tolling of the section 10(a) 2-year period.

(a) The period of 2 years from the making of the excess payment, within which a request for refund or credit must be filed under section 10(a), 43 U.S.C. 1339(a), will be:

(1) Tolled by MMS's receipt of a substantially complete request for refund or credit pursuant to § 230.453; or

(2) Tolled by a general tolling notice issued by MMS and published in the **Federal Register** in circumstances where MMS believes a substantial number of requests for refund or credit could result as a consequence of a pending administrative or judicial proceeding or other action. The running of the 2-year period will be tolled for the time period specified in the notice; or

(3) Stopped by an application for unitization of OCS leases with respect to any excess payment that may result from the reallocation of production among leases after the unit or revision is approved; or

(4) Tolled by a notice filed by a person at the address stated in § 230.453(f) stating that a specifically identified action or proceeding may result in payments made on an OCS lease becoming excess payments. The notice must include:

(i) A list of affected leases and sales months;

(ii) The specific action or proceeding that could result in payments becoming excess;

(iii) An estimate of the amount that could be subject to a request for refund or credit; and

(iv) The person's MMS-established payor code.

(b) A request for refund or credit that is filed timely by a person who made an excess payment on an OCS lease does not stop or toll the running of the 2-year period with respect to any excess payment made by any other person on that lease.

§ 230.460 Lease suspension.

If MMS suspends an OCS lease pursuant to 30 CFR 250.10(b)(6), a person who has made excess rental payments for the period of suspension may request a refund or credit of any excess payments pursuant to this subpart. If the request for refund or credit is filed more than 2 years after MMS received the excess rentals, the excess payment will not be refunded, recouped, or credited against future rentals due on the same lease.

§ 230.461 Transactions not subject to section 10.

(a) A request for refund of, or any other action to recover, excess payments made by a refiner/purchaser under a royalty-in-kind contract for royalty oil produced from an OCS lease is not subject to section 10.

(b) If MMS approves a unit agreement on the OCS, or a revision to a unit, a person may file amended Forms MMS–2014 within the time period MMS prescribes, reallocating production among its affected leases. A person must file a request for refund or credit pursuant to this subpart only if, and to the extent that, there is a net reduction in the royalty that person previously paid for the leases committed to the unit as a result of the amendments.

(c) A person may amend Form MMS–2014 to adjust volume and royalty reports among OCS leases within a unit within the same sales month without filing a request for refund or credit pursuant to this subpart, except that a request for refund or credit must be filed to the extent that there is a net reduction in the royalty previously paid for the leases committed to the unit as a result of the amendments.

(d) A person who pays more money than the total royalty due as reported on the Form MMS–2014 accompanying the payment, where all amounts reported on the Form MMS–2014 are correct, may submit a request for refund of the overpaid amounts. The request for refund is not subject to section 10's requirements unless the Form MMS–2014 includes reports for only one OCS lease. Any overpayment subject to this paragraph may not be recovered by recoupment.

(e) A person may reduce an estimate balance, established for any lease product pursuant to MMS instructions, by submitting a credit adjustment on a Form MMS–2014, or a request for refund, for all or part of the established estimate balance. A credit adjustment or request for refund to recover all or part of an estimate balance authorized by this paragraph is not subject to the requirements of section 10.

(f) (1) If adjustment of an estimated oil transportation allowance or estimated gas transportation allowance pursuant to 30 CFR 206.105(e) and 206.157(e), respectively, results in an overpayment for any sales month because the estimated transportation costs were less than the actual costs, a person may submit a credit adjustment on a Form MMS–2014 to recoup, or may request a refund of, the overpayment. The credit adjustment or request for refund authorized by this paragraph is not subject to the requirements of section 10, and MMS approval is not required before reporting the credit adjustment.

(2) If adjustment of an estimated gas processing allowance pursuant to 30 CFR 206.159(e) results in an overpayment for any sales month because the estimated processing costs were less than the actual costs, a person may submit a credit adjustment on a Form MMS–2014 to recoup, or may request a refund of, the overpayment. The credit adjustment or request for refund authorized by this paragraph is not subject to the requirements of section 10, and MMS approval is not required before reporting the credit adjustment.

(3) If a person makes an error in the report of actual transportation or processing costs pursuant to paragraphs (f)(1) or (f)(2) of this section, any subsequent adjustment to the report that results in a credit is subject to section 10 and the requirements of this subpart.

(g) If a person pays pursuant to an MMS order and challenges the obligation to pay in an administrative appeal or judicial action, and if the person is successful in a challenge to all or part of the MMS order to pay, section 10 does not apply to the refund or recoupment of the disputed payment or portion thereof.

(h) MMS approval is not required for an adjustment by any person to the amount reported for a report month that results in a credit of not more than an amount established periodically by MMS and published in the **Federal Register**. However, no adjustment may be reported more than 2 years after the date MMS received the Form MMS–2014 including the excess payment.

[FR Doc. 94–18395 Filed 7–27–94; 8:45 am]
BILLING CODE 4310–MR–M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Judge Advocate General of the Navy has determined that USS BOXER (LHD 4) is a vessel of the Navy which, due to

its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special functions as a naval amphibious assault ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 7, 1994.

FOR FURTHER INFORMATION CONTACT: Captain R.R. Rossi, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332–2400, Telephone number: (703) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Judge Advocate General of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS BOXER (LHD 4) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(a), pertaining to the location of the masthead lights over the fore and aft centerline of the ship; Annex I, section 2(g), pertaining to the distance of the sidelights above the hull; Annex I, section 3(a), pertaining to the location of the forward masthead light in the forward quarter of the ship; and the horizontal distance between the forward and after masthead lights; and Annex I, section 3(b), pertaining to the positioning of the sidelights in relationship to the forward masthead light, without interfering with its special function as an amphibious assault ship. The Judge Advocate General of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

2. Table Two of 706.2 is amended by adding the following vessel:

TABLE TWO

Vessel	Number	Masthead lights distance to stbd of keel in meters; Rule 21(a)	Forward anchor light, distance below flight dk in meters; § 2(K), Annex 1	Forward anchor light, number of; Rule 30(a)(i)	AFT anchor light, distance below flight dk in meters; Rule 21(e), Rule 30 (a)(ii)	AFT anchor light, number of; Rule 30(a)(ii)	Side lights, distance below flight dk in meters; § 2(g) Annex 1	Side lights, distance forward of forward masthead light in meters; § 3(b) Annex 1	Side light distance inboard of ship's sides in meters; § 3(b) Annex 1
BOXER	LHD 4	.....	.....	.....	.....	.....	3.0	90.9	.....

§ 706.2 [Amended]

3. Table Five of 706.2 is amended by adding the following vessel:

TABLE FIVE

Vessel	Number	Masthead lights not over all other lights and obstructions. Annex 1, sec. 2(f)	Forward masthead light not in forward quarter of ship. Annex 1, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex 1, sec. 3(a)	Percentage horizontal separation attained
USS BOXER	LHD 4	.....	X	X	39.3

Dated: July 7, 1994.

H.E. Grant,

Rear Admiral, JAGC, U.S. Navy.

[FR Doc. 94–18349 Filed 7–27–94; 8:45 am]

BILLING CODE 3810–AE–P

Department of the Air Force

32 CFR Part 855

Use of United States Air Force Installations by Other Than United States Department of Defense Aircraft

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force has added provisions for alternate use of Air Force airfields by commercial air carriers that have contracted to participate in the Civil Reserve Air Fleet (CRAF) program. It is necessary to identify the CRAF Alternate as a purpose for which the Air Force will grant civil aircraft landing permits. The availability of Air Force airfields for use as alternates by CRAF carriers is intended to encourage greater participation in the CRAF program, which is structured to meet military

airlift requirements during military emergencies that involve US forces.

EFFECTIVE DATE: July 28, 1994.

FOR FURTHER INFORMATION CONTACT: Mrs. R. A. Young, HQ USAF/XOOBC, 1480 Air Force Pentagon, Room 5C966, Washington DC 20330–1480, telephone (703) 697–5967.

SUPPLEMENTARY INFORMATION: The Department of the Air Force has determined that this proposed rule is not a major rule because it will not have an annual adverse effect on the economy of $100 million or more. The Assistant Secretary of the Air Force (Manpower, Reserve Affairs, Installations & Environment) has certified that this rule is exempt from the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612 because this rule does not have a significant economic impact on small entities as defined by the Act, and does not impose any obligatory information requirements beyond internal Air Force use.

List of Subjects in 32 CFR Part 855

Aircraft, Federal buildings and facilities.

Accordingly, 32 CFR part 855, is amended as follows:

PART 855—USE OF UNITED STATES AIR FORCE INSTALLATIONS BY OTHER THAN UNITED STATES DEPARTMENT OF DEFENSE AIRCRAFT

1. The authority for Part 855 is revised to read as follows:

Authority: 10 U.S.C. 8013; 49 U.S.C. 1507 and 2203.

2. In subpart D, Section 855.11, a new paragraph (q) is added to read as follows:

§ 855.11 Types of civil use.

* * * * *

(q) *Civil Reserve Air Fleet Alternate (KK).* An Air Force airfield used as an alternate airport by air carriers that have contracted to provide aircraft for the Civil Air Reserve Air Fleet (CRAF). Verification: Participant in the CRAF program and authorized by contract.

* * * * *

Pasty J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 94–18403 Filed 7–27–94; 8:45 am]

BILLING CODE 3910–01–P

LIBRARY OF CONGRESS

36 CFR Part 705

[Docket No. LOC 94–1]

Salary Offset

AGENCY: Library of Congress.

ACTION: Final regulation.

SUMMARY: The Library of Congress is authorized to collect debts owed by current and former staff members to the Federal Government by making deductions from the current pay account of the individual. The Library of Congress is issuing this final regulation to prescribe the procedures the Library will follow when collecting a debt owed to the Federal Government via deductions from an employee's pay. It also describes the rights of current employees, former employees who owe debts to other agencies, and former employees who are currently employed by other agencies in the collection of debts owed to the Federal Government by them and sets out the procedures for collecting debts through deductions from their pay following due process.

EFFECTIVE DATE: July 28, 1994.

FOR FURTHER INFORMATION CONTACT: Johnnie M. Barksdale, Regulations Officer, Office of the General Counsel, Library of Congress, Washington, DC 20540–1050. Telephone No. (202) 707–1593.

SUPPLEMENTARY INFORMATION: Under section 5514 of title 5 U.S.C. and 5 CFR 550.1101, when an agency head or his/her designee determines that an employee is indebted to the Federal Government, he/she will authorize the collection of that indebtedness in monthly installments or at officially established pay intervals, by deduction from the current pay account of the individual. The amount deducted for any period may not exceed 15 percent of disposable pay, except that a greater percentage may be deducted upon the written consent of the individual involved. If the individual retires or resigns, or if his/her employment otherwise ends, before collection of the amount of the indebtedness is completed, deductions shall be made from subsequent payments of any nature due the individual from the agency concerned. This final Regulation sets out the procedures the Library of Congress will follow when collecting debts through deductions from the employee's pay following due process.

The proposed regulation was published in the **Federal Register** on May 27, 1994, for public comment. No comments were received. No changes were made to the text.

List of Subjects in 36 CFR Part 705

Salary offset.

Final Regulation

In consideration of the foregoing the Library of Congress promulgates a new Part 705 of 36 CFR chapter 7, reading as follows:

PART 705—FINANCIAL ADMINISTRATION

Sec.

705.1 Salary Offset.

Authority: 5 U.S.C. 5514 and 5 CFR 550.1101.

705.1 Salary offset

(a) *Purpose.* This part describes the rights of current and former staff members in the collection of debts owed to the Federal Government by them and sets out the procedures for collecting debts through deductions from their pay following due process.

(b) *Definitions.*—(1) *Debt* is an amount owed to the U.S. Government from insured or guaranteed loans, fees, leases, rents, royalties, services, sales of real or personal property, overpayments, penalties, damages, interest, fines and forfeitures (except those arising under the Uniform Code of Military Justice), and all other similar sources.

(2) *Disposable pay*, for purposes of this part, means that part of current basic pay, special pay, incentive pay, retirement pay, retainer pay, or other authorized pay remaining after the deduction of any amount required by law to be withheld, such as Federal taxes, retirement, court-ordered payments, and FICA.

(3) *Staff member* refers to current and former employees who owe debts to the Library and/or other Federal Government agencies.

(c) *Procedures.*—(1) *Notification of indebtedness.* The Director of Human Resources, or designee, shall notify the staff member, in writing, of the individual's indebtedness to the Library and the intention of the Library to collect this debt by deductions from the individual's pay. This notice shall be given not less than 30 days before any deduction is made. This notice shall state, at a minimum:

(i) The Library's determination that a debt is owed, including the origin, nature, and amount of the debt;

(ii) The Library's intention to collect the debt by means of deduction from the staff member's disposable pay account;

(iii) The amount, frequency, proposed beginning date, and duration of the intended deductions;

(iv) An explanation of the Library's policy concerning interest, penalties,

and administrative costs, including a statement that such assessments must be made unless excused;

(v) The staff member's right to inspect and to copy Government records relating to the debt or, if he or she or his or her representative cannot personally inspect the records, to request and receive a copy of such records;

(vi) If not previously provided, the opportunity (under terms agreeable to the Library) to establish a schedule for the voluntary repayment of the debt or to enter into a written agreement to establish a schedule for the repayment of the debt in lieu of offset (the agreement must be in writing, signed by both the staff member and the Library, and documented in the Library's files);

(vii) The staff member's right to a hearing conducted by an official arranged for or engaged by the Library (an administrative law judge or, alternatively, a hearing official not under the control of the Librarian of Congress) if a petition is filed as prescribed by the Library;

(viii) The method and time period for petitioning for a hearing;

(ix) That the timely filing of a petition for hearing will stay the commencement of collection proceedings;

(x) That a final decision on the hearing, if one is requested, will be issued at the earliest practicable date, but not later than 60 days after the filing of the petition requesting the hearing unless the staff member requests and the hearing official grants a delay in the proceedings;

(xi) That any knowingly false or frivolous statements, representations, or evidence may subject the staff member to

(A) Disciplinary procedures appropriate under Library of Congress Regulation 2020–3, or any other applicable regulations or statutes,

(B) Penalties under the False Claim Act, Section 3729 of Title 31, U.S. Code, or any other applicable statutory authority, or

(C) Criminal penalties under Sections 286, 287, 1001, and 1002 of Title 18, U.S. Code, or any other applicable statutory authority;

(xii) Any other rights and remedies available to the staff member under statutes or regulations governing the program for which the collection is being made;

(xiii) Unless there are applicable contractual or statutory provisions to the contrary, that amounts paid on or deducted for the debt which are later waived or found not owed to the United States will be promptly refunded to the staff member;

(xiv) That if the staff member elects not to contest the determination of indebtedness or the amount or the terms of a repayment schedule, the staff member may still wish to exercise the right to request a waiver of the collection of the indebtedness pursuant to the provisions of Library of Congress Regulation 1556, *Claims* (if the amount of the indebtedness exceeds $1,500, the staff member should be advised that a final determination must be made by the Comptroller General of the United States); and

(xv) That any involuntary payments already made or withheld from salary of any portion of the indebtedness will not be construed as a waiver by the staff member of any rights that he or she may have under this part.

(2) *Amount of deduction.* If possible, the debt shall be collected in one lump sum. If multiple deductions are necessary, however, the amount deducted from a staff member's pay for any single period will not exceed 15 percent of disposable pay, except that a greater percentage may be deducted upon the written consent of the individual involved. The staff member may enter into a written agreement for a repayment schedule different from that proposed so long as the terms are approved by the Library. If the individual retires or resigns or if his or her employment otherwise ends before collection of the amount of the indebtedness is completed, deduction shall be made from subsequent payments of any nature due the individual.

(3) *Petitions for hearing.* (i) To elect a hearing, the staff member must notify the Director, Human Resources, no later than 15 days after the receipt of the notification of indebtedness. A timely filing of a petition for hearing will stay any further commencement of collection proceedings. A final decision on the hearing will be issued at the earliest practicable date, but not later than 60 days after the filing of petition, unless the individual requests and the hearing official grants a delay in the proceedings.

(ii) The petition or statement must be signed by the staff member and must fully identify and explain with reasonable specificity all the facts, evidence, and witnesses, if any, which he or she believes supports his or her position.

(iii) Petitions for hearings made later than 15 days after the receipt of the notification of indebtedness will be accepted provided the staff member can show that the delay was because of circumstances beyond his or her control or because of failure to receive notice of the time limit (unless otherwise aware of it).

(4) *Form of hearings and final decisions.* (i) The staff member shall be provided an appropriate hearing as decided by the hearing official, based on the nature of the transactions giving rise to the debt. The hearing official shall be guided by the procedures set out in 4 CFR 102.3(c) in deciding on the type of hearing to provide.

(ii) A written decision will be provided to the staff member and must, at a minimum, state the fact(s) purported to support the nature and origin of the alleged debt; the hearing official's analysis, findings, and conclusions, in light of the hearing, as to the staff member's or the Library's grounds; the amount and validity of the alleged debt; and, where applicable, the repayment schedule.

(d) *Creditor agency is not the Library of Congress.* When the Library receives from a creditor agency a debt claim properly certified in accordance with 5 CFR 550.1108(a), deductions shall be scheduled to begin at the next officially established pay interval. The Director, Human Resources, shall provide the employee with written notice stating that the Library has received a certified debt claim from the creditor agency (including the amount) and written notice of the date deductions from salary will commence and of the amount of such deductions. When the Library receives an incomplete debt claim from a creditor agency, the Director, Human Resources, shall return the debt claim with a written notice that procedures under 5 U.S.C. 5514 must be followed and a properly determined debt claim received before action will be taken to collect from the employee's pay account.

(e) *Exclusions and exceptions.* (1) This part does not apply to debts where collection of the debt is explicitly provided for or prohibited by another statute, or to debts of $1 or less, which, it is hereby determined, is not cost effective to attempt to collect (65 Comp. Gen. 843, September 29, 1986).

(2) An exception to the entitlement of notice, hearings, written responses, and final decisions provided for under paragraph (c) of this section is made for overpayments arising out of an employee's election of coverage or a change in coverage under a Federal benefits program requiring periodic deductions from pay, if the amount to be recovered was accumulated over four pay periods or less.

Dated: July 18, 1994.

James H. Billington,

The Librarian of Congress.

[FR Doc. 94–18400 Filed 7–27–94; 8:45 am]

BILLING CODE 1410–01–P

Copyright Office

37 CFR Parts 201 and 211

[Docket No. 94–5]

Fees

AGENCY: Copyright Office, Library of Congress.

ACTION: Interim regulations with request for comments.

SUMMARY: The Copyright Office is adopting interim amendments concerning fees with a request for comments. These fee adjustments are limited to special services, and reflect the actual cost of providing the services. They include full-term storage of copyright deposits, special handling of copyright registrations, and other expedited services. The effect of these interim regulations is to increase or institute fees for special services as authorized under the Copyright Code.

DATES: Effective date: September 26, 1994.

Written comments should be received before September 12, 1994.

ADDRESSES: Fifteen copies of written comments should be addressed, if sent by mail to: Eric Schwartz, Acting General Counsel, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, DC 20024.

If delivered by hand, copies should be brought to: Office of the General Counsel, Copyright Office, James Madison Memorial Building, Room 407, First and Independence Avenue SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Eric Schwartz, Acting General Counsel, U.S. Copyright Office, Library of Congress, Washington, DC 20540. Telephone: (202) 707–8380. Telefax (202) 707–8366.

SUPPLEMENTARY INFORMATION:

I. Background

Today we are issuing two separate but associated documents concerning fees for providing certain discretionary services to the public. This document contains interim regulations to increase or institute fees for special services authorized under the Copyright Code. Published elsewhere in today's **Federal Register** is an associated document dealing with proposals for fees to cover costs for providing and maintaining Deposit Accounts.

Copyright Office Funding

The Copyright Office is funded annually by Congressional appropriation; however, the total appropriation includes a credit based on income from projected fees. We base this projection on an estimate of the fees we expect to receive over the course of the next fiscal year from services provided during that period. If revenue from fees falls short of our estimate, the total Congressional appropriation is decreased by the amount of the shortfall. In fiscal year 1993, our receipts failed to reach the projected level. Analysis of current fees indicates that the total received in fiscal year 1994 will again fall short of the projected amount.

Not only has Congressional funding been reduced, but the fee income has also declined because the number of copyright registrations, and the consequential fees they generate, have not increased in recent years. There are several possible explanations for this shortfall, including an increase in group registrations and fewer renewal registrations resulting from legislation in 1992 making renewal registration optional.

Congressional Authorization

Title 17 of the United States Code authorizes the Register of Copyrights to require payment of fees for services specifically described in section 708(a)(1)–(9). In addition, paragraph 708(a)(10) permits the Register to require "for any other special services requiring a substantial amount of time or expense, such fees as the Register of Copyrights may fix on the basis of the cost of providing the service." The final sentence in 17 U.S.C. 708(a) provides that "[t]he Register of Copyrights is authorized to fix the fees for preparing copies of Copyright Office records, whether or not such copies are certified, on the basis of the cost of such preparation." Paragraph 708(d) further permits the Register to prescribe regulations for the refund of "any sum paid by mistake or in excess of the fee required. . . ."

Actual Costs of Providing Special Services

Before proposing these fee adjustments, we consulted the Library of Congress' financial managers and conducted a comprehensive economic analysis of the operating costs involved in providing special user services to ascertain the actual costs of providing these services. Our analysis concluded that the current fees charged for special services do not offset the costs of the services provided. Most of the fees for special services have not been adjusted in almost a decade. Special services entail high administrative costs because requests for these services disrupt the normal work flow, are labor intensive, and are moved ahead of regular requests. The analysis included an examination of all the discretionary fees set under authority of 17 U.S.C. 708(a)(10). It identified the special services currently offered, and it calculated the cost of providing each service, taking into account staff time, overtime, and storage. In the past, the Office has chosen not to charge any fee for some services. Our analysis confirmed that we should adjust fees in order to justify the disruption to our normal work-flow and the high cost of these services, and to recapture actual cost; it also confirmed that we should impose charges for certain other administrative expenses.

Fees for Expedited Services

Users who request expedited services need information or certified documents in order to meet extraordinary time deadlines, usually for business or litigation purposes. In these situations a user asks us to move his or her request ahead of the hundreds of pending requests; in most cases, if sufficient reason is given, we will comply. Compliance requires additional staff time or overtime to respond to the request in an expedited manner. It is appropriate to charge special service fees that reflect the actual costs of these services to avoid other users or the general public from having to subsidize these services. We are not proposing adjustments to the statutory fees set under § 708(b) or seeking any legislative change in these fees. We will continue to provide regular searches, certifications, or copies of registration or recordation materials at the current fees.[1]

II. Special Handling Fees

Special Handling Procedure

Although the effective date of registration is the date the application, required fee, and deposit are received, it usually takes us several weeks to process a claim and mail the certificate of registration. Special handling is granted at the discretion of the Register in a limited number of cases as a special service to copyright applicants who have a compelling reason for the expedited issuance of a certificate of registration or recordation of a document pertaining to copyright. A

[1] *See* Copyright Office Circular 4 for current schedule of fees.

request for special handling is granted only for claims involved in pending or prospective litigation, customs matters, or contract or publishing deadlines that necessitate expedited service. For many years, we used an informal procedure for special handling of applications. When we began providing this service, we noted that we could not continue to absorb the extra charges for providing such a service, but did not establish a fee for special handling until 1982 when these procedures were formalized. 47 FR 19254 (May 4, 1982).

Work Involved in Special Handling

Under normal work procedures, applications for registration or documents for recordation pass through various administrative and examining processing steps. Special handling requests disrupt the regular workflow procedure and require expedited handling outside the normal first-in, first-out basis. These claims require special handling at each step and routing between work stations that supersedes the normal, chronological processing. A separate system of controls must be maintained to assure that each claim moves expeditiously through each stage and that these claims can be quickly located. Special handling claims take staff away from processing all other claims, including those received earlier, in order to process them in a substantially shorter time period. Under regular procedures these same employees could more efficiently process many standard claims.

Multiple Applications

Another special workflow problem for the Office arises from processing multiple applications accompanied by a single deposit when the request for special handling is limited to one claim or fewer than all of the multiple claims. Because all the applications share the deposit for the special handling claim, all claims must be processed in the same expedited manner. A $50 surcharge is currently applied to each additional claim attached to the deposit used for the special handling claim and processed at the same time. This surcharge will remain at $50, but it may be avoided by submitting a separate deposit.

Fees for Special Handling

When a fee is charged for special handling, this fee is added to the regular fee for registration ($20.00) or recordation ($20.00 for a document listing no more than one title).

In 1982 we set the special handling fee at $120. 47 FR 19254 (May 4, 1982). In 1984 we raised the fee to $200 to reflect the actual cost of the service. 49 FR 39741 (Oct. 10, 1984). In 1985, we established the special handling procedures for import statements and documents. 50 FR 46206 (Nov. 6, 1985). In 1991 we reviewed our special handling procedure, but did not increase fees. 56 FR 37528 (August 7, 1991).

We have not adjusted special handling fees for almost ten years. Our analysis indicates that to recover actual costs the new fee should be $330. The conditions under which a request for special handling is approved will not change. We are also raising the fee for special handling of mask work claims, which have not changed since 1985, 50 FR 26719 (June 28, 1985), as amended at 56 FR 59886 (Nov. 26, 1991), from $200 to $330.

III. Full-Term Storage

Service Provided

The Copyright Code mandates storage for the full copyright term of copies or phonorecords of unpublished registered works. It does not specify how long we should retain deposits for published works. Retention is more important in the case of unpublished works because our copy or phonorecord may be the only one in existence. Our policy for published works is to retain deposit copies or phonorecords not selected by the Library for its collections for at least five years from the date of registration; if possible, we retain copies of visual arts works for at least ten years or longer. In addition, we offer optional full-term storage service for those who register published works and want to assure that the deposits will be retained in our custody for the full term of copyright.

Fees for Full-Term Storage

Congress authorized a fee for full-term storage in 17 U.S.C. 704(e). Our current charge for full-term storage of published copyright deposits is $135. 52 FR 28821 (Aug. 4, 1987). Our recent analysis of the costs of this service reveals that the actual cost is much higher. Our new regulations increase the charge to $270 for full-term storage of published deposits. We will continue to provide full-term storage of unpublished deposits without a fee.

IV. Expedited Certifications and Documents Services

Services Provided

Users may request an additional certificate of registration, or copies of the copyright deposit, the copyright application, correspondence, and other copyright related documents. Frequently the requester needs these services on an expedited basis for compelling business or litigation reasons. The Certifications and Documents Section expedites these services when sufficient reason is provided

Justification of Increase

The fees for these expedited services were established after the revision of the Copyright Code in 1978 and have never been increased. Our new interim regulations increase the fees for expedited services performed by the Certifications & Documents Section to reflect actual costs and expenses. Actual costs for these services include the staff time necessary to travel to and search off-site storage facilities; in contrast, non-expedited requests are mailed to off-site division offices where regular staff can search for the requested material. All of these expedited service fees are surcharges that will be added to the regular charge for the service provided.

Expedited Additional Certificates

The fee for providing an expedited additional certificate, performing a search for a document that is "in-process" (where the recordation process has not been completed), or certifying or furnishing a copy of a document has been $18 per hour for almost ten years. These new regulations will raise the rate to $50 per hour.

Copy of Deposit or File Under Copyright Office Control

The fee for providing an expedited copy of a copyright deposit stored off-site in a Copyright Office storage facility, or for furnishing a copy of a correspondence file stored either on-site or off-site, has been $18 per hour. The new fee will be $70 for the first hour spent in providing the copy and $50 for each additional hour. The first hour is more costly because it reflects time expended by several staff members.

Copy of Deposit or File Not Under Our Control

Expedited provision of a copy of a deposit or correspondence file stored off-site at a Federal Records Center, a more remote site not under the control of the Copyright Office, has also been $18 per hour. It is being increased to $135 for the first hour and $50 for each additional hour. This service costs more to provide because support services are more numerous and time-consuming and must also cover the cost of returning the deposit or correspondence file to the Federal Records Center.

V. Reference and Bibliographic Searches

Services Provided

Copyright owners and users frequently need to get information on registrations, renewals, and transfers and other documents relating to copyright. Our records on these copyright related facts are public and are available for public inspection. A researcher can either come to the Office during regular business hours and perform a free search (with assistance from Copyright Office staff) or the researcher can have someone else perform the search. Several organizations provide such services for a fee. In addition, the post-1978 records of the Copyright Office (and the bibliographic records of the Library of Congress) are available on-line via the Internet.

The Reference and Bibliography Section of the Copyright Office will perform an expedited search of these public records for a fee when there is a compelling reason to do so. The Reference and Bibliography Section regularly performs searches of Office records at the statutory rate of $20 for each hour or fraction of an hour consumed. Before January 3, 1991, that section performed approved expedited searches for the statutory $10 hourly fee plus an additional charge of $20 per hour for the expedited service with a two hour minimum charge (a $60 minimum). Since then, the statutory fee has been $20 per hour, bringing the minimum to $80.00. Under the new fee schedule the charge for approved expedited searches is $100 for the first hour and $50 for each additional hour plus the $20 statutory fee for each hour.

The public can conduct searches on the Copyright Office in-process systems (COINS) database through a public access terminal in the Records Maintenance Unit for the search fee of $20 per hour or fraction of an hour. This fee will remain unchanged.

VI. Copying Fees

We will continue to duplicate our records under the conditions detailed in the applicable regulatory provisions and offer use of photocopy equipment and microfilm printers for the public's use at the prevailing rates established by the Photoduplication Service of the Library of Congress, except for certain specialized services for which the rates are based on our operational costs (*e.g.* color photocopying). Additional charges for specialized copying, for example audio cassette copying charges, are fixed by other divisions of the Library providing these services. All of these fees may be adjusted periodically.

VII. Policy Decision on Refund of Excess Fees

Automatic Refund Level

Our practice until 1991 was automatically to refund excess fees of more than $5.00; amounts of $5.00 or less were not refunded unless specifically requested. In 1991 we changed the automatic refund policy to provide automatic refund for payments of $10.01 or more in excess of the statutory fee; 56 FR 7812 (Feb. 26, 1991). 37 CFR 201.6(c). We are now adjusting the level at which automatic refunds of overpayments will be made from $10.01 to $50.01; we will not refund amounts of $50 or less unless specifically requested.

VIII. Administrative Processing Fee for Nonregistration Services

In 1991, we determined that an administrative processing fee is authorized under section 708(a) of the Copyright Code to reflect the minimum administrative cost of responding to a request for a nonregistrative service, even if the service cannot be successfully completed. For example, a request is made for a certification of records and after a search by our staff, the file cannot be found. We need to charge an administrative fee for the search even though it is unsuccessful. Accordingly in 1991, we amended 37 CFR 201.6(c) to state that in making any refund of fees remitted for nonregistration services, we could first deduct our administrative cost. Our regulation permits us to charge a processing fee "in an amount equivalent to one hour of the requested service, or the minimum fee set by statute for the service." 37 CFR 201.6(c). We will not make any change to this charge.

List of Subjects

37 CFR Part 201

Copyright, Fees.

37 CFR Part 211

Computer technology, Fees, Master work protection, Science and technology, Semi-conductor chip products.

Interim Rules

In consideration of the foregoing, parts 201 and 211 of 37 CFR chapter II are amended as follows.

PART 201—GENERAL PROVISIONS

1. The authority citation for part 201 is revised to read as follows:

Authority: 17 U.S.C. 702, 708.

§ 201.6 [Amended]

2. In § 201.6, paragraph (c) remove the fee of "$10," and add in its place "$50"

3. Section 201.32 is added to read as follows:

§ 201.32 Fees for Copyright Office special services.

The Copyright Office has established the following fees for the special services indicated:

Special services	Fees
1. Special handling fee	$330.
2. Full-term storage fee	270.
3. Surcharge for expedited Certifications and Documents Section services (per hour)	
a. Additional certificates	50.
b. In-process searches	50.
c. Copy of assignment	50.
d. Certification	50.
e. Copy of deposit (stored off-site)	70 (first hour).
	50 (each additional hour).
f. Copy of correspondence file (stored in Madison Building) or at an off-site storage facility	70 (first hour).
	50 (each additional hour).
g. Copy of deposit or correspondence file (stored at Federal Records Center)	135 (first hour).
	50 (each additional hour).
4. Surcharge for expedited Reference and Bibliography searches:	
a. First hour	100.
b. Each additional hour	50.

PART 211—MASK WORK PROTECTION

1. The authority citation for part 211 continues to read as follows:

Authority: 17 U.S.C. 908.

§ 211.3 [Amended]

2. In § 211.3, paragraph (a)(7) remove the fee of "$200," and add in its place "$330".

Dated: July 19, 1994.

Barbara Ringer,

Acting Register of Copyrights.

Approved:

James H. Billington,

Librarian of Congress.

[FR Doc. 94–18306 Filed 7–27–94; 8:45 am]

BILLING CODE 1410–07–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 9

[FRL–5022–2]

OMB Approval Numbers Under the Paperwork Reduction Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Technical amendment.

SUMMARY: In compliance with the Paperwork Reduction Act, this document adds the Office of Management and Budget (OMB) control numbers issued under the Paperwork Reduction Act (PRA) for Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Regulations Requiring On-Board Diagnostic Systems on 1994 and Later Model Year Light-Duty Vehicles and Light-Duty Trucks.

EFFECTIVE DATE: This final rule is effective August 29, 1994.

FOR FURTHER INFORMATION CONTACT: Todd Sherwood, Certification Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105, Telephone (313) 668–4405.

SUPPLEMENTARY INFORMATION: EPA is today amending the table of currently approved information collection request (ICR) control numbers issued by OMB for various regulations. Today's amendment updates the table to accurately display those information requirements promulgated under the on-board diagnostics (OBD) final rulemaking which appeared in the **Federal Register** on February 19, 1993 (58 FR 9468). The affected regulations are codified at 40 CFR part 86. EPA will continue to present OMB control numbers in a consolidated table format to be codified in 40 CFR part 9 of the Agency's regulations, and in each CFR volume containing EPA regulations. The table lists the section numbers with reporting and recordkeeping requirements, and the current OMB control numbers. This display of the OMB control number and its subsequent codification in the Code of Federal Regulations satisfies the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and OMB's implementing regulations at 5 CFR 1320.

This ICR was previously subject to public notice and comment prior to OMB approval. As a result, EPA finds that there is "good cause" under section 553(b)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(B)) to amend this table without prior notice and comment. Due to the technical nature of the table, further notice and comment would be unnecessary.

List of Subjects in 40 CFR Part 9

Reporting and recordkeeping requirements.

Dated: July 15, 1994.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, part 9 of 40 CFR chapter I is amended as follows:

PART 9—[AMENDED]

1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 et seq., 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 et seq., 1311, 1313d, 1314, 1321, 1326, 1330, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 et seq., 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

2. Section 9.1 is amended by adding the new entries to the table to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation	OMB control No.
* * * * *	
Control of Air Pollution from New and In-use Motor Vehicles and New and In-use Motor Vehicle Engines: Certification and Test Procedures	
86.094–17	2060–0104
86.094–18	2060–0104
* * * * *	
86.094–25	2060–0104
* * * * *	

[FR Doc. 94–18337 Filed 7–27–94; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[MA–12–01–6162; A–1–FRL–5003–6]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; RACT for S. Bent and Brothers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Massachusetts. This revision establishes and requires reasonably available control technology (RACT) for S. Bent and Brothers in Gardner, Massachusetts. The intended effect of this action is to approve a source-specific RACT determination made by Massachusetts in accordance with commitments specified in its Ozone Attainment Plan approved by EPA on November 9, 1983. This action is being taken in accordance with section 110 of the Clean Air Act.

EFFECTIVE DATE: This final rule will become effective on August 29, 1994.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA; and Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Jeanne Cosgrove, (617) 565–3246.

SUPPLEMENTARY INFORMATION: On May 31, 1991 (56 FR 24765), EPA published a Notice of Proposed Rulemaking (NPR) for the Commonwealth of Massachusetts. The NPR proposed approval of a plan approval submitted by Massachusetts on November 2, 1990 which defined and imposed reasonably available control technology (RACT) for S. Bent and Brothers in Gardner, Massachusetts. The NPR indicated that

final approval would be contingent upon the Massachusetts Department of Environmental Protection (DEP) providing additional technical support documenting that the limits established for S. Bent represent RACT. A revised Plan approval was submitted as a SIP revision by Massachusetts on August 26, 1992. This SIP revision provides the additional technical support requested by EPA in its NPR.

The DEP issued this plan approval pursuant to the requirements found in 310 CMR 7.18(17), which was approved by EPA on November 9, 1983 (48 FR 51480) as part of Massachusetts' Ozone Attainment Plan. Massachusetts Regulation 310 CMR 7.18(17), "Reasonably Available Control Technology (RACT)," requires the DEP to determine and impose RACT on otherwise unregulated stationary sources of VOC with the potential to emit greater than or equal to 100 tons per year.

Massachusett's revised final approval lowers the VOC content in the sealer coating category to 5.43 pounds of VOC per gallon of coating (minus water). Reporting requirements were also amended to track long term VOC emissions in tons on a 12 consecutive month rolling VOC limit instead of a 12 month calendar limit.

For the reasons outlined in the Technical Support Document prepared for this revision, EPA believes that the limits the DEP has established represent RACT for S. Bent and Brothers.

Other specific requirements of the plan approval and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

Final Action

EPA is approving this plan approval for S. Bent and Brothers as a revision to the Massachusetts SIP. The plan approval defines and imposes RACT on S. Bent, a manufacturer and coater of wood furniture in Gardner, Massachusetts.

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

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225).

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

The Office of Management and Budget has exempted this action from review under Executive Order 12866.

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 26, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Ozone.

Note: Incorporation by reference of the State Implementation Plan for the State of Massachusetts was approved by the Director of the Federal Register on July 1, 1982.

Dated: May 26, 1994.

John P. DeVillars,

Regional Administrator, Region I.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7642.

Subpart W—Massachusetts

2. Section 52.1120 is amended by adding paragraph (c)(99) to read as follows:

§ 52.1120 Identification of plan.

* * * * *

(c) * * *

(99) Revisions to the State Implementation Plan submitted by the Massachusetts Department of Environmental Protection on November 3, 1990 and August 26, 1992 which define and impose reasonably available control technology to control volatile organic compound emissions from S. Bent & Brothers in Gardner, Massachusetts.

(i) Incorporation by reference.

(A) Letter from the Massachusetts Department of Environmental Protection dated August 26, 1992 submitting a revision to the Massachusetts State Implementation Plan.

(B) Final Air Quality Approval RACT issued to S. Bent by the Massachusetts Department of Environmental Protection dated and effective May 22, 1992.

(ii) Additional materials

(A) Letter from the Massachusetts Department of Environmental Protection dated November 3, 1990 submitting a revision to the Massachusetts State Implementation Plan.

(B) Final Air Quality Approval RACT issued to S. Bent by the Massachusetts Department of Environmental Protection dated and effective October 17, 1990.

(C) Nonregulatory portions of the November 3, 1990 and August 26, 1992 state submittals.

3. In § 52.1167, Table 52.1167 is amended by adding a new entry to existing state citations for "310 CMR 7.18(17)" to read as follows:

§ 52.1167 EPA-approved Massachusetts state regulations.

TABLE 52.1167.—EPA-APPROVED RULES AND REGULATIONS

State citation	Title/subject	Date submitted by State	Date approved by EPA	Federal Register citation	52.1120 (c)	Comments/unapproved sections
*	*	*	*	*	*	*
310 CMR 7.18(17)	RACT	May 22, 1992 ..	July 28, 1994 ..	[Insert *FR* citation from published date].	(99)	RACT Approval for S. Bent & Bros.
*	*	*	*	*	*	*

[FR Doc. 94–18411 Filed 7–27–94; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR PARTS 0 and 1

[FCC 94–146]

Common Carrier and Mass Media Services; MultiPoint Distribution Services and Multichannel Multipoint Distribution

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, in order to consolidate processing of requests for licenses that may be used to provide so-called "wireless cable" services in one organization, transfers responsibility for MultiPoint Distribution Services and Multichannel Multipoint Distribution Services from the Common Carrier Bureau to the Mass Media Bureau. The rules adopted in this *Order* reflect this action.

EFFECTIVE DATE: July 28, 1994.

FOR FURTHER INFORMATION CONTACT: Karl Kensinger, Mass Media Bureau (202) 632–6460, or Janet S. Amaya, Mass Media Bureau (202) 632–7181.

SUPPLEMENTARY INFORMATION:

Order

In the matter of: Amendment of Parts 0 and 1 of the Commission's Rules to Reflect a Reorganization of Multipoint and Multichannel Multipoint Distribution Service Regulation.

Adopted: June 9, 1994
Released: July 21, 1994

By the Commission:

1. The Commission has before it for consideration changes in the organizations of the Mass Media and Common Carrier Bureaus. Implementation of these changes requires amendments to Parts 0 and 1 of the Commission's Rules and Regulations.

2. In order to consolidate processing of requests for licenses that may be used to provide so-called "wireless cable" services in one organization, the Commission is transferring responsibility for MultiPoint Distribution Services and Multichannel Multipoint Distribution Services from the Common Carrier Bureau to the Mass Media Bureau. The rules adopted herein reflect this action.

3. The amendments adopted pertain to agency organization. The prior notice procedure and effective date provisions of Section 553 of the Administrative Procedure Act are therefore inapplicable. Authority for the amendments adopted herein is contained in Sections 4(1), 5(b), 5(c)(1), and 303(r) of the Communications Act of 1934, as amended.

4. *It is ordered*, effective upon publication in the **Federal Register** that Parts 0 and 1 of the Rules and Regulations are amended as set forth below.

List of Subjects

47 CFR Part 0

Organization and functions (Government agencies), MultiPoint Distribution Services, Multichannel Multipoint Distribution Services.

47 CFR Part 1

Administrative practice and procedure, MultiPoint Distribution Services, Multichannel Multipoint Distribution Services.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Final Rules

Parts 0 and 1 of chapter I of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 0—COMMISSION ORGANIZATION

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

Authority: Secs. 5, 48 stat. 1068, as amended; 47 U.S.C. 155.

2. Section 0.61 is amended by revising paragraph (a) to read as follows:

§ 0.61 Functions of the Bureau.

* * * * *

(a) Process applications for authorizations in radio and television services, including conventional and auxiliary broadcast services, multi-point and multi-channel multi-point distribution services, and direct broadcast satellite services.

* * * * *

3. Section 0.91 is amended by revising the introductory paragraph to read as follows:

§ 0.91 Functions of the Bureau.

The Common Carrier Bureau develops, recommends and administers policies and programs for the regulation of services, facilities, rates and practices of entities (excluding public coast stations in the maritime mobile service and multi-point and multi-channel multi-point distribution services) which furnish interstate or foreign communications service for hire—whether by wire, radio, cable or satellite facilities—and of ancillary operations related to the provisions or use of such services. The Bureau also regulates the rates, terms, and conditions for cable television pole attachments, where such attachments are not regulated by a state and not provided by railroads or governmentally—or cooperatively owned utilities. The Bureau also performs the following specific functions:

* * * * *

4. Section 0.453 is amended by revising paragraph (g) to read as follows:

§ 0.453 Public reference rooms.

* * * * *

(g) The Common Carrier Bureau, Domestic Facilities Reference Room. The following documents, files and records are available for inspection at this location.

(1) Microwave Point-to-Point and Digital Electronic Message Service (DEMS) application files and related materials.

(2) Space and earth station files and related materials.

(3) Section 214 applications and related files.

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PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. 151, 154, 303, and 309(j), unless otherwise noted.

2. Section 1.821 is amended by revising the introductory paragraph to read as follows:

§ 1.821 Scope.

Where action on applications is permitted under authority delegated to either the Chief, Common Carrier Bureau, or the Chief, Mass Media Bureau, the provisions of this section, including provisions incorporated by reference, shall apply to applications for permits and licenses in the following services:

* * * * *

[FR Doc. 94–18396 Filed 7–27–94; 8:45 am]

BILLING CODE 6712–01–M

Proposed Rules

Federal Register
Vol. 59, No. 144
Thursday, July 28, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 842

RIN 3206–AF92

Federal Employees Retirement System—Coverage

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) is proposing regulations concerning exclusions from coverage under the Federal Employees Retirement System (FERS) for employees who have at least 5 years of service creditable under the Civil Service Retirement System (CSRS). These regulations would clarify the existing regulations to specifically state the requirement that, if the employee has a break in service ending after 1986, the employee's past service must include some service covered by CSRS to be excluded from automatic FERS coverage. The regulations are necessary to clarify the current regulations and to conform to OPM's guidance since implementation of FERS.

DATES: Comments must be received on or before September 26, 1994.

ADDRESSES: Send comments to Reginald M. Jones, Jr., Assistant Director for Retirement Policy Development; Retirement and Insurance Group; Office of Personnel Management; P.O. Box 57; Washington, DC 20044; or deliver to OPM, Room 4351, 1900 E Street SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Harold L. Siegelman, (202) 606–0299.

SUPPLEMENTARY INFORMATION: The general rule that a Federal employee who is covered by social security is automatically covered by the Federal Employees Retirement System (FERS) unless the employee is excluded from FERS coverage by statute or regulation is stated in section 842.103 of Title 5, Code of Federal Regulations. (FERS coverage is available only to employees covered by social security. *See generally* definition of employee under 5 CFR 842.102.) However, our current coverage regulations present many of the statutory exclusions to FERS coverage in terms of election rights that belong in part 846 of Title 5, Code of Federal Regulations. To simplify the regulations, we propose to revise sections 842.101 and 842.104 to limit the scope of subpart A of part 842 to automatic FERS coverage, leaving the regulation of all transfer issues to part 846.

Section 8402(b) of title 5, United States Code, establishes the statutory exclusions from coverage under FERS. The regulations implementing this provision are contained in section 842.104 of Title 5, Code of Federal Regulations. These proposed regulations seek to clarify the regulations and eliminate redundancies in a manner consistent with OPM's implementation of FERS since the system's inception.

Section 8402(b)(1) of title 5, United States Code, excludes certain senior officials from automatic FERS coverage.

The statute applies to senior officials who were placed under mandatory social security coverage at the beginning of 1984 and who have continuous service since December 31, 1983. Proposed section 842.104(b) would use essentially the same language as our current section 842.104(c) of Title 5, Code of Federal Regulations, to implement this paragraph.

Section 8402(b)(2) of title 5, United States Code, provides two mutually exclusive sets of exclusions from automatic FERS coverage. Subparagraph (A) applies to employees who reenter service on or after January 1, 1987 (the general effective date of the FERS Act of 1986) after a break in service. Subparagraph (B) applies to employees not covered by subparagraph (A), specifically, employees who have served continuously since December 31, 1986. OPM has applied this approach to the exclusion since the inception of FERS.

Employees who have had a break in service ending after December 31, 1986, are excluded from automatic FERS coverage if they satisfy the two-part test under subparagraph (A). The two-part test requires both some service (at least 1 day) *covered* by the Civil Service Retirement System (CSRS) or the Foreign Service Retirement System (FSRS) and at least 5 years of civilian service creditable under CSRS rules as of the last separation from service. Proposed section 482.104(c) would revise our current section 842.104(b) of Title 5, Code of Federal Regulations, to clarify our existing regulation that implements this provision.

Employees who have not had a break in service ending after December 31, 1986, are excluded from automatic FERS coverage if they satisfy the one-part test under subparagraph (B). These employees are excluded from automatic FERS coverage—even if they have no prior service covered by CSRS or FERS—as long as they did have at least 5 years of creditable civilian service (under CSRS rules) before January 1, 1987. Proposed section 842.104(d) would merge and revise current paragraphs (a) and (e) of section 842.104 of Title 5, Code of Federal Regulations, to simplify and clarify the regulations. Paragraph (e) particularly needs to be revised because the regulatory text does not show that it applies only to employees with just social security coverage such as those serving under multiple term appointments continuously since December 31, 1986. The supplementary information in our notice of interim rulemaking (published at 51 FR 47195, 47196, on December 31, 1986) states the intended scope of this paragraph, which also reflects our guidance to the employing agencies that make these determinations.

Proposed section 842.104(e) defines a break in service for the purpose of applying these rules as a separation from CSRS-covered service lasting more than 3 days, consistent with our general practice. However, in unusual circumstances employees will also be considered to have had a break in service in situations in which there may be no period of separation from service but the individual acquires automatic social security coverage (*e.g.*, when a District of Columbia employee who is excluded from social security transfers to a Federal position).

Proposed section 842.104(e) restates the current section 842.104(f) applicable to certain employees who have exercised their election rights under section 8461(n) of title 5, United States Code, to retain coverage under a retirement system for employees of nonappropriated fund instrumentalities.

OPM's guidance on making coverage determinations is not affected by these

amendments, which are intended to clarify the regulations and ensure that they will be interpreted correctly and in accordance with our existing guidance, "The CSRS and FERS Handbook for Personnel and Payroll Offices" (formerly FPM Supplement 830–1), chapter 10.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation will only affect Federal employees and agencies and retirement payments to retired Government employees and their survivors.

List of Subjects in 5 CFR Part 842

Administrative practice and procedure, Air traffic controllers, Firefighters, Government employees, Law enforcement officers, Pensions, Reporting and recordkeeping, Retirement.

U.S. Office of Personnel Management.

Lorriane A. Green,

Deputy Director.

Accordingly, OPM proposes to amend 5 CFR part 842 as follows:

PART 842—FEDERAL EMPLOYEES RETIREMENT SYSTEM—BASIC ANNUITY

1. The authority citation for part 842 continues to read as follows:

Authority: 5 U.S.C. 8461(g); §§ 842.104 and 842.106 also issued under 5 U.S.C. 8461(n); § 842.105 also issued under 5 U.S.C. 8402(c)(1) and 7701(b)(2); § 842.106 also issued under section 7202 (m)(2) of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101–508 and 5 U.S.C. 8402(c)(1); §§ 842.604 and 842.611 also issued under 5 U.S.C. 8417; § 842.607 also issued under 5 U.S.C. 8416 and 8417; § 842.614 also issued under 5 U.S.C. 8419; § 842.615 also issued under 5 U.S.C. 8418; § 842.703 also issued under section 7001 (a)(4) of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101–508; § 842.707 also issued under section 6001 of the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100–203; § 842.708 also issued under section 4005 of the Omnibus Budget Reconciliation Act of 1989, Pub. L. 101–239 and section 7001 of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 1001–508; subpart H also issued under 5 U.S.C. 1104.

Subpart A—Coverage

2. Section 842.101 is revised to read as follows:

§ 842.101 Purpose and scope.

(a) This subpart contains regulations concerning automatic coverage under the Federal Employees Retirement System (FERS). References to FERS coverage in this subparts are to automatic, as opposed to elective, FERS coverage.

(B) Part 846 of this chapter contains regulations concerning elective FERS coverage. FERS elections are available under limited circumstances to employees not subject to automatic FERS coverage.

3. Section 842.104 is revised to read as follows:

§ 842.104 Statutory exclusions.

(a) *Lack of social security coverage.* An individual not covered by social security (title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954), including an individual covered by full CSRS (and thereby excluded from social security coverage), is excluded from FERS coverage.

(b) *Senior officials subject to social security coverage despite continuous service.* An individual who has served without a break in service of more than 365 days since December 31, 1983, in one or more of the following positions is excluded from FERS coverage.

(1) The Vice President;

(2) A Member of Congress;

(3) A non-SES appointee to a position listed in 5 U.S.C. 5312 through 5317;

(4) A Senior Executive Service or Senior Foreign Service noncareer appointee; or

(5) An individual appointed by the President (or his designee) or the Vice President under section 105(a)(1), 107(a)(1), or (b)(1) of title 3, United States Code, to a position for which the maximum rate of basic pay is at or above the rate for Level V of the Executive Schedule.

(c) *Employees rehired after December 31, 1986, following a break in service.* An employee who is rehired after December 31, 1986, who has had a break in service and who, at the time of the last separation from the service, had at least 5 years of civilian service creditable under CSRS rules, any part of which was covered by CSRS or the Foreign Service Retirement System, is excluded from FERS coverage.

(d) *Employees who have not had a break in service ending after December 31, 1986.* An employee who has not had a break in service of more than 3 days ending after December 31, 1986, and who, as of December 31, 1986, has at least 5 years of creditable civilian service under CSRS rules (even if none of this service was covered by CSRS), is excluded from FERS coverage.

(e) *Break in service.* For the purposes of paragraph (c) and (d) of this section, "break in service" means a separation from CSRS-covered service lasting at least 4 days, or a transfer or separation of less than 4 days when the employee becomes subject to automatic coverage under social security (title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954).

(f) *Coverage under a retirement system for NAF employees.* An employee who has elected coverage under a retirement system for NAF employees in accordance with § 842.106 is excluded from FERS coverage during that and all subsequent periods of service, including service as reemployed annuitant.

[FR Doc. 94–18369 Filed 7–27–94; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1703

Rural Economic Development Loan and Grant Program

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) is proposing to amend its recently published rule for the Rural Economic Development Loan and Grant Program by adding a new provision to the selection of projects to be funded under the existing rule. The new provision will enhance the potential of funding for applications from areas that: Were recently designated by the President as natural disaster areas; have experienced severe economic dislocation due to the loss, removal, or closing of a major source of employment; have experienced long-term and severe economic deterioration, demonstrated by severe unemployment or a high percentage of population out-migration; and have been designated as a Rural Empowerment Zone or Rural Enterprise Community.

DATES: Written comments must be received by REA or carry a postmark or equivalent no later than August 29, 1994.

ADDRESSES: Submit an original and three copies of all written comments to Blaine D. Stockton, Jr., Assistant Administrator, Economic Development and Technical Services, Rural Electrification Administration, Room 4025, South Building, U.S. Department of Agriculture, 14th and Independence Avenue SW., Washington, DC 20250–1500 (7 CFR part 1700). The public may inspect written comments on this

proposed rule in room 4025 of the South Building between 8:30 a.m. and 5 p.m. on official workdays (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Blaine D. Stockton, Jr., Assistant Administrator, Economic Development and Technical Services, Rural Electrification Administration, telephone number (202) 720–9552.

SUPPLEMENTARY INFORMATION: This proposed rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget. This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This proposed rule: (1) Will not preempt any State or local laws, regulations, or policies; (2) Will not have any retroactive effect; and (3) Will not require administrative proceedings before parties may file suit challenging the provisions of this rule.

In compliance with the Regulatory Flexibility Act, the Administrator certifies that this action would not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Based on current and historical funding levels for this program and a projected average size loan and/or grant in the range of $300,000 to $400,000, it is estimated that 50 to 60 loans and/or grants will be made nationwide each year under the existing rule. Applicants whose rural development projects are enhanced by this action are projected to be less numerous, and therefore, the proposed rule will have a limited impact upon small businesses. Since credit will be channeled to areas which are generally underdeveloped and financially depressed, job creation and economic development resulting from newly emerging businesses and community facilities funded by REA will not pose undue competition or other adverse effects upon existing businesses. Therefore, this proposed rule will have no effect upon businesses or entities other than those to be funded through this program.

In compliance with the Office of Management and Budget (OMB) regulations (5 CFR part 1320) implementing the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and section 3504 of that Act, the information collection and recordkeeping requirements contained in this proposed rule have been approved by OMB under control number 0572–0090.

Comments concerning these requirements should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for USDA, room 3201, NEOB, Washington, DC 20503.

The Administrator has determined that this proposed rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq). Therefore, this action does not require an environmental impact statement or assessment.

The program is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials, with the exception of applications for Project Feasibility Studies.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.854, Rural Economic Development Loans and Grants. This catalog is available on a subscription basis from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402–9325.

Background

REA published a final rule amending the Rural Economic Development Loan and Grant Program on March 14, 1994, (59 FR 11702) establishing procedures to approve and administer grants and grants in conjunction with zero-interest loans. REA is proposing this action to enhance the funding potential of Rural Economic Development Loan and Grant applications from economically devastated areas. REA intends to encourage applications from those rural communities where an acute need for economic development assistance is shown. The Administrator will have the discretion to designate special economic status under the Rural Economic Development Loan and Grant Program selection factors, adding up to 25 points to an applicant's score if at least one of the four following conditions exists in one or more county(ies) to be served by the proposed project.

The first condition involves the designation of an area by the President of the United States as a natural disaster area. REA recognizes the crucial role of economic development organizations in rebuilding communities devastated by natural disasters. This proposed amendment would increase the possibility of selection of loans and grants from areas so designated by the President.

The second condition is marked by economic dislocation, where the loss, removal, or closing of a major source or sources of employment in the most recent 3-year period has caused an increase of 2 percentage points or more in the area's unemployment rate compared with the period immediately before the dislocation. REA wishes to assist rural communities where the loss of a major employer(s) has caused an increase of 2 percentage points or more in the area's unemployment rate in the most recent 3-year period, including areas which have experienced military base closings due to U.S. Department of Defense budget cuts. REA also wishes to assist rural communities where there has been an increase of 2 percentage points or more in the area's unemployment rate in the most recent 3-year period as a result of Federal regulatory restrictions, including logging curtailment due to environmental restrictions of the U.S. Forest Service. REA has proposed the 2-percent rise in unemployment threshold and the 3-year time span based on criteria as currently utilized by the U.S. Department of Commerce Economic Development Administration (EDA) in its designation of redevelopment areas (13 CFR 302.5).

The third condition is a state of chronic or long-term economic deterioration, marked by severe unemployment and out-migration. REA wants to make rural development resources more accessible to communities which have experienced long-term economic decline; thus, it has consulted with the USDA Economic Research Service (ERS) to determine the appropriate criteria for chronic or long-term economic deterioration. To receive special economic status under the third condition, applicants must document that local unemployment has been equal to or over 1.5 times the national average during 4 out of the most recent 5 years. The applicant, when calculating recent years' unemployment percentages, should compare county statistics with the national average unemployment for the corresponding year. For example, if the applicant provides unemployment statistics for 1989, calculations must compare the county's 1989 unemployment with the national average for 1989, and the 1990 county unemployment statistics with the National average for 1990, etc. REA believes that using unemployment statistics for 4 out of the 5 most recent years sufficiently documents a sustained or long-term unemployment problem.

However, REA is aware that unemployment statistics alone do not provide a complete picture of the severity of economic deterioration. In areas where unemployed persons tend to migrate from, loss of population statistics are more accurate in determining long-term economic

deterioration. Therefore, as an alternative to indicate special economic status, the applicant must show a 15% loss of population due to out-migration over the most recent 10-year decennial census. For example, borrowers applying during the year of the publication of this rule seeking special economic status under this condition would compare the 1980 Census to the 1990 Census in order to establish that a 15% loss of population has occurred. A threshold of 15% population loss over 10-year period is indicative of a local economic situation which is acutely severe. Further, by taking into consideration both unemployment and out-migration, as proposed in this rule, a reasonable percentage of rural areas suffering from conditions of severe economic stagnation will be eligible for special economic status. County and National unemployment statistics will be based on those of the Bureau of Labor Statistics. Information showing the loss of population due to out-migration over the most recent 10-year decennial census will be based on the U.S. Bureau of the Census data.

The fourth condition involves the designation of an area as a Rural Empowerment Zone or Rural Enterprise Community under the Empowerment Zone Program, the provisions of which were published at 59 FR 2686 (January 18, 1994) (to be codified at 7 CFR part 25) implementing Section 13301 of the Omnibus Reconciliation Act of 1993, Public Law 103–66, 26 U.S.C. 1391–1393. To coordinate rural development efforts with the Empowerment Zone Program, REA is proposing to give special economic status under the Rural Economic Development Loan and Grant Program to those areas designated as Rural Empowerment Zones or Rural Enterprise Communities. This provision will parallel efforts of other agencies in the Department of Agriculture in the Empowerment Zone Program and serve to increase rural development opportunities in those areas so designated.

As a result of this proposed rule, REA encourages its borrowers to bring REA rural economic development resources to bear upon communities afflicted with the above economic conditions, utilizing zero-interest loans and grants and revolving loan funds to secure needed community infrastructure and/or to stimulate local economic development.

Finally, three changes are proposed to clarify the final rule which was published March 14, 1994, amending the Rural Economic Development Loan and Grant Program. The final rule established procedures for administering grants and made several revisions with regard to eligible purposes for loan and grant funding. This proposed rule modifies the existing regulation in three areas as follows.

First, this proposed rule reinstates the prohibition on funding community antenna television systems or facilities which was in effect prior to March 14, 1994, and eliminated by the March 14, 1994, final rule. In eliminating the prohibition, it was not REA's intent to fund projects solely for the purpose of establishing cable television entities to compete with existing cable television providers. Rather, the prohibition was lifted to allow REA flexibility to fund projects that provide a clear economic benefit to distressed rural areas, with an emphasis toward programming to provide specific educational and/or medical services. REA has received a number of inquiries regarding innovative proposals to transmit educational and medical programming in conjunction with wireless cable television services. For economically depressed areas with limited resources to maintain a system dedicated solely to educational and/or medical programming, a joint venture fully utilizing the transmitting capacity of community antenna television systems is a novel approach to providing needed distance educational and/or medical services, while providing economic development in areas without a cable television carrier.

Accordingly, REA proposes through this proposed rule to revise § 1703.20, Ineligible uses of zero-interest loans and grants, to reinstate the prohibition on funding community antenna television systems or facilities. However, § 1703.17(d) of this proposed rule will provide the Administrator the discretion to fund community antenna television systems or facilities for select projects which meet all of the following criteria: (1) The proposed community antenna television system or facility is established in cooperation with a local educational and/or medical entity or entities to provide educational and/or medical programming which addresses specific needs of rural residents; (2) services to be provided by the proposed community antenna television systems or facilities are not available in the area to be served, or services are not being provided by the existing television programming carrier at an affordable cost to residents; and, (3) such community antenna systems or facilities will not present undue competition for existing television programming carriers in the area. The proposed rule requires the Borrower to clearly document the economic benefit to the proposed area to be served in accordance with the existing regulation, and meet the above three tests as provided in the proposed rule. Notwithstanding this, however, the Administrator will reserve the right to deny any application which proposes cable television and, in the Administrator's judgment, does not meet the three regulatory tests in the proposed rule.

Second, REA proposes to revise the provisions for disbursement of grant funds to REA borrowers under the revolving loan provisions. The final rule published on March 14, 1994, § 1703.22(e), requires funds to be disbursed on a reimbursement basis. This disbursement provision requires REA Borrowers to fund projects using their own funds and request reimbursement from REA. REA believes this provision minimizes grant processing and disbursement time to comply with departmental regulations covering administration of grant funds, and it minimizes the possibility for unintended uses of grant funds. REA believes this disbursement provision should be the primary method of disbursement: thus it will be maintained as the general method for grant fund disbursement under the grant provisions for revolving loan funds. Based on the lack of comments on the disbursement provisions from REA Borrowers pertaining to the March 14 final rule, REA believes that most Borrowers have the financial resources to initially fund projects under the reimbursement method.

However, in some cases, borrowers with limited financial resources, or for other extraordinary reasons, may be unable to fund projects using their own resources under the reimbursement method. Under these circumstances, borrowers with limited resources in needy areas could be precluded from participating in the grant program to establish revolving loan funds. Therefore, REA proposes to revise § 1703.22(e), to allow the Administrator to authorize disbursement under a special reimbursement method. Under this method, a Borrower may provide REA invoices from project owners and, if authorized as an approved purpose for grant fund disbursement, REA may disburse grant funds to the Borrower for immediate release to the project owner. Under this method, grant funds may be requisitioned at any time; however, the minimum grant requisition will be $50,000 or the total amount of the revolving fund, whichever is less.

Borrowers desiring to use this method should be cautioned however, that invoices from contractors or other entities performing contract services for

project owners generally request payment within 30 days. Although REA will diligently strive to process payment within 30 days of requisition, REA encourages Borrowers to notify project owners of possible delays in processing disbursement requests. Because of the additional administrative requirements this special disbursement method may impose upon REA and the possible inconvenience to project owners and entities performing services, REA desires to use this special disbursement method only under extraordinary circumstances.

Third, REA proposes to revise the definition of "Rural economic development" which was added in the final rule published March 14, 1994. This definition, currently worded as "job creation or preservation or community facilities improvement projects in rural areas (underline, emphasis added)", serves the intended purpose of defining a broad category of projects which may be funded by REA Borrowers using non-Federal revolving loan funds. However, REA's definition of a rural area is based on the statutory definition set forth in section 13 of the Rural Electrification (RE) Act. A rural area is defined as not including an urban area as defined by the Bureau of the Census. An urban area is defined as "1. Places of 2,500 or more persons incorporated as cities, villages, boroughs (except in Alaska and New York), and towns (except in the six New England States, New York, and Wisconsin), but excluding the rural portions of 'extended cities.' 2. Census designated places of 2,500 or more persons. 3. Other territory, incorporated or unincorporated, included in urbanized areas." The definition may unduly restrict funding of rural development projects to those physically located in rural areas rather than those projects which benefit rural areas in accordance with the purpose and policy of the rural economic development loan and grant program set forth in §§ 1703.10 and 1703.11.

Therefore, to clarify REA's intent in defining rural economic development and restore flexibility in funding projects in accordance with the established history and procedures of the rural economic development loan and grant program, the definition of "Rural economic development" in § 1703.12 has been changed to read: "job creation or preservation or community facilities improvement projects that clearly demonstrate significant benefits to rural areas.

List of Subjects in 7 CFR Part 1703

Community development, Grant programs—housing and community development, Loan programs—housing and community development, Reporting and recordkeeping requirements, Rural areas.

For the reasons set out in the preamble, chapter XVII of title 7 of the Code of Federal Regulations is proposed to be amended as follows:

PART 1703—RURAL DEVELOPMENT

1. The authority citation for 7 CFR part 1703 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.* and 950aaa *et seq.*

Subpart B—Rural Economic Development Loan and Grant Program

2. In § 1703.12 of this subpart B, the following definition is revised to read as follows:

§ 1703.12 Definitions.

* * * * *

Rural economic development—job creation or preservation or community facilities improvement projects that clearly demonstrate significant benefits to rural areas.

* * * * *

3. In § 1703.17, paragraph (d) is added to read as follows:

§ 1703.17 Uses of zero-interest loans and grants.

* * * * *

(d) Zero-interest loans and grants may be used for community antenna television systems or facilities. The borrower will document that such facilities provide a tangible economic benefit to the proposed service area in accordance with § 1703.46 of this subpart. Notwithstanding this, the Administrator reserves the right to deny any proposal for community antenna television systems or facilities. Community antenna television systems or facilities will be considered for funding in accordance with § 1703.46 and this section only when all of the following conditions exist:

(1) The proposed community antenna television system or facility is established in cooperation with a local educational and/or medical entity(ies) to provide educational and/or medical programming which addresses specific needs of rural residents;

(2) Services to be provided by the proposed community antenna television systems or facilities are not available in the area to be served, or services are not being provided by the existing television programming carrier at an affordable cost to residents; and

(3) Such community antenna systems or facilities will not present undue competition for existing television programming carriers in the area.

4. In § 1703.20, paragraphs (a)(10) and (a)(11) are redesignated as paragraphs (a)(11) and (a)(12) and a new paragraph (a)(10) is added to read as follows:

§ 1703.20 Ineligible uses of zero-interest loans and grants.

(a) * * *

(10) For community antenna television systems or facilities except as provided in § 1703.17(d) of this subpart;

* * * * *

5. In § 1703.22, paragraphs (e) introductory text, (e)(1), (e)(3) and (e)(4) are revised to read as follows:

§ 1703.22 Revolving loan program.

* * * * *

(e) *Disbursement of grant funds.* Borrowers are not authorized to commence projects to be funded under this section until those projects have been submitted for authorization in accordance with paragraph (c)(1) of this section, or the projects have been submitted for authorization subsequent to grant approval in accordance with paragraph (e)(2) of this section. REA grant funds will be disbursed on a reimbursement basis. However, upon written justification by borrowers and approval by the Administrator, borrowers unable to fund projects under reimbursement provisions, for financial or other extraordinary reasons, may receive grant funds under the special disbursement method by submitting unpaid invoices from project owners, and grant funds will be disbursed to borrowers and passed directly to project owners. In either case, REA grant funds will be disbursed in accordance with the provisions of 7 CFR Part 3015, Uniform Federal Assistance Regulations, the applicable requirements of this subpart, the administrative provisions outlined in paragraph (g) of this section, and the following requirements:

(1) Only projects authorized by REA in accordance with paragraphs (c)(1) and (e)(2) of this section, for which adequate documentation is submitted, including receipts for expenditures under the reimbursement method or unpaid invoices under the special disbursement method, as applicable, and certification of approved purposes, will be considered for disbursement;

* * * * *

(3) Under the reimbursement method, grant funds requisitioned for individual projects in increments of less than $100,000, or less than 25 percent of the amount approved for the revolving loan

fund, whichever is less, may be disbursed semi-annually. Submission periods for requisitioning grant funds on a semi-annual disbursement basis will be 14 days commencing from the 6-month anniversary date of grant approval. Grant funds under the special disbursement method will be requisitioned in accordance with the applicable provision in paragraph (e)(4) of this section;

(4) For the reimbursement method, grant funds requisitioned for individual projects in increments of $100,000 or greater, or at least 25 percent of the amount approved for the revolving loan fund, whichever is less, may be submitted for disbursement at any time. Under the special disbursement method, grant funds of less than $100,000 may be requisitioned for disbursement at any time. However, the minimum requisition will be $50,000, or the total grant award, whichever is less.

* * * * *

6. In § 1703.46, the period at the end of paragraph (h)(10)(iii) is removed and a semicolon is added in its place and paragraphs (g)(7) and (h)(11) are added to read as follows:

§ 1703.46 Documenting the evaluation and selection of applications for zero-interest loans and grants.

* * * * *

(g) *Other selection factors.* * * *

* * * * *

(7) Special Economic Status. The Administrator has the discretion to designate special economic status (up to 25 points) to applications submitted by borrowers that have documented one or more of the following four conditions in one or more county(ies) to be served by the proposed project:

(i) A designation of disaster area by the President of the United States which has been so designated within three years prior to applying to REA;

(ii) The loss, removal, or closing of a major source or sources of employment in the last 3 years which causes an increase of 2 percentage points or more in the area's most recent unemployment rate compared with the period immediately before the dislocation;

(iii) Chronic or long-term economic deterioration, documented by one or both of the following conditions:

(A) An unemployment level equal to or over 1.5 times the National average unemployment percentage from 4 out of the last 5 years, starting with the most current statistics available. The applicant, when calculating recent years' unemployment percentages, should compare county statistics with the National Average unemployment for the corresponding year. Statistics on unemployment will be based on figures provided by the Bureau of Labor Statistics;

(B) A 15% loss of population due to out-migration over the most recent 10-year decennial census, based on the U.S. Bureau of the Census decennial data;

(iv) A designation as a Rural Empowerment Zone or Rural Enterprise Community by the Empowerment Zone Program authorized by Section 13301 of the Omnibus Reconciliation Act of 1993, Public Law 103–66 (107 Stat. 312), 26 U.S.C. 1391–1393.

(h) * * *

(11) *Special economic status*—25 points.

* * * * *

Dated: July 20, 1994.

Bob J. Nash,

Under Secretary, Small Community and Rural Development.

[FR Doc. 94–18410 Filed 7–27–94; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 340

[INS No. 1634–93]

RIN 1115–AD45

Revocation of Naturalization

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the regulations of the Immigration and Naturalization Service (Service) relating to revocation of naturalization under section 340 of the Immigration and Nationality Act (Act). Specifically, this rule proposes an administrative process whereby a district director may reopen and reconsider applications for naturalization pursuant to section 340(i) of the Act. The purpose of this rule is to facilitate the transfer of naturalization authority contemplated by Congress while retaining the protection for the individual provided under judicial naturalization.

DATES: Written comments must be submitted on or before September 26, 1994.

ADDRESSES: Please submit written comments in triplicate, to the Record Systems Division, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street NW., Room 5307, Washington, DC 20536. To ensure proper handling, please reference INS No. 1634–93 on your correspondence.

FOR FURTHER INFORMATION CONTACT: Ron Chirlin, Senior Immigration Examiner, Naturalization and Special Projects Branch, Adjudications Division, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536, Telephone: (202) 514–5014.

SUPPLEMENTARY INFORMATION:

Background

The purpose of this proposed rule is to provide a procedure for the Service to reopen administrative naturalization proceedings pursuant to section 340(i) of the Act, as amended by the Immigration Act of 1990, (IMMACT), Public Law 101–649, dated November 29, 1990. Congress amended section 340 of the Act, Revocation of Naturalization, to bring the reopening process of section 340(i) of the Act into conformity with the change to Administrative Naturalization. That section now provides the Attorney General with the power to correct, reopen, alter, modify, or vacate an application granted under Administrative Naturalization. Such power had heretofore rested within the discretion of the courts, which had held exclusive jurisdiction over naturalization prior to the enactment of IMMACT.

Section 340 of the Act sets forth the requirements and procedure for revoking an order of naturalization. In this statute, Congress has given the Attorney General two distinct avenues by which to set aside an order of naturalization. Section 340(a) provides that the United States Attorney may institute revocation proceedings in Federal court based on the ground that naturalization was procured by concealing or misrepresenting a material fact or by illegality. The United States Attorney may institute such proceedings at any time based on an affidavit of good cause prepared by the Service. The purpose of revocation proceedings under section 340(a) of the Act is to set aside an order of naturalization and to cancel a certificate of naturalization. The burden rests with the Government to establish that naturalization should be revoked.

Alternatively, section 340(i) allows for reopening of orders of naturalization. Prior to amendment by IMMACT, section 340(i) permitted a court to reopen naturalization proceedings before expiration of the term of court. The Government would move, pursuant to Federal Rule of Civil Procedure 60(b), to seek the court's reopening and reconsideration of a naturalization petition, usually on the grounds of fraud, mistake, or in light of new,

previously undiscoverable evidence. If the court granted the Service's motion, it would reopen naturalization proceedings and render a new decision on the petition for naturalization. The burden remained upon the petitioner to establish eligibility for naturalization. Section 340(i) was viewed as a means to ensure that courts would not be restricted in their power to consider motions made pursuant to applicable rules of civil procedure.

With the change to Administrative Naturalization brought about by IMMACT, however, courts no longer hold jurisdiction over naturalization applications. It is now the responsibility of the Service to receive applications for naturalization and conduct examinations to determine statutory eligibility for citizenship. Additionally, the Service renders formal determinations on grants and denials of applications for naturalization, and provides for administrative review of applications subject to denial for cause before a final determination is made. It follows therefore that Congress has amended section 340(i) of the Act to provide the Attorney General with the reopening power previously held by the courts.

The IMMACT's amendment to section 340(i) of the Act simply replaces the court's jurisdiction with that of the Attorney General, leaving the authority described in that statute unchanged. Taking this into account, the Service has attempted to develop a regulatory framework that resembles the way in which courts conducted proceedings under the pre-amended section 340(i) of the Act. To this end, the Service has relied upon Fed. R. Civ. P. 60(b) and related jurisprudence. In so doing, the Service believes that the proposed framework will facilitate the transfer of naturalization authority contemplated by Congress, while retaining the protection for the individual provided under judicial naturalization.

The Proposed Rule

The Service proposes to add to Title 8 of the Code of Federal Regulations a new § 340.1, which sets forth the process for reopening naturalization applications pursuant to section 340(i) of the Act. Under this proposed rule, the Service's power to reopen would be limited to situations where the Service obtains evidence, unavailable during the original naturalization proceeding, that it granted naturalization by mistake, that the applicant procured naturalization by fraud or misrepresentation, or that the applicant was not in fact eligible for naturalization. In determining when reopening of naturalization is appropriate, the Service found instructive the grounds described in Fed. R. Civ. P. 60(b), as that provision codified the common-law concept that courts have the authority to relieve a party of a final judgment for the reasons described above. Moreover, there exists a developed body of administrative and judicial case law for reopening on these grounds.

In 8 CFR 340.1(b), the Service proposes that notices of intent to reopen naturalization proceedings under section 340(i) of the Act be served on the affected party no later than 1 year from the time naturalization vested. The Service found that setting a 1-year time period for such action would assist in keeping reopenings limited to actions truly corrective in nature, as the Service does not intend the reopening process to be used in cases requiring extensive investigation of possible grounds for revocation.

Section 340.1(b) also proposes notice and response requirements for administrative reopening of naturalization applications. The Service proposes that the district director who originally granted the naturalization proceedings pursuant to this regulation. The proposed regulation also provides that the applicant be personally served with notice of intent to reopen naturalization proceedings and to deny naturalization. The Service must include with the notice all evidence upon which the intended reopening is based. The proposed regulation further provides that the applicant must be given sixty (60) days during which to respond to the notice, as well as the opportunity to submit any evidence in support of the naturalization application. The applicant may also request an informal, nonadversarial hearing to present evidence in response to the notice of intent to reopen naturalization proceedings, and to challenge the grounds for reopening alleged by the district director. The proposed regulations provide that the applicant, in lieu of responding to the notice of intent to reopen naturalization proceedings, may also elect to withdraw the naturalization application which the district director intends to reopen. The applicant may do so either in writing, or by failing to respond in any way to the notice.

Section 340.1(c) describes the evidence that the district director must consider when rendering a decision on whether to reopen proceedings and deny the naturalization application. Because a reopened naturalization application is treated as a continuation of the original naturalization proceedings, the burden rests with the applicant to establish eligibility for naturalization. The district director's decision to reopen the naturalization application must reflect that he or she has considered all evidence of record relating to the naturalization application. Because the Service recognizes the need to provide the applicant with a prompt adjudication on whether the application will be reopened and denied, the regulation at § 340.1(d) proposes that such decision must be rendered no later than 180 days after service of the notice of intent to reopen naturalization proceedings and to deny naturalization.

Section 340.1(e) proposes that the applicant may seek administrative appeal of a district director's adverse decision. If the district determines, however, after examining the evidence of record, that reopening is inappropriate, the Service must forego further investigative action under section 340(i) of the Act, but may pursue plenary revocation action under section 340(a) of the Act. All administratively final decisions under this proposed rule are subject to judicial review in Federal court.

The Service wishes to point out that until a decision to reopen naturalization proceedings and to deny naturalization becomes final, through failure to appeal or through exhaustion of all administrative and/or judicial appeals, the applicant remains a citizen of the United States. Once a decision adverse to the applicant becomes final, however, the naturalization is rendered void *ab initio* and the applicant must surrender his or her certificate of naturalization for cancellation.

This rule proposes to redesignate § 340.11 as § 340.2 and to change the heading to distinguish the actions described therein from those described in § 340.1. The Service also proposes changes in the language and format of redesignated § 340.2 to clarify the recommendation procedures and requirement set forth in that section.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that the rule will not have a significant economic impact on a substantial number of small entities because of the following factors. This rule proposes a procedure for the Service to reopen naturalization applications filed by individuals. Tne affected parties are not small entities, and the impact of the regulation is not an economic one.

Executive Order 12866

This rule is not considered by the Department of Justice, Immigration and Naturalization Service, to be a "significant regulatory action" under Executive Order 12866, § 3(f), Regulatory Planning and Review, and the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

Executive Order 12612

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

Executive Order 12606

The Commissioner of the Immigration and Naturalization Service has certified that she has assessed this rule in light of the criteria in Executive Order 12606 and has determined that this rule will not have an impact on family formation, maintenance, or general well-being.

List of Subjects in 8 CFR Part 340

Citizenship and naturalization, Law enforcement.

Accordingly, part 340 of chapter I of title 8 of the Code of Federal Regulations is proposed to be amended as follows:

PART 340—REVOCATION OF NATURALIZATION

1. The authority citation for part 340 continues to read as follows:

Authority: 8 U.S.C. 1103, 1443.

2. A new § 340.1 is added to read as follows:

§ 340.1 Reopening of naturalization application by district director pursuant to section 340(i) of the Act.

(a) *Reopening, general.* On its own motion, the Service may reopen a naturalization proceeding and deny naturalization in accordance with this section, if the Service obtains credible and probative evidence which:

(1) Was not available during the original naturalization proceeding;

(2) Would have had a material effect on the outcome of the original naturalization proceeding; and

(3) Which tends to prove that:

(i) The Service granted the application by mistake;

(ii) The applicant procured naturalization by fraud or misrepresentation; or,

(iii) The applicant was not in fact eligible for naturalization.

(b) *Procedure for reopening of naturalization proceedings.*

(1) *Jurisdiction.* The district director under whose jurisdiction the original naturalization proceeding took place has jurisdiction to reopen proceedings under this section, except that notice of intent to reopen naturalization proceedings and to deny naturalization must be served no later than 1 year after the effective date of the order admitting a person to citizenship, as determined under § 337.9 of this chapter.

(2) *Notice of intent to reopen naturalization proceedings and to deny naturalization.* If the district director determines that reopening a naturalization proceeding is warranted under paragraph (a) of this section, the district director shall prepare a written notice of intent to reopen naturalization proceedings and to deny naturalization. The notice shall describe in clear and detailed language the grounds on which the district director intends to reopen the proceeding. The notice shall include all evidence which the district director believes warrants reopening of the proceeding. The notice shall advise the applicant of his or her right to submit a response to the notice and to request a hearing, as provided in paragraph (b)(3) of this section. The Service shall serve the notice of intent to reopen naturalization proceedings and to deny naturalization upon the applicant by personal service, as described in § 103.5a(a)(2) of this chapter.

(3) *Applicant's opportunity to respond and to request hearing.*

(i) Within sixty (60) days of service of the notice of intent to reopen naturalization proceedings and to deny naturalization, the applicant may submit a response to the Service. The response may include any statements and/or additional evidence the applicant wishes to present in response to the proposed grounds for reopening.

(ii) The applicant may request a hearing on the notice of intent to reopen naturalization proceedings and to deny naturalization before an immigration officer authorized to review naturalization applications under sections 310 and 335 of the Act. The applicant must submit a written request for a hearing together with any statements and/or additional evidence described in paragraph (b)(3)(i) of this section within sixty (60) days of service of the notice. The Service shall schedule a requested hearing as soon as practicable.

(4) *Withdrawal of application or failure to respond.*

(i) Upon receipt of the notice of intent to reopen naturalization proceedings and to deny naturalization, the applicant may submit a written statement admitting the facts which the district director alleges as grounds for reopening, and withdrawing the application for naturalization. The applicant shall sign the statement under oath or affirmation or shall certify the truth of the statement under penalty of perjury.

(ii) If the applicant fails to submit a response to the notice of intent to reopen naturalization proceedings and to deny naturalization within the period specified in paragraph (b)(3) of this section, the applicant shall be considered to have admitted the grounds for reopening and to have withdrawn the application for naturalization.

(5) *Right to counsel.* The applicant may be represented at any time during reopening proceedings by an attorney or other representative qualified under part 292 of this chapter.

(6) *Burden of proof.* Upon service of a notice of intent to reopen naturalization proceedings and to deny naturalization, the applicant bears the burden of persuading the district director that, notwithstanding the evidence described in the notice, the applicant was eligible for naturalization at the time of the order purporting to admit the applicant to citizenship.

(c) *Record of reopened proceedings.* The record shall include, but is not limited to:

(1) The applicant's application for naturalization;

(2) The Service's notice of intent to reopen naturalization proceedings and to deny naturalization with proof of service to the applicant;

(3) All evidence forming the basis for reopening the naturalization application;

(4) The applicant's statements and/or evidence in response to the Service's notice and in support of the application; and

(5) The record of the hearing, if a hearing was held.

(d) *Decision.* The district director shall render a written decision on the reopened naturalization application within 180 days of service of the notice of intent to reopen naturalization proceedings and to deny naturalization. The decision shall consist of findings of fact, conclusions of law, and a final determination on the naturalization application. Notice of decision shall be served on the applicant and his or her attorney or representative.

(e) *Appeals.* (1) The applicant may appeal an adverse decision under paragraph (d) of this section to the Office of Examinations, Administrative Appeals Unit. Any appeal shall be filed with the district director within thirty (30) days after service of the notice of decision. Appeals received after the 30-day period has tolled may be subject to dismissal for failure to timely file.

(2) If, after reviewing the record, the district director determines that the applicant has adequately rebutted the grounds for reopening but, after such determination, obtains additional evidence of the grounds set forth in paragraph (a) of this section, the Service may not seek further action regarding reopening of the application, but instead may pursue revocation proceedings under section 340(a) of the Act.

(f) *Judicial review.* If a decision of the Office of Examinations, Administrative Appeals Unit, is adverse to the applicant, the applicant may seek judicial review in accordance with section 310 of the Act.

(g) *Effect of final decision of denial upon applicant's status.* (1) A decision to reopen a naturalization proceeding and to deny naturalization shall be effective as of the date of the original order purporting to admit the applicant to citizenship. The order purporting to admit the applicant to citizenship shall then have no legal effect.

(2) A district director's decision to reopen naturalization proceedings and to deny naturalization will be final, unless the applicant seeks administrative or judicial review within the period specified by law or regulation.

(3) When a decision to reopen naturalization proceedings and to deny naturalization becomes final, the district director shall order the applicant to surrender his or her certificate of naturalization. The district director shall then cancel the certificate of naturalization.

(4) Notwithstanding the service of a notice of intent to reopen naturalization proceedings and to deny naturalization, the applicant shall be considered to be a citizen of the United States until a decision to reopen proceedings and deny naturalization becomes final.

(h) *Applicant's request for reopening or modification of application.* After having been granted naturalization and administered the oath of allegiance and renunciation, an applicant may move that the Service reopen his or her naturalization application for the purpose of amending the application in accordance with § 334.5 of this chapter.

§ 340.11 [Redesignated as § 340.2 and revised]

3. Section 340.11 is redesignated as § 340.2 and is revised to read as follows:

§ 340.2 Revocation proceedings pursuant to section 340(a) of the Act.

(a) *Recommendation for institution of revocation proceedings.* Whenever it appears that any grant of naturalization may have been illegally procured or procured by concealment of a material fact or by willful misrepresentation, the facts shall be reported to the district director having jurisdiction over the naturalized person's last known place of residence in the United States. If the district director is satisfied that a prima facie case exists for revocation pursuant to section 340(a) of the Act, he or she shall report the facts in writing to the Assistant Commissioner, Adjudications, with a recommendation regarding the institution of revocation proceedings.

(b) *Recommendation for criminal prosecution.* If it appears to the district director that a case described in paragraph (a) of this section or one in which a final decision has been reached under § 340.1(g) is amenable to criminal penalties under 18.U.S.C. 1425 for unlawful procurement of citizenship or naturalization, the district director may present such facts to the appropriate United States Attorney for possible criminal prosecution.

(c) *Reports.* It shall be the responsibility of the district director to advise the Service office that originated the information upon which the revocation inquiry is based about the progress of the investigation, and report the findings of the inquiry as soon as practicable.

Dated: May 19, 1994.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 94–18370 Filed 7–27–94; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–ANE–17]

Airworthiness Directives; AlliedSignal Aerospace GTCP85 Series Auxiliary Power Units

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to AlliedSignal Aerospace (formerly Garrett Auxiliary Power Division and Garrett Turbine Engine Co.) GTCP85 series auxiliary power units (APU). This proposal would require modifying the APU to install an exhaust centerbody. This proposal is prompted by reports of two uncontained APU failures where turbine wheel fragments exited the APU exhaust axially and damaged the aircraft. The actions specified by the proposed AD are intended to prevent an axially uncontained APU failure and damage to the aircraft.

DATES: Comments must be received by September 26, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–ANE–17, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from AlliedSignal Aerospace Services, P.O. Box 52170, Phoenix, AZ 85072–2170, Attn. Dept. 65–71, Mailstop 1802–AA. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Robert Baitoo, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3229 E. Spring St., Long Beach, CA 90806–2425; telephone (310) 988–5245, fax (310) 988–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of

the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94–ANE–17." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–ANE–17, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

Federal Aviation Administration (FAA) has received reports of two incidents where AlliedSignal Aerospace (formerly Garrett Auxiliary Power Division and Garrett Turbine Engine Co.) GTCP85 series auxiliary power units (APU) experienced uncontained failures. In both incidents, the APU turbine wheel fragments exited the APU exhaust axially and damaged the aircraft while on the ground. The FAA has determined that this failure mode is a potential safety hazard both on the ground and in flight, as the APU can release turbine wheel fragments that can penetrate the aircraft APU exhaust duct and cause damage to other aircraft systems. In addition, the hot turbine wheel fragments can pose a fire hazard. This condition, if not corrected, could result in an axially uncontained APU failure and damage to the aircraft.

FAA has reviewed and approved the technical contents of AlliedSignal Aerospace Service Bulletin (SB) No. GTCP85–49–A6831, dated March 17, 1994, applicable to APU's installed on McDonnell Douglas DC–9/MD–80 series aircraft, and SB No. GTCP85–49–6919, dated May 17, 1994, applicable to APU's installed on several other aircraft makes and models. These SB's describe procedures for modifying the APU to install an exhaust centerbody.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require modifying the APU to install an exhaust centerbody to contain turbine wheel fragments from exiting the APU axially. Due to the increased risk associated with airborne failures, flight operable APU's would be required to be modified within 24 months after the effective date of the AD, and within 36 months after the effective date of this AD for APU's that are ground operable only. The actions would be required to be accomplished in accordance with the service bulletins described previously.

There are approximately 3,000 APU's of the affected design in the worldwide fleet. The FAA estimates that 1,500 APU's installed on aircraft of U.S. registry would be affected by this proposed AD, that it would take approximately 5 work hours per APU to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would cost approximately $7,055 per APU if the exhaust duct is not reworkable, $3,254 per APU if the exhaust duct is reworkable, and the FAA estimates that 1,050 domestic APU's are reworkable. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $7,003,950.

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety. The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [AMENDED]

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

AlliedSignal Aerospace: Docket No. 94–ANE–17.

Applicability: AlliedSignal Aerospace (formerly Garrett Auxiliary Power Division and Garrett Turbine Engine Co.) GTCP85 series auxiliary power units (APU's) installed on but not limited to British Aerospace BAC 1–11 series aircraft; Boeing 707 series aircraft, 727 series aircraft, 737 series aircraft; Lockheed L382 series aircraft; McDonnell Douglas DC–8–70 series aircraft, and DC–9/MD–80 series aircraft.

Compliance: Required as indicated, unless accomplished previously.

To prevent an uncontained APU failure and damage to the aircraft, accomplish the following:

(a) For flight-operable APU's, within 24 months after the effective date of this airworthiness directive (AD), install an exhaust centerbody in accordance with AlliedSignal Aerospace Service Bulletin (SB) No. GTCP85–49–A6831, dated March 17, 1994, or SB No. GTCP85–49–6919, dated May 17, 1994, as applicable.

(b) For APU's that are ground-operable only, within 36 months after the effective date of this AD, install an exhaust centerbody in accordance with AlliedSignal Aerospace SB No. GTCP85–49–6919, dated May 17, 1994.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Los Angeles Aircraft Certification Office.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on July 21, 1994.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 94–18362 Filed 7–27–94; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 71

[Airspace Docket No. 94–ASO–13]

Proposed Establishment of Class E Airspace; Concord, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E airspace, at Concord, North Carolina. Two Very High Frequency Omnidirectional Range/Distance Measuring Equipment (VOR/DME) Standard Instrument Approach Procedures (SIAP) have been developed for the Concord Regional Airport. Controlled airspace extending from 700 feet above the surface is needed for instrument flight rules (IFR) operations at the airport.

DATES: Comments must be received on or before August 12, 1994.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 94–ASO–13, Manager, System Management Branch, ASO–530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Assistant Chief Counsel for Southern Region, Room 530, 1701 Columbia Avenue, College Park, Georgia 30337; telephone (404) 305–5200.

FOR FURTHER INFORMATION CONTACT: Robert L. Shipp, Jr., Airspace Section, System Management Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5591.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 94–ASO–13." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel for Southern Region, Room 530, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, System Management Branch (ASO–530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Concord, North Carolina. The intended effect of this proposal is to provide adequate Class E airspace for IFR operators executing the VOR/DME approaches at Concord Regional Airport. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas 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, 1993). The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) Is not a "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, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

Para. 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ASO NC E5 Concord, NC [New]

Concord Regional Airport, NC
(lat. 35°23'07" N, long. 80°42'35" W)

That airspace extending upward from 700 feet above the surface within 6.5-mile radius of the Concord Regional Airport.

* * * * *

Issued in College Park, Georgia, on July 15, 1994.

Walter E. Denley,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 94–18387 Filed 7–27–94; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 89–ANE–26]

Airworthiness Directives; Pratt & Whitney JT8D Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: This action withdraws a notice of proposed rulemaking (NPRM) that proposed a new airworthiness directive (AD), applicable to Pratt & Whitney JT8D series turbofan engines. That action would have required removal of certain second stage turbine vanes repaired by Turbine Components Corporation (TCC), Federal Aviation Administration (FAA) Repair Station No. 119–20, of Branford, Connecticut. Since the issuance of the NPRM, the FAA has determined through test, analysis, and review of data from operator experience over the past four years that the unsafe condition described in the NPRM is not likely to exist or develop in other engines of the same type design. Accordingly, the proposed rule is withdrawn.

FOR FURTHER INFORMATION CONTACT: Mark A. Rumizen, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7137, fax (617) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add a new airworthiness directive (AD), applicable to Pratt & Whitney (PW) JT8D–1, –1A, –1B, –7, –7A, –7B, –9, –9A, –11, –15, –15A, –17, –17A, –17R, and –17AR turbofan engines, incorporating second stage turbine vanes repaired by Turbine Components Corporatration (TCC), Federal Aviation Administration (FAA) Repair Station No. 119–20, of Branford, Connecticut, was published in the **Federal Register** on October 26, 1989 (54 FR 43586). The proposed rule would have required removal of certain second stage turbine vanes that contain repairs using trailing edge and airfoil midsection ("H" dimension) dimension puddle welds that may not possess adequate structural integrity and may fail during engine operation of the vane airfoil. Puddle welding can produce a number of welding abnormalities including a significant amount of heat affected zone (HAZ) cracking. The FAA believed that the HAZ cracking coupled with the aerodynamic loading and thermal cycling of the airfoil can lead to further crack propagation and eventual airfoil fracture. The subsequent damage created by a second stage turbine vane airfoil fracture can cause downstream turbine blade and vane fractures, resulting in a possible fire, inflight engine shutdown, uncontained engine failure, and damage to the aircraft.

Since the issuance of that NPRM approximately four years ago, the FAA and PW have conducted laboratory analyses, analytical studies, in-service engine inspections, and monitoring of the operating experience of the stage 2 turbine vanes. Based on data collected, the FAA has concluded that the unsafe condition described in the NPRM is not likely to exist or develop in other engines of the same type design. Therefore, requiring removal from service of the turbine vanes repaired by TCC is not warranted.

Upon further consideration, several operators commented that since the vanes are not serialized and records were not kept on the parts, a shop visit and engine disassembly would, therefore, be the only means to locate the TCC-repaired second stage turbine vanes. The resulting forced engine removals, based on the proposed NPRM compliance schedule, would cost the operators an estimated $124,000,000.

In addition, operators reported no technical concerns with the TCC-repaired second stage turbine vanes, that they were experiencing excellent durability with these parts, and that they have determined that the TCC-repaired stage 2 turbine vanes should be permitted to continue in service without additional inspection requirements beyond normal maintenance practices. Accordingly. the proposed rule is hereby withdrawn.

Withdrawal of this notice of proposed rulemaking constitutes only such action, and does not preclude the agency from issuing another notice in the future, nor does it commit the agency to any course of action in the future.

Since this action only withdraws a notice of proposed rulemaking, it is neither a proposed nor a final rule and therefore, is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Withdrawal

Accordingly, the notice of proposed rulemaking, Docket 89–ANE–26, published in the **Federal Register** on October 26, 1989, (54 FR 43586), is withdrawn.

Issued in Burlington, Massachusetts, on July 21, 1994.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 94–18360 Filed 7–27–94; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 801

[Docket No. 940795–4195]

RIN 0691–AA24

International Services Surveys: BE–80 Benchmark Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice sets forth proposed rules relating to international service surveys to institute a new survey, the BE–80, Benchmark Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons, to be conducted by the Bureau of Economic Analysis (BEA), U.S. Department of Commerce. The survey will, for the first time, collect comprehensive information on trade in financial services between U.S. financial services providers and unaffiliated foreign persons. It is intended to cover the universe of such transactions by type and by country. The information is needed to support trade policy initiatives, including trade negotiations, on financial services and to compile the U.S. balance of payments and national income and product accounts. The survey will be conducted once every 5 years under the International Investment and Trade in Services Survey Act and the Omnibus Trade and Competitiveness Act of 1988. The first survey will cover 1994.

DATES: Comments on these proposed rules will receive consideration if submitted in writing on or before September 12, 1994.

ADDRESSES: Comments may be mailed to the Office of the Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230, or hand delivered to Room M–100, 1441 L Street NW., Washington, DC 20005. Comments will be available for public inspection in Room 7006, 1441 L Street

NW., between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Betty L. Barker, Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 606–9805.

SUPPLEMENTARY INFORMATION: These proposed rules amend existing 15 CFR 801.9 and add new 15 CFR 801.11 to set forth reporting requirements for the BE–80, Benchmark Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons. The survey will be conducted by the Bureau of Economic Analysis (BEA), U.S. Department of Commerce, under the International Investment and Trade in Services Survey Act (P.L. 94–472, 90 Stat. 2059, 22 U.S.C. 3101–3108, as amended) and the Omnibus Trade and Competitiveness Act of 1988 (P.L. 100–418, 15 U.S.C. 4908(b)). Section 4(a) of the International Investment and Trade in Services Survey Act provides that "The President shall, to the extent he deems necessary and feasible—. . . (4) conduct . . . benchmark surveys with respect to trade in services between unaffiliated United States persons and foreign persons . . ." In Section 3 of Executive Order 11961, as amended by Executive Order 12518, the President delegated the authority under the Act as concerns international trade in services to the Secretary of Commerce, who has redelegated it to BEA.

The Omnibus Trade and Competitiveness Act of 1988 directs that "The Secretary (of Commerce) shall ensure that . . . there is included in the Data Bank information on service sector activity that is as complete and timely as information on economic activity in the merchandise sector. The Secretary shall undertake a new benchmark survey of services transactions, including transactions with respect to . . . banking services; (and) brokerage services."

The major purposes of the survey are to provide the information on financial services needed in monitoring U.S. services trade, analyzing its effects on the U.S. economy, formulating U.S. international trade policy, supporting bilateral and multilateral trade negotiations, compiling the U.S. balance of payments and national income and product accounts, developing U.S. international price indexes for services, assessing U.S. competitiveness in international trade in services, and improving the ability of U.S. businesses to identify and evaluate market opportunities.

As proposed, the BE–80 survey will be conducted once every 5 years, and the first survey will be for 1994. The survey is intended to cover the universe of financial services transactions between U.S. financial services providers and unaffiliated foreign persons. Reporting is required from U.S. financial services providers who have sales to or purchases from unaffiliated foreign persons in all covered financial services combined in excess of $1 million during the reporting year. Those financial services providers meeting this criteria must supply data on the amount of their sales or purchases of each covered type of service, disaggregated by country. U.S. financial services providers that have covered transactions of less than $1 million during the reporting year are asked to provide, on a voluntary basis, estimates only of their total sales or purchases of each type of financial service.

It is anticipated that the information from the benchmark survey will be updated in nonbenchmark years by an annual follow-on survey that is more limited in scope and that will cover only a sample of companies reporting in the BE–80 survey.

Executive Order 12612

These proposed rules do not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under E.O. 12612.

Executive Order 12866

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

Paperwork Reduction Act

These proposed rules contain a collection of information requirement subject to the Paperwork Reduction Act. A request for review of the forms has been submitted to the Office of Management and Budget under section 3504(h) of the Paperwork Reduction Act.

Public reporting burden for this collection of information is estimated to vary from 4 to 150 hours, with an overall average burden of 7.5 hours. This includes time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments from the public regarding the burden estimate or any other aspect of this collection of information should be addressed to: Director, Bureau of Economic Analysis (BE–1), U.S. Department of Commerce, Washington, DC 20230; and to the Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for the Department of Commerce.

Regulatory Flexibility Act

The General Counsel, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under the provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this proposed rulemaking, if adopted, will not have a significant economic impact on a substantial number of small entities. The exemption level for the survey excludes most small businesses from mandatory reporting. Reporting is required only if total sales or total purchases transactions in financial services with unaffiliated foreign persons by U.S. persons who are financial services providers, or by U.S. persons whose consolidated enterprise includes a separately organized subsidiary or part that is a financial services provider, exceed $1 million during the year. In addition, international business tends to be conducted mainly by the larger companies in a given industry; in the financial services industry, this is particularly true, because of the high degrees of consolidation occurring in that industry in the United States during the past several years. In any event, small businesses tend to have specialized operations and activities, so those with reportable transactions will likely not have significant amounts of data to report; therefore, the burden on them will be relatively small.

List of Subjects in 15 CFR Part 801

Economic statistics, Balance of payments, Foreign trade, Penalties, Reporting and recordkeeping requirements.

Dated: June 30, 1994.

Carol S. Carson,

Director, Bureau of Economic Analysis.

For the reasons set forth in the preamble, BEA proposes to amend 15 CFR part 801, as follows:

PART 801—[AMENDED]

1. The authority citation for 15 CFR Part 801 is revised to read as follows:

Authority: 5 U.S.C. 301; 15 U.S.C. 4908(b); 22 U.S.C. 3101–3108; and E.O. 11961 (3 CFR, 1977 Comp., p. 86) as amended by E.O. 12013 (3 CFR, 1977 Comp., p. 147), E.O. 12318 (3 CFR, 1981 Comp., p. 173), and E.O. 12518 (3 CFR, 1985 Comp., p. 348).

2. Section 801.9 is amended by revising paragraph (a) to read as follows:

§ 801.9 Reports required.

(a) *Benchmark surveys.* Section 4(a)(4) of the Act (22 U.S.C. 3103) provides that

benchmark surveys of trade in services between U.S. and unaffiliated foreign persons be conducted, but not more frequently than every 5 years. General reporting requirements, exemption levels, and the year of coverage of the BE–20 survey may be found in § 801.10, and general reporting requirements, exemption levels, and the year of coverage of the BE–80 survey may be found in § 801.11. More detailed instructions are given on the forms themselves.

* * * * * * *

3. Section 801.11 is added to read as follows:

§ 801.11 Rules and regulations for the BE–80, Benchmark Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons.

A BE–80, Benchmark Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons, will be conducted covering companies' 1994 fiscal year and every fifth year thereafter. All legal authorities, provisions, definitions, and requirements contained in § 801.1 through § 801.9 are applicable to this survey. Additional rules and regulations for the BE–80 survey are given in paragraphs (a) through (d) of this section. More detailed instructions are given on the report form itself.

(a) *Who must report*—(1) *Mandatory reporting.* Reports are required from each U.S. person who is a financial services provider or intermediary, or whose consolidated U.S. enterprise includes a separately organized subsidiary or part that is a financial services provider or intermediary, and who had transactions (either sales or purchases) directly with unaffiliated foreign persons in all financial services combined in excess of $1,000,000 during its fiscal year covered by the survey. The $1,000,000 threshold should be applied to financial services transactions with unaffiliated foreign persons by all parts of the consolidated U.S. enterprise combined that are financial services providers or intermediaries. Because the $1,000,000 threshold applies separately to sales and purchases, the mandatory reporting requirement may apply only to sales, only to purchases, or to both sales and purchases.

(i) The determination of whether a U.S. financial services provider or intermediary is subject to this mandatory reporting requirement may be judgmental, that is, based on the judgment of knowledgeable persons in a company who can identify reportable transactions on a recall basis, with a reasonable degree of certainty, without conducting a detailed manual records search.

(ii) Reporters who file pursuant to this mandatory reporting requirement must provide data on total sales and/or purchases of each of the covered types of financial services transactions and must disaggregate the totals by country.

(2) *Voluntary reporting.* If, during the fiscal year covered, sales or purchases of financial services by a firm that is a financial services provider or intermediary, or by a firm's subsidiaries or parts combined that are financial services providers or intermediaries, are $1,000,000 or less, the U.S. person is requested to provide an estimate of the total for each type of service. Provision of this information is voluntary. Because the $1,000,000 threshold applies separately to sales and purchases, this voluntary reporting option may apply only to sales, only to purchases, or to both sales and purchases.

(b) *BE–80 definition of financial services provider.* The definition of financial services provider used for this survey is analogous in coverage to the finance and insurance part of Division H of the 1987 Standard Industrial Classification Manual (SIC major groups 60 through 64, and major group 67). More specifically, companies and/or subsidiaries and other separable parts of companies in the following industries are defined as financial services providers: Depository institutions (including commercial banks and thrifts); nondepository credit institutions; security and commodity futures brokers, dealers, exchanges, traders, underwriters, and services providers (including investment bankers and providers of securities custody services); credit card companies; insurance carriers, agents, brokers and services providers; investment advisors and managers; mutual funds; pension funds; trusts; holding companies; investors; oil royalty traders; etc.

(c) *Covered types of services.* The BE–80 survey covers the following types of financial services transactions (purchases and/or sales) between U.S. financial services providers and unaffiliated foreign persons: Brokerage, except foreign exchange brokerage services; private placement services; underwriting services; financial management services; credit-related services, except credit card services; credit card services; financial advisory and custody services; securities lending services; foreign exchange brokerage services; and other financial services.

(d) *What to file.* (1) The BE–80 survey consists of Forms BE–80(A) and BE–80(B). Before completing a Form BE–80(B), a consolidated U.S. enterprise (including the top parent and all of its subsidiaries and parts combined) must complete Form BE–80(A) to determine its reporting status. If the enterprise is subject to the mandatory reporting requirement, or if it is exempt from the mandatory reporting requirement but chooses to report data voluntarily, either a separate Form BE–80(B) may be filed for each separately organized financial services subsidiary or part of the consolidated U.S. enterprise, or a single BE–80(B) may be filed, representing the sum of covered transactions by all financial services subsidiaries or parts of the enterprise combined.

(2) Reporters that receive the BE–80 survey from BEA, but that are not reporting data in either the mandatory or voluntary section of any Form BE–80(B), must return the Exemption Claim, attached to Form BE–80(A), to BEA.

[FR Doc. 94–18094 Filed 7–27–94; 8:45 am]
BILLING CODE 3510–24–P

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 806b

[Air Force Reg.12–35]

Air Force Privacy Act Program

AGENCY: Department of the Air Force, DOD.

ACTION: Proposed rule.

SUMMARY: The Department of the Air Force proposes to revise its Privacy Act Regulation. The revision adds a requirement for appointing Privacy Act (PA) monitors at HQ USAF and Secretary of the Air Force (SAF) offices; adds alternative of using the unsworn declaration; changes the fee rates; changes policy on releasing medical records to a subject when there is a possible harm; changes refusal to amend based on opinion or interpretation to a denial with appeal rights; changes list of information releasable without consent; provides a new balancing test; aligns language on medical records of minors with DoD guidance; adds computer matching provisions; adds systems; and deletes provision for landfill burials.

In addition to the above changes, the Department of the Air Force is currently conducting a review of its exemption rules. Upon completion of the review, the Department of the Air Force will update its exemption rules.

DATES: Comments must be received on or before September 26, 1994, to be considered by this agency.

ADDRESSES: Send comments to the Assistant Air Force Access Programs Officer, SAF/AAIA, 1610 Air Force Pentagon, Washington, DC 20330–1610.

FOR FURTHER INFORMATION CONTACT: Mrs. Anne Turner at (703) 697–3491 or DSN 227–3491.

SUPPLEMENTARY INFORMATION: Executive Order 12866. The Director, Administration and Management, Office of the Secretary of Defense has determined that this Privacy Act rule for the Department of Defense does not constitute 'significant regulatory action'. Analysis of the rule indicates that it does not have an annual effect on the economy of $100 million or more; does not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; does not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866 (1993).

Regulatory Flexibility Act of 1980. The Director, Administration and Management, Office of the Secretary of Defense certifies that this Privacy Act rule for the Department of Defense does not have significant economic impact on a substantial number of small entities because it is concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Paperwork Reduction Act. The Director, Administration and Management, Office of the Secretary of Defense certifies that this Privacy Act rule for the Department of Defense imposes no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

List of subjects in 32 CFR part 806b

Privacy.

Accordingly, 32 CFR part 806b is proposed to be revised to read:

PART 806B–AIR FORCE PRIVACY ACT PROGRAM

Subpart A–Overview of the Privacy Act Program

806b.1 Basic guidelines.
806b.2 Violation penalties.
806b.3 Personal notes.
806b.4 Responsibilities.

Subpart B–Obtaining Law Enforcement Records and Promises of Confidentiality

806b.5 Obtaining law enforcement records.
806b.6 Promising confidentiality.

Subpart C–Collecting Personal Information

806b.7 How to collect personal information.
806b.8 When to give Privacy Act statements (PAS).
806b.9 Requesting the social security number (SSN).

Subpart D–Giving Access to Privacy Act Records

806b.10 Making a request for access.
806b.11 Processing a request for access.
806b.12 Fees.
806b.13 Denying or limiting access.
806b.14 Denial authorities.

Subpart E–Amending the Record

806b.15 Amendment reasons.
806b.16 Responding to amendment requests.
806b.17 Approving or denying a record amendment.
806b.18 Seeking review of unfavorable agency determinations.
806b.19 Appeal procedures.
806b.20 Contents of Privacy Act case files.

Subpart F–Privacy Act Notifications

806b.21 When to include a privacy act warning statement in publications.
806b.22 Publishing system notices.
806b.23 Timing of notices.

Subpart G–Protecting and Disposing of Records

806b.24 Protecting records.
806b.25 Balancing protection.
806b.26 Disposing of records.

Subpart H–Privacy Act Exemptions

806b.27 Requesting an exemption.
806b.28 Exemption types.
806b.29 Authorizing exemptions.
806b.30 Approved exemptions.

Subpart I–Disclosing Records to Third Parties

806b.31 Disclosure considerations.
806b.32 Disclosing information for which consent is not required.
806b.33 Disclosing other information.
806b.34 Agencies or individuals to whom the Air Force may release privacy information.
806b.35 Disclosing the medical records of minors.
806b.36 Disclosure accounting.
806b.37 Computer matching.

Subpart J–Training

806b.38 Who needs training.
806b.39 Training tools.

Subpart K–Privacy Act Reporting

806b.40 Privacy Act report (RCS: DD–DA&M(A)1379).

Appendix A to part 806b – Glossary of References, Abbreviations, Acronyms, and Terms
Appendix B to part 806b – Preparing a System Notice
Appendix C to part 806b – General and Specific Exemptions

Authority: Pub. L. 93–579, 88 Stat 1896 (5 U.S.C. 552a).

Subpart A – Overview of the Privacy Act Program

§ 806b.1 Basic guidelines.

The Privacy Act of 1974 and this part apply only to information in Air Force systems of records on living United States citizens and permanent resident aliens.

(a) An official system of records must be:

(1) Authorized by law or Executive Order.

(2) Controlled by an Air Force or lower level directive.

(3) Needed to carry out an Air Force mission or function.

(b) The Air Force does not:

(1) Keep records on how a person exercises First Amendment rights. EXCEPTIONS are when: The Air Force has the permission of that individual or is authorized by federal statute; or the information pertains to an authorized law enforcement activity.

(2) Penalize or harass an individual for exercising rights guaranteed under the Privacy Act. Give reasonable aid to individuals exercising their rights.

(c) Air Force members:

(1) Keep paper and electronic records containing personal information and retrieved by name or personal identifier only in approved systems published in the **Federal Register.**

(2) Collect, maintain, and use information in such systems only to support programs authorized by law or Executive Order.

(3) Safeguard the records in the system and keep them the minimum time required.

(4) Keep the records timely, accurate, complete, and relevant.

(5) Amend and correct records on request.

(6) Let individuals review and receive copies of their own records unless the Secretary of the Air Force approved an exemption for the system or the Air Force created the records in anticipation of a civil action or proceeding.

(7) Provide a review of decisions that deny individuals access to or amendment of their records.

§ 806b.2 Violation penalties.

An individual may file a civil suit against the Air Force for failing to comply with the Privacy Act. The courts

may find an individual offender guilty of a misdemeanor and fine that individual offender not more than $5,000 for:

(a) Willfully maintaining a system of records that doesn't meet the public notice requirements.

(b) Disclosing information from a system of records to someone not entitled to the information.

(c) Obtaining someone else's records under false pretenses.

§ 806b.3 Personal notes.

If you keep personal notes on individuals to use as memory aids to supervise or perform other official functions, and do not share them with others, and an Air Force directive does not require their maintenance, the Privacy Act does not apply.

§ 806b.4 Responsibilities:

(a) The Administrative Assistant to the Secretary of the Air Force (SAF/AA) manages the entire program.

(b) The Office of the General Counsel to the Secretary of the Air Force (SAF/GCA) makes final decisions on appeals.

(c) The Director of Information Management (SAF/AAI), through the Access Programs Office of the Policy Division, (SAF/AAIA):

(1) Administers procedures outlined in this part.

(2) Submits system notices and required reports to the Defense Privacy Office.

(3) Guides major commands (MAJCOM) and field operating agencies (FOA).

(d) MAJCOM and FOA commanders, HQ USAF and Deputy Chiefs of Staff (DCS), and comparable officials, and SAF offices implement this part. Each HQ USAF and SAF office appoints a Privacy Act monitor. Send the name, office symbol, and phone number to SAF/AAIA.

(e) MAJCOM and FOA Information Managers:

(1) Manage the program.

(2) Appoint a command Privacy Act officer.

(3) Send the name, office symbol, and phone number to SAF/AAIA.

(f) Privacy Act Officers:

(1) Guide and train.

(2) Review the program at regular intervals.

(3) Submit reports.

(4) Review all publications and forms for compliance with this part.

(5) Review system notices.

(6) Investigate complaints.

(7) Staff denial recommendations (at MAJCOMs and FOAs only).

(g) System Managers:

(1) Decide the need for, and content of systems.

(2) Manage and safeguard the system.

(3) Train personnel on Privacy Act requirements.

(4) Protect records from unauthorized disclosure, alteration, or destruction.

(5) Prepare system notices and reports.

(6) Answer Privacy Act requests.

(7) Keep records of disclosures.

(8) Evaluate the systems annually.

(h) Privacy Act Monitors (PAM):

(1) Are the focal point in their functional area for general Privacy Act questions and correspondence.

(2) Maintain a list of all systems of records and system managers in their area.

(3) Act as liaison with the Privacy Act Officer.

(4) Maintain statistics for the annual Privacy Act report.

Subpart B - Obtaining Law Enforcement Records and Promises of Confidentiality

§ 806b.5 Obtaining law enforcement records.

The Commander AFOSI; the Chief, Air Force Security Police Agency (AFSPA); MAJCOM, FOA, and base chiefs of security police; AFOSI detachment commanders; and designees of those offices may ask another agency for records for law enforcement under 5 U.S.C. 552a(b)(7). The requesting office must indicate in writing the specific part of the record desired and identify the law enforcement activity asking for the record.

§ 806b.6 Promising confidentiality.

Record promises of confidentiality to exempt from disclosure any 'confidential' information under subsections (k)(2), (k)(5), or (k)(7) of the Privacy Act.

Subpart C – Collecting Personal Information

§ 806b.7 How to collect personal information.

Collect personal information directly from the subject of the record when possible. You may ask third parties when:

(a) You must verify information.

(b) You want opinions or evaluations.

(c) You can't contact the subject.

(d) The subject asks you.

§ 806b.8 When to give Privacy Act statements (PAS).

(a) Give a PAS orally or in writing:

(1) To anyone from whom you are collecting personal information that will be put in a system of records.

(2) Whenever you ask someone for his or her Social Security Number (SSN). NOTE: Do this regardless of how you collect or record the answers. You may display a sign in areas where people routinely furnish this kind of information. Give a copy of the PAS if asked. Do not ask the person to sign the PAS.

(3) A PAS must include four items:

(i) Authority: The legal authority, that is, the United States Code or Executive Order authorizing the program the system supports.

(ii) Purpose: The reason you are collecting the information.

(iii) Routine Uses: A list of where and why the information will be disclosed outside DoD.

(iv) Disclosure: Voluntary or Mandatory. (Use Mandatory only when disclosure is required by law and the individual will be penalized for not providing information.) Include any consequences of nondisclosure in nonthreatening language.

§ 806b.9 Requesting the social security number (SSN).

(a) Do not deny people a legal right, benefit, or privilege for refusing to give their SSNs unless the law requires disclosure, or a law or regulation adopted before January 1, 1975, required the SSN and the Air Force uses it to verify a person's identity in a system of records established before that date. When you ask for an SSN to create a record, tell the individual:

(1) The statute, regulation, or rule authorizing you to ask for the SSN.

(2) The uses that will be made of the SSN.

(3) If he or she is legally obligated to provide the SSN.

(b) The Air Force requests an individual's SSN and provides the individual information required by law when anyone enters military service or becomes an Air Force civilian employee. The Air Force uses the SSN as a service or employment number to reference the individual's official records. When you ask someone for an SSN as identification (ID) to retrieve an existing record, you do not have to restate this information.

(c) Executive Order 9397, November 22, 1943, authorizes using the SSN as a personal identifier. This order is not adequate authority to collect an SSN to create a record. When law does not require disclosing the SSN or when the system of records was created after January 1, 1975, you may ask for the SSN, but the individual does not have to disclose it. If the individual refuses to respond, use alternative means of identifying records.

(d) SSNs are personal and unique to each individual. Protect them as FOR OFFICIAL USE ONLY (FOUO). Do not disclose them to anyone without an official need to know.

Subpart D – Giving Access to Privacy Act Records

§ 806b.10 Making a request for access.

Persons or their designated representatives may ask for a copy of their records in a system of records. Requesters need not state why they want access to their records. Verify the identity of the requester to avoid unauthorized disclosures. How you verify identity will depend on the sensitivity of the requested records. Persons without access to notary services may use an unsworn declaration in the following format: 'I declare under penalty of perjury (if outside the United States, add 'under the laws of the United States of America') that the foregoing is true and correct. Executed on (date). (Signature).'

§ 806b.11 Processing a request for access.

Consider a request from an individual for his or her own records in a system of records under both the Freedom of Information Act (FOIA) and the Privacy Act regardless of the Act cited. The requester need not cite any Act. Process the request under whichever Act gives the most information. When necessary, tell the requester under which Act you processed the request and why.

(a) Requesters should describe the records they want. They do not have to name a system of records number, but they should at least name a type of record or functional area. For requests that ask for 'all records about me,' ask for more information and tell the person how to review the Air Force systems of records published in the **Federal Register** or in AFDIR 37–144 [1], 'Privacy Act Systems of Record' (formerly AFR 4–36).

(b) Requesters should not use government equipment, supplies, stationery, postage, telephones, or official mail channels for making Privacy Act requests. Privacy Act Officers and system managers process such requests but tell requesters that using government resources to make Privacy Act requests is not authorized.

(c) Tell the requester if a record exists and how to review the record. If possible, respond to requests within 10 workdays of receiving them. If you cannot answer the request in 10 workdays, send a letter explaining why and give an approximate completion date no more than 20 workdays after the first office received the request.

(d) Show or give a copy of the record to the requester within 30 workdays of receiving the request unless the system is exempt and the Air Force lists the exemption in appendix C of this part; or published as a final rule in the **Federal Register**. Give information in a form the requester can understand.

(e) If the requester wants another person present during the record review, the system manager may ask for written consent to authorize discussing the record with another person present.

§ 806b.12 Fees.

Give the first 100 pages free, and charge only reproduction costs for the remainder. Copies cost $.15 per page; microfiche costs $.25 per fiche. Charge the fee for the first 100 pages if records show that the Air Force already responded to a request for the same records at no charge. Do not charge fees:

(a) When the requester can get the record without charge under another publication (for example, medical records).

(b) For search.

(c) For reproducing a document for the convenience of the Air Force.

(d) For reproducing a record so the requester can review it.

§ 806b.13 Denying or limiting access.

Process access denials within five workdays after you receive a request for access. When you may not release a record, send a copy of the request, the record, and why you recommend denying access (including the applicable exemption) to the denial authority through the Staff Judge Advocate (SJA) and the Privacy Act officer. The SJA gives a written legal opinion on the denial. The MAJCOM or FOA Privacy Act officer reviews the file, gets written advice from the SJA and the functional office of primary responsibility (OPR), and makes a recommendation to the denial authority. The denial authority sends the requester a letter with the decision. If the denial authority grants access, release the record. If the denial authority refuses access, tell the requester why and explain pertinent appeal rights.

(a) Before you deny a request for access to a record, make sure that:

(1) The system has an SAF approved exemption.

(2) The exemption covers each document.

(3) Nonexempt parts are segregated.

(b) You may refuse to give out medical records if a physician believes that doing so could harm the person's mental or physical health. You have these options:

(1) Ask the requester to get a letter from a physician to whom you can send the records. Include a letter explaining to the physician that giving the records directly to the individual could be harmful.

(2) Offer the services of a military physician other than one who provided treatment if naming the physician poses a hardship on the individual.

(c) Do not delete third-party information from a record when the subject requests access, except as noted in § 806b.13(d), unless the Air Force covers the record with an established exemption (appendix C of this part). Presume that all information in a file pertains to the subject of the file.

(d) Do not release third-party personal data (such as SSN and home address). This action is not a denial.

(e) Withhold records compiled in connection with a civil action or other proceeding including any action where the Air Force expects judicial or administrative adjudicatory proceedings. This exemption does not cover criminal actions. Do not release attorney work products prepared before, during, or after the action or proceeding.

§ 806b.14 Denial authorities.

These officials or a designee may deny access or amendment of records. Send a letter to SAF/AAIA with the position titles of designees. You must get SAF/AA approval before delegating this authority to a lower level. Send requests for waiver with justification to SAF/AAIA. Authorities are:

(a) DCSs and chiefs of comparable offices or higher level at SAF or HQ USAF.

(b) MAJCOM or FOA commanders.

(c) HQ USAF/DPCP, Pentagon, Washington, DC 20330–5060 (for civilian personnel records).

(d) Commander, Air Force Office of Special Investigations (AFOSI), Washington, DC 20332–6001 (for AFOSI records).

Subpart E – Amending the Record

§ 806b.15 Amendment reasons.

Individuals may ask to have their records amended to make them accurate, timely, relevant, or complete. System managers routinely correct a record if the requester can show that it is factually wrong.

§ 806b.16 Responding to amendment requests:

(a) Anyone may request minor corrections orally. Requests for more

[1] Copies may be obtained at cost from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161

serious modifications should be in writing.

(b) After verifying the identity of the requester, make the change, notify all known recipients of the record, and inform the individual.

(c) Acknowledge requests within 10 workdays of receipt. Give an expected completion date unless you complete the change within that time. Final decisions must take no longer than 30 workdays.

§ 806b.17 Approving or denying a record amendment.

The Air Force does not usually amend a record when the change is based on opinion, interpretation, or subjective official judgment. This action constitutes a denial, and requesters may appeal. If the system manager decides not to amend or partially amend the record, send a copy of the request, the record, and the recommended denial reasons to the denial authority through the SJA and the Privacy Act officer. SJAs will include a legal opinion.

(a) The MAJCOM or FOA Privacy Act officer reviews the proposed denial, gets a legal opinion from the SJA and written advice from the functional OPR, and makes a recommendation to the denial authority.

(b) The denial authority sends the requester a letter with the decision. If the denial authority approves the request, amend the record and notify all previous recipients that it has been changed. If the authority denies the request, give the requester the statutory authority, reason, and pertinent appeal rights.

§ 806b.18 Seeking review of unfavorable agency determinations.

Requesters should pursue record corrections of subjective matters and opinions through proper channels to the Civilian Personnel Office using grievance procedures or the Air Force Board for Correction of Military Records (AFBCMR). Record correction requests denied by the AFBCMR are not subject to further consideration under this part.

§ 806b.19 Appeal procedures.

(a) Individuals may request a denial review by writing to the Secretary of the Air Force through the denial authority within 60 calendar days after receiving a denial letter. The denial authority promptly sends a complete appeal package to SAF/AAIA, including:

(1) Original appeal letter.

(2) Initial request.

(3) Initial denial.

(4) Copy of the record.

(5) Any internal records or coordination actions relating to the denial.

(6) Denial authority's comments on the appellant's arguments.

(7) Legal reviews.

(b) If the denial authority reverses an earlier denial and grants access or amendment, notify the requester immediately.

(c) SAF/AAIA reviews the denial and forwards to SAF/GCA for legal review or staffing to grant or deny the appeal. SAF/GCA tells the requester the final Air Force decision and explains judicial review rights.

(d) The requester may file a concise statement of disagreement with the system manager if SAF/GCA denies the request to amend the record. SAF/GCA explains the requester's rights when they issue the final appeal decision.

(1) The records should clearly show that a statement of disagreement is filed with the record or separately.

(2) The disputed part of the record must show that the requester filed a statement of disagreement.

(3) Give copies of the statement of disagreement to the record's previous recipients. Inform subsequent record users about the dispute and give them a copy of the statement with the record.

(4) The system manager may include a brief summary of the reasons for not amending the record. Limit the summary to the reasons SAF/GCA gave to the individual. The summary is part of the individual's record, but it is not subject to amendment procedures.

§ 806b.20 Contents of Privacy Act case files.

Do not keep copies of disputed records in this file. Use the file solely for statistics and to process requests. Do not use the case files to make any kind of determination about an individual. Document reasons for untimely responses. These files include:

(a) Requests from and replies to individuals on whether a system has records about them.

(b) Requests for access or amendment.

(c) Approvals, denials, appeals, and final review actions.

(d) Coordination actions and related papers.

Subpart F – Privacy Act Notifications

§ 806b.21 When to include a Privacy Act warning statement in publications.

Include a Privacy Act Warning Statement in each Air Force publication that requires collecting or keeping personal information in a system of records. Also include the warning statement when publications direct collection of the SSN from the individual. The warning statement will cite legal authority and the system of records number and title. You can use the following warning statement: 'This part requires collecting and maintaining information protected by the Privacy Act of 1974 authorized by (U.S.C. citation and or Executive Order number). System of records notice (number and title) applies.'

§ 806b.22 Publishing system notices.

The Air Force must publish notices in the **Federal Register** of new, amended, and deleted systems to inform the public of what records the Air Force keeps and give them an opportunity to comment. The Privacy Act also requires submission of new or significantly altered systems to the Office of Management and Budget (OMB) and both houses of the Congress before publication in the **Federal Register**. This includes:

(a) Starting a new system.

(b) Instituting significant changes to an existing system.

(c) Sending out data collection forms or instructions.

(d) Issuing a request for proposal or invitation for bid to support a new system.

§ 806b.23 Timing of notices.

At least 120 days before the effective start date, system managers must send the system notice to SAF/AAIA on a 5 1/4 or 3 1/2–inch disk in Wordstar (ASCII text file) or Microsoft Word, with a paper copy highlighting any changes through the MAJCOM or FOA Privacy Act Officer. See appendix B of this part for a sample system notice.

Subpart G – Protecting and Disposing of Records

§ 806b.24 Protecting records.

Protect information according to its sensitivity level. Consider the personal sensitivity of the information and the risk of loss or alteration. Most information in systems of records is FOR OFFICIAL USE ONLY (FOUO). Refer to AFI 37–131 [2], 'Air Force Freedom of Information Act Program,' for protection methods.

§ 806b.25 Balancing protection.

Balance additional protection against risk and cost. AF Form 3227, 'Privacy Act Cover Sheet', is available for use with Privacy Act material. For example, a password may be enough protection for an automated system with a log-on

[2] See footnote 1 to section 806b.11, of this part

protocol. Classified computer systems or those with established audit and password systems are obviously less vulnerable than unprotected files or word processors in offices that are periodically empty. Follow AFI 33–202 [3], 'The Air Force Computer Security Program,' for procedures on safeguarding personal information in automated records.

§ 806b.26 Disposing of records.

You may use the following methods to dispose of records protected by the Privacy Act according to records retention schedules:

(a) Destroy by any method that prevents compromise, such as tearing, burning, or shredding, so long as the personal data is not recognizable and beyond reconstruction.

(b) Degauss or overwrite magnetic tapes or other magnetic medium.

(c) Dispose of paper products through the Defense Reutilization and Marketing Office (DRMO) or through activities who manage a base-wide recycling program. The recycling sales contract must contain a clause requiring the contractor to safeguard privacy material until its destruction and to pulp, macerate, shred, or otherwise completely destroy the records. Originators must safeguard Privacy Act material until it is transferred to the recycling contractor. A federal employee or, if authorized, a contractor employee must witness the destruction. This transfer does not require a disclosure accounting.

Subpart H – Privacy Act Exemptions

§ 806b.27 Requesting an exemption.

A system manager who believes that a system needs an exemption from some or all of the requirements of the Privacy Act should send a request to SAF/AAIA through the MAJCOM or FOA Privacy Act Officer. The request should detail the reasons for the exemption and the section of the Act that allows the exemption. SAF/AAIA gets approval for the request through SAF/AA and the Defense Privacy Office.

§ 806b.28 Exemption types.

(a) A general exemption frees a system from most parts of the Privacy Act.

(b) A specific exemption frees a system from only a few parts of the Privacy Act.

§ 806b.29 Authorizing exemptions.

Only SAF/AA can exempt systems of records from any part of the Privacy Act. Denial authorities can withhold records using these exemptions only if SAF/AA previously approved and published an exemption for the system in the **Federal Register**. Appendix C of this part lists the systems of records that have approved exemptions.

§ 806b.30 Approved exemptions.

Approved exemptions exist under 5 U.S.C. 552a for:

(a) Certain systems of records used by activities whose principal function is criminal law enforcement (subsection (j)(2)).

(b) Classified information in any system of records (subsection (k)(1)).

(c) Law enforcement records (other than those covered by subsection (j)(2)). The Air Force must allow an individual access to any record that is used to deny rights, privileges or benefits to which he or she would otherwise be entitled by federal law or for which he or she would otherwise be eligible as a result of the maintenance of the information (unless doing so would reveal a confidential source) (subsection (k)(2)).

(d) Statistical records required by law. Data is for statistical use only and may not be used to decide individuals' rights, benefits, or entitlements (subsection (k)(4)).

(e) Data to determine suitability, eligibility, or qualifications for federal service or contracts, or access to classified information if access would reveal a confidential source (subsection (k)(5)).

(f) Qualification tests for appointment or promotion in the federal service if access to this information would compromise the objectivity of the tests (subsection (k)(6)).

(g) Information which the Armed Forces uses to evaluate potential for promotion if access to this information would reveal a confidential source (subsection (k)(7)).

Subpart I – Disclosing Records to Third Parties

§ 806b.31 Disclosure considerations.

Before releasing personal information to third parties, consider the consequences, check accuracy, and make sure that no law or directive bans disclosure. You can release personal information to third parties when the subject agrees orally or in writing. Air Force members consent to releasing their home telephone number and address when they sign and check the 'Do Consent' block on the AF Form 624, 'Base/Unit Locator and PSC Directory' (see AFI 37–129 [4], 'Base and Unit Personnel Locators and Postal Directories').

(a) Before including personal information such as home addresses, home phones, and similar information on social rosters or directories, ask for written consent statements. Otherwise, do not include the information.

(b) You must get written consent before releasing any of these items of information:

(1) Marital status.

(2) Number and sex of dependents.

(3) Gross salary of military personnel (see § 806b.32 for releasable pay information).

(4) Civilian educational degrees and major areas of study.

(5) School and year of graduation.

(6) Home of record.

(7) Home address and phone.

(8) Age and date of birth.

(9) Present or future assignments for overseas or for routinely deployable or sensitive units.

(10) Office and unit address and duty phone for overseas or for routinely deployable or sensitive units.

§ 806b.32 Disclosing information for which consent is not required.

You don't need consent before releasing any of these items:

(a) Information releasable under the FOIA.

(b) Information for use within the Department of Defense by officials or employees with a need to know.

(c) Name.

(d) Rank.

(e) Grade.

(f) Air Force specialty code (AFSC).

(g) Pay (including base pay, special pay, all allowances except Basic Allowance for Quarters (BAQ) and Variable Housing Allowance (VHA)).

(h) Gross salary for civilians.

(i) Past duty assignments.

(j) Present and future approved and announced stateside assignments.

(k) Position title.

(l) Office, unit address, and duty phone number.

(m) Date of rank.

(n) Entered on active duty (EAD) date.

(o) Pay date.

(p) Source of commission.

(q) Professional military education.

(r) Promotion sequence number.

(s) Military awards and decorations.

(t) Duty status of active, retired, or reserve.

(u) Active duty official attendance at technical, scientific, or professional meetings.

(v) Biographies and photos of key personnel.

§ 806b.33 Disclosing other information.

Use these guidelines to decide whether to release information:

[3] See footnote 1 to section 806b.11, of this part.

[4] See footnote 1 to section 806b.11, of this part.

(a) Would the subject have a reasonable expectation of privacy in the information requested?

(b) Would disclosing the information benefit the general public? The Air Force considers information as meeting the public interest standard if it reveals anything regarding the operations or activities of the agency, or performance of its statutory duties.

(c) Balance the public interest against the individual's probable loss of privacy. Do not consider the requester's purpose, circumstances, or proposed use.

§ 806b.34 Agencies or individuals to whom the Air Force may release privacy information.

The Air Force may release information without consent to these individuals or agencies:

(a) Agencies outside the Department of Defense for a Routine Use published in the **Federal Register**. The purpose of the disclosure must be compatible with the purpose in the Routine Use. When initially collecting the information from the subject, the Routine Uses block in the Privacy Act Statement must name the agencies and reason.

(b) The Bureau of the Census to plan or carry out a census or survey under 13 U.S.C. 8.

(c) A recipient for statistical research or reporting. The recipient must give advanced written assurance that the information is for statistical purposes only.

NOTE: No one may use any part of the record to decide on individuals' rights, benefits, or entitlements. You must release records in a format that makes it impossible to identify the real subjects.

(d) The Archivist of the United States and the National Archives and Records Administration (NARA) to evaluate records for permanent retention. Records stored in Federal Records Centers remain under Air Force control.

(e) A federal, state, or local agency (other than the Department of Defense) for civil or criminal law enforcement. The head of the agency or a designee must send a written request to the system manager specifying the record or part needed and the law enforcement purpose. The system manager may also disclose a record to a law enforcement agency if the agency suspects a criminal violation. This disclosure is a Routine Use for all Air Force systems of records and is published in the **Federal Register**.

(f) An individual or agency that needs the information for compelling health or safety reasons. The affected individual need not be the record subject.

(g) The Congress, a congressional committee, or a subcommittee, for matters within their jurisdictions.

(h) A congressional office acting for the record subject. A published, blanket Routine Use permits this disclosure. If the material for release is sensitive, get a release statement.

(j) The Comptroller General or an authorized representative of the General Accounting Office on business.

(j) A court order of a court of competent jurisdiction, signed by a judge.

(k) A consumer credit agency according to the Debt Collections Act when a published system notice lists this disclosure as a Routine Use.

(l) A contractor operating a system of records under an Air Force contract. Records maintained by the contractor for the management of contractor employees are not subject to the Privacy Act.

§ 806b.35 Disclosing the medical records of minors.

Air Force personnel may disclose the medical records of minors to their parents or legal guardians. The laws of each state define the age of majority.

(a) The Air Force must obey state laws protecting medical records of drug or alcohol abuse treatment, abortion, and birth control. If you manage medical records, learn the local laws and coordinate proposed local policies with the servicing SJA.

(b) Outside the United States (overseas), the age of majority is 18. Unless parents or guardians have a court order granting access or the minor's written consent, they will not have access to minor's medical records overseas when the minor sought or consented to treatment between the ages of 15 and 17 in a program where regulation or statute provides confidentiality of records and he or she asked for confidentiality.

§ 806b.36 Disclosure accountings.

System managers must keep an accurate record of all disclosures made from any system of records except disclosures to DoD personnel for official use or disclosures under the FOIA. System managers may use AF Form 771, 'Accounting of Disclosures'.

(a) System managers may file the accounting record any way they want as long as they give it to the subject on request, send corrected or disputed information to previous record recipients, explain any disclosures, and provide an audit trail for reviews. Include in each accounting:

(1) Release date.

(2) Description of information.

(3) Reason for release.

(4) Name and address of recipient.

(b) Some exempt systems let you withhold the accounting record from the subject.

(c) You may withhold information about disclosure accountings for law enforcement purposes at the law enforcement agency's request.

§ 806b.37 Computer matching.

Computer matching programs electronically compare records from two or more automated systems which may include the Department of Defense, another federal agency, or a state or other local government. A system manager proposing a match that could result in an adverse action against a federal employee must meet these requirements of the Privacy Act:

(a) Prepare a written agreement between participants.

(1) Secure approval of the Defense Data Integrity Board.

(2) Publish a matching notice in the **Federal Register** before matching begins.

(3) Ensure full investigation and due process.

(4) Act on the information, as necessary.

(b) The Privacy Act applies to matching programs that use records from:

(1) Federal personnel or payroll systems.

(2) Federal benefit programs where matching:

(i) Determines federal benefit eligibility,

(ii) Checks on compliance with benefit program requirements,

(iii) Recovers improper payments or delinquent debts from current or former beneficiaries.

(c) Matches used for statistics, pilot programs, law enforcement, tax administration, routine administration, background checks and foreign counterintelligence, and internal matching that won't cause any adverse action are exempt from Privacy Act matching requirements.

(d) Any activity that expects to participate in a matching program must contact SAF/AAIA immediately. System managers must prepare a notice for publication in the **Federal Register** with a Routine Use that allows disclosing the information for use in a matching program. Send the proposed system notice to SAF/AAIA. Allow 180 days for processing requests for a new matching program.

(e) Record subjects must receive prior notice of a match. The best way to do this is to include notice in the Privacy Act Statement on forms used in

applying for benefits. Coordinate computer matching statements on forms with SAF/AAIA through the MAJCOM Privacy Act Officer.

Subpart J – Training

§ 806b.38 Who needs training.

The Privacy Act requires training for all persons involved in the design, development, operation and maintenance of any system of records. Some persons may need more specialized training. They include information managers, supervisors, and individuals working with medical, financial, security, and personnel records.

§ 806b.39 Training tools.

Helpful aids include:

(a) AFH 37–146 [5], 'Privacy Act Training', a self-paced course.

(b) 'The Privacy Act of 1974,' a 32–minute film developed by the Defense Privacy Office. Consult your local audiovisual library.

(c) 'A Manager's Overview, What You Need to Know About the Privacy Act'. Contact SAF/AAIA for copies. NOTE: Formal school training groups that develop or modify blocks of instruction must send the material to SAF/AAIA for coordination.

Subpart K – Privacy Act Reporting

§ 806b.40 Privacy Act report (RCS: DD-DA&M(A)1379).

By March 1, of each year, MAJCOM and FOA Privacy Act officers must send SAF/AAIA a report covering the previous calendar year. The report includes:

(a) Total number of requests granted in whole.

(b) Total number of requests granted in part.

(c) Total number of requests denied and the Privacy Act exemptions used.

(d) Total number of requests for which no record was found.

(e) Total number of amendment requests granted in whole.

(f) Total number of amendment requests granted in part.

(g) Total number of amendment requests wholly denied.

(h) Specific recommendations for changes to the Act or the Privacy Act Program.

[5] See footnote 1 to section 806b.11, of this part.

Appendix A to Part 806b – Glossary of References, Abbreviations, Acronyms, and Terms

SECTION A–REFERENCES

a. Privacy Act of 1974, as amended, Pub. L. 93–579, 88 Stat 1896 (5 U.S.C. 552a).

b. 10 U.S.C 8013, 'Secretary of the Air Force: Powers and Duties.'

c. Executive Order 9397, 'Numbering System for Federal Accounts Relating to Individual Persons.'

d. 32 CFR part 806b, 'Air Force Privacy Act Program.'

e. DoD Directive 5400.11 [1], 'Department of Defense Privacy Program.'

f. DoD 5400.11–R [2], 'Department of Defense Privacy Program.'

g. AFI 33–202 [3], 'The Air Force Computer Security Program' (formerly AFR 205–16).

h. AFPD 37–1 [4], 'Air Force Information Management.'

i. AFI 37–131 [5], 'Air Force Freedom of Information Act Program' (formerly AFR 4–33).

j. AFI 37–129 [6], 'Base and Unit Personnel Locators and Postal Directories' (formerly AFR 11–24).

k. AFMAN 37–139 [7], 'Disposition of Records' (formerly AFR 4–20, volume 2).

l. AFDIR 37–144 [8], 'Air Force Privacy Act Systems of Records Notices.'

m. AFH 37–146 [9], 'Privacy Act Training.'

SECTION B–DEFINITIONS ABBREVIATIONS AND ACRONYMS

a. AETC – Air Education and Training Command

b. AFA – Air Force Academy

c. AFBCMR – Air Force Board for Correction of Military Records

d. AFISA – Air Force Intelligence Services Agency

e. AFMC – Air Force Materiel Command

f. AFOSI – Air Force Office of Special Investigations

g. AFSC – Air Force Specialty Code

h. AFSCO – Air Force Security Clearance Office

i. AFSPA – Air Force Security Police Agency

j. ASCII – American Standard Code for Information Interchange

k. BAQ – Basic Allowance for Quarters

l. CFR – Code of Federal Regulations

m. DCS – Deputy Chief of Staff

n. DoD – Department of Defense

o. DR&MO – Defense Reutilization and Marketing Office

p. EAD – Entered on Active Duty

q. FOA – Field Operating Agency

r. FOIA – Freedom of Information Act

s. FOUO – For Official Use Only

t. IG – Inspector General

u. IMC – Interim Message Change

v. LE – Logistics and Engineering

w. MAJCOM – Major Command

x. MIRS – Management Information and Research System

y. MP – Military Personnel

z. MPC – Military Personnel Center

aa. NARA – National Archives and Records Administration

bb. OMB – Office of Management and Budget

cc. OPR – Office of Primary Responsibility

dd. PA – Privacy Act

ee. PAM – Privacy Act Monitor

ff. PAS – Privacy Act Statement

gg. RCS – Reports Control Symbol

hh. SAF – Secretary of the Air Force

ii. SAF/AA – The Administrative Assistant to the Secretary of the Air Force

jj. SAF/AAIA – Policy Division, Directorate of Information Management

kk. SAF/GCA – Assistant General Counsel for Civilian Personnel and Fiscal Law

ll. SG – Surgeon General

mm. SJA – Staff Judge Advocate

nn. SP – Security Police

oo. SSN – Social Security Number

pp. US – United States

qq. USAF – United States Air Force

rr. U.S.C. – United States Code

ss. VHA – Variable Housing Allowance

SECTION C–TERMS

a. Access. Allowing individuals to review or receive copies of their records.

b. Amendment. The process of adding, deleting, or changing information in a system of records to make the data accurate, relevant, timely, or complete.

c. Computer matching. A computerized comparison of two or more automated systems of records or a system of records with non-Federal records to establish or verify eligibility

[1] Copies may be obtained at cost from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

[2] See footnote 1 to section B, appendix A to part 806b.

[3] See footnote 1 to section B, appendix A to part 806b.

[4] See footnote 1 to section B, appendix A to part 806b.

[5] See footnote 1 to section B, appendix A to part 806b.

[6] See footnote 1 to section B, appendix A to part 806b.

[7] See footnote 1 to section B, appendix A to part 806b.

[8] See footnote 1 to section B, appendix A to part 806b.

[9] See footnote 1 to section B, appendix A to part 806b.

for payments under Federal benefit programs or to recover delinquent debts for these programs.

d. Confidential source. A person or organization giving information under an express or implied promise of confidentiality made before September 27, 1975.

e. Confidentiality. An expressed and recorded promise to withhold the identity of a source or the information provided by a source. The Air Force promises confidentiality only when the information goes into a system with an approved exemption for protecting the identity of confidential sources.

f. Defense Data Integrity Board. Representatives from the Services and the Department of Defense who oversee, coordinate, and approve all DoD computer matching programs covered by the Act.

g. Denial authority. The individuals with authority to deny requests for access or amendment of records under the Privacy Act.

h. Disclosure. Giving information from a system, by any means, to anyone other than the record subject.

i. Federal benefit program. A federally funded or administered program for individuals that provides cash or in-kind assistance (payments, grants, loans, or loan guarantees).

j. Individual. A living United States citizen or a permanent resident alien.

k. Matching agency. The agency that performs a computer match.

l. Minor. Anyone under the age of majority according to local state law. If there is no applicable state law, a minor is anyone under age 18. Military members and married persons are not minors, no matter what their chronological age.

m. Personal identifier. A name, number, or symbol which is unique to an individual, usually the person's name or SSN.

n. Personal information. Information about an individual other than items of public record.

o. Privacy Act request. An oral or written request by an individual about his or her records in a system of records.

p. Recipient agency. An agency or contractor that receives the records and actually performs the computer match.

q. Record. Any information about an individual.

r. Routine use. A disclosure of records to individuals or agencies outside the Department of Defense for a use that is compatible with the purpose for which the Air Force created the records.

s. Source agency. A federal, state, or local government agency that discloses records for the purpose of a computer match.

t. System manager. The official who is responsible for managing a system of records, including policies and procedures to operate and safeguard it. Local system managers operate record systems or are responsible for part of a decentralized system.

u. System of records. A group of records containing personal information retrieved by the subject's name, personal identifier, or individual identifier through a cross-reference system.

v. System notice. The official public notice published in the Federal Register of the existence and content of the system of records.

Appendix B to Part 806b – Preparing a System Notice

The following elements comprise a system of records notice for publication in the Federal Register:

a. System identifier. SAF/AAIA assigns the notice number, for example, F011 AFMC A, where 'F' indicates 'Air Force,' the next number represents the series from AFMAN 37–139 regarding records disposition, and the final letter group shows the system manager's command or DCS. The last character 'A' indicates that this is the first notice for this series and system manager.

b. System name. Use a short, specific, plain-language title that identifies the system's general purpose (limited to 55 characters).

c. System location. Specify the address of the primary system and any decentralized elements, including automated data systems with a central computer facility and input or output terminals at separate locations. Use street address, 2–letter state abbreviations and 9–digit ZIP Codes. Spell out office names. Do not use office symbols.

d. Categories of individuals covered by the system. Use nontechnical, specific categories of individuals about whom the Air Force keeps records. Do not use categories like 'all Air Force personnel' unless they are actually true.

e. Categories of records in the system. Describe in clear, nontechnical terms, all categories of records in the system. List only documents actually kept in the system. Do not show source documents that are used to collect data and then destroyed. Do not list form numbers.

f. Authority for maintenance of the system. Cite the specific law or Executive Order that authorizes the program the records support. Cite the DoD directive or instruction or the Air Force or other instruction that authorizes the system of records. Always include titles with the citations.

NOTE: Executive Order 9397 authorizes using the Social Security Number (SSN). Include this authority whenever the SSN is used to retrieve records.

g. Purpose(s). Describe briefly and specifically what the Air Force does with the information collected.

h. Routine uses of records maintained in the system including categories of users and the purpose of such uses. The Blanket Routine Uses published in the Air Force Directory of System Notices apply to all system notices unless you indicate otherwise. Also list each specific agency or activity outside DoD to whom the records may be released and the purpose for such release.

i. Polices and practices for storing, retrieving, accessing, retaining, and disposing of records in the system.

j. Storage. State the medium in which the Air Force keeps the records, for example, in file folders, card files, microfiche, computer, and so on. Storage does not refer to the storage container.

k. Retrievability. State how the Air Force retrieves the records, for example, by name, SSN, or personal characteristics (such as fingerprints or voiceprints).

l. Safeguards. List the kinds of officials who have immediate access to the system. List those responsible for safeguarding the records. Identify the system safeguards, for example, storage in safes, vaults, locked cabinets or rooms, use of guards, visitor controls, personnel screening, computer systems software, and so on. Describe safeguards fully without compromising system security.

m. Retention and disposal. State how long AFMAN 37–139 requires the activity to maintain the record. Indicate when or if the records may be transferred to a Federal Records Center and how long the record stays there. Specify when the Records Center sends the record to the National Archives or destroys it. Indicate how the records may be destroyed.

n. System manager(s) and address. List the title and duty address of the system manager. For decentralized systems, show the locations and the position or duty title of each category of officials responsible for any segment of the system.

o. Notification procedure. List the title and duty address of the official authorized to tell requesters if their records are in the system. Specify the information a requester must submit for example, full name, military status, SSN, date of birth, or proof of identity, and so on.

p. Record access procedures. Explain how individuals may arrange to access their records. Include the titles or categories of officials who may assist, for example, the system manager.

q. Contesting records procedures. SAF/AAIA provides this standard caption.

r. Record source categories. Show categories of individuals or other information sources for the system. Do not list confidential sources protected by subsections (k)(2), (k)(5), or (k)(7) of the Act.

s. Exemptions claimed for the system. When a system has no approved exemption, write 'none' under this heading. Specifically list any approved exemption including the subsection in the Act.

Appendix C to Part 806b - General and Specific Exemptions

(a) *General exemption.* The following systems of records are exempt under 5 U.S.C. 552a(j)(2):

(1) *System identifier and name:* F124 AF A, Counter Intelligence Operations and Collection Records.

(2) *System identifier and name:* F124 AF C, Criminal Records.

(3) *System identifier and name:* F125 AF SP E, Security Police Automated System (SPAS).

(4) *System identifier and name:* F124 AF D, Investigative Support Records.

(5) *System identifier and name:* F125 AF A, Correction and Rehabilitation Records.

Exemption–Portions of this system that fall within 5 U.S.C.552a(j)(2) are exempt from the following provisions of 5 U.S.C. 552a, Sections (c)(3) and (c)(4); (d)(1) through (d)(5); (e)(2) and (e)(3); (e)(4)(G) and (e)(4)(H), (e)(5); (f)(1) through (f)(5); (g)(1) through (g)(5); and (h) of the Act.

Authority–5 U.S.C. 552a(j)(2).

Reason–The general exemption will protect ongoing investigations and protect from access criminal investigation information contained in this record system so as not to jeopardize any subsequent judicial or administrative process taken as a result of information contained in the files.

(b) *Specific exemptions.* The following systems of records are subject to the specific exemptions shown:

(1) *Classified records.*

(i) All records in any systems of records that are properly classified according to Executive Orders 11652, 12065 or 12356, are exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4)(G), (H), and (I); and (f), regardless of whether the entire system is otherwise exempt or not.

(ii) *Authority.* 5 U.S.C. 552a(k)(1).

(2)*System identifier and name:* F053 AFA C, Admissions and Registrar Records.

(i) *Exemption.* Parts of this system of records (Liaison Officer Evaluation and Selection Panel Candidate Evaluation) are exempt from 5 U.S.C. 552a(d), (e)(4)(H), and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* To ensure the frankness of information used to determine whether cadets are qualified for graduation and commissioning as officers in the Air Force.

(3) *System identifier and name:* F035 MPC R, Air Force Personnel Test 851, Test Answer Cards.

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f).

(ii) *Authority.* 5 U.S.C. 552a(k)(6).

(iii) *Reasons.* To protect the objectivity of the promotion testing system by keeping the test questions and answers in confidence.

(4) *System identifier and name:* F035 AFA A, Cadet Personnel Management System.

(i) *Exemption.* Parts of this system are exempt from 5 U.S.C. 552a(d), (e)(4)(H), and (f), but only insofar as disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(7).

(iii) *Reasons.* To maintain the candor and integrity of comments needed to evaluate an Air Force Academy cadet for commissioning in the Air Force.

(5) *System identifier and name:* F045 AETC C, Cadet Records.

(i) *Exemption.* Portions of this system (Detachment Professional Officer Course (POC) Selection Rating Sheets; Air Force Reserve Officer Training Corps (AFROTC) Form 0–24–Disenrollment Review; Memoranda for Record and Staff Papers with Staff Advice, Opinions, or Suggestions) are exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4)(G) and (H), and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* To protect the identity of a confidential source who furnishes information necessary to make determinations about the qualifications, eligibility, and suitability of cadets for graduation and commissioning in the Air Force.

(6) *System identifier and name:* F168 AF SG B, Family Advocacy Program Record.

(i) *Exemption.* Parts of this system are exempt from 5 U.S.C. 552a(c)(3) and (d), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(2) and (k)(5).

(iii) *Reasons.* To encourage those who know of exceptional medical or educational conditions or family maltreatments to come forward by protecting their identities, and the integrity of ongoing and civil law investigations of criminal and civil law violations. Giving subjects access to their files could result in them concealing, altering, or fabricating evidence could hamper the identification of offenders and alleged offenders; and could jeopardize the safety and well–being of the family.

(7) *System identifier and name:* F035 AF MP A, Effectiveness/Performance Reporting System.

(i) *Exemptions*–Brigadier General Selectee Effectiveness Reports and Colonel and Lieutenant Colonel Promotion Recommendations with close out dates on or before January 31, 1991, may be exempt from subsections of 5 U.S.C. 552a(c)(3); (d); (e)(4)(H); and (f).

(ii) *Authority*–5 U.S.C. 552a(k)(7).

(iii) *Reasons*–Subsection (c)(3) because making the disclosure accounting available to the individual may compromise express promises of confidentiality by revealing details about the report and identify other record sources, which may result in circumvention of the access exemption.

Subsection (d) because individual disclosure compromises express promises of confidentiality conferred to protect the integrity of the promotion rating system.

Subsection (e)(4)(H) because of and to the extent that portions of this record system are exempt from the individual access provisions of subsection (d).

Subsection (f) because of and to the extent that portions of this record system are exempt from the individual access provisions of subsection (d).

(8) *System identifier and name:* F030 AF LE A, Equal Opportunity in Off Base-Housing.

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f).

(ii) *Authority.* 5 U.S.C. 552a(k)(2).

(iii) *Reasons.* To enforce civil laws, court orders, and the activities of the Departments of Housing and Urban Development and Justice.

(9) *System identifier and name:* F035 AP A, Files on General Officers and Colonels Assigned to General Officer Positions.

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4)(G),

(H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(7).

(iii) *Reasons.* To protect the integrity of information used in the Reserve Initial Brigadier General Screening Board, the release of which would compromise the selection process.

(10) *System identification and name:* F035 AF MP P, General Officer Personnel Data System.

(i) *Exemption*–Air Force General Officer Promotion and Effectiveness Reports with close out dates on or before January 31, 1991, may be exempt from subsections of 5 U.S.C. 552a(c)(3); (d); (e)(4)(H); and (f).

(ii) *Authority*–5 U.S.C. 552a(k)(7).

(iii) *Reason*–Subsection (c)(3) because making the disclosure accounting available to the individual may compromise express promises of confidentiality by revealing details about the report and identify other record sources, which may result in circumvention of the access exemption.

Subsection (d) because individual disclosure compromises express promises of confidentiality conferred to protect the integrity of the promotion rating system.

Subsection (e)(4)(H) because of and to the extent that portions of this record system are exempt from the individual access provisions of subsection (d).

Subsection (f) because of and to the extent that portions of this record system are exempt from the individual access provisions of subsection (d).

(11) *System identifier and name:* F035 MPC L, Historical Airman Promotion Master Test File.

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f).

(ii) *Authority.* 5 U.S.C. 552a(k)(6).

(iii) *Reasons.* To protect the integrity, objectivity, and equity of the promotion testing system by keeping test questions and answers in confidence.

(12) *System identifier and name:* F120 AF IG B, Inspector General Records.

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f). However, if a person is denied any right, privilege, or benefit, he or she would otherwise be entitled to as a result of keeping this material, it must be released, unless doing so would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(2).

(iii) *Reasons.* Granting individuals access to information collected while an Inspector General inquiry is in progress could interfere with the just, thorough, and timely resolution of the complaint or inquiry and could possibly enable individuals to conceal wrong doing or mislead the inquiring officer. Disclosure might also subject sources, witnesses, and their families to harassment or intimidation.

(13) *System identifier and name:* F124 AFOSI B, Investigative Applicant Processing Records.

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* To protect those who gave information in confidence during Air Force Office of Special Investigations (AFOSI) applicant inquiries. Fear of harassment could cause sources not to make frank and open responses about applicant qualifications. This could compromise the integrity of the AFOSI personnel program that relies on selecting only qualified people.

(14) *System identifier and name:* F035 AFB B, Master Cadet Personnel Record (Active/Historical).

(i) *Exemptions.* Parts of these systems are exempt from 5 U.S.C. 552a(d), (e)(4)(H), and (f), but only to the extent that they would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(7).

(iii) *Reasons.* To maintain the candor and integrity of comments needed to evaluate a cadet for commissioning in the Air Force.

(15) *System identifier and name:* F205 AFISA A, Sensitive Compartmented Information Personnel Records.

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(a)(3); (d); (e)(4) (G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(2) and (k)(5).

(iii) *Reasons.* To protect the identity of sources to whom proper promises of confidentiality have been made during investigations. Without these promises, sources will often be unwilling to provide information essential in adjudicating access in a fair and impartial manner.

(16) *F124 AFA, Security and Related Investigative Records.*

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* To protect the identity of those who give information in confidence for personnel security and related investigations. Fear of harassment could cause sources to refuse to give this information in the frank and open way needed to pinpoint those areas in an investigation that should be expanded to resolve charges of questionable conduct.

(17) *System identifier and name:* F205 AFSCO A, Special Security Case Files.

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d), (e)(4) (G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* To protect the identity of those who give information in confidence for personnel security and related investigations. Fear of harassment could cause sources to refuse to give this information in the frank and open way needed to pinpoint those areas in an investigation that should be expanded to resolve charges of questionable conduct.

(18) *System identifier and name:* F205 AF SP A, Special Security Files.

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(ii) *Reasons.* To protect the identity of those who give information in confidence for personnel security and related investigations. Fear of harassment could cause them to refuse to give this information in the frank and open way needed to pinpoint areas in an investigation that should be expanded to resolve charges of questionable conduct.

(19) *System identifier and name:* F035 AF MP R, Applications for Appointment and Extended Active Duty Files.

(i) *Exemption.* Parts of this system of records are exempt from 5 U.S.C. 552a(d), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.*5 U.S.C. 552a(k)(5).

(iii)*Reasons.* To protect the identity of confidential sources who furnish information necessary to make determinations about the qualifications, eligibility, and suitability of health care professionals who apply for Reserve of the Air Force appointment or interservice transfer to the Air Force.

Dated: July 21, 1994.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–18423 Filed 7–27–94; 8:45 am]

BILLING CODE 5000–04–F

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 94–5A]

Copyright Office Fees; Deposit Accounts

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of intention to amend regulations and request for comments.

SUMMARY: This document is issued to inform the public that the Copyright Office intends to amend 37 CFR 201.6 to institute fees for Deposit Account services, as authorized by the Copyright Code. The new fees would reflect the actual cost of providing Deposit Account benefits and services. This document sets out our proposal for instituting fees and also requests comments on this proposal or other alternatives.

DATES: Written comments should be received by September 26, 1994.

ADDRESSES: Fifteen copies of written comments should be addressed, if sent by mail, to: Eric Schwartz, Acting General Counsel, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, DC 20024.

If delivered by hand, copies should be brought to: Office of the General Counsel, Copyright Office, James Madison Memorial Building, Room 407, First and Independence Avenue, SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Eric Schwartz, Acting General Counsel, U.S. Copyright Office Library of Congress, Washington, DC 20540. Telephone: (202) 707–8380. Telefax (202) 707–8366.

SUPPLEMENTARY INFORMATION:

1. Background

The Copyright Office today issues two separate, but associated documents about fees for providing certain discretionary services to the public. This Notice addresses proposals for instituting a schedule of fees for establishing, providing, and maintaining Deposit Accounts. Published elsewhere in today's **Federal Register** is an associated document covering increases or institution of fees for special services authorized under the Copyright Code. These documents are issued following a comprehensive analysis of the costs the Office incurs for providing special user services, including Deposit Accounts, and a determination that current fees charged for various special services do not offset the costs of providing them. In an effort to reflect more accurately the costs associated with providing certain services to the public, and because of limited Congressional appropriations and uncertain revenue flow, we have concluded that we must take action under title 17 of the United States Code, which authorizes the Register of Copyrights to require payment "for any other special services requiring a substantial amount of time or expense . . ." based on "the cost of providing the service." 17 U.S.C. 708(a)(10). In this document, we invite public comment on our proposal to improve the operation of the Deposit Account system and recover our expenses with respect to providing and maintaining Deposit Accounts.

2. The Deposit Account System

The Copyright Office maintains a system of Deposit Accounts for the convenience of those who frequently use its services. The system allows an individual or firm to establish a Deposit Account in the Copyright Office and to make advance deposits into that account. Deposit Account holders can charge copyright fees against the balance in their accounts instead of sending separate remittances with applications and other requests for services.

Deposit Accounts do not operate in the same way as commercial charge accounts, and cannot be overdrawn or used as a form of advance credit. The Copyright Office cannot perform any services before payment is made. Funds must, therefore, be available in a Deposit Account for the payment of copyright fees before an application for registration can be accepted or other services performed.

As it currently operates, the Copyright Office Deposit Account system involves substantial benefits to the depositors and substantial costs to the Copyright Office. At present, however, the obligations imposed on depositors with respect to opening and maintaining Deposit Accounts are minimal. At the same time, the Office provides its Deposit Account services free of charge and makes no effort to recoup the costs incurred as a result of insufficient funds and uncollectible replenishment checks.

3. Current Requirements for Opening and Maintaining Deposit Accounts

Under our present regulations, the requirements for opening and maintaining a Deposit Account are that the holder make an initial deposit of at least $250.00, and that later replenishment amount to a minimum of $250.00. The Deposit Account holder is also obliged to make at least 12 transactions a year, to provide the exact name and number of the account on all applications for registration or requests for service, and to maintain a sufficient balance to cover all charges against the account.

4. Deposit Account Services Provided by the Copyright Office

a. *Basic Services.* There is substantial workload involved in the initial establishment of a Deposit Account. A great deal of recurring clerical and accounting work is also required in maintaining and servicing accounts after they have been established: producing and mailing monthly statements of account; keeping account information up to date; entering replenishment checks; responding to inquiries from account holders; and providing additional statements of account or transaction histories upon request.

b. *Insufficient Funds and Uncollectible Checks.* In the case of a Deposit Account holder whose account does not have sufficient funds to process new requests for services, or whose checks are returned as uncollectible, the Office faces a substantial burden of staff time and expense in handling both the Deposit Account and the fee service requests to be charged against it.

When funds on hand are insufficient to process new claims or other fee service requests that are to be charged against a Deposit Account, the Office must put a hold on the account, identify and store the pertinent material, and notify the applicant by telephone, telefax, or mail that the account is depleted. When the account holder deposits additional funds, the Office staff must re-activate the account, update it to show the replenishment, then find the material, stamp the application with the "funds received" date, and forward the claim for regular processing. This is a substantial extra workload. In recent experience, the number of claims received for which there are insufficient funds available in the Deposit Account has grown to the point where a large-scale tagging and shelving system has been devised to keep track of the material and the account with which it is associated.

There is also added work involved when replenishment checks are uncollectible. We must then remove the amount from the account balance, inform the Deposit Account holder of the problem, and solicit a replacement check which, when received, involves still more processing.

5. Summary of Copyright Office Proposals

In summary, we are proposing to amend our regulations to establish a schedule of fees for various Deposit Account benefits and services;

(1) An initial fee for opening a Deposit Account;

(2) An annual service fee for maintaining and servicing a Deposit Account;

(3) A handling fee in cases of insufficient funds; and

(4) A fee for uncollectible replenishment checks.

In addition, we propose to establish procedures for closing Deposit Accounts in cases of failure to respond to requests for replenishment or repeated attempts to charge fees against an account with insufficient funds.

6. Proposed Fee for Opening and Maintaining a Deposit Account

When we began our study and cost analysis of the Deposit Account system we sought to identify each of the work load items associated with the system and to determine what it costs the Office to perform the particular service. The costs for opening an account run, on the average, to $50.00, to cover necessary correspondence, accounting procedures, and clerical work. We have also established that the same amount, $50.00, would cover the total annual cost involved in servicing the account. Thus, rather than establishing separate fees for each Deposit Account service performed, we believe that it would be more economical for both account holders and the Office to establish a flat fee of $50.00 for opening an account and another $50.00 annual fee to be deducted from accounts each January for maintaining the account. We also propose to remove the requirement that a Deposit Account holder must make 12 transactions a year.

7. Proposed Fee in Case of Insufficient Funds

The storage and servicing of "insufficient funds" claims is not only costly, but it is also a service of direct benefit to Deposit Account holders. When an ordinary, non-Deposit Account claim comes in without funds its handling depends on whether the work is unpublished or published. If the work is unpublished, the entire case (application, deposit, and accompanying correspondence) is usually returned to the sender. If the work is published, the case is held and the sender is given an opportunity to remit the missing funds; then, lacking a prompt reply, we forward the deposits to the Library of Congress in accordance with our regulations based on Sections 407 and 408 of the Copyright Code. Copies forwarded to the Library are not retrievable for registration purposes and, if another copyright registration is attempted, the remitter must refile the application and replace the deposit materials.

In contrast, when a Deposit Account holder submits a claim to be charged against an account with a balance insufficient to cover it, all of the material submitted is held to await replenishment of the account. Because their material is held rather than being returned or forwarded to the Library, account holders are spared the expenses of postage, handling, and replacing applications and deposits.

Because of the substantial extra workload required, we have calculated the costs connected with handling each case of insufficient Deposit Account funds at no less than $50.00. We therefore propose to deduct a handling fee of $50.00 from any Deposit Account whose remitter attempts to charge a copyright claim (or other fee service) when there are insufficient funds in the Deposit Account. However, we do not propose to make this change cumulative. Regardless of how many or how long claims are pending during the period when the account is depleted, we propose to make only one $50.00 charge, to be deducted from the account at the time a replenishment check is credited.

8. Proposed Fee in Case of Uncollectible Check

We have calculated the extra cost of handling each case involving a check received for replenishing a Deposit Account that is returned as uncollected at no less than $35.00 per check. We therefore propose to establish a fee of $35.00 to be charged against the account in each such case.

9. Proposed Changes in Minimum Account Requirements

We do not propose to change the current monetary requirements with respect to the minimum amount required to open a Deposit Account ($250.00) and the minimum amount required for a remittance to replenish an account (also $250.00). However, we now propose to establish new procedures and requirements for handling cases in which a balance drops below $100.00, as well as those in which the balance is insufficient to cover pending claims. In both cases (Deposit Accounts with a balance of less than the $100.00 minimum and those with a balance of any amount that is not sufficient to cover the charges made against it) the Copyright Office will notify the account holder of the deficiency and state a reasonable deadline (we recommend 60 days) after the date of the Notice by which replenishment must be received. If replenishment is not made before the deadline, we propose to dispose of pending claims, in the same way we dispose of ordinary, non-Deposit Account claims received with payment of insufficient fees.

We also propose to set forth and implement a procedure for closing a Deposit Account when the holder has attempted to charge fees against an account with insufficient funds more than two times within a calendar year. In such cases, an initial service charge ($250 deposit plus $50 opening fee) would be required to re-open the account).

10. Official Point of Contact

Traditionally we have had one contact person for each Deposit Account. We send monthly statements of account, notification of insufficient funds, and announcements relating to Deposit Accounts to this person. We have become aware that in some cases this contact person is in a corporate business office or accounting department and may have little communication with the persons in the organization who file copyright applications and make other fee service requests.

Because we now intend to impose fees in cases where Deposit Accounts have insufficient funds to cover pending charges, or where a replenishment check is returned uncollectible, we believe that Deposit Account holders need to establish mechanisms for communicating information regarding account balances and copyright service requests when these are handled by different units in their organizations. Specifically, we believe that each Deposit Account holder should provide us with the name, organizational title, and organizational address and number of an "official point of contact" for the account. All statements and other communications with respect to the account will be diverted to that individual, who will then be held responsible for monitoring the account and maintaining sufficient funds in it. The Deposit Account holder would also need to inform us when the person who is the official point of "contact" has charged.

11. Conclusion

It may be possible to implement some of these proposed changes without amending our existing regulations. We

invite comments on the proposal in general and any other alternatives for improving Deposit Account operations and recovering costs.

Dated: July 19, 1994.

Barbara Ringer,

Acting Register of Copyrights.

Approved:

James H. Billington,

Librarian of Congress.

[FR Doc. 94–18307 Filed 7–27–94; 8:45 am]

BILLING CODE 1410–07–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ31–1–6531; FRL–5021–9]

Approval and Promulgation of Implementation Plans; Arizona—Phoenix Nonattainment Area; PM_{10}

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA today proposes to approve the State implementation plan (SIP) submitted by the State of Arizona for the purpose of bringing about the attainment in the Phoenix Planning Area (PPA) of the national ambient air quality standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}). The "moderate" area SIP was submitted by the State to satisfy certain Federal requirements in the Clean Air Act for an approvable nonattainment area PM_{10} plan for the PPA.

Because the State of Arizona has demonstrated that it is impracticable for the area to attain the PM_{10} NAAQS by the December 31, 1994 attainment date, even with the implementation of reasonably available control measures, EPA has the discretion to reclassify the PPA from a "moderate" to a "serious" nonattainment area at this time. In the alternative, EPA can evaluate the attainment status of the area after December 31, 1994 and reclassify the area at that time if the data warrant. While EPA is proposing in this notice to reclassify the PPA at this time, it is the Agency's current position that evaluation of the area's attainment status after December 31, 1994 is the more appropriate approach. EPA is requesting comment on these alternative approaches.

DATES: Comments on this proposed action must be received in writing by August 29, 1994. Comments should be addressed to the contact indicated below.

ADDRESSES: Copies of the State's submittal and other information are contained in the docket for this rulemaking. The docket is available for inspection during normal business hours at the following location: U. S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Robert S. Pallarino (A–2–2), U. S. Environmental Protection Agency, Region 9, Air and Toxics Division, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744–1212.

SUPPLEMENTARY INFORMATION:

I. Background

On the date of enactment of the 1990 Clean Air Act Amendments, PM_{10} areas, including the Phoenix Planning Area (PPA), meeting the conditions of section 107(d) of the Act were designated nonattainment by operation of law. Once an area is designated nonattainment, section 188 of the Act outlines the process for classification of the area and establishes the area's attainment date. In accordance with section 188(a), at the time of designation, all PM_{10} nonattainment areas were initially classified as "moderate" by operation of law. See 40 CFR 81.303 (1993) A moderate area may subsequently be reclassified as "serious" if at any time EPA determines that the area cannot practicably attain the PM_{10} NAAQS by the applicable attainment date for moderate areas, December 31, 1994. Moreover, a moderate area must be reclassified if EPA determines within six months after the applicable attainment date that the area is not in attainment after that date. See section 188(b) of the Clean Air Act.

The air quality planning requirements for moderate PM_{10} nonattainment areas are set out in subparts 1 and 4 of Title I of the Act. EPA has issued a "General Preamble" describing EPA's preliminary views on how the Agency intends to review SIPs and SIP revisions submitted under Title I of the Act, including those state submittals containing moderate PM_{10} nonattainment area SIP provisions. See generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992). Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of Title I advanced in today's proposal and the supporting rationale. In today's rulemaking action on Arizona's moderate PM_{10} SIP for the PPA, EPA is proposing to apply its interpretations taking into consideration the specific factual issues presented. EPA will consider any timely submitted comments before taking final action on today's proposal.

Those states containing initial moderate PM_{10} nonattainment areas were required to submit, among other things, the following provisions by November 15, 1991: [1]

1. Provisions to assure that reasonably available control measures (RACM) (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology—RACT) shall be implemented no later than December 10, 1993;

2. Either a demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994 or a demonstration that attainment by that date is impracticable;

3. Pursuant to section 189(c) of the Act, for plan revisions demonstrating attainment, quantitative milestones which are to be achieved every 3 years and which demonstrate reasonable further progress (RFP) toward attainment by December 31, 1994; [2] and

4. Provisions to assure that the control requirements applicable to major stationary sources of PM_{10} also apply to major stationary sources of PM_{10} precursors except where the Administrator determines that such sources do not contribute significantly to PM_{10} levels which exceed the NAAQS in the area. See sections 172(c), 188, and 189 of the Act.

II. Today's Action

Section 110(k) of the Act sets out provisions governing EPA's review of SIP submittals. See 57 FR 13565–66. In today's action, EPA is proposing to approve the plan revision submitted to EPA on August 11, 1993, as revised by addenda submitted on March 3, 1994,

[1] There are additional submittals associated with moderate PM_{10} nonattainment plans, such as a permit program for the construction of new and modified major stationary sources and contingency measures. See sections 189(a) and 172(c)(9). These submittals were required to be submitted in 1992 and 1993, respectively, and are not the subject of today's proposal which addresses only those plan provisions required to be submitted on November 15, 1991.

[2] As will be seen below, the PM_{10} plan for the PPA does not demonstrate attainment by December 31, 1994, but rather includes the alternative demonstration that attainment by that date is impracticable. Therefore, section 189(c) does not apply and is not discussed further in this notice.

for the PPA because it meets all of the applicable requirements of the Act.[3]

A. Analysis of State Submission

1. Procedural Background

The Act requires states to observe certain procedural requirements in developing implementation plans and plan revisions for submission to EPA. Section 110(a)(2) of the Act provides that each implementation plan submitted by a state must be adopted after reasonable notice and public hearing.[4] Section 110(l) of the Act similarly provides that each revision to an implementation plan submitted by a state under the Act must be adopted by such state after reasonable notice and public hearing.

The EPA also must determine whether a submittal is complete and therefore warrants further EPA review and action. See section 110(k)(1) and 57 FR 13565. EPA's completeness criteria for SIP submittals are set out at 40 CFR Part 51, Appendix V (1993). EPA attempts to make completeness determinations within 60 days of receiving a submission. However, a submittal is deemed complete by operation of law if a completeness determination is not made by EPA six months after receipt of the submission.

The State of Arizona originally submitted the implementation plan revision to EPA on November 15, 1991. Upon reviewing the plan for completeness, EPA deemed the plan incomplete because the Maricopa Association of Governments (MAG), the lead air quality planning agency for the PPA, did not hold a proper public hearing on the plan. The submittal also did not provide enough evidence to show that the State had the necessary authority to implement the locally adopted measures in the event that local governments did not implement those measures. By letter dated March 4, 1992, EPA informed the State that the submittal was incomplete.

On July 22, 1993, MAG held another hearing to entertain public comment on a revised PM_{10} moderate area SIP revision. Following this public hearing the SIP revision was adopted by the State and submitted to EPA on August 11, 1993. Subsequently, the State revised a portion of the SIP revision based on the adoption of a Maricopa County fugitive dust rule, two Maricopa County reasonably available control technology (RACT) rules, and the subsequent revision of the SIP's demonstration that attainment of the PM_{10} NAAQS by the moderate area attainment date is not practicable. The State held an additional public hearing on February 28, 1994, adopted the revision, and submitted it to EPA on March 3, 1994.

The SIP revision was reviewed by EPA to determine completeness shortly after its submittal, in accordance with the completeness criteria set out at 40 CFR Part 51, Appendix V (1993). EPA concluded that the State had addressed and corrected the two deficiencies which were the bases for the incompleteness finding of March 4, 1992. MAG had held a public hearing on the entire SIP revision, and the State had passed new legislation, Arizona State Senate Bill 1430, which gave the State the authority to take legal action against a local government if the State determines that the local government is not carrying out its responsibility to implement and enforce the control measures contained in the SIP revision. See Appendix B, exhibit 13 of the SIP revision. By letter dated September 7, 1993, EPA informed the Governor that the submittal was complete.

In today's action EPA proposes to approve Arizona's PM_{10} SIP submittal for the PPA and invites public comment on the action. As explained more fully below, EPA is also taking comment on the appropriate method of reclassifying the PPA as a serious PM_{10} nonattainment area.

2. Accurate Emissions Inventory

Section 172(c)(3) of the Act requires that nonattainment plan provisions include a comprehensive, accurate, current inventory of actual emissions from all sources of relevant pollutants in the nonattainment area. Because such inventories are necessary to an area's attainment demonstration (or demonstration that the area cannot practicably attain), the emissions inventories must be received with the submission. See 57 FR 13539.

Arizona submitted an emissions inventory for base year 1989. The base year inventory identifies re-entrained dust from paved roads and exhaust from gasoline and diesel powered vehicles as the primary causes of nonattainment, contributing over 80 percent of the total emissions during the time that the violations were recorded. Additional contributing sources include emissions from unpaved roads (1.5 percent), fireplaces and wood stoves (5 percent), non-road mobile sources (2.5 percent), construction, demolition and farming activities (1.5 percent) and numerous other combustion and geologic sources (9.5 percent).[5]

EPA is proposing to approve the emissions inventory because it generally appears to be accurate and comprehensive, and provides a sufficient basis for determining the adequacy of the plan revision's air quality analysis consistent with the requirements of sections 172(c)(3) and 110(a)(2)(K) of the Clean Air Act.[6] For further details see the Technical Support Document (TSD) that is contained in the docket for today's proposed action.

3. RACM (Including RACT)

As noted, the initial moderate PM_{10} nonattainment areas must submit provisions to assure that RACM (including RACT) are implemented no later than December 10, 1993. See sections 172(c)(1) and 189(a)(1)(C). EPA's General Preamble for the Implementation of Title I of the Clean Air Act Amendments contains a detailed discussion of EPA's interpretation of the RACM (including RACT) requirement. See 57 FR 13540–45 and 13560–61.

As stated in EPA's General Preamble the suggested starting point for determining RACM for a particular area is to list all of the RACM measures for which EPA has issued guidance under section 190 of the Act. If a state receives substantive public comment demonstrating that additional measures may be reasonably available, those measures should then be added to the original list. Chapter 5 of the SIP revision lists the 21 EPA RACM provided in a supplement to the General Preamble, 57 FR 18070, Appendices C1–C3 (April 28, 1992).[7] In addition to the

[3] One of the rules proposed for approval in today's notice contains a provision that may affect its enforceability. Because Maricopa County has agreed to expedite a revision and resubmission of this rule, EPA's proposed full approval of this rule is based on the assumption that this will occur prior to final action on this rulemaking. In the alternative, should a revision and resubmission not occur prior to EPA's final action, EPA proposes to approve all provisions of the rule, with the exception of the section affecting its enforceability. This issue is discussed in the section of this notice entitled "Enforceability Issues."

[4] Also section 172(c)(7) of the Act requires that plan provisions for nonattainment areas meet the applicable provisions of section 110(a)(2).

[5] This category includes: (1) combustion of fuels for industrial, commercial, residential, and agricultural purposes and power plants; (2) waste burning; and (3) geological emissions from metallurgical, mineral and mining industries.

[6] EPA issued guidance on PM_{10} emissions inventories prior to the enactment of the 1990 Clean Air Act Amendments in the form of the 1987 *PM–10 SIP Development Guideline*. Pursuant to section 193 of the Amendments, the guidance provided in this document, as well as all other pre-Amendment guidance cited in this notice, remains in effect.

[7] EPA's list of RACM for PM–10 was initially included in the memorandum from John Calcagni, Director, Air Quality Management Division, to Regional Air Division Directors, "PM–10 Moderate Area SIP Guidance: Final Staff Work Product",

Continued

EPA RACM, the SIP revision includes 58 measures developed by MAG for the 1988 MAG particulate plan (MAG measures). These MAG measures include those designed specifically to reduce particulate matter emissions, as well as those developed for MAG's 1987 carbon monoxide SIP revision that could also reduce particulate matter emissions. Finally, as a result of the public hearing, 82 additional measures were added to the initial list of possible RACM, for a total of 161 measures.

At this point, those measures for sources which do not contribute significantly to emissions from the area can be excluded from further consideration as not being reasonable. Three of the public comment measures were excluded as having a minimal impact on PM_{10} emissions and are identified in Appendix B, Exhibits 5 and 12 of the SIP revision. In addition, six of the public comment measures were excluded because they relate to sources not present in the PPA due to its geographic or climatic conditions. These measures are identified in Appendix B, Exhibits 4 and 5 of the SIP revision.

The next test for reasonableness is the technological and economic feasibility of implementing a measure in a particular area. Two of the public comment measures were deemed to be technologically infeasible in the PPA: congestion pricing and road pricing. According to information contained in Appendix B, Exhibit 4, this conclusion is based on a report developed by an EPA contractor entitled "Improved Air Quality in Maricopa and Pima Counties—The Applicability of Transportation Measures" (Cambridge Systematics, Inc., November 1986). This report is included in the docket accompanying this proposed rulemaking. Another measure deemed infeasible for the PPA was to implement tradable travel permits. According to information in Appendix B, Exhibit 5, this measure is considered a long term option due to the magnitude of change required for implementation.

Two measures were determined to be economically infeasible. Non-employee parking pricing was considered to be infeasible because businesses impacted by such costs would be put at a major disadvantage in competing with others not affected. See Appendix B, Exhibit 12. Electrification of railroads is not feasible due to the excessive cost of approximately $1.5 million per mile. See Appendix B, Exhibit 5.

Four of the public comment measures affect emissions associated with aircraft and airports and are already being implemented by Sky Harbor Airport in Phoenix and the Federal Aviation Administration. These measures are identified in Appendix B, Exhibits 4 and 12. One measure addresses emission standards for new jet aircraft engines. Adoption of this type of control measure is outside the jurisdiction of the State or local governments and is identified in Appendix B, Exhibit 5. One public comment measure involves the deregulation of private transit. However, according to the SIP revision in Appendix B, Exhibit 5, there are currently no regulations in the PPA that restrict private transit operations.

Of the remaining 62 measures submitted during the public comment period, 53 measures are essentially the same as the initial MAG measures and 9 measures were to be addressed in the State's 1993 SIP revisions for carbon monoxide and ozone.

The revised list of possible RACM consists of 79 measures (21 EPA measures and 58 MAG measures). The Maricopa Association of Governments Air Quality Planning Committee (MAGAQPC) further excluded MAG measure #1 and portions of MAG measure #2 (described on page 6–14 of the SIP revision). These measures address broadening the State vehicle inspection and maintenance program (#1) and controls on diesel vehicles (#2). While MAG retained the portion of MAG measure #2 that addresses the use of number one diesel fuel, the other portions of that measure were excluded from further consideration because they were determined to be economically infeasible. See Appendix B, Exhibit 7.

According to Chapter 6 of the SIP revision, 43 of the MAG measures were specifically adopted for the State's 1987 carbon monoxide (CO) SIP. As mentioned in the emission inventory section of this notice, exhaust from gasoline and diesel vehicles are also significant contributors to the PM_{10} nonattainment problem. The SIP's emission inventory identifies exhaust from gasoline vehicles as contributing about 20 percent of the total annual PM_{10} emissions and exhaust from diesel vehicles as contributing about 16 percent. These CO measures are included in the PM_{10} SIP revision because they could also reduce particulate matter emissions. These measures, identified in Chapter 6 of the SIP revision on pages 6–18 through 6–26, are designed to reduce vehicle exhaust emissions through strengthening the vehicle inspection and maintenance programs, requiring cleaner burning fuels in vehicles, relieving traffic congestion, and reducing vehicle miles traveled (VMT) by providing alternative modes of transportation. Many of the CO measures are transportation control measures (TCMs). In a November 14, 1991 conformity analysis of the MAG Transportation Improvement Plan and Regional Transportation Plan, EPA concluded that TCMs with quantifiable emission reductions were in fact being expeditiously implemented. A copy of this conformity analysis is included in the docket.

Since the CO measures had already been implemented when the PM_{10} SIP revision was being prepared, any reduction benefits associated with them are built into the 1989 baseline PM_{10} emission inventory and the 1994 projected PM_{10} emission inventory. Therefore the State has claimed no additional credit from reductions from these measures.

The exclusion of these CO measures from the list of PM_{10} possible RACM leaves 35 measures to be addressed: 21 EPA measures and 14 MAG measures. However, in reviewing the remaining 14 MAG measures, EPA has determined that nine of these MAG measures are nearly identical to the EPA suggested RACM measures. One of the remaining five MAG measures, use of number one diesel fuel, would reduce particulate emissions because it is a cleaner burning fuel than other types of diesel fuel. However, EPA has addressed this type of measure on a national level in a Federal rulemaking. As of October 1, 1993, EPA implemented a new national program of diesel fuel quality control, requiring refiners to reduce the sulfur content of on-highway diesel fuel. See 55 FR 34120, August 21, 1990. As a result of this program, EPA estimates that total particulate emissions from diesel engines could be reduced up to 90 percent nationwide by 1995. The remaining four MAG measures address fugitive dust sources not specifically addressed by EPA's RACM measures. Local cities and towns in the nonattainment area were encouraged to develop regulations or programs to implement these measures, but no local regulations (i.e. regulations adopted by the cities and towns making up the nonattainment area) were included in the plan submitted to EPA. However, as discussed below, Maricopa County has adopted a countywide fugitive dust rule which EPA believes fully addresses fugitive dust sources in the PPA and incorporates the emission goals of these four remaining MAG measures.

The final list of measures consists of the 21 EPA suggested RACM. The SIP's

April 2, 1991. This memorandum was provided to the State and local air quality planners as guidance in developing the moderate area SIP revisions.

emission inventory identifies the major contributors to the PM_{10} nonattainment problem in the PPA as re-entrained dust on paved roads and other sources of fugitive dust including, but not limited to, construction and demolition activities, farming operations, uncovered haul trucks, and emissions from unpaved roads. These sources constitute over 50 percent of the PM_{10} emissions in the PPA and will be controlled by the implementation of Maricopa County Rule 310 "Open Fugitive Dust Sources". According to the State, implementation of this rule could reduce annual PM_{10} emissions in the urban portion of the PPA by approximately 1,427 to 3,991 tons per year. The low end of this range is based on the assumption that there will be no change in the current level of enforcement staff at the County and in the level of citizen complaint response. The high end assumes that all local governing bodies will cooperate in the enforcement of Rule 310, there will be a significant increase in citizen complaints due to greater public awareness of the requirements and impacts of Rule 310, and that the County will establish a 24 hour hotline to enable citizens to report violations of the rule. Section 189(a)(1)(C) of the Act requires RACM to be implemented by December 10, 1993. Rule 310 was implemented as of December 1, 1993.[8]

The State claims emission reduction credits for some additional measures. Since 1989, Maricopa County has implemented a Trip Reduction Program which attempts to reduce VMT by encouraging the use of carpooling and mass transit. The SIP revision estimates that implementation of this measure throughout the nonattainment area will reduce VMT in 1994 by 0.8 percent or 315 tons per year. The State also claims credit for the use of two methanol buses in the PPA. This measure provides a small but quantifiable reduction in PM_{10} emissions of 0.63 tons per year.

Maricopa County also has an adopted regulation for the control of prescribed burning activities, Rule 314. This rule was already adopted prior to the development of this moderate area PM_{10} SIP so no additional emission reduction credits are associated with it. The emission reductions achieved from this rule are built into the baseline and projected emission inventories submitted with the SIP revision. Rule 314 applies throughout the nonattainment area.

The General Preamble states that at a minimum all major stationary sources of PM_{10} in a nonattainment area be required to apply RACT. The State should then apply RACT to other PM_{10} sources in the area, taking into account the attainment needs of the area and the feasibility of such controls. Maricopa County has adopted regulations requiring RACT for stationary sources of PM_{10}: Rule 311, "Particulate Matter from Process Industries", and Rule 316, "Nonmetallic Mineral Mining and Processing". These RACT rules apply throughout the nonattainment area and to all affected sources regardless of their size. The SIP does not claim emission reduction credits for Rule 311, since this was an existing regulation which the County revised in order to make it more enforceable. Rule 316 is a new regulation, but the County has stated that emission reduction credits would be difficult to quantify. The sources to which this rule will apply contribute only 1 percent to the total annual emission inventory.

A more detailed discussion of the control strategy in the SIP revision can be found in the Technical Support Document (TSD).

EPA believes that the State has provided a reasoned justification for eliminating measures from its initial list of possible RACM. The remaining measures are legally enforceable. In addition, the State has provided for the application of RACT to existing sources and new sources of PM_{10}. Therefore, EPA has concluded that the regulations adopted for the State's moderate area PM_{10} SIP revision represent RACM (including RACT) as required by sections 189(a)(1)(C) and 172(c) of the Act. By this notice, EPA is proposing to approve the control strategy.

4. Demonstration

As noted, the initial moderate PM_{10} nonattainment areas must submit a demonstration (including air quality modeling) showing that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994. Alternatively, the state must show that attainment by December 31, 1994 is impracticable. See section 189(a)(1)(B) of the Act.

In order for a state to properly demonstrate attainment of the NAAQS, the SIP control strategy must provide for attainment of each primary ambient air quality standard. There are two primary air quality standards for PM_{10}, a 24 hour standard (150 µg/m3) and an annual standard (50 µg/m3). The 24 hour standard is attained when the expected number of days per calendar year with a 24-hour average concentration above 150 µg/m3 is equal to or less than one. The annual standard is attained when the expected annual arithmetic mean concentration is less than or equal to 50 µg/m3 (lid). See 40 CFR 50.6.

Arizona used receptor modeling coupled with a proportional rollback model for its PPA air quality analysis. This analysis indicated that neither the 24 hour nor the annual standard for PM_{10} can be attained by December 31, 1994. The SIP revision indicates that a 27.2 percent reduction in PM_{10} emissions would be necessary in order to attain the annual PM_{10} NAAQS in 1994. The State's analysis of the adopted control measures in the plan claims that the measures provide for a reduction of 11.1 percent. It should be noted however, that EPA, using the information contained in the plan, calculates that a reduction target of 22.8 percent is needed to attain the annual NAAQS and EPA's analysis of the control measures results in a reduction of 18.8 percent. This difference in the control strategy's effectiveness is due to the fact that the State's analysis made an assumption that the control strategy would not be applied to the entire nonattainment area. However, Rule 310, the measure from which the greatest reductions in PM_{10} emissions would be realized, clearly applies to the entire PPA. The TSD accompanying this notice provides more detail on EPA's analysis of control measure effectiveness.

Regardless of the difference in EPA's and the State's analysis of the control strategy's effect on the annual standard, the SIP's design value for the 24 hour PM_{10} NAAQS is 242 µg/m3, 61 percent greater than the standard. Therefore even if the control strategy does provide a greater benefit than the State predicted, it still falls far short of meeting the 24 hour NAAQS. The control strategy used to achieve these design concentrations is summarized in the section of this notice entitled "RACM (including RACT)."

By this notice EPA is proposing to approve the State's demonstration that attainment of the PM_{10} NAAQS by December 31, 1994 is impracticable. For a more detailed description of the demonstration of impracticability and the control strategy used, see the TSD accompanying this notice.

5. Reclassification

Since EPA is proposing to approve the control strategy and the State's demonstration that attainment of the PM_{10} NAAQS by December 31, 1994 is impracticable, EPA has the discretion, pursuant to section 188(b)(1) of the Act, to propose to reclassify the PPA as a serious nonattainment area at this time. If the PPA is reclassified under this section of the Act, the State would have four years from the final reclassification

[8] See footnote 3.

to submit a demonstration (including air quality modeling) that the area will attain the PM_{10} NAAQS no later than December 31, 2001. See sections 188(c)(2) and 189(b)(2).

In the alternative, EPA has the option to wait until after the moderate area attainment date, December 31, 1994, and then proceed under section 188(b)(2) of the Act. This provision requires EPA to determine by June 30, 1995 whether the PPA attained the PM_{10} standard by December 31, 1994. If the Agency finds that the PPA is not in attainment after that date, the area is reclassified by operation of law as a serious area. If the PPA is reclassified under the section 188(b)(2) procedure, the State would have to submit the serious area attainment demonstration within 18 months after reclassification. See section 189(b)(2).[9]

EPA believes that there are advantages to pursuing reclassification under section 188(b)(2) and that the circumstances here justify such an approach. Under section 188(b)(1), the State would initially develop its BACM determination in the absence of an attainment demonstration with the potential result that the chosen measures would not ultimately attain the PM_{10} standards by the applicable attainment date. Such a result, however, would not be revealed until several years later, when the air quality modeling analysis is conducted for the attainment demonstration. If, at that point, additional measures are found to be necessary for the area to attain the PM_{10} NAAQS, new measures would have to be developed, adopted and submitted to EPA. In contrast, under section 188(b)(2), all the required elements of the serious area plan must be submitted to EPA within 18 months of reclassification. Thus, under section 188(b)(2), the process of attaining the PM_{10} standards is expedited.

Furthermore, it should be noted that the State originally concluded that the PPA could not practicably attain the PM_{10} NAAQS by December 31, 1994 when it developed its November 1991 plan submission. Despite procedural delays and plan updates culminating in the 1993 and 1994 SIP submittals, this conclusion has not changed. Therefore, the State has been on notice for almost three years that reclassification was likely. Moreover, the moderate attainment date is now only several months away. EPA's current view is that under these circumstances, a delay of four years for the submission of a serious area attainment demonstration is unwarranted. Rather, the Agency believes that it is more appropriate to accelerate, to the maximum extent possible, the submission of a complete plan to attain the PM_{10} NAAQS.

For the reasons set forth above, it is EPA's current intention to proceed under section 188(b)(2) as soon after December 31, 1994 as the Agency has the air quality data and other relevant information to determine whether the PPA has attained the NAAQS. In spite of the above analysis, however, EPA recognizes that there may be valid reasons to be advanced in favor of EPA's invoking its discretionary authority to reclassify the PPA at this time pursuant to section 188(b)(1). As a result, EPA is in this notice proposing to reclassify the PPA as a serious nonattainment area. However, in the absence of a compelling justification from the public during the comment period, EPA does not intend to take final action on this proposal.[10] If EPA does not take final action on this proposal, the Agency will proceed under section 188(b)(2) after December 31, 1994.

6. PM_{10} Precursors

The control requirements which are applicable to major stationary sources of PM_{10} also apply to major stationary sources of PM_{10} precursors, unless EPA determines such sources do not contribute significantly to PM_{10} levels in excess of the NAAQS in that area. See section 189(e) of the Act. An analysis of air quality and emissions data for the PPA nonattainment area indicates that exceedances of the NAAQS are attributable chiefly to direct particulate matter emissions from re-entrained dust from paved roads and exhaust from gasoline and diesel powered vehicles. Sources of particulate matter precursor emissions of ammonium sulfate and ammonium nitrate contribute only 3 percent to the total annual emissions of PM_{10}. Consequently, EPA is proposing to find that major sources of precursors of PM_{10} do not contribute significantly to PM_{10} levels in excess of the NAAQS. The consequence of this finding is to exclude these sources from the applicability of PM_{10} moderate nonattainment area control requirements. Further discussion of the analyses and supporting rationale for EPA's finding are contained in the TSD accompanying this notice. Note that while EPA is making a general finding for this area, today's finding is based on the current character of the area including, for example, the existing mix of sources in the area. It is possible, therefore, that future growth could change the significance of precursors in the area. EPA intends to issue future guidance addressing such potential changes in the significance of precursor emissions in an area. It should be noted, however, that if the PPA is reclassified as a serious PM_{10} nonattainment area, the State will be required to determine in its BACM analysis whether PM_{10} precursors contribute significantly[11] to ambient concentrations of PM_{10}.

7. Enforceability Issues

The particular control measures contained in the SIP revision for the PPA are addressed above under the section entitled "RACM (including RACT)." These control measures apply to the types of PM_{10} emission sources identified in that discussion including, for example, dust on paved roadways, construction and demolition activities, unpaved roads, farming operations, uncovered haul trucks, prescribed burning, process industries, and nonmetallic mineral mining and processing.

All measures and other elements in the SIP must be enforceable by EPA and the State. See sections 172(c)(6), 110(a)(2)(A) and 57 FR 13556. The EPA criteria addressing the enforceability of SIPs and SIP revisions are stated in a September 23, 1987 memorandum (with attachments) from J. Craig Potter, Assistant Administrator for Air and Radiation, et al. See 57 FR 13541. The TSD for this notice contains detailed information on enforceability requirements including applicability, enforceable emission limitations, the source types subject to the rules, test methods and compliance schedules as appropriate, averaging times for compliance test methods, and reporting and recordkeeping requirements. Only enforceability issues meriting particular attention are addressed in this notice.

[9] It should be noted that when a moderate area is reclassified under either section 188(b)(1) or (b)(2), the State is required, within 18 months after reclassification, to submit provisions to assure that best available control measures (BACM) for the control of PM_{10} shall be implemented no later than four years after reclassification. For additional specific requirements relating to all serious PM_{10} areas, and to those serious areas seeking an extension of the attainment date, see section 189 of the Act.

[10] If EPA does take final action on this proposal, the change in classification will appear in 40 CFR 81.303.

[11] A source category in a serious PM_{10} nonattainment area will be presumed to be significant if its contribution to a violation of the 24 hour PM_{10} NAAQS exceeds 5 $\mu g/m^3$ or if its contribution to a violation of the annual NAAQS exceeds 1 $\mu g/m^3$ (Memorandum from Joseph W. Paisie, Chief, SO_2/Particulate Matters Programs Branch, "PM–10 Serious Area Guidance: Final Staff Work Product" (September 24, 1993). For the moderate area RACM analysis, there is no presumptive level of significance; the determination is made on a case by case basis. See 57 FR 13539.

Rule 310 contains a section which EPA believes threatens the enforceability of the rule. Section 221 of the rule lists the reasonably available control measures that a source can use in reducing PM_{10} emissions. These measures are all consistent with EPA recommended measures with the exception of section 221.9, which authorizes "Other means approved by the Control Officer." This provision of the rule enables the Control Officer to approve alternative measures that may not meet the enforceability and other approvability criteria established by EPA.

Following discussions with EPA on this issue, Maricopa County has agreed to revise the rule to delete section 221.9. However, the County must go through another public notice and comment period before the County Board of Supervisors will approve this change. The County intends to expedite its administrative procedures so that the rule can be revised and resubmitted to EPA prior to final action on this SIP revision. See letter, with attached draft rule revision and notice of public hearing, dated June 23, 1994 from Karen J. Heidel, Maricopa County Environmental Services Department to Dave Calkins, EPA. In today's action, EPA is proposing to approve Maricopa County Rule 310 on the assumption that it will be resubmitted with the noted change prior to final action on this rulemaking. In the alternative, if the County does not revise and resubmit the rule prior to EPA's final action, EPA proposes to approve all provisions of Maricopa County Rule 310 with the exception of section 221.9.

Compliance for certain measures, such as Rules 310, 311, 314, and 316 must be determined in accordance with appropriate test methods. The SIP revision provides that compliance with Rule 310 be determined in accordance with EPA reference method 9 [12]. Rule 314 requires persons to obtain a permit from the Control Officer in order to conduct prescribed burning activities. Certain types of burning, as discussed in the TSD, must not exceed the County's visible emission standard of 20 percent opacity. Rule 314 specifies that compliance with the opacity standard will be determined in accordance with reference method 9 contained in the Arizona Testing manual. The State's method 9 is the same as EPA's method 9. Compliance with Rule 311 shall be determined in accordance with EPA reference methods 1, 2, 3, 4, 5, and 9. Compliance with Rule 316 shall also be determined in accordance with EPA reference methods 1 through 5 and 9. EPA believes these test methods are appropriate for determining compliance for the following reasons:

Rule 310, 314

As mentioned above, compliance with these rules is determined using EPA reference method 9. While this test method is designed to determine opacity of smoke plumes from stationary sources, EPA believes that it is acceptable for determining compliance with these types of dust generating activities. While there is not a smokestack from which a plume emanates, EPA has not provided a more appropriate test method for determining compliance for sources such as these. Discussions with the Maricopa County Division of Air Pollution Control have indicated that the County enforcement personnel believe a more appropriate method needs to be devised and using method 9 on area source emissions can be difficult. However, they believe that method 9 can be reasonably utilized to determine the severity of visible emissions from the dust producing sources to which the rule applies. Since EPA cannot suggest a reasonable alternative test method that would provide better results, EPA proposes to approve this method of determining compliance.

Rule 311, Rule 316

As mentioned above, Rules 311 and 316 utilize test methods 1 through 5 and 9 to gauge compliance. These are all appropriate test methods to determine emissions from stationary sources. See 40 CFR Part 60, Appendix A.

In addition to meeting the enforceability requirements of the Act and EPA guidance, nonattainment area plan provisions must also contain a program that provides for enforcement of the control measures and other elements in the SIP. See sections 110(a)(2)(C) and 172(c)(7). Moreover, where the State relies on a local or regional government agency for implementing any plan provision, the State has the responsibility for ensuring adequate implementation of that provision. See section 110(a)(2)(E)(iii).

The State of Arizona has a program that will ensure that the measures contained in the SIP revision are adequately enforced. Primary enforcement of the RACM and RACT rules will be under the jurisdiction of the Maricopa County Division of Air Pollution Control. Regarding the County's enforcement program, see "MAG 1991 Particulate Plan for PM_{10} for the Maricopa County Area and 1993 Revisions—Revised Chapter 9 and Maricopa County Rules 310, 311 & 316, Responsiveness Summary," ADEQ.

Under section 110(a)(2)(E)(iii) of the Act, the State must provide necessary assurances that the State has responsibility for ensuring adequate implementation of these plan provisions. The State has the authority to take legal action against the County if the State determines that the County is not carrying out its enforcement responsibilities. See Appendix B, Exhibit 13 of the SIP revision, Arizona State Senate Bill 1430.

III. Implications of Today's Action

EPA is proposing to approve the moderate nonattainment area PM_{10} plan revision submitted to EPA for the Maricopa County Urban Planning Area on August 11, 1993 and amended on March 3, 1994. Among other things, the State of Arizona has demonstrated that the PPA cannot practicably attain the PM_{10} NAAQS by December 31, 1994. EPA is therefore proposing to reclassify the PPA as a serious nonattainment area at this time. However, EPA currently believes that the alternative approach authorized by the Clean Air Act of evaluating the area's attainment status after December 31, 1994 is a more appropriate approach. Therefore, in the absence of compelling countervailing arguments from the public, EPA does not intend to take final action on the reclassification proposal in this notice.

As noted, additional submittals for the initial moderate PM_{10} nonattainment areas were due at later dates. EPA will determine the adequacy of any such submittal as appropriate.

IV. Request for Public Comments

EPA is requesting comments on all aspects of today's proposal. As indicated at the outset of this notice, EPA will consider any comments received by (30 days from date of publication).

V. Executive Order 12866

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989, (54 FR 2214–2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

[12] Compliance with Rule 310 is determined in accordance with EPA Method 9, except that opacity observations for intermittent visible emissions shall require 12 rather than 24 consecutive readings at 15 second intervals for the averaging time.

VI. Regulatory Flexibility

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. sections 7401–7671q.

Dated: July 11, 1994.

Felicia Marcus,

Regional Administrator.

[FR Doc. 94–18334 Filed 7–27–94; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[OAQPS # CA 37–10–6201; FRL–5021–7]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: EPA is proposing to approve revisions to the California State Implementation Plan (SIP) for ozone. These revisions concern the control of oxides of nitrogen (NO_X) from boilers, steam generators, process heaters, and oilfield drilling operations. The intended effect of proposing approval of these rules is to regulate emissions of oxides of nitrogen (NO_X) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA's final action on this notice of proposed rulemaking will incorporate these rules into the federally approved SIP. EPA has evaluated these rules and is proposing to approve them under provisions of the CAA regarding EPA actions on SIP submittals, SIPs for national primary and secondary ambient air quality standards, and plan requirements for nonattainment areas.

DATES: Comments on this proposed action must be received in writing on or before August 29, 1994.

ADDRESSES: Comments may be mailed to: Daniel A. Meer, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105. Please refer to document number CA 37–10–6201 in all correspondence.

Copies of the rules and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rules are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95814.

Ventura County Air Pollution Control District, 800 South Victoria Avenue, Ventura, CA 93009.

FOR FURTHER INFORMATION CONTACT: Duane F. James, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1191.

SUPPLEMENTARY INFORMATION:

Applicability

The rules being proposed for approval into the California SIP include: Ventura County Air Pollution Control District's (VCAPCD) Rule 74.15, "Boilers, Steam Generators and Process Heaters," and Rule 74.16, "Oilfield Drilling Operations." These rules were submitted by the California Air Resources Board (ARB) to EPA on April 5, 1991 (Rule 74.16) and June 19, 1992 (Rule 74.15).

Background

On November 15, 1990, the Clean Air Act Amendments of 1990 (CAA) were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. The air quality planning requirements for the reduction of NO_X emissions through reasonably available control technology (RACT) are set out in section 182(f) of the CAA. On November 25, 1992, EPA published a NPRM entitled "State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule," (the NO_X Supplement) which describes the requirements of section 182(f). The November 25, 1992, notice should be referred to for further information on the NO_X requirements and is incorporated into this proposal by reference.

Section 182(f) of the Clean Air Act requires States to apply the same requirements to major stationary sources of NO_X ("major" as defined in section 302 and section 182 (c), (d), and (e)) as are applied to major stationary sources of volatile organic compounds (VOCs) in moderate or above ozone nonattainment areas. The Ventura County Area is classified as severe;[1] therefore this area was subject to the RACT requirements of section 182(b)(2), cited above, including the November 15, 1992 deadline.

Section 182(b)(2) requires submittal of RACT rules for major stationary sources of VOC emissions (not covered by a pre-enactment control technologies guidelines (CTG) document or a post-enactment CTG document) by November 15, 1992. There were no NO_X CTGs issued before enactment and EPA has not issued a CTG document for any NO_X sources since enactment of the CAA. The RACT rules covering NO_X sources and submitted as SIP revisions are expected to require final installation of the actual NO_X controls by May 31, 1995, for those sources where installation by that date is practicable.

The State of California submitted the rules being acted on in this document on April 5, 1991, and June 19, 1992. This document addresses EPA's proposed action for VCAPCD's Rule 74.15, "Boilers, Steam Generators and Process Heaters," and Rule 74.16, "Oilfield Drilling Operations." VCAPCD adopted Rule 74.16 on January 8, 1991, and Rule 74.15 on December 3, 1991. These submitted rules were found to be complete on May 21, 1991 (Rule 74.16) and August 27, 1992 (Rule 74.15) pursuant to EPA's completeness criteria that are set forth in 40 CFR Part 51,

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[1] The Ventura County Area retained its designation of nonattainment and was classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 55 FR 56694 (November 6, 1991).

Appendix V[2], and are being proposed for approval into the SIP.

NO_X emissions contribute to the production of ground level ozone and smog. The rules were adopted as part of VCAPCD's efforts to achieve the National Ambient Air Quality Standards (NAAQS) for ozone and in response to the CAA requirements cited above. The following is EPA's evaluation and proposed action for these rules.

EPA Evaluation and Proposed Action

In determining the approvability of a NO_X rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110, and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for this action, appears in various EPA policy guidance documents.[3] Among these provisions is the requirement that a NO_X rule must, at a minimum, provide for the implementation of RACT for stationary sources of NO_X emissions.

For the purposes of assisting state and local agencies in developing NO_X RACT rules, EPA prepared the NO_X Supplement to the General Preamble, cited above (57 FR 55620). In the NO_X Supplement, EPA provides guidance on how RACT will be determined for major stationary sources of NO_X emissions. While most of the guidance issued by EPA on what constitutes RACT for stationary sources has been directed towards application for VOC sources, much of the guidance is also applicable to RACT for stationary sources of NO_X (see section 4.5 of the NO_X Supplement). In addition, pursuant to section 183(c), EPA is issuing alternative control techniques documents (ACTs), that identify alternative controls for all categories of stationary sources of NO_X. The ACT documents will provide information on control technology for stationary sources that emit or have the potential to emit 25 tons per year or more of NO_X. However, the ACTs will not establish a presumptive norm for what is considered RACT for stationary sources of NO_X. In general, the guidance documents cited above, as well as other relevant and applicable guidance documents, have been set forth to ensure that submitted NO_X RACT rules meet federal RACT requirements and are fully enforceable and strengthen or maintain the SIP.

Rule 74.15 limits the discharge of NO_X from boilers, steam generators, and process heaters to 40 parts per million volume (ppmv) or 0.048 pounds per million Btu (lb/MMBtu). Rule 74.15 satisfies all the requirements of RACT for California with the added stringency of a lower emission limit. The rule's compliance date of March 2, 1992, satisfies the CAA's NO_X RACT implementation date requirement of May 31, 1995 (§ 182(b)(2)). The District expects this rule to provide a 50 to 60% reduction in NO_X emissions for this source category. This reduction corresponds to 1.34 tons per day based on the District's inventory.

Rule 74.16 requires all drilling operations to be powered by utility electricity unless, under Section C.1, its installation is not cost effective. The exemption may be granted if a Best Available Control Technology (BACT) evaluation shows that the cost of control exceeds the BACT guideline cost. The costs used in the analysis are limited to the costs of installing sufficient and compatible electric capacity to power the drill rig. For drilling operations claiming an exemption from this requirement, the emissions of NO_X from diesel-powered engines shall not exceed 515 ppmv or 6.9 grams per brake horsepower-hour (g/bhp-hr). Compliance must be demonstrated annually by source testing. Section C.2 also grants a limited exemption for shallow drilling projects which use smaller rigs with engines that cannot meet the emission limit. This exemption applies only if the Section C.1 cost effectiveness exemption also applies, and, in any event, expires on June 1, 1995, when manufacturer certified low NO_X engines are expected to be available. A more detailed discussion of the sources controlled, the controls required, and the justification for why these controls represent RACT can be found in the Technical Support Documents (TSDs) for Rules 74.15 and 74.16, date November 19, 1993.

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations and EPA policy. Therefore, VCAPCD's Rule 74.15, "Boilers, Steam Generators and Process Heaters," and Rule 74.16, "Oilfield Drilling Operations," are being proposed for approval under section 110(k)(3) of the CAA as meeting the requirements of section 110(a), section 182(b)(2), section 182(f) and the NO_X Supplement to the General Preamble.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.[4]

Regulatory Flexibility

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

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

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro,

[2] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

[3] Among other things, the pre-amendment guidance consists of those portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988).

[4] Section C.3 of Rule 74.15 references VCAPCD Rule 32. VCAPCD Rule 32 was not submitted to EPA with Rule 74.15 and has not been approved by EPA for inclusion into the SIP. Therefore, this NPRM for Rule 74.15 does not constitute action on or approval of Rule 32 into the SIP.

Both Rules 74.15 and 74.16 reference California Air Resources Board's (CARB) Method 100, which has been cited for certain deficiencies by the Emissions Measurement Branch. CARB has committed to correct these deficiencies in 1994, and final approval of Rules 74.15 and 74.16 is contingent on these corrections.

Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from Executive Order 12866 review.

List of Subjects in 40 CFR Part 52

Environmental Protection Agency, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: July 11, 1994.

Felicia Marcus,

Regional Administrator.

[FR Doc. 94–18326 Filed 7–27–94; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 81

[Region II Docket No. 132, SIPTRAX # NY14–1–6563, FRL–5022–5]

Clean Air Act Promulgation of Reclassification of Ozone Nonattainment Area; States of New Jersey and New York

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to reclassify the Poughkeepsie ozone nonattainment area from a marginal nonattainment area to a moderate nonattainment area. This action also proposes a determination that the Allentown-Bethlehem-Easton, NJ-PA; Albany-Schenectady-Troy, NY; Buffalo-Niagara Falls, NY; Essex County, NY; and, Jefferson County, NY ozone nonattainment areas classified as marginal have attained the ozone air quality standard by the attainment date of November 15, 1993. These actions are based on monitored air quality readings for the national ambient air quality standard for ozone during the years 1991–1993.

DATES: Comments must be received on or before August 29, 1994.

ADDRESSES: All comments should be addressed to: Jeanne M. Fox, Regional Administrator, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, NY, 10278.

Materials relevant to this rulemaking are located in Rm. M–1500, First Floor, Waterside Mall, 401 M Street SW., Washington, DC, and may be inspected at this location during the hours from 8:30 a.m. to 12 noon and from 1:30 p.m. to 3:30 p.m., Monday through Friday, except for legal holidays. A duplicate copy of the materials are located in the EPA Regional Office previously listed.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 26 Federal Plaza, Room 1034A, New York, NY, 10278, (212) 264–2517.

SUPPLEMENTARY INFORMATION:

I. Background

A. Clean Air Act Requirements and EPA Actions Concerning Designation and Classification

Section 107(d)(4) of the Clean Air Act (the Act) required the States and EPA to designate areas as attainment, nonattainment, or unclassifiable for ozone as well as other pollutants for which national ambient air quality standards (NAAQS) have been set. Section 181(a)(1) (table 1) required that ozone nonattainment areas be classified as marginal, moderate, serious, severe, or extreme, depending on their air quality.

In a series of **Federal Register** (FR) notices, EPA completed this designation and classification process. The reader is referred to 56 FR 58694 (Nov. 6, 1991); 57 FR 56762 (Nov. 30, 1992); and, 59 FR 18967 (April 21, 1994), in which, EPA designated and classified all areas of the country for ozone.

Areas designated nonattainment for ozone are required to meet attainment dates specified under the Act. For areas classified marginal through extreme, the attainment dates range from November 15, 1993 through November 15, 2010. A discussion of the attainment dates is found in the General Preamble, 57 FR 13498 (April 16, 1992).

The Allentown-Bethlehem-Easton, NJ-PA; Albany-Schenectady-Troy, NY; Buffalo-Niagara Falls, NY; Essex County, NY; Jefferson County, NY; and, Poughkeepsie, NY areas were designated nonattainment and classified marginal for ozone pursuant to 56 FR 58694 (Nov. 6, 1991); 57 FR 56762 (Nov. 30, 1992); and, 59 FR 18967 (April 21, 1994). By this classification, their attainment date became November 15, 1993.

B. Act Requirements and EPA Actions Concerning Reclassification

Section 181(b)(2)(A) requires the Administrator, shortly after the attainment date, to determine whether ozone nonattainment areas attained the NAAQS. This provision states:

> Within 6 months following the applicable attainment date (including any extension thereof) for an ozone nonattainment area, the Administrator shall determine, based on the area's design value (as of the attainment date), whether the area attained the standard by that date.

This provision further states that, for areas classified as marginal, moderate, or serious, if the Administrator determines that the area did not attain the standard by its attainment date, the area must be reclassified upwards:

> Except for any Severe or Extreme area, any area that the Administrator finds has not attained the standard by that date shall be reclassified by operation of law in accordance with table 1 of subsection (a) of this section to the higher of—
>
> (i) the next higher classification for the area, or
>
> (ii) the classification applicable to the area's design value as determined at the time of the notice required under subparagraph (B).

Finally, subparagraph (B) of Section 182(b)(2) mandates that the Administrator publish a notice in the **Federal Register** identifying each area that failed to attain the NAAQS.

As quoted previously, the determination of attainment status is based on the area's "design value." EPA interprets this provision generally to refer to EPA's methodology for determining attainment status. See generally, H Comm. Rep. 101–490 pp. 197, 232 (1990) (House Energy and Commerce Committee Report).

For ozone, EPA determines attainment status on the basis of the expected number of exceedances of the NAAQS over the three-year period up to, and including, the attainment date. This procedure is described in 57 FR 13506 (April 16, 1992). Under these requirements, for marginal ozone nonattainment areas, EPA considers air quality during the years 1991–1993 to determine whether the area met its attainment date.

II. Summary of Proposed Action

EPA is proposing to determine that the Poughkeepsie nonattainment area failed to demonstrate attainment by its attainment date of November 15, 1993. The Poughkeepsie ozone nonattainment area is comprised of Dutchess County, northern Orange County and Putnam County, NY. As discussed in the accompanying technical support document, this determination is based on air quality monitors revealing exceedances of the ozone NAAQS during 1991–1993. The Poughkeepsie area recorded four exceedances of the NAAQS at a monitoring site in Millbrook, Dutchess County. Therefore, the average expected number of exceedances of the NAAQS over the three-year period is greater than 1.0. The ozone data measured at the Millbrook monitor during the 1991–1993 period indicates a design value of 0.126 parts per million and an average expected

number of exceedances of 1.4. Therefore, the EPA is proposing to reclassify or bump-up the Poughkeepsie ozone nonattainment area from a marginal nonattainment area to a moderate nonattainment area.

It should be noted that on April 21, 1994 in 59 FR 18967, EPA made a final determination that portions of Orange County are included in the Poughkeepsie ozone nonattainment area. An opportunity for public comment on the designation of northern Orange County was given on November 30, 1992 in 57 FR 56762. As a result of this proposal to reclassify the Poughkeepsie nonattainment area, portions of Orange County would become moderate nonattainment along with Dutchess and Putnam Counties. EPA's final decision to include portions of Orange County in the Poughkeepsie ozone nonattainment area is not the subject of this proposal, and EPA is not soliciting comments on its final action in that regard.

This proposed rule fulfills EPA's obligations under Section 181(b)(2) to determine whether the Poughkeepsie area attained the ozone NAAQS by its attainment date, and to publish its determination in the **Federal Register**.

Under Section 182(i) of the Act, reclassifying this area as moderate means that the State will be required to submit State Implementation Plan (SIP) revisions appropriate for a moderate area under Section 182(b). Section 182(i) further provides that the deadlines provided under the requirements of Section 182(b) remain applicable to this area, except that the Administrator (or the Administrator's delegate) "may adjust any applicable deadlines (other than attainment dates) to the extent such adjustment is necessary or appropriate to assure consistency among the required submissions." Accordingly, reclassification to moderate results in an attainment date for this area of November 15, 1996, under Section 181(a)(1) (table 1).

However, EPA is exercising its authority to adjust the SIP submission schedules for the moderate area controls. All SIP submissions required under Section 182(b) must be submitted by November 15, 1995. All required controls and emissions reductions must be implemented or achieved on a schedule that facilitates attainment by November 15, 1996 (the attainment date). This submittal date will assure consistency in SIP submittal schedules and afford the State sufficient time to prepare the submittals, while also assuring that the required controls may be implemented by the attainment date. EPA cautions that because the determination of whether the area attains the NAAQS by the end of 1996 must be based on air quality during the 1994–1996 period, the sooner the moderate-area controls are implemented, the more likely the area will reach attainment by the end of 1996.

In addition, EPA is proposing a determination that the Allentown-Bethlehem-Easton, NJ-PA; Albany-Schenectady-Troy, NY; Buffalo-Niagara Falls, NY; Essex County, NY; and, Jefferson County, NY marginal nonattainment areas succeeded in demonstrating attainment by their attainment date of November 15, 1993. As discussed in the accompanying technical support document, this determination is based on ozone air quality data measured during the 1991–1993 period. These five marginal areas recorded none or only one exceedance of the standard at any one monitoring site in the area. Therefore, the average expected number of exceedances of the NAAQS over the three-year period, for these five areas, is less than 1.0.

Although EPA is proposing to determine that these areas have attained the ozone NAAQS, they will continue to carry the designation of nonattainment and the classification of marginal. They are eligible to be redesignated to attainment under Section 107(d)(3), if the criteria of that provision are met. A redesignation of an area to attainment must be a formal request by a state to EPA and include, among other things, a public hearing, all Section 110 and Part D requirements and a ten year maintenance plan. EPA must review a redesignation request and follow the usual procedures of a completeness review, a notice of proposed rulemaking and a final action after reviewing public comments.

Proposed Action

The EPA is proposing to reclassify the Poughkeepsie ozone nonattainment area from a marginal nonattainment area to a moderate nonattainment area. This action also proposes a determination that the Allentown-Bethlehem-Easton, NJ-PA; Albany-Schenectady-Troy, NY; Buffalo-Niagara Falls, NY; Essex County, NY; and, Jefferson County, NY ozone nonattainment areas classified as marginal have attained the ozone air quality standard by the attainment date of November 15, 1993. These actions are based on measured ozone air quality levels during the years 1991–1993.

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

The Office of Management and Budget has exempted this action from review Under Executive Order 12866.

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

Reclassification of nonattainment areas under Section 181 of the Act do not create any new requirements. Therefore, because the federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on small entities. Moveover, due to the nature of the federal-state relationship under the Clean Air Act, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v *US EPA*, 427 US 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Authority: 42 U.S.C 7401–7671q.

Dated: July 14, 1994.

Carol M. Browner,

Administrator.

[FR Doc. 94–18451 Filed 7–27–94; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

46 CFR Parts 502, 503, 510, 514, 540, and 583

[Docket No. 94–14]

Update of Existing Filing and Service Fees

AGENCY: Federal Maritime Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Maritime Commission ("Commission") proposes to revise its existing fees for filing petitions, complaints, and special

docket applications; various public information services, such as record searches, document copying, and admissions to practice; filing freight forwarder applications; various ATFI-related services; filing applications by cruise operators for performance and casualty certificates; and providing NVOCC listings. This proposal will update existing fees to reflect current costs to the Commission.

DATES: Comments due September 12, 1994.

ADDRESSES: Comments (original and fifteen copies) to: Joseph C. Polking, Secretary, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573–0001.

FOR FURTHER INFORMATION CONTACT: Jeremiah D. Hospital or George S. Smolik, Bureau of Trade Monitoring and Analysis, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573–001, (202) 523–5790.

SUPPLEMENTARY INFORMATION: The Commission is authorized under the Independent Offices Appropriation Act ("IOAA"), 31 U.S.C. 9701, to establish fees for services and benefits that it provides to specific recipients. The IOAA provides:

(a) . . . that each service or thing of value provided by an agency. . . . to a person . . . be self-sustaining to the extent possible.
(b) . . . each charge shall be—
(1) fair; and
(2) based on—
(A) the costs to the Government;
(B) the value of the service or thing to the recipient;
(C) public policy or interest served; and
(D) other relevant facts.

31 U.S.C. 9701.

The primary guidance for implementation of IOAA is Office of Management and Budget ("OMB") Circular A–25, as revised July 8, 1993. OMB Circular A–25 requires that a reasonable charge be made to each recipient for a measurable unit or amount of Government service from which the recipient derives a benefit, in order that the Government recover the full cost of rendering that service.

OMB Circular A–25 further provides that costs be determined or estimated from the best available records in the agency, and that cost computations shall cover the direct and indirect costs to the Government of carrying out the activity, including but not limited to:

(a) Direct and indirect personnel costs, including salaries and fringe benefits such as medical insurance and retirement. . . .;
(b) Physical overhead, consulting, and other indirect costs including material and supply costs, utilities, insurance, travel and rent. . . .;
(c) The management and supervisory costs.
(d) The costs of enforcement, collection, research, establishment of standards, and regulations, including any required environmental impact statements.

OMB Circular A–25, paragraphs 6 d. (a), (b), (c), and (d). OMB Circular A–25 also calls for a periodic reassessment of costs, with related adjustment of fees, if necessary, and the establishment of new fees where none exists.[1]

The Commission's current filing and service fees have been in effect since 1983. The fees established at that time are no longer representative of the Commission's actual costs for providing such services. The Commission, accordingly, proposes to update its fees to reflect current costs to the Commission.

The Commission has reviewed its current fees and developed data on the time and cost involved in providing particular services to arrive at the updated direct labor costs for those services. The direct labor costs included clerical, professional, supervisory, and executive time expended on an activity, plus a check processing cost of $1.00. Indirect costs (overhead and other assignable costs) were added to direct labor costs to arrive at fully distributed costs for providing each service. The indirect costs include Government overhead costs, which are fringe benefits and other wage-related Government contributions contained in OMB Circular A–76;[2] Commission general and administrative expenses;[3] and office general and administrative overhead expenses.[4] The sum of these indirect cost components gives an indirect cost factor that is added to the direct labor costs of an activity to arrive at the fully distributed cost. Appendix A is a detailed explanation of how the indirect cost factor was computed.

All current fees, except as noted, are being revised to reflect the higher costs to the Commission in providing its services. A summary schedule of revised fees is provided in Appendix B. A detailed summary of the data used to arrive at the proposed fees is available from the Secretary of the Commission upon written request.

Proposed Fees

Part 502 Fees

The Commission assesses a number of fees under its Rules of Practice and Procedure codified at 46 CFR Part 502. The fees contained in Part 502 are being revised to reflect the current cost to the Commission of providing particular services. General petitions and petitions for declaratory orders filed with the Commission are currently assessed a filing fee of $50. The Commission proposes to raise this amount to $162.[5] The formal complaint filing fee is increased to $166 from $50. The fee for filing special docket applications is increased to $86 from $25. The filing fee for informal complaints is increased to $68 from $25. Persons using the Commission's conciliation services will be assessed a $61 fee, up from $25.

Part 503 Fees

The Commission's rules on public information, 46 CFR Part 503, contain fees to be charged for certain services provided to the public. These fees also are being updated to reflect the current cost to the Commission. Record search services performed by Commission staff will be increased from $11 to $15 per hour for clerical staff, and from $23 to $30 per hour for professional staff; the minimum charge for a record search will increase from $11 to $15. The charge for reviewing documents to determine whether they are exempt from disclosure under the Freedom of Information Act is being increased to $63 per hour from $38. While the per-page copying charge of five cents per page (one side) is not being revised, the service charge for copying performed by Commission staff will increase to $15 per hour. The minimum service fee for copying remains unchanged at $3.50. The fee for validating and certifying documents is increased to $70 per certificate. Annual subscription services for Commission publications will be increased as follows: $278 for initial and final orders in all formal proceedings, and $223 for final orders only in all formal proceedings. Subscription fees for copies of Commission rules and regulations are increased as follows: $83 for initial set of the rules and regulations, and $7 for an annual

[1] In a companion rulemaking proceeding Docket No. 94–15, *New Filing Fees*, the Commission is proposing implementing new fees for tariff and agreement filings; applications for filing alternate data, for extension of time to file, and for waiver of detailed filing of financial data in the domestic offshore trades; and the filing of general rate increases in the domestic offshore trades.

[2] These include leave and holidays, retirement, workmen's compensation awards, health and life insurance, and Medicare. These are expressed as a percentage of basic pay.

[3] These costs include all salaries and overhead, such as rent, utilities, supplies, and equipment, allocated to the Offices of the Commissioners, Managing Director, General Counsel, and the Bureau of Administration. The percentage of these costs to the total agency budget is allocated across all Commission programs.

[4] These expenses are limited to the overhead expenses allocated to those bureaus and offices involved in fee-generating activities, and is derived from dividing allocated overhead expenses by the total funding for these fee-generating offices.

[5] All proposed revised fees have been rounded down to the nearest dollar.

subscription for all amendments to existing rules and new rules issued during the year. The latter fee is a decrease from the current fee of $8.25. The fee to have one's name placed on a mailing list of a specific docket to receive all issuances pertaining to the proceeding is increased to $7 per proceeding, up from $3. The fee for copies of the Commission Rules of Practice and Procedure will be $9 and an annual subscription to amendments will be $7; these are increased from $4.25 and $4, respectively. The fee for applications for admission to practice before the Commission for persons not attorneys at law will increase from $13 to $77.

Under its rules regarding access to records of personal information, the Commission assesses fees for copying, certifying, and validating documents. The Commission is reducing its per-page copying charge under these rules from 30 cents a page to 5 cents a page; this is consistent with the Commission's general copying charge. The Commission is increasing its fee for certification and validation of documents under these rules to $70 per document; this is also consistent with similar fees assessed elsewhere.

The Commission is also clarifying and updating its policy contained in 46 CFR Part 503 regarding the waiver or reduction of service and filing fees. It is the general policy of the Commission not to waive or reduce service or filing fees. The Commission will, however, entertain requests for waiving or reducing fees based on public interest grounds or undue hardship.

In a somewhat related matter, the Commission no longer publishes a guide on the shipping of automobiles, entitled *Automobile Manufacturers Measurements*. Therefore, the Commission proposes to delete the obsolete reference to this guide in 46 CFR Part 503.

Freight Forwarder Fees

Part 510 of the Commission's regulations, 46 CFR Part 510, contains fees associated with the filing of applications for ocean freight forwarder licenses. The Commission proposes to revise its fees under these regulations as follows: increase the license application fee to $687 from $350, increase the fee for reissuance of a license or status change application to $365 from $100, and increase the fee for supplemental investigations of pending license applications to $213 from $100.

ATFI Fees

The Commission's regulations on tariff filing, 46 CFR Part 514,[6] contain fees for filing applications requesting special permission to depart from established rules, and fees related to the Commission's Automated Tariff Filing and Information System ("ATFI"). The application fee for special permission requests will increase to $146 from $100. ATFI-related fees will go up as follows:

	Dollars
ATFI Registration	$162
Registration Changes	136
Certification of Software Functionality	359
Initial Set of ATFI Tapes	336
Daily Update of ATFI Tapes	61
Weekly Update of ATFI Tapes	86
Monthly Update of ATFI Tapes	136
Miscellaneous Tapes	61

Updates of ATFI tapes include a set number of tapes; if more tapes are required, the fee will increase by $25 per additional tape. The Commission currently charges the public, under section 502 of Public Law 102–582, 46 U.S.C. 1707a, 46 cents per minute for data retrieval from the ATFI database.[7] The Commission is not proposing any change in this charge at this time. Likewise, the Commission is not proposing any change in fees for ATFI user manuals. The Commission is studying its costs in these areas, and will propose revised fees in the future.

Financial Responsibility Certificate Fees

Under 46 CFR Part 540, Security for the Protection of the Public, passenger vessel operators file applications for certificates to show that they have sufficient coverage to (1) Indemnify passengers for nonperformance of transportation, and (2) meet any liability incurred for death or injury. The Commission proposes to increase the filing fees for these certificates as follows: for certificate of performance, $1,874, and for certificate of casualty, $830.

NVOCC List Fee

The Commission provides, upon request, a listing of tariffed and bonded non-vessel-operating common carriers ("NVOCCs"). This list is used as proof by common carriers that listed NVOCCs are in compliance with the Commission's regulations, i.e., that they are tariffed and bonded. The Commission proposes to increase the charge for providing this list to $122. Those requesting the list can have the information in several forms: hard paper copy, diskette, or tape.

In keeping with OMB guidelines, the Commission intends to update its fees on an annual basis. In updating its fees, the Commission will incorporate changes in the wages and salaries of its employees into direct labor costs associated with its services, and recalculate its indirect costs (overhead) based on current level costs.

The Commission, in its latest amendment to 46 CFR Part 502, omitted a reference to Public Law 88–777 in its Authority statement (58 FR 36848, July 19, 1993). This omission is proposed to be corrected in this document.

The Commission certifies pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that this rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units, and small governmental jurisdictions. The Commission recognizes that these proposed fees may have some impact on the shipping industry, but not of the magnitude that would be contrary to the requirements of the Regulatory Flexibility Act. For the most part, entities impacted by the proposed increases are ocean common carriers, who traditionally have not been viewed as small entities. Fees collected from the general public for Commission information recover the total cost to the Commission for providing specific services. Fees for filing petitions, formal and informal complaints, in the Commission's view, do not impose an undue burden nor have a chilling effect on filers. Furthermore, Commission regulations provide for waiver of fees for those entities that can make the required showing of undue hardship.

This proposed rule does not contain any collection of information requirements as defined by the Paperwork Reduction Act of 1980, as amended. Therefore, OMB review is not required.

List of Subjects

46 CFR Part 502

Administrative practice and procedure, Claims, Equal access to justice, Investigations, Lawyers, and Reporting and recordkeeping requirements.

[6] The Commission is not proposing any changes to Parts 550, Publishing, Filing, and Posting of Tariffs in Domestic Offshore Commerce, and 580, Publishing and Filing Tariffs by Common Carriers in the Foreign Commerce of the United States, because these parts are obsolete, are subsumed in Part 514, and will be removed in the near future.

[7] The Commission's authority to assess an ATFI retrieval fee, under section 502 of Pub. L. 102–582, expires on September 30, 1995.

46 CFR Part 503

Classified information, Freedom of information, Privacy, and Sunshine Act.

46 CFR Part 510

Freight forwarders, Maritime carriers, Reporting and recordkeeping requirements, and Surety bonds.

46 CFR Part 514

Freight, Harbors, Maritime carriers, and Reporting and recordkeeping requirements.

46 CFR Part 540

Insurance, Maritime carriers, Penalties, Reporting and recordkeeping requirements, and Surety bonds.

46 CFR Part 583

Freight, Maritime carriers, reporting and recordkeeping requirements, and Surety bonds.

Pursuant to 5 U.S.C. 553, the Independent Offices Appropriations Act, 31 U.S.C. 9701, and section 17 of the Shipping Act of 1984, 46 U.S.C. app. 1716, the Commission proposes to amend title 46 of the Code of Federal Regulations as follows:

PART 502—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for Part 502 is revised to read as follows:

Authority: 5 U.S.C. 504, 551, 552, 553, 556(c), 559, 561–569, 571–596; 12 U.S.C. 1141j(a); 18 U.S.C. 207; 26 U.S.C. 501(c)(3); 28 U.S.C. 2112(a); 31 U.S.C. 9701; 46 U.S.C. app. 817, 820, 826, 841a, 1114(b), 1705, 1707–1711, 1713–1716; E.O. 11222 of May 8, 1965 (30 FR 6469); 21 U.S.C. 853a; and Pub. L. 88–777 (46 U.S.C. app. 817d, 817e).

Subpart E—Proceedings; Pleadings; Motions; Replies

2. Section 502.62(f) is revised to read as follows:

§ 502.62 Complaints and fee.

* * * * *

(f) The complaint shall be accompanied by remittance of a $166 filing fee.

* * * * *

3. Section 502.68(a)(3) is revised to read as follows:

§ 502.68 Declaratory orders and fee.

(a) * * *

(3) Petitions shall be accompanied by remittance of a $162 filing fee.

* * * * *

4. Section 502.69(b) is revised to read as follows:

§ 502.69 Petitions—general and fee.

* * * * *

(b) Petitions shall be accompanied by remittance of a $162 filing fee. [Rule 69.]

Subpart F—Settlement; Prehearing Procedure

5. Section 502.92(a)(3)(ii) is revised to read as follows:

§ 502.92 Special docket applications and fee.

(a) * * *

(3)(i) * * *

(ii) The application for refund or waiver must be accompanied by remittance of an $86 filing fee.

* * * * *

Subpart K—Shortened Procedure

6. The last sentence of § 502.182 is revised to read as follows:

§ 502.182 Complaint and memorandum of facts and arguments and filing fee.

* * * The complaint shall be accompanied by remittance of a $166 filing fee. [Rule 182.]

Subpart S—Informal Procedure for Adjudication of Small Claims

7. The last sentence of § 502.304(b) is revised to read as follows:

§ 502.304 Procedure and filing fee.

* * * * *

(b) * * * Such claims shall be accompanied by remittance of a $68 filing fee.

* * * * *

Subpart U—Conciliation Service

8. The last sentence of § 502.404(a) is revised to read as follows:

§ 502.404 Procedure and fee.

(a) * * * The request shall be accompanied by remittance of a $61 service fee.

* * * * *

PART 503—PUBLIC INFORMATION

9. The authority citation for Part 503 is revised to read as follows:

Authority: 5 U.S.C. 552, 552a, 552b, 553; 31 U.S.C. 9701; E.O. 12356, 47 FR 14874, 15557, 3 CFR 1982 Comp., p. 167.

Subpart E—Fees

10. The introductory paragraph of § 503.41 is revised to read as follows:

§ 503.41 Policy and services available.

Pursuant to policies established by the Congress, the Government's costs for services provided to identifiable persons are to be recovered by the payment of fees (Independent Office Appropriations Act, 31 U.S.C. 9701 and Freedom of Information Reform Act of 1986, October 27, 1986, 5 U.S.C. 552). Except as otherwise noted, it is the general policy of the Commission not to waive or reduce service and filing fees contained in this Chapter. In extraordinary situations, the Commission will accept requests for waivers or fee reductions. Such requests are to be made to the Secretary of the Commission at the time of the information request or the filing of documents and must demonstrate that the waiver or reduction of a fee is in the best interest of the public, or that payment of a fee would impose an undue hardship. The Secretary will notify the requestor of the decision to grant or deny the request for waiver or reduction.

* * * * *

11. In § 503.43, paragraphs (c)(1) (i) and (ii), the first sentence of paragraph (c)(2), paragraph (c)(3)(ii), paragraph (c)(4), paragraphs (d) (1), (2), and (3), and paragraph (e) are revised; paragraphs (f) and (i) are removed; paragraphs (g), (h), and (j) are redesignated paragraphs (f), (g), and (h); and newly designated paragraphs (f) and (g) are revised to read as follows:

§ 503.43 Fees for services.

* * * * *

(c) * * *

(1) * * *

(i) Search will be performed by clerical/administrative personnel at a rate of $15.00 per hour and by professional/executive personnel at a rate of $30.00 per hour.

(ii) Minimum charge for record search is $15.00.

(2) Charges for review of records to determine whether they are exempt from disclosure under § 503.35 shall be assessed to recover full costs at the rate of $63.00 per hour. * * *

(3) * * *

(i) * * *

(ii) By Commission personnel, at the rate of five cents per page (one side) plus $15.00 per hour.

(iii) * * *

(4) The certification and validation (with Federal Maritime Commission seal) of documents filed with or issued by the Commission will be available at $70.00 for each certification.

(d) * * *

(1) Orders, notices, rulings, and decisions (initial and final) issued by Administrative Law Judges and by the Commission in all formal docketed proceedings before the Federal Maritime Commission are available at an annual subscription rate of $278.

(2) Final decisions (only) issued by the Commission in all formal docketed

proceedings before the Commission are available at an annual subscription rate of $223.

(3) General rules and regulations of the Commission are available at the following rates: (i) Initial set including all current regulations for a fee of $83, and (ii) an annual subscription rate of $6 for all amendments to existing regulations and any new regulations issued.

* * * * *

(e) To have one's name and address placed on the mailing list of a specific docket as an interested party to receive all issuances pertaining to that docket: $7 per proceeding.

(f) Loose-leaf reprint of the Commission's complete, current Rules of Practice and Procedure, part 502 of this chapter, for an initial fee of $9. Future amendments to the reprint are available at an annual subscription rate of $7.

(g) Applications for admission to practice before the Commission for persons not attorneys at law must be accompanied by a fee of $77 pursuant to § 502.27 of this chapter.

* * * * *

Subpart G—Access to Any Record of Identifiable Personal Information

12. In section 503.69, paragraphs (b) (1) and (2) are revised to read as follows:

§ 503.69 Fees.

* * * * *

(b) * * *

(1) The copying of records and documents will be available at the rate of five cents per page (one side), limited to size 8¼" x 14" or smaller.

(2) The certification and validation (with Federal Maritime Commission seal) of documents filed with or issued by the Commission will be available at $70 for each certification.

* * * * *

PART 510—LICENSING OF OCEAN FREIGHT FORWARDERS

13. The authority citation for Part 510 is revised to read as follows:

Authority: 5 U.S.C. 553; 31 U.S.C. 9701; 46 U.S.C. app. 1702, 1707, 1709, 1710, 1712, 1714, 1716, and 1718; 21 U.S.C. 853a.

Subpart B—Eligibility and Procedure for Licensing; Bond Requirements

14. Section 510.12(b) is revised to read as follows:

§ 510.12 Application for license.

(a) * * *

(b) *Fee.* The application shall be accompanied by a money order, certified check or cashier's check in the amount of $687 made payable to the Federal Maritime Commission.

* * * * *

15. The penultimate sentence in section 510.14(b) is revised to read as follows:

§ 510.14 Surety bond requirements.

(a) * * *

(b) * * * The fee for such supplementary investigation shall be $213 payable by money order, certified check or cashier's check to the Federal Maritime Commission. * * *

16. The first sentence of section 510.19(e) is revised to read as follows:

§ 510.19 Changes in organization.

* * * * *

(e) *Application form and fee.* Applications for Commission approval of status changes or for license transfers under paragraph (a) of this section shall be filed in duplicate with the Director, Bureau of Tariffs, Certification and Licensing, Federal Maritime Commission, on form FMC–18 Rev., together with a processing fee of $365, made payable by money order, certified check or cashier's check to the Federal Maritime Commission. * * *

* * * * *

PART 514—TARIFFS AND SERVICE CONTRACTS

17. The authority citation for Part 514 continues to read as follows:

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

Subpart C—Form, Content and Use of Tariff Data

18. In § 514.21, paragraphs (c), (e) introductory text and (e)(1), (f), (j), and (k) are revised to read as follows:

§ 514.21 User charges.

* * * * *

(c) *Registration for user (filer and/or retriever ID and password* (see exhibit 1 to this part and §§ 514.4(d), 514.8(f) and 514.20)): $162 for initial registration for firm and one individual; $136 for additions and changes.

(d) * * *

(e) *Certification of batch filing capability (by appointment through the Bureau of Administration)* (§ 514.8(l)).

(1) *User charge:* $359 per certification submission (covers all types of tariffs for which the applicant desires to be certified as well as recertification required by substantial changes to the ATFI system).

* * * * *

(f) *Application for special permission* (§ 514.18): $146.

* * * * *

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

(1) *Initial set* of full database tapes: $336.

(2) *Daily updates*: $61.

(3) *Weekly updates*: $86.

(4) *Monthly updates*: $136.

Updates of ATFI tapes include a set number of tapes; if more tapes are required, the fee will increase by $25 per additional tape.

(k) Miscellaneous tapes. The fee for tape data, other than the ATFI database described in paragraph (j) of this section, shall be $61 for the initial tape plus $25 for each additional tape required.

* * * * *

PART 540—SECURITY FOR THE PROTECTION OF THE PUBLIC

19. The authority citation for Part 540 is revised to read as follows:

Authority: 5 U.S.C. 552, 553; 31 U.S.C. 9701; secs. 2 and 3, Public Law 89–777, 80 Stat. 1356–1358 (46 U.S.C. app. 817e, 817d); sec. 43 of the Shipping Act, 1916 (46 U.S.C. app. 841a); sec. 17 of the Shipping Act of 1984 (46 U.S.C. 1716).

Subpart A—Proof of Financial Responsibility, Bonding and Certification of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation

20. The last sentence in § 540.4(b) is revised to read as follows:

§ 540.4 Procedure for establishing financial responsibility.

* * * * *

(b) * * * An application for a Certificate (Performance) shall be accompanied by a filing fee remittance of $1,874.

* * * * *

Subpart B—Proof of Financial Responsibility, Bonding and Certification of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages

21. The last sentence of section 540.23(b) is revised to read as follows:

§ 540.23 Procedure for establishing financial responsibility.

* * * * *

(b) * * * An application for a Certificate (Casualty) shall be accompanied by a filing fee remittance of $830.

* * * * *

PART 583—SURETY FOR NON-VESSEL-OPERATING COMMON CARRIERS

22. The authority citation for Part 583 is revised to read as follows:

Authority: 5 U.S.C. 553; 31 U.S.C. 9701; 46 U.S.C. app. 1702, 1707, 1709, 1710–1712, 1716, and 1721.

23. A new paragraph (d) is added to section 583.7 to read as follows:

§ 583.7 Proof of compliance.

* * * * *

(d) The fee for providing the list of tariffed and bonded NVOCCs referred to in paragraph (b)(1) of this section is $122. The list is available in several forms: hard paper copy, diskette, or tape.

By the Commission.

Joseph C. Polking,

Secretary.

Appendix A to the Proposed Rule

INDIRECT COST CALCULATIONS

[Applied to Direct Cost]

A. Government Overhead Costs

Fringe benefits and other wage-related government contributions from OMB Circular A–76:	
Leave and Holidays	19.70%
Retirement	21.70%
Workmen's Comp. Awards	1.70%
Health, Life Insurance	4.70%
Medicare	1.45%
Total	49.25%

B. Commission General and Administrative

Expenses allocated to the offices of the Commissioners, Managing Director, General Counsel, and Bureau of Administration (FY 1994 amounts from FY 1995 OMB Budget):	
1. Personnel Costs	$4,155,500
2. Rent, Communications and Utilities	1,009,468
3. Annual Report	3,000
4. Data Information	20,000
5. Printing	9,619
6. Equipment Maintenance	24,878
7. Leasehold Improvements	20,000
8. Supplies and Materials	43,784
9. ADP Supplies	7,297
10. Furniture & Equipment	9,288
11. Postage	16,790
12. Fiscal Services	24,878
13. Health Services	8,127
14. Protective Services	32,122
15. Duplicating Supplies	7,982
16. Travel	42,000
Total	$5,434,733
Calculation of overhead percentage:	
• Commission G&A÷Agency Funding=	% Overhead
• Total Agency Funding for FY 1994	$18,900,000
• Commission G&A	5,434,733
• Overhead Percentage ($5,434,733÷$18,900,000):	28.76%

C. Office General and Administrative

Overhead expenses allocated to Offices and Bureaus involved in fee-generating activities (excluding ATFI):	
1. Rent, Communications, and Utilities	$968,401
2. Postage	18,518
3. Miscellaneous Printing	10,597
4. Credit Reports	8,750
5. Equipment Maintenance	27,405
6. Fiscal Services	27,405
7. Health Services	10,962
8. Protective Services	31,790
9. Supplies and Materials	48,233
10. ADP Supplies	8,039
11. Duplicating Supplies	8,770
12. Furniture and Equipment	3,654
13. ADP Equipment	6,577
Total	$1,179,101
Calculation of overhead percentage:	
• Overhead Expenses÷Bureau/Office Funding=	% Overhead
• Funding for Bureaus/Offices (FY 1994 amounts from FY 1995 OMB Budget):.	
Secretary	$910,000
Trade Monitoring and Analysis	1,846,000

INDIRECT COST CALCULATIONS—Continued

[Applied to Direct Cost]

Tariffs, Certification and Licensing	2,730,000
Total	5,486,000
• Office G&A:	$1,179,101
• Overhead Percentage ($1,179,101÷$5,486,000)	21.49%

D. Total Indirect Cost Factor (Sum of A Through C)

A. Government Overhead Costs	49.25%
B. Commission General and Administrative	28.76%
C. Office General and Administrative	21.49%
Total	99.50%

Appendix B to the Proposed Rule

FEDERAL MARITIME COMMISSION

[Summary of Revised Fees]

CFR citation and application or service	Current fee	Proposed fee
Part 502—Rules of Practice and Procedure		
502.68(a)(3) 502.69(b) Petitions	$50	$162
502.92(a)(3) Special Dockets	$25	$86
502.62(f) 502.182 Formal Complaints	$50	$166
502.304(b) Informal Complaints	$25	$68
502.404(a) Conciliation Services	$25	$61
Part 503—Public Information		
503.43(c):		
Document Search	$11/$23 @ hr.	$15/$30 @ hr.
Min. Charge	$11	$15
FOIA Review	$38 @ hr.	$63 @ hr.
Copying by Commission Staff	$11 @ hr.	$15 @ hr.
503.43(c) 503.69(b)(2) Document Certification	$5 @ cert.	$70 @ cert.
503.43(d) Annual Subscriptions:		
(1) Orders, notices, etc., all docketed proceedings	$195	$278
(2) Final Decisions Only	$120	$223
(3)(i) Rules, Initial Set	$16.50	$83
(3)(ii) Rules, Amendments	$8.25	$7
503.43(e) Mailing List	$3	$7
503.43(f) Rules of Practice Procedure:		
Initial Set	$4.25	$9
Amendments	$4	$7
503.43(g) Non-Attorney Admission to Practice Before Commission	$13	$77
503.69(b)(1) Copying	$0.30 @ page	$0.05 @ page.
Part 510—Licensing of Ocean Freight Forwarders		
510.12(b) Application for License	$350	$687
510.14(b) Supplementary Investigation	$100	$213
510.14(e) Status Changes	$100	$365
Part 514—Tariffs and Service Contracts		
514.21(c):		
ATFI Registration	$100	$162
Registration Changes	$25	$136
514.21(e)(1) Certification of Software	$200	$359
514.21(f) Special Permission Applications	$100	$146
514.21(j) ATFI Database Tapes:		
Initial Set	$300	$336
Daily Updates	$25	$61
Weekly Updates	$50	$86
Monthly Updates	$100	$136
514.(k) Miscellaneous Tapes	$25	$61
Part 540—Security for the Protection of the Public		
540.4(b) Certificate (Performance)	$1,600	$1,874
540.23(b) Certificate (Casualty)	$800	$830
Part 583—Surety for Non-Vessel-Operating Common Carriers		
583.7 NVOCC Listing	Varied	$122

[FR Doc. 94–18380 Filed 7–27–94; 8:45 am]
BILLING CODE 6730–01–W

46 CFR Parts 514, 552, 560 and 572

[Docket No. 94–15]

New Filing Fees

AGENCY: Federal Maritime Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Maritime Commission ("Commission" or "FMC"), pursuant to the Independent Offices Appropriation Act ("IOAA"), proposes to establish filing fees for tariffs, service contract essential terms ("ETs"), financial reports in the domestic offshore trades, general rate increases in the domestic offshore trades, and agreements. The services provide special benefits to identifiable members of the public and assessment of fees therefor comports with direction of the Office of Management and Budget.

DATES: Comments due September 12, 1994.

ADDRESSES: Comments (original and fifteen copies) to: Joseph C. Polking, Secretary, Federal Maritime Commission, 800 North Capitol Street, N.W., Washington, D.C. 20573–0001, 202–523–5725.

FOR FURTHER INFORMATION CONTACT: Jeremiah D. Hospital or George Smolik, Bureau of Trade Monitoring and Analysis, Federal Maritime Commission, 800 North Capitol Street, N.W., Washington, D.C. 20573–0001, 202–523–5790.

SUPPLEMENTARY INFORMATION: The Commission, under the IOAA, is authorized to establish fees for services and benefits that it provides. The IOAA states:

(a) . . . That each service or thing of value provided by an agency . . . to a person . . . be self-sustaining to the extent possible.

(b) . . . Each charge shall be—

(1) fair; and

(2) based on—

(A) the costs to the Government;

(B) the value of the service or thing to the recipient;

(C) public policy or interest served; and

(D) other relevant facts.

31 U.S.C. 9701.

The primary guidance for implementation of the IOAA is Office of Management and Budget ("OMB") Circular A–25, as revised July 8, 1993. OMB Circular A–25 requires that a reasonable charge be made to each recipient for a measurable unit or amount of Government service from which the recipient derives a benefit, in order that the Government recover the full cost of rendering that service.

OMB Circular A–25 further provides that full cost be determined or estimated from the best available records in the agency, and that it cover the direct and indirect costs to the Government of providing a good resource or service, including but not limited to:

(1) Direct and indirect personnel costs, including salaries and fringe benefits such as medical insurance and retirement.

(2) Physical overhead, consulting, and other indirect costs including material and supply costs, utilities, insurance, travel, and rents or imputed rents on land, buildings, and equipment.

(3) The management and supervisory costs.

(4) The costs of enforcement, collection, research, establishment of standards, and regulation, including any environmental impact statements.

OMB Circular A–25 further calls for a biennial reassessment of user charges, with related adjustment of fees, if necessary, and the establishment of new fees where none exists.

The courts have interpreted the IOAA on several occasions, establishing general standards that agencies must meet in establishing fees. In 1974, the Supreme Court ruled that a fee may only be charged for a special benefit provided to identifiable beneficiaries measured by its value to the recipient. The special benefit is also required to have some connection between the agency and the recipient other than the mere fact of regulation or the adoption of some practice of general benefit to the industry as a whole. Thus, the Court upheld that portion of OMB Circular A–25 stating that there could be no charge where the identity of the beneficiary is obscure and the services can be primarily considered to benefit the general public. *See National Cable Television Association v. United States*, 415 U.S. 336 (1974) and *FPC v. New England Power Co.*, 415 U.S. 345 (1974).

In 1976, the U.S. Court of Appeals for the District of Columbia Circuit rendered a series of decisions that provided additional guidance for agencies adopting or revising fee schedules issued under the IOAA. *See National Cable Television Association v. F.C.C.*, 554 F.2d 1094 (D.C. Cir. 1976); *Electronics Industries Association v. F.C.C.*, 554 F.2d 1109 (D.C. Cir. 1976); *Capital Cities Communications Inc. v. F.C.C.*, 554 F.2d 1135 (D.C. Cir. 1976). In those decisions, the court set out the following guidelines:

1. An agency may impose a reasonable charge on recipients for an amount of work for which they benefit. The fees must be for specific services to specific persons. These services include the issuance of a license and assistance in complying with a statutory duty such as tariff filing.

2. The fees may not exceed the cost to the agency in rendering the service.

3. An agency may recover the full cost of providing a service to an identifiable beneficiary regardless of the incidental public benefits which may flow from service.

Also, when an agency proposes a fee, it must meet the following requirements:

1. The agency must justify the assessment of a fee by a clear statement of the particular service or benefit for which it seeks reimbursement.

2. The agency must calculate the cost basis for each fee by:

a. Allocating specific expenses of the cost basis of the fee to the smallest practical unit.

b. Excluding expenses that service an independent public interest; and

c. A public explanation of the specific expenses included in a cost basis for a particular fee, and an explanation of the criteria used to include or exclude a particular item.

3. The fee must be set to return the cost basis at a rate that reasonably reflects the cost of the services performed and value conferred on the payor.

Electronic Industries Association v. F.C.C., 554 F.2d at 1117.

The above guidelines were followed by the Commission when it last updated its schedule of filing and service fees in 1983. Dockets Nos. 82–32 and 82–33, *Filing and Service Fees*, 21 S.R.R. 1517, 21 S.R.R. 1575 (1983). At that time, the Commission conducted cost studies to determine the processing costs for its various fee items.

The Commission's current filing and service fees, however, do not include fees for certain services that appear to provide special benefits to identifiable members of the public. In light of OMB's requirement that agencies assess fees for *all* identifiable special benefits, and, in particular, OMB's direction that the FMC consider implementation of tariff and service contract filing fees to offset its FY 1996 appropriation,[1] the Commission is proposing new fees for several services. In keeping with OMB Circular A–25, the new fees reflect the fully distributed cost of those services. The proposed new fees are set forth in this Notice.

In addition to the instant rulemaking, the Commission is issuing a companion rulemaking (Docket No. 94–14, *Update of Existing Filing and Service Fees*), updating the FMC's fees to reflect the fully distributed current costs to the Commission.

[1] OMB has expressed its desire for the Commission to establish fees through its "passback" to the Commission's FY 1995 budget submission for FY 1996. After OMB reviews the Commission's agency budget proposal for the upcoming fiscal year, OMB "passes back" its budget proposal to the agency.

Methodology

The Commission has reviewed its services and determined where it should establish fees pursuant to OMB Circular A–25. Tariff filing, filing of ETs, filing of financial reports in the domestic offshore trades, processing of general rate increases in the domestic offshore trades, and filing of agreements have been identified as areas where new fees could be assessed under the authority of the IOAA and OMB Circular A–25.[2]

The methodology employed to calculate direct costs of services was based on the method employed by the Commission the last time it considered fees in Dockets Nos. 82–23 and 82–33, *Filing and Service Fees*, supra. Surveys were conducted to determine the time and cost involved in providing particular services to arrive at the direct labor costs for those services, including, as appropriate, the costs for clerical support staff, professionals, supervisors, and bureau directors. Multiplying the number of hours expended by each employee to provide a particular service with the employee's hourly wage, plus a $1.00 cost to process the check, yielded the direct labor cost for providing the service.

According to OMB Circular A–25, fees are to be based on the full cost of a service, which includes all direct and indirect costs. Therefore, indirect costs (overhead and other assignable costs) were added to the direct labor cost to arrive at a fully distributed cost for providing a particular service. A somewhat modified method was used to calculate fees for tariff filing, and is explained later.

In developing a methodology for determining indirect costs, the Commission adopted the approach used by the Interstate Commerce Commission ("ICC").[3] Three categories of indirect costs were identified: Government overhead costs (basically personnel fringe benefits); Commission general and administrative expenses; and office general and administrative expenses.[4] The calculations for indirect costs are discussed below and set forth in Appendix A. A detailed summary of the data used to arrive at the proposed fees is available from the Secretary of the Commission upon written request.

The first component of indirect costs is Government overhead costs, which are fringe benefits and other wage-related government contributions contained in OMB Circular A–76. These include leave and holidays, retirement, workmen's compensation awards, health and life insurance, and Medicare. These are expressed as percentages of basic pay, and are applied to direct labor costs.

The next component of indirect costs is Commission general and administrative costs. These costs include all salaries and overhead, such as rent, utilities, supplies, and equipment, allocated across the Offices of the Commissioners, Managing Director, General Counsel, and Bureau of Administration. The total of these allocated costs is divided by the total funding for the agency as reflected in the FMC's OMB budget submission in FY 1994. The resulting percentage is allocated across all Commission programs. As with Government overhead, Commission general and administrative costs are also applied to direct labor costs.

The final component of indirect costs is office general and administrative overhead expenses. These expenses are limited to the overhead of those bureaus and offices that are involved in fee-generating activities, *i.e.*, Office of the Secretary, Bureau of Tariffs, Certification and Licensing ("BTCL"), and Bureau of Trade Monitoring and Analysis ("BTMA"). They are similar to the expenses for Commission general and administrative expenses mentioned above, except that no personnel costs are included. Certain expenses which have no nexus with any fee activity, *e.g.*, the procurement of Census data, have been excluded from this calculation. As with Commission general and administrative expenses, the office general and administrative expenses are divided by the total funding for the fee-generating bureaus and offices to arrive at a percentage that is to be applied to direct labor costs.

Adding all the components of indirect costs gives an indirect cost factor that is added to direct labor costs to arrive at fully distributed costs. The indirect cost factor under this methodology is 99.50 percent.

Proposed Fees

Each service or special benefit for which fees are proposed is described below, as well as the direct labor cost to the FMC of providing a particular service, the indirect cost, the fully distributed cost, and the proposed fee associated with each service for which fees are proposed. A summary schedule of proposed fees is provided in Appendix B.

Fees Related to the Filing of Rate Increases and Reports in the Domestic Offshore Trades

Part 552 provides for the orderly acquisition of data to be utilized in evaluating the reasonableness of rates in the domestic offshore trades filed by vessel-operating common carriers ("carriers") subject to the provisions of the Intercoastal Shipping Act, 1933 ("1933 Act"), 46 U.S.C. app. 843. All persons engaged in common carriage via cargo vessels in the domestic offshore trades (except persons engaged in intrastate operations in Alaska and Hawaii) are required by the 1933 Act to file a Statement of Financial and Operating Data for each domestic service in which they are engaged. *See* 46 CFR § 552.2(a).

Upon application for submission of alternative data, the Commission may relieve a carrier from full compliance with Part 552 and permit it to submit alternative data. The carrier receives a benefit from this service because of the significant time saved in not preparing detailed financial statements. The proposed fee for processing such applications is derived as follows:

	Dollars
Direct Labor Cost	$82.99
Indirect Cost	82.58
Fully Distributed Cost	165.56
Proposed Fee	[5]165.00

[5] All proposed fees are rounded down to the nearest dollar.

Upon application for extension of time for filing, the Commission may grant reasonable extensions of the time limit prescribed for filing the statements required by Part 552. The benefit the carrier receives from this service is that it is not subject to the time constraints in the rule. The proposed fee for processing such applications is derived as follows:

[2] The Commission has determined that enforcement activities are not appropriate for assessing fees because they are adjudicatory functions that have broad public significance and a quasi-judicial impact. The public is the primary beneficiary for such actions. The Commission's enforcement programs are geared to providing protection for the shipping public. Therefore, formal adjudications and compliance audits were not considered activities for which fees should be assessed.

[3] The ICC's mandate is similar to the Commission's, *i.e.*, regulating segments of the transportation industry, and its fee schedule and methodologies have been reviewed by the courts and deemed acceptable, in many respects. *See Central & Southern Motor Freight Tariff Ass'n v. U.S.*, 777 F.2d 722, (D.C. Cir. 1985) ("*Central & Southern*").

[4] The ICC employs an additional indirect cost item for operations overhead, which apportions senior executive time across fee-generating activities. Because the Commission was able to account for senior executive time in each service item, a separate overhead would be redundant. Accordingly, this ICC component was not included in our calculations.

	Dollars
Direct Labor Cost	$27.89
Indirect Cost	27.75
Fully Distributed Cost	55.64
Proposed Fee	55.00

Upon application for waiver of detailed reporting requirements, the Commission shall grant a waiver of the detailed reporting requirements to carriers that have earned gross revenues of $25 million or less for the reporting period in a particular trade. The carrier receives a benefit from this waiver because it does not have to prepare detailed financial statements. The proposed fee for processing such applications is derived as follows:

	Dollars
Direct Labor Cost	$51.87
Indirect Cost	51.61
Fully Distributed Cost	103.48
Proposed Fee	103.00

Part 522 defines general rate increases ("GRIs") in the domestic offshore trades, and describes the financial and operating data required to support GRIs (section 552.2(f)). The specific benefit to the filer of a GRI is the potential for increased revenues.[6] This benefit derives directly from a Commission finding that the particular rate of return generated by a proposed GRI is reasonable. In making this finding, the Commission conducts an extensive analysis of the supporting data, and develops its own benchmark figures for comparison with the filer's calculated rate of return based on its proposed GRI. Accordingly, the Commission is proposing to assess a filing fee for GRIs in the domestic offshore trades to cover the full cost of analyzing the reasonableness of a proposed GRI. The proposed fee is derived as follows:

	Dollars
Direct Labor Cost	$5,990.64
Indirect Cost	5,960.69
Fully Distributed Cost	11,951.33
Proposed Fee	11,951.00

The Commission recognizes the special circumstances present in the domestic offshore trades regarding the price leadership role played by certain carriers, and invites comments on alternative methods for assessing the Commission's cost of analyzing the reasonableness of GRIs in these trades.

[6] An additional benefit accruing to carriers operating in the domestic offshore trades is that potential entrants, by law, are restricted, *i.e.*, foreign-flag carriers are prohibited from operating in the domestic trades. See section 27 of the Merchant Marine Act of 1920, 46 U.S.C. app. 883.

Agreement Filing Fees

The processing of agreements benefits the filing parties because of the concomitant antitrust immunity conferred by the Shipping Act, 1916 ("1916 Act"), 46 U.S.C. app 801 et seq., and the Shipping Act of 1984 ("1984 Act"), 46 U.S.C. app. 1701 et seq. There are strong similarities between FMC agreements and those ICC agreements for which fees were assessed in *Central & Southern*.

Agreements enable joint ratemaking or cost-cutting measures to accrue to the benefit of the signatory parties. The sales revenues or cost savings, or both, can add up to millions of dollars for one carrier, let alone several carriers. Such savings far offset the proposed filing fee for an agreement that enables carriers to accomplish such monetary gains. Savings to carriers and others in excess of the fee amounts can also be realized even through routine arrangements to share office space, equipment, staff and supplies. Accordingly, fees are being proposed for various agreement filings.

Agreement filings accompanied by an Information Form must be analyzed for compliance with statutory requirements under section 6(g) and section 10 of the 1984 Act, 46 U.S.C. app. 1705(g), 1709. In the domestic offshore trades, certain types of agreement filings require a detailed justification[7] that must be analyzed for compliance with statutory requirements under section 15 of the 1916 Act, 46 U.S.C. app. 814. These types are submitted to the Commission for its review, and, under the 1916 Act, approval. The proposed fee for processing such agreements is derived as follows:

	Dollars
Direct Labor Cost	$703.24
Indirect Cost	699.72
Fully Distributed Cost	1,402.96
Proposed Fee	1,402.00

Agreement filings that do *not* require an Information Form must be analyzed for compliance with statutory requirements under section 10 and section 6(g) of the 1984 Act. In the domestic offshore trades, agreement filings that do not require detailed justification must be analyzed for compliance with statutory requirements under section 15 of the 1916 Act. These are submitted to the Commission for its review, and, under the 1916 Act, approval. The proposed fee for processing such agreements is derived as follows:

	Dollars
Direct Labor Cost	$348.76
Indirect Cost	347.02
Fully Distributed Cost	695.78
Proposed Fee	695.00

Agreement filings reviewed under Delegated Authority are processed administratively without direct Commission review, and do not require the filing of an Information Form under the 1984 Act. The proposed fee for processing such agreements is derived as follows:

	Dollars
Direct Labor Cost	$177.13
Indirect Cost	176.24
Fully Distributed Cost	353.37
Proposed Fee	353.00

Marine terminal and carrier exempt agreements are processed administratively without direct Commission review under the 1916 Act and the 1984 Act. The proposed fee for processing such agreements is derived as follows:

	Dollars
Direct Labor Cost	$60.23
Indirect Cost	59.93
Fully Distributed Cost	120.16
Proposed Fee	120.00

Tariff and ET Filing Fees

Section 8 of the 1984 Act, 46 U.S.C. app. 1707, requires common carriers and conferences of such common carriers to file with the Commission and keep open to public inspection, tariffs showing all rates, charges, classifications, tariff rules and practices for transportation between U.S. and foreign ports and between points on any through route that is established. Section 8 also requires service contracts and their ETs are to be filed by the 1984 Act.

Section 2 of the 1933 Act, 46 U.S.C. 844, requires that every domestic offshore carrier file with the Commission, and keep open to public inspection, tariffs showing its rates, fares and charges for or in connection with transportation between all points on its own route, and all points on any through route established in conjunction with other carriers.

Under court precedent interpreting the IOAA and OMB Circular A–25, tariff and ET filings with the Commission appear to be an activity for which fees

[7] Proponents must demonstrate that their agreement is required by a serious transportation need, is necessary to secure important public benefits, or will further a valid regulatory purpose of the 1916 Act. *See Federal Maritime Commission et. al.* vs *Aktiebolaget Svenska Amerika Linien;* 390 U.S. 238–253 (1968).

should be imposed. Moreover, OMB has urged the Commission to establish fees in this area through its passback to the Commission's FY 1995 budget submission for FY 1996. The Federal Communication Commission's ("FCC") imposition of fees for processing carrier tariffs has been upheld, *Electronics Industries Ass'n v. FCC*, 554 F.2d 1109, 1115 (D.C. Cir. 1976), as has the ICC's imposition of fees for processing tariffs, *Central & Southern*, 777 F.2d at 730–736. The courts in these cases noted that tariff processing benefits tariff filers in helping to maintain rate stability.

While the shipping public derives benefits from having tariffs filed at the Commission, the courts have concluded that the words "special benefits" as used in OMB Circular A–25 mean that there need only be a special private benefit to an identifiable beneficiary, *FPC v. New England Power Co.*, 415 U.S. at 349–51, regardless of incidental public benefits, *National Cable Television*, 554 F.2d at 1114–5; *Central & Southern*, 777 F.2d at 731–32, and have concluded that "[i]f the asserted public benefits are the necessary consequence of the agency's provision of the relevant private benefits, then the public benefits are not independent, and the agency would therefore not need to allocate any costs to the public."

Central & Southern, 777 F.2d at 732. Finding that a "principal function" of tariff filing is the establishment of rate stability, the court in *Central & Southern* found the benefit to the shippers and other carriers as "incidental" to the "independent" rate stability benefit and sufficient to justify the full cost imposition of tariff processing on tariff filers. *Central & Southern*, 777 F.2d at 733–36.

Commission precedent and the legislative history of the 1984 Act indicate that "rate stability" is one of the purposes of requiring carrier tariffs to be filed at the FMC. *See Section 19 Investigation, 1935*, 1 U.S.S.B.B. 470, 498–500 (1935); H.R. Rept. No. 53, Part 1, 98th Cong., 1st Sess. 18–19 (1983). Thus, under the rationale of *Central & Southern*, the collection of the full costs of processing tariff filings at the FMC appears justified.

However, because we recognize that there exists a public benefit from tariff filing in addition to that derived by tariff filers, the Commission invites the industry to comment on to what extent the public benefit of tariff filing is "independent" or "incidental" to that of tariff filers, and, if "independent," to comment on what proportion of the costs to tariff-filing carriers should be pro-rated to reflect any specific benefit to the general public. Below are the methodologies employed to calculate the cost of tariff and ET filing.

Developing cost data for assessing a user fee for tariff filing presented unique problems. Unlike other fees, there is no data regarding costs for filing in the Commission's Automated Tariff Filing and Information System ("ATFI"). Because ATFI is a relatively new system, the Commission has had limited experience in estimating the cost of processing each ATFI filing type,[8] but has nevertheless distinguished organizational records and ETs as unique elements within the tariff filing system. The Commission creates organizational records for its own administrative purposes, and that cost is included as part of the registration fee under ATFI. See Docket No. 94–14, *Update of Existing Filing and Service Fees*, for a discussion on registration fees.

The cost of processing ETs was determined based on a survey of the amount of time the FMC spends reviewing ETs at a point in time. The Commission was able to distinguish ETs from other tariff filings because the amount of time required to process ETs remains relatively constant over time. In contrast, the amount of time devoted to the processing of other tariff filing types tends to vary substantially from individual item to item.

The Commission was able to estimate the total amount of time its staff spends, on average, reviewing tariff filings during a given year: approximately 42,000 hours. This figure was derived by surveying and summing the amount of time the FMC spends reviewing individual tariff filing elements at a point in time, and projecting that amount over a year. Although the total amount of time spent reviewing tariff filing remains relatively stable over time, the amount of time spent reviewing individual elements varies on a daily basis. As a result, it was determined not to estimate the cost of processing tariff filing on an element by element basis, but rather to calculate the cost of tariff filing review based on the more reliable total number of hours spent reviewing tariff filings.

Multiplying the hours spent by the average hourly wage of all reviewers ($19.56), direct labor costs for reviewing ATFI filings in a given year were calculated to be $821,520. Adding the indirect cost factor (99.50 percent), fully distributed cost for filings are about $1,639,000. To arrive at a per-filing cost, the fully distributed cost is divided by the estimated number of filings (approximately 5,500,000), giving a per-filing cost of $0.29.

Since the Commission pays a contractor for maintaining the ATFI system, the allocation of the contractor cost to each tariff filing is appropriate. Contractor data show that the total time the system is used annually is approximately 1,753,958 minutes, while industry use of the system for filing totals 451,203 minutes, or 25.72 percent of total system time used. The remaining time was used mostly by the Commission staff and by retrievers of data. Using this factor, the portion of the contractor cost ($1,100,000) allocated to filing is $282,920 ($1,338,514 × 25.72 percent). Allocating the $282,920 across the 5,500,000[9] filings gives a per-filing system cost of approximately $0.05. The per-filing system cost is added to the $0.29 per-filing cost to derive a total cost of $0.34 per filing.

As mentioned, the Commission was able to distinguish ETs from the other filings. Since ETs are similar in nature from one contract to the next and are in text format, processing time for the most part remains constant over time. It takes, on average, five minutes to review a typical ET filing. Again using the average hourly wage for reviewers, the direct labor cost for processing an ET filing is $1.62. Summing the direct labor cost and the indirect cost factor (99.50 percent), the fully distributed cost for processing an ET filing is $3.24. Adding the system charge of $0.05, the fully distributed cost comes to $3.29 per filing.

In keeping with OMB Circular A–25, the Commission intends to update its fees on an annual basis. In updating its fees, the Commission will incorporate changes in wages and salaries of its employees into direct labor costs associated with its services, and recalculate its indirect costs (overhead) based on current level costs.

The Commission certifies pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that this rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units and small government jurisdictions. The Commission recognizes that the proposed fees may have some impact on the shipping industry, but not of the magnitude that would be contrary to the requirements of the Regulatory Flexibility Act. For the most part, entities impacted by the proposed increases are ocean common

[8] The ATFI system is capable of identifying eight filing "objects"; organizational record, tariff record, location group, inland rate table, rule, commodity description, tariff line item ("TLI"), and essential term (this last object consists primarily of test).

[9] This figure includes tariff filings and ET filings.

carriers who traditionally have not been viewed as small entities. Moreover, the Commission grants a waiver of the detailed reporting requirements to carriers which earn gross revenues of $25 million or less in a particular trade in accordance with 46 CFR 552.2(e). Furthermore, Commission regulations provide for waiver of fees for those entities that can make the required showing of undue hardship.

OMB review is not required because this proposed rule does not contain any collection of information requirements as defined by the Paperwork Reduction Act of 1980, as amended.

List of Subjects

46 CFR Part 514

Freight, Harbors, Maritime carriers, and Reporting and recordkeeping requirements.

46 CFR Part 552

Maritime carriers, Reporting and recordkeeping requirements, and Uniform System of Accounts.

46 CFR Part 560

Administrative practice and procedure, Antitrust, Freight, Maritime carriers, Penalties, and Reporting and recordkeeping requirements.

46 CFR Part 572

Administrative practice and procedure, Maritime carriers, and Reporting and recordkeeping requirements.

Pursuant to 5 U.S.C. 553, the Independent Offices Appropriations Act, 31 U.S.C. 9701, and section 17 of the Shipping Act of 1984, 46 U.S.C. app. 1716, the Commission proposes to amend title 46 of the Code of Federal Regulations as follows:

PART 514—TARIFFS AND SERVICE CONTRACTS

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

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

2. In § 514.1, the heading is revised and a new paragraph (f) is added to read as follows:

* * * * *

§ 514.1 Scope, purpose, requirements, penalties and fees.

* * * * *

(f) *Filing fee.* Under the authority of the Independent Offices Appropriation Act, 31 U.S.C. 9701, the Commission assesses a filing fee for ATFI filings. See § 514.21(i) for filing fees.

3. In § 514.21, paragraph (i) is added to read as follows:

§ 514.21 User charges.

* * * * *

(i) *Tariff filing fee.* The fee for tariff filing in either the foreign or domestic offshore commerce of the United States shall be 34 cents per filing object; the fee for filing service contract essential terms shall be $3.29 per filing object; the Commission shall bill filers monthly for both tariff filing and the filing of service contract essential terms.

PART 552—FINANCIAL REPORTS OF VESSEL OPERATING COMMON CARRIERS BY WATER IN THE DOMESTIC OFFSHORE TRADES

4. The authority citation for Part 552 is revised to read as follows:

Authority: 5 U.S.C. 553; 31 U.S.C. 9701; 46 U.S.C. app. 817(a), 820, 841a, 843, 844, 845, 845a, and 847.

5. In § 552.2, the title is revised, new paragraphs (c)(3), (d)(3), and (f)(3) are added, and a sentence is added at the end of paragraph (e) to read as follows:

* * * * *

§ 552.2 General requirements and fees.

* * * * *

(c) * * *

(3) Applications shall be accompanied by remittance of a $55 filing fee.

(d) * * *

(3) Applications shall be accompanied by remittance of a $165 filing fee.

(e) * * * Applications shall be accompanied by remittance of a $103 filing fee.

(f) * * * (3) The filing of proposed rate changes described in this paragraph shall be accompanied by remittance of a $11,951 filing fee.

* * * * *

PART 560—AGREEMENTS BY COMMON CARRIERS AND OTHER PERSONS SUBJECT TO THE SHIPPING ACT, 1916

6. The authority citation for Part 560 is revised to read as follows:

Authority: 5 U.S.C. 553; 31 U.S.C. 9701; 46 U.S.C. app. 814, 817(a), 820, 821, 833a and 841a.

* * * * *

Subpart C—Exemptions

* * * * *

7. The following identical text is added as §§ 560.302(c), 560.303(c), 560.304(c), 560.305(c), 560.306(f), 560.307(g), 560.308(c) and 560.309(d) reading as follows:

( ) The filing fee for such agreements is described in section 560.401(c).

* * * * *

Subpart D—Filing and Form of Agreements

* * * * *

8. In section 560.401, the title is revised and a new paragraph (c) is added to read as follows:

* * * * *

§ 560.401 Filing of Agreements; fees.

* * * * *

(c) Agreement filings for Commission action requiring detailed justification and review by the Commission shall be accompanied by remittance of a $1,402 filing fee; agreement filings for Commission action not requiring detailed justification, but requiring review by the Commission, shall be accompanied by remittance of a $695 filing fee; and, agreement filings for terminal and carrier exempt agreements shall be accompanied by remittance of a $120 filing fee.

Part 572—AGREEMENTS BY COMMON CARRIERS AND OTHER PERSONS SUBJECT TO THE SHIPPING ACT OF 1984

9. The authority citation for Part 572 is revised to read as follows:

Authority: 5 U.S.C. 553; 31 U.S.C. 9701; 46 U.S.C. app. 1701- 1707, 1709–1710, 1712 and 1714–1717.

Subpart C—Exemptions

10. The following identical text is added as §§ 572.302(d), 572.303(c), 572.304(c), 572.305(c), 572.306(f), 572.307(g), 572.308(e), 572.309(c), 572.310(c) and 572.311(d) reading as follows:

( ) The filing fee for such agreements is described in § 572.401(f).

11. In section 572.401, the title is revised, and a new paragraph (f) is added to read as follows:

* * * * *

§ 572.401 Filing of agreements; filing fees.

* * * * *

(f) Agreement filings for Commission action requiring an Information Form and review by the Commission shall be accompanied by remittance of a $1,402 filing fee; agreement filings for Commission action not requiring an Information Form, but requiring review by the Commission, shall be accompanied by remittance of a $695 filing fee; agreement filings reviewed under delegated authority shall be accompanied by remittance of a $353 filing fee; and agreement filings for

terminal and carrier exempt agreements shall be accompanied by remittance of a $120 filing fee.

By the Commission.

Joseph C. Polking,

Secretary.

Appendix A to the Proposed Rule

INDIRECT COST CALCULATIONS

[Applied to Direct Cost]

A. Government Overhead Costs

Fringe benefits and other wage-related government contributions from OMB Circular A–76:	
Leave and Holidays	19.70%
Retirement	21.70%
Workmen's Comp. Awards	1.70%
Health, Life Insurance	4.70%
Medicare	1.45%
Total	49.25%

B. Commission General and Administrative

Expenses allocated to the offices of the Commissioners, Managing Director, General Counsel, and Bureau of Administration (FY 1994 amounts from FY 1995 OMB Budget):	
1. Personnel Costs	$4,155,500
2. Rent, Communications and Utilities	1,009,468
3. Annual Report	3,000
4. Data Information	20,000
5. Printing	9,619
6. Equipment Maintenance	24,878
7. Leasehold Improvements	20,000
8. Supplies and Materials	43,784
9. ADP Supplies	7,297
10. Furniture and Equipment	9,288
11. Postage	16,790
12. Fiscal Services	24,878
13. Health Services	8,127
14. Protective Services	32,122
15. Duplicating Supplies	7,982
16. Travel	42,000
Total	$5,434,733
Calculation of overhead percentage:	
• Commission G & A ÷ Agency Funding =	% Overhead
• Total Agency Funding for FY 1994	$18,900,000
• Commission G & A	$5,434,733
• Overhead Percentage ($5,434,733 ÷ $18,900,000):	28.76%

C. Office General and Administrative

Overhead expenses allocated to Offices and Bureaus involved in fee-generating activities (excluding ATFI):	
1. Rent, Communications, and Utilities	$968,401
2. Postage	18,518
3. Miscellaneous Printing	10,597
4. Credit Reports	8,750
5. Equipment Maintenance	27,405
6. Fiscal Services	27,405
7. Health Services	10,962
8. Protective Services	31,790
9. Supplies and Materials	48,233
10. ADP Supplies	8,039
11. Duplicating Supplies	8,770
12. Furniture and Equipment	3,654
13. ADP Equipment	6,577
Total	$1,179,101
Calculation of overhead percentage:	
• Overhead Expenses ÷ Bureau/Office Funding =	% Overhead
• Funding for Bureaus/Offices (FY 1994 amounts from FY 1995 OMB Budget):	
and Secretary	$910,000
Trade Monitoring and Analysis	$1,846,000
Tariffs, Certification and Licensing	$2,730,000
Total	$5,486,000
• Office G & A:	$1,179,101
• Overhead Percentage ($1,179,101 ÷ $5,486,000):	21.49%

INDIRECT COST CALCULATIONS—Continued

[Applied to Direct Cost]

D. Total Indirect Cost Factor (Sum of A through C)	
A. Government Overhead Costs	49.25%
B. Commission General and Administrative	28.76%
C. Office General and Administrative	21.49%
Total	99.50%

Appendix B to the Proposed Rule

FEDERAL MARITIME COMMISSION

[Summary of Proposed Fees]

CFR citation and application or service	Proposed fee
Part 514—TARIFFS AND SERVICE CONTRACTS	
514.21(i):	
Tariff filing	34 cents per filing object.
Filing service contract essential terms	$3.29 per filing object.
Part 552—FINANCIAL REPORTS OF VESSEL OPERATING COMMON CARRIERS BY WATER IN THE DOMESTIC OFFSHORE TRADES	
552.2(f) General Rate Increase	$11,951
552.2(c) Application for Extension of Time for Filing	$55
552.2(d) Application for Submission of Alternative Data	$165
552.2(e) Application for Waiver of Detailed Reporting Requirements	$103
Part 560—AGREEMENTS BY COMMON CARRIERS AND OTHER PERSONS SUBJECT TO THE SHIPPING ACT, 1916	
560.401(c)	
Agreement Filings Requiring Detailed Justification and Commission Action	$1,402
Agreement Filings not Requiring Detailed Justification but Requiring Commission Action	$695
Agreement Filing for Terminal and Carrier Exempt Agreements	$120
Part 572—AGREEMENTS BY COMMON CARRIERS AND OTHER PERSONS SUBJECT TO THE SHIPPING ACT OF 1984	
572.401(f)	
Agreement Filings Requiring Information Form and Commission Action	$1,402
Agreement Filings not Requiring Information Form but Requiring Commission Action	$695
Agreement Filing Reviewed Under Delegated Authority	$353
Agreement Filing for Terminal and Carrier Exempt Agreements	$120

[FR Doc. 94-18381 Filed 7-27-94; 8:45 am]
BILLING CODE 6730-01-W

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of 90-day Finding on a Petition to List the Dakota Skipper as an Endangered or Threatened Species.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces a 90-day finding for a petition to add the Dakota skipper (*Hesperia dacotae*) to the List of Endangered and Threatened Wildlife and Plants. The Service finds that the petition presents substantial information indicating that listing the species as an endangered or threatened species may be warranted. The Service solicits further information regarding occurrence and distribution of the species and threats to its continued existence and will prepare a 12-month finding.

DATES: The finding announced in this notice was made on July 1, 1994. Comments and materials related to this petition finding may be submitted to the Division of Endangered Species at the address below and must be received by September 26, 1994 to be considered in the 12-month finding.

ADDRESSES: Data, information, comments, or questions concerning the status of the petitioned species described below should be submitted to the Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, Bishop Henry Whipple Building, 1 Federal Drive, Fort Snelling, Minnesota 55111. The complete file for this petition finding is available for public inspection, by appointment, during normal business hours, at the above address.

FOR FURTHER INFORMATION CONTACT: Robert Adair, Chief, Division of Endangered Species, at the above address (612/725-3276).

SUPPLEMENTARY INFORMATION: Section 4(b)(3)(A) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that the Service make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition, and the

finding is to be published promptly in the **Federal Register**. If the Service finds that a petition presents substantial information indicating that the requested action may be warranted and the species is not in a current notice of review as a candidate for listing, the Service initiates a status review on that species. Section 4(b)(3)(B) of the Act requires the Service to make a finding as to whether or not the petitioned action is warranted within 12 months of receipt of a petition that presents substantial information.

Brendan McManus of the Biodiversity Legal Foundation submitted to the Service a petition dated January 15, 1994, to list the Dakota skipper (*Hesperia dacotae*) as an endangered or threatened species pursuant to the Act. The petition was received January 21, 1994. The petitioner submitted biological, distributional, and other information in support of the petition.

Hesperia dacotae is a Category 2 candidate species (56 FR 58804). In July 1978, the Service proposed listing the species as a threatened species under the Act (USFWS 1978); however, the proposal was withdrawn, due to the 1978 amendments to the Act. A category 2 taxon is one for which information in possession of the Service indicates that proposing to list as endangered or threatened is possibly appropriate, but for which conclusive data on biological vulnerability and threat are not currently available to support a proposed rule.

The Dakota skipper is a small- to medium-sized hesperine skipper with a wingspan of 2.4 to 3.2 centimeters (cm) (0.9 to 1.3 inches (in)) and hooked antennae. The dorsal surface of the wings ranges from tawny-orange to brown (female with tawny-orange to white spots), while the ventral surface of the wings ranges from yellow-orange to gray-brown. This species has a short, stout body, and a characteristic rapid, skipping flight (Royer and Marrone 1992, U.S. Fish and Wildlife Service (USFWS) 1993).

Populations of the Dakota skipper are known to occur in Minnesota, North Dakota, South Dakota, and Manitoba, Canada. In addition, the species was formerly found in Illinois and Iowa. The species is currently known in 16 counties (30 population sites) in Minnesota, 16 counties (28 population sites) in North Dakota, and 11 counties (18 population sites) in South Dakota (Royer and Marrone 1992, U.S. Fish and Wildlife Service (USFWS) 1993).

Further details regarding the biological status of the species are contained in the administrative finding. Interested persons may obtain a copy of the finding by contacting the office indicated in the **ADDRESSES** section of this notice.

The petitioner contends that the Dakota skipper should be listed as an endangered or threatened species because of the following factors:

1. Present and threatened destruction, modification, and curtailment of habitat due to loss of suitable grassland habitat;

2. Inadequacy of existing regulatory mechanisms, since there is no protection for the species or its habitat nationally or within most of the States within the species' range; and

3. Other natural or manmade factors affecting the species' continued existence, including the production of only one egg per adult female per year and the species' inability to adapt to a changing habitat.

In 1993 (USFWS 1993), the Service concluded that the Dakota skipper may be threatened by the following factors:

1. Conversion of native tall-grass prairie to other land uses.

2. Management practices, including complete burns, pesticide use, grazing, detrimental haying, and wetland enhancement.

3. Habitat alteration and degradation by naturalized alien species.

4. The small number of isolated populations and individuals, which may result in a limited gene pool depressing reproductive vigor and cause the species to be vulnerable to any human-caused or natural environmental disturbance (USFWS 1993).

Overgrazing, inappropriately timed fires and haying, alteration and conversion of prairie habitat to crop production, and invasion of native prairie by naturalized, alien plants are probably the greatest threats to the survival of *H. dacotae*, which requires undisturbed, virgin prairie habitat to survive.

The Service has reviewed the petition, its supporting documents and data, as well as other available information, published and unpublished studies and reports, and agency files. All documents are on file in the office indicated in the **ADDRESSES** section of this notice.

After reviewing the best scientific and commercial information available, the Service finds that the petitioner has presented substantial information which indicates that listing of the Dakota skipper as an endangered or threatened species may be warranted. However, the Service is in need of additional information to completely identify the status of the species in all areas of its historic range and to further identify activities that may be contributing to its decline.

With this notice, the Service announces a positive 90-day finding on the petition that the following actions may be warranted for the Dakota skipper: Elevation to Category 1 status and subsequent listing as an endangered or threatened species. The Service solicits further information regarding occurrence and distribution of the species, threats to its continued existence, and any additional comments and suggestions from the public, other concerned government agencies, the scientific community, industry, and any other parties. The following issues are of particular interest to the Service:

1. Additional historic and current population data which may assist in determining long term population trends;

2. Management methods used on substantial tracts of native prairie that include actions such as burning, haying, insect and plant control, plowing, and grazing, but which do not adversely affect the Dakota skipper and its habitat; and

3. Data pertaining to existing available prairie habitat which may be suitable Dakota skipper habitat and present and/or possible future disturbance to those areas.

After consideration of additional information submitted during the indicated time period (See **DATES** section), the Service will prepare a 12-month finding.

The petitioner also requested that critical habitat be designated. If the 12-month finding determines that the petitioned action to list the Dakota skipper as an endangered or threatened species is warranted, then the designation of critical habitat would be addressed in the subsequent proposed rule.

References Cited

Royer, R.A., and G.M. Marrone. 1992. Conservation status of the Dakota skipper (*Hesperia dacotae*) in North and South Dakota. Report prepared for U.S. Fish and Wildlife Service, Denver, Colorado. 44pp.

U.S. Fish and Wildlife Service. 1993. Candidate status for two species of butterflies. Unpublished report submitted to U.S. Fish and Wildlife Service, Region 3.

U.S. Fish and Wildlife Service. 1978. Proposed endangered or threatened status or critical habitat for 10 butterflies or moths. **Federal Register** 43(128):28938–28945.

Author: The primary author of this notice is Carlita Shumate (see **ADDRESSES** section), 612/725–3276.

Authority: The authority for this action is the Endangered Species Act of 1973, as amended; 16 U.S.C. 1531–1544; unless otherwise noted.

Dated: July 1, 1994.

Bruce Blanchard,

Deputy Director, U.S. Fish and Wildlife Service.

[FR Doc. 94–18439 Filed 7–27–94; 8:45 am]

BILLING CODE 4310–55–P

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of Extension of Comment Period on Data Pertaining to the Subspecies Taxonomy of the California Gnatcatcher

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of extension of public comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) gives notice that the comment period on the data pertaining to the subspecies taxonomy of the California gnatcatcher is extended. The notice of availability opening the public comment period was published on June 2, 1994 (59 FR 28508) and opened the comment period until August 1, 1994. This notice extends the comment period until August 31, 1994.

DATES: Comments and materials must be received by August 31, 1994.

ADDRESSES: Copies of the subject data are available from the U.S. Fish and Wildlife Service, Carlsbad Field Office, 2730 Loker Avenue West, Carlsbad, California 92008. Comments and materials concerning these data should be submitted to the above address. The data, public comments, and other materials received will be available for public inspection during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Gail Kobetich, Field Supervisor, at the address listed above (telephone 619/431–9440, facsimile 619/431–9624).

SUPPLEMENTARY INFORMATION:

Background

On March 30, 1993, the U.S. Fish and Wildlife Service (Service) published a final rule in the **Federal Register** determining the coastal California gnatcatcher to be a threatened species (58 FR 16741). In its decision to list the gnatcatcher, the Service relied, in part, on taxonomic studies conducted by Dr. Jonathan Atwood of the Manomet Bird Observatory, Manomet, Massachusetts. As is the standard practice in the scientific community, the Service did not request, nor was it offered, the data collected and used by Dr. Atwood in reaching his conclusions. Instead, the Service depended upon the conclusions published by Dr. Atwood in a peer-reviewed scientific article on the subspecific taxonomy of the California gnatcatcher (Atwood 1991).

In response to a suit filed by the Endangered Species Committee of the Building Industry Association of Southern California and the other plaintiffs, the United States District Court of the District of Columbia vacated the listing of the coastal California gnatcatcher because the Service did not make available Atwood's data for public review and comment. In response to the court decision, Dr. Atwood released his data to the Service, which the agency made available to the public for review and comment on June 2, 1994. On June 16, 1994, the court reinstated threatened status for the coastal California gnatcatcher until the Secretary of the Interior determines whether the listing should be revised or revoked in light of his review of the subject data and public comments received during the comment period. This final finding will be published in the **Federal Register**.

On July 1, 1994, the plaintiffs requested a 100-day extension in the comment period. Because the Secretary had no objection to a 30-day extension, both parties stipulated that the comment period shall be extended to August 31, 1994.

References Cited

Atwood, J.L. 1991. Subspecies limits and geographic patterns of morphological variation in California gnatcatchers (*Polioptila californica*). Bull. So. Calif. Acad. Sci. 90:118–133.

Authority: The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1361 *et seq.*)

List of Subjects

50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and Record Keeping Requirements, and Transportation.

50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Dated: July 18, 1994.

Thomas J. Dwyer,

Acting Regional Director, Region 1, U.S. Fish and Wildlife Service.

[FR Doc. 94–18361 Filed 7–27–94; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 681

[I.D. 072094A]

RIN 0648–AF82

Crustacean Fisheries of the Western Pacific Region

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

ACTION: Notice of availability of a fishery management plan amendment and request for comments.

SUMMARY: NMFS issues this notice that the Western Pacific Fishery Management Council (Council) has submitted Amendment 8 to the Fishery Management Plan for the Crustacean Fisheries of the Western Pacific Region (FMP) for review by the Secretary of Commerce (Secretary), and is requesting comments from the public. Amendment 8 would implement administrative changes to the FMP to address problems encountered during the first year of a limited entry and quota management program.

DATES: Written comments on the amendment must be received on or before September 19, 1994.

ADDRESSES: All comments should be sent to, Rodney R. McInnis, Acting Regional Director (RD), Southwest Region, National Marine Fisheries Service, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213. Copies of the amendment are available upon request from the Council, 1164 Bishop Street, suite 1405, Honolulu, HI 96813 (808–522–8220).

FOR FURTHER INFORMATION CONTACT: Svein Fougner, NMFS, (310) 980–4034, or Alvin Katekaru, NMFS (808) 973–2939.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act 16 U.S.C. 1801 *et seq.* (Magnuson Act) requires that a Regional Fishery Management Council submit any amendment to a fishery management plan it has prepared to the Secretary for review, disapproval, or partial disapproval. The Magnuson Act also requires that the Secretary, upon receiving an amendment, immediately publish a notice that the amendment is available for public review and comment. The Secretary will consider all public comments received during the public comment period in determining

whether to approve the amendment for implementation.

Amendment 8 would implement largely administrative changes to the FMP to address problems encountered during the first year of a limited entry and quota management program established by Amendment 7. These changes include:

1. Eliminating the landing requirement necessary for obtaining a limited-entry permit for each new fishing season.

2. Implementing a framework procedure to adjust the target catch-per-unit-of-effort so that it reflects the current productivity of the stocks.

3. Implementing a framework procedure to allow some fishing, if necessary, when the quota is zero in an effort to obtain important fisheries data.

4. Reducing the period of time fishermen will have to notify NMFS of their return to port.

5. Implementing a requirement that fishermen notify NMFS of the time of unloading their vessels.

6. Revising the information on the report of sales of lobsters.

7. Providing first level buyers with worksheets to facilitate information reporting.

8. Implementing a framework procedure authorizing the RD to modify reporting requirements and call-in destinations.

An environmental assessment and regulatory impact review are incorporated in Amendment 8. All are available for public review (see **ADDRESSES**).

The receipt date for Amendment 8 was July 19, 1994. Proposed regulations to implement Amendment 8 are scheduled to be published within 15 days of the receipt date.

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

Dated: July 22, 1994.

David S. Crestin,

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

[FR Doc. 94–18324 Filed 7–22–94; 4:48 pm]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 59, No. 144
Thursday, July 28, 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

July 22, 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 the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents maybe obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250, (202) 690–2118.

Extension

- *Agricultural Marketing Service*

California Pears and Peaches; Marketing Order No. 917

FV–75; FV–76; FV–91; FV–92; FV–93; & FV–103;

Recordkeeping; On occasion; Monthly

Farms; Businesses or other for-profit; Small businesses or organizations; 1,351 responses; 1,140 hours

Mark Kreaggor (202) 720–2431

Revision

- *Agricultural Marketing Service*

Irish Potatoes Grown in Colorado; Marketing No. 948

Recordkeeping; On occasion

Farms; Businesses or other for-profit; 3,696 responses; 576 hours

Teresa L. Hutchinson (503) 326–2724

Donald E. Hulcher,

Deputy Departmental Clearance Officer.

[FR Doc. 94–18409 Filed 7–27–94; 8:45 am]

BILLING CODE 3410–01–M

Forest Service

Sensitive Plant Program; Eldorado National Forest, CA

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Eldorado National Forest proposes to refine existing sensitive plant direction in order to provide greater specificity, promote program effectiveness, and improve the efficiency in which Eldorado National Forest programs and activities are reviewed through the biological evaluation process as required under FSM § 2670.32.

The Forest Service will prepare an environment impact statement (EIS) to consider the ramifications of implementing species-specific standards and guidelines for the sensitive plant species found on the Eldorado National Forest. The decision may include the following: an amendment to the *Eldorado National Forest Land and Resource Management Plan* and/or the delisting of one or more species as sensitive. The agency invites written comments and suggestions on the scope of the analysis. The agency also gives notice of the full environmental analysis and decision-making process that will occur on the proposal so that interested ad affected people are aware of how they may participate and contribute to the final decision.

DATES: Comments concerning the scope of the analysis must be received by September 1, 1994. The public is invited to provide information concerning the scope of the analysis at a meeting to be held on August 24, 1994, beginning at 1 p.m.

ADDRESSES: Submit written comments and suggestions concerning the scope of the analysis to John Phipps, Forest Supervisor, 100 Forni Road, Placerville, CA 95667. The meeting will be held at the Eldorado National Forest Supervisor's Office located at 100 Forni Road, Placerville, CA 95667.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and EIS should be directed to Mike Foster, Forest Botanist, 100 Forni Road, Placerville, CA 95667.

SUPPLEMENTARY INFORMATION: USDA regulations (9500–4), Forest Service policy, and the *Eldorado National Forest Land and Resource Management Plan* (1989) require that the Eldorado National Forest maintain the viability of sensitive plant species. Direction is provided (FSM 2670.22) to "develop and implement management practices to ensure that species do not become threatened or endangered because of Forest Service actions." Additional policy includes (FSM 2670.32):

> Establish management objectives in cooperation with the States when projects on National Forest System lands may have significant effect on sensitive species population numbers or distributions. Establish objectives for Federal Candidate species, in cooperation with FWS or NMFS and the States.

When the *Eldorado National Forest Land and Resource Management Plan* was approved, little was known about the habitat requirements of the ten sensitive plant species thought to occur on the Forest. General Direction in the *Eldorado National Forest Land and Resource Management Plan* was limited to the following (p.4–91):

> Provide for protection and habitat needs of sensitive plants so that Forest activities will not jeopardize the continued existence of such species.
>
> One Standard/Guideline applies:
>
> Participate in the implementation of approved species recovery plans and Species Management Guides as specified for the Eldorado.

Since that time, a considerable amount of information has been gathered about the habitat requirements of the eight species documented to occur on the Forest. The Forest now has sufficient information on the range, distribution, and status of six of these species to enable the development of species-specific conservation strategies. The species to be considered are: *Calochortus clavatus* var. *avius* (Pleasant Valley mariposa lily), *Draba*

asterophora var. *macrocarpa* (Cup Lake draba), *Lewisia longipetala* (long-petaled lewisia), *Lewisia serrata* (saw-toothed lewisia), *Navarretia prolifera* ssp. *lutea* (yellow-bur navarretia), *Phacelia stebbinsii* (Stebbins' phacelia), *Silene invisa* (short-petaled campion), and *Arctostaphylos nissenana* (Nissenan manzanita).

There are no known permits or licenses required to implement the proposed action.

Preliminary issues identified during internal scoping include:

1. How will current and future habitat options for sensitive plant species be managed to address Forest Service requirements (CFR 219.19) to maintain viability?

2. What will be the economic consequences of implementing mitigation measures for sensitive plant species?

3. Should plants species that are managed under the provisions of conservation agreements and/or standards and guidelines still be listed as sensitive?

4. How will fuel conditions that have a high probability of contributing to catastrophic fire behavior be affected by sensitive plant management practices?

5. Will other land uses be constrained or altered?

6. Will species-specific standards and guidelines improve the efficiency of Forest project planning and implementation?

7. Will the efficiency and effectiveness of the Forest sensitive plant program improve?

Based on the preliminary issues listed above and other issues that may be developed, the Forest Service will identify and consider a range of alternatives for managing sensitive plant species. These alternatives will include a no action alternative (continuing with existing *Eldorado National Forest Land and Resource Management Plan* direction). Other alternatives to consider may include implementation of species-specific standards and guidelines and/or delisting one or more of the species under consideration. These preliminary alternatives may be revised before the draft EIS is issued as new information is developed or new comments are received:

Public participation will be especially important at several points during the analysis. The first point is during the scoping process (40 CFR 1501.7).

The Forest Service will be seeking information, comments, and assistance from federal, state, and local agencies and other individuals or organizations who may be interested in or affected by the proposed project. This input will be used in preparation of the draft EIS. The scoping process includes:

1. Defining the scope of the analysis and nature of the decision to be made.

2. Identifying the issues and determining the significant issues for consideration and analysis within the EIS.

3. Defining the proper interdisciplinary team make-up.

4. Determining the effective use of time and money in conducting the analysis.

5. Identifying potential environmental, technical, and social impacts of the EIS and alternatives.

6. Determining potential cooperating agencies.

7. Identifying groups or individuals interested or affected by the decision.

John Phipps, Forest Supervisor, Eldorado National Forest, is the responsible official.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review in September 1994. At that time, EPA will publish a notice of availability of the draft EIS in the **Federal Register**. The comment period on the draft EIS will be 45 days from the date that EPA's notice of availability appears in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers's position and contentions. *Vermont Yankee Nuclear Power Corp. v. NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the draft environmental impact statement stage, but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon v. Hodel, 803 F.2d 1016, 1022 (9th Cir. 1986)* and *Wisconsin Heritages, Inc. v. Harris, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980).*

Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality. Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

After the comment period ends on the draft EIS, the comments will be analyzed and considered by the Forest Service in preparing the final EIS. The final EIS is scheduled to be completed by January 1994. In the final EIS the Forest Service is required to respond to the comments and responses received (40 CFR 1503.4). The responsible official will consider the comments, responses, and environmental consequences discussed in the draft EIS; and applicable laws, regulations, and policies in making a decision regarding this project. If a decision is made to amend the Land and Resource Management Plan, the responsible official will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to appeal pursuant to 36 CFR part 215.

Dated: July 21, 1994.

Rex Baumback,

Acting Forest Supervisor, Eldorado National Forest.

[FR Doc. 94-18319 Filed 7-27-94; 8:45 am]

BILLING CODE 3410-11-M

Rural Development Administration

Federal-State Research on Cooperatives Program

AGENCY: Rural Development Administration, USDA.

ACTION: Notice Inviting Applications for Fiscal Year 1994 Cooperative Research Agreements.

SUMMARY: Notice is hereby given that $435,000 was allocated in the Federal Budget for Fiscal Year 1994 for payments to States for research related to cooperatives. This program will be administered by the Rural Development Administration. States interested in applying for competitively awarded funds under the program are invited to submit proposals for cooperative related research studies on agricultural marketing. Only State Departments of Agriculture, State Agencies, or State Agricultural Experiment Stations are

eligible for funds through a cooperative research agreement. The intended effect of this program is to encourage more research at state levels that will enhance the well-being of agricultural cooperatives and their members.

DATES: Proposals will be accepted now, but must be postmarked no later than August 15, 1994.

ADDRESSES: Send proposals, including application forms and other required materials to Dr. Randall E. Torgerson, Assistant Administrator, Rural Development Administration/ Cooperative Services, USDA, Ag Box 3250, Washington, DC 20250–3250.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas H. Stafford, Director, Cooperative Marketing Division, Cooperative Services, Rural Development Administration, USDA, Ag Box 3252, Washington, DC 20250–3252, Phone: 202–690–0368.

SUPPLEMENTARY INFORMATION: The Federal-State Research on Cooperatives (FSROC) Program is authorized under Section 204 (b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq*). The program is a matching fund program designed to assist State Departments of Agriculture and State Agricultural Experiment Stations in conducting research related to cooperatives. Organizations interested in conducting a research study should contact their State Department of Agriculture Marketing Division to discuss their proposal.

Mutually acceptable proposals must be submitted through the State Agency. State Agencies must provide at least 50 percent of the funds for the research. FSROC program funds may not be used for advertising or the purchase of equipment or facilities. Guidelines, as outlined in 7 CFR 4285, published elsewhere in this same issue of the **Federal Register** may be obtained from your State Department of Agriculture or the above Rural Development Administration contact.

In terms of objectives, States are encouraged to submit proposals regarding studies:

(a) To improve the efficiency and effectiveness of marketing of agricultural cooperatives;

(b) To measure the impact of rural cooperatives on the local economies;

(c) That help identify opportunities to develop cooperatives for new or alternative market uses of agricultural products;

(d) That help identify ways to develop agricultural marketing cooperatives; and,

(e) Addressing other cooperative marketing objectives;

Format for the proposals are as outlined in 7 CFR Part 4285, § 4285.58. Included are Forms SF–424, SF–424A and SF–424B, a Statement of Work, Collaborative arrangement description, and description of the personnel support for the project.

The Federal-State Research on Cooperatives Program is a part of the "Technical Assistance to Cooperatives" as listed in the "Catalog of Federal Domestic Assistance" under No. 10.350 and subject agencies must adhere to Title VI of the Civil Rights Act of 1964 which bars discrimination in all Federally assisted programs.

Dated: July 18, 1994.

Karl N. Stauber,

Acting Under Secretary for Small Community and Rural Development.

[FR Doc. 94–18286 Filed 7–27–94; 8:45 am]

BILLING CODE 3410–32–U

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Department of Commerce.

Title: Customer Satisfaction Survey.

Agency Form Number: None.

OMB Approval Number: None.

Type of Request: New collection.

Burden: 1,750 hours.

Number of Respondents: 7,000.

Avg Hours Per Response: 15 minutes.

Needs and Uses: This survey will be used by the Department of Commerce to obtain feedback and information from Commerce customers in order to make quality improvements to our products and services.

Affected Public: Individuals, state or local governments, businesses or other for–profit institutions, non–profit institutions, and small businesses or organizations.

Frequency: One–time.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Don Arbuckle, (202) 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing Gerald Tache, DOC Forms Clearance Officer, (202) 482–3271, 14th and Constitution Avenue, N.W., Washington, D. C. 20230.

Written comments and recommendations for the proposed information collection should be sent to Don Arbuckle, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, D.C. 20503.

Dated: July 21, 1994

Gerald Tache,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 94–18313 Filed 7–27–94; 8:45 am]

BILLING CODE 3510–CW–F

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Current Industrial Reports Program (Wave 1 Mandatory).

Form Number(s): Various.

Agency Approval Number: 0607–0392.

Type of Request: Revision of a currently approved collection.

Burden: 13,990 hours.

Number of Respondents: 10,704.

Avg Hours Per Response: 53 minutes.

Needs and Uses: The Current Industrial Reports (CIR) program is a series of monthly, quarterly, and annual surveys which provides key measures of production, shipments, and/or inventories on a national basis for selected manufactured products. Government agencies, business firms, trade associations, and private research and consulting organizations use these data to make trade policy, production, and investment decisions.

Affected Public: Businesses or other for profit.

Frequency: Monthly and Annually.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Gerald Taché, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: July 22, 1994.

Gerald Taché,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 94–18358 Filed 7–27–94; 8:45 am]

BILLING CODE 3510–07–F

Foreign-Trade Zones Board

[Order No. 700]

Grant of Authority for Subzone Status; Sanofi Winthrop L.P. (Pharmaceuticals) Des Plaines, IL

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

WHEREAS, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

WHEREAS, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

WHEREAS, an application from the Illinois International Port Authority (Chicago area), grantee of Foreign-Trade Zone 22, for authorization for special-purpose subzone status at the pharmaceutical warehouse/distribution facility of Sanofi Winthrop L.P., in Des Plaines, Illinois, was filed by the Board on June 28, 1993, and notice inviting public comment was given in the Federal Register (FTZ Docket 28–93, 58 FR 36933, 7–9–93); and,

WHEREAS, the Board has found that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

NOW, THEREFORE, the Board hereby authorizes the establishment of a subzone (Subzone 22G) at the Sanofi Winthrop L.P. warehouse/distribution facility in Des Plaines, Illinois, at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 20th day of July 1994.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 94–18316 Filed 7–27–94; 8:45 am]

BILLING CODE 3510–DS–P

[Order No. 699]

Grant of Authority for Subzone Status; Sanofi Winthrop L.P. (Pharmaceuticals) McPherson, KS

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

WHEREAS, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

WHEREAS, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

WHEREAS, an application from the Board of County Commissioners of Sedgwick County, Kansas (Wichita area), grantee of Foreign-Trade Zone 161, for authorization for special-purpose subzone status at the pharmaceutical manufacturing facilities of Sanofi Winthrop L.P., in McPherson, Kansas, was filed by the Board on June 8, 1993, and notice inviting public comment was given in the Federal Register (FTZ Docket 24–93, 58 FR 33609, 6–18–93); and,

WHEREAS, the Board has found that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

NOW, THEREFORE, the Board hereby authorizes the establishment of a subzone (Subzone 161A) at the Sanofi Winthrop L.P. plant in McPherson, Kansas, at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 20th day of July 1994.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates Foreign-Trade Zones Board.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 94–18317 Filed 7–27–94; 8:45 am]

BILLING CODE 3510–DS–P

[Order No. 698]

Grant of Authority for Subzone Status; Sanofi Winthrop L.P. (Pharmaceuticals) Rensselaer, NY

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

WHEREAS, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

WHEREAS, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

WHEREAS, an application from the Capital District Regional Planning Commission (Albany area), grantee of Foreign-Trade Zone 121, for authorization for special-purpose subzone status at the pharmaceutical manufacturing facilities of Sanofi Winthrop L.P., in Rensselaer, New York, was filed by the Board on June 1, 1993, and notice inviting public comment was given in the Federal Register (FTZ Docket 22–93, 58 FR 33254, 6–16–93); and,

WHEREAS, the Board has found that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

NOW, THEREFORE, the Board hereby authorizes the establishment of a subzone (Subzone 121A) at the Sanofi Winthrop L.P. plant in Rensselaer, New York, at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 20th day of July 1994.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates Foreign-Trade Zones Board.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 94–18318 Filed 7–27–94; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

[A–583–822]

Notice of Final Determination of Sales at Less Than Fair Value: Class 150 Stainless Steel Threaded Pipe Fittings From Taiwan

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

EFFECTIVE DATE: July 28, 1994.

FOR FURTHER INFORMATION CONTACT: Michelle Frederick or Karla Whalen, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0186 or (202) 482–6309, respectively.

FINAL DETERMINATION: We determine that imports of Class 150 stainless steel threaded (SST) pipe fittings from Taiwan are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated weighted-average margins are shown in the "Continuation of Suspension of Liquidation" section of this notice.

Case History

Since our preliminary determination on March, 1, 1994 (59 FR 10784, March 8, 1994), the following events have occurred: In March 1994, Yih Tai Industries Co., Ltd. (Yih Tai) and Enlin Steel Corporation (Enlin) requested a public hearing. Enlin, Ta Chen Stainless Pipe Co., Ltd. (Ta Chen) and Yih Tai submitted cost of production and constructed value questionnaire responses in March, 1994. The Department issued supplemental cost of production and constructed value questionnaires in April 1994. Responses to these supplemental questionnaires were submitted by Enlin, Ta Chen and Yih Tai in April and May, 1994.

We conducted verifications of Enlin, Ta Chen, and Yih Tai's sales and cost questionnaire responses in Taiwan, and in Long Beach, CA as well for Ta Chen, in April and May, 1994.

Enlin, Ta Chen, and Yih Tai submitted case briefs in June. Petitioner did not submit a case brief. No rebuttal briefs were filed. The requests for a public hearing were withdrawn.

Scope of the Investigation

The products covered by this investigation are Class 150 SST pipe fittings, defined as cast or forged stainless steel products used to connect pipe sections with an ability to withstand normal pressure service (150 pounds per square inch (psi) at 350 degrees Fahrenheit and 300 psi at −20 to 150 degrees Fahrenheit) as well as resistance to corrosion or extreme temperatures, or prevention of metallic contamination to materials in the system. Included in the scope of this investigation are both finished and unfinished Class 150 SST pipe fittings of any size. Unfinished Class 150 SST pipe fittings are defined as those products that have been advanced after casting or forging, but which require threading and machining to finish the fittings; finished Class 150 SST pipe fittings are defined as those products that have been formed in the shape of elbows, tees, reducers, etc. and have been further advanced after casting or forging, and require no further processing to be acceptable as a finished product to the end user. Class 150 SST pipe fittings are composed of alloys including, but not limited to, 304 and 316, and are manufactured in the shape of 90-degree elbows, 45-degree elbows, street elbows, tees, crosses, couplings, reducing couplings, half-couplings, caps, square head plugs, hex head plugs, hex bushings, unions, locknuts, and welding spuds. Excluded from the scope of investigation are SST pipe fittings manufactured in the shape of nipples.

The products under investigation are currently classifiable under subheadings 7307.19.9030, 7307.19.9060, 7307.19.9080, 7307.22.1000, 7307.22.5000, and 7307.29.0090 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of these investigations is dispositive.

Period of Investigation

The period of investigation (POI) is January 1, 1993, through June 30, 1993.

Such or Similar Comparisons

We have determined that the products covered by this investigation constitute a single category of such or similar merchandise. All three respondents reported that they sold merchandise in the home market or third-country market identical to that sold in the United States. Accordingly, none provided difference in merchandise (difmer) information in their sales listings. (*See Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Class 150 Stainless Steel Threaded Pipe Fittings from Taiwan*, 59 FR 10784, March 8, 1994) for further discussion.

Fair Value Comparisons

To determine whether sales to the United States of Class 150 SST pipe fittings were made at less than fair value, we compared the United States price (USP) to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

Enlin did not report cost of production data for a small number of third country products. This information was required in order for the Department to determine whether Enlin's third country sales were made below the cost of production, as discussed below. Therefore, for the small number of Enlin's U.S. sales that would have been compared to sales of these products, we calculated margins based on best information available (BIA) in accordance with 19 U.S.C. § 1677e(c). As BIA, we used the highest, non-aberrational margin calculated for any of Enlin's reported U.S. sales of the subject merchandise in accordance with *Final Determinations of Sales at Less Than Fair Value: Calcium Aluminate Cement, Cement Clinker and Flux from France* 59 FR 14136, (March 25, 1994).

United States Price

For Enlin, we calculated USP according to the methodology described in our preliminary determination, with the following exceptions:

1. We revised inland freight, ocean freight and packing case cost to incorporate the average weight of cross pipe fittings as determined during verification because Enlin did not do so as requested by the Department. (*See* Comment 1.)
2. We disregarded cancelled sales which were included in the sales listing.
3. For those sales with updated payment and/or shipment dates which were not incorporated into the final computer tape submission, we recalculated the imputed credit expenses based on the weighted-average difference between payment and shipment dates for those sales which were both shipped and paid for during the POI. For the associated expenses, we calculated a product specific weighted average.

For Ta Chen, we calculated USP according to the methodology described in our preliminary determination, with the following exceptions:

1. We estimated the appropriate shipment date for U.S. purchase price sales which had an incorrect shipment date reported. (*See* Comment 3.)
2. We recalculated imputed credit for purchase price sales based on amended shipment dates that were improperly

reported and by using the lower of two U.S. interest rates available to Ta Chen. (*See* Comment 3 and 4 below.)

3. We recalculated U.S. inventory carrying costs on a warehouse-specific basis taking into account the amended interest rate noted in item 2.

4. For ESP sales made from all U.S. warehouses, we recalculated the movement expenses and bank charges based on expenses incurred on shipments that were made during the POI rather than on expenses incurred on shipments made twelve months prior to the POI.

For Yih Tai, we calculated USP according to the methodology described in our preliminary determination, with the following exceptions:

1. We recalculated packing based on revisions to packing labor as determined at the cost verifications.

Foreign Market Value

As stated in our preliminary determination, we determined that the home market was not viable for sales of SST pipe fittings made by either Enlin and Yih Tai. We selected Canada as the third-country market basis for FMV for both Enlin and Yih Tai. We found the home market viable for sales of SST pipe fittings made by Ta Chen. We calculated FMV as noted in the "Price-to-Price Comparisons" and "Price to Constructed Value (CV)" sections of this notice.

Cost of Production

As stated in our preliminary determination, the Department initiated a cost investigation based on reasonable grounds to believe or suspect that Enlin, Ta Chen, and Yih Tai's home market/third country sales were made at prices below their respective cost of production (COP). We received responses to our cost questionnaires and verified the submitted data.

A. Calculation of COP

We calculated COP based on the sum of the individual respondent's reported cost of materials, fabrication, general expenses, and home market packing. For each company, we derived selling expenses from its respective home market or third country sales listing, as appropriate. We added home market packing expenses derived from the respective sales listing.

For Enlin, we relied on the submitted COP.

For Ta Chen, we relied on the submitted COP information, except in the following instances where the costs were not appropriately quantified or valued:

1. We recalculated cost of manufacturing (COM) by reducing Ta Chen's submitted conversion costs for packing materials and labor as presented and verified during the cost verification.

2. We recalculated Ta Chen's COM by reducing the reported materials costs for scrap revenues received during the POI as presented and verified during the cost verification.

3. As a result of reducing COM for packing material, packing labor, and material scrap revenue, we recalculated Ta Chen's general and administrative expense using the revised COM figure in the calculation.

4. We reclassified a percentage of Ta Chen's president's salary from general and administrative expenses to indirect selling expenses because a portion of the president's time was devoted solely to sales.

For Yih Tai, we relied on the submitted COP information, except in the following instances where the costs were not appropriately quantified or valued:

1. We adjusted the packing labor expense, which was understated in the submission, to reflect the verified amount.

2. We adjusted the allocation basis to include all products for the machine revenue received from the machining subcontractor.

B. Test of Home Market/Third Country Sale Prices

After calculating COP, we tested whether home market or third country sales of SST pipe fittings were at prices below COP over an extended period of time, in accordance with section 773(b) of the Act.

We compared model-specific COP to reported prices that were net of movement charges, and where appropriate, discounts, and rebates. If over 90 percent of a respondent's sales of a given product were at prices above the COP, we did not disregard any below-cost sales because we determined that the respondent's below-cost sales were not made in substantial quantities. If between ten and 90 percent of a respondent's sales of a given product were at prices above the COP, we discarded only the below-cost sales if made over an extended period of time. Where we found that more than 90 percent of respondent's sales of a given product were at prices below the COP, we disregarded all sales for that model and calculated FMV based on constructed value (CV).

In order to determine whether below-cost sales were made over an extended period of time, we performed the following analysis on a product-specific basis: (1) if a respondent sold a product in only one month of the POI and there were sales in that month below the COP, or (2) if a respondent sold a product during two months or more of the POI and there were sales below the COP during two or more of those months, then below-cost sales were considered to have been made over an extended period of time.

C. Results of COP Test

For Ta Chen and Yih Tai, we did not find any sales below cost.

For Enlin, we determined that there were sales below cost, and disregarded those sales. Where more than 90 percent of the sales of a particular model were below cost we based FMV for that model on CV.

Price-to-Price Comparisons

For those products for which we had an adequate number of sales at prices equal to or greater than the COP, we based FMV on home market or third country prices, as appropriate.

For Enlin, we calculated FMV according to the methodology described in our preliminary determination, with the following exceptions:

1. We treated duty drawback as it was reported after verifying that Enlin only received duty drawback on its sales to the U.S. and not on its sales to Canada.

2. We disregarded cancelled sales which were included in the sales listing.

3. We revised inland freight, ocean freight and packing case cost to incorporate the average weight of cross pipe fittings as determined during verification because Enlin did not do so as requested by the Department. (See Comment 1.)

4. For those sales with updated payment and/or shipment dates which were not incorporated into the final computer tape submission, we recalculated the imputed credit expenses based on the weighted-average difference between payment and shipment dates for those sales which were both shipped and paid for during the POI. For the associated expenses, we calculated a product specific weighted average.

For Ta Chen, we calculated FMV according to the methodology described in our preliminary determination, with the following exceptions:

1. We treated home market freight as a circumstance of sale adjustment in light of the Court of Appeals of the Federal Circuit's (CAFC) decision in *Ad Hoc Committee of AZ-NM-TX-FL Producers of Gray Portland Cement* v. *United States*, Slip Op. 93–1239 (Fed. Cir., January 5, 1994), which held that

the Department may no longer deduct home market movement charges from FMV pursuant to its inherent power to fill in gaps in the antidumping statute. We instead adjusted for those expenses under the circumstance-of-sale provision of 19 CFR 353.56 and the exporter's sales price offset provision of 19 CFR 353.56(b)(1) and (2), as appropriate.

2. We made a circumstance of sale adjustment for certain mailing charges brought to the Department's attention prior to verification.

For Yih Tai, we calculated FMV according to the methodology described in our preliminary determination, with the following exceptions:

1. We recalculated packing based on revisions to packing labor found at the cost verifications.

Price to CV Comparisons

For Enlin's products without an adequate number of sales at prices above the COP, we based FMV on CV. We calculated CV based on the sum of the cost of materials, fabrication, general expenses, and U.S. packing cost. In accordance with section 773(e)(1)(B)(i) and (ii) of the Act we: (1) included the higher of the respondent's reported general expenses or the statutory minimum of ten percent of the COM, as appropriate and; (2) for profit, we used the higher of the statutory minimum of eight percent of the sum of COM and general expenses or the actual profit incurred as calculated on a market specific basis.

We calculated CV based on the information submitted by Enlin, except in the following instances where the costs were not appropriately quantified or valued:

1. For CV, we recalculated profit based on revised general administrative and interest expense rates provided at verification.

In instances where we compared Enlin's U.S. prices to CV, we made deductions, where appropriate, for the weighted-average home market or third country direct selling expenses as appropriate.

Currency Conversion

We made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York.

Verification

As provided in section 776(b) of the Act, we verified information provided by Enlin, Ta Chen and Yih Tai by using standard verification procedures, including the examination of relevant sales and financial records, and selection of original source documentation containing relevant information.

Interested Party Comments

Comment 1: Enlin contends that certain corrections requested by the Department, to revise certain expenses affected by a change in the reporting of weight of cross-shaped fittings, should be disregarded as insignificant under 19 CFR 353.59.

DOC Position: We disagree with Enlin. The Department has discretion under 19 CFR 353.59(a) to disregard insignificant adjustments. However, in this case we have sufficient verified information to revise these related expenses and have done so for the final determination.

Comment 2: Enlin contends that its profit calculation, which was provided in its April 21, 1994, response to the Department's Section D deficiency letter, should be updated to reflect changes made to COP based on the use of 1993 audited financial statement information in the calculation of general and administrative and interest expense.

DOC Position: We agree with Enlin. At verification, Enlin updated its general expense figure to reflect the audited 1993 figures, as opposed to the 1992 figures used in the original calculation. Therefore, the Department adjusted Enlin's submitted profit percentage to reflect the changes made to Enlin's general expenses.

Comment 3: At verification, the Department noted that Ta Chen incorrectly reported the date of shipment for its U.S. purchase price sales. Ta Chen reported the date the SST pipe fittings were exported rather than the date the SST pipe fittings were shipped from the factory. Ta Chen requests that, when the Department makes an adjustment to its reported date of shipment, based on the average time between shipment and export of specific sales examined at verification, it should not take into account one shipment in particular because it was shipped in an atypical manner.

DOC Position: We disagree with respondent. At verification, the Department selected a number of U.S. purchase price sales and noted the period between shipment and export for most of the sales examined. The Department's observations were made on Ta Chen's actual experience. We found no indication that the shipment in question was unusual or distortive. Accordingly, we have included this shipment in calculating the average lag time between factory shipment and export in order to estimate shipment dates for Ta Chen's U.S. purchase price sales. For those sales specifically examined at verification, we used the actual lag time noted.

Comment 4: Ta Chen claims that the Department should not use the interest rate available to its U.S. subsidiary, TCI, to calculate imputed credit for its purchase price sales because Ta Chen receives lower U.S. denominated financing specifically for these sales. Ta Chen further argues that to use TCI's interest rate for purchase price sales would be inconsistent with *Final Determination of Sales at Less Than Fair Value, Certain Forged Steel Crankshafts from the United Kingdom*, (52 FR 32951 (September 1, 1987) (*Crankshafts*).

At verification, the Department noted that TCI receives payment from the U.S. customer for purchase price sales and reimburses Ta Chen for the price of the merchandise. Ta Chen argues that it bears the burden of TCI's costs for purchase price sales and thus it is appropriate to use the Taiwan interest rate for U.S. dollar borrowing.

DOC Position: We agree with respondent that the U.S. dollar interest rate at which Ta Chen borrowed in the home market is the most appropriate for U.S. purchase price sales, but for a reason other than that expressed in *Crankshafts*. In *Crankshafts*, the Department stated that its policy at that time was to use the home market interest rate to compute credit for U.S. purchase price sales where respondent did not receive U.S. dollar denominated financing. However, in accordance with, *United Engineering and Forging* v. *United States* 779 F. Supp. 1375, 1386–7 (CIT 1991) and *LMI La Metalli Industriale, S.p.A.* v. *United States* 912 F.2d 455 (Fed. Cir. 1990), the Department is required to use the lowest rate at which the respondent has borrowed or to which the respondent has access. *See Final Determinations of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-Resistant Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate from Canada*, 59 Fed. Reg. 37099, 37113 (1993). Ta Chen, as a whole, had access to U.S. dollar funding at two interest rates. Accordingly, it is reasonable to assume that Ta Chen would have been able to borrow at the lower rate. Therefore, we used the lower U.S. dollar borrowing rate for both ESP and PP sales, in this case Ta Chen's home market borrowing rate for U.S. dollars.

Comment 5: Ta Chen contends that conversion costs used in its calculation of COM included the labor and material

cost of packing, which was recorded separately in Ta Chen's submitted costs. Ta Chen claims that these packing labor and material costs are double counted, as both packing and COM, and thus should be removed from COM.

DOC Position: We agree with Ta Chen. At verification, the Department verified that the packing labor and material costs had been included in Ta Chen's reported conversion costs used in the calculation of COM. In order to avoid double counting these costs as both packing and COM, we reduced COM by the packing labor and material amounts reported.

Comment 6: Ta Chen states that it allocated total material input costs over good product produced, without adjusting for revenue received from the sale of scrap generated in production. Ta Chen claims that the Department should thus reduce reported material costs to account for revenue from the sale of scrap.

DOC Position: We agree with Ta Chen. At verification, the Department was able to confirm the amount of scrap sales during the POI and the fact that they had not been included as a reduction of Ta Chen's material costs when calculating COM.

Continuation of Suspension of Liquidation

We are directing the Customs Service to continue to suspend liquidation of all entries of Class 150 Stainless Steel Pipe Fittings from Taiwan, except for those of Ta Chen and Yih Tai, that are entered, or withdrawn from warehouse, for consumption on or after March 8, 1994, the date of publication of our preliminary determination in the **Federal Register**. The Customs Service shall require a cash deposit or posting of a bond equal to the estimated amount by which the FMV of the merchandise subject to this investigation exceeds the U.S. price, as shown below. This suspension of liquidation will remain in effect until further notice. The weighted-average dumping margins are as follows:

Producer/manufacturer exporter	Weighted-average margin (percent)
Enlin Steel Corporation	7.47
Ta Chen Stainless Pipe Co., Ltd.	0.003
Yih Tai Industries Co., Ltd.	0.08
All Others	7.47

ITC Notification

In accordance with section 735(d) of the Act, we have notified the U.S. International Trade Commission of our determination.

Notification to Interested Parties

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO. This determination is published pursuant to section 735(d) of the Act and 19 CFR 353.20(a)(4).

Dated: July 21, 1994.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 94–18445 Filed 7–27–94; 8:45 am]

BILLING CODE 3510–DS–P

[A–570–836]

Initiation of Antidumping Duty Investigation: Glycine From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Commerce.

EFFECTIVE DATE: July 28, 1994.

FOR FURTHER INFORMATION CONTACT: Julie Anne Osgood or David Boyland, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C., 20230 at (202) 482–0167 and (202) 482–0588, respectively.

INITIATION OF INVESTIGATION:

The Petition

On July 1, 1994, we received a petition in proper form filed by Hampshire Chemical Corporation ("Hampshire") and Chattem Inc., Chemicals Division ("Chattem") (hereinafter "petitioners"). Petitioners filed a supplement to the petition on July 21, 1994.

In accordance with 19 CFR 353.12, petitioners allege that imports of glycine, or aminoacetic acid, from the People's Republic of China ("PRC") are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended ("the Act"), and that such imports are materially injuring, or threatening material injury to, a U.S. industry.

Petitioners state that they have standing to file the petition because Hampshire and Chattem are interested parties, as defined under section 771(9)(C) of the Act, and are the only two U.S. producers of glycine known to petitioners. If any interested party, as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, this petition, it should file a written notification with the Assistant Secretary for Import Administration.

Scope of Investigation

The product covered by this investigation is glycine which is a free-flowing crystalline material, like salt or sugar. Glycine is produced at varying levels of purity and is used as a sweetener/taste enhancer, a buffering agent, reabsorbable amino acid, chemical intermediate, and a metal complexing agent. Glycine is currently classified under subheading 2922.49.4020 of the Harmonized Tariff Schedule of the United States ("HTSUS"). The scope of this investigation includes glycine of all purity levels. Although the HTSUS subheading is provided for convenience and Customs purposes, our written description of the scope of this proceeding is dispositive.

United States Price and Foreign Market Value

Petitioners based United States Price ("USP") on four price quotes with various terms of sale and Bureau of Census import statistics for glycine from the PRC. For purposes of this initiation, we have relied on the 1994 price quotes (two of the four price quotes provided) and on the Bureau of Census import statistics since they are contemporaneous with the calculated foreign market value and more proximate with the period of investigation. Petitioners deducted foreign inland freight, ocean freight and marine insurance, and U.S. inland freight from the price quotes to arrive at an ex-factory unit value for imports. In using the import statistics, petitioners deducted foreign inland freight from the value to arrive at an ex-factory unit value.

Petitioners contend that the foreign market value ("FMV") of glycine subject to this investigation must be determined in accordance with section 773(c) of the Act, which concerns nonmarket economy ("NME") countries. The Department has determined the PRC to be an NME, within the meaning of section 771(18)(A) of the Act, in previous cases (*see e.g., Final Determination of Sales at Less Than Fair Value: Sebacic Acid from the PRC*, May 31, 1994 (59 FR 28053)). In accordance with 771(18)(C) of the Act,

that determination continues to apply for purposes of this initiation.

In the course of this investigation, parties will have the opportunity to address this NME determination and provide relevant information and argument on this issue. Consistent with section 773(c)(1)(B) of the Act (*see Amendment to Final Determination of Sales at Less Than Fair Value and Amendment to Antidumping Duty Order: Chrome-Plated Lug Nuts from the People's Republic of China*, 57 FR 15052 (April 24, 1992)), parties will have the opportunity in this investigation to submit comments on whether FMV should be based on prices or costs.

In accordance with section 773(c) of the Act, FMV in NME cases is based on NME producers' factors of production valued in a market economy country. In this case, to determine FMV, petitioners relied on the factors of production used by Chattem since Chattem's production process is believed to be similar to the PRC producers' manufacturing process.

In valuing the factors of production, petitioners used India and Pakistan as surrogate countries. For purposes of this initiation, we have accepted India and Pakistan as surrogates because their economies are at a level of development comparable to the PRC's. (*See* Memorandum to David L. Binder, Director-Division II, Office of Antidumping Investigations from David P. Mueller, Director, Office of Policy, dated August 1993, regarding non-market economy status and surrogate country selection, on file in Room B-099 of the Department of Commerce.) Also, there is evidence on the record that India is a producer of comparable merchandise, as required by section 773(c)(4) of the Act. When cost information was not available in either of these countries, petitioners valued the factor using Chattem's own costs.

In accordance with section 773(c)(1)(B) of the Act, petitioners' FMV consisted of the sum of values assigned to materials, labor, energy, overhead, and packing. Petitioners adjusted certain factor values for inflation and currency exchange rates. Pursuant to section 773(e)(1) of the Act, petitioners added to the labor and material costs, and general expenses, the statutory minimum of eight percent for profit.

Fair Value Comparisons

Based on the data provided by petitioners, there is reason to believe that glycine from the PRC is being, or is likely to be, sold at less than fair value. The comparison of USP and FMV in the petition indicates margins ranging from 86.43 percent to 155.89 percent. If it becomes necessary at a later date to consider the petition as a source of best information available ("BIA"), we may review these calculation bases.

Initiation of Investigation

We have examined the petition on glycine and have found that it meets the requirements of section 732(b) of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of glycine from the PRC are being, or are likely to be, sold in the United States at less than fair value.

International Trade Commission ("ITC") Notification

Section 732(d) of the Act requires us to notify the ITC of these actions, and we have done so.

Preliminary Determination by the ITC

The ITC will determine by August 15, 1994, whether there is a reasonable indication that imports of glycine from the PRC are causing material injury, or threaten to cause material injury, to a U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act and 19 CFR 353.13(b).

Dated: July 21, 1994.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 94-18314 Filed 7-27-94; 8:45 am]

BILLING CODE 3510-DS-P

Export Trade Certificate of Review

ACTION: Notice of Issuance of an Amended Export Trade Certificate of Review, Application No. 91-2A007.

SUMMARY: The Department of Commerce has issued an amendment to the Export Trade Certificate of Review granted to the National Association of Energy Service Companies ("NAESCO") on January 21, 1992. Notice of issuance of the Certificate was published in the **Federal Register** on February 12, 1992 (57 FR 5133).

FOR FURTHER INFORMATION CONTACT: W. Dawn Busby, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/482-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. Sections 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (1993).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate

Export Trade Certificate of Review No. 91-2A007 was issued to the National Association of Energy Service Companies ("NAESCO") on January 21, 1992 (57 FR 5133, February 12, 1992), and previously amended on June 23, 1993 (58 FR 34990, June 30, 1993).

NAESCO's Export Trade Certificate of Review has been amended to add Energy Performance Services, Inc. of Lester, Pennsylvania as a "Member" within the meaning of Section 325.2(1) of the Regulations (15 CFR 325.2 (l)).

A copy of the amended certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

Effective Date: April 22, 1994.

Dated: July 22, 1994.

Friedrich R. Crupe,

Deputy Director, Office of Export Trading Company Affairs.

[FR Doc. 94-18315 Filed 7-27-94; 8:45 am]

BILLING CODE 3510-DR-P

Minority Business Development Agency

MEGA Center Applications: Chicago, Illinois

AGENCY: Minority Business Development Agency.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625 and 15 U.S.C. 1512, the Minority Business Development Agency (MBDA) is soliciting competitive applications to operate its Chicago Minority Enterprise Growth Assistance (MEGA) Center.

The purpose of the MEGA Center is to provide integrated business development services to minority entrepreneurs in geographic areas containing high concentrations of

minority individuals and businesses. In addition to basic business assistance services, the center will provide specialized assistance in the areas of Construction Assistance and Bonding, Capital Development, Franchise Development, International Trade and Tourism Development. Each one of these specialized business areas are considered functional components, and serve as integral parts of the center. The MEGA Center is, therefore, equipped to meet the more complex business needs of the minority business community. This, in turn, is expected to create growing and more profitable ventures resulting in increased job opportunities.

DATES: The closing date for applications is September 6, 1994. Applications must be RECEIVED on or before September 6, 1994. Anticipated processing time of this award is 120 days. A pre-application conference will be held on August 12, 1994 at 9:30 a.m. in the Palmer House Hilton, 17 East Monroe Street, Chicago, Illinois.

ADDRESSES: Chicago Regional Office, 55 E. Monroe Street, suite 1406, Chicago, Illinois 60603.

FOR FURTHER INFORMATION, CONTACT: David Vega, Regional Director, (312) 353–0182.

SUPPLEMENTARY INFORMATION: Contingent upon the availability of Federal funds, the cost of performance for the first budget period (15 months) from January 1, 1995 through March 31, 1996 is $1,343,158 in Federal funds and a minimum of $237,028 (15%) in non-federal (cost-sharing) contributions for a total project cost of $1,580,186. Cost-sharing contributions may be in the form of cash contributions, client fees, third party in-kind contributions, non-cash applicant contributions, or combinations thereof. The Chicago MEGA Center will provide service in the Chicago Metropolitan Area with selected services throughout the States of Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio and Wisconsin. The award number of this MEGA Center will be 05–10–95002–01.

The funding instrument for this project will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

Applications will be evaluated on the following criteria: Applicant capability in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (45 points), the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (25 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to each evaluation criteria category to be considered programmatically acceptable and responsive. Those applications determined to be acceptable and responsive will then be evaluated by the Director of MBDA. Final award selections shall be based on the number of points received, the demonstrated responsibility of the applicant, and the determination of those most likely to further the purpose of the MBDA program. Negative audit findings and recommendations and unsatisfactory performance under prior Federal awards may result in an application not being considered for funding. The applicant with the highest point score will not necessarily receive the award.

The MEGA Center shall be required to contribute at least 15% of the total project cost through non-Federal contributions. To assist in this effort, the MEGA Center may choose to charge client fees for business services rendered. Fees for assistance rendered under the Basic Service Component of the MEGA Center range from $10.00 to $60.00 per hour based on the size of the client's business. Fees for assistance under the Market-Specialized Service Components of the MEGA Center may be based on a portion of the current market rate for such services.

If an application is selected for funding, MBDA has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of MBDA.

Executive order 12372, "Intergovernmental Review of Federal Programs," is not applicable to this program. The collection of information requirements for this project have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 0640–0006. Questions concerning the preceding information can be answered by the contact person indicated above, and copies of application kits and applicable regulations can be obtained at the above address.

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

Recipients and subrecipients are subject to all Federal laws, and Federal and Departmental regulations, policies, and procedures applicable to Federal financial assistance awards.

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

Name Check Policy—All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury or other matters which significantly reflect on the applicant's management honesty or financial integrity.

Award Termination—The Departmental Grants Officer may terminate any cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the award recipient has failed to comply with the conditions of the cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements; unsatisfactory performance of the MEGA Center work requirements; and reporting inaccurate or inflated claims of client assistance. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

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

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

Nonprocurement Debarment and Suspension—Prospective participants (as defined at 15 CFR Part 26, Section 105) are subject to 15 CFR Part 26, "Nonprocurement Debarment and Suspension" and the related section of

the certification form prescribed above applies.

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

Anti-Lobbying—Persons (as defined at 15 CFR Part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater.

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

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

Indirect Costs—The total dollar amount of the indirect costs proposed in an application under this program must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award or 100 percent of the total proposed direct costs dollar amount in the application whichever is less.

Requirement to Buy American Made Equipment or Products—Applicants are hereby notified that any equipment or products authorized to be purchased with funding provided under this program must be American-made to the maximum extent feasible in accordance with Public Law 103–121, Sections 606 (a) and (b).

11.800 Minority Business Development

(Catalog of Federal Domestic Assistance)

Dated: July 22, 1994.

Donald L. Powers,

Federal Register Liaison Officer.

[FR Doc. 94–18311 Filed 7–27–94; 8:45 am]

BILLING CODE 3510–21–P

U.S. Automotive Parts Advisory Committee; Closed Meeting

AGENCY: International Trade Administration.

ACTION: Closed meeting of U.S. Automotive Parts Advisory Committee.

SUMMARY: The U.S. Automotive Parts Advisory Committee (the "Committee") advises U.S. Government officials on matters relating to the implementation of the Fair Trade in Auto Parts Act of 1988. The Committee: (1) reports annually to the Secretary of Commerce on barriers to sales of U.S.-made auto parts and accessories in Japanese markets; (2) assists the Secretary in reporting to the Congress on the progress of sales of U.S.-made auto parts in Japanese markets, including the formation of long-term supplier relationships; (3) reviews and considers data collected on sales of U.S.-made auto parts to Japanese markets; (4) advises the Secretary during consultations with the Government of Japan on these issues; and (5) assists in establishing priorities for the Department's initiatives to increase U.S.-made auto parts sales to Japanese markets, and otherwise provide assistance and direction to the Secretary in carrying out these initiatives. At the meeting, committee members will receive briefings on the status of ongoing consultations with the Government of Japan and will discuss specific trade and sales expansion programs related to U.S.-Japan automotive parts policy.

DATE AND LOCATION: The meeting will be held on Wednesday, August 10, 1993 from 10:00 a.m. to 3:00 p.m. at the Department of Commerce in Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Reck, Office of Automotive Affairs, Trade Development, Main Commerce, Room 4036, Washington, D.C. 20230, telephone: (202) 482–1418.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel formally determined on July 5, 1994, pursuant to Section 10(d) of the Federal Advisory Act, as amended, that the series of meetings or portions of meetings of the Committee and of any subcommittee thereof, dealing with privileged or confidential commercial information may be exempt from the provisions of the Act relating to open meeting and public participation therein because these items are concerned with matters that are within the purview of 5 U.S.C. 552b(c)(4) and (9)(B). A copy of the Notice of Determination is available for public inspection and copying in the Department of Commerce Records Inspection Facility, Room 6020, Main Commerce.

Dated: July 19, 1994.

Henry P. Misisco,

Director, Office of Automotive Affairs.

[FR Doc. 94–18357 Filed 7–27–94; 8:45 am]

BILLING CODE 3510–DR–M

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with Subsections 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 94–081. *Applicant:* University of Minnesota, Department of Mechanical Engineering, 111 Church Street, SE, Minneapolis, MN 55455. *Instrument:* Fabry-Perot Interferometer System. *Manufacturer:* JRS Instruments, Switzerland. *Intended Use:* The instrument will be used as part of a laser scattering system to obtain plasma jet temperature and velocity distributions with emphasis on the effects of entrainment of surrounding gases. Experiments will involve line shape analysis of the scattered laser light from the plasma jets at various plasma operating conditions, for obtaining heavy particle and electron temperatures and plasma jet velocity with adequate spatial and temporal resolution. In addition, the instrument will be used in the courses "Introduction to Plasma Technology" and "Plasma-Aided Manufacturing," with the objectives of introducing fundamentals of various plasma

processes and enhancing the awareness of importance of plasma technology in advanced materials processing and various industrial applications. *Application Accepted by Commissioner of Customs:* June 14, 1994.

Docket Number: 94–082. *Applicant:* National Jewish Center for Immunology and Respiratory Medicine, 1400 Jackson Street, Denver, CO 80206. *Instrument:* Mass Spectrometer System, Model API III "Plus." *Manufacturer:* Perkin-Elmer Sciex Instruments, Canada. *Intended Use:* The instrument will be used for conducting the following studies: (a) structure elucidation of metabolites of arachidonic acid from the 5-lipoxygenase, epoxygenase, cyclooxygenase, and autooxidation pathways, (b) peptide sequencing of portions of proteins isolated from in vitro experimentation and synthesized using molecular biology techniques, (c) quantitative analysis of leukotrienes and leukotriene metabolites by HPLC/MS/MS and (d) quantitative analysis of platelet activating factor (1-O-hexadecyl-2-acetyl-3-glycerophosphocholine. *Application Accepted by Commissioner of Customs:* June 20, 1994.

Docket Number: 94–083. *Applicant:* University of Illinois at Urbana-Champaign, Purchasing Division, 506 Wright Street, 207 Henry Administration Bldg, Urbana, IL 61801. *Instrument:* Biological Monitor, Model MOSSELMONITOR. *Manufacturer:* Delta Consult, The Netherlands. *Intended Use:* The instrument will be used to provide continuous analysis of organism response during proposed research with the objective of developing methods to perform in situ measurement and analysis of episodic event toxicity associated with stormwater flows. *Application Accepted by Commissioner of Customs:* June 29, 1994.

Docket Number: 94–084. *Applicant:* University of Illinois at Chicago, Center of Molecular Biology of Oral Diseases, School of Dentistry, 801 S. Paulina St., Chicago, IL 60612. *Instrument:* Stopped Flow Spectrofluorimeter, Model SX-17MV. *Manufacturer:* Applied Photophysics Limited, United Kingdom. *Intended Use:* The instrument will be used to study the rates of interaction of proteins of mammalian blood coagulation and fibrinolysis systems with each other and with protein and polysaccharide modifiers of their biologic activity. The immediate studies will examine the interactions of the blood coagulation protein inhibitor omission and with the natural polysaccharide, heparin, which activates the inhibitor. *Application Accepted by Commissioner of Customs:* June 29, 1994.

Docket Number: 94–087. *Applicant:* University of Maryland, School of Medicine, 655W Baltimore Street, Baltimore, MD 21201. *Instrument:* Robotic Micromanipulator System. *Manufacturer:* Scientific Precision Instruments, Germany. *Intended Use:* The instrument will be used for studies of rat hippocampal neurons, either acutely dissociated or tissue-cultured. Experiments will consist of studies of whole-cell or single channel patch clamp recordings of transmitter-gated receptor activity in hippocampal brain cells. The aim of the experiments is to identify the location on the cell of these various subtypes of receptors. *Application Accepted by Commissioner of Customs:* July 7, 1994.

Pamela Woods

Acting Director, Statutory Import Programs Staff

[FR Doc. 94–18446 Filed 7–27–94; 8:45 am]

BILLING CODE 3510–DS–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Wool Textile Products Produced or Manufactured in Poland

July 22, 1994.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting a limit.

EFFECTIVE DATE: July 29, 1994.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limit for Category 443 is being increased for carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 58 FR 62645, published on November 29, 1993). Also see 58 FR 61680, published on November 22, 1993.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 22, 1994.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 16, 1993, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Poland and exported during the twelve-month period which began on January 1, 1994 and extends through December 31, 1994.

Effective on July 29, 1994, you are directed to amend the directive dated November 16, 1993 to increase the limit for Category 443 to 230,068 numbers [1], as provided under the terms of the current bilateral agreement between the Governments of the United States and the Republic of Poland.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 94–18356 Filed 7–27–94; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Malaysia

July 22, 1994.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: July 29, 1994.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade

[1] The limit has not been adjusted to account for any imports exported after December 31, 1993.

Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6712. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limit for Categories 331/631 is being increased by application of special swing, reducing the limit for the Fabric Group to account for the increase. As a result, the limit for Categories 331/631, which is currently filled, will re-open.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 58 FR 62645, published on November 29, 1993). Also see 58 FR 65580, published on December 15, 1993.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 22, 1994.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 9, 1993, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in Malaysia and exported during the twelve-month period which began on January 1, 1994 and extends through December 31, 1994.

Effective on July 29, 1994, you are directed to amend the directive dated December 9, 1993, to adjust the limits for the following categories, as provided under the terms of the Memorandum of Understanding dated August 26, 1992 between the Governments of the United States and Malaysia:

Category	Adjusted twelve-month limit [1]
Fabric Group 218, 219, 220, 225–227, 313–315, 317, 326 and 613/614/615/617, as a group.	78,034,890 square meters.
Other specific limits 331/631	1,820,912 dozen pairs.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1993.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 94–18355 Filed 7–27–94; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Office of the Secretary

DOD Advisory Group on Electron Devices

ACTION: Notice.

SUMMARY: Working Group B (Microelectronics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: the meeting will be held at 0900, Thursday, August 4, 1994.

ADDRESSES: The meeting will be held at Naval Command Control and Ocean Surveillance Center, RDT&E Division, NRaD, Building 111, Room 212, 53475 Strothe Road, San Diego, CA 92152–5000.

FOR FURTHER INFORMATION CONTACT: Warner Kramer, AGED Secretariat, 2011 Crystal Drive, Suite 307, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition and Technology, the Director Defense Research and Engineering (DDR&E), and through the DDR&E, the Director Advanced Research Projects Agency and the Military Departments with technical advise on the conduct of economical and effective research and development programs in the field of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military proposes to initiate with industry, universities or in their laboratories. The microelectronics area includes such programs on semiconductor materials, integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with Section 10(d) of Public Law 92–463, as amended, (5 U.S.C. App. II section 10(d) (1988)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly, this meeting will be closed to the public.

Dated: July 25, 1994.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–18419 Filed 7–27–94; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

Intent To Prepare a Draft Environmental Assessment (EA) for Project Access Improvements on the Snake and Gros Ventre Rivers, Jackson Hole, Teton County, Wyoming

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice.

SUMMARY: 59 FR 26214, May 19, 1994 announced that the Draft EA would be available on 23 May 1994. Due to unforeseen problems and controversies, the draft EA will not be available until mid September 1994.

ADDRESSES: Written comments concerning the draft EA should be addressed to the Chief, environmental Resources Branch, Chief of Engineers, Walla Walla District, Walla, Walla, Washington 99362–9265.

FOR FURTHER INFORMATION CONTACT: Ms. Anneli Carlson, (509) 522–6606.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 94–18426 Filed 7–27–94; 8:45 am]

BILLING CODE 3710–08–M

Privacy Act of 1974; Notice to amend a system of records

AGENCY: Department of the Army, DOD.

ACTION: Notice to amend a system of records.

SUMMARY: The Department of the Army is amending one system of records notice in its existing inventory of records system subject to the Privacy

Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on August 29, 1994, unless comments are received which result in a contrary determination.

ADDRESS: U.S. Army Information Systems Command, ATTN: ASOP-MP, Fort Huachuca, AZ 85613–5000.

FOR FURTHER INFORMATION CONTACT: Ms. Pat Turner at (602) 538–6856 or DSN 879–6856.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific change to the record system being amended is set forth below. The proposed amendment is not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system reports.

Dated: July 22, 1994.

Patricia Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0040–66bDASG

SYSTEM NAME:

Health Care and Medical Treatment Record System *(May 19, 1993, 58 FR 29207).*

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete the following from the entry 'a blood smear that can be used for DNA typing to identify human remains;'.

* * * * *

A0040–66bDASG

SYSTEM NAME:

Health Care and Medical Treatment Record System.

SYSTEM LOCATION:

Army Medical Department facilities and activities. Official mailing addresses are published as an appendix to the Army's compilation of record systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military members of the Armed Forces (both active and inactive); dependents; civilian employees of the Department of Defense; members of the U.S. Coast Guard, Public Health Service, and Coast and Geodetic Survey; cadets and midshipmen of the military academies; employees of the American National Red Cross; and other categories of individuals who receive medical treatment at Army Medical Department facilities/activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number, medical records (of a permanent nature) used to document health; psychological and mental hygiene consultation and evaluation; medical/dental care and treatment for any health or medical condition provided an eligible individual on an inpatient and/or outpatient status to include but not limited to: health; clinical (inpatient); outpatient; dental; consultation; and procurement and separation x-ray record files.

Subsidiary medical records (of a temporary nature) are also maintained to support records relating to treatment/observation of individuals. Such records include but are not limited to: Social work case files, inquiries/complaints about medical treatment or services rendered by the medical treatment facility, and patient treatment x-ray and index files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 10 U.S.C. 1071–1085; 50 U.S.C. Supplement IV, Appendix 454, as amended; E.O. 9397; and Department of Defense Instruction 6010.15, Third Party Collection (TPC) Program; DoD Directive 6010.14, Inpatient Medical Care for Foreign Military Personnel; and Army Regulation 40–57, Armed Forces Medical Examiner System.

PURPOSE(S):

To provide health care and medical treatment of individuals; to establish tuberculosis/tumor/cancer registries; for research studies; compilation of statistical data and management reports; to implement preventive medicine, dentistry, and communicable disease control programs; to adjudicate claims and determining benefits; to evaluate care rendered; determine professional certification and hospital accreditation; and determine suitability of persons for service or assignment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information may be disclosed to the Department of Veterans Affairs to adjudicate veterans' claims and provide medical care to Army members.

National Research Council, National Academy of Sciences, National Institutes of Health, Armed Forces Institute of Pathology, and similar institutions for authorized health research in the interest of the Federal Government and the public. When not essential for longitudinal studies, patient identification data shall be eliminated from records used for research studies. Facilities/activities releasing such records shall maintain a list of all such research organizations and an accounting disclosure of records released thereto.

To local and state government and agencies for compliance with local laws and regulations governing control of communicable diseases, preventive medicine and safety, child abuse, and other public health and welfare programs.

Third party payers per 10 U.S.C. 1095 as amended by Pub. L. 99–272, and guidance provided to the DoD health services by DoD Instruction 6010.15, for the purpose of collecting reasonable inpatient/outpatient hospital care costs incurred on behalf of retirees or dependents.

Note: Records of identity, diagnosis, prognosis, or treatment of any client/patient, irrespective of whether or when he/she ceases to be a client/patient, maintained in connection with the performance of any alcohol or drug abuse prevention and treatment function conducted, regulated, or directly or indirectly assisted by any department or agency of the united States, shall, except as provided therein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd–3 and 290ee–3. These statutes take precedence over the Privacy Act of 1974 in regard to accessibility of such records except to the individual to whom the record pertains. The 'Blanket Routine Uses' do not apply to these types of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders; visible card files; microfiche; cassettes; punched cards; magnetic tapes/discs; computer printouts; x-ray film preservers.

RETRIEVABILITY:

By patient or sponsor's surname or sponsor's Social Security Number.

SAFEGUARDS:

Records are maintained in buildings which employ security guards and are accessed only by authorized personnel having an official need-to-know. Automated segments are protected by controlled system passwords governing access to data.

RETENTION AND DISPOSAL:

Military health/dental and procurement/separation x-ray records are permanent. Clinical (inpatient), outpatient, dental and consultation record files for military members are destroyed after 50 years; records pertaining to U.S. Military Academy cadets are withdrawn and retired to the Surgeon, U.S. Military Academy, West Point, NY 10996–1797. Records on civilians and foreign nationals are destroyed after 25 years; except for civilian dental records which are destroyed after 5 years. Records on American Red Cross personnel are withdrawn and forwarded to the American National Red Cross.

All medical records (except the Military Health/Dental records which are active while individual is on active duty, then retired with individual's Military Personnel Records Jacket and the procurement/separation x-ray records which are forwarded to the National Personnel Records Center on an accumulation basis) are retained in an active file while treatment is provided and subsequently held for a period of 1 to 5 years following treatment before being retired to the National Personnel Records Center. Subsidiary medical records, of a temporary nature, are normally not retained long beyond termination of treatment; however, supporting documents determined to have significant documentation value to patient care and treatment are incorporated into the appropriate permanent record file.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Surgeon General, Headquarters, Department of the Army, 5109 Leesburg Pike, Falls Church, VA 22041–3258.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the medical facility where treatment was provided. Official mailing addresses are published as an appendix to the Army's compilation of record systems notices.

Red Cross employees may write to the Medical Officer, American National Red Cross, 1730 E Street, NW, Washington, DC 20006.

For verification purposes, the individual should provide the full name, Social Security Number of sponsor, and current address and telephone number. Inquiry should include name of the hospital, year of treatment and any details which will assist in locating the records.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the medical facility where treatment was provided. Official mailing addresses are published as an appendix to the Army's compilation of record systems notices.

Red Cross employees may write to the Medical Officer, American National Red Cross, 1730 E Street, NW, Washington, DC 20006.

For verification purposes, the individual should provide the full name, Social Security Number of sponsor, and current address and telephone number. Inquiry should include name of the hospital, year of treatment and any details which will assist in locating the records.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, contesting contents, and appealing initial determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Subject individual, personal interviews and history statements from the individuals; abstracts or copies of pertinent medical records; examination records of intelligence, personality, achievement, and aptitude; reports from attending and previous physicians and other medical personnel regarding results of physical, dental, and mental examinations, treatment, evaluation, consultation, laboratory, x-ray and special studies and research conducted to provide health care and medical treatment; and similar or related documents.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 94–18422 Filed 7–27–94; 8:45 am]

BILLING CODE 5000–04–F

Defense Logistics Agency

Privacy Act of 1974; New Computer Matching Program Between the Defense Finance and Accounting Service and the Defense Manpower Data Center of the Department of Defense.

AGENCY: Defense Manpower Data Center, Defense Logistics Agency, Department of Defense.

ACTION: Notice of a new computer matching program between the Defense Finance and Accounting Service (DFAS) and the Department of Defense (DoD) for public comment.

SUMMARY: Subsection (e)(12) of the Privacy Act of 1974, as amended, (5 U.S.C. 552a) requires agencies to publish advance notice of any proposed or revised computer matching program by the matching agency for public comment. The DoD, as the matching agency under the Privacy Act is hereby giving constructive notice in lieu of direct notice to the record subjects of a computer matching program between DFAS and DoD that their records are being matched by computer. The record subjects are DFAS delinquent debtors who may be current or former Federal employees receiving Federal salary or benefit payments and who are delinquent in their repayment of debts owed to the United States Government under programs administered by DFAS so as to permit DFAS to pursue and collect the debt by voluntary repayment or by administrative or salary offset procedures under the provisions of the Debt Collection Act of 1982.

DATES: This proposed action will become effective August 29, 1994, and the computer matching will proceed accordingly without further notice, unless comments are received which would result in a contrary determination or if the Office of Management and Budget or Congress objects thereto. Any public comment must be received before the effective date.

ADDRESSES: Any interested party may submit written comments to the Director, Defense Privacy Office, Crystal Mall 4, Room 920, 1941 Jefferson Davis Highway, Arlington, VA 22202–4502.

FOR FURTHER INFORMATION CONTACT: Mr. Aurelio Nepa, Jr. at telephone (703) 607–2943.

SUPPLEMENTARY INFORMATION: Pursuant to subsection (o) of the Privacy Act of 1974, as amended, (5 U.S.C. 552a), the DMDC and DFAS have concluded an agreement to conduct a computer matching program between the agencies. The purpose of the match is to exchange

personal data between the agencies for debt collection. The match will yield the identity and location of the debtors within the Federal government so that DFAS can pursue recoupment of the debt by voluntary payment or by administrative or salary offset procedures. Computer matching appeared to be the most efficient and effective manner to accomplish this task with the least amount of intrusion of personal privacy of the individuals concerned. It was therefore concluded and agreed upon that computer matching would be the best and least obtrusive manner and choice for accomplishing this requirement.

A copy of the computer matching memorandum of understanding between DFAS and DMDC is available upon request to the public. Requests should be submitted to the address caption above or to the Defense Finance and Accounting Service, (DFAS-DE/FYSA), 6760 E. Irvington Place, Denver, CO 80279–7000. Telephone (303) 655–0400.

Set forth below is the notice of the establishment of a computer matching program required by paragraph 6.c. of the Office of Management and Budget Guidelines on computer matching published in the **Federal Register** at 54 FR 25818 on June 19, 1989.

The matching memorandum of understanding, as required by 5 U.S.C. 552a(r) of the Privacy Act, and an advance copy of this notice was submitted on July 15, 1994, to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget pursuant to paragraph 4d of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records about Individuals,' dated June 25, 1993 (58 FR 36075, July 2, 1993). The matching program is subject to review by OMB and Congress and shall not become effective until that review period has elapsed.

Dated: July 20, 1994.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

NOTICE OF A COMPUTER MATCHING PROGRAM BETWEEN THE DEFENSE FINANCE AND ACCOUNTING SERVICE AND THE DEPARTMENT OF DEFENSE FOR DEBT COLLECTION

A. *Participating agencies:* Participants in this computer matching program are the Defense Finance and Accounting Service (DFAS) and the Defense Manpower Data Center (DMDC) of the Department of Defense (DoD). The DFAS is the source agency, i.e., the activity disclosing the records for the purpose of the match. The DMDC is the specific recipient activity or matching agency, i.e., the agency that actually performs the computer matching.

B. *Purpose of the match:* Upon the execution of a memorandum of understanding (MOU), the DFAS will provide and disclose debtor records to DMDC to identify and locate any matched Federal personnel, employed or retired, who may owe delinquent debts to the Federal Government under certain programs administered by the DOD. The DFAS will use this information to initiate independent collection of those debts under the provisions of the Debt Collection Act of 1982 when voluntary payment is not forthcoming. These collection efforts will include requests by the DFAS of any employing Federal agency to apply administrative and/or salary offset procedures until such time as the obligation is paid in full.

C. *Authority for conducting the match:* The legal authority for conducting the matching program is contained in the Debt Collection Act of 1982 (Public Law 97–365), 31 U.S.C. Chapter 37, Subchapter I (General) and Subchapter II (Claims of the United States Government), 31 U.S.C. 3711 Collection and Compromise, 31 U.S.C. 3716 Administrative Offset, 5 U.S.C. 5514 Installment Deduction for Indebtedness (Salary Offset); 10 U.S.C. 136, Assistant Secretaries of Defense, Appointment Powers and Duties; Section 206 of Executive Order 11222; 4 CFR Chapter II, Federal Claims Collection Standards (General Accounting Office - Department of Justice); 5 CFR 550.1101 - 550.1108 Collection by Offset from Indebted Government Employees (OPM); DOD Instruction 7045.18 Collection of Indebtedness Due the United States (32 CFR part 90); DOD Directive 7045.13, DOD Credit Management and Debt Collection Program.

D. *Records to be matched:* The systems of records maintained by the respective agencies under the Privacy Act of 1974, as amended, 5 U.S.C. 552a, from which records will be disclosed for the purpose of this computer match are as follows:

The DFAS will use personal data from the following Privacy Act record systems for the match:

Record system identified as Department of the Army system of records notice A0037–104–1bSAFM, entitled 'Debt Management System', last published in the **Federal Register** on February 22, 1993, at 58 FR 10046.

Record system identified as Department of the Navy system of records notice N07430–1, entitled 'Navy Debt Management and Collection System (MNCS)', last published in the **Federal Register** on February 22, 1993, at 58 FR 10809.

Record system identified as Department of the Air Force system of records notice F177 AF AFC A, entitled 'Accounts Receivable Records Maintained by Accounting and Finance', last published in the **Federal Register** on February 22, 1993, at 58 FR 10476.

Record system identified as United States Marine Corps system of records notice MFD00007, entitled 'Marine Corps Financial Records System', last published in the **Federal Register** February 22, 1993, at 58 FR 10638.

Record system identified as Washington Headquarters Services system of records notice DWHS B46, entitled 'DOD Creditor Agency Accounts Receivable System' last published in the **Federal Register** on February 22, 1993, at 58 FR 10281.

DMDC will use personal data from the record systems identified as:

S322.10 DMDC, entitled 'Defense Manpower Data Center Data Base', last published in the **Federal Register** on February 22, 1993, at 58 FR 10872.

S322.11 DMDC, entitled 'Federal Creditor Agency Debt Collection Data Base,' last published in the **Federal Register** on February 22, 1993, at 58 FR 10875.

Sections 5 and 10 of the Debt Collection Act authorize agencies to disclose information about debtors in order to effect salary or administrative offsets. Agencies must publish routine uses pursuant to subsection (b)(3) of the Privacy Act for those systems of records from which they intend to disclose this information. Sections 5 and 10 of the Debt Collection Act will comprise the necessary authority to meet the Privacy Act's 'compatibility' condition. The systems of records described above contain an appropriate routine use disclosure between the agencies of the information proposed in the match. The routine use provisions are compatible with the purpose for which the information was collected.

E. *Description of computer matching program:* The DFAS, as the source agency, will provide DMDC with a magnetic tape which contains the names of delinquent debtors in programs the DOD administers. Upon receipt of the computer tape file of debtor accounts, DMDC will perform a computer match

using all nine digits of the SSN of the DFAS file against a DMDC computer database. The DMDC database, established under an interagency agreement between DOD, OPM, OMB, and the Department of the Treasury, consists of employment records of Federal employees and military members, active, and retired. Matching records ('hits'), based on the SSN, will produce the member's name, service or agency, category of employee, and current work or home address. The hits or matches will be furnished to the DFAS. The DFAS is responsible for verifying and determining that the data on the DMDC reply tape file are consistent with the DFAS source file and for resolving any discrepancies or inconsistencies on an individual basis. The DFAS will also be responsible for making final determinations as to positive identification, amount of indebtedness and recovery efforts as a result of the match.

The magnetic computer tape provided by DFAS will contain data elements of the debtor's name, SSN, debtor status and debt balance, internal account numbers and the total amount owed on approximately 100,000 delinquent debtors.

The DMDC computer database file contains approximately 11 million records of active duty and retired military members, including the Reserve and Guard, and the OPM government wide Federal civilian records of current and retired Federal employees.

DMDC will match the SSN on the DFAS tape by computer against the DMDC database. Matching records, hits based on SSN, will produce data elements of the member's name, SSN, service or agency, and current work or home address.

F. *Inclusive dates of the matching program:* This computer matching program is subject to review by the Office of Management and Budget and Congress. If no objections are raised by either, and the mandatory 30 day public notice period for comment has expired for this **Federal Register** notice with no significant adverse public comments in receipt resulting in a contrary determination, then this computer matching program becomes effective and the respective agencies may begin the exchange of data 30 days after the date of this published notice at a mutually agreeable time and will be repeated annually. Under no circumstances shall the matching program be implemented before the 30 day public notice period for comment has elapsed as this time period cannot be waived. By agreement between DFAS and DMDC, the matching program will be in effect and continue for 18 months with an option to renew for 12 additional months unless one of the parties to the agreement advises the other by written request to terminate or modify the agreement.

G. *Address for receipt of public comments or inquiries:* Director, Defense Privacy Office, Crystal Mall 4, Room 920, 1941 Jefferson Davis Highway, Arlington, VA 22202–4502. Telephone (703) 607–2943.

[FR Doc. 94–18420 Filed 7–27–94; 8:45 am]

BILLING CODE 5000–04–F

Defense Nuclear Agency

Privacy Act of 1974; Notice to Add a System of Records

AGENCY: Defense Nuclear Agency, DOD.

ACTION: Notice to add a system of records.

SUMMARY: The Defense Nuclear Agency proposes to add an exempt system of records to its inventory of systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This action will be effective without further notice on August 29, 1994, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to General Counsel, Defense Nuclear Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

FOR FURTHER INFORMATION CONTACT: Ms. Sandy Barker at (703) 325–7681.

SUPPLEMENTARY INFORMATION: The complete inventory of Defense Nuclear Agency systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the above address.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on July 8, 1994, to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated June 25, 1993 (58 FR 36075, July 2, 1993).

Dated: July 20, 1994

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

HDNA 011

SYSTEM NAME:

Inspector General Investigation Files.

SYSTEM LOCATION:

Office of the Inspector General, Headquarters, Defense Nuclear Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any person who is the subject of or a witness for an Inspector General investigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains files on individual investigations including investigative reports and related documents generated during the course of or subsequent to an investigation.

Reports of investigation contain the authority for the investigation, matters investigated, narrative, documentary evidence, and transcripts of verbatim testimony or summaries thereof.

The system includes 'Hotline' telephone logs, investigator workpapers and memoranda and letter referrals to management or others, and a chronological listing for identification and location of files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 4 App. 4(a)(1) and 6(a)(2); 10 U.S.C. 140; and E.O. 9397.

PURPOSE(S):

To investigate the facts and circumstances surrounding allegations or problems reported to the OIG.

Open and closed case listings are used to manage investigations, to produce statistical reports, and to control various aspects of the investigative process.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the DNA compilation of systems of records notices will apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, computer disks and log books.

RETRIEVABILITY:

Retrieved alphabetically by surname of individual, year, investigation number, hotline case number, referral number or investigative subject matter.

SAFEGUARDS:

Access is limited to the Inspector Generals staff, and, as delegated by the Commanding Officer, or Officer-in-Charge, on a need to know basis. Case records are maintained in locked security containers.

Automated records are controlled by limiting physical access to terminals and by the use of passwords. Work areas are sight controlled during normal duty hours. Buildings are protected by security guards and an intrusion alarm system.

RETENTION AND DISPOSAL:

Requests for assistance and/or complaints acted on by the Inspector General are retained at the agency for 2 years and subsequently destroyed as classified waste.

Computer disks are cleared, erased or destroyed when no longer useful.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Inspector General, Headquarters, Defense Nuclear Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address written inquiries to the Inspector General, Headquarters, Defense Nuclear Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

Individual should provide their name, address, and proof of identity (photo identification for in person access or an unsworn declaration in accordance with 28 U.S.C. 1746 or a notarized statement may be required for identity verification).

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Inspector General, Headquarters, Defense Nuclear Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

Individuals should provide their name, address, and proof of identity (photo identification for in person access or an unsworn declaration in accordance with 28 U.S.C. 1746 or a notarized statement may be required for identity verification).

CONTESTING RECORD PROCEDURES:

The DNA rules for accessing records, and for contesting records and appealing initial agency determinations are published in DNA Instruction 5400.11A; 32 CFR part 318; or may be obtained from the system manager or the General Counsel, Headquarters, Defense Nuclear Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

RECORD SOURCE CATEGORIES:

From the individual, DNA records and reports, DNA employees, witnesses, informants, and other sources providing or containing pertinent information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(2) as applicable.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C: 553(b)(1), (2), and (3), (c), and (e) and published in 32 CFR part 318. For additional information contact the Office of General Counsel, Headquarters, Defense Nuclear Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

[FR Doc. 94–18421 Filed 7–27–94; 8:45 am]

BILLING CODE 5000–04–F

Department of the Navy

Cellco, Inc.; Intent to Grant Exclusive Patent License

AGENCY: Department of the Navy, DOD.

ACTION: Intent to Grant Exclusive Patent License; Cellco, Inc.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Cellco, Inc., a revocable, nonassignable, exclusive license in the United States and certain foreign countries to practice the Government-owned invention described in U.S. Patent Application Serial No. 08/142,569 entitled "In Vitro Amplification of Stem Cells".

Anyone wishing to object to the grant of this license has 60 days from the date of this notice to file written objections along with supporting evidence, if any. Written objections are to be filed with the Office of Naval Research (ONR 00CC3), Ballston Tower One, Arlington, Virginia 22217–5660.

FOR FURTHER INFORMATION CONTACT:

Mr. R.J. Erickson, Staff Patent Attorney, Office of Naval Research (ONR 00CC3), Ballston Tower One, 800 North Quincy Street, Arlington, Virginia 22217–5660, telephone (703) 696–4001.

Dated: July 19, 1994.

Lewis T. Booker, Jr.,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 94–18347 Filed 7–28–94; 8:45 am]

BILLING CODE 3810–AE–M

Anderson Laboratories, Inc.; Intent To Grant Partially Exclusive Patent License

AGENCY: Department of the Navy, DOD.

ACTION: Intent to grant partially exclusive patent license; Anderson Laboratories, Inc.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Anderson Laboratories, Inc., a revocable, nonassignable, partially exclusive license in the United States and certain foreign countries to practice the Government-owned inventions described in U.S. Patent Applications Serial No. 07/970,750, entitled "A Smart Sensor System and Method Using A Surface Acoustic Wave Vapor Sensor Array and Pattern Recognition For Selective Trace Organic Vapor Detection," filed November 2, 1992, and 08/250,768, entitled "Siloxanes with Strong Hydrogen Bond Donating Functionalities," filed May 27, 1994.

Anyone wishing to object to the grant of this license has 60 days from the date of this notice to file written objections along with supporting evidence, if any. Written objections are to be filed with the Office of Naval Research (ONR 00CC3), Ballston Tower One, Arlington, Virginia 22217–5660.

FOR FURTHER INFORMATION CONTACT:

Mr. R.J. Erickson, Staff Patent Attorney, Office of Naval Research (ONR 00CC3), Ballston Tower One, 800 North Quincy Street, Arlington, Virginia 22217–5660, telephone (703) 696–4001.

Dated: July 19, 1994.

Lewis T. Booker, Jr.,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 94–18346 Filed 7–27–94; 8:45 am]

BILLING CODE 3810–AE–M

Etrema Products, Inc.; Intent To Grant Exclusive Patent License

AGENCY: Department of the Navy, DOD.

ACTION: Intent to Grant Exclusive Patent License; Etrema Products, Inc., a wholly

owned subsidiary of Edge Technologies, Inc.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Etrema Products, Inc., a wholly owned subsidiary of Edge Technologies, Inc., a revocable, nonassignable, exclusive license in the United States to practice the Government-owned invention described in U.S. Patent No. 4,378,258 entitled "Conversion Between Magnetic Energy and Mechanical Energy".

Anyone wishing to object to the grant of this license has 60 days from the date of this notice to file written objections along with supporting evidence, if any. Written objections are to be filed with the Office of Naval Research (ONR 00CC3), Ballston Tower One, Arlington, Virginia 22217–5660.

FOR FURTHER INFORMATION CONTACT: Mr. R.J. Erickson, Staff Patent Attorney, Office of Naval Research (ONR 00CC3), Ballston Tower One, 800 North Quincy Street, Arlington, Virginia 22217–5660, telephone (703) 969–4001.

Dated: July 19, 1994.

Lewis T. Booker, Jr.,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 94–18348 Filed 7–27–94; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Acting Director, Information Resources Management Service, invites comments on proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: An expedited review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approved by the Office of Management and Budget (OMB) has been requested by August 1, 1994.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill, (202) 708–9915. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Acting Director, Information Resources Management Service, publishes this notice with the attached proposed information collection request prior to submission of this request to OMB. This notice contains the following information: (1) Type of review requested, e.g., expedited; (2) title; (3) Abstract; (d) Additional Information; (5) Frequency of collection; (6) Affected public; and (7) Reporting and/or Recordkeeping burden. Because an expedited review is requested, a description of the information to be collected is also included as an attachment to this notice.

Dated: July 22, 1994.

Mary P. Liggett,

Acting Director, Information Resources Management Service.

Office of Educational Research and Improvement

Type of Review: Expedited
Title: International Adult Literacy Survey
Abstract: The data gathered by the International Adult Literacy Survey will link the results of the National Adult Literacy Survey to the International study to assess literacy skills among participating nations. The Department will use the information to include the United States in the international study and to combine the existing National Adult Literacy Survey database with those of other countries.
Additional Information: An expedited review is requested in order to meet the deadline to be in the field no later than September, 1994. We are requested an OMB approval date of August 1, 1994.
Frequency: Nonrecurring
Affected Public: Individuals or households
Reporting Burden:
Responses: 3,150—Burden Hours: 3,150
Recordkeeping Burden:
Recordkeepers: 0—Burden Hours: 0

[FR Doc. 94–18339 Filed 7–27–94; 8:45 am]

BILLING CODE 4000–01–M

Arbitration Panel Decision Under the Randolph-Sheppard Act

AGENCY: Department of Education.

ACTION: Notice of Arbitration Panel Decision Under the Randolph-Sheppard Act.

SUMMARY: Notice is hereby given that on March 22, 1991, an arbitration panel rendered a decision in the matter of *David Everett, Vendor,* v. *State of Tennessee, Department of Human Services* (Docket No. R–S/89–6). This panel was convened by the Secretary of the Department of Education pursuant to 20 U.S.C. 107d–2, upon receipt of a complaint filed by petitioner David Everett.

FOR FURTHER INFORMATION CONTACT: George F. Arsnow, U.S. Department of Education, 400 Maryland Avenue, S.W., Room 3230, Switzer Building, Washington, D.C. 20202–2738. Telephone: (202) 205–9317. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at 202–205–8298. A copy of the full text of the arbitration panel decision may be obtained from this contact.

SUPPLEMENTARY INFORMATION: Pursuant to the Randolph-Sheppard Act (20 U.S.C. 107d–2(c)), (the Act), the Secretary publishes a synopsis of arbitration panel decisions affecting the administration of vending facilities on Federal property.

Background

David Everett, complainant, is a blind vendor licensed by the respondent, the Tennessee Department of Human Services (TDHS). Mr. Everett signed an agreement with TDHS to operate vending machines located in the County Building in Knoxville, Tennessee, on September 20, 1983.

The State licensing agency (SLA), through its Department of Rehabilitation, operates the Tennessee Vending Facility Program for blind vendors. The purpose of the program is to establish and support blind vendors

operating vending facilities on State, local, and Federal property. As the agency designated in Tennessee to carry out and manage the vending facility program established by the Act, the SLA duly promulgated rules and regulations to govern the State vending facility program. These rules and regulations are comprehensive in scope. Based on the State's Randolph-Sheppard rules and regulations governing its program, Mr. Everett was required to make monthly income reports, paying a set-aside fee based upon those monthly reports.

On January 11, 1988, Mr. Everett's Business Enterprise Program (BEP) counselor wrote him regarding his report and fees, advising him that he had not filed reports for July through December, nor had he paid his fees. Mr. Everett was given until January 25, 1988, to file the reports or be recommended for probation. Mr. Everett did not respond and, on February 1, 1988, was placed on probation. Mr. Everett was given 30 days to comply with the requirements to file the reports and pay the fees. Failure to do so would result in the termination of his license. Mr. Everett again failed to respond to the probation letter.

On March 8, 1988, Mr. Everett received his letter of license termination. This notification allowed Mr. Everett 30 additional days to comply with the stated requirements. Mr. Everett attempted to comply by mailing a certified check in the amount of $1,033 to the SLA and agreed to mail the reports once corrections were made, even though the reports would be a day late. After discussion with his BEP counselor, Mr. Everett assumed this arrangement was satisfactory. However, his BEP counselor stated that she had not agreed to this arrangement.

On April 13, 1988, Mr. Everett was informed that his license was terminated and that a final inventory would be made of his vending machine facility. At this time he was notified that fees were delinquent in the amount of $1,466.85.

On May 10, 1988, Mr. Everett filed for an administrative review and an evidentiary fair hearing of his termination. The SLA neither granted nor denied the request for the administrative hearing but did proceed with the evidentiary fair hearing.

Mr. Everett sought financial relief for what he would have earned had he not been terminated, reinstatement into the program, and attorney's fees. The TDHS Commissioner denied relief on all grounds.

Mr. Everett filed a complaint with the U.S. Department of Education requesting arbitration regarding his termination. A hearing was conducted September 21, 1990.

Arbitration Panel Decision

In the substantive issues in this case, the panel found that the SLA was in error in terminating Mr. Everett's license because he had made a good faith effort to pay his fees and file the report after March 8, 1988.

The panel concluded that Mr. Everett should be reinstated with back pay to the program in a facility reasonably equivalent to the one he left. Mr. Everett's testimony that he netted $1,500 a month was not contradicted. However, because of his long-standing delinquency in failing to file reports and pay his fees and his failure to make a more timely response to the probation and termination letters, the panel found that Mr. Everett is due less than a full award. The panel found Mr. Everett was due back pay in the amount of $27,500, less fees he owes the SLA in full and less his interim earnings in full. The panel also concluded that attorney's fees may not be allowed.

The panel member selected by the SLA filed a dissenting opinion in which he maintained that the State was entitled to the sovereign immunity embodied in the Eleventh Amendment to the United States Constitution—an immunity the State did not waive by participating in the Randolph-Sheppard program. This panelist concluded that the State was, therefore, not liable for monetary damages.

The views and opinions expressed by the panel do not necessarily represent the views and opinions of the U.S. Department of Education.

Dated: July 22, 1994.

Howard R. Moses,

Acting Assistant Secretary for the Office of Special Education and Rehabilitative Services.

[FR Doc. 94-18341 Filed 7-27-94; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

Savannah River Operations Office (SR) Financial Assistance Award; Intent to Award a Noncompetitive Grant

AGENCY: Savannah River Operations Office, DOE.

ACTION: Notice.

SUMMARY: The DOE announces that it plans to award a renewal grant to South Carolina Department of Health and Environmental Control (SCDHEC), 2600 Bull Street, Columbia, SC 29201. The grant, "Emergency Response and Environmental Monitoring at the Savannah River Site (SRS)" will be awarded for a five-year period at a projected funding level of $17.4 million. Funds of $3,360,000 are available for the first budget period, and subject to the availability of funds, the remainder will be awarded thereafter. Pursuant to Section 10 CFR 600.7(b)(2)(i)(C) of the DOE Assistance Regulations (10 CFR Part 600), DOE has determined that a noncompetitive award is appropriate since SCDHEC is the authorized regulatory agency qualified to perform the activities covered under the grant within the subject jurisdiction.

FOR FURTHER INFORMATION CONTACT: Elizabeth T. Martin, Prime Contracts and Financial Assistance Branch, U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29802, Telephone (803) 725-2191.

SUPPLEMENTARY INFORMATION:

Procurement Request Number: 09-94SR18265.001.

Project Scope: The proposed renewal grant allows the State of South Carolina to set up and maintain a program to oversee the environmental monitoring and emergency/planning preparedness compliance programs at the SRS. Activities of the SCDHEC are intended to supplement activities conducted under applicable environmental laws and regulations but do not include legally required environmental oversight activities or required regulatory inspections. The emergency preparedness/planning activities have been conducted under an existing grant with SCDHEC; however, this amendment will combine oversight of environmental monitoring and emergency preparedness activities at the SRS under one grant.

Based on documentation presented and appropriate evaluation, it is determined that this award to SCDHEC on a noncompetitive basis is appropriate and is in the best interest of DOE.

Issued in Aiken, South Carolina, on: July 8, 1994.

Robert E. Lynch,

DOE Savannah River Operations Office, Head of Contracting Activity, Designee.

[FR Doc. 94-18429 Filed 7-27-94; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER93-499-000, et al.]

Arizona Public Service Co., et al.; Electric Rate and Corporate Regulation Filings

July 20, 1994.

Take notice that the following filings have been made with the Commission:

1. Arizona Public Service Company

[Docket No. ER93–499–000]

Take notice that on July 15, 1994, Arizona Public Service Company (APS) tendered for filing a notice of request for withdrawal of the Agreement for the Sale of Energy (Agreement) between Louis Dreyfus Electric Power, Inc. (LDEP) and APS and all associated filings in Docket No. ER93–499–000.

Subsequent to the filing of the Agreement, LDEP became a member of the Western Systems Power Pool (WSPP). Because LDEP and APS can now effect all sales under the WSPP which were previously contemplated under the proposed Agreement, in the Agreement has become unnecessary. Therefore the Company requests withdrawal of the Agreement and all associated filings and termination of Docket No. ER93–499–000. LDEP agrees with the Company's request for withdrawal.

A copy of this filing has been served on LDEP and the Arizona Corporation Commission.

Comment date: August 3, 1994, in accordance with Standard Paragraph E at the end of this notice.

2. Public Service Electric and Gas Company

[Docket No. ER93–862–000]

Take notice that on August 12, 1994, Public Service Electric and Gas Company (PSE&G) of Newark, New Jersey tendered for filing an initial Rate Schedule for the sale of Capacity and Energy to the Borough of Park Ridge, New Jersey (Park Ridge). Thereafter, in response to discussions with Commission Staff, PSE&G on December 22, 1993, mailed for filing a First Supplement to said Rate Schedule.

In response to further discussions with Commission Staff, PSE&G on July 13, 1994, tendered for filing the Second Supplement by and between PSE&G and Park Ridge which addresses FERC inquiries, defines terminology, and explains methodology.

Copies of the filing were served upon Park Ridge and the New Jersey Board of Public Utilities.

Comment date: August 3, 1994, in accordance with Standard Paragraph E at the end of this notice.

3. Northeast Utilities Service Company

[Docket No. ER94–235–000]

Take notice that on July 13, 1994, Northeast Utilities Service Company (NUSCO) tendered for filing on behalf of Connecticut Light and Power Company. Western Massachusetts Electric Company and Holyoke Water Power Company (the NU Companies), a First Amendment to the Service Agreement for Sale of NU System Power between the NU Companies and Chicopee Municipal Lighting Plant to provide for modifications required by the Commission's June 17, 1994, order.

Comment date: August 3, 1994, in accordance with Standard Paragraph E at the end of this notice.

4. PacifiCorp

[Docket No. ER94–1134–000]

Take notice that on July 14, 1994, PacifiCorp, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations an amendment to its filing of the Letter Agreement dated February 16, 1994, between PacifiCorp and Idaho Power Company.

PacifiCorp requests, pursuant to 18 CFR 35.11 of the Commission's Rules and Regulations, that a waiver of prior notice be granted to its filing.

Copies of this filing were supplied to Idaho Power Company, the Idaho Public Utilities Commission and the Public Utility Commission of Oregon.

Comment date: August 3, 1994, in accordance with Standard Paragraph E at the end of this notice.

5. Midwest Power Systems, Inc.

[Docket No. ER94–1276–000]

Take notice that on July 6, 1994, Midwest Power Systems Inc. (MPSI) tendered for filing Amendment No. 1 to the filing of an annual rate revision of the Transmission Service Charge. On May 19, 1994, Midwest Power Systems, Inc. (MPSI) tendered for filing an annual rate revision of a transmission service charge for a Transmission Service Agreement (Agreement) between Cedar Falls Utilities (CFU) and MPSI.

MPSI respectfully requests an effective date of 60 days after the original filing date of May 19, 1994.

MPSI states that copies of this filing were served on NPPD and the Iowa Utilities Board.

Comment date: August 3, 1994, in accordance with Standard Paragraph E at the end of this notice.

6. MidCon Power Services Corporation

[Docket No. ER94–1329–000]

Take notice that on July 11, 1994, MidCon Power Services Corporation filed an amendment to its application for approval to market capacity and energy at market-based rates.

Comment date: August 3, 1994, in accordance with Standard Paragraph E at the end of this notice.

7. Oklahoma Gas and Electric Company

[Docket No. ER94–1349–000]

Take notice that on July 13, 1994, Oklahoma Gas and Electric Company (OG&E) tendered for filing additional information as requested by FERC staff regarding the installation of facilities for the use and benefit of the Oklahoma Municipal Power Authority.

Copies of this filing have been sent to OMPA.

Comment date: August 3, 1994, in accordance with Standard Paragraph E at the end of this notice.

8. Northern States Power Company

[Docket No. ER94–1392–000]

Take notice that on July 15, 1994, Northern States Power Company (Wisconsin)(NSP), amended its filing of June 23, 1994, in this docket to substitute a later executed contract with the Village of Trempealeau.

Comment date: August 3, 1994, in accordance with Standard Paragraph E at the end of this notice.

9. Allegheny Power Service Corporation, on behalf of Monongahela Power Company, The Potomac Edison Company, West Penn Power Company, (The APS Companies)

Docket No. ER94–1453–000

Take notice that on July 13, 1994, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (The APS Companies), filed a Standard Transmission Service Agreement to add LG&E Power Marketing Inc. to The APS Companies' Standard Transmission Service Rate Schedule which has been accepted for filing by the Federal Energy Regulatory Commission. The proposed effective date when LG&E Power Marketing Inc. may take service under the proposed rate schedule is July 1, 1994.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record in Docket No. ER94–1453–000.

Comment date: August 3, 1994, in accordance with Standard Paragraph E at the end of this notice.

10. Oklahoma Gas and Electric Company

[Docket No. ER94–1454–000]

Take notice that on July 14, 1994, Oklahoma Gas and Electric Company (OG&E) tendered for filing a Letter of

confirmation with the Western Farmers Electric Cooperative (WFEC) regarding the installation of facilities necessary to provide electric service to a new point of delivery for the use and benefit of WFEC.

Copies of this filing have been sent to WFEC.

Comment date: August 3, 1994, in accordance with Standard Paragraph E at the end of this notice.

11. Tenaska Washington Partners, L.P.

[Docket No. ER94–1456–000]

Take notice that on July 15, 1994, Tenaska Washington Partners, L.P. (Tenaska), tendered for filing an executed Power Purchase Agreement between itself and Bonneville Power Administration.

The Agreement provides for sales of energy and capacity from Tenaska to Bonneville.

Comment date: August 3, 1994, in accordance with Standard Paragraph E at the end of this notice.

12. Camelot Energy Services

[Docket No. ER94–1457–000]

Take notice that on July 15, 1994, Camelot Energy Services (Camelot) tendered for filing pursuant to Rule 203, 18 CFR 385.203, a petition for waiver and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Rate Schedule No. 1.

Camelot intends to engage in electric power and energy transactions as a marketer and a broker. In transactions where Camelot sells electric energy it proposes to make such sales on rates, terms, and conditions to be mutually agreed to with the purchasing party. Camelot is not in the business of generating, transmitting, or distributing electric power.

Comment date: August 3, 1994, in accordance with Standard Paragraph E at the end of this notice.

13. Arizona Public Service Company

[Docket No. ER94–1459–000]

Take notice that on July 15, 1994, Arizona Public Service Company (APS) tendered for filing Revised Exhibit B to the Wholesale Power Supply Agreement between APS and Arizona Power Authority (APA) (APA–FPC Rate Schedule No. 59) and Revised Exhibit I to Service Schedule A to the Service Agreement between APS and the City of Williams (Williams) (APS–FERC Rate Schedule No. 192).

Current rate levels are unaffected, revenue levels are anticipated to be unchanged from these currently on file with the Commission, and no other significant change in service to these or any other customer results from the revisions proposed herein. No new or modifications to existing facilities are required as a result of these revisions.

A copy of this filing has been served on the above customers and the Arizona Corporation Commission.

Comment date: August 3, 1994, in accordance with Standard Paragraph E at the end of this notice.

14. Cal Ban Corp.

[Docket Nos. QF83–333–002 and QF83–333–003]

On July 5, 1994, Cal Ban Corp. (Applicant) of 2764 Five Mile Road, Cattaraugus County, Allegany, New York 14706, submitted for filing applications for certification of a facility as both a qualifying small power production facility and as a qualifying cogeneration facility pursuant to Section 292.207(b) of the Commission's Regulations. No determination has been made that the filings are complete. Applicant has also petitioned for waiver of the filing fees pursuant to Section 381.106 of the Commission's Regulations.

The facility, which is located in Allegany, New York, consists of two internal combustion engine generators with a maximum electric power production capacity of 590 kW, and a backup internal combustion engine generator with a maximum electric power production capacity of 200 kW. According to Applicant, the primary energy source of the facility is waste gas. Thermal energy recovered from the facility is used to heat a greenhouse. Installation of the facility commenced in February of 1984.

Comment date: Thirty days from the date of publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

15. Entergy Services, Inc.

[Docket No. ER94–1126–000]

Take notice that on July 7, 1994, Entergy Services, Inc. (Entergy Services), acting as agent for Arkansas Power & Light Company (AP&L), Louisiana Power & Light Company (LP&L), Mississippi Power & Light Company (MP&L) and New Orleans Public Service Inc. (NOPSI) (collectively the Entergy Companies), tendered for filing Amendment No. 1 to Service Schedule RE - Replacement Energy, which amends the Interchange Agreement between San Rayburn G&T Electric Cooperative, Inc. and the Entergy Companies.

Comment date: August 3, 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, N.E., Washington, D.C. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–18352 Filed 7–27–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP94–664–000, et al.]

Transcontinental Gas Pipe Line Corp., et al.; Natural Gas Certificate Filings

July 20, 1994

Take notice that the following filings have been made with the Commission:

1. Transcontinental Gas Pipe Line Corporation

[Docket No. CP94–664–000

Take notice that on July 18, 1994, Transcontinental Gas Pipe Line Corporation (TGPL), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP94–664–000 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 construct a new delivery point under TGPL's blanket certificate issued in Docket No. CP82–426–000 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.

TGPL proposes to construct and operate a new delivery point in Rockingham County, North Carolina. The delivery point, referred to as the "Cardinal Meter Station", will connect to the new pipeline system of Cardinal Pipeline Company (Cardinal) a North Carolina intrastate pipeline jointly owned by affiliates of Public Service Company of North Carolina Inc. (PSNC)

and Piedmont Natural Gas Company Inc. (Piedmont). TGPL states that the delivery point will consist of a 16-inch tap on TGPL's Main Line "B", a 16-inch tap on Main Line "C" and approximately 1,200 feet of connecting 12-inch piping.

TGPL states that it will deliver through the Cardinal Meter Station up to 84,000 Mcf of gas per day on a firm and/or interruptible basis and that TGPL is not proposing to alter the total volumes authorized for delivery to PSNC or Piedmont. TGPL states that the delivery point will have no impact on TGPL's peak day deliveries and little or no impact on TGPL's annual deliveries.

Comment date: September 6, 1994, in accordance with Standard Paragraph G at the end of this notice.

2. Mississippi River Transmission Corporation

[Docket No. CP94–666–000]

Take notice that on July 18, 1994, Mississippi River Transmission Corporation (MRT), 9900 Clayton Road, St. Louis, Missouri 63124, filed in Docket No. CP94–666–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to construct and operate facilities to upgrade a delivery point to serve National Steel Corporation (National Steel), an existing transportation customer under MRT's blanket certificate issued in Docket No. CP82–489–000, 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.

MRT proposes to upgrade its existing facilities at National Steel's plant in Granite City, Illinois, by replacing the existing 6-inch regulator station with an 8-inch regulator station and making minor changes to yard and station piping. MRT states that the purpose of the proposed upgrade is to eliminate the pressure drops associated with restrictions in the existing 6-inch station. It is estimated that the cost of the upgrade would be $100,000. It is asserted that the upgraded facilities will not result in an increase in the maximum daily volumes that MRT is authorized to transport for National Steel pursuant to current service agreements. MRT states that it does not anticipate any impact on peak day or annual deliveries to National Steel.

Comment date: September 6, 1994, in accordance with Standard Paragraph G at the end of this notice.

3. El Paso Natural Gas Company

[Docket No. CP94–668–000]

Take notice that on July 19, 1994, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP94–668–000 a request pursuant to Sections 157.205, 157.216 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216 and 157.212) for authorization to abandon by sale to Citizens Utilities Company (Citizens) segments of certain sales lateral pipelines and the accompanying delivery points and to construct and operate the North Prescott Meter Station, all in Yavapai County, Arizona, under El Paso's blanket certificate issued in Docket No. CP82–435–000 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.

It is stated that El Paso and Citizens have agreed that El Paso would sell, and Citizens will purchase, segments of the Clarkdale and Prescott sales lateral pipelines and the accompanying delivery points (Wineglass Livestock Tap, North Chino Valley (NAB Nursery) Meter Station, Sherwood Tap, L.R. McLeod Tap, Chino Valley Meter Station, Herbert Rees Tap, Prescott Airport No. 1 Tap, Prescott Airport No. 2 Tap, Prescott City Gate No. 2 Meter Station, Prescott City Gate No. 1 Meter Station, Clarkdale-Cottonwood Meter Station, and American Cement Corporation Meter Station).

It is stated that El Paso and Citizens have also agreed that El Paso will construct and operate one new delivery point, the "North Prescott Meter Station" at approximately milepost 10.01 on the end of the Prescott sales lateral pipeline being retained by El Paso. El Paso states that the North Prescott Meter Station will allow El Paso to measure accurately volumes of transportation gas being delivered to Citizens for subsequent distribution, after the downstream portion of the Prescott sales lateral pipeline is sold to Citizens. El Paso also states that it intends to use the Sedona Meter Station to measure volumes of transportation gas delivered to Citizens off the Clarkdale sales lateral pipeline after the sale of the facilities to Citizens.

El Paso estimates that the total estimated cost of the North Prescott Meter Station, including respective overhead and contingency fees, will be $121,900, and that Citizens will reimburse El Paso for the construction costs.

Comment date: September 6, 1994, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

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. 94–18353 Filed 7–27–94; 8:45 am]

BILLING CODE 6717–01–P

[Project No. 11352–000]

Peak Power Corporation; Effective Date of Withdrawal of License Application

July 22, 1994.

On October 14, 1992, Peak Power Corporation (Peak) filed an application for a preliminary permit for the Crescent Modular Pumped Storage Project No. 11352, to be located in Jefferson County, Colorado. On June 1, 1993, Peak filed a notice of withdrawal of its preliminary permit application.

No motion in opposition to the notice of withdrawal was filed, and the Commission took no action to disallow the withdrawal. Accordingly, pursuant to Rule 216 of the Commission's Rules of Practice and Procedure,[1] the withdrawal became effective on June 16, 1993.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–18436 Filed 7–27–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TX94–7–000]

AES Power, Inc.; Filing

July 22, 1994.

Take notice that on July 15, 1994, AES Power, Inc., 3340 Peachtree St. N.E., Atlanta, Georgia 30326, filed with the

[1] 18 CFR 385.216.

Federal Energy Regulatory Commission an application requesting that the Commission order the Tennessee Valley Authority to provide transmission services pursuant to § 211 of the Federal Power Act.

AES Power, Inc. requests a standing transmission arrangement to begin as soon as possible, for as available, point(s)-to-point(s) non-firm transmission service to be called upon by AES Power, Inc. from time to time and on terms and conditions comparable to those TVA provides for itself and other parties in similar circumstances. As the need for specific transactions arises, they will be scheduled, provided and paid for in accordance with TVA's current scheduling procedures, to or from any point of interconnection between TVA and its neighboring electric utilities. AES anticipates requesting transmission capacity in the range of 100–500 MW. However, any amount of transmission capacity up to the amount available on TVA's system at the time a specific request is scheduled may be requested. Service would be for an initial term of five years, with automatic renewal for additional one year terms unless terminated by either party thirty days prior to the end of the then current term.

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 August 5, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–18435 Filed 7–27–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–326–000]

Algonquin Gas Transmission Company; Proposed Changes in FERC Gas Tariff

July 22, 1994.

Take notice that on July 20, 1994, Algonquin Gas Transmission Company (Algonquin) tendered for filing as part of its FERC Gas Tariff, Fourth Revised volume No. 1, the following revised tariff sheets:

Thirteenth Revised Sheet No. 20A
Original Sheet No. 95D

The proposed effective date of the tariff sheets is August 1, 1994.

Algonquin states that the purpose of this filing is to flowthrough a refund from Texas Eastern Transmission Corporation's Account Nos. 191 and 186, as filed in Texas Eastern's Docket No. RP94–263–000. Algonquin requests that the Commission waive Section 154.22 of the Commission's regulations to the extent that may be necessary to place these tariff sheets into effect as requested.

Algonquin states that copies of this filing were mailed to all customers of Algonquin and interested state commissions.

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, N.E., Washington, D.C. 20426, in accordance with 18 CFR Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before July 29, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–18431 Filed 7–27–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–272–001]

NorAm Gas Transmission Company; Compliance Filing

July 22, 1994.

Take notice that on July 18, 1994, NorAm Gas Transmission Company (NGT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets and supporting workpapers:

Effective April 1, 1994

2nd Sub First Revised Sheet No. 4.3

Effective July 1, 1994

Sub Second Revised Sheet No. 4.3

NGT states that the tariff sheets are being filed in compliance with the Commission's letter order dated June 28, 1994.

NGT states that copies of the filing have been mailed to all of NGT's customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before July 29, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–18433 Filed 7–27–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–105–004]

Ozark Gas Transmission System; Compliance Filing

July 22, 1994.

Take notice that on July 18, 1994, Ozark Gas Transmission System (Ozark) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Substitute Seventh Revised Sheet No. 4.

Ozark states that the tariff sheet is being filed in compliance with the Commission's July 7, 1994, order in the above-referenced proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before July 29, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–18434 Filed 7–27–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94-325-000]

Panhandle Eastern Pipe Line Company; Proposed Changes in FERC Gas Tariff

July 22, 1994.

Take notice that on July 20, 1994, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing Ninth Revised Tariff Sheet Nos. 4, 5, 6, 7 and 8 which are proposed to become effective August 1, 1994.

Panhandle states that its filing implements, in accordance with Section 18.7 of the General Terms and Conditions of First Revised Volume No. 1 of Panhandle's FERC Gas Tariff, the recovery of certain of its Gas Supply Realignment (GSR) Costs by means of GSR Reservation Surcharges applicable to service under Rate Schedules FT, EFT and SCT and the comparable component applicable to interruptible rates under Rate Schedules IT and EIT.

Panhandle states that the costs included for recovery herein are costs which resulted from Panhandle having to terminate and assign its existing gas supply contracts in connection with implementing Order No. 636, et seq., which, among other things, required Panhandle to restructure its services and operations to provide its sales customers the choice of reducing and terminating their obligations under their existing sales contract.

Panhandle states that the costs encompassed by its filing, which total $14,368,766, consist of actual payments made by Panhandle for terminations and assignments of its gas supply contracts, all of which became stranded upon the termination of Panhandle's merchant function in conjunction with customer elections under 18 CFR 284.14(d). Also included are certain Account No. 165 costs incurred for what would have been recappable take-or-pay had Panhandle continued its merchant function and the unrecovered balance of a take-or-pay buyout and buydown agreement which had been subject to a three year amortization. These latter gas supply transition costs also became stranded upon the termination of Panhandle's merchant function.

Panhandle states that the amounts included for recovery as GSR Reservation Surcharges under Rate Schedules FT, EFT and SCT and the amounts included for recovery under Rate Schedules IT and EIT have been calculated using the methods set forth in Section 18.7 of the General Terms and Conditions of its Tariff and are consistent with the Commission's orders and pronouncements regarding the recovery of GSR Costs. Carrying charges have been calculated in accordance with Section 154.67(c) of the Commission's Regulations and Section 18.7 of Panhandle's Tariff.

Panhandle states that a copy of this filing has been served on all customers affected by this filing and the respective state commissions.

Any person desiring to be heard or to protest the filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before July 29, 1994. Protests will be considered by the Commission 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 must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94-18432 Filed 7-27-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-177-122]

Texas Eastern Transmission Corporation; Proposed Changes in FERC Gas Tariff

July 22, 1994.

Take notice that on July 20, 1994, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1 and Original Volume No. 2, the revised tariff sheets listed on Appendix A to the filing.

Texas Eastern states that the revised tariff sheets are filed in compliance with the Stipulation and Agreement ("Settlement") in Docket No. RP85-177-119, *et al.*, filed by Texas Eastern on January 31, 1994, the Order Approving Settlement issued by the Commission on May 12, 1994 ("May 12 Order"), and the "Order on Rehearing and Clarification" issued by the Commission on July 13, 1994, ("July 13 Order"). Texas Eastern states that under the Settlement, Texas Eastern is entitled to collect 100% of Spot Costs, as defined in Section 5.01 of the Settlement, related to the Appendix C South Pass 89 contracts, 100% of Non-Spot Costs, as defined in Section 5.01 related to the Appendix C contracts in excess of $6 million, but not in excess of $336 million and 80% of such Non-Spot Costs in excess of $336 million, but not in excess of $496 million.

Texas Eastern states that the Commission approved the Settlement without modification in the May 12 Order. The July 13 Order granted requests for clarification and denied requests for rehearing of the May 12 Order. Texas Eastern states that pursuant to Article IX of the Settlement, the "Effective Date" of the Settlement is August 1, 1994, and the revised tariff sheets listed on Appendix A are filed in order to effectuate the Settlement on August 1, 1994.

Texas Eastern states that in compliance with the July 13 Order, Texas Eastern is filing (1) First Revised Sheet No. 637 to include a provision in the tariff to indicate that the Settlement is a part of its published rates, terms, and conditions and (2) examples of the calculations underlying the rate restatements that will be used to recover Account No. 858 Costs.

Texas Eastern states that this filing is made in compliance with the May 12 and July 13 Orders and in accordance with such Orders and Articles IV, V and IX of the Settlement will go into effect August 1, 1994, not subject to refund.

Texas Eastern states that copies of its filing have been served on all firm customs of Texas Eastern and applicable state regulatory agencies, as well as all parties in Docket Nos. RP85-177-121, *et al.*, and all current interruptible shippers.

All person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before July 29, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on a file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94-18430 Filed 7-27-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP93-109-000]

Williams Natural Gas Co.; Informal Settlement Conference

July 22, 1994.

Take notice that an informal settlement conference will be convened

in this proceeding on July 26, 1994, at 10:00 a.m. at the offices of the Federal Energy Regulatory Commission, 810 First Street, N.E., Washington, DC, for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact James A. Pederson at (202) 208–5705 or Sandra Delude at (202) 208–0583.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–18427 Filed 7–27–94; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 5021–8]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before August 29, 1994.

FOR FURTHER INFORMATION CONTACT: For further information, or a copy of this ICR, contact Sandy Farmer at (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: Radon Measurement Protocol Evaluation Study (EPA ICR #1703.01). This ICR requests approval of a new collection.

Abstract: A statistically valid sample of homeowners who participated in the National Residential Radon Survey will be selected to participate in a follow-up study to measure year-long household exposure to radon. The EPA will use the results to validate the mathematical model used in preparing public information documents on radon such as the Citizen's Guide to Radon and the Home Buyer's and Seller's Guide to Radon. In addition, the results will be available in the Agency's national radon database and will be used in articles for publication in scientific journals.

Homeowners will place radon detectors in specified locations in their homes, replace them quarterly for a year, and prepare a log of placement/replacement dates and times. EPA labs and contractors will analyze the detectors and provide homeowners with the results.

Burden Statement: Public reporting burden for this collection of information is estimated to average 5 hours per response, including time for reviewing instructions, gathering the data needed, and completing the collection of information. There is no public recordkeeping burden for this collection of information.

Respondents: Homeowners.

Estimated Number of Respondents: 1200.

Estimated Total Annual Burden on Respondents: 6350 hours.

Frequency of Collection: quarterly.

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (2136), 401 M Street, SW, Washington, DC 20460.

Chris Wolz, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW, Washington, DC 20503.

Dated July 14, 1994.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 94–18336 Filed 7–27–94; 8:45 am]

BILLING CODE 6560–50–M

[AMS–FRL–5022–3]

Regulation of Fuels and Fuel Additives: Standards for Reformulated Gasoline

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Application for Extension of the Reformulated Gasoline Program to the Kentucky portions of the Louisville and the Cincinnati-Hamilton ozone non-attainment areas.

SUMMARY: This notice publishes the application by the Governor of the state of Kentucky to have the prohibition set forth in section 211(k)(5) of the Clean Air Act, as amended, (the Act) applied to the Kentucky portions of the Louisville and Cincinnati-Hamilton ozone non-attainment areas. Under section 211(k)(6) the Administrator of EPA shall apply the prohibition against the sale of gasoline which has not been reformulated to be less polluting in an ozone nonattainment area upon the application of the governor of the state in which the nonattainment area is located.

DATES: The effective date of the prohibition described herein is January 1, 1995 (see the **SUPPLEMENTARY INFORMATION** section of this notice for a discussion of the possible delay of this date).

ADDRESSES: Materials relevant to this Notice are contained in Public Docket Nos. A–91–02 and A–92–12. This docket is located in Room M–1500, Waterside Mall (ground floor), U.S. Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460. The docket may be inspected from 8:30 a.m. until 12:00 noon and from 1:30 p.m. until 3:00 p.m. Monday through Friday. A reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Joann Jackson Stephens, U.S. EPA (RDSD–12), National Vehicle and Fuel Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, MI 48105, Telephone: (313) 668–4276.

SUPPLEMENTARY INFORMATION:

I. Background

As part of the Clean Air Act Amendments of 1990, Congress added a new subsection (k) to section 211 of the Clean Air Act. Subsection (k) prohibits the sale of gasoline that EPA has not certified as reformulated in the nine worst ozone nonattainment areas beginning January 1, 1995. To be certified as reformulated a gasoline must comply with the following formula requirements: oxygen content of at least 2.0 percent by weight; benzene content of no more than 1.0 percent by volume; and no heavy metals (with a possible waiver for metals other than lead). The gasoline must also achieve toxic and volatile organic compound emissions reductions equal to or exceeding the more stringent of a specified formula fuel or a performance standard.

Section 211(k)(10)(D) defines the areas covered by the reformulated gasoline program as the nine ozone nonattainment areas having a 1980 population in excess of 250,000 and having the highest ozone design values during the period 1987 through 1989. Applying those criteria, EPA has determined the nine covered areas to be the metropolitan areas including Los

Angeles, Houston, New York City, Baltimore, Chicago, San Diego, Philadelphia, Hartford and Milwaukee. Under section 211(k)(10)(D), any area reclassified as a severe ozone nonattainment area under section 181(b) is also to be included in the reformulated gasoline program.

Any other ozone nonattainment area may be included in the program at the request of the governor of the state in which the area is located. Section 211(k)(6)(A) provides that upon the application of a Governor, EPA shall apply the prohibition against selling conventional gasoline (gasoline EPA has not certified as reformulated) in any area requested by the Governor which has been classified under subpart 2 of part D of title I of the Act as a Marginal, Moderate, Serious or Severe ozone nonattainment area.[1] Subparagraph 211(k)(6)(A) further provides that EPA is to apply the prohibition as of the date the Administrator "deems appropriate, not later than January 1, 1995, or 1 year after such application is received, whichever is later." In some cases the effective date may be extended for such an area as provided in section 211(k)(6)(B) based on a determination by EPA that there is "insufficient domestic capacity to produce" reformulated gasoline. Finally, EPA is to publish a governor's application in the **Federal Register**. To date, EPA has received and published applications from the Mayor of the District of Columbia and the Governors of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and Texas. Although Vermont has requested to opt-in to the program, states without ozone nonattainment areas, such as Vermont, can not do so.

EPA published final regulations for the reformulated gasoline program on February 16, 1994 (59 FR 7716).

II. The Governor's Request

EPA received an application from the Hon. Brereton C. Jones, Governor of the State of Kentucky, for the Kentucky portions of the Louisville and the Cincinnati-Hamilton ozone non-attainment areas to be included in the reformulated gasoline program. His application is set out in full below.

[State of Kentucky letterhead]

September 19, 1993.

Ms. Carol Browner, Administrator,
U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460

Dear Ms. Browner: In accordance with Section 211(k), (6)(A) of the Federal Clean Air Act, I request that, beginning January 1, 1995, the prohibition applying to the sale of conventional gasoline be extended to the Kentucky portion of the Louisville ozone non-attainment area and the Kentucky portion of the Cincinnati-Hamilton ozone non-attainment area. The Kentucky portion of the Louisville non-attainment area consists of Jefferson County and a portion of Bullitt and Oldham Counties. The Kentucky portion of the Cincinnati ozone non-attainment area consists of Boone, Campbell and Kenton Counties.

The Kentucky Natural Resources and Environmental Protection Cabinet recommended that I apply to you to require the use of reformulated gasoline in these counties in order to help achieve the reduction of volatile organic compounds mandated in Section 182(b)(1) of the Clean Air Act. The revision to Kentucky's State Implementation Plan for achieving a 15% reduction of volatile organic compounds due by November 15, 1993 will include emission reductions gained by the use of reformulated gasoline.

Sincerely,

Brereton C. Jones.

III. Action

Pursuant to the governor's letter and the provisions of section 211(k)(6), the prohibitions of subsection 211(k)(5) will be applied to the Kentucky portions of the Louisville and Cincinnati-Hamilton ozone non-attainment areas beginning January 1, 1995 (unless delayed, as provided above). The Kentucky portion of the Louisville non-attainment area consists of Jefferson County and a portion of Bullitt and Oldham Counties. The Kentucky portion of the Cincinnati ozone non-attainment area consists of Boone, Campbell and Kenton Counties. These ozone nonattainment areas are classified as moderate.[2]

Based on the governor's application, EPA's final rule for reformulated gasoline included these areas as covered area (40 CFR 80.70(j)).[3]

The application of the prohibitions to the Kentucky portions of the Louisville and Cincinnati-Hamilton areas cannot take effect any earlier than January 1, 1995 under section 211(k)(5) and cannot take effect any later than January 1, 1995, under section 211(k)(6)(A), unless the Administrator extends the effective date by rule under section 211(k)(6)(B).

Dated: July 15, 1994.

Carol M. Browner,

Administrator.

[FR Doc. 94–18388 Filed 7–27–94; 8:45 am]

BILLING CODE 6560–50–P

[1] EPA promulgated such designations pursuant to section 107(d)(4) of the Act (56 FR 56694; November 6, 1991).

[2] *See* 56 FR 56764, 54765 (November 6, 1991).

[3] 59 FR 7852 (February 16, 1994).

[FRL–5021–1]

Acid Rain Program: Notice of Final Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of permits.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is issuing, as a direct final action, 5-year Phase I Acid Rain Permits to 13 utility plants in accordance with the Acid Rain Program regulations (40 CFR part 72).

DATES: The permits will become final on September 6, 1994, except those permits on which EPA receives significant adverse comment by August 29, 1994. If EPA receives significant adverse comment on a permit, EPA will withdraw the direct final issuance of that permit and simultaneously repropose the permit. Such reproposal will provide an opportunity for public comment and requests for a public hearing.

ADDRESSES: Administrative Records. The administrative record for the permits, except information protected as confidential, may be viewed during normal operating hours at these locations:

For plants in New York: EPA Region 2, Jacob K. Javits Federal Bldg., 26 Federal Plaza, Room 505, New York, NY 10278.

For plants in Florida and Kentucky: EPA Region 4, 345 Courtland St., NE., Atlanta, GA 30365.

For plants in Missouri: EPA Region 7, 726 Minnesota Ave., Kansas City, KS 66101.

Comments. Send comments to the following addresses:

For plants in New York: EPA Region 2, Air and Waste Management Division, Attn: Steven C. Riva (address above)

For plants in Florida and Kentucky: EPA Region 4, Air, Pesticides, and Toxics Management Division, Attn: Winston Smith, Director (address above).

For plants in Missouri: EPA Region 7, Air and Toxics Division, Attn: Jon Knodel (address above).

Submit comments in duplicate and identify the permit to which the comments apply, the commenter's name, address, and telephone number, and the commenter's interest in the matter and affiliation, if any, to the owners and operators of all units in the permit. In the comment, include objections to the permit and the legal, factual, or other basis for the objections. This information will be used by EPA to determine if the comment is a significant adverse comment.

FOR FURTHER INFORMATION CONTACT: Contact the following persons for more information about a permit listed in this notice:

For plants in New York, Gerry DeGaetano, (212) 264–6685, EPA Region 2.

For plants in Florida and Kentucky, Scott Davis, (404) 347–5014, EPA Region 4 (address above).

For plants in Missouri, Jon Knodel, (913) 551–7622, EPA Region 7.

SUPPLEMENTARY INFORMATION: Title IV of the Clean Air Act directs EPA to establish a program to reduce the adverse effects of acidic deposition by promulgating rules and issuing permits to emission sources subject to the program. On January 11, 1993, EPA promulgated final rules implementing the program. Subsequently, several parties filed petitions for review of the rules with the U.S. Court of Appeals for the District of Columbia Circuit. On November 18, 1993, EPA published a notice of proposed revisions to rules regarding Phase I substitution and reduced utilization plans [sections 404 (b) and (c) and 408(c)(1)(B) of the Act]. On May 4, 1994, EPA and other parties signed a settlement agreement addressing the substitution and reduced utilization issues.

In today's action, EPA is issuing permits that are consistent with the May 4, 1994 settlement. Except as noted below, EPA approves for 1995–1999 all compliance options for which EPA deferred action for 1996–1999 in the draft permits. In addition, except as noted below, the numbers of substitution and compensating unit allowances allocated to each unit for 1995–1999 are identical to the numbers of allowances allocated to each unit for 1995 in the draft permits. The additional allowances discussed below are a one-time only allocation pursuant to the settlement. Upon activation of conditionally-approved plans, substitution or compensating unit allowances are allocated for the remaining years the plan is in effect. EPA issues the following permits:

Northport in New York.

Port Jefferson in New York.

Big Bend in Florida.

F J Gannon in Florida: No change for unit GB01; 4,581 substitution allowances for each year and 9 additional allowances to unit GB02 upon activation of substitution plan; 7,003 substitution allowances for each year and 437 additional allowances to unit GB03 upon activation of substitution plan; 7,570 substitution allowances for each year and 450 additional allowances to unit GB04 upon activation of substitution plan; 10,295 substitution allowances for each year and 520 additional allowances to unit GB05 upon activation of substitution plan; 16,107 substitution allowances for each year and 377 additional allowances to unit GB06 upon activation of substitution plan.

Hookers Point in Florida: 0 substitution allowances for each year and 27 additional allowances to unit HB01 upon activation of substitution plan; 31 substitution allowances for each year and 3 additional allowances to unit HB02 upon activation of substitution plan; 92 substitution allowances for each year and 9 additional allowances to unit HB03 upon activation of substitution plan; 145 substitution allowances for each year and 15 additional allowances to unit HB04 upon activation of substitution plan; 124 substitution allowances for each year and 13 additional allowances to unit HB05 upon activation of substitution plan; 207 substitution allowances for each year and 13 additional allowances to unit HB06 upon activation of substitution plan.

Big Sandy in Kentucky.

Coleman in Kentucky.

Cooper in Kentucky.

Dale in Kentucky: 2,115 substitution allowances for each year and 226 additional allowances to unit 3 upon activation of substitution plan, and 226 additional allowances if the unit becomes affected for NO_x; 1,729 substitution allowances for each year and 166 additional allowances to unit 4 upon activation of substitution plan, and 166 additional allowances if the unit becomes affected for NO_x.

East Bend in Kentucky.

H L Spurlock in Kentucky: 14,206 substitution allowances for each year and 1,593 additional allowances to unit 2 upon activation of substitution plan, and 1,593 additional allowances if the unit becomes affected for NO_x.

R D Green in Kentucky: No change for unit G1; 5,827 substitution allowances for each year and 492 additional allowances to unit G2.

Sibley in Missouri: 2,782 substitution allowances for each year and 28 additional allowances to unit 1; 3,332 substitution allowances for each year and 130 additional allowances to unit 2.

Dated: July 14, 1994.

Brian J. McLean,

Director, Acid Rain Division, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 94–18323 Filed 7–27–94; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5021–5]

Restatement of Policies Related to Environmental Auditing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Environmental Auditing Policy Statement ("1986 Policy") was originally published in the **Federal Register** on July 9, 1986 (51 FR 25004). The 1986 Policy states that "(c)larification of EPA's position regarding auditing may help encourage regulated entities to establish audit programs or upgrade systems already in place." The goal of this notice is to clarify EPA's current policies on and approach to auditing. This notice summarizes salient points from the 1986 Policy, which remains in effect. In addition, this notice updates the Agency's activities with respect to auditing and auditing policy and references pertinent language from other relevant policy documents, in anticipation of the public meeting on auditing scheduled for July 27–28, 1994. This notice does not represent a new EPA policy or position on environmental auditing; all existing policies remain in effect.

I. Auditing Public Meeting: Change of Location

The response to EPA's announcement (59 FR 31914, June 20, 1994) to hold a public meeting on auditing on July 27–28, 1994 has been overwhelming. Due to the expected size of the audience, therefore, the Agency has changed the location of this event. The new location is the Stouffer Mayflower Hotel in Washington, DC, at 1127 Connecticut Avenue, NW, Phone (202) 347–3000.

II. The Auditing Policy Reassessment

In response to a request by Administrator Carol M. Browner, the Office of Enforcement and Compliance Assurance (OECA) is reassessing the Agency's current policy regarding environmental auditing and self-evaluation by the regulated community. EPA has committed to investigating the perceived problems relating to auditing, self-evaluation, and disclosure through an empirical, information-gathering effort. The Agency must develop an adequate information base to give serious consideration to any policy options and to ensure that any decision to either reinforce, change, or supplement existing policy is informed by fact.

EPA hopes to collect such relevant data through the implementation of four actions this summer. First, the Agency

will convene a public meeting on July 27–28, 1994, as an opportunity to obtain a wide variety of views and to sharpen the focus on these issues. The range of issues appropriate for discussion at the public meeting include: the implementation of the 1986 Policy; specific suggestions for auditing policy options; State audit privilege legislation; auditing in the context of criminal enforcement; and advances in the field of auditing since 1986. Interested parties are encouraged to read the **Federal Register** notice dated June 20, 1994 (59 FR 31914) for more details on the public meeting.

Second, EPA published in the June 21, 1994 **Federal Register** (59 FR 32062) a notice requesting proposals for Environmental Leadership Program (ELP) pilot projects. EPA expects that these pilot projects will generate useful data on auditing methodology and measures, and may also serve as vehicles for experimenting with policy-driven incentives.

Third, EPA will encourage the private sector to collect data and survey auditing practices in order to gauge the effect of enforcement policies on self-evaluation and disclosure in the regulated community. The Agency will also seek input on auditing and related issues from States, environmental and public interest groups, and trade and professional associations.

Finally, in this **Federal Register** notice, EPA is restating salient points from the 1986 Policy and reviewing its activities and other policies relating to environmental auditing. The goal of this notice is to clarify EPA's current policies on and approach to auditing, in order to ensure a well-informed policy debate.

III. Review of General EPA Policy on Environmental Auditing

A. EPA Encourages the Use of Environmental Auditing

EPA has actively encouraged and participated in the development of environmental auditing and improved environmental management practices since the mid-1980s. In fact, the 1986 Policy has served as the basis for defining the practice and profession of environmental auditing. The 1986 Policy clearly states EPA support for auditing:

> Effective environmental auditing can lead to higher levels of overall compliance and reduced risk to human health and the environment. EPA endorses the practice of environmental auditing and supports its accelerated use by regulated entities to help meet the goals of Federal, state and local environmental requirements.
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> * * * * *
>
> Auditing serves as a quality assurance check to help improve the effectiveness of basic environmental management by verifying that management practices are in place, functioning and adequate. Environmental audits evaluate, and are not a substitute for, direct compliance activities such as obtaining permits, installing controls, monitoring compliance, reporting violations, and keeping records. Environmental auditing may verify but does not include activities required by law, regulation, or permit (e.g., continuous emissions monitoring, composite correction plans at wastewater treatment plants, etc.). Audits do not in any way replace regulatory agency inspections. However, environmental audits can improve compliance by complementing conventional Federal, state and local oversight.
>
> * * * * *
>
> Environmental auditing has developed for sound business reasons, particularly as a means of helping regulated entities manage pollution control affirmatively over time instead of reacting to crises. Auditing can result in improved facility environmental performance, help communicate effective solutions to common environmental problems, focus facility managers' attention on current and upcoming regulatory requirements, and generate protocols and checklists which help facilities better manage themselves. Auditing also can result in better-integrated management of environmental hazards, since auditors frequently identify environmental liabilities which go beyond regulatory compliance.

The Agency clearly supports auditing to help ensure the adequacy of internal systems to achieve, maintain, and monitor compliance. By voluntarily implementing environmental management and auditing programs, regulated entities can identify, resolve, and avoid environmental problems.

> EPA does not intend to dictate or interfere with the environmental management practices of private or public organizations. Nor does EPA intend to mandate auditing (though in certain instances EPA may seek to include provisions for environmental auditing as part of settlement agreements, as noted below). Because environmental auditing systems have been widely adopted on a voluntary basis in the past, and because audit quality depends to a large degree upon genuine management commitment to the program and its objectives, auditing should remain a voluntary activity.

Because senior managers of regulated entities are ultimately responsible for taking all necessary steps to ensure compliance with environmental requirements, EPA believes they have a strong incentive to use reasonable means, such as environmental auditing, to secure reliable information about facility compliance status.

B. Definition of Environmental Auditing, Elements of Effective Environmental Auditing Programs

The 1986 Policy also defines environmental auditing, and outlines what EPA considers to be the elements of an effective environmental auditing program. The 1986 Policy presents the following definition:

> Environmental auditing is a systematic, documented, periodic and objective review by regulated entities of facility operations and practices related to meeting environmental requirements. Audits can be designed to accomplish any or all of the following: verify compliance with environmental requirements; evaluate the effectiveness of environmental management systems already in place; or assess risks from regulated and unregulated materials and practices.

An organization's auditing program will evolve according to its unique structures and circumstances. The 1986 Policy acknowledges this fact, and also states EPA's belief that effective environmental auditing programs appear to have certain discernible elements in common with other kinds of audit programs. EPA generally considers these elements important to ensure program effectiveness. This general description of effective, mature audit programs can help those starting audit programs, especially Federal agencies and smaller businesses. Regulatory agencies may also use these elements in negotiating environmental auditing provisions for consent decrees. Finally, these elements can help guide states and localities considering auditing initiatives.

As stated in the 1986 Policy, an effective environmental auditing system will likely include the following general elements:

I. Explicit top management support for environmental auditing and commitment to follow-up on audit findings. Management support may be demonstrated by a written policy articulating upper management support for the auditing program, and for compliance with all pertinent requirements, including corporate policies and permit requirements as well as Federal, state and local statutes and regulations.

Management support for the auditing program also should be demonstrated by an explicit written commitment to follow-up on audit findings to correct identified problems and prevent their recurrence.

II. An environmental auditing function independent of audited activities. The status or organizational locus of environmental auditors should be sufficient to ensure objective and unobstructed inquiry, observation and testing. Auditor objectivity should not be impaired by personal relationships, financial or other conflicts of interest, interference with free inquiry or judgment, or fear of potential retribution.

III. Adequate team staffing and auditor training. Environmental auditors should possess or have ready access to the knowledge, skills, and disciplines needed to accomplish audit objectives. Each individual auditor should comply with the company's professional standards of conduct. Auditors, whether full-time or part-time, should maintain their technical and analytical competence through continuing education and training.

IV. Explicit audit program objectives, scope, resources and frequency. At a minimum, audit objectives should include assessing compliance with applicable environmental laws and evaluating the adequacy of internal compliance policies, procedures, and personnel training programs to ensure continued compliance.

Audits should be based on a process which provides auditors: all corporate policies, permits, and Federal, state, and local regulations pertinent to the facility; and checklists or protocols addressing specific features that should be evaluated by auditors.

Explicit written audit procedures generally should be used for planning audits, establishing audit scope, establishing audit scope, examining and evaluating audit findings, communicating audit results, and following-up.

V. A process that collects analyzes interprets and documents information sufficient to achieve audit objectives. Information should be collected before and during an on-site visit regarding environmental compliance (1) environmental management effectiveness (2) and other matters (3) related to audit objectives and scope. This information should be sufficient, reliable, relevant and useful to provide a sound basis for audit finds and recommendations.

a. *Sufficient* information is factual, adequate and convincing so that a prudent, informed person would be likely to reach the same conclusions as the auditor.

b. *Reliable* information is the best attainable through use of appropriate audit techniques.

c. *Relevant* information supports audit findings and recommendations and is consistent with the objectives for the audit.

d. *Useful* information helps the organization meet its goals.

The audit process should include a periodic review of the reliability and integrity of this information and the means used to identify, measure, classify and report it. Audit procedures, including the testing and sampling techniques employed, should be selected in advance, to the extent practical, and expanded or altered if circumstances warrant. The process of collecting, analyzing, interpreting and documenting information should provide reasonable assurance that audit objectivity is maintained and audit goals are met.

VI. A process that includes specific procedures to promptly prepare candid clear and appropriate written reports on audit finds corrective actions and schedules for implementation. Procedures should be in place to ensure that such information is communicated to managers, including facility and corporate management, who can evaluate the information and ensure correction of identified problems. Procedures also should be in place for determining what internal findings are reportable to state or Federal agencies.

VII. A process that includes quality assurance procedures to assure the accuracy and thoroughness of environmental audits. Quality assurance may be accomplished through supervision, independent internal reviews, external reviews, or a combination of these approaches.

C. EPA Activities Related to Auditing Standards

EPA is currently participating in two major non-regulatory efforts to develop voluntary standards for auditing and environmental management systems. First, the International Organization of Standards (ISO), based in Geneva, Switzerland, established in 1993 a Technical Committee for Environmental Management Standards (ISO–TC–207). Subcommittee Two of TC–207 is in the process of developing environmental auditing standards. The standards fall into three groups: Auditing Principles, Auditing Procedures, and Auditor Qualifications. Second, in the U.S., the National Sanitation Foundation (NSF) in Ann Arbor, Michigan, is developing environmental auditing standards that are intended to be compatible with and augment the ISO standards. Work is proceeding rapidly within ISO and NSF, with draft standards expected by the end of the year.

The proposed NSF and ISO auditing standards are being developed within the framework of overall environmental management systems standards. Neither ISO nor NSF intends to establish specific environmental standards; instead both are seeking to provide management tools that include auditing schemes and standards. The EPA 1986 Policy has been a central reference document for both the ISO and NSF work. As these new documents develop, issues of auditor qualifications and explicit management commitment to audit follow-up will be of particular interest to EPA.

IV. Review of EPA Policy on Specific Environmental Auditing Issues

A. Agency Requests for Audit Reports

EPA's 1986 Policy clearly states that:

> . . . EPA believes routine Agency requests for audit reports could inhibit auditing in the long run, decreasing both the quantity and quality of audits conducted. Therefore, as a matter of policy EPA will not routinely request environmental audit reports.

The 1986 policy also acknowledges regulated entities' need to self-evaluate environmental performance with some measure of privacy. However, audit reports may not shield monitoring, compliance or other information that would otherwise be reportable and/or accessible to EPA even if there is no explicit requirement to generate that data. Thus, the 1986 Policy does not alter regulated entities' existing or future obligations to monitor, record or report information required under environmental statutes, regulations or permits, or to allow EPA access to that information. Nor does the 1986 Policy alter EPA's authority to request and receive any relevant information—including that contained in audit reports—under various environmental statutes or in other administrative or judicial proceedings.

> EPA's authority to request an audit report, or relevant portions thereof, will be exercised on a case-by-case basis where the Agency determines it is needed to accomplish a statutory mission, or where the Government deems it to be material to a criminal investigation. EPA expects such requests to be limited, most likely focused on particular information needs rather than the entire report, and usually made where the information needed cannot be obtained from monitoring, reporting, or other data otherwise available to the Agency. Examples would likely include situations where: audits are conducted under consent decrees or other settlement agreements; a company has placed its management practices at issue by raising them as a defense; or state of mind or intent are a relevant element of inquiry, such as during a criminal investigation. This list is illustrative rather than exhaustive, since there doubtless will be other situations, not subject to prediction, in which audit reports rather than information may be required . . .

B. EPA Response to Environmental Auditing

1. General Policy

The 1986 Policy states that "EPA will not promise to forgo inspections, reduce enforcement responses, or offer other such incentives in exchange for implementation of environmental auditing or other sound environmental management practices." EPA is required by law to independently assess compliance status of facilities, and cannot eliminate inspections for particular firms or classes of firms. Certain statutes (e.g. RCRA) and Agency policies establish minimum facility inspection frequencies to which EPA will adhere. Environmental audits are in no way a substitute for regulatory oversight.

As explained in the 1986 Policy, however, EPA will take into account a facility's efforts to audit in setting inspection priorities and in fashioning enforcement responses to violations:

> . . . EPA will continue to address environmental problems on a priority basis

and will consequently inspect facilities with poor environmental records and practices more frequently. Since effective environmental auditing helps management identify and promptly correct actual or potential problems, audited facilities' environmental performance should improve. Thus, while EPA inspections of self-audited facilities will continue, to the extent that compliance performance is considered in setting inspection priorities, facilities with a good compliance history may be subject to fewer inspections.

In fashioning enforcement responses to violations, EPA policy is to take into account, on a case-by-case basis, the honest and genuine efforts of regulated entities to avoid and promptly correct violations and underlying environmental problems. When regulated entities take reasonable precautions to avoid noncompliance, expeditiously correct underlying environmental problems discovered through audits or other means, and implement measures to prevent their recurrence, EPA may exercise its discretion to consider such actions as honest and genuine efforts to assure compliance. Such consideration applies particularly when a regulated entity promptly reports violations or compliance data that otherwise were not required to be recorded or reported to EPA.

These principles have been incorporated into the Agency's enforcement response and civil penalty policies.

2. Audit Provisions as Remedies in Enforcement Settlements

The 1986 Policy includes the following language on audit provisions as remedies in enforcement settlements:

EPA may propose environmental auditing provisions in consent decrees and in other settlement negotiations where auditing could provide a remedy for identified problems and reduce the likelihood of similar problems recurring in the future. Environmental auditing provisions are most likely to be proposed in settlement negotiations when:

- A pattern of violations can be attributed, at least in part, to the absence or poor functioning of an environmental management system; or
- The type of nature of violations indicates a likelihood that similar noncompliance problems may exist or occur elsewhere in the facility or at other facilities operated by the regulated entity.

EPA's enforcement office issued further guidance on this issue in 1986 in a document entitled "EPA Policy on the Inclusion of Environmental Auditing Provisions in Enforcement Settlements." This guidance has been consistently applied in enforcement actions as appropriate, and has formed the basis for the inclusion of audit agreements or provisions in numerous consent decrees. Selected text from this document, also still in effect, is included here:

In recent years, Agency negotiators have achieved numerous settlements that require regulated entities to audit their operations. These innovative settlements have been highly successful in enabling the Agency to accomplish more effectively its primary mission, namely, to secure environmental compliance. Indeed, auditing provisions in enforcement settlements have provided several important benefits to the Agency by enhancing its ability to:

- Address compliance at an entire facility or at all facilities owned or operated by a party, rather than just the violations discovered during inspections; and identify and correct violations that may have gone undetected (and uncorrected) otherwise;
- Focus the attention of a regulated party's top-level management on environmental compliance; produce corporate policies and procedures that enable a party to achieve and maintain compliance; and help a party to manage pollution control affirmatively over time instead of reacting to crises;
- Provide a quality assurance check by verifying that existing environmental management practices are in place, functioning and adequate.

* * * * *

It is the policy of EPA to settle its judicial and administrative enforcement cases only where violators can assure the Agency that their noncompliance will be (or has been) corrected. EPA . . . considers auditing an appropriate part of a settlement where heightened management attention could lower the potential for noncompliance to recur.

* * * * *

In most cases, either (or both) of the following two types of environmental audits should be considered [in enforcement settlements]:

1. *Compliance Audit:* An independent assessment of the current status of a party's compliance with applicable statutory and regulatory requirements. This approach always entails a requirement that effective measures be taken to remedy uncovered compliance problems, and is most effective when coupled with a requirement that the root causes of noncompliance also be remedied.

2. *Management Audit:* An independent evaluation of a party's environmental compliance policies, practices, and controls. Such evaluation may encompass the need for: (1) A formal corporate environmental compliance policy, and procedures for implementation of that policy; (2) educational and training programs for employees; (3) equipment purchase, operation and maintenance programs; (4) environmental compliance officer programs (or other organizational structures relevant to compliance); (5) budgeting and planning systems for environmental compliance; (6) monitoring, record keeping and reporting systems; (7) in-plant and community emergency plans; (8) internal communications and control systems; and (9) hazard identification and risk assessment.

Whether to seek a compliance audit, a management audit, or both will depend upon the unique circumstances of each case. A compliance audit usually will be appropriate where the violations uncovered by Agency inspections raise the likelihood that environmental noncompliance exists elsewhere within a party's operations. A management audit should be sought where it appears that a major contributing factor to noncompliance is inadequate (or nonexistent) managerial attention to environmental policies, procedures or staffing. Both types of audits should be sought where both current noncompliance and shortcomings in a party's environmental management practices need to be addressed.

C. Environmental Auditing and Criminal Enforcement Policy

Following EPA's 1986 Policy, three significant developments mark the evolution and implementation of criminal enforcement policy governing the use of self-audits and the voluntary disclosure of environmental violations.

First, on July 1, 1991, the Department of Justice issued a guidance entitled: "Factors In Decisions On Criminal Prosecutions For Environmental Violations In The Context Of Significant Voluntary Compliance Or Disclosure Efforts By The Violator." The guidance sets the general DOJ policy on auditing:

It is the policy of the Department of Justice to encourage self-auditing, self-policing, and voluntary disclosure of environmental violations by the regulated community by indicating that these activities are viewed as mitigating factors in the Department's exercise of criminal enforcement discretion.

The guidance and the examples contained therein provide a framework for the determination of whether a particular case presents the type of circumstances in which lenience would be appropriate. The factors to be considered in exercising the Department's prosecutorial discretion, in cases where the law and evidence are otherwise sufficient for prosecution, include: voluntary disclosure; cooperation; preventive measures and compliance programs; pervasiveness of noncompliance; internal disciplinary action; and subsequent compliance efforts.

Second, on November 11, 1993, the Final Draft Environmental Sentencing Guidelines provided for the mitigation of sentences where a court finds that the following factors for environmental compliance are satisfied: line management attention to compliance; integration of environmental policies, standards, and procedures; auditing, monitoring, reporting and tracking systems; regulatory expertise, training and evaluation; incentives for compliance; disciplinary procedures; continuing evaluation and improvement.

Finally, on January 12, 1994, EPA's Director of Criminal Enforcement issued a guidance entitled: "The Exercise of Investigative Discretion," that sets forth

specific factors that distinguish cases meriting criminal investigation. With respect to corporations conducting environmental audits, the guidance states:

> Corporate culpability may be indicated when a company performs an environmental compliance or management audit, and then knowingly fails to promptly remedy the non-compliance and correct any harm done. On the other hand, EPA policy strongly encourages self-monitoring, self-disclosure, and self-correction. When self-auditing has been conducted (followed up by prompt remediation of the non-compliance and any resulting harm) and full, complete disclosure has occurred, the company's constructive activities should be considered as mitigating factors in EPA's exercise of investigative discretion. Therefore, a violation that is voluntarily revealed and fully and promptly remediated as part of a corporation's systematic and comprehensive self-evaluation program generally will not be a candidate for the expenditure of scarce criminal resources.

D. Audit Privilege Legislation

Four States (Colorado, Indiana, Kentucky, and Oregon) have recently enacted legislation which, with some variations, creates a "self-evaluative" privilege for audit reports. EPA has consistently opposed this approach, principally because of the risk of weakening State enforcement programs, the imposition of unnecessary transaction costs and delays in enforcement actions, and the potential increase in the number of situations requiring the expenditure of scarce Agency resources, including the "overfiling" of State enforcement actions. EPA urges States that are considering a privilege-oriented approach to actively participate in the comprehensive process described in the June 20, 1994 **Federal Register** notice (59 FR 31914) before pursuing any legislative action. The Agency also encourages States that have passed such legislation to present documentary justification for this approach either at the public meeting on July 27–28, 1994, or in written comments.

E. Environmental Auditing at Federal Facilities

The 1986 Policy also encourages all Federal agencies subject to environmental laws and regulations to institute environmental auditing, to help ensure the adequacy of internal systems to achieve, maintain and monitor compliance. Such Federal facility environmental audit programs should be structured to promptly identify environmental problems and expeditiously develop schedules for remedial action.

Where appropriate, EPA will enter into agreements with other agencies to clarify the respective roles, responsibilities and commitments of each agency in conducting and responding to Federal facility environmental audits. Also, to the extent feasible, EPA will provide technical assistance to help Federal agencies design and initiate audit programs. Currently, the EPA Federal Facility Enforcement Office (FFEO) is co-chairing an inter-Agency work group to revise auditing guidelines and protocols for Federal agencies. In addition, FFEO is developing the Federal Government Environmental Challenge Program required by Executive Order 12856, which calls for the establishment of a Code of Environmental Principles and a Model Installation Program for Federal facilities. This program is likely to include environmental auditing components.

The 1986 Policy states that:

> With respect to inspections of self-audited facilities and requests for audit reports, EPA generally will respond to environmental audits by Federal facilities in the same manner as it does for other regulated entities.
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> * * * * *
>
> Federal agencies should, however, be aware that the Freedom of Information Act will govern any disclosure of audit reports or audit-generated information requested from Federal agencies by the public.

When Federal agencies discover significant violations through an audit, EPA encourages them to voluntarily submit the related findings and corrective action plans to the appropriate EPA Regional office and State agencies, even when not specifically required to do so. EPA will review the audit findings and action plans, and negotiate either a consent agreement or a Federal Facilities Compliance Agreement, pursuant to its enforcement authorities under the various environmental statutes. In any event, Federal agencies are expected to report to EPA pollution abatement and prevention projects involving costs necessary to correct compliance problems discovered through the audit, in accordance with OMB Circular A–106. Upon request, and in appropriate circumstances, EPA may assist affected Federal agencies through coordination of any public release of voluntarily submitted audit findings with approved action plans once agreement has been reached and/or appropriate enforcement actions have been taken.

V. Review of Relationship to State or Local Regulatory Agencies

Effective Federal/state partnerships are critical to accomplishing the mutual goal of achieving and maintaining high levels of compliance with environmental laws and regulations. The greater the consistency between state and local policies and the Federal response to environmental auditing, the greater the degree to which sound auditing practices might be adopted and compliance levels improved. State and local regulatory agencies, of course, have independent jurisdiction over regulated entities. EPA encourages them to adopt these or similar policies on environmental auditing, in order to advance the use of effective environmental auditing in a consistent manner.

The 1986 Policy emphasizes this point further:

> EPA recognizes that some states have already undertaken environmental auditing initiatives that differ somewhat from this policy. Other states also may want to develop auditing policies that accommodate their particular needs or circumstances. Nothing in this policy statement is intended to preempt or preclude states from developing other approaches to environmental auditing. EPA encourages state and local authorities to consider the basic principles that guided the Agency in developing this policy:
>
> • Regulated entities must continue to report or record compliance information required under existing statutes or regulations, regardless of whether such information is generated by an environmental audit or contained in an audit report. Required information cannot be withheld merely because it is generated by an audit rather than by some other means.
>
> • Regulatory agencies cannot make promises to forgo or limit enforcement action against a particular facility or class of facilities in exchange for the use of environmental auditing systems. However, such agencies may use their discretion to adjust enforcement actions on a case-by-case basis in response to honest and genuine efforts by regulated entities to assure environmental compliance.
>
> • When setting inspection priorities, regulatory agencies should focus to the extent possible on compliance performance and environmental results.
>
> • Regulatory agencies must continue to meet minimum program requirements (e.g., minimum inspection requirements, etc).
>
> • Regulatory agencies should not attempt to prescribe the precise form and structure of regulated entities' environmental management or auditing programs.

VI. Conclusion

All of the policies referenced in this notice remain in effect. The Agency intends, however, to re-examine these policies comprehensively and remains open to suggestions for changes and

improvements regarding all aspects of existing auditing policy. The information presented here is intended for the convenience of interested parties, in preparation for the July 27–28, 1994 public meeting. The Agency hopes that this information will clarify EPA's current activities and policies related to environmental auditing.

The Office of Compliance will respond to written requests for copies of the documents referenced in this notice. Send all requests to: U.S. EPA, Office of Compliance, Attn: Ira R. Feldman, Special Counsel, 401 M Street, NW (5503), Washington, DC 20460.

Steven A. Herman,

Assistant Administrator, Office of Enforcement and Compliance Assurance.

[FR Doc. 94–18327 Filed 7–27–94; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5021–2]

Effluent Guidelines Task Force Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: The Effluent Guidelines Task Force, an EPA advisory committee, will hold a meeting to discuss improvements to the Agency's Effluent Guidelines Program. The meeting is open to the public.

DATES: The meeting will be held on Tuesday, August 16, from 8:30 am to 5:00 pm, and Wednesday, August 17, 1994, from 8:30 am to 3:00 pm.

ADDRESSES: The meeting will take place at the Dupont Plaza Hotel, 1500 New Hampshire Avenue NW, Washington, D.C. Comments may be sent to Eric Strassler, Effluent Guidelines Task Force, Office of Water (4303), EPA, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Eric Strassler at 202–260–7150, fax 202–260–7185.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), the Environmental Protection Agency gives notice of a meeting of the Effluent Guidelines Task Force (EGTF). The EGTF is a subcommittee of the National Advisory Council for Environmental Policy and Technology (NACEPT), the external policy advisory board to the Administrator of EPA.

The EGTF was established in July of 1992 to advise EPA on the Effluent Guidelines Program, which develops regulations for dischargers of industrial wastewater pursuant to Title III of the Clean Water Act (33 U.S.C. 1251 et seq.). The Task Force consists of members appointed by EPA from industry, citizen groups, state and local government, the academic and scientific communities, and EPA regional offices. The Task Force was created to offer advice to the Administrator on the long-term strategy for the effluent guidelines program, and particularly to provide recommendations on a process for expediting the promulgation of effluent guidelines. The Task Force generally does not discuss specific effluent guideline regulations currently under development.

The meeting agenda will include discussions on draft recommendations for improving the project management and data collection processes for effluent guidelines. There will also be discussions on the methodology for conducting preliminary industry studies, and a planning session for future task force activities.

The meeting is open to the public. Limited seating for the public is available on a first-come, first-served basis. The public may submit written comments to the Task Force regarding improvements to the Effluent Guidelines program. Comments should be sent to EPA at the above address. Comments submitted by August 8 will be considered by the Task Force at or subsequent to the meeting.

Dated: July 14, 1994.

Eric Strassler,

Designated Federal Official, Effluent Guidelines Task Force.

[FR Doc. 94–18330 Filed 7–27–94; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5022–1]

Improving EPA's Indian Program Operations

AGENCY: U.S. Environmental protection Agency.

ACTION: Soliciting public comments on the agency's efforts to enhance Indian program operations.

SUMMARY: The Environmental Protection Agency (EPA) is soliciting comments from the public on the following potential approaches for improving the Agency's Tribal operations, including the establishment of a new national Indian Program Office. To obtain Tribal input into this process, as well as input on future Tribal matters, the EPA Administrator convened the Tribal Operations Committee (TOC) comprised of Tribal representatives and EPA Senior Managers. EPA is now seeking broader input on these approaches, and will consider comments received during the public comment period to ensure that the strongest options have been identified.

PUBLIC COMMENT PERIOD: Comments must be received by September 12, 1994.

ADDRESSES: Comments should be sent to Caren Rothstein, Tribal Operations Team, US EPA, Mail Code 1199, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Caren Rothstein at 202–260–7519.

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency has made continual progress in building its Tribal program since issuance of the Agency's 1984 Indian Policy. In Fiscal Year 1993, approximately $35 million and 165 work years were utilized to implement EPA Indian programs, either through direct grants to Tribes or through Federal implementation and technical assistance to Tribes.

Regulations and guidance specific to Tribes have been developed under many of EPA's programs establishing the process for Tribes to apply for grants and program authorization. Over 90 Treatment in the Same Manner as a State determinations, formerly referred to as Treatment as a State, have been made under various water programs. Numerous Tribes have submitted water quality standards for authorization by EPA, and three have already been approved. Many more Tribal applications are expected in the future for a broad array of EPA programs.

The growth of EPA's Indian program has led to an increased understanding of the seriousness of environmental threats to human health and the environments within Indian Country by EPA and the Tribes. To promote improved communications and partnerships with Tribes to address these concerns, the EPA Administrator convened a Tribal Operations Committee (TOC) to meet with her and other EPA Senior Management as co-regulators, on a regular basis, and to provide Tribal input into Agency decision making that may affect Tribes.

The TOC is comprised of 18 Tribal representatives, who are either Tribal Leaders or Tribal environmental officials selected by Tribes within EPA regions. There are Tribal representatives from each of EPA's regions except Region III, which has no Federally recognized Tribes.

On February 17, 1994, at the first official TOC meeting, the Administrator committed to strengthening the Agency's Tribal operations and reaffirmed the Agency's 1984 Indian Policy. As one of the first actions for the Tribal representatives to the TOC and in

response to Tribal recommendations, the Administrator authorized a group of Senior Managers from EPA Headquarters and regions to develop recommendations, in consultation with Tribal representatives to the TOC, on ways to strengthen EPA's Tribal environmental programs and daily operations.

Over the last few months, the EPA Senior Team, working with the TOC, has identified options for advancing and strengthening Tribal environmental protection and improving relations between EPA and the Tribes, in the following program areas: organization, implementation and resource needs.

To ensure constant Tribal input while developing these options, weekly conference calls were held with the TOC. Two meetings have been held at which the TOC and Team met face-to-face. In addition, early in June 1994, a letter was sent to all Tribal Leaders providing information on the approaches the Agency was considering, and soliciting additional comment. These comments have been considered and the Agency hopes to obtain further input through publishing this Notice.

EPA's Current Indian Program Structure

Under the Agency's current Indian program structure, the central coordination responsibility has been one of many functions undertaken by the Office of Federal Activities (OFA) in the Office of Enforcement and Compliance Assurance. OFA is currently the central point of contact for Tribes at Headquarters, and also develops the budget for the General Assistance Grant Program, works with regions to oversee administration of such grants to Tribes, and fosters overall coordination between the various offices at Headquarters and the regions.

Responsibility for administering specific programs such as water, air and waste are handled by those program and regional offices. This includes specifically (but not exclusively) provision of technical assistance, direct Federal implementation and program development and implementation funds as allowed by law. This will continue to be necessary because these offices have the technical expertise and the responsibility for developing and administering program-specific resources, policies, and regulations.

EPA's regional offices interact with each Tribe on matters specific to the Tribes and this should continue even though a national office will be responsible for the coordination of the Agency's Tribal program. In fact, regions and programs need to increase their efforts to assist Tribes in addressing environmental issues as part of the effort to enhance Tribal operations.

Proposed National EPA Indian Operations

Altering the current structure by creating a national office, whose sole responsibility is Tribal operations, would provide a more consistent and streamlined approach for implementing EPA's Indian Policy. This new Office could also ensure that Tribal input and concerns are heard and integrated into the Agency's ongoing activities.

The EPA Team identified, in consultation with Tribal representatives to the TOC, key factors, functions and organizational options to consider in establishing the new office. The Agency is seeking suggestions on functions for the Office as well as its appropriate title. Among others, titles such as "National Office of Indian Affairs" or "National Tribal Environmental Management Office" have been suggested to date.

Functions for the New Office

Tribal representatives to the TOC have suggested that it is critical for the new Office to have flexibility to develop its specific Action Agenda after it is officially established. Therefore, some of the key functions envisioned for the new Office are identified here in general terms. The Agency expects that the new Office will further refine and develop these functions while establishing a more detailed Action Agenda.

Following is a list of key functions the Agency believes to be critical for the new Office.

Function 1.—Implementation of Policies

The Agency believes that a main function of the Office should be to ensure that the 1994 Presidential Memorandum addressing Tribal program implementation and the Agency's recently reaffirmed 1984 Indian Policy are fully implemented. These documents both recognize Tribal sovereignty and call for a government-to-government relationship with Tribes.

The Office should also ensure that other Agency policies affecting Tribes are being implemented responsibly, and that Tribal operations continue to be a priority Agency wide. The new Office should review and update existing Agency guidance that relates to Tribes, in order to facilitate the full implementation of these policies.

Function 2.—Develop Environmental Workplans

In order for EPA and Tribes to plan for and respond effectively to Tribal environmental problems requiring action, the Agency and the Tribes need to establish a baseline description and evaluation of the types of environmental problems, the seriousness of such problems and Tribal priorities for action. To accomplish this, the Agency is recommending the formulation of individual Tribal workplans or strategies for responding to environmental problems. To facilitate and support these workplans, each EPA Regional Administrator would retain flexibility to determine, in consultation with the Tribes, the most appropriate manner to develop these workplans. Workplans should include the Tribe's plans to manage authorized environmental programs and/or their need for Federal technical assistance and funding, direct Federal implementation and management of specific programs.

These Tribal workplans would be the basis for region specific workplans upon, which in turn, a national EPA Tribal operations workplan would be based.

A Tribal representative to the TOC asked that funding for needs assessments be made available to Tribes in order to build a foundation of information upon which to base Tribal workplans. The commentor further suggested that EPA and the Tribes jointly develop a model to provide initial guidance for workplan development. The Agency is considering how this might be done.

Commentors have also suggested that the Agency must set realistic schedules for completing these workplans. The Agency specifically solicits comments on how long it would take for such Tribal workplans to be completed and ideas on effective approaches for assessing Tribal needs. Finally, the Agency believes it is important to be cognizant of the fact that workplan development is likely to identify needs that cannot be met immediately with available funding and that a Tribal/EPA strategic approach to meeting needs over time will be required. Comments on how these decisions can be developed and managed are specifically solicited.

Function 3.—Ensuring Consistency

The Office should coordinate the Agency's Indian operations to ensure an appropriate level of consistency throughout the programs and regions in the areas of policy, guidance, program implementation and regulatory and legislative initiatives. To assist Tribes and EPA managers, the Office should develop a compendium of Agency policies and statements concerning Indian matters. Further, the Office may

develop regulations and legislative initiatives of a multi-media nature relating to Tribes.

The Office should work with the Office of General Counsel, other appropriate Agency parties and Federally recognized Tribes to review Federal environmental laws, regulations, policies and guidance to strengthen, coordinate and ensure consistency with EPA's Indian Policy, and the Federal trust responsibility to Tribes. This review should foster improvements to Agency Tribal operations leading to effective program delivery while maintaining sufficient flexibility to meet Tribal needs.

Function 4.—Budget and Resource Development

A function of the Office should be coordination and development of budget proposals to meet the Agency's and Tribal environmental program resource needs. The Office should also work to ensure appropriate management and staff to support Tribal operations. Resource proposals should be sufficient to ensure the success of Tribal environmental programs and to carry out EPA program responsibilities in a manner consistent with Federal law.

Function 5.—General Assistance Grant Oversight, Grant Flexibility and Streamlining

The new Office should oversee the General Assistance Grant Program to assist Tribes in building capacity to manage environmental programs, and should, to the extent allowed under law, use the flexibility in this program as broadly as possible to meet Tribal needs. The new Office may develop recommendations for statutory changes in granting authorities to permit Tribal block grants and to explicitly authorize the use of the General Assistance Grants, where practicable, for a full range of implementation activities. However, growth in the General Assistance Grant Program should not lead to any diminishing of available funds from specific program grants such as Section 106 Water Quality Management grants under the Clean Water Act.

Finally, given that most Tribes have a small environmental staff, if any, to manage various program-specific grants, it is important to increase the efficient use of limited resources. The Office should work with other EPA Senior Management to use available discretion to consolidate (to the extent allowed by law), issuance and administration of grants to reduce the burden on Tribes.

Function 6.—Promote Agency Wide Participation in Tribal Operations

The Office should promote Agency-wide participation in the development and implementation of Tribal environmental programs. The new Office should chair the National Indian Workgroup which is made up of EPA Headquarters Program Coordinators and Regional Indian Program Coordinators. The new Office should also coordinate with EPA National Indian Attorneys Workgroup to ensure consistency in legal matters.

Function 7.—Reporting Systems and Feedback Mechanisms

Another key function of the Office would be to expand, establish, where necessary, and oversee internal Agency reporting requirements. Feedback should be provided to EPA management and staff through tracking and reporting systems that monitor progress, yet are not overly demanding on limited Tribal government staff and resources. Principles of partnership should be considered while coordinating joint management of oversight activities.

To facilitate the collection of baseline data, and other periodic data concerning Tribal capacity development, program authorization and EPA direct implementation and management activities, the new Office should work with Assistant and Regional Administrators to develop a regular reporting system and schedules for a variety of Indian Program activities and milestones.

A Tribal representative has suggested that criteria through which Tribal environmental programs can be judged to be sufficient need to be developed as a benchmark for both Tribes and EPA to measure and evaluate their progress in a consistent manner. Further, the commentor calls for the new Office to conduct periodic workshops and evaluations in the regions with Tribes to provide feedback and to be accessible to the Tribes in the field.

Reviewers are specifically asked to comment upon appropriate forms of reporting and methods of evaluation likely to be most effective. The Agency is considering these suggestions.

Function 8.—Clearinghouse For Environmental Information and Data Generation

The Office would serve as a cross-media clearinghouse for environmental information related to the Indian program and would coordinate Agency-wide data collection for the Indian program. Assistant and Regional Administrators would be asked to have systems in place to identify and update Tribal data for their programs and, as part of the "comprehensive" Tribal environmental picture. This data should be accessible to the new Office for analysis and evaluation.

To fulfill this function and improve EPA's ability to respond quickly and effectively to Tribal environmental problems, the Agency is considering calling for the new Office to establish a Tribal environmental database, in cooperation with program and regional offices and Tribes. The Office should make use of existing data base systems, information and documents already compiled by EPA and other relevant agencies and build upon these as appropriate.

Function 9.—Tribal Environmental Training

The Office would coordinate Agency-wide development of training, education and technical assistance, in all relevant environmental areas, for Tribes. In doing so, attempts should be made to make ongoing training that other co-regulators receive, available and appropriate for Tribes.

Several commentors have stated that, in particular, technical assistance is critical to successful Tribal environmental capacity building and program development. The Agency is exploring options for providing more technical assistance to Tribal environmental managers. Resources may limit certain options, but improvements can be made. The Agency is specifically looking for suggestions on how best to provide this service to Tribes.

Function 10.—Training of EPA Staff

It is important that EPA employees have the necessary sensitivity, knowledge and understanding of Indian affairs to facilitate communication between EPA and Tribal representatives. The Office would promote and coordinate training on Indian issues for Agency managers and staff, particularly those working on Tribal and related programs. In the interim, EPA managers will be encouraged to provide training that moves the Agency in the direction of a better understanding of Indian issues.

This training should address responsibilities under Federal Indian law and the EPA Indian Policy, EPA's Indian program activities, Tribal sovereignty and jurisdiction, Tribal environmental needs and activities, the role of Tribal individuals and organizations and cultural and historical differences that may affect EPA's working relationship with the Tribes.

Function 11.—Communication With Tribes

Promoting and facilitating improved communication between EPA and Tribal governments (pursuant to the 1984 Indian Policy), and Tribal members and/or organizations, would be a major function of the new Office in cooperation with the program and regional offices.

In keeping with the spirit of environmental justice and Executive Order 12875, EPA management should include Tribes in decision-making and program management activities that affect them. Communications and requests for Tribal input should occur early in any Agency process that may affect Tribes, and full consideration should be given to the policies, priorities, and concerns of the affected Tribe(s) and/or, where appropriate, affected Tribal members.

Specifically, but not exclusively, EPA will notify and communicate with Tribes on an ongoing basis for such activities as rulemaking, policy development and direct implementation and management of EPA programs in Indian country. Commentors have suggested that it is critical for communication to occur between elected Tribal leaders, Tribal members and Tribal organizations, and the EPA Administrator and Regional Administrators in decisions that affect Tribes.

In addition, the Office should serve as the central point of contact to interact with the Agency and Tribes on matters of national concern and should coordinate the activities and participation of the TOC in the future. The Agency invites comments on how to further improve communications with Tribes.

Function 12.—Interagency Coordination Efforts

The Office would work to improve communication, cooperation and funding utilization between EPA and other Federal agencies regarding Indian matters. The new Office should review the content and status of existing Memoranda of Understanding on Indian Affairs between EPA and other Federal agencies for effectiveness and implementation.

The new Office should also take appropriate steps to improve interagency coordination, especially with regard to specific environmental issues, opportunities for cooperative use of public funds and disputes that may arise from time to time. As a part of this effort, the new Office may find it useful to undertake an evaluation of all Federal resources available to Tribes and their relationship to Tribal environmental management in coordination with the other Federal agencies.

To the extent possible, EPA's Headquarters and regional program offices should be encouraged to participate in interagency work groups to facilitate the resolution of environmental matters of mutual concern and foster integrated use of funds.

Conclusion

The Agency invites comments the issues addressed in this Notice, as well as additional suggestions for strengthening EPA's Tribal operations. The Agency will publish its final determinations based on review of public comment received in response to this Notice.

Dated: July 15, 1994.

Carol M. Browner,

EPA Administrator.

[FR Doc. 94–18335 Filed 7–27–94; 8:45 am]

BILLING CODE 6560–50–M

[FRL 5021–6]

Gulf of Mexico Program Technical Advisory Committee Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Meeting of the Technical Advisory Committee of the Gulf of Mexico Program.

SUMMARY: The Gulf of Mexico Program's Technical Advisory Committee will hold a meeting at the Pontchartrain Hotel, 2031 St. Charles Avenue, New Orleans, Louisiana.

FOR FURTHER INFORMATION CONTACT: Dr. Douglas Lipka, Acting Director, Gulf of Mexico Program Office, Building 1103, Room 202, John C. Stennis Space Center, Stennis Space Center, MS 39529–6000, at (601) 688–3726.

SUPPLEMENTARY INFORMATION: A meeting of the Technical Advisory Committee of the gulf of Mexico Program will be held on August 15 and 16, 1994, at the Pontchartrain Hotel, 2031 St. Charles Avenue, New Orleans, LA. The committee will meet from 1:00 to 4:30 p.m. on August 15 and from 8:00 to 12:00 p.m. on August 16. Agenda items will include: Gulf of Mexico Program's Project Award Process; Quality Assurance Program Plan; Strategic Assessment Planning and Assessment; Review of Large Marine Ecosystem Symposium; and Development of a State of the Gulf Report. The meeting is open to the public.

Douglas A. Lipka,

Acting Director, Gulf of Mexico Program.

[FR Doc. 94–18330 Filed 7–27–94; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5022–6]

The State of New York; Adequacy Determination of State Municipal Solid Waste Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of Tentative Determination on Application of the State of New York for Full Program Adequacy Determination, Public Hearing and Public Comment Period.

SUMMARY: Section 4005(c)(1)(B) of the Resource Conservation Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984, requires States to develop and implement permit programs to ensure that municipal solid waste landfills (MSWLFs) which may receive hazardous household waste or small quantity generator waste will comply with the revised Federal MSWLF Criteria (40 CFR Part 258). RCRA Section 4005(c)(1)(C) requires the Environmental Protection Agency (EPA) to determine whether States have adequate "permit" programs for MSWLFs, but does not mandate issuance of a rule for such determinations. EPA has drafted and is in the process of proposing a State/Tribe Implementation Rule (STIR) that will provide procedures by which EPA will approve, or partially approve, State/Tribal landfill permit programs. The Agency intends to approve adequate State/Tribal MSWLF permit programs as applications are submitted. Thus, these approvals are not dependent on final promulgation of the STIR. Prior to promulgation of STIR, adequacy determinations will be made based on the statutory authorities and requirements. In addition, States/Tribes may use the draft STIR as an aid in interpreting these requirements. The Agency believes that early approvals have an important benefit. Approved State/Tribe permit programs provide for interaction between State/Tribe and the owner/operator regarding site-specific permit conditions. Only those owners/operators located in States/Tribes with approved permit programs can use the site-specific flexibility provided by Part 258 to the extent the State/Tribal permit program allows such flexibility. EPA notes that regardless of the approval

status of a State/Tribe and the permit status of any facility, the federal landfill criteria will apply to all permitted and unpermitted MSWLF facilities.

The State of New York applied for a determination of adequacy under section 4005 of RCRA. EPA reviewed New York's MSWLF application and certain revisions thereto, and made a tentative determination that all portions of New York's MSWLF permit program are adequate to assure compliance with the revised Federal Criteria. New York's application for program adequacy determination and its revisions are available for public review and comment.

Although RCRA does not require EPA to hold a hearing on any determination to approve a State/Tribe's MSWLF program, the Region has scheduled two public hearings on this tentative determination. Details appear below in the **DATES** section.

DATES: All comments on New York's application for a determination of adequacy must be received by the close of business on September 13, 1994.

Two public hearings will be held in New York State. Both hearings will begin at 7:00 p.m. The First hearing will be held on September 12, 1994 at the Quality Inn Hotel which is located on Interstate 90 and Everett Road in Albany, New York. The second hearing will be held on September 13, 1994 in the Katie Murphy Amphitheater which is located in the Fashion Institute of Technology, 7th Avenue at 27th Street in New York City. New York State will participate in the public hearings held by EPA on this subject.

ADDRESSES: Copies of New York's application for adequacy are available between 8:30 a.m. and 5:00 p.m. at the following two addresses for inspection and copying: U.S. EPA Region II Library, 26 Federal Plaza, Room 402, New York, New York, 10278, telephone (212) 264–2881, and the New York State Department of Environmental Conservation, 50 Wolf Road, Albany, New York 12233–0001 in the Office of the Division of Solid Waste. Written comments should be sent to Stanley Siegel, Chief, Hazardous and Solid Waste Program Branch, U.S. EPA—Region II, 26 Federal Plaza, Rm. 1006, New York, New York 10278.

FOR FURTHER INFORMATION CONTACT: David Savetsky, U.S. EPA Region II, Mail Stop 2AWM–HWP, Room 1006, 26 Federal Plaza, New York, New York, 10278. telephone (212) 264–0547.

SUPPLEMENTARY INFORMATION:

A. Background

On October 9, 1991, EPA promulgated revised Criteria for MSWLFs (40 CFR Part 258). Subtitle D of RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), requires States to develop permitting programs to ensure that MSWLFs comply with the Federal Criteria under Part 258. Subtitle D also requires in section 4005 that EPA determine that State municipal solid waste landfill permit programs are adequate to comply with the revised Federal Criteria. To fulfill this requirement, the Agency has drafted and is in the process of proposing a State/Tribal Implementation Rule (STIR). The rule will specify the requirements which State/Tribal programs must satisfy to be determined adequate.

EPA intends to approve State/Tribal MSWLF permit programs prior to the promulgation of STIR. EPA interprets the requirements for States or Tribes to develop "adequate" programs for permits or other forms of prior approval to impose several minimum requirements. First, each State/Tribe must have enforceable standards for new and existing MSWLFs that are technically comparable to EPA's revised MSWLF criteria. Next, the State/Tribe must have the authority to issue a permit or other notice of prior approval to all new and existing MSWLFs in its jurisdiction. The State/Tribe also must provide for public participation in permit issuance and enforcement as required in section 7004(b) of RCRA. Finally, EPA believes that the State/Tribe must show that it has sufficient compliance monitoring and enforcement authorities to take specific action against any owner or operator that fails to comply with an approved MSWLF program. These various components of authority and capability were submitted by New York State in its application and revisions thereto.

EPA Regions will determine whether a State/Tribe has submitted an "Adequate" program based on the interpretation outlined above. EPA expects States/Tribes to meet all of these requirements for all elements of a MSWLF program before it gives full approval to a MSWLF program.

B. New York State

On Sept. 24, 1993 New York State submitted an application for adequacy determination. On March 14, 1994, May 10, 1994 and June 28, 1994 New York State submitted revisions to the original application. EPA reviewed the application together with the subsequent revisions and has tentatively determined that all portions of New York's subtitle D program are adequate to provide compliance with the revised Federal Criteria.

The New York Department of Environmental Conservation adopted its initial set of regulations relative to the regulatory permitting requirements for solid waste management facilities in 1977. These regulations underwent substantial amendment in 1981, and again were significantly amended in 1988.

Since December 31, 1988, the effective date of the existing Part 360 Solid Waste Management Facilities regulations, numerous technological advances have taken place in solid waste reduction, reuse and recycling, composting, construction and demolition debris processing, and other solid waste treatment, storage, and disposal activities. These changes, combined with ever diminishing landfill disposal capacity, have exacerbated the complexities of managing solid waste in New York State. In response to the increased environmental awareness surrounding the siting, design, construction, operations and closure of solid waste management facilities, as well as the requirements of 40 CFR Part 258, the New York State Department of Environmental Conservation again revised its Part 360 Solid Waste Management Facilities regulations to include full public involvement, including workshops, public hearings, environmental impact/assessment, and responsiveness summary. The revised regulations were approved by the State Environmental Board on June 30, 1993 and filed with the New York Department of State on August 5, 1993. The amended regulations became effective on October 9, 1993.

The Part 360 regulations contain provisions whereby the Department of Environmental Conservation, in appropriate circumstances, may grant variances from one or more specific provisions of the Part 360 requirements. New York has stated that such a variance will not be granted in any way that is less stringent than the Part 258 requirements. The New York State Department of Environmental Conservation will also formally amend its Part 360 regulations to clarify that variances to Part 360 provisions will not be granted in any way that is less stringent than the Part 258 requirements.

There are currently 41 active landfills in New York State subject to both the 40 CFR Part 258 and 6 NYCRR Part 360 regulations. There was a significant

decrease in the number of active MSWLFs as a result of the April 9, 1994 federal deadline for small landfills to either close or be subject to all of the federal criteria. Twenty-eight (28) facilities are under Part 360 permits, eleven (11) facilities are under consent order, and two (2) facilities are operating without either a permit or consent order.

New York State is concentrating its efforts to bring all landfills that receive municipal solid waste into compliance with the Part 360 regulations through one or more forms of enforcement actions. Landfills that are permitted under the revised Part 360 regulations, effective October 9, 1993, will meet the federal criteria. For existing facilities all owners or operators must file a renewal application if they intend to continue construction or operation beyond the expiration date of existing permits. For those facilities with Part 360 permits that will expire over the next 2–3 years, the Department will ensure that each such facility meets the applicable federal and state regulations before a renewal permit is issued. Further, for the estimated seven facilities with permits that will expire three or more years beyond the date of program approval, the Department will pursue permit modifications in accordance with requirements contained in 6 NYCRR Part 621 Uniform Procedures. New York State expects to complete those seven permit modifications so as to ensure compliance with both federal and state regulations within three years of program approval. Those facilities operating under a consent order will either be required to close or be upgraded to meet the applicable regulations in accordance with the terms and conditions of their consent order.

New York does not have the statutory authority to enforce the MSWLF permit program on Indian Lands. MSWLFs located on Indian Lands are subject to the Federal Criteria.

The EPA will hold two public hearings on its tentative decision. Comments can be submitted orally at the hearing or in writing at the time of the hearing. The public may also submit written comments on EPA's tentative determination to the location indicated in the **ADDRESSES** section of this notice such that they are received by the close of business on September 13, 1994. Copies of New York's state application are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this notice.

EPA will consider all public comments on its tentative determination received during the public comment period and during each public hearing. Issues raised by those comments may be the basis for a determination of inadequacy for New York's state program. EPA expects to make a final decision on whether or not to approve New York's state program by November 1, 1994, and will give notice of it in the **Federal Register**. The notice will include a summary of the reasons for the final determination and responses to all major comments.

Section 4005(a) of RCRA provides that citizens may use the citizen suit provisions of Section 7002 of RCRA to enforce the Federal MSWLF criteria in 40 CFR Part 258 independent of any State/Tribal enforcement program. As EPA explained in the preamble to the final MSWLF criteria, EPA expects that any owner or operator complying with provisions in a State/Tribal program approved by EPA will be considered to be in compliance with Federal Criteria. See 56 FR 50978, 50995 (October 9, 1991).

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this notice from the requirement of Section 6 of Executive Order 12866.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this approval will not have a significant economic impact on a substantial number of small entities. It does not impose any new burdens on small entities. This notice, therefore, does not require a regulatory flexibility analysis.

Authority: This notice is issued under the authority of Section 4005 of the Solid Waste Disposal Act as amended; 42 U.S.C. 6946.

Dated: July 21, 1994.

Jeanne M. Fox,

Regional Administrator.

[FR Doc. 94–18450 Filed 7–27–94; 8:45 am]

BILLING CODE 6560–50–P

Superfund Program; Availability of Guidance Document

[FRL–5021–3]

AGENCY: Environmental Protection Agency.

ACTION: Notice of Availability of Guidance Document.

Text

Section 106(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. 9606(b), as amended by the Superfund Amendments and Reauthorization Act of 1986, allows any person who complies with an EPA order issued under section 106(a) of the statute to petition for reimbursement of the reasonable costs incurred in complying with the order, plus interest. Reimbursal is authorized if a petitioner can establish that it was not liable for response costs, or that the Agency's selection of a response action was arbitrary or capricious or otherwise not in accordance with law.

The authority to decide whether to grant such petitions has been delegated by the President to the EPA Administrator, and redelegated to EPA's Environmental Appeals Board under EPA Delegation of Authority CERCLA 14–27 (June 1994). EPA is today announcing the availability of a guidance document, "Guidance on Procedures for Submitting CERCLA Section 106(b) Petitions and on EPA Review of those Petitions," issued by the Environmental Appeals Board on June 9, 1994. This guidance document, which supersedes previous Agency guidance, details both the information a petitioner is expected to submit as part of a petition for reimbursement and the procedures the Board intends to follow in evaluating petitions. This guidance is applicable to all petitions submitted after June 9, 1994, and may also be applied, to the extent practicable, to petitions pending on that date.

FOR FURTHER INFORMATION CONTACT: For copies of the guidance document or more detailed information on specific aspects of the Section 106(b) program, please contact Stuart Cane Environmental Appeals Board (1103B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 501–7060.

Dated: July 21, 1994.

Edward E. Reich,

Environmental Appeals Judge.

[FR Doc. 94–18331 Filed 7–27–94; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5016–6]

National Pollutant Discharge Elimination System (NPDES); Preparation of Draft General Permit for the States of Maine, Massachusetts, and New Hampshire

AGENCY: Environmental Protection Agency.

ACTION: Notice; Preparation of Draft General NPDES Permits—MAG640000, MEG640000, and NHG640000.

SUMMARY: The Regional Administrator of Region I is today providing Notice of a Draft General NPDES Permit for water treatment facilities in certain waters of the States of Maine, Massachusetts, and New Hampshire. This draft general NPDES Permit proposes effluent limitations, standards, prohibitions and management practices for these types of discharges (Appendix A contains the Draft General NPDES Permits and Appendix B is the Draft General Conditions applicable to all three general permits). The permit will become effective 30 days after the date of publication of the final general permit in the **Federal Register**. The permit will expire 5 years from the effective date. Owners and/or operators of facilities discharging effluent from water treatment facilities will be required to submit to EPA, Region I, a notice of intent (NOI) to be covered by the appropriate general permit and will receive a written notification from EPA of permit coverage and authorization to discharge under the general permit.

The draft permit is based on an administrative record available for public review at: Environmental Protection Agency, Region I, John F. Kennedy Federal Building, WMM, Boston, Massachusetts 02203.

The following "Fact Sheet and **SUPPLEMENTARY INFORMATION**" section sets forth principal facts and the significant factual, legal, and policy questions considered in the development of the draft permits.

DATES: For comment period: Interested persons may submit comments on the draft general permits as part of the administrative record to the Regional Administrator, Region I at the address given in the preceeding "**SUMMARY**" section no later than August 29, 1994.

FOR FURTHER INFORMATION AND COPIES OF DRAFT GENERAL NPDES PERMITS: Additional information concerning the draft permits may be obtained between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday excluding holidays from: Suprokash Sarker, Wastewater Management Branch, Water Management Division, Environmental Protection Agency, J.F. Kennedy Federal Building, WMN, Boston, Massachusetts 02203, Telephone (617) 565–3573.

FACT SHEET AND SUPPLEMENTARY INFORMATION:

I. Background Information

A. General Permits

Section 301(a) of the Clean Water Act (the Act) provides that the discharge of pollutants is unlawful except in accordance with a National Pollutant Discharge Elimination System (NPDES) permit. Although such permits to date have generally been issued to individual discharges, EPA's regulations authorize the issuance of "general permits" to categories of discharges. See 40 CFR 122.28 (48 FR 14146, April 1, 1983). EPA may issue a single, general permit to a category of point sources located within the same geographic area whose permits warrant similar pollutant control measures.

The Director of an NPDES permit program is authorized to issue a general permit if there are a number of point sources operating in a geographic area that:

1. Involve the same or substantially similar types of operations;
2. Discharge the same types of wastes;
3. Require the same effluent limitations or operating conditions;
4. Require the same or similar monitoring requirements; and
5. In the opinion of the Regional Administrator, are more appropriately controlled under a general permit than under individual permits.

Violations of a condition of a general permit constitutes a violation of the Clean Water Act and subjects the discharger to the penalties in Section 309 of the Act.

Any owner or operator authorized by a general permit may be excluded from coverage of a general permit by applying for an individual permit. This request may be made by submitting a NPDES permit application together with reasons supporting the request no later than 90 days after publication by EPA of the final general permit in the **Federal Register**. The Regional Administrator may require any person authorized by a general permit to apply for and obtain an individual permit. Any interested person may petition the Regional Administrator to take this action. However, individual permits will not be issued for sources discharging effluent from water treatment facility covered by this general permit unless it can be clearly demonstrated that inclusion under the general permit is inappropriate. The Regional Administrator may consider the issuance of individual permits when:

1. The discharge(s) is a significant contributor of pollution;
2. The discharge(s) is not in compliance with the terms and conditions of the general permit;
3. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;
4. Effluent limitations guidelines are subsequently promulgated for the point sources covered by the general permit;
5. A Water Quality Management plan containing requirements applicable to such point sources is approved; or
6. The requirements listed in the previous paragraphs are not met.

B. Coverage Under This General Permit

Under this general permit, owners and operators of potable water treatment plants in Massachusetts, Maine and New Hampshire may be granted authorization to discharge process generated wastewaters into waters of the respective States as follows:

a. Treated presedimentation underflow;

b. Treated underflow from the coagulation/settling processes using aluminum compounds or polymers as coagulants; and

c. Treated filter backwash water from filters.

This permit shall apply specifically to operators that have a discharge from a point source such as a sludge settling lagoon or other device whereby comparable control of suspended solids is possible.

Authorization under the permit shall require prior submittal of certain facility information. Upon receipt of all required information, the permit issuing authority may allow or disallow coverage under the general permit.

The following list shows the criteria which will be used in evaluating whether or not an individual permit may be required instead of a general permit.

1. Evidence on non-compliance under previous permit for the operation;
2. Preservation of high quality waters and fisheries;
3. Facilities with an effluent discharge flow of over 1.00 MGD maximum daily for the states of Massachusetts and New Hampshire and 0.15 MGD maximum daily for the state of Maine.
4. Production of effluent at the facility other than using aluminum compound or polymer as coagulant, and
5. Use of land application as a means of discharge.
6. For the state of Maine, a minimum dilution of effluent of 100:1 in the receiving water at 7Q10 should be stipulated.

The similarity of the discharges has prompted EPA to prepare this draft general permit for public review and comment. When issued, this permit will enable facilities to maintain compliance with the Act and will extend environmental and regulatory controls to a large number of discharges and reduce some permit backlog. The issuance of this general permit for the geographic areas described below is warranted by this similarity of (a)

environmental conditions. (b) State regulatory requirements applicable to the discharges and receiving waters, and (c) technology employed.

Maine

In the State of Maine, there are 271 industrial applicants or permittees. It is estimated that 13 of the industries that have direct discharges to the waters of the State are strictly water treatment facilities.

New Hampshire

In the State of New Hampshire, there are 171 estimated industrial applications or permittees. It is estimated that 2 or more of the industries that have the direct discharges to the waters of the State are strictly water treatment facilities.

Massachusetts

In the Commonwealth of Massachusetts, there are 651 industrial applicants or permittees. It is estimated that 33 of the industries that have direct discharges to the waters of the State are strictly water treatment facilities.

II. Conditions of the Draft General NPDES Permit

A. Geographic Areas

Maine (Permit No. MEG640000)

All of the discharges to be authorized by the general NPDES permit for the State of Maine from dischargers are limited to Class B, C, SB and SC waters of the State, except lakes. The drainage areas must be more than 10 square miles.

Massachusetts (Permit No. MAG640000)

All of the discharges to be authorized by the general NPDES permit for the Commonwealth of Massachusetts dischargers are into all waters in Water Quality Classifications B, C, SB and SC as designated in Massachusetts Water Quality Standards, 314 CMR 4.00 *et seq.*

New Hampshire (Permit No. NHG640000)

All of the discharges to be authorized by the general NPDES permit for the State of New Hampshire dischargers are into all waters of the State of New Hampshire unless otherwise restricted by the State Water Quality Standards, New Hampshire RSA 485–A:8.

B. Notification by Permittees

Operators of facilities whose discharge, or discharges, are described in Part IB and whose facilities are located in the geographic areas described in Part II. A. above may submit to the Regional Administrator, Region I, a notice of intent to be covered by the appropriate general permit. This written notification must include the owner's or operator's legal name and address, the number and type of facilities to be covered, the facility locations, the names of the receiving waters into which discharge will occur. The facilities authorized to discharge under a final general permit will receive written notification from EPA, Region I, within 30 days of permit coverage. Failure to submit to EPA, Region I, a notice of intent to be covered or failure to receive from EPA written notification of permit coverage means that the facility is not authorized to discharge.

C. Effluent Limitations

1. Statutory Requirements

The Clean Water Act requires all dischargers to meet effluent limitations based on the technological capability of dischargers to control the discharge of the pollutants. Section 301(b)(1)(A) requires the application of "Best Practicable Control Technology Currently Available" (BPT). Section 301(b)(2) (A), (C), (D), and (F) requires the application of "Best Available Technology Economically Available" (BAT) by July 1, 1984, for all toxic pollutants referred to in Table 1 of Committee Print Numbered 95–30 of the Committee on Public Works and Transportation of the House of Representatives and not later than three years after the date any limitations are established for toxic pollutants listed under paragraph (1) of subsection (a) of Section 307 of the Act which are not referred to in subparagraph (C) of Section 301(b)(2). Section 301(b)(2)(A) and (F) requires "Best Available Treatment Technology Economically Achievable" (BAT) for nonconventional pollution by July 1, 1984, and Section 301(b)(2)(E) requires the application of the Best Conventional Pollutant Control Technology (BCT) for conventional pollutants by July 1, 1984. The effluent limitations in the general permit are consistent with these statutory requirements.

2. Technology-based Effluent Limitations

The Environmental Protection Agency has not developed effluent guidelines for water treatment facilities. In the absence of national standards, effluent limitations for the TSS limitations are based upon best professional judgement pursuant to Section 401(a)(1) of the CWA.

The "Maximum Daily" TSS limitation and the limitations for settleable solids and pH are based upon state certification requirements under Section 401(a)(1) of the CWA, 40 CFR 124.53 and 124.55, and water quality considerations.

3. Water Quality Standards

The effluent from the water treatment facility may contain toxic pollutants due to use of chemicals and chlorine. However, they do not contain hazardous pollutants or oil and grease. Therefore, water quality criteria established for oil and grease and hazardous pollutants do not apply to these discharges. Water Quality Standards applicable to these discharges are limited to pH, seettleable solids, and TSS. In addition testing requirements are necessary for aluminum, chlorine and LC50, C–NOEC. The limits of total residual chlorine and aluminum for the state of Maine are based upon state certification requirements.

4. Antidegradation Provisions

The conditions of the permit reflect the goal of the CWA and EPA to achieve and maintain water quality standards. The environmental regulations pertaining to the State Antidegradation Policies which protect the State's surface waters from falling below State standards for water quality are found in the following provisions: Maine Title 38, Article 4–A, Section 464.4.F.; Massachusetts Water Quality Standards 314 CMR 4.04 Antidegradation Provisions; and New Hampshire policy RSA 485–A:8, VI Part Env-Ws 437.01 and Env-Ws 437.02.

This general permit will not apply to any new or increased discharge unless it can be determined that such discharges will result in insignificant effects to the receiving waters. This determination shall be made in accordance with the appropriate State Antidegradation Policies.

5. Monitoring and Reporting Requirements

Effluent limitations and monitoring requirements are included in the general permit describing requirements to be imposed on facilities to be covered.

Facilities covered by the final general permits will be required to submit to EPA, Region I, and the appropriate State a Discharge Monitoring Report containing effluent data on a semi-annual basis.

The monitoring requirements have been established to yield data representative of the discharge under authority of Section 308(a) of the Act and 40 CFR 122.41(j), 122.44(i) and 122.48, and as certified by the State.

III. Other Requirements

The remaining conditions of the permit are based on the NPDES regulations 40 CFR parts 122 through 125 and consist primarily of management requirements common to all permits.

IV. State Certification

Section 301(b)(1)(C) of the Act requires that NPDES permits contain conditions which ensure compliance with applicable State water quality standards or limitations. Section 401 requires that States certify that Federally issued permits are in compliance with State law.

These permits are for operations within waters of the States. EPA is requesting the States to review and provide appropriate certification to these general permits pursuant to 40 CFR 124.53.

V. Administrative Aspects

A. Request To Be Covered

Owners or operators of water treatment facility discharges are not covered by this general permit until they meet two requirements. First, they must send a letter of intent to EPA indicating that they meet the requirements of the permit and wish to be covered. Second, they must be notified by EPA that they are covered by a general permit. If the facility has an existing individual NPDES permit, it will be terminated as outlined in 40 CFR 122.28(b)(2)(iv).

B. Mechanisms

All persons, including dischargers who believe any condition of the draft permit is inappropriate must raise all issues and submit all available arguments and supporting material for their arguments in full by the close of the public comment period, to the U. S. EPA, Wastewater Management Branch, WMN, JFK Federal Building, Boston, Massachusetts, 02203. Any person, prior to such date, may submit a request in writing for a public hearing to consider the draft permit to EPA and the State Agency. Such requests shall state the nature of the issues proposed to be raised in the hearing. A public hearing may be held after at least a 30-day public notice whenever the Regional Administrator finds that response to this notice indicates significant interest. In reaching a final decision on the draft permits, the Regional Administrator will respond to all significant comments and make these responses available to the public at EPA's Boston office.

Following the close of the comment period, and after the public hearing, if such hearing is held, the Regional Administrator will issue a final permit in the **Federal Register**.

C. The Coastal Zone Management Act

The Coastal Zone Management Act (CZMA), 16 U.S.C. 1451 *et seq.*, and its implementing regulations [15 CFR Part 930] require that any federally licensed activity affecting the coastal zone with an approved Coastal Zone Management Program (CZMP) be determined to be consistent with the CZMA. EPA, Region I, has determined that these general NPDES permits are consistent with the CZMA. EPA has requested the Massachusetts, Maine, and New Hampshire coastal zone agencies for a determination that these three permits are consistent with their respective State policies.

D. The Endangered Species Act

EPA Region I has concluded that the discharges to be covered by the general NPDES permits will not affect or jeopardize the continued existence of any endangered or threatened species or adversely affect its critical habitat. EPA has requested consultations with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service to confirm this conclusion.

E. Environmental Impact Statement Requirements

The general permits do not authorize the construction of any water resources project or the impoundment of any water body or have any effect on historical property, and are not major Federal activities needing preparation of any Environmental Impact Statement. Therefore, the Wild and Scenic Rivers Act, 16 U.S.C. 1273 *et seq.*, the National Historic Preservation Act of 1966, 16 U.S.C 470 *et seq.*, the Fish and Wildlife Coordination Act, 16 U.S.C. 661 *et seq.*, and the National Environmental Policy Act, 33 U.S.C. 4321 *et seq.*, do not apply to the issuance of this general NPDES permit.

VI. Other Legal Requirements

A. Economic Impact (Executive Order 12866)

EPA has reviewed the effect of Executive Order 12866 on this draft general permit and has determined that it is not a significant rule under that order. This regulation was submitted previously to the Office of Management and Budget for review as required by the former Executive Order 12291. The Office of Management and Budget exempted this action from the review requirements of Executive Order 12291 pursuant to Section 8(b) of that Order, which was revoked and superseded by Executive Order 12866.

B. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities by these draft general NPDES permits under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et. seq.* The information collection requirements of these draft permits have already been approved by the Office of Management and Budget under submissions made for the NPDES permit program under the provisions of the Clean Water Act. No comments from the Office of Management and Budget or the public were received on the information collection requirements in these permits.

C. The Regulatory Flexibility Act

After review of the facts presented in the notice printed above, I hereby certify, pursuant to the provisions of 5 U.S.C. 605(b), that this permit does not have a significant impact on a substantial number of small entities. Moreover, the draft permit will reduce a significant administrative burden on regulated sources.

Dated: July 6, 1994.

John P. DeVillars,

Regional Administrator.

Appendix A—Draft General Permit

Proposed Draft General Permit Under the National Pollutant Discharge Elimination System (NPDES)

Note: The Following draft general NPDES permit has been combined for purposes of this **Federal Register** notice in order to eliminate duplication of material common to all permits for the individual states.

1. Massachusetts, Maine and New Hampshire Draft General Permit.

In *compliance* with the provisions of the Federal Clean Water Act, as amended, (33 U.S.C. 1251 et.seq.) the "CWA" operators of facilities located in Part II A. which discharge effluent from water treatment facilities as defined in Part IB at a rate of one million gallons per day or less to waters as designated in Part II A in accordance with effluent limitations, monitoring requirements and other conditions set forth herein.

This permit shall become effective on the date of the signature below.

This permit and the authorization to discharge expire at midnight, five years from date of signature.

This permit consists of Part I below including effluent limitations, monitoring requirements etc. and Part II under Appendix B, General Requirements.

Operators of facilities within the general permit area who fail to notify the Director of their intent to be covered by this general permit and receive no written notification of permit coverage or those who are denied by the Director are not authorized under this general permit to discharge from those facilities to the receiving waters.

Signed this _____ day of _____

David A. Fierra Director, Water Management Division, Environmental Protection Agency, Region I, Boston, Massachusetts 02203.

Part I

A. Effluent Limitations and Monitoring Requirements

1. During the period beginning effective date and lasting through expiration, the permittee is authorized to discharge from each outfall effluent from water treatment facilities to receiving waters as designated in Part II A.

a. Such discharges shall be limited and monitored by the permittee as specified below:

Effluent characteristic	Discharge limitations		Monitoring requirements	
	Avg. monthly	Max. daily [1]	Measurement [2] frequency	Sample type
Flow (MGD)	See note A.1. i	See note A.1. i	1/week	Daily average.
TSS(mg/l)	30	50	1/week	Grab.
Settleable Solids (ml/l) [1, 5]	.1	0.2	1/week	Grab.
pH	See note A.1 g	See note A.1 g		
Aluminum(mg/l)	See note A.1 j	See note A.1 j	1/month	Grab.
LC50&C–NOEC [3]	See note A.1 h	See note A.1 h		Grab.
Chlorine Residual [4] ug/l	See note A.1 k	See note A.1 k	Daily	Grab.

[1] State certification requirement.
[2] Samples shall be taken only when discharging.
[3] LC–50 is the concentration of effluent in a sample that causes mortality to 50% of the test population at a specific time or observation. No Observed Chronic Effect Concentration (C–NOEC) is the highest concentration of effluent to which organisms are exposed in a life-cycle or partial life-cycle test which causes no adverse effect on growth, survival and reproduction.
[4] Test only if chlorination is used in the process.
[5] Commonwealth of Massachusetts only.

b. The discharge shall not cause objectionable discoloration of the receiving waters.

c. There shall be no discharge of floating solids or visible foam. The discharge shall be adequately treated to insure that the surface water remains free from pollutants in concentratins or combinations that settle to form harmful deposits, float as foam, debris, scum or other visible pollutants. It shall be adequately treated to insure that the surface waters remain free from pollutants which produce odor, color, taste or turbidity in the receiving water which is not naturally occuring and would render it unsuitable for its designated use.

d. The effluent limitations are based on the state water quality standard and are certified by the states.

e. Samples taken in compliance with the monitoring requirements specified above shall be taken at the point of discharge.

f. All discharges as designated in IB shall pass through a settling pond for 24 hours minimum detention time or other approved treatment system and meet the effluent limitations in Part I.1.a. prior to discharge to waters of the states.

g. pH. Massachusetts.

The pH of the effluent shall not be less than nor greater than the range given for the receiving water classifications, unless these values are exceeded due to natural causes.

The following table specifies ranges for Massachussetts:

Classification	Range
B	6.5–8.3
C	6.5–9.0
SB	6.5–8.5
SC	6.5–9.0

Maine

The pH range in both freshwater and saltwater is 6.0 to 8.5 su. Unless establishes on a case-by-case basis (By State Policy).

New Hampshire

The pH of the effluent shall not be less than 6.5 standard units (su) nor greater than 8.0 su at any time unless these values are exceeded due to natural causes.

h. One chronic and modified acute toxicity screening test shall be performed by the permittee within 90 days after the issuance date of this general NPDES permit. One grab sample will be taken during normal facility operation. The Cerio-daphnia dubia for fresh water and sea-urchin for marine water shall be used as test organism in the test. A copy of the test procedure and detailed protocol will be provided upon request from EPA, Region I. The results of the chronic biological test (C–NOEC and LC50) will be forwarded to State and EPA within 30 days after the completion of all tests.

i. The states of Massachusetts and New Hampshire will have a maximum daily limit of 1.0 mgd. The state of Maine will have a maximum daily limit of 0.15 mgd.

j. For the states of Massachusetts and New Hampshire report only. For the state of Maine the maximum daily limit of Aluminum will be 5.0 mg/l.

k. For the states of Massachusetts and New Hampshire report only. For the state of Maine the maximum daily limit of chlorine residual will be 1.0 mg/l.

B. Monitoring and Reporting

1. Reporting

Maine, Massachusetts and New Hampshire

Monitoring results obtained during the previous 6 months shall be summarized for each quarter and reported on separate Discharge Monitoring Report Form(s) postmarked no later than the 15th day of the month following the completed reporting period. The reports are due on the 15th days of January and July. The first report may include less than 6 months information.

Signed copies of these, and all other reports required herein, shall be submitted to the Director and the State at the following addresses as follows:

a. EPA shall receive copy of all reports required herein: NPDES Program Operations Section, Water Compliance Branch Water Management Division, Environmental Protection Agency, Post Office Box 8127, Boston, MA 02114.

b. Massachusetts Division of Water Pollution Control.

(1) The Regional offices wherein the discharge occurs, shall receive a copy of all reports required herein:

Massachusetts Department of Environmental Protection, Massachusetts Division of Water Pollution Control, Western Regional Office, 436 Dwight St., Suite 402, Springfield, MA 01101

Massachusetts Department of Environmental Protection, Massachusetts Division of Water Pollution Control, Southeastern Regional Office, 20 Riverside Drive Lakeville, MA 02346

Massachusetts Department of Environmental Protection Massachusetts Division of Water Pollution Control, Northeastern Regional Office, 10 Commerce Way, Woburn, MA 01801

Massachusetts Department of Environmental Protection, Massachusetts Division of Water Pollution Control, Central Regional Office, 75 Grove Street, Worcester, Massachusetts 01605

(2) The Central Boston Office shall receive all notifications reports other than the DMRs required by this permit shall be submitted to the States at: Massachusetts Department of Environmental Protection, Massachusetts Division of Water Pollution Control 7th Floor, 1 Winter Street, Boston, MA 02108.

c. Maine Department of Environmental Protection. Signed copies of all reports required by this permit shall be sent to the State of Maine Department of Environmental Protection, Operation and Maintenance Division, State House, Station 17. Augusta, ME 04333.

d. New Hampshire Department of Environmental Services.

Signed copies of all reports required by this permit shall be sent to the State at: New Hampshire Department of Environmental Services, Water Supply and Pollution Control Division, Permits and Compliance Section; P.O. Box 95, Concord, New Hampshrie 03302–0095.

C. Additional General Permit Conditions

1. Notification Requirements

a. Written notification of commencement of operations including the legal names and addresses of the owners and operator and the locations, number and type of facilities and/or operations covered shall be submitted.

(1) For existing discharges as soon as possible after the effective date of this permit, by operators whose facilities and/or operations are discharging into the general permit area on the effective date of the permit; or

(2) For new or substantially increased discharges 20 days prior to commencement of the discharge by operators whose facilities and/or operations commence discharge subsequent to the effective date of this permit.

b. Operators of facilities and/or operations within the general permits area who fail to notify the Director of their intent to be covered by this general permit and obtain written authorization of coverage are not authorized under this general permit to discharge from those facilities into the named receiving waters.

2. Termination of Operations

Operators of facilities and/or operators authorized under this permit shall notify the Director upon the termination of discharges.

3. Renotification

Upon reissuance of a new general permit, the permittee is required to notify the Director of his intent to be covered by the new general permit.

4. When the Director May Require Application for an Individual NPDES Permit

Any interested person may petition the Director to take such action. Instances where an individual permit may be required include the following:

(1) The discharge(s) is a significant contributor of pollution:

(2) The discharger is not in compliance with the conditions of this permit;

(3) A change has occurred in the availability of the demonstrated technology of practices for the control or abatement of pollutants applicable to the point source;

(4) Effluent limitation guidelines are promulgated for point sources covered by this permit;

(5) A Water Quality Management Plan containing requirements applicable to such point source is approved; or

(6) The point source(s) covered by this permit no longer:

(a) Involves the same volume or substantially similar types of operations

(b) Discharges the same type of wastes;

(c) Requires the same effluent limitations or operating conditions;

(d) Requires the same or similar monitoring and

(e) In the opinion of the Director is more appropriately controlled under a general permit than under an individual NPDES permit.

5. The Director may require an individual permit only if the permittee authorized by the general permit has been notified in writing that an individual permit is required, and has been given a brief explanation of the reasons for this decision.

6. When an Individual NPDES Permit is issued to an operator otherwise subject to this general permit, the applicability of this permit to that owner or operator is automatically terminated on the effective date of the individual permit.

Appendix B: Part II, General Requirements for all EPA, Region I, General NPDES Permits

Section A. General Requirements

1. *Duty to Comply* see 40 CFR 122.41(a).

2. *Permit Actions* see 40 CFR 122.41(f).

3. *Duty to Provide Information* see 40 CFR 122.41(h).

4. *Reopener Clause.*

The Regional Administrator reserves the right to make appropriate revisions to this permit in order to establish any appropriate effluent limitations, schedules of compliance, or other provisions which may be authorized under the CWA in order to bring all discharges into compliance with the CWA.

5. *Oil and Hazardous Substance Liability.*

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the CWA, or Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

6. *Property Rights* see 40 CFR 122.41(g).

7. *Confidentiality of Information.*

a. In accordance with 40 CFR part 2, any information submitted to EPA pursuant to these regulations may be claimed as confidential by the submitter. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions or, in the case of other submissions, by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, EPA may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in 40 CFR Part 2 (Public Information).

b. Claims of confidentiality for the following information will be denied:

(1) The name and address of any permit applicant or permittee;

(2) Permit applications, permits, and effluent data as defined in 40 CFR 2.302(a)(2).

c. Information required by NPDES application forms provided by the Regional Administrator under § 122.21 may not be claimed confidential. This includes information submitted on the forms themselves and any attachments used to supply information required by the forms.

8. *Duty to Reapply* see 40 CFR 122.41(b).

9. *Right of Appeal.*

Within thirty (30) days of receipt of notice of a final permit decision, any interested person, including the permittee, may submit a request to the Regional Administrator for an Evidentiary Hearing under subpart E, or a Non-Adversary Panel Hearing under subpart F, of 40 CFR part 124, to reconsider or contest that decision. The request for a hearing must conform to the requirements of 40 CFR 124.74.

10. *State Authorities.*

Nothing in part 122, 123, or 124 precludes more stringent State regulation of any activity covered by these regulations, whether or not under an approved State program.

11. *Other Laws.*

The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, nor does it relieve the permittee of its obligation to comply with any other applicable Federal, State, and local laws and regulations.

Section B. Operation and Maintenance of Pollution Controls

1. *Proper Operation and Maintenance* see 40 CFR 122.41 (e).

2. *Need to Halt or Reduce Not a Defense* see 40 CFR 122.41 (c).

3. *Duty to Mitigate* see 40 CFR 122.41 (d).

4. *Bypass* see 40 CFR 122.41 (m).

5. *Upset* see 40 CFR 122.41 (n).

Section C. Monitoring and Records

1. *Monitoring and Records* see 40 CFR 122.41 (j).

2. *Inspection and Entry* see 40 CFR 122.41 (i).

Section D. Reporting Requirements

1. *Reporting Requirements* see 40 CFR 122.41 (l).

2. *Signatory Requirement* see 40 CFR 122.41 (k).

3. *Availability of Reports.*

Except for data determined to be confidential under Paragraph A.7. above, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the State water pollution control agency and the Regional Administrator. As required by the CWA, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal penalties as provided for in Section 309 of the CWA.

Section E. Other Conditions

1. *Definitions* for purposes of this permit are as follows:

Administrator means the Administrator of the United States Environmental Protection Agency, or an authorized representative.

Applicable standards and limitations means all State, interstate, and Federal standards and limitations to which a "discharge" or a related activity is subject to, including water quality standards, standards of performance, toxic effluent standards or prohibitions, "best management practices," and pretreatment standards under sections 301, 302, 303, 304, 306, 307, 308, 403, and 405 of CWA.

Application means the EPA standard national forms for applying for a permit,

including any additions, revisions or modifications to the forms; or forms approved by EPA for use in "approved States," including any approved modifications or revisions.

Average. The arithmetic mean of values taken at the frequency required for each parameter over the specified period. For total and/or fecal coliforms, the average shall be the geometric mean.

Average monthly discharge limitation means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

Average weekly discharge limitation means the highest allowable average of "daily discharges" over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

Best Management Practices (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of "waters of the United States." BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Best Professional Judgement (BPJ) means a case-by-case determination of Best Practicable Treatment (BPT), Best Available Treatment (BAT) or other appropriate standard based on an evaluation of the available technology to achieve a particular pollutant reduction.

Composite Sample—A sample consisting of a minimum of eight grab samples collected at equal intervals during a 24-hour period (or lesser period as specified in the section on Monitoring and Reporting) and combined proportional to flow, or a sample continuously collected proportionally to flow over that same time period.

Continuous Discharge means a "discharge" which occurs without interruption throughout the operating hours of the facility except for infrequent shutdowns for maintenance, process changes, or similar activities.

CWA or "The Act" means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Public Law 92–500, as amended by Public Law 95–217, Public Law 95–576, Public Law 96–483 and Public Law 97–117; 33 U.S.C. 1251 *et seq.*

Daily Discharge means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurements, the daily discharge is calculated as the average measurement of the pollutant over the day.

Director means the person authorized to sign NPDES permits by EPA and/or the State.

Discharge Monitoring Report Form (DMR) means the EPA standard national form, including any subsequent additions, revisions, or modifications, for the reporting of self-monitoring results by permittees. DMRs must be used by "approved States" as well as by EPA. EPA will supply DMRs to any approved State upon request. The EPA national forms may be modified to substitute the State Agency name, address, logo, and other similar information, as appropriate, in place of EPA's.

Discharge of a pollutant means:

(a) Any addition of any "pollutant" or combination of pollutants to "waters of the United States" from any "point source," or

(b) Any addition of any pollutant or combination of pollutants to the waters of the "contiguous zone" or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.

This definition includes additions of pollutants into waters of the United States from: surface runoff which is collected or channelled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances leading into privately owned treatment works.

This term does not include an addition of pollutants by any "indirect discharger."

Effluent limitation means any restriction imposed by the Director on quantities, discharge rates, and concentrations of "pollutants" which are "discharged" from "point sources" into "waters of the United States," the waters of the "contiguous zone," or the ocean.

Effluent limitations guidelines means a regulation published by the Administrator under Section 304(b) of CWA to adopt or revise "effluent limitations."

EPA means the United States "Environmental Protection Agency."

Grab Sample—An individual sample collected in a period of less than 15 minutes.

Hazardous Substance means any substance designated under 40 CFR Part 116 pursuant to Section 311 of CWA.

Maximum daily discharge limitation means the highest allowable "daily discharge."

Municipality means a city, town, borough, county, parish, district, association, or other public body created by of under State law and having jurisdiction over disposal or sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribe organization, or a designated and approved management agency under section 208 of CWA.

National Pollutant Discharge Elimination System means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of CWA. The term includes an "approved program."

New discharger means any building, structure, facility, or installation:

(a) From which there is or may be a "discharge of pollutants";

(b) That did not commence the "discharge of pollutants" at a particular "site" prior to August 13, 1979;

(c) Which is not a "new source"; and

(d) Which has never received a finally effective NPDES permit for discharges at that "site".

This definition includes an "indirect discharger" which commences discharging into "waters of the United States" after August 13, 1979. It also includes any existing mobile point source (other than an offshore or coastal oil and gas exploratory drilling rig or a coastal oil and gas developmental drilling rig) such as a seafood processing rig, seafood processing vessel, or aggregate plant, that begins discharging at a "site" for which it does not have a permit; and any offshore or coastal mobile oil and gas exploratory drilling rig or coastal mobile oil and gas developmental drilling rig that commences the discharge of pollutants after August 13, 1979, at a "site" under EPA's permitting jurisdiction for which it is not covered by an individual or general permit and which is located in an area determined by the Regional Administrator in the issuance of a final permit to be an area of biological concern. In determining whether an area is an area of biological concern, the Regional Administrator shall consider the factors specified in 40 CFR 125.122(a) (1) through (10).

An offshore or coastal mobile exploratory drilling rig or coastal mobile developmental drilling rig will be considered a "new discharger" only for the duration of its discharge in an area of biological concern.

New source means any building, structure, facility, or installation from which there is or may be a "discharge of pollutants," the construction of which commenced:

(a) After promulgation of standards of performance under Section 306 of CWA which are applicable to such.

(b) After proposal of standards of performance in accordance with Section 306 of CWA which are applicable to such source, but only if the standards are promulgated in accordance with Section 306 within 120 days of their proposal.

NPDES means "National Pollutant Discharge Elimination System."

Non-Contact Cooling Water is water used to reduce temperature which does not come in direct contact with any raw material, intermediate product, a waste product or finished product.

Owner or operator means the owner or operator of any "facility or activity" subject to regulation under the NPDES programs.

Permit means an authorization, license, or equivalent control document issued by EPA or an "approved State."

Person means an individual, association, partnership, corporation, municipality, State or Federal agency, or an agent or employee thereof.

Point source means any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel, or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

Pollutant means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. It does not mean:

(a) Sewage from vessels; or

(b) Water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located, and if the State determines that the injection or disposal will not result in the degradation of ground or surface water resources.

Primary industry category means any industry category listed in the NRDC settlement agreement (*Natural Resources Defense Council et al.* v. *Train*, 8 E.R.C. 2120 (D.D.C. 1976), modified 12 E.R.C. 1833 (D.D.C. 1979)); also listed in appendix A of 40 CFR part 122.

Process wastewater means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

Regional Administrator means the Regional Administrator, EPA, Region I, Boston, Massachusetts.

State means any of the 50 States, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands.

Secondary Industry Category means any industry category which is not a "primary industry category."

Toxic pollutant means any pollutant listed as toxic in appendix D of 40 CFR part 122, under Section 307(a)(1) of CWA.

Uncontaminated storm water is precipitation to which no pollutants have been added and has not come into direct contact with any raw material, intermediate product, waste product or finished product.

Waters of the United States means:

(a) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

(b) All interstate waters, including interstate "wetlands."

(c) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:

(1) Which are or could be used by interstate or foreign travelers for recreational or other purposes;

(2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

(3) Which are used or could be used for industrial purposes by industries in interstate commerce;

(d) All impoundments of waters otherwise defined as waters of the United States under this definition;

(e) Tributaries of waters identified in paragraphs (a) (d) of this definition;

(f) The territorial sea; and

(g) "Wetlands" adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a)–(f) of this definition.

Whole Effluent Toxicity (WET) means the aggregate toxic effect of an effluent measured directly by a toxicity test. (See abbreviations Section, following, for additional information).

Wetlands means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

2. Abbreviations when used in this permit are defined below:

cu. M/day or M3/day—cubic meters per day
mg/l—milligrams per liter
ug/l—micrograms per liter
lbs/day—pounds per day
kg/day—kilograms per day
Temp. °C—temperature in degrees Centigrade
Temp. °F—temperature in degrees Fahrenheit
Turb.—turbidity measured by the Nephelometric Method (NTU)
pH—a measure of the hydrogen ion concentration
CFS—cubic feet per second
MGD—million gallons per day
Oil & Grease—Freon extractable material
ml/l—milliliter(s) per liter
Cl_2—total residual chlorine

[FR Doc. 94–18333 Filed 7–27–94; 8:45 am]

BILLING CODE 6560–50–P

[OPPTS–44612; FRL–4903–4]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the receipt of test data on isopropanol (CAS No. 67–63–0) and 1,2,4-trichlorobenzene (CAS No. 120–82–1) submitted pursuant to a final test rule under the Toxic Substances Control Act (TSCA). Publication of this notice is in compliance with section 4(d) of TSCA.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–543B, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: Section 4(d) of TSCA requires EPA to publish a notice in the **Federal Register** reporting the receipt of test data submitted pursuant to test rules promulgated under section 4(a) within 15 days after it is received.

I. Test Data Submissions

Test data for isopropanol were submitted by the Chemical Manufacturers Association Isopropanol Panel on behalf of the test sponsors and pursuant to a test rule at 40 CFR 799.2325. They were received by EPA on June 17, 1994. The submission describes a vapor inhalation oncogenicity study in fischer 344 rats. This chemical is used as a solvent in consumer products and industrial products and procedures.

Test data for 1,2,4-trichlorobenzene were submitted by the Chemical Manufacturers Association on behalf of the test sponsor and pursuant to a test rule at 40 CFR 799.1053. They were received by EPA on June 23, 1994. The submissions describe 104-week dietary carcinogenicity studies with rats and mice. This chemical is used in organic intermediates, solvents, dye carriers, transformers, and dielectric fluids.

EPA has initiated its review and evaluation process for these data submissions. At this time, the Agency is unable to provide any determination as to the completeness of the submissions.

II. Public Record

EPA has established a public record for this TSCA section 4(d) receipt of data notice (docket number OPPTS–44612). This record includes copies of all studies reported in this notice. The record is available for inspection from 12 noon to 4 p.m., Monday through Friday, except legal holidays, in the TSCA Public Docket Office, Rm. B–607 Northeast Mall, 401 M St., SW., Washington, DC 20460.

Authority: 15 U.S.C. 2603.

List of Subjects

Environmental protection, Test data.

Dated: July 18, 1994.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 94–18448 Filed 7–27–94; 8:45 am]

BILLING CODE 6560–50–F

[FRL–5021–4]

Draft General NPDES Permit for Seafood Processors in Alaska in Waters of the United States: General NPDES Permit No. AK-G52–0000

AGENCY: Environmental Protection Agency, Region 10.

ACTION: Notice of Draft General NPDES Permit, and Notice of Finding of No Significant Impact.

SUMMARY: The Director, Water Division, EPA Region 10, is proposing to reissue general National Pollutant Discharge Elimination System (NPDES) permit no. AK-G52–0000 for seafood processors in Alaska pursuant to the provisions of the Clean Water Act, 33 U.S.C. 1251 *et seq.* The proposed general NPDES permit will authorize discharges from offshore, nearshore and shore-based vessels and onshore facilities engaged in the processing of fresh, frozen, canned, smoked, salted and pickled seafoods. The proposed permit will also authorize discharges from offshore vessels (operating more than one nautical mile from shore at MLLW) that are engaged in the processing of seafood paste, mince or meal. The proposed permit will authorize discharges of processing wastes, process disinfectants, sanitary wastewater and other wastewaters, including domestic wastewater, cooling water, boiler water, gray water, freshwater pressure relief water, refrigeration condensate, water used to transfer seafood to a facility, and live tank water. The proposed permit will authorize discharges to waters of the United States in and contiguous to the State of Alaska, except for receiving waters excluded from coverage as protected, special, at-risk, degraded or adjacent to a designated "seafood processing center."

The proposed general NPDES permit for seafood processors in Alaska will not authorize discharges from nearshore or shore-based seafood processors of mince, paste or meal (operating one nautical mile or less from shore at MLLW). The proposed permit will not authorize discharges of petroleum hydrocarbons, toxic pollutants, or other pollutants not specified in the permit. The proposed permit will not authorize discharges to waters excluded from coverage as protected, special, at-risk, degraded or adjacent to a designated "seafood processing center."

A draft NPDES permit, fact sheet and other documents of the administrative record are available upon request.

PUBLIC NOTICE ISSUANCE DATE: Monday, July 25, 1994.

PUBLIC NOTICE EXPIRATION DATE: Tuesday, August 23, 1994.

PUBLIC COMMENTS: Interested persons may submit written comments on the draft general NPDES permit to the attention of Burney Hill at the address below. All comments should include the name, address, and telephone number of the commenter and a concise statement of comment and the relevant facts upon which it is based. Comments of either support or concern which are directed at specific, cited permit requirements are appreciated. Comments must be submitted to EPA on or before the expiration date of the public notice.

After the expiration date of the public notice, the Director, Water Division, EPA Region 10, will make a final determination with respect to reissuance of the general permit. The tentative requirements contained in the draft general permit will become final conditions if no substantive comments are received during the public comment period. The permit is expected to become effective on November 1, 1994.

Persons wishing to comment on State Certification of the proposed general NPDES permit should submit written comments within this 30-day comment period to the State of Alaska, Alaska Department of Environmental Conservation (ADEC), 410 Willoughby Avenue, Suite 105, Juneau, Alaska 99801–1795. Comments should be addressed to the attention of Alaska Water Quality Standards Consistency Review.

Persons wishing to comment on the State Determination of Consistency with the Alaska Coastal Management Program should submit written comments within this 30-day comment period, to the State of Alaska, Office of Management and Budget, Division of Governmental Coordination, P.O. Box AW, Juneau, Alaska 99811–0165. Comments should be addressed to the attention of Alaska Coastal Management Program Consistency Review.

Persons wishing to comment on the EPA Finding of No Significant Impact (FNSI) (see Attachment 1), based on the environmental assessment, should submit written comments within this 30 day period. All comments should include the name, address and telephone number of the commenter and a concise statement of the basis of any comment and the relevant facts upon which it is based. Comments should be submitted to Burney Hill at the address below.

PUBLIC HEARING: Public hearings on the proposed general NPDES permit are tentatively scheduled to be held in Anchorage, Alaska, and Seattle, Washington. The Anchorage hearing will be held at the Federal Building, 222 West Seventh, Anchorage, Alaska, on Thursday, August 25, 1994, from 6 p.m. until all persons have been heard. Persons interested in making a statement at the Anchorage hearing should contact Valerie Haney at (907) 271–3651 by 4:00 p.m. PDT by August 22, 1994. The Seattle hearing will be held at Freeway Park Plaza Building, Room 12A, 1200 Sixth Avenue, Seattle, Washington, on Tuesday, August 30, 1994, from 2 p.m. until all persons have been heard. Persons interested in making a statement at the Seattle hearing should contact Florence Carroll at the address below or at (206) 553–1760 by 4:00 p.m. PDT on Friday, August 26, 1994.

Either or both of the public hearings will be cancelled if insufficient interest is expressed in them. Interested persons can contact Florence Carroll or Valerie Haney between the hours of 8:30 a.m. and 4 p.m. PDT to confirm that the hearings will take place. At the hearings, interested persons may submit oral or written statements concerning the draft general NPDES permit.

APPEAL OF PERMIT: Within 120 days following the service of notice of EPA's final permit decision under 40 CFR § 124.15, any interested person may appeal the Permit in the Federal Court of Appeal in accordance with Section 509(b)(1) of the Clean Water Act. Persons affected by a general permit may not challenge the conditions of the the Permit as a right of further EPA proceedings. Instead, they may either challenge the Permit in court or apply for an individual NPDES permit and then request a formal hearing on the issuance or denial of an individual permit.

ADMINISTRATIVE RECORD: The complete administrative record for the draft permit is available for public review at the EPA Region 10 Library, 10th Floor, at the address listed below. Copies of the draft general NPDES permit, fact sheet, and the environmental assessment are available upon request from the Region 10 Public Information Center at 1–800–424–4EPA (4372).

ADDRESSES: Public comments should be sent to: Environmental Protection Agency Region 10, Wastewater Management and Enforcement Branch (WD–137), 1200 Sixth Avenue, Seattle, Washington, 98101.

FOR FURTHER INFORMATION CONTACT: Burney Hill, of EPA Region 10, at the address listed above or telephone (206) 553–1761.

Regulatory Flexibility Act

After review of the facts presented in the notice printed above, I hereby certify

pursuant to the provision of 5 U.S.C. 605(b) that this general NPDES permit will not have a significant impact on a substantial number of small entities. Moreover, the permit reduces a significant administrative burden on regulated sources.

Dated: July 20, 1994.

Janis Hastings,

Associate Director, Water Division.

Attachment 1.—Finding of No Significant Impact (FNSI)

To All Interested Government Agencies, Public Groups, and Individuals:

In accordance with the Environmental Protection Agency (EPA) procedures for complying with the National Environmental Policy Act (NEPA), 40 CFR Part 6, Subpart F, EPA has conducted an environmental review of the following proposed action:

Reissuance of general National Pollutant Discharge Elimination System (NPDES) permit no. AK–G52–000 to owners and operators of facilities engaged in the processing of seafood, both floating and onshore facilities, in certain waters of the State of Alaska and waters of the United States adjacent to the Alaska State Waters

The general NPDES permit requirements, including effluent limitations, monitoring provisions, and other conditions applicable to the operations covered are specified in the proposed permit. The permit fact sheet describes the basis for the permit provisions.

An environmental assessment (EA) for this proposed action has been prepared. Under the proposed action, those new source seafood processing facilities which are excluded from the general NPDES permit will continue to be subject to individual NEPA reviews, involving preparation of an EA and, if impacts could be significant, an environmental impact statement (EIS).

Based on the EA, and in accordance with the guidelines for determining the significance of federal actions (40 CFR 1508.27) and EPA criteria for initiating an EIS (40 CFR 6.605), EPA has concluded that reissuance of the General NPDES Permit will not result in a significant effect on the human environment. This action will not significantly affect land use patterns or population, wetlands or floodplains, threatened or endangered species, farmlands, ecologically critical areas, historic resources, air quality, water quality, noise levels, fish and wildlife resources, nor will it conflict with approved local, regional, or state land use plans or policies. For the above reasons EPA has determined that an EIS will not be prepared. A copy of the EA evaluating the potential impacts of the proposed action and explaining why an EIS is not required is available upon request by calling (206) 553–1761, or at the above address, and is incorporated into this FNSI by reference.

Comments supporting or disagreeing with this FNSI may be submitted to EPA at the above address for consideration. After evaluating the comments received, EPA will make a final decision. No administrative action will be taken on the proposed reissuance for at least 30 days after the release date (indicated above) of this FNSI. EPA will fully consider all comments received during this public notice period before taking final action.

Sincerely,

Janice Hastings for Charles E. Findley,

Director, Water Division.

[FR Doc. 94–18325 Filed 7–27–94; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Carolina First BancShares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 22, 1994.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Carolina First BancShares, Inc., Lincolnton, North Carolina; to acquire 20 percent of the voting shares of First Gaston Bank of North Carolina, Gastonia, North Carolina, a *de novo* bank.

B. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. Commercial Bancorp of Gwinnett, Inc., Lawrenceville, Georgia; to merge with Commercial Bancorp of Georgia, Inc., Atlanta, Georgia, and thereby indirectly acquire Commercial Bank of Georgia, Atlanta, Georgia.

Board of Governors of the Federal Reserve System, July 22, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94-18376 Filed 7-27-94; 8:45 am]

BILLING CODE 6210-01-F

Heritage Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 22, 1994.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Heritage Bancshares, Inc., Mannington, West Virgina; to become a bank holding company by acquiring 100 percent of the voting shares of First Exchange Bank, Mannington, West Virginia.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Country Bank Shares Corporation, Mount Horeb, Wisconsin; to acquire 100 percent of the voting shares of Belleville Bancshares Corporation, Belleville, Wisconsin, and thereby indirectly acquire Belleville, State Bank, Belleville, Wisconsin.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Peoples First Corporation, Paducah, Kentucky; to acquire 100 percent of the voting share of Libsab Bancorp., Inc., Mayfield, Kentucky, and thereby indirectly acquire Liberty Bank & Trust Company, Mayfield, Kentucky.

In connection with this application, PFC Acquisition Corporation II, Paducah, Kentucky, has applied to become a bank holding company by acquiring 100 percent of the voting shares of Libsab Bancorp., Inc., Mayfield, Kentucky, and thereby indirectly acquire Liberty Bank & Trust Company, Mayfield, Kentucky.

D. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Montana Community Banks, Inc., Ronan, Montana; to acquire 100 percent of the voting shares of Community Bank-Missoula, Inc., Missoula, Montana.

Board of Governors of the Federal Reserve System, July 22, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94-18373 Filed 7-27-94; 8:45 am]

BILLING CODE 6210-01-F

IBS Financial Corp.; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 17, 1994.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. IBS Financial Corp., Cherry Hill, New Jersey; to engage *de novo* in the making and servicing of loans, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, July 22, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94-18375 Filed 7-27-94; 8:45 am]

BILLING CODE 6210-01-F

King Bancshares, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 22, 1994.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. King Bancshares, Inc., Kingman, Kansas; to acquire Turon Banc Shares, Inc., Turon, Kansas, and thereby indirectly acquire The Turon State Bank, Turon, Kansas.

In connection with this application, Applicant has also applied to acquire Sylvia, Inc., Sylvia, Kansas, and thereby engage in the sale of general insurance in a community of less than 5,000, where King Bancshares will have a lending office, pursuant to 225.25(B)(8)(iii)(A) of the Board's Regulation Y. The geographic scope for the activity is Anthony, Atlanta, Turon, Sylvia and Kingman Counties in Kansas.

Board of Governors of the Federal Reserve System, July 22, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94-18377 Filed 7-27-94; 8:45 am]

BILLING CODE 6210-01-F

Winford Hughes Morris, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 17, 1994.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Winford Hughes Morris, Leesville, Louisiana; to acquire an additional 2 percent for a total of 3.6 percent; Ralph Dillon McRae, Sr., Leesville, Louisiana, to acquire an additional 8 percent for a total of 8.6 percent; Henry Buford Sartor, Leesville, Louisiana, to acquire an additional 7 percent for a total of 8 percent; William Vernon McRae, Leesville, Louisiana, to acquire 8.2 percent; Murphy O'Banion, Leesville, Louisiana, to acquire 8.6 percent; Donald Alan Goins, Leesville, Louisiana, to acquire 8.2 percent; George Douglas Brandon, Leesville, Louisiana, to acquire 7.4 percent; George Dale Lord, Leesville, Louisiana, to acquire an additional 8.2 percent for a total of 8.5 percent; and Carney Jean Midkiff, Leesville, Louisiana, to acquire 7.4 percent of the voting shares of Vernon Bancshares, Inc., Leesville, Louisiana, and thereby indirectly acquire Vernon Bank, Leesville, Louisiana. These notificants have filed a notice that they are acting in concert for purpose of the Change in Bank Control Act.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Joseph D. Daly, Farley, Iowa, and Nancy A. Dunkel, Dyersville, Iowa; to acquire 100 percent of the voting shares of Worthington Bancorporation, Worthington, Iowa, and thereby indirectly acquire State Bank of Worthington, Worthington, Iowa.

Board of Governors of the Federal Reserve System, July 22, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94-18374 Filed 7-27-94; 8:45 am]

BILLING CODE 6210-01-F

Rufus Sisler, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 17, 1994.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Rufus Sisler, Coggon, Iowa; to acquire an additional 18.18 percent, for a total of 41.28 percent, of the voting shares of North Linn Corporation, Coggon, Iowa, and thereby indirectly acquire Linn County State Bank, Coggon, Iowa.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Robert Stephen Carmack, Hinton, Oklahoma; to acquire an additional 4.49 percent, for a total of 28.88 percent, of the voting shares of Midstate Bancorp, Inc., Hinton, Oklahoma, and thereby indirectly acquire First Community Bank, Blanchard, Oklahoma and First State Bank, Hinton, Oklahoma.

Board of Governors of the Federal Reserve System, July 22, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94-18378 Filed 7-27-94; 8:45 am]

BILLING CODE 6210-01-F

West Coast Bancorp, Inc.; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 17, 1994.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. West Coast Bancorp Inc., Cape Coral, Florida; to engage *de novo* in factoring accounts receivable, pursuant to § 225.25(b)(1) of the Board's Regulation Y. The proposed activity will be conducted throughout Lee County, Florida.

Board of Governors of the Federal Reserve System, July 22, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94-18379 Filed 7-27-94; 8:45 am]

BILLING CODE 6210-01-F

GENERAL SERVICES ADMINISTRATION

Public Buildings Service; Public Information Notice

The General Services Administration (GSA) invites public officials and other concerned parties to participate in the

public scoping process for the preparation of an Environmental Assessment (EA) pursuant to the National Environmental Policy Act.

The EA will address the planned construction of a new Federal Building-U.S. Courthouse in Tucson, Arizona. The proposed building would provide approximately 423,000 gross square feet space plus 100 inside parking spaces and 87 outside parking spaces to accommodate U.S. Courts and other federal executive agencies on a four-acre site.

Public participation in the scoping process is encouraged to identify potential areas of concern which should be addressed in the EA. Both written and oral comments are solicited and will be considered.

A public scoping meeting will be held on August 2, 1994 from 4 p.m. to 7 p.m. at City Hall, Council Chambers, 255 West Alameda, Tucson, Arizona 85701.

Written comments in addition to, or in lieu of, oral comments at the meeting may be sent postmarked no later than August 9, 1994, or sent by facsimile transmission to (415) 744–8117 no later than August 16, 1994. Written comments should be addressed to Ms. Mitra K. Nejad, GSA Planning Staff (9PL), Public Buildings Service, 525 Market Street, San Francisco, California 94105.

Dated: July 20, 1994.

Aki K. Nakao,

Acting Regional Administrator (9A).

[FR Doc. 94–18399 Filed 7–27–94; 8:45 am]

BILLING CODE 6820–23–M

Interagency Committee for Medical Records (ICMR); Stocking Change of SF 528, Medical Record—Muscle Function By Nerve Distribution: Face, Neck, and Upper Extremity

AGENCY: General Services Administration.

ACTION: Notice.

SUMMARY: The General Services Administration/ICMR is changing the stocking requirement of SF 528, Medical Record—Muscle Function By Nerve Distribution: Face, Neck, and Upper Extremity. This form is now authorized for local reproduction. You can request a camera copy of SF 528 from General Services Administration (CARM), Attn.: Barbara Williams, (202) 501–0581.

This form is also revised to:

1. To delete "grade; SSAN; rank; rate;" from "PATIENT'S IDENTIFICATION" item and replace with "ID no. (SSN or other);".

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Williams, General Services Administration, (202) 501–0581.

DATES: July 28, 1994.

Dated: July 19, 1994.

Theodore D. Freed,

Chief, Forms Management Branch.

[FR Doc. 94–18402 Filed 7–27–94; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Agency Information Collection Under OMB Review

Under the provisions of the Federal Paperwork Reduction Act (44 U.S.C. Chapter 35), we have submitted to the Office of Management and Budget (OMB) a request for the reauthorization of an information collection titled: "JOBS Program Tribal Quarterly Report." This information collection sponsored by the Office of Family Assistance (OFA) of the Administration for Children and Families (ACF) is currently approved under OMB Control Number 0970–0118.

ADDRESSES: Copies of this reporting document may be obtained from Edward E. Saunders of the Office of Information Systems Management, ACF, by calling (202) 205–7921.

Written comments and questions for this information collection should be sent directly to: Laura Oliven, OMB Desk Officer for ACF, OMB Reports Management Branch, New Executive Office Building, Room 3002, 725 17th Street NW., Washington, DC 20503, (202) 395–7316.

Information on Document

Title: JOBS Program Tribal Quarterly Report ACF Form 114.

OMB No.: 0970–0118.

Description: The Office of Family Assistance (OFA) of the Administration for Children and Families (ACF) has granted funds to 76 Indian Tribes, Alaska Native organizations (including consortia of Alaska Native organizations) and consortia of eligible Tribes to operate JOBS programs pursuant to 45 CFR 250.71. Since Tribal grantees must require other agencies to track and report satisfactory participation and the use of JOBS funds pursuant to 45 CFR 250.95(e), the Secretary has determined that quarterly reports are necessary to properly monitor activity and success of Tribal JOBS programs. The information requested on Form ACF–114, on a quarterly basis, will provide sufficient programmatic and expenditure data to monitor, analyze and evaluate the degree to which Tribal members living in designated service areas are being assisted to avoid long-term welfare dependency and to achieve self-sufficiency. Form ACF–114 comprises Tribal JOBS program information on the number of participants and number of family members, AFDC family/case status, JOBS participant characteristics, services provided, JOBS activities and component assignments and education activities.

The information guideline will also provide standardize definitions and instructions for collecting and reporting tribal JOBS program data.

Annual Number of Respondents	76
Annual Frequency	4
Average Burden Per Response	8
Total Burden Hours	2,432

Larry Guerrero,

Deputy Director, Office of Information Systems Management.

[FR Doc. 94–18408 Filed 7–27–94; 8:45 am]

BILLING CODE 4184–01–M

Centers for Disease Control and Prevention

Technical Advisory Committee for Diabetes Translation and Community Control Programs; Reestablishment

ACTION: Notice of Reestablishment—Technical Advisory Committee for Diabetes Translation and Community Control Programs.

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix 2, the Centers for Disease Control and Prevention announces the reestablishment of the following Federal advisory committee by the Secretary of Health and Human Services:

Designation: Technical Advisory Committee for Diabetes Translation and Community Control Programs.

Purpose: The Committee shall advise the Director, Centers for Disease Control and Prevention, regarding priorities and feasible goals for translation activities and community control programs designed to reduce risk factors, morbidity, and mortality associated with diabetes and its complications. The Committee shall advise regarding policies, strategies, goals and objectives, and priorities; identify research advances and technologies ready for translation into widespread community practice; recommend public health strategies to be implemented through community interventions; advise on

operational research and outcome evaluation methodologies; identify research issues for further clinical investigation; and advise regarding the coordination of programs with Federal, voluntary, and private resources involved in the provision of services to people with diabetes.

Authority for this committee will expire June 15, 1996, unless the Secretary of Health and Human Services, with the concurrence of the Committee Management Secretariat, General Services Administration, formally determines that continuance is in the public interest.

Dated: July 21, 1994.

William H. Gimson,

Acting Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 94–18363 Filed 7–27–94; 8:45 am]

BILLING CODE 4163–18–M

[Announcement Number 101B]

Addendum to Announcement 101; Program Announcement and Availability of Funds for FY 1994 Demonstration Projects for the Development of State Immunization Information Systems

Introduction

The Centers for Disease Control and Prevention (CDC), through the National Immunization Program (NIP) and the CDC Information Network for Public Health Officials (CDC INPHO), announces the availability of fiscal year (FY) 1994 supplemental grant funds to implement pilot demonstrations of statewide immunization information systems. Funds provided by this announcement will be divided into two parts or components. This is an addendum to Program Announcement Number 101.

Component One will provide funds for the development of the core or central operating system for the State Immunization Information System (SIIS). While grantees should plan for the eventual implementation of a total statewide system, this announcement provides funding only for the acquisition and installation of hardware and software for centralized data storage, linkages, and interfaces to other systems from the State office. If a grantee already has an immunization information system, they may apply for funds to expand or enhance their system. The level of funding, however, will be predetermined and based upon the hardware and software needed to manage a specific number of new patient records as indicated by the number of live births occurring in a State each year.

Component Two will provide funds for developing, acquiring, installing, and maintaining statewide information systems and communications networks that support the goals of the SIIS and of the CDC Information Network for Public Health Officials (CDC INPHO). When implemented, these statewide networks will enable public health personnel to communicate with each other and with CDC by exchanging electronic mail, accessing CDC information databases, and exchanging public health data. The networks will be fully integrated into and supportive of statewide immunization information systems. These integrated networks and systems will serve to ensure the highest possible vaccination levels of children by recording individual immunization events, prompting follow-up of those children who missed their scheduled vaccinations, and allowing for the confidential exchange of immunization information between States to ensure continuity of care.

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 Immunization and Infectious Diseases. (To order a copy of "Healthy People 2000," see the section entitled WHERE TO OBTAIN ADDITIONAL INFORMATION.)

Authority

This program is authorized under Section 317 of the Public Health Service Act, 42 U.S.C. 247b, as amended. Applicable program regulations are found in 42 CFR Part 51b, Subparts A and B.

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 departments of public health in each State; New York, New York; District of Columbia; Puerto Rico; Virgin Islands and U.S. territories located in the Pacific Basin; hereafter referred to as grantees. This eligibility limitation is based on the governmental entity responsible for legislation on disseminating birth certificate data. Grantees with no immunization information system in place are encouraged to apply. Grantees with immunization information systems in place are encouraged to apply with the intent of upgrading, enhancing, or expanding their current system to the conditions set forth in this announcement.

Availability of Funds

Approximately $7,000,000 is available in FY 1994 to fund two separate components of this Announcement. Of the $7 million, approximately $5 million (Component One) will be available for grantees to implement the central or core portion of a statewide immunization information system (SIIS) database. This will include hardware and software that will eventually be required for interstate and intrastate transfer of immunization data. The average award is expected to be $200,000, ranging from $100,000 to $400,000. The awards will be provided to approximately 20 grantees. The supplemental awards will be made on or about September 15, 1994. Based on availability of funds, it is anticipated that additional projects, if their applications are approved, will be awarded grants early in FY 1995 to install the core or centralized portion of the SIIS.

The remaining $2 million (Component Two) will be available for funding two to four grantees to develop wide-area telecommunication networks. The average award is expected to be between $500,000 and $1,000,000 per year for up to three years and will be made for a 12-month activity period within a three year period of performance, beginning in FY 1994. These awards will be made on or about September 30, 1994.

Note: Funding estimates may vary and are subject to change.

Additional awards for Component Two only, will be made based on satisfactory progress of developing and maintaining statewide informational systems and communication networks that support the goals of State immunization information systems and of the CDC INPHO, and the availability of funds.

Purpose

The purpose of this grant program is to ensure that the following automated systems are in place for each State by October 1, 1996:

- A system that ensures the adequate immunization of at least 90 percent of all children born on or after October 1, 1994.

• A system that ensures the follow-up of children who miss scheduled vaccinations.

• A secure and confidential system that enables appropriate health care providers within States to access a child's vaccination record to determine their status.

• A system that monitors adverse reactions to immunizing agents.

• A system that monitors vaccine distribution and usage.

The distribution of grant funds has been systematic. Funds were provided in FY 1993 for each project area to conduct a needs assessment. In FY 1994, funds were available to each grantee to develop short- and long-range plans using the data acquired from the needs assessment. Funds are now available for the next step—the installation of the core or central portion of the SIIS.

This grant announcement is divided into two components:

(1) To implement a core or central computerized immunization information system and communications interfaces that will allow transfer of immunization information on an intra- and interstate network between heterogenous systems (Component One).

(2) To develop and implement statewide telecommunications networks that will eventually connect CDC, State, and local health agencies. These networks (local area networks and wide area networks) will directly link with and support the National Immunization Program (NIP) immunization information system goals and objectives (Component Two).

Therefore, applicants may apply for funding for one of the following:

1. Component One only.
2. Component Two only.
3. Components One and Two.

Program Requirements

To receive funds, each applicant must satisfactorily address the following program elements for funding Component One.

1. Complete and submit a satisfactory needs assessment and plan for implementing an immunization information system(s).

2. Develop and implement an initial immunization record in the SIIS database using an electronic birth registry interface or an appropriate alternative method which would capture all infants in the State's annual birth cohort.

3. Provide evidence of cooperation, coordination, and collaboration between the State health department and the various local public and private health care agencies that will be involved in the planning, development, and implementation of SIIS.

4. Demonstrate the capability to expand the number of other systems that are able to interface effectively with SIIS.

5. Provide assistance and the physical space for the installation of the communications lines, hardware and software.

6. Prepare to coordinate demonstration activities among State and local data processing units, State immunization program, and major immunization health care providers, e.g., health department clinics, health maintenance organizations, hospital outpatient clinics, community health centers.

7. Seek support from the health community and professional organizations in promoting acceptance and participation in the SIIS activities.

8. Demonstrate the use of other funding resources to include redirecting existing funds, unobligated funds, IAP funds, funds from other Federal, State, or private sources and the like.

9. Provide an estimate of State, local, or other funds spent to date on the development of a statewide immunization system or an integrated system of which immunization is a part. Also provide an estimate of the amount of State, local, or other funds that will be needed to complete the statewide system.

10. Describe hardware and software requirements and estimated costs. Growth and flexibility of the system must be considered in the purchase of hardware and software.

Note: State immunization information systems must meet or exceed the System Fault Tolerance Level II standard described in Novell operating systems manuals, including disk mirroring, differential backups, off-site storage of backups, continuous and non-interrupted power and power surge protection. The system(s) should potentially be capable of 24-hour operation. Downtime episodes must not exceed 30 minutes and must not occur more than once a month.

11. Describe personnel requirements and estimated costs. There will not be enough funds from this grant to support all the personnel the grantee may believe are required. If additional personnel are needed, the grantee can apply for funds under the Immunization Action Plan or through local or State funds.

12. Describe training requirements and estimated costs. Personnel will receive support for technical and programmatic training. The development of an automated system of this magnitude with the number of interfaces that will be necessary will require close collaboration with CDC staff in conjunction with appropriate training. Training may occur within the State, at CDC in Atlanta, or at a designated conference site. Project personnel may obtain training on- or off-site from private vendors.

13. Describe travel requirements and estimated costs. Close collaboration with CDC and other applicants is essential for the development of SIIS. Funds for periodic training and CDC meetings for the purpose of information sharing will be supported.

To receive funds for Component Two, grantees must satisfactorily address the following program elements:

1. The grantee should develop a plan that addresses three phases: (1) electronic linkage via computer networks among State and local public health agencies, (2) rapid and efficient access to local, State and Federal information needed by public health practitioners, and (3) electronic data exchange. The plan addressing each of these three phases should address planning, implementation, and evaluation.

A. Linkage

The goal of this element is to establish computer network linkages with and among the various component agencies within the State public health system and also to investigate or establish linkages with primary care providers, especially large organizations, such as managed care organizations. The plan for this element should include:

i. Planning Phase

• Comprehensive assessment of current communications and telecommunications environment throughout all components of the public health structure within the State.

• Creation of a Network Design and Technology and Implementation Plan that emphasizes a WAN using modern, personal computer-based client server architecture.

• Creation of a Hardware and Software Implementation Plan.

ii. Implementation Phase

• Strategy for the integration of the State communications network and the immunization information system, allowing access to all providers of immunization and other public health services.

• Implement local area network connectivity (including cabling, hardware and software installation, and user training) between local and State

health departments and CDC, including an Internet interface.

• User applications, including support and training.

iii. Evaluation Phase

• Demonstrate that there has been an adequate inclusion of all agencies and organizations that will be critical to successful implementation of elements B and C below (i.e., Information Access and Data Exchange).

• Thorough specification of existing public health related systems infrastructure and current plans for and funding sources for expanding this infrastructure.

B. Information Access

i. Planning Phase

• Grantee should specify the types of immunization information needed to assist public health personnel to more effectively improve and protect the health of the public. For example, directories of training resources, guidelines for disease prevention, operational guidelines for prevention programs, State information databases, etc., to which online access would be desirable.

• Grantee should specify the process through which these information resources will be determined and developed.

ii. Implementation Phase

• Grantee must present an implementation strategy and timeline for placing these information resources into electronic access.

iii. Evaluation Phase

• Grantee should present an evaluation plan that provides a basis for determining the impact that access to the immunization information databases (item B.i.) above has on changing the practice of public health and potentially the outcomes as measured by health status indicators.

C. Data Exchange

Future public health information systems should provide for efficient capture, transmission and exchange of the universe of data relevant to the practice of public health.

i. Planning Phase

• Grantee must describe the State's approach to state-wide public health data system integration, the goal of which is to provide efficient capture, transmission and exchange of public health data (e.g., patient specific data, immunization events, vital records, disease surveillance and reporting data, population based assessments, etc.).

• The plan should specify how the State is proceeding or will proceed to develop an integrated data system to meet the future needs of public health. Where appropriate, the plan should discuss plans for electronic interaction with non-government health care organizations, such as managed care organizations, private practitioners, etc.

ii. Implementation Phase

• The grantee should present a data system implementation plan and system design with timeliness and development schedules.

iii. Evaluation Phase

• The grantee's evaluation plan should correspond to the goals (as identified in the PURPOSE section of this announcement) of the integrated State system and include an inventory of existing health-related information systems.

2. Hardware and software requirements and estimated costs.

3. Personnel requirements and estimated costs.

4. Training requirements and estimated costs.

5. Travel requirements and estimated costs.

6. Other funding sources, if any, supporting project activities.

In formulating an approach, grantees are strongly encouraged to use the structure, technical descriptions, core data set, etc., which are included in the application kit.

CDC supports the concept of comprehensive health information systems which give priority to the immunization information function. Documentation must be provided (amount of dollars and source) by the project if funds from other sources will also be used to support the development of a comprehensive health information systems. CDC will also support, in concept, the use of limited grant funds, if approved, for the development of some hardware or software interfaces that will ensure that key linkages can be made, such as to State offices of vital statistics and managed health care organizations.

Review and Evaluation Criteria

Applications for funds for the State Immunization Information System will be evaluated by a CDC-appointed Objective Review Committee (ORC) whose members have expertise in disease prevention and service delivery. These reviewers will be persons representing a variety of disciplines and may or may not have specific expertise with immunization programs or automated data processing systems. Grantees, therefore, should consider the clarity of presentation and the use of terms that are widely understood or clearly defined. The ranking of scores made by the committee and program need will determine which grantees will be funded in FY 1994 and FY 1995 for Component One, as well as which grantees will be funded for Component Two.

Applications will be reviewed and evaluated according to the following criteria (Component One and Component Two will be reviewed separately according to the criteria set forth below):

A. The applicant's understanding of the purpose of the program, the appropriateness and feasibility of the stated activities to meet the criteria set forth in the announcement, and the likelihood that the activities conducted by the applicant will achieve the desired outcomes. (Component One: 10 points); (Component Two: 25 points)

B. The extent to which background information and other data demonstrate that the applicant has the appropriate organizational structure, administrative and technical support, accessibility to birth records, and accessibility to immunization records of the target population to implement the project and produce statistically valid results, evidence of support from public and private agencies and providers, and the ability to accomplish project objectives. (Component One: 15 points); (Component Two: N/A)

C. The degree to which long-term and short-term objectives are consistent with the purpose of the demonstration project and are realistic, specific, measurable, and time-phased. (Component One: 15 points); (Component Two: 15 points)

D. The quality of the plan of operation for developing and implementing proposed activities and the degree to which the plan specifies the what, who, where, how, and the timing for start and completion of each activity. (Component One: 20 points); (Component Two: 15 points)

E. The degree to which the evaluation plan can be used in measuring achievement of each objective and the quality of methods and techniques to be used. (Component One: 10 points); (Component Two: 15 points)

F. The extent to which methods and strategies proposed are financially feasible and have a system capacity to link with the SIISs in other States. (Component One: 15 points); (Component Two: 15 points)

G. The extent to which qualified and experienced personnel are available to carry out the proposed activities of the

project. (Component One: 15 points); (Component Two: 15 points)

In addition, consideration will be given to the extent to which the budget request is clearly explained, adequately justified, reasonable, and consistent with the intended use of funds, and the extent to which the applicant is contributing its own resources to childhood immunization activities.

Executive Order 12372 Review

Applications are subject to review as governed by Executive Order (E.O.) 12372, Intergovernmental Review of Federal Programs. E.O. 12372 sets up a system for State and local government review of processed Federal assistance application. Applicants should contact their State Single Point of Contact (SPOC) as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. A current SPOC list is included in the application kit. The SPOC should send any State process recommendations to Ms. 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., Mailstop E–16, Room 300, Atlanta, GA 30305, no later than 60 days after the application due date. CDC does not guarantee to accommodate or explain for 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 93.268, Preventive Health Services—Immunization.

Application Submission and Deadline

The program announcement and application kit were mailed 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 Mr. Eddie L. Wilder, Senior 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–16, Atlanta, GA 30305, telephone (404) 842–6805. Programmatic technical assistance for funding Component One may be obtained from Mark V. Schrader, Division of Data Management, National Immunization Program, Centers for Disease Control and Prevention (CDC), 12 Corporate Square, Corporate Square Blvd., Mailstop E–62, Atlanta, GA 30333, telephone (404) 639–8245, fax (404) 639–8615. Programmatic technical assistance for funding Component Two may be obtained from Thomas G. Lacher, Public Health Practice Program Office, Centers for Disease Control and Prevention (CDC), 24 Executive Park Drive, Mailstop E–20, Atlanta, GA 30333, telephone (404) 639–1938, fax (404) 639–1920.

Announcement number 101B, "Supplemental Funds for Demonstration Projects for the Development of State Immunization Information Systems," must be referenced in all requests for information for these projects.

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 section through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 783–3238.

Dated: July 21, 1994.

Joseph R. Carter,

Acting Associate Director for Management and Operations Centers for Disease Control and Prevention (CDC).

[FR Doc. 94–18364 Filed 7–27–94; 8:45 am]

BILLING CODE 4163–18–P

Food and Drug Administration

[Docket No. 94N–0278]

Drug Export; PRNaprosyn® E (Naproxen Enteric Coated Tablets) 375 mg and 500 mg

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Syntex Puerto Rico, Inc., has filed an application requesting approval for the export of the human drug PRNaprosyn® E (naproxen enteric coated tablets) 375 mg and 500 mg to Canada.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: James E. Hamilton, Center for Drug Evaluation and Research (HFD–313), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2073.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Syntex Puerto Rico, Inc., HCO1 Box 16625, BO, Mariana Rd. 909, KM.1.1 Humacao 00661–9731, Puerto Rico, has filed an application requesting approval for the export of the human drug PRNaprosyn® E (naproxen enteric coated tablets) 375 mg and 500 mg to Canada. This product is indicated for the relief of pain and inflammation associated with arthritis.

The application was received and filed in the Center for Drug Evaluation and Research on July 12, 1994, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by August 8, 1994, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate

consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Drug Evaluation and Research (21 CFR 5.44).

Dated: July 20, 1994.

David B. Barr,

Deputy Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 94–18368 Filed 7–27–94; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 94N–0118]

Preamendments Class III Devices; Strategy Document; Availability; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending to September 6, 1994, the comment period for a notice that announced the availability of the document entitled "Preamendments Class III Devices; Strategy Document; Availability" that appeared in the **Federal Register** of May 6, 1994. The document sets forth the agency's strategy for implementing the provisions of the Safe Medical Devices Act of 1990 (the SMDA) which require FDA to review the classification of certain class III (premarket approval) devices, and either reclassify the devices into class I (general controls) or class II (special controls) or retain them in class III. The statute also requires FDA to establish a schedule for requiring the submission of premarket approval applications (PMA's) for those devices retained in class III.

DATES: Written comments by September 6, 1994.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joseph M. Sheehan, Center for Devices and Radiological Health (HFZ–84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–4765, ext 157.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 6, 1994 (59 FR 23731), FDA announced the availability of a document that sets forth the agency's strategy for implementing the provisions of the SMDA which require FDA to review the classification of certain class III (premarket approval) devices, and either reclassify the devices into class I (general controls) or class II (special controls) or retain them in class III. The statute also requires FDA to establish a schedule for requiring the submission of PMA's for those devices retained in class III. Interested persons were invited to comment by August 4, 1994. FDA received one request for an extension of the comment period for 30 days. The request stated that extension was necessary to provide interested persons sufficient time to review all of the devices listed in the document.

FDA finds under section 520(d) (21 U.S.C. 360j(d)) that there is good cause for granting a 30-day extension to provide sufficient time for review and comments. Accordingly, the comment period is extended to September 6, 1994.

Interested persons may, on or before September 6, 1994, submit to the Dockets Management Branch (address above), written comments regarding this notice. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 25, 1994.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 94–18444 Filed 7–27–94; 8:45 am]

BILLING CODE 4160–01–F

[GN # 2260]

Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, February 25, 1970, and 56 FR 29484, June 27, 1991, as amended most recently in pertinent part at 58 FR 45111, August 26, 1993) is amended to reflect the establishment of the Office of Women's Health in the Office of External Affairs, Food and Drug Administration (FDA). The organization is being established to facilitate the Agency coordination and communication of women's health issues and initiatives.

Under Section HF–B, Organization:

1. Insert a new subparagraph under Office of External Affairs (HFAQ) reading as follows:

Office of Women's Health. Serves as the principal advisor to the Commissioner and other key officials on scientific, ethical, and policy issues relating to women's health.

Provides leadership and policy direction for the Agency regarding issues of women's health and coordinates efforts to establish and advance a women's health agenda for the Agency.

Monitors the inclusion of women in clinical trials and the implementation of guidelines concerning the representation of women in clinical trials and the completion of gender analysis.

Identifies and monitors the progress of crosscutting and multidisciplinary women's health initiatives including changing needs, areas that require study, and new challenges to the health of women as they relate to FDA's mission.

Serves as the Agency's liaison with other agencies, industry, and professional associations with regard to the health of women.

Dated: July 11, 1994.

David A. Kessler,

Commissioner of Food and Drugs.

[FR Doc. 94–18389 Filed 7–27–94; 8:45 am]

BILLING CODE 4160–01–M

National Institutes of Health

Division of Research Grants; Notice of 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 individual grant applications.

Name of SEP: Behavioral and Neurosciences.

Date: August 8, 1994.

Time: 2:00 p.m.

Place: NIH, Westwood Building, Room 325C, Telephone Conference.

Contact Person: Dr. Leonard Jakubczak, Scientific Review Admin., 5333 Westbard Ave., Room 325C, Bethesda, MD 20892, (301) 594–7198.

Name of SEP: Behavioral and Neurosciences.

Date: August 9, 1994.

Time: 2:00 p.m.

Place: NIH, Westwood Building, Room 325C, Telephone Conference.

Contact Person: Dr. Leonard Jakubczak, Scientific Review Admin., 5333 Westbard Ave., Room 325C, Bethesda, MD 20892, (301) 594–7198.

Name of SEP: Behavioral and Neurosciences.
Date: August 19, 1994.
Time: 1:30 p.m.
Place: NIH, Westwood Bldg., Room 309, Telephone Conference.
Contact Person: Dr. Joseph Kimm, Ph.D., Scientific Review Admin., 5333 Westbard Ave., Room 309, Bethesda, MD 20892, (301) 594–7132.

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.

This notice is being published less than 15 days prior to the meeting due to the difficulty of coordinating the attendance of members because of conflicting schedules.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 25, 1994.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 94–18463 Filed 7–27–94; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meeting

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) meeting.

Name of SEP: Behavioral and Neurosciences.
Date: July 28, 1994.
Time: 8:00 a.m.
Place: Holiday Inn, Chevy Chase, MD.
Contact Person: Dr. Carl Banner, Scientific Review Administrator, 5333 Westbard Ave., Room 319A, Bethesda, MD 20892, (301) 594–7206.
Purpose/Agenda: To review individual grant applications.

The meeting will be closed in accordance with the provisions set forth in sec. 552b(c)(4) and 552(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.

This notice is being published less than 15 days prior to the meeting due to the difficulty of coordinating the attendance of members because of conflicting schedules.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 25, 1994.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 94–18464 Filed 7–27–94; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–055–04–4333–05; 4–00162]

Arizona: Closures of Desert Wash Areas to Camping

AGENCY: Bureau of Land Management, Interior.

ACTION: Close various desert wash areas to camping which are located West of Kofa Drive, found within the town limits of Quartzsite, and are North of Interstate 10, La Paz County, Arizona.

FOR FURTHER INFORMATION CONTACT: Joy Gilbert, Area Manager, Yuma Resource Area, 3150 Winsor Avenue, Yuma, Arizona 85365, (602) 726–6300.

SUPPLEMENTARY INFORMATION: Authority for this action is contained in 43 CFR 8364.1. These areas are being closed to camping to protect public health and safety concerns and to prevent further environmental degradation of the area. These closures to camping shall apply to all persons and shall remain in effect until further notice. Maps of these areas are available at the Yuma District Office, 3150 Winsor Avenue, Yuma, Arizona 85365.

SUMMARY: The following described lands west of Kofa Drive encompass desert wash areas which are closed to all types of camping. The area affected by the closures contains 1,665 acres more or less.

Gila and Salt River Meridian, Arizona

T. 4 N., R. 19 W.,
Sec. 17, all;
Sec. 19, E½E½;
Sec. 20, all;
Sec. 29, N½NE¼NE¼, W½SW¼NE¼NE¼, NW¼NE¼, N½NW¼;
Sec. 30, E½NE¼.

EFFECTIVE DATE: August 31, 1994.

Dated: July 19, 1994.

Judith I. Reed,

District Manager.

[FR Doc. 94–18404 Filed 7–27–94; 8:45 am]

BILLING CODE 4333–05–M

[NV–050–94–4350–09]

Notice of Interim Closure of Public Lands in Portions of Eldorado Valley, Ivanpah Valley, Piute Valley and Nelson Hills, Stateline Resource Area, Clark County, NV

SUMMARY: Notice is hereby given that certain Public Lands in Nevada are closed to vehicular access. The closure consists of two separate designations. Under the first designation, vehicular travel is limited to certain designated routes of travel. Under the second designation, vehicular travel is limited to existing roads and trails. Exceptions to these designations include vehicular travel for administrative purposes including the implementation of resources monitoring and research projects and maintenance of rights-of-way.

This closure covers Public Lands in portions of Eldorado Valley, Ivanpah Valley, Piute Valley and the Nelson Hills. The boundary is approximated by the Lake Mead National Recreation Area and the Eldorado Mountains on the east, the California State line and Crescent Peak on the south, Eldorado Dry Lake and the McCullough Range on the west, and Boulder City on the north.

The closure affects approximately 26 miles of Bureau of Land Management (BLM) administered roads. Roads claimed by Clark County under Revised Statues 2477 will be designated as open except those that are formally relinquished by the Clark County Commission. An undetermined number of two-tracks, ATV and motorcycle trails will be affected.

ORDER: Notice is hereby given that effective on the date of publication of this notice in the **Federal Register**, the following use restrictions will be in effect on Public Lands in portions of the Eldorado Tortoise Management Area, Ivanpah Valley, Piute Valley and the Nelson Hills, and will remain in effect until the Stateline Resource Management Plan is approved and implemented.

1. Designated Roads and Trails (Eldorado Valley, Ivanpah Valley and Piute Valley)

No person may use, drive or otherwise operate a motorized vehicle except on those routes of travel that are identified on the ground by open route signs.

2. Existing Roads and Trails (Nelson Hills and Eldorado Valley)

No person may use, drive or otherwise operate a motorized vehicle except on existing roads and trails.

Exemptions to these orders are use of existing access routes to residences, active mining operations and communication sites, maintenance and inspection of existing rights-of-way, and the performance of resource monitoring and research projects by Bureau of Land Management, Nevada Department of Wildlife, National Park Service and U.S. Fish and Wildlife Service personnel or their agents. All other exemptions to this order are by written authorization of the Las Vegas District Manager or Stateline Resource Area Manager only.

All mineral activities, including casual use, being conducted under 43 CFR part 3809 within these closures must submit a Plan of Operations. The Plan of Operations must conform to the filing requirements of 43 CFR 3809.1–5. Notices filed under 43 CFR 3809.1–3 will be returned to the operator and a plan will be requested.

The legal land description for lands affected by these closures includes the following:

1. Designated Roads and Trails

Ivanpah Valley/Piute Valley/Eldorado Valley

Mount Diablo Meridian:

T. 28 S., R. 60 E.,
Secs. 2–3, 10–11;
Sec. 13, W½;
Secs. 14–16, 22–26. Except those portions of secs. 25–26 located south of State Highway 164.
T. 26 S., R. 61 E.,
Secs. 24–25, 36, inclusive.
T. 27 S., R. 61 E.,
Secs. 1, 12–13, 23–27, 34–36, inclusive;
Sec. 2, E½;
Sec. 11, E½;
Sec. 14, E½.
T. 28 S., R. 61 E.,
Secs. 1–3, 10–12, 15–16, 19–21, 29, 30. Except those portions of secs. 15, 21–22 and 29–30 located south of State Highway 164.
T. 25 S., R. 62 E.,
Secs. 13–14, 22–36, inclusive.
T. 26 S., R. 62 E.,
Secs. 1–2, 11–14, inclusive.
T. 27 S., R. 62 E.,
Secs. 5–8, 17–20, 29–35, inclusive;
Sec. 36, NW¼.
T. 28 S., R. 62 E.,
Sec. 2, NW¼NE¼, N½NW¼, SW¼NW¼;
Secs. 3–10, inclusive.
T. 24 S., R. 63 E.,
Sec. 27, that portion located south of State Highway 165;
Sec. 28, that portion located east of U.S. Highway 95;
Sec. 34, that portion located north and west of Clark County RS 2477 road # BC2.
Sec. 33, that portion located east of U.S. Highway 95;
Sec. 35, that portion located south of State Highway 165 and north and west of Clark County RS 2477 # BC2.
T. 25 S., R. 63 E.,
Sec. 3, that portion west of Clark County RS 2477 road # BC2;
Sec. 4, that portion east of U.S. Highway 95 and west of Clark County RS 2477 road # BC2;
Sec. 9, that portion east of U.S. 95 and South of Clark County RS 2477 road # A951;
Sec. 10, that portion south of Clark County RS 2477 road # A951;
Sec. 15, that portion located south of Clark County RS 2477 road # A951;
Secs. 16–22 inclusive;
Sec. 23, that portion west of Clark County RS 2477 roads # A951 and BC3.
Sec. 27, that portion west of Clark County RS 2477 road # BC3;
Secs. 28–33 inclusive;
Sec. 34, that portion west of Clark County RS 2477 road # BC3.
T. 26 S., R. 63 E.,
Sec. 3, that portion located west of Clark County RS 2477 road # BC3;
Secs. 4–8 inclusive;
Sec. 9, that portion west of Clark County RS 2477 road # BC3;
Sec. 13, S½;
Sec. 15, that portion located west of Clark County RS 2477 road # BC3;
Sec. 20, that portion located east of U.S. Highway 95 and north of the powerline road;
Secs. 21–24, that portion located north of the powerline road.
T. 26 S., R. 64 E.,
Sec. 19, W½.

2. Existing Roads and Trails

Eldorado Valley/Nelson Hills

Mount Diablo Meridian

T. 24 S., R. 62 E.,
Sec. 25, S½;
Sec. 26, S½;
Sec. 27, S½;
Secs. 34–36, inclusive.
T. 25 S., R. 62 E.,
Secs. 1–12, 15–21, inclusive.
T. 24 S., R. 63 E.,
Secs. 1–3, 10–15, 22–27, 35 and 36. Except those portions of secs. 3, 10, 15 and 22 located west of U.S. Highway 95, that portion of sec. 27 located south of State Highway 165 and that portion of sec. 35 located both south of Highway 165 and west of Clark County RS 2477 road # BC2.
T. 25 S., R. 63 E.,
Secs. 1–3, 9–15, 23–27, 34–36. Except those portions of Secs. 3, 4, and 9 located west of Clark County RS 2477 road # BC2, those portions of Secs. 9, 10, 15 and 23 located south and west of Clark County RS 2477 road # A951 and those portions of Secs. 23, 26, 27 and 34 located west of Clark County RS 2477 road # BC3.
T. 26 S., R. 63 E.,
Secs. 1–3, 9–12;
Sec. 13, N½;
Secs. 14–15. Except those portions of Secs. 3, 9, 10 and 15 located west of Clark County RS 2477 road # BC3.
T. 24 S., R. 64 E.,
Secs. 2–11, 14–23, 26–35, inclusive.
T. 25 S., R. 64 E.,
Secs. 1–12, 14–23, 24–35, inclusive.

Maps identifying these lands, restrictions, and exempted motorized vehicle routes are available at the Las Vegas District Office.

Authority for this interim closure and use restrictions is found in 43 CFR 8364.1 and 8342. Violation of these rules are punishable by a fine not to exceed $100,000 ($200,000 if the violator is an organization), imprisonment not to exceed 12 months, or both, as provided for under the Federal Land Policy Management Act (Pub. L. 94–579) as amended by 18 U.S.C. 3571(b)(5).

SUPPLEMENTARY INFORMATION: The purpose of this interim closure and use restrictions is to provide increased protection for desert tortoise populations and their habitat until final approval and implementation of the comprehensive Stateline Resource Management Plan. The desert tortoise is listed as a threatened species under the Federal Endangered Species Act and is afforded increased protection under terms of the Act.

On May 15, 1991 the Bureau of Land Management became a signatory to the Clark County Short-Term Desert Tortoise Habitat Conservation Plan. On August 12, 1991 the U.S. Fish and Wildlife Service approved the plan. Under this plan, the Bureau of Land Management agreed to take appropriate management actions, within certain areas established for conservation of desert tortoises and their habitat, through procedures outlined in the plan. Recommendations were made to the Bureau of Land Management by the Clark County Habitat Conservation Plan Implementation and Monitoring Committee that certain areas within Eldorado Valley and Nelson Hills should be closed to motorized vehicular traffic except for existing roads and trails or, designated roads and trails. This action would afford increased protection of desert tortoises and their habitat. This closure will provide the basis for effective enforcement of these protective measures. This closure is adjacent to and compliments a previous Interim Closure of Public Lands in Eldorado Valley issued by Federal Register Notice on Monday, December 6, 1993 (Vol. 58, No. 232).

EFFECTIVE DATE: This order is effective on the date of publication in this **Federal Register**, and will remain in effect until the Stateline Resource Management Plan is completed and implemented and this order is rescinded by the Las Vegas District Manager. This order is effective on the Eldorado Lands Act lands, until such time as the

Eldorado Lands Act lands are transferred to private ownership.

FOR FURTHER INFORMATION CONTACT: Gary Ryan, Acting District Manager, Las Vegas District, 4765 W. Vegas Drive, P.O. Box 26569, Las Vegas, NV 89126, or Dan Morgan, Area Manager, Stateline Resource Area, 4765 W. Vegas Drive, P.O. Box 26569, Las Vegas, NV 89126.

Dated: July 20, 1994.

Gary Ryan,

Acting District Manager, Las Vegas, NV.

[FR Doc. 94–18329 Filed 7–27–94; 8:45 am]

BILLING CODE 4310–HC–M

[AZ–942–04–4730–02; 4–00162]

Arizona; Filing of Plats of Survey

July 20, 1994.

1. The plats of survey of the following described lands were officially filed in the Arizona State Office, Phoenix, Arizona, on the dates indicated:

A plat representing a survey of the Sixth Guide Meridian East, (west boundary), the east boundary and the subdivisional lines of Township 32 North, Range 25 East, Gila and Salt River Meridian, Arizona, was approved June 16, 1994, and was officially filed June 23, 1994.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Area Office.

A plat representing the dependent resurvey of a portion of the subdivisional lines, a portion of the subdivision and a portion of the metes-and-bounds survey in section 4, and a metes-and-bounds survey in section 4, Township 16 South, Range 10 East, Gila and Salt River Meridian, Arizona, was accepted June 8, 1994, and was officially filed June 16, 1994.

This plat was prepared at the request of the Bureau of Land Management, Tucson Resource Area.

A plat representing the dependent resurvey of a portion of the subdivision and a portion of a metes-and-bounds survey in section 14; and a metes-and-bounds survey in section 14, Township 16 North, Range 21 West, Gila and Salt River Meridian, Arizona, was accepted June 29, 1994, and was officially filed July 7, 1994.

This plat was prepared at the request of the Bureau of Land Management, Yuma District Office.

A plat, in nine sheets, constituting the map of the Peloncillo Mountains Wilderness Boundary, as required by *Public Law 101–628—November 28, 1990. Section 1.—Titles I through III of this Act may be cited as the "Arizona Desert Wilderness Act of 1990" TITLE 1, SEC. 101, (c),* and the survey in Townships 11, 12 and 13 South, Ranges 31 and 32 East, Gila and Salt River Meridian, Arizona, was accepted June 22, 1994, and was officially filed June 30, 1994.

A plat representing the dependent resurvey of a portion of the south boundary and a portion of the subdivisional lines; and the metes-and-bounds survey of the Peloncillo Mountains Wilderness Area Boundary in Township 11 South, Range 31 East, Gila and Salt River Meridian, Arizona, was accepted June 22, 1994, and was officially filed June 30, 1994.

A plat representing the dependent resurvey of portions of the south and west boundaries and a portion of the subdivisional lines; and the subdivision of sections 31 and 33, and the metes-and-bounds survey of the Peloncillo Mountains Wilderness Area Boundary in Township 11 South, Range 32 East, Gila and Salt River Meridian, Arizona, was accepted June 22, 1994, and was officially filed June 30, 1994.

A plat, in 3 sheets, representing the dependent resurvey of portions of the south and east boundaries and a portion of the subdivisional lines; and the subdivision of section 2 and the metes-and-bounds survey of the Peloncillo Mountains Wilderness Area Boundary in Township 12 South, Range 31 East, Gila and Salt River Meridian, Arizona, was accepted June 22, 1994, and was officially filed June 30, 1994.

A plat, in 8 sheets, representing the dependent resurvey of the Arizona-New Mexico State Boundary from Mile Post 316 to Mile Post 321, and portions of the south boundary and subdivisional lines; and the subdivision of certain sections and the metes-and-bounds survey of the Peloncillo Mountains Wilderness Area Boundary in Township 12 South, Range 32 East, Gila and Salt River Meridian, Arizona, was accepted June 22, 1994, and was officially filed June 30, 1994.

A plat, in 3 sheets, representing the dependent resurvey of a portion of the east boundary and a portion of the subdivisional lines; and the metes-and-bounds survey of the Peloncillo Mountains Wilderness Area Boundary in Township 13 South, Range 31 East, Gila and Salt River Meridian, Arizona, was accepted June 22, 1994, and was officially filed June 30, 1994.

A plat, in 4 sheets, representing the dependent resurvey of a portion of the subdivisional lines; and the subdivision of section 9 and the metes-and-bounds survey of the Peloncillo Mountains Wilderness Area Boundary in Township 13 South, Range 32 East, Gila and Salt River Meridian, Arizona, was accepted June 22, 1994, and was officially filed June 30, 1994.

These plats were prepared at the request of the Bureau of Land Management, Safford District Office.

A plat representing the dependent resurvey of a portion of the south boundary of Township 19 South, Range 16 East, Gila and Salt River Meridian, Arizona, was accepted April 21, 1994, and was officially filed April 28, 1994.

This plat was prepared at the request of the United States Forest Service, Southwestern Region.

A plat representing the dependent resurvey of a portion of the north boundary, a portion of the subdivisional lines; and the subdivision of section 6, in Township 18 North, Range 5 West, Gila and Salt River Meridian, Arizona, was accepted May 23, 1994, and was officially filed May 25, 1994.

This plat was prepared at the request of the United States Forest Service, Prescott National Forest.

A plat representing the dependent survey of a portion of the subdivisional lines in Township 15 South, Range 17, Gila and Salt River Meridian, Arizona, was accepted June 8, 1994, and was officially filed June 16, 1994.

This plat was prepared at the request of the United States Forest Service, Coronado National Forest.

2. These plats will immediately become the basic records for describing the land for all authorized purposes. These plats have been placed in the open files and are available to the public for information only.

3. All inquiries relating to these lands should be sent to the Arizona State Office, Bureau of Land Management, P.O. Box 16563, Phoenix, Arizona 85011.

James P. Kelley,

Chief Cadastral, Surveyor of Arizona.

[FR Doc. 94–18398 Filed 7–27–94; 8:45 am]

BILLING CODE 4310–22–M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before July 16, 1994. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, D.C. 20013–7127. Written comments

should be submitted by August 12, 1994.

Antoinette J. Lee,

Acting Chief of Registration, National Register.

ARIZONA

Pinal County

Magma Hotel, 100–130 Main St., Superior, 94000981

ARKANSAS

Cleburne County

Dill School (Public School in the Ozarks MPS), AR 5/25 W side, N of Ida, Ida vicinity 94000854

Woman's Community Club Band Shell, NE corner of Spring Park, Heber Springs, 94000849

Cleveland County

Attwood—Hopson House, AR 8, N side, New Edinburg, 94000848

Craighead County

Nash—Reid—Hill House, 418 W. Matthews Ave., Jonesboro, 94000852

Greene County

Gulf Oil Company Service Station, Jct. of Main and S. Third Sts., SE corner, Paragould, 94000850

Independence County

Bartlett—Kirk House, 910 College St., Batesville, 94000856

Logan County

Chism, Dr. Stephen N., House, AR 23 E side, S of jct. with AR 217, Booneville vicinity, 94000853

Pope County

Riggs—Hamilton American Legion Post No. 20, 215 N. Denver Ave., Russellville, 94000855

Randolph County

Hillyard Cabin, Old Burr Rd., W side, NE of Warm Springs, Warm Springs vicinity, 94000851

CALIFORNIA

Contra Costa County

Danville Southern Pacific Railroad Depot, 355 railroad Ave., Danville, 94000860

Sacramento County

Sacramento Junior College Annex and Extensions, 3835 Freeport Blvd., Sacramento, 94000924

San Francisco County

Ohlandt Newlyweds House, Address Restricted, San Francisco, 94000995

DISTRICT OF COLUMBIA

District of Columbia State Equivalent

Greater Fourteenth Street Historic District, Roughly bounded by S, 12th, N and 15th Sts., NW., Washington, 94000992

ILLINOIS

Coles County

Railway Express Agency Building, 1804 Western Ave., Mattoon, 94000974

Starr Hotel, 1913–1923 Western Ave., Mattoon, 94000975

Cook County

Edgewater Beach Apartments, 5555 N. Sheridan Rd., Chicago, 94000979

Grundy County

Coleman Hardware Company Building, 100 Nettle St., Morris, 94000980

Kane County

Arcada Theater Building, 105 E. Main St. and 1st Ave., St. Charles, 94000977

Elgin National Watch Company Observatory, 312 Watch St., Elgin, 94000976

Will County

Heck, John, House, 1225 S. Hamilton St., Lockport, 94000978

Woodford County

El Paso Public Library (Illinois Carnegie Libraries MPS), 149 W. First St., El Paso, 94000972

Illinois Central Railroad and Toledo, Peoria, and Western Railroad Freight House, 8–10 E. Front St., El Paso, 94000973

LOUISIANA

St. James Parish

Colonial Sugars Historic District, 1250 S. Fifth Ave., Gramercy, 94000858

MONTANA

Blaine County

Dave's Texaco (Roadside Architecture Along US 2 in Montana MPS), 237 Pennsylvania St., Chinook, 94000862

Young Brothers Chevrolet Garage (Roadside Architecture Along US 2 in Montana MPS), 201 Pennsylvania St., Chinook, 94000867

Flathead County

Alexander and Busey Houses (Kalispell MPS), 106 and 112 Fifth Ave. W., Kalispell, 94000869

Anderson Style Shop (Kalispell MPS), 222 Main St., Kalispell, 94000870

Bader-Jaquette and Westwang Houses and Rental Property (Kalispell MPS), 46 and 36 5th Ave. W., Kalispell, 94000871

Beaman House (Kalispell MPS), 230 Fourth Ave. W., Kalispell, 94000872

Billsborough House (Kalispell MPS), 376 6th Ave. E. N., Kalispell, 94000873

Boyd's Shop (Kalispell MPS), 227 First St. W., Kalispell, 94000874

Brice Apartments (Kalispell MPS), 228 2nd Ave. E., Kalispell, 94000875

City Water Department (Kalispell MPS), 336 First Ave. E., Kalispell, 94000876

Continental Oil Company Filling Station (Kalispell MPS), 35 First Ave. N., Kalispell, 94000877

Continental Oil Company Warehouses and Garage (Kalispell MPS), 51 First Ave. W. N., Kalispell, 94000878

Courthouse Historic District (Kalispell MPS), 500–800 blocks of Main St., Kalispell, 94000879

East Side Historic District (Kalispell MPS), Roughly bounded by Central St. E., Woodland Park, Woodland Ave., 13th St. E. and 1st Ave. E., Kalispell, 94000880

Equity Supply Company Elevator and Creamery (Kalispell MPS), 50 First Ave. W N., Kalispell, 94000881

Federal Building (Kalispell MPS), 247 First Ave. E., Kalispell, 94000882

Ferguson House (Kalispell MPS), 320 Fourth Ave. W., Kalispell, 94000883

Fisher House (Kalispell MPS), 441 Second St W., Kalispell, 94000884

Flathead Wholesale Grocery (Kalispell MPS) 5 First Ave. E., Kalispell, 94000885

Gay, Edward, House (Kalispell MPS), 236 Fifth Ave. W., Kalispell, 94000886

Gibson-Lebert House (Kalispell MPS), 461 E. California St., Kalispell, 94000887

Graham House (Kalispell MPS), 825 6th Ave E., Kalispell, 94000888

Great Northern Railway Depot (Kalispell MPS), 15 Depot Loop, Kalispell, 94000889

Gregg-Moses House (Kalispell MPS), 27 8th Ave. W., Kalispell, 94000890

Hodgson House (Kalispell MPS), 314 9th Ave W., Kalispell, 94000891

Hotel Norden (Kalispell MPS), 24 First Ave. W., Kalispell, 94000892

Houtz House (Kalispell MPS), 822 Fifth Ave. W., Kalispell, 94000893

Johnson-Lee House (Kalispell MPS), 651 2nd Ave. W. N., Kalispell, 94000894

Kalispell Flour Mill (Kalispell MPS), 506 W Center St., Kalispell, 94000896

Kalispell Monumental Company (Kalispell MPS), 7 First Ave. E., Kalispell, 94000898

Kalispell-American Laundry (Kalispell MPS), 121 First Ave. E., Kalispell, 94000895

Kerr House (Kalispell MPS), 136 Fifth Ave. W., Kalispell, 94000899

Leibig House (Kalispell MPS), 396 Fourth Ave. E. N., Kalispell, 94000900

Long House (Kalispell MPS), 393 8th Ave. E. N., Kalispell, 94000901

Main Street Commercial Historic District (Kalispell MPS), 34–343 Main St. and 116–142 1st Ave. E., Kalispell, 94000904

McGee House (Kalispell MPS), 454 First Ave. E. N., Kalispell, 94000903

McMannamy House and Rental Properties (Kalispell MPS), 1020 5th Ave. W., 1004, 1012 and 1020 1/2 5th Ave. W., and 508 and 516 10th St. W., Kalispell, 94000902

Norwegian Evangelical Lutheran Church and Parsonage (Kalispell MPS), 344 and 332 5th Ave. W., Kalispell, 94000905

O'Neil Lumber Company Office (Kalispell MPS), 424 Main St., Kalispell, 94000906

Reid-Kent House (Kalispell MPS), 246 8th Ave. W., Kalispell, 94000907

Rogers House (Kalispell MPS), 380 Fifth Ave. E. N., Kalispell, 94000908

Roose-Eckelberry House (Kalispell MPS), 146 Third Ave. W., Kalispell, 94000909

Russell School (Kalispell MPS), 227 W. Nevada St., Kalispell, 94000910

Sauser-Mercord Building (Kalispell MPS), 223–240 Main St., Kalispell, 94000911

Scandinavian Methodist Church (Kalispell MPS), 203 Fifth Ave. W., Kalispell, 94000912

Scott-Forhan House (Kalispell MPS), 326 Fourth Ave. W., Kalispell, 94000913

Smith House (Kalispell MPS), 476 Fourth Ave. E.N., Kalispell, 94000915

Snyder House (Kalispell MPS), 514 8th Ave. W., Kalispell, 94000916

Thibodeau Electric Shop (Kalispell MPS), 313 2nd Ave. W., Kalispell, 94000917

Thierwechter House (Kalispell MPS), 305 Fourth Ave. W., Kalispell, 94000918
Waggener & Campbell Funeral Home (Kalispell MPS), 228 2nd St. W., Kalispell, 94000919
Walker House (Kalispell MPS), 1122 First Ave. W., Kalispell, 94000920
West Side Historic District (Kalispell MPS), Roughly bounded by 4th St. W., Main St., 10th St. W. and 4th Ave. W., Kalispell, 94000921
Woll House (Kalispell MPS), 905 Fourth Ave. W., Kalispell, 94000922

Hill County

Heltne Oil Company (Roadside Architecture Along US 2 in Montana MPS), 140 First St., Havre, 94000865

Phillips County

Clack, H. Earl, Service Station (Roadside Architecture Along US 2 in Montana MPS), US 2, S side, Saco, 94000863

Roosevelt County

Hale's Filling Station and Grocery (Roadside Architecture Along US 2 in Montana MPS), Lanark Townsite, Bainville vicinity, 94000864

Toole County

Rainbow Conoco (Roadside Architecture Along US 2 in Montana MPS), 400 Main St., Shelby, 94000866

NEW JERSEY

Monmouth County

Monmouth Boat Club, Union St. E of Boat Club Ct., Red Bank, 94000857

NEW MEXICO

McKinley County

Peggy's Pueblo, Address Restricted, Zuni vicinity, 94000993

NEW YORK

Yates County

Bailey, Jonathan, House (Yates County MPS), Bath Rd., Milo, 94000926
Bitley, Peter, House (Yates County MPS), W. Lake Rd. (Co. Rt. 54A), Jerusalem, 94000927
Bitley, Thomas, House (Yates County MPS), Lake St., Jerusalem, 94000928
Botsford, Samuel, House (Yates County MPS), County House Rd., Jerusalem, 94000929
Briggs, John, House (Yates County MPS), 2646 Himrod Rd., Milo Center, 94000930
Carr, John, House (Yates County MPS), NY 245, Middlesex, 94000931
Curtis, Thomas Bennett, House (Yates County MPS), Shannon Corners Rd., Starkey, 94000932
Fox, James, House (Yates County MPS), 750 Italy Valley Rd., Italy, 94000934
Green, Asahel, Farm (Yates County MPS), S. Vine Valley Rd., Middlesex, 94000935
Hair, Uriah, House (Yates County MPS), Water St. (Dundee—Himrod Rd.), Dundee, 94000936
Hampstead (Yates County MPS), 3170 Co. Rt. 54A, Jerusalem, 94000937
Hanford, Uriah, House (Yates County MPS), W. Lake Rd., Jerusalem, 94000938
Hays, George House (Yates County MPS), County House Rd., Jerusalem, 94000939
Himrod Baptist Church (Yates County MPS), Himrod Rd., Milo, 94000940
Hobart, James, House (Yates County MPS), 4646 Italy Valley Rd., Potter, 94000941
Italy Valley Methodist Church (Yates County MPS), Italy Valley Rd., Italy, 94000942
McLoud, Smith, House (Yates County MPS), Italy Tpk., Italy, 94000944
Middlesex Center Methodist Church (Yates County MPS), Main St., Middlesex, 94000945
Morrison, Roderick M., House (Yates County MPS), 105 Highland Dr., Penn Yan, 94000946
Noyes, John, House (Yates County MPS), Lakemont—Himrod Rd., Starkey, 94000947
Overackers Corners Schoolhouse (Yates County MPS), Vine Valley Rd., Middlesex, 94000948
Perry, Ezikial, House (Yates County MPS), 287 Sherman Hollow Rd., Jerusalem, 94000949
Potter, Arnold, House (Yates County MPS), 1445 Voak Rd., Potter, 94000950
Raplee, Miles, House (Yates County MPS), Randall Rd., Milo, 94000951
Sill Tenant House (Yates County MPS), 3232 Co. Rt. 54, Jerusalem, 94000952
Spicer—Millard House (Yates County MPS), Crystal Springs Rd. (NY 230), Barrington, 94000953
St. Luke's Episcopal Church (Yates County MPS), W. Lake Rd. (Co. Rt. 54A), Jerusalem, 94000954
Starkey United Methodist Church (Yates County MPS), Lakemount—Himrod Rd., Starkey, 94000955
Swarthout, William, Farm (Yates County MPS), Bath Rd., Milo, 94000956
Swortz, William, House (Yates County MPS), Dundee—Himrod Rd., Starkey, 94000956
Vine Valley Methodist Church (Yates County MPS), Robeson Rd., Middlessex, 94000958
Wagener, Abraham, House (Yates County MPS), Skyline Rd., Jerusalem, 94000959
Wagener, Charles, House (Yates County MPS), 351 Elm St., Penn Yan, 94000960
Wagener, H. Allen, House (Yates County MPS), 367 W. Lake Rd., Jerusalem, 94000961
Weaver, Myron, House (Yates County MPS), 21 S. Main St., Branchport, 94000962
Weaver, Solomon, House (Yates County MPS), 7 S. Main St., Branchport, 94000963
Whitaker House (Yates County MPS), Benton—Torrey Town Line Rd., Benton, 94000964
Wilkinson, Jemima, House (Yates County MPS), 3912 Friend Hill Rd., Jerusalem, 94000965
Williams, Sherman, House and Fruit Barn (Yates County MPS), Co. Rt. 54A, Jerusalem, 94000966
Willis, Christopher, House (Yates County MPS), 57 Seneca St., Dresden, 94000967
Wilson, Milton, House (Yates County MPS), 28 Gilbert St., Rushville, 94000968
Woodworth, Abner, House (Yates County MPS), Flat St., Benton, 94000969
Wrightman, Dr. James, House (Yates County MPS), 48 W. Lake Rd., Branchport, 94000970
Yatesville Methodist Church (Yates County MPS), Yatesville Rd., Potter, 94000971

PUERTO RICO

Vieques Municipality

Las Tumbas de J. J. Maria le Guillou, 200 Santa Maria Rd., Isabel Segunda vicinity, 94000923

SOUTH CAROLINA

Horry County

Waccamaw River Memorial Bridge, Main St. (US 501) over the Waccamaw R., Conway, 94000994

TEXAS

Callahan County

Howard, Robert E., House, Jct. of TX 36 (Fourth St.) and Ave. J, Cross Plains, 94000984

Harris County

Westmoreland Historic District, Bounded by Hawthorne, Burlington and Marshall Aves. and Garrott St., Houston, 94000859

Jefferson County

Woman's Club of Beaumont Clubhouse, 575 Magnolia Ave., Beaumont, 94000983

Potter County

US Route 66—Sixth Street Historic District, Sixth Ave. between Georgia and Forrest Aves., Amarillo, 94000982

VERMONT

Caledonia County

Marshall, Caleb H., House (St. Johnsbury MPS), 53 Summer St., St. Johnsbury, 94000868
Shearer and Corser Double House (St. Johnsbury MPS), 81–83 Summer St., St. Johnsbury, 94000861

VIRGINIA

Hanover County

Springfield, VA 631 S side, 0.4 mi. SW of Jct. with VA 671, Coatesville vicinity, 94000990

Loudoun County

Rose Hill Farm, US 50 N side, 1.5 mi. W of jct. with VA 713, Upperville vicinity, 94000986
Sunnyside Farm, VA Bus. 7 S side, 1150 ft. E of jct. with VA 287, Hamilton vicinity, 94000989

Russell County

Smithfield, VA 19 NW side, 3 mi. SW of Rosedale, Rosedale vicinity, 94000988

Tazewell County

Maiden Spring, Jct. of VA 609 and VA 91, Pounding Mill vicinity, 94000987

Radford Independent City

La Riviere, 5 Ingles St., Radford (Independent City), 94000991

WISCONSIN

Dodge County

Kekoskee Archeological District, Address Restricted, Kekoskee vicinity, 94000985

[FR Doc. 94–18321 Filed 7–27–94; 8:45 am]
BILLING CODE 4310–70–M

Bureau of Reclamation

Quarterly Status Report of Water Service and Repayment Contract Negotiations

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given of contractual actions that are new, modified, discontinued or completed since the last publication of this notice on May 6, 1994. The May 6, 1994 notice should be used as a reference point to identify changes. This notice is one means in which the public is informed about contractual actions for capital recovery and management of project resources and facilities. Additional Bureau of Reclamation (Reclamation) announcements of individual contract actions may be published in the **Federal Register** and in newspapers of general circulation in the areas determined by Reclamation to be affected by the proposed action. Announcements may be in the form of news releases, legal notices, official letters, memorandums, or other forms of written material. Meetings, workshops, and/or hearings may also be used, as appropriate, to provide local publicity. These public participation procedures do not apply to proposed contracts for the sale of surplus or interim irrigation water for a term of 1 year or less. Either of the contracting parties may invite the public to observe any contract proceedings. All public participation procedures will be coordinated with those involved in complying with the National Environmental Policy Act.

ADDRESSES: The identity of the approving officer and other information pertaining to a specific contract proposal may be obtained by calling or writing the appropriate regional office at the address and telephone number given for each region in the supplementary information.

FOR FURTHER INFORMATION CONTACT: Hendrik Willems, Acting Chief, Program Analysis Office—Washington Liaison, Bureau of Reclamation, 1849 C Street NW., Washington, DC 20240; telephone 202–208–3014.

SUPPLEMENTARY INFORMATION: Pursuant to section 226 of the Reclamation Reform Act of 1982 (96 Stat. 1273) and 43 CFR 426.20 of the rules and regulations published in 52 FR 11954, April 13, 1987, Reclamation will publish notice of proposed or amendatory contract actions for any contract for the delivery of project water for authorized uses in newspapers of general circulation in the affected area at least 60 days prior to contract execution. Pursuant to the "Final Revised Public Participation Procedures" for water resource-related contract negotiations, published in 47 FR 7763, February 22, 1982, a tabulation is provided of all proposed contractual actions in each of the five Reclamation regions. Each proposed action is, or is expected to be, in some stage of the contract negotiation process in 1994. When contract negotiations are completed, and prior to execution, each proposed contact form must be approved by the Secretary, or pursuant to delegated or redelegate authority, the Commissioner of Reclamation or one of the Regional Directors. In some instances, congressional review and approval of a report, water rate, or other terms and conditions of the contract may be involved.

Public participation in and receipt of comments on contract proposals will be facilitated by adherence to the following procedures:

11. Only persons authorized to act on behalf of the contracting entities may negotiate the terms and conditions of a specific contract proposal

2. Advance notice of meetings or hearings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of Reclamation

3. Written correspondence regarding proposed contracts may be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383) as amended.

4. Written comments on a proposed contract or contract action must be submitted to the appropriate Reclamation officials at the locations and within the time limits set forth in the advance public notices.

5. All written comments received and testimony presented at any public hearings will be reviewed and summarized by the appropriate regional office for use by the contract approving authority.

6. Copies of specific proposed contracts may be obtained from the appropriate Regional Director or his designated public contact as they become available for review and comment.

7. In the event modifications are made in the form of a proposed contact, the appropriate Regional Director shall determine whether republication of the notice and/or extension of the comment period is necessary.

Factors considered in making such a determination shall include, but are not limited to: (i) the significance of the modification, and (ii) the degree of public interest which has been expressed over the course of the negotiations. As a minimum, the Regional Director shall furnish revised contracts to all parties who requested the contract in response to the initial public notice.

Acronym Definitions Used Herein

(BCP) Boulder Canyon Project
(CAP) Central Arizona Project
(CUP) Central Utah Project
(CVP) Central Valley Project
(CRSP) Colorado River Storage Project
(D&MC) Drainage and Minor Construction
(FR) Federal Register
(IDD) Irrigation and Drainage District
(ID) Irrigation District
(M&I) Municipal and Industrial
(O&M) Operation and Maintenance
(P–SMBP) Pick-Sloan Missouri Basin Program
(Pub. L.) Public Law
(R&B) Rehabilitation and Betterment
(SRPA) Small Reclamation Projects Act
(WCUA) Water Conservation and Utilization Act
(WD) Water District

Pacific Northwest Region

Bureau of Reclamation, 1150 North Curtis Road, Boise, Idaho 83706–1234, telephone 208–378–5346.

The following contract actions are new or have been completed in the Pacific Northwest Region since this notice was last published on May 6, 1994:

1. Contract Action Completed

Mitigation, Inc., Palisades/Ririe Projects, Idaho: Contract for storage space in Palisades and Ririe Reservoirs (18,980 and 80,500 acre-feet, respectively) pursuant to section 5(a) of the Fort Hall Indian Water Rights Act of 1990. Contract executed March 31, 1994, Contract Number 4–07–10–W0999.

2. New Proposed Contract Action

Palmer Creek Water District Improvement Company, Willamette Basin Project, Oregon: Irrigation water service contract for approximately 13,000 acre-feet.

3. New Proposed Contact Action

Umatilla Project Irrigation Districts, Oregon: Temporary contracts with Hermiston, Stansfield, Westland, and West Extension Irrigation Districts to provide water service for 1994.

Mid-Pacific Region

Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825–1898, telephone 916–978–5030.

1. Contract Action Completed

Contra Costa WD, CVP, California: Amendatory water service contract to add the operation of the Los Vaqueros Project, including an additional point of delivery; the amendment will also conform the contract to current Reclamation policies, including the water ratesetting policy, and Pub. L. 102–575. Contract executed May 26, 1994, Contract Number I75r–3401.

2. Contract Action Discontinued

Century Ranch Water Company, Inc., CVP, California: Long-term exchange contract for M&I, less than 100 acre-feet; Stony Creek Watershed above Black Butte Dam.

3. Contract Action Discontinued

State of California, Department of Forestry, CVP, California: Water right exchange agreement, less than 100 acre-feet, above Black Butte Dam.

4. Contract Action Completed

Sierra Pacific Power Company, Pyramid Lake Tribe, Washoe County Water Conservation District; Washoe and Truckee-Storage Projects; Nevada and California: Interim storage contract, authorized under Pub. L. 101–618, and the provision of the Warren Act as supplemented by the Reclamation States Emergency Drought Act to convey and/or store non-project water in Stampede Reservoir and in Boca Reservoir. Contract executed June 29, 1994, Contract Number 4–07–20–W1177.

5. Non-Federal Entity, CVP, California

Cost-sharing agreement with a yet to be determined non-Federal entity for the Folsom Dam and Reservoir reoperation. Proposed Contract Action Modified to Read as Follows: Sacramento Area Flood Control Agency, CVP, California: Agreement for the Folsom Dam and Reservoir reoperation.

6. U.S. Fish and Wildlife Service, California Department of Fish and Game, Grassland WD; CVP; California

Water service contracts to provide Level II water supplies for refuges within the CVP pursuant to Pub. L. 102–575; exchange agreements and wheeling contracts to deliver some of the increased refuge water supplies; quantity to be contracted for is approximately 450,000 acre-feet. Proposed Contract Action Modified to Read as Follows: U.S. Fish and Wildlife Service, California Department of Fish and Game, Grassland WD; CVP; California: Water Service contracts to provide water supples for refuges within the CVP pursuant to Federal Reclamation Laws; exchange agreements and wheeling contracts to deliver some of the increased refuge water supplies; quantity to be contracted for is approximately 450,000 acre-feet.

7. Contract Action Completed

State of California, CVP, California: Cost sharing agreement with State of California pursuant to CVP Improvement Act (Pub. L. 102–575). The cost sharing agreement with the State will provide for the general principles and administration of cost sharing for and implementation of specific restoration actions identified in Pub. L. 102–575. Agreement executed June 27, 1994.

Lower Colorado Region

Bureau of Reclamation, P.O. Box 61470 (Nevada Highway and Park Street), Boulder City, Nevada 89006–1470, telephone 702–293–8536.

No changes in contract actions in the Lower Colorado Region since this notice was last published on May 6, 1994.

Upper Colorado Region

Bureau of Reclamation, P.O. Box 11563, (125 South State Street), Salt Lake City, Utah 84147, telephone 801–524–5435.

The following proposed contract action is new in the Upper Colorado Region since this notice was last published on May 6, 1994.

New Proposed Contract Action

Florida Water Conservancy District, Florida Project, Colorado: Water service contract to market for municipal and industrial use 114 acre-feet of water rights held by the United States.

Great Plains Region

Bureau of Reclamation, P.O. Box 36900, Federal Building, 316 North 26th Street, Billings, Montana 59107–6900, telephone 406–657–6413.

The following contract actions have been completed or discontinued in the Great Plains Region since this notice was last published on May 6, 1994:

1. Corn Creek ID, Glendo Unit, P–SMBP, Wyoming: Repayment contract for 10,350 acre-feet of supplemental irrigation water from Glendo Reservoir. Proposed Contract Action to Read as Follows: Corn Creek Irrigation, Glendo Unit, P–SMBP, Wyoming: Repayment contract for 10,350 acre-feet of supplemental irrigation water from Glendo Reservoir pending completion of NEPA review.

Dated: July 21, 1994.

Darrell D. Mach,

Acting Director, Operations.

[FR Doc. 94–18424 Filed 7–27–94; 8:45 am]

BILLING CODE 4310–94–M

INTERNATIONAL BOUNDARY AND WATER COMMISSION

Availability of Final Environmental Assessment and Finding of No Significant Impact

AGENCY: United States Section, International Boundary and Water Commission, United States and Mexico.

ACTION: Notice of availability of final environmental assessment and finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Final Regulations (40 CFR Parts 1500 through 1508); and the Operational Procedures of the United States Section, International Boundary and Water Commission, United States and Mexico (USIBWC), for Implementing Section 102 of NEPA, published in the **Federal Register** September 2, 1981 (46 FR 44083); the USIBWC hereby gives notice that the Final Environmental Assessment and Final Finding of No Significant Impact for Quisto Energy Corporation (Quisto) to construct, operate, and maintain a gas well located on the Main Floodway of the Lower Rio Grande Flood Control Project (LRGFCP) are available. The USIWBWC finds that the proposed action to issue a license to Quisto for such works is not a major federal action that would have a significant adverse effect on the quality of the human environment. A Notice of Finding of No Significant Impact was signed June 17, 1994, (59 FR 33303–33304) and provided a thirty (30) day review and comment period before making the finding final.

ADDRESSES: Dr. Conrad G. Keyes, Jr., Principal Engineer, Planning, United States Section, International Boundary and Water Commission, United States and Mexico, 4171 North Mesa Street, C–310, El Paso, Texas 79902–1441. Telephone: 915/534–6703.

SUPPLEMENTARY INFORMATION:

Proposed Action

The action proposed is the USIBWC to issue a license to Quisto to construct, operate, and maintain a gas well and install related features with Meyerhoff No. 3 Drilling Unit, Lot 271, Kelly-Pharr Subdivision, Hildalgo County, Texas. The gas well is proposed to be located on privately owned land within the Main Floodway of the USIBWC LRGFCP approximately 8 kilometers (5 miles) southeast of the town of Pharr. Access to the drilling site is by way of existing county and private roads.

Alternatives Considered

Three alternatives were considered in the Environmental Assessment (EA):

The Proposed Action Alternative is for Quisto to construct, operate, and maintain a gas well in a cultivated field within the Main Floodway of the USIBWC LRGFCP. The proposed action will require the USIBWC to issue a license to ensure that such works do not cause an obstruction to flood flows within the floodway or interfere with the operation and maintenance of the LRGFCP.

The No Action Alternative is for Quisto to not construct, operate, and maintain a gas well within the Main Floodway of the LRGFCP. The no action alternative will not require the USIBWC to issue a license since no work will be done within the LRGFRCP. The no action alternative will result in the denial of access to the mineral owner to rightfully owned minerals, loss of tax revenues to the State of Texas, and result in an unrecoverable clean energy source.

The Directional Well alternative is for Quisto to drill a well from outside the Main Floodway to a depth below the proposed surface location. The directional well alternative will not require the USIBWC to issue a license since no work will be done within the LRGFCP. The directional well alternative is considered not workable because of a lack of an available surface drillsite outside the Main Floodway and technical problems associated with a bottomhole location some 610 meters (2,000 feet) or more from the surface location.

Finding of the Final Environmental Assessment

The EA finds that the proposed action for Quisto to construct, operate, an maintain a gas well within the Main Floodway of the USIBWC LRGFCP (and the USIBWC to issue a license for such work) does not constitute a major federal action which would cause a significant local, regional, or national adverse impact on the environment based on the following facts:

1. The United States Army Corps of Engineers has determined that no waters of the United States including wetlands will be impacted by the proposed gas well and related features.

2. The United States Fish and Wildlife Service has determined that federally listed endangered or threatened species are unlikely to be adversely affected by the proposed gas well and related features.

3. The Texas Historical Commission and Department of Antiquities Protection have determined that no survey is required and the project may proceed.

4. The USIBWC Water Resources Investigations Division has determined that the proposed gas well and related features will have no significant effect upon the flood carrying capacity of the Main Floodway.

Availability

Single copies of the Final Environmental Assessment and Final Finding of No Significant Impact may be obtained by request at the above address.

Dated: July 18, 1994.

Suzette Zaboroski,

Staff Counsel.

[FR Doc. 94–18320 Filed 7–27–94; 8:45 am]

BILLING CODE 4710–03–M

INTERSTATE COMMERCE COMMISSION

Agency Information Collection Under OMB Review

The following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) are being submitted to the Office of Management and Budget for review and approval. Copies of the form and supporting documents may be obtained from the Agency Clearance Officer, Nancy Sipes, (202) 927–5040. Comments regarding this information collection should be addressed to Nancy Sipes, Interstate Commerce Commission, Room 4136, Washington, DC 20423 and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attn: Desk Officer for ICC, Washington, DC 20503. When submitting comments, refer to the OMB number or the title of the form.

Type of Clearance: Extension of a currently approved collection without change.

Bureau/Office: Office of Proceedings

Title of Form: Rules for Systems Diagram Maps, Financial Assistance of Railroad Lines.

OMB Form Number: 3120–0045

Agency Form Number: None

Frequency: Systems Diagram Maps—Annually Financial Assistance—Discretion of applicant.

No. of Respondents: Systems Diagram Maps—Annually Financial Assistance—Discretion of applicant.

Total Burden Hours: Systems Diagram Maps—300

Type of Clearance: Extension of a currently approved collection without change.

Bureau/Office: Office of Proceedings

Title of Form: Maps to be Submitted in Abandonment Exemption Proceedings.

OMB Form Number: 3120–0137

Agency Form No.: None

Frequency: Submitted by railroads when seeking abandonment exemption.

No. of Respondents: 114

Total Burden Hours: 114

Anne K. Quinlan,

Acting Secretary.

[FR Doc. 94–18391 Filed 7–27–94; 8:45 am]

BILLING CODE 7035–01–P

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent Company: Philip Environmental Inc., 651 Burlington Street East, Hamilton, Ontario L8L 7W2.

2. Wholly-owned subsidiaries which will participate in the operations, and their state(s), province(s), or country of incorporation:

475955 Ontario Limited (Province of Ontario)
800151 Ontario Inc. (Province of Ontario)
836750 Ontario Inc (Province of Ontario)
842578 Ontario Limited (Province of Ontario)
912613 Ontario Ltd. (Province of Ontario)
2945878 Canada Inc. (Canada)
2842–7979 Quebec Inc. (Quebec)
Barringer Laboratories Limited (Province of Ontario)
Berthiaume Environment Inc. (Canada)
Burlington Environmental Inc. (State of Delaware)
Burlington Environmental Inc. (State of Missouri)
Burlington Environmental Inc. (State of Washington)
Canadian Disposal Services Ltd. (Province of Ontario)
Carundol Environmental Ltd. (Province of Ontario)
Centre de Tri Transit Inc. (Canada)
Chem-King Inc. (Province of Ontario)
Dechex-Ltee (Canada)
Gasoline Tank Service Company Inc. (State of Washington)
Gestion Fudico Ltee (Canada)
Gore Sanitation Service Limited (Province of Ontario)
Hydro Dynamics Industrial & Environmental Services Inc. (Province of Ontario)
K&E Solid Waste Management Ltd. (Province of Ontario)

K&E Waste Resource Inc. (Province of Ontario)
Kingswood Waste Systems Ltd. (Province of Ontario)
Les Enterprises de Rebuts Sanipan Inc. (Canada)
Location Sanico Ltee. (Canada)
Metal Recovery Industries Inc. (Province of Ontario)
Nortru, Inc. (State of Michigan)
Phencorp International Finance Inc. (Ireland)
Phencorp Reinsurance Company Inc. (Barbados)
Philip Demolition Inc. (Province of Ontario)
Philip Enterprises Inc. (Province of Ontario)
Philip Environmental (Delaware), Inc. (State of Delaware)
Philip Environmental (Elmira) Inc. (Province of Ontario)
Philip Environmental (Michigan) Acquisition Corp. (State of Michigan)
Philip Environmental (Michigan) Inc. (State of Michigan)
Philip Environmental (New York) Inc. (State of New York)
Philip Environmental (Quebec) Inc. (Province of Quebec)
Philip Environmental Services Corp. (Province of Ontario)
Philip Environmental (Washington) Inc. (State of Washington)
Recyclage Coto-Nord Inc. (Canada)
Recyclage d'Aluminum Quebec Inc./ Quebec Aluminum Recycling Inc. (Canada)
Renaissance Plastics Inc. (Province of Ontario)
Resource Recovery Corporation (State of Washington)
Sablix Inc. (Canada)
Sanivan (1993) Inc. (Canada)
S-N-S Recycling, Inc. (State of Michigan)
Solvent Recovery Corporation (State of Missouri)
S&S Environmental, Inc. (State of Michigan)
Taro Aggregates Ltd. (Province of Ontario)
Termco Corporation (State of Washington)
The Prus Corporation (State of Michigan)
Transport Sanico Ltee (Canada)
United Drain Oil Service Inc. (State of Washington)
Waxman Resources Inc. (Province of Ontario)
W. Kumdernma and J. Esser Ltd. (Province of Ontario)

Anne K. Quinlan,

Acting Secretary.

[FR Doc. 94–18390 Filed 7–27–94; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to Clean Air Act

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on July 1, 1994, a proposed Consent Decree in *United States* v. *Terry T. Harrah*, Civil Action No. 1–94–1351, was lodged in the United States District Court for the Northern District of Ohio. The Complaint filed by the United States alleged violations of the Clean Air Act, the National Emission Standards for Hazardous Air pollutants (NESHAP) for Asbestos, 40 CFR Part 61, Subpart M. The Consent Decree also requires the defendant to comply with the asbestos NESHAP and prohibits the defendant from engaging in demolition or renovation activity involving asbestos until he has completed USEPA-approved training in the proper handling of asbestos.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments concerning the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States* v. *Terry T. Harrah*, D.J. Ref. No. 90–11–2–791A.

The proposed Consent Decree may be examined at any of the following offices: (1) The United States Attorney for the Northern District of Ohio, 1800 Bank One Center, 600 Superior Avenue, East, Cleveland, Ohio 44114–2600 (contact Assistant United States Attorney Arthur I. Harris); (2) the U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590 (contact Assistant Regional Counsel Susan Perdomo); and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. Copies of the proposed Consent Decree may be obtained in person or by mail the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, DC 20005. For a copy of the Consent Decree please enclose a check in the amount of $3.00 (25 cents per page reproduction charge) payable to Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment & Natural Resources Division.

[FR Doc. 94–18406 Filed 7–27–94; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Lassen Gold Mining, Inc.*, Civil Action No. CIV-S-94–1127 LKK (E.D. Cal.), was lodged on July 11, 1994 with the United States District Court for the Eastern District of California. In the complaint in that action, the United States seeks from defendant Lassen Gold Mining, Inc. ("Lassen") civil penalties and injunctive relief under Sections 113(b) and 111(e) of the Clean Air Act (the "Act"), 42 U.S.C. §§ 7413(b) and 7411(e), for Lassen's failure to obtain permits before commencing certain construction activities and failure to provide notice of construction activities and the start of operations at Lassen's Hayden Hill open pit gold mine in Lassen County, California. The proposed consent decree requires Lassen to comply with the notice and permit requirements of the regulations implementing the Act, appoint an environmental manager, and to pay a penalty of $125,000.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Washington, DC 20044; be copied to Robert R. Klotz, U.S. Department of Justice, 301 Howard Street, Suite 870, San Francisco, CA 94105; and refer to *United States* v. *Lassen Gold Mining, Inc.*, DOJ Ref. #90–5–2–1–1762.

The proposed consent decree may be examined at the office of the United States Attorney, Eastern District of California, 555 Capitol Mall, Sacramento, California 95814; at the Region IX office of the Environmental Protection Agency, 75 Hawthorne Street, San Francisco, California 94105; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In regarding a copy please refer to the referenced case and enclose a check in the amount of $3.75 (25 cents per page

reproduction costs), payable to the Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 94–18405 Filed 7–27–94; 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 13, 1994, Dupont Pharmaceuticals, The Dupont Merck Pharmaceutical Company, 1000 Stewart Avenue, Garden City, New York 11530, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Oxycodone (9143)	II
Hydrocodone (9193)	II
Oxymorphone (9652)	II

Any other such applicant and any person who is presently registered with DEA top manufacture such substances may file comments or objections to the issuance 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 request 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 (30 days from publication).

Dated: July 19, 1994.

Gene R. Haislip,

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

[FR Doc. 94–18342 Filed 7–27–94; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated May 3, 1994, and published in the **Federal Register** on May 10, 1994, (59 FR 24184), Roche Diagnostic Systems, Inc., 1080 U.S. Highway 202, Branchburg, New Jersey 08876, made application to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Lysergic acid diethylamide (7315).	I
Tetrahydrocannabinols (7370)	I
Phencyclidine (7471)	II
Methadone	II

No comments or objections have been received. Therefore, pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, Section 1301.54(e), the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: July 20, 1994.

Gene R. Haislip,

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

[FR Doc. 94–18343 Filed 7–27–94; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Office of the Secretary

Women's Bureau; Announcement of Extended Deadline for Competitive 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 of extended deadline.

SUMMARY: The National Office (Washington, DC) of the Women's Bureau, U.S. Department of Labor, announces an extension of the deadline for competitive applications to the Women in Apprenticeship and Nontraditional Occupations (WA–NTO) Act competition. The competition was originally announced in the **Federal Register**, Vol. 59, No. 124, Wednesday, June 29, 1994, at 59 F.R. 33545, with an original deadline of August 5, 1994.

All applications must now be submitted to the U.S. Department of Labor, Office of Procurement Services, room S–5220, 200 Constitution Avenue NW., Washington, DC 20210, not later than 4:45 p.m. EDT, August 19, 1994.

FOR FURTHER INFORMATION CONTACT: Ms. Roberta McKay, at 202–219–6626.

Signed at Washington, DC, this 22nd day of July 1994.

Karen Nussbaum,

Director, Women's Bureau.

[FR Doc. 94–18414 Filed 7–27–94; 8:45 am]

BILLING CODE 4510–23–M

Bureau of International Labor Affairs; U.S. National Administrative Office; North American Agreement on Labor Cooperation; Hearing on Submissions #940001 and #940002

AGENCY: Office of the Secretary, Labor.

ACTION: Notice of hearing.

SUMMARY: The purpose of this notice is to announce a hearing, open to the public, on Submissions #940001 and #940002. These submissions, filed with the U.S. National Administrative Office, respectively, by the International Brotherhood of Teamsters, AFL–CIO, and the United Electrical, Radio, and Machine Workers of America, involve labor law matters in Mexico and were accepted for review by the Office on April 15, 1994. Notices of acceptance for review were published in the **Federal Register** on April 20, 1994.

Article 16(3) of the North American Agreement on Labor Cooperation (NAALC) provides for the review of labor law matters in Canada and Mexico by the U.S. National Administrative Office, in accordance with U.S. domestic procedures. Revised procedural guidelines pertaining to the submission, review, and reporting process utilized by the Office were published in the **Federal Register** on April 7, 1994. The guidelines provide for a hearing as part of the review.

DATES: The hearing will be held on August 31, 1994, commencing at 10:00 a.m. Persons wishing to provide information or present their views on matters related to the review of Submission #940001 or #940002 may do so by filing written statements or briefs with the U.S. National Administrative Office, which must be received by August 19, 1994. Persons desiring to present oral testimony at the hearing must submit a request in writing at the time the written statement or brief is filed.

ADDRESSES: The hearing will be held at the Department of Labor, 200 Constitution Avenue, NW., Room N–3437 A & B, Washington, DC 20210. Written statements or briefs and requests to present oral testimony may be mailed or hand delivered to the U.S. National Administrative Office, Department of Labor, 200 Constitution Avenue, NW., Room C–4322, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Jorge Perez-Lopez, Acting Secretary, U.S. National Administrative Office, Department of Labor, 200 Constitution Avenue, NW., Room C–4322, Washington, DC 20210. Telephone: (202) 501–6653 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Nature and Conduct of Hearing

As set out in the notices published in the **Federal Register** on April 20, 1994, the objective of the U.S. National Administrative Office's reviews of Submissions #940001 and #940002 is to gather information to assist it to better understand and publicly report on the Government of Mexico's promotion of compliance with, and effective enforcement of, its labor law through appropriate government action, as set out in Article 3 of the NAALC.

The allegations of both submissions relate principally to the right to freedom of association and the right to organize. Accordingly, it is appropriate to consolidate the reviews for purposes of Section G, paragraph 3 of the procedural guidelines, which provides for a hearing on a submission accepted for review.

The hearing will be conducted by the Secretary of the U.S. National Administrative Office or the Secretary's designee. It will be open to the public. All proceedings will be conducted in English, with simultaneous translation provided as the Secretary deems necessary. The public file for each submission, including written statements, briefs, and requests to present oral testimony, will be made a part of the hearing record. The public file will also be available for inspection at the Office prior to the hearing.

The hearing will be transcribed. A transcript of the proceedings will be made available for inspection, as provided for in Section E of the procedural guidelines, or may be purchased from the reporting company. No cameras or recording devices (other than any recording device used by the reporting company in connection with transcribing the hearing) will be allowed.

Disabled persons should contact the Secretary of the U.S. National Administrative Office no later than fifteen days prior to the date of the hearing if special accommodations are needed.

II. Written Statements or Briefs and Requests To Present Oral Testimony

Written statements or briefs shall provide a discussion of the information presented or position taken and shall be legibly typed or printed. Requests to present oral testimony shall include the name, address, and telephone number of the witness, the organization represented, if any, and any other information pertinent to the request. Five copies of a statement or brief and a single copy of a request to present oral testimony shall be submitted to the Office at the time of filing.

No request to present oral testimony will be considered unless accompanied by a written statement or brief. A request to present oral testimony may be denied if the written statement or brief suggests that the information sought to be provided is unrelated to the review of Submission #940001 or #940002 or for other appropriate reasons. The Office will notify each requester of the disposition of the request to present oral testimony.

In presenting testimony, the witness should summarize the written statement or brief, may supplement the written statement or brief with relevant information, and should be prepared to answer questions from the Secretary of the U.S. National Administrative Office or the Secretary's designee. Oral testimony will ordinarily be limited to a ten minute presentation, not including the time for questions. Persons desiring more than ten minutes for their presentation should so state in the request, setting out reasons why additional time is necessary.

The requirements relating to the submission of written statements or briefs and requests to present oral testimony may be waived by the Secretary of the U.S. National Administrative Office for reasons of equity and the public interest.

Signed at Washington, DC on July 25, 1994.

Jorge Perez-Lopez,

Acting Secretary, U.S. National Administrative Office.

[FR Doc. 94–18428 Filed 7–27–94; 8:45 am]

BILLING CODE 4510–28–M

Employment and Training Administration

[TA–W–28,925]

Cooper Industries; Cameron Forged Products Division, a/k/a Wyman-Gordon Forgings Co., Houston, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on October 22, 1993, applicable to all workers of the subject firm. The certification notice was published in the **Federal Register** on November 9, 1993 (58 FR 59492).

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. New findings show that on May 26, 1994, Wyman-Gordon Forgings became the successor-in-interest firm to Cooper Industries.

The intent of the Department's certification is to include all workers who were adversely affected by increased imports. Accordingly, the Department is amending the certification to show the correct name of the worker group.

The amended notice applicable to TA–W–28,925 is hereby issued as follows:

"All workers of the Cameron Forged Products Division of Cooper Industries, Houston, Texas the predecessor-in-interest firm to Wyman-Gordon Forgings, Houston, Texas who became totally or partially separated from employment on or after July 22, 1992 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974."

Signed at Washington, DC, this 20th day of July, 1994.

Violet L. Thompson,

Deputy Director, Office of Trade Adjustment Assistance.

[FR Doc. 94–18417 Filed 7–27–94; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–29,574]

Martin Marietta Magnesia Specialties, Inc., Manistee, MI; Affirmative Determination Regarding Application for Reconsideration

On July 7, the company requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers at the subject firm. The Department's Negative Determination was issued on May 25, 1994 and published in the **Federal Register** on June 14, 1994 (59 FR 30617).

The company submitted additional information showing a reduction in the production of refractories in the first six months of 1994 compared to the same period in 1993. This reduction was accompanied by substantial increases of company imports of refractories in the same period.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C., this 19th day of July 1994.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Services, Unemployment Insurance Service.

[FR Doc. 94–18418 Filed 7–27–94; 8:45 am]

BILLING CODE 4510–30–M

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of July, 1994.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–29,863; Sealy Mattress, Watertown, WI

TA–W–29,385; O'Donnell-Usen Fisheries Corp., (Conagra, Inc.), Gloucester, MA

TA–W–29,701; Consolidated Coal Co., Amonate Mine No. 31, Amonate, VA

TA–W–29,894; Neil Sportswear, Inc., Cambridge, MA

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–30,044; Con Agra Fresh Meats Co., Northern States Beef, Edgar, WI

Predominant cause of the closing of the subject plant was the inability to satisfy local environmental regulations regarding waste disposal.

TA–W–29,587; Louisiana-Pacific Corp., Samoa, CA

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–30,000; Nike, Inc., Beaverton, OR

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–29,925; Bill's Well Service, St. Codell, KS

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–29,718; Acco USA, Inc., Long Island City, NY

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–30,039; Clinton Swan Clothes, Inc., Carlstadt, NJ

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–29,926 & TA–29,926A; Armco Corp., Empire Detroit Steel, Mansfield, OH and Dover, OH

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–29,799; M–I Drilling Fluids Co., Anchorage, AK

The investigation revealed that criterion (1) and criterion (2) have not been met. A significant number or proportion of the workers did not become totally or partially separated as required for certification. Sales or production did not decline during the relevant period as required for certification.

Affirmative Determinations for Worker Adjustment Assistance

TA–W–29,862; Wolverine International, Bay City, MI

A certification was issued covering all workers separated on or after April 27, 1993.

TA–W–29,656; Compressor Components Textron, Danville, PA

A certification was issued covering all workers separated on or after May 15, 1993.

TA–W–29,650; Tricon Timber, Inc., Drummond Mill, Drummond, MT

A certification was issued covering all workers separated on or after March 9, 1993.

TA–W–29,949; R–M Industries, Inc., Fort Mill, SC

A certification was issued covering all workers engaged in the production of sulfanilic acid separated on or after May 25, 1993. *Also, all workers engaged in the production of violet pigment are denied.*

TA–W–29,700; Bretagne, Leeco, KY

A certification was issued covering all workers separated on or after March 21, 1993.

TA–W–29,992; Virg's DST, Inc., Littleton, CO

TA–W–29,993; Virg's DST, Inc., Williston, ND

TA–W–29,993A; Virg's DST, Inc., New England, ND

TA–W–29,994; Virg's DST, Inc., Mohall, ND

TA–W–29,995; Virg's DST, Inc., Gillettee, WY

A certification was issued covering all workers separated on or after May 26, 1993.

W–29,868; Pat Fashions/Valerie Fashions, Wind Gap, PA

A certification was issued covering all workers separated on or after May 3, 1993.

TA–W–29,883; Sunshine Rope Manufacturing, Inc., Miami, FL

A certification was issued covering all workers separated on or after May 23, 1993.

TA–W–29,702; Crete Oil Co., Inc., Robinson, IL

A certification was issued covering all workers separated on or after March 17, 1993.

TA–W–29,877; Penny Sportswear, Inc., Weissport, PA

A certification was issued covering all workers separated on or after May 4, 1993.

TA–W–29,890; Canon Business Machines, Inc., Costa Mesa, CA

A certification was issued covering all workers separated on or after May 16, 1993.

TA–W–29,801; Auburntown Industries, Inc., Auburtown, TN

A certification was issued covering all workers separated on or after April 13, 1993.

TA–W–29,657; Union Pacific Oil & Gas Co., (Formerly Amax Oil & Gas Co), Houston, TX

A certification was issued covering all workers separated on or after March 16, 1993.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a) Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of July, 1994.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met: (1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(A) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(B) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased.

(C) That the increase in imports contributed importantly to such workers' separations or threat of separation and to decline in sales or production of such firm or subdivision; or

(2) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

NAFTA–TAA–000131; August F. Nielsen Co., Inc., Allentown, PA

The investigation revealed that criteria (3) & criteria (4) were not met. A Departmental survey revealed that the manufacturers for whom August F. Nielsen Co. supplied contract labor did not utilize Mexican or Canadian contractors for its production of boys' sleepwear, nor import boys' sleepwear from Mexico or Canada.

NAFTA–TAA–00133; Joseph H. Hill Co., Richmond, IN

The investigation revealed that criteria (3) & criterion (4) were not met. There was no shift in production of roses from the workers' firm to Mexico or Canada. The investigation further revealed that the roses produced by the subject firm were marketed through affiliated distributors/wholesalers. These distributors also sell imported roses; however, the imported roses were from countries other than Mexico and Canada.

NAFTA–TAA–00135; Twin Cities Tire & Retread, El Paso, TX

The investigation revealed that workers of the subject firm did not produce an article within the meaning of the Act. The Department of Labor has consistently determined that the performance of services did not constitute production of an article as required by the Trade Act of 1974.

NAFTA–TAA–00136; Farah Manufacturing Co., Farah USA, Inc., El Paso, TX

The investigation revealed that criteria (2) and (4) were not met. Farah's sales and production increased substantially in 1993 compared to 1992 and continued to increase in the first six months of 1994 compared to the same period in 1993. In 1993, employment increased on a temporary basis, to process a backlog of garments that needed finishing. Employment declines in June 1994 resulted from the elimination of the backlog. After the layoff, employment levels in June 1994 continued to exceed the level of employment for fiscal year 1993.

NAFTA–TAA–00132; F.C.I., Freeman South Dakota

The investigation revealed that criteria (3) and (4) were not met. A survey of F.C.I.'s customers revealed that customers did not increase imports of orthopedic back supports from Mexico or Canada in the January-June period of 1994 compared to the same period in 1993.

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–00138; First Inertia Switch, Grand Blanc, MI

A certification was issued covering all workers of First Inertia Switch, Grand Blanc, MI separated on or after December 8, 1993.

NAFTA–TAA–00137; The Greif Companies, Div. of Genesco, Inc., Verona, VA

A certification was issued covering all workers of The Greif Companies, Div. of Genesco, Inc., Verona, VA separated on or after December 8, 1993.

NAFTA–TAA–00129; Crown Pacific Inland Lumber, Superior Div., Superior, MT

A certification was issued covering all workers of Crown Pacific Inland Lumber, Superior Div., Superior, MT separated on or after December 8, 1993.

NAFTA–TAA–00134; Aircraft & Electronics Specialties, Inc., (D.B.A. AES Interconnects), Indianapolis (Avon), IN

A certification was issued covering all workers of Aircraft & Electronics Specialties, Inc., (D.B.A. AES Interconnects), Indianapolis (Avon), In separated on or after December 8, 1993.

I hereby certify that the aforementioned determinations were issued during the month of July, 1994. Copies of these determinations are available for inspection in Room C–4318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: July 21, 1994.

Violet L. Thompson,

Deputy Director, Office of Trade Adjustment Assistance.

[FR Doc. 94–18415 Filed 7–27–94; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for NAFTA Transitional Adjustment Assistance

Petitions for transitional adjustment assistance under the North American Free Trade Agreement-Transitional Adjustment Assistance Implementation Act (P.L. 103–182), hereinafter called (NAFTA–TAA), have been filed with State Governors under Section 250(a) of Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended, are identified in the Appendix to this Notice. Upon notice from a Governor that a NAFTA–TAA petition has been received, the Director of the Office of Trade Adjustment Assistance (OTAA), Employment and Training Administration (ETA), Department of Labor (DOL), announces the filing of the petition and takes actions pursuant to paragraphs (c) and (e) of Section 250 of the Trade Act.

The purpose of the Governor's actions and the Labor Department's investigations are to determine whether the workers separated from employment after December 8, 1993 (date of enactment of P.L. 103–182) are eligible to apply for NAFTA–TAA under Subchapter D of the Trade Act because of increased imports from or the shift in production to Mexico or Canada.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may

request a public hearing with the Director of OTAA at the U.S. Department of Labor (DOL) in Washington, D.C., provided such request is filed in writing with the Director of OTAA not later than August 8, 1994.

Also, interested persons are invited to submit written comments regarding the subject matter of the petitions to the Director of OTAA at the address shown below not later than August 8, 1994.

Petitions filed with the Governors are available for inspection at the Office of the Director, OTAA, ETA, DOL, Room C–4318, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 21st day of July 1994.

Violet Thompson,

Deputy Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received at Governor's office	Petition No.	Articles produced
Ameriplas Inc. (Co.)	Charlotte, NC	07/11/94	NAFTA–00175	Plastics; custom and commercial extrusions (window fashion products).
A.O. Smith Company; Electrical Products (Co.).	Mebane, NC	07/11/94	NAFTA–00176	Electric motors.
Bell Sports Inc.; VistaLite (Wkrs)	Lancaster, PA	07/12/94	NAFTA–00177	Headlight systems (VL400 series); lighting systems for bicycles, wrists, and other sports activities.
Leggett & Platt; FBG (CSJB)	Chicago, IL	07/11/94	NAFTA–00178	Headboards, footboards, and bed accessories.
Pet Connection (Co.)	Gun Barrel, TX	07/11/94	NAFTA–00179	Oster pet clippers, dog & cat toys, sheep & cow hooves.
Occidental Chemical Corporation; Agricultural Products Group (UCW).	White Springs, FL	07/12/94	NAFTA–00180	Agricultural chemical products.

[FR Doc. 94–18416 Filed 7–27–94; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 94–048]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Agency Report Forms Under OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made submission.

Copies of the proposed forms, the requests for clearance (S.F. 83's), supporting statements, instructions, transmittal letters, and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Paperwork Reduction Project.

DATES: Comments are requested by August 29, 1994. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Paperwork Reduction Project and the Agency Clearance Officer of your intent as early as possible.

ADDRESSES: Eva L. Layne, Acting NASA Agency Clearance Officer, Code JTD, NASA Headquarters, Washington, DC 20546; Office of Management and Budget, Paperwork Reduction Project (2700–0065), Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Bessie Berry, NASA Reports Officer, (202) 358–1368.

Reports

Title: Radio Program Survey and Promotion.

OMB Number: 2700–0065.

Type of Request: Extension.

Frequency of Report: Semi-annually.

Type of Respondent: Businesses or other for-profit, Non-profit institutions, Small businesses or organizations.

Number of Respondents: 1,400.

Responses Per Respondent: 2.

Annual Responses: 2,800.

Hours Per Response: .10.

Annual Burden Hours: 280.

Number of Recordkeepers: 0.

Annual Hours Per Recordkeeping: 0.

Annual Recordkeeping Burden Hours: 0.

Total Annual Burden Hours: 280.

Abstract-Need/Uses: This form, NHQ Div 715, will be used to periodically survey and monitor the use of NASA's "Space Story" and "Frontiers" programs that have been distributed to radio stations throughout the country. It provides the necessary information for NASA to measure the effectiveness of these public service programs.

Dated: July 22, 1994.

Eva L. Layne,

Acting Chief, IRM Policy and Acquisition Management Office.

[FR Doc. 94–18392 Filed 7–27–94; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL INDIAN GAMING COMMISSION

Notice of Approval of Class III Tribal Gaming Ordinances

AGENCY: National Indian Gaming Commission.

ACTION: Notice of approval of class III gaming ordinances.

SUMMARY: The purpose of this notice is to inform the public of class III gaming ordinances approved by the Chairman of the National Indian Gaming Commission.

FOR FURTHER INFORMATION CONTACT: Susan Carletta at (202) 632–7003 ext. 34, or by facsimile at (202) 632–7066 (not toll-free numbers).

SUPPLEMENTARY INFORMATION: The Indian Gaming Regulatory Act (IGRA) 25 U.S.C. 2701 *et seq.*, was signed into law on October 17, 1988. The IGRA established the National Indian Gaming Commission (the Commission). Section 2710 of the IGRA authorizes the Commission to approve class II and class III tribal gaming ordinances.

Section 2710(d)(2)(B) of the IGRA as implemented by 25 CFR 522.8 (58 FR 5811 (January 22, 1993)), requires the Commission to publish, in the **Federal Register**, approved class III gaming ordinances.

The IGRA requires all tribal gaming ordinances to contain the same requirements concerning ownership of the gaming activity, use of net revenues, annual audits, health and safety, background investigations and licensing of key employees. The Commission, therefore, believes that publication of each ordinance in the Federal Register would be redundant and result in an unnecessary cost to the Commission. The Commission believes that publishing a notice of approval of each class III gaming ordinance is sufficient to meet the requirements of 25 U.S.C. 2710(d)(2)(B). Also, the Commission will make copies of approved class III ordinances available to the public upon request. Requests can be made in writing to: National Indian Gaming Commission, 1850 M St., N.W., suite 250, Washington, D.C. 20036.

The Chairman has approved tribal gaming ordinances authorizing class III gaming for the following Indian tribes:

Campo Band of Mission Indians
Colusa Band of Wintun Indians
Eastern Band of Cherokee Indians
Grand Traverse Band of Ottawa/Chippewa Indians
Kootenai Tribe of Idaho
Pueblo of Pojoaque
Santa Rosa Band of Tachi Indians
Squaxin Island Tribe
Tyme Maidu Tribe of the Berry Creek Rancheria
Wyandotte Tribe of Oklahoma

Anthony J. Hope,

Chairman.

[FR Doc. 94–18354 Filed 7–27–94; 8:45 am]

BILLING CODE 7565–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Number 40–1162]

Receipt of Application From Western Nuclear, Inc. to Amend License Condition 75 of Source Material License SUA–56

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Licensee Request to Amend Source Material License.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has received, by letter dated June 14, 1994, an application from Western Nuclear, Inc. (WN) to amend License Condition (LC) 75 of Source Material License No. SUA–56.

The license amendment application proposes to modify License Condition 75 to change the completion dates for several uranium mill tailings site reclamation milestones. The new dates proposed by WN would extend completion of (1) placement of final radon barrier on portions of the disposal cells by from one to three years, (2) placement of erosion protection by from one to three years, and (3) completion of groundwater corrective action by two years.

FOR FURTHER INFORMATION CONTACT: Allan T. Mullins, High-Level Waste and Uranium Recovery Projects Branch, Division of Waste Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 415–6693.

SUPPLEMENTARY INFORMATION: The portions of License Condition 75 which would be revised under the proposal, with the proposed changes, would read as follows:

A. (3) Placement of final radon barrier designed and constructed to limit radon emissions to an average flux of no more than 20 pCi/m^2/s above background for Areas 1A and 1B—December 31, 1995, for Areas 1C, 2A, 2B, and 2C—December 31, 1996, all as shown on map attachment to letter dated June 14, 1994.

B. (1) Placement of erosion protection as part of reclamation to comply with Criterion 6 of Appendix A of 10 CFR Part 40—for Areas 1A and 1B—June 30, 1996, for Areas 1C, 2A, 2B, and 2C—June 30, 1997 and for Areas 3A and 3B—June 30, 1995, all as shown on map attachment to letter dated June 14, 1994.

(2) Projected completion of groundwater corrective actions to meet performance objectives specified in the groundwater corrective action plan—December 31, 1996.

WN's application to amend License Condition 75 of Source Material License SUA–56, which describes the proposed changes to the license condition and the reason for the request is being made available for public inspection at the Commission's Public Document Room at 2120 L Street, NW (Lower Level), Washington, DC 20555.

Any person whose interest may be affected by the issuance of this license amendment may file a request for hearing. A request for hearing must be filed with the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, within 30 days of the publication of this notice in the **Federal Register**; be served on the NRC staff (Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852); be served on the licensee (Western Nuclear, Inc., Union Plaza Suite 300, 200 Union Boulevard, Lakewood, CO 80228); and must comply with the requirements set forth in the Commission's regulations, 10 CFR 2.105 and 2.714. The request for hearing must set forth with particularity the interest of the petitioner in the proceedings and how that interest may be affected by the results of the proceedings, including the reasons why the request should be granted, with particular reference to the following factors:

1. The nature of the petitioner's right under the Atomic Energy Act, to be made a party to the proceedings;
2. The nature and extent of the petitioner's property, financial or other interest in the proceedings; and
3. The possible effect on the petitioner's interest, of any order which may be entered in the proceedings.

The request must also set forth the specific aspect or aspects of the subject matter of the proceeding as to which petitioner wishes a hearing.

Dated at Rockville, Maryland, this 19th day of July 1994.

Daniel M. Gillen,

Acting Chief, High-Level Waste and Uranium Recovery Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 94–18372 Filed 7–27–94; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–34426; File No. SR–PSE–92–14]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Order Approving and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 to a Proposed Rule Change Relating to the Identification of Broker-Dealer Orders

July 21, 1994.

On April 13, 1992, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposal to require that broker-dealer orders be identified as such before being executed at the disseminated bid or offer price. On May 19, 1992, the PSE amended the filing to eliminate

[1] 15 U.S.C. 78S(b)(1) (1982).
[2] 17 CFR 240.19b–4 (1989).

duplicative language from Rule 6.85(c) by substituting a cross reference to proposed Rule 6.66(b) ("Amendment No. 1").[3]

The proposed rule change was published for comment in the **Federal Register** on May 21, 1992.[4] No comments were received on the proposed rule change. This order approves the PSE's proposal, as amended.

The Exchange states that the purpose of the proposed rule change is to facilitate efficient options trading on the PSE floor by requiring the identification of broker-dealer orders to the trading crowd so that market makers will be aware of whether orders represented in the trading crowds are for public customers or broker-dealers. Under PSE Rule 6.86, the "Ten-Up Rule," floor brokers are required, prior to executing a ten-up order, to ascertain and note on the subject order ticket whether any given order is for the account of a broker-dealer. Therefore, the PSE believes that no additional burdens would be placed on floor brokers in executing orders under the proposed rule. The PSE also believes that requiring broker-dealer orders to be identified as such will result in an improvement in the quality of the Exchange's options markets and help to encourage trading crowds to provide greater volume guarantees to public customers than the minimum ten-up amount.

Existing PSE Rules 6.66 and 6.85, and Options Floor Procedure Advice ("OFPA") D–9 currently require account information to be identified for the trading crowd in connection with the execution of orders on the floor. Rule 6.66(a) requires members participating in transactions to immediately give up the name of the clearing member through whom the transaction will be cleared. Rule 6.85(c) requires that orders for the account of a market maker be verbally identified as such prior to the consummation of a transaction. Finally, OFPA D–9 provides that, if a floor broker requests a market quotation and also requests the size of the market, the floor broker must indicate with his request the name of the member organization for whom he is acting.

Under the proposal, if an order is for the account of a broker-dealer, a member must indicate by public outcry that such order is for a broker-dealer if it is to be executed at the trading crowd's disseminated bid or offer price. Proposed PSE Rule 6.66(b) and existing Rule 6.85(c) place identical obligations on floor brokers with respect to orders executed for market makers. Under Amendment No. 1 to the proposal, Rule 6.85(c) would be amended to eliminate duplicative language and replaced with a cross reference to 6.66(b). Although OFPA D–9 will be deleted, the substance of it is being consolidated into Rule 6.66(b).

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)[5] in that the proposal is designed to promote just and equitable principles of trade and to protect investors and the public interest.

The Commission concludes that the PSE's proposal requiring members to identify broker-dealer orders to the trading crowd will enhance the market-making mechanism on the PSE, thereby improving the markets for listed options on the Exchange. Specifically, the Commission believes unnecessary delays in trading occasioned by the market maker's need to inquire as to the account status of orders represented on the floor will be reduced or minimized.

Furthermore, under the PSE's current "Ten-Up Rule," floor brokers are required to ascertain whether a given order is for the account of a broker-dealer. Requiring a floor broker to verbally identify prior to consummation that an order is undertaken on behalf of a broker-dealer should improve the quality of the PSE's options markets and enhance market depth because trading crowd participants may be more inclined to provide greater volume guarantees to public customers than the minimum ten-up amount. Finally, as the Commission has not received any negative comments from broker-dealers or market makers potentially affected by the proposal, the Commission has no reason to believe that the identification requirement will be particularly burdensome on them.[6]

The Commission finds good cause for approving Amendment No. 1 prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Accelerating approval will allow the Exchange to implement the complete rule change without delay. Further, the purpose of the amendment is non-substantive, limited to amending Rule 6.85(c) so that it will cross-reference Rule 6.66(b), and, moreover, the substance of both Rules was fully described in the original filing.

Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 1 to the Exchange's proposal. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, 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. 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 PSE. All submissions should refer to File No. SR–PSE–92–14 and should be submitted by August 18, 1994.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (File No. SR–PSE–92–14), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

(FR Doc. 94–18437 Filed 7–27–94; 8:45 am]

BILLING CODE 8010–01–M

Forms Under Review by Office of Management and Budget

Agencies Clearance Officer—John J. Lane (202) 942–8800.

Upon written request copy available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, D.C. 20549.

Extension: Form 8–B; File No. 270–55.

Notice is hereby given pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), that the Securities and Exchange Commission ("Commission") has submitted for OMB approval extension of Form 8–B.

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[3] *See* Letter from Michael Pierson, Staff Attorney, PSE, to Thomas Gira, Branch Chief, Division of Market Regulation, Commission, dated May 12, 1992.

[4] *See* Securities Exchange Act Release No. 30704 (May 14, 1992), 57 FR 21687 (May 21, 1992).

[5] 15 U.S.C. 78f(b)(5) (1982).

[6] This proposed rule change does not affect the definition of "public customer," which is the subject of a separate PSE proposal, SR–PSE–93–10.

[7] 15 U.S.C. 78s(b)(2) (1988).

[8] 17 CFR 200.30–3(a)(12) (1993).

Form 8–B provides a basis for the Commission to fulfill its statutory responsibility to ensure that issuers of publicly traded securities provide investors and the marketplace with adequate information. The form is used to register successor issuers and it is estimated to affect 59 filers for a total of 472 burden hours.

Direct general comments to the Desk Officer for the Securities and Exchange Commission at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with the Commission rules and forms to John J. Lane, Associate Executive Director, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549 and Desk Office for the Securities and Exchange Commission, (Project Number 3235–0068), Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

Dated: July 15, 1994.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–18438 Filed 7–27–94; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area # 2729; Amendment # 1]

Alabama; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended, effective July 14, 1994, to include Conecuh and Russell Counties in the State of Alabama as a disaster area as a result of damages caused by severe storms and flooding resulting from Tropical Storm Alberto. This declaration is further amended, effective July 19, 1994, to establish the incident period for this disaster as beginning on July 2, 1994 and continuing through July 19, 1994.

In addition, applications for economic injury loans from small business located in the contiguous counties of Lee, Macon, and Monroe in the State of Alabama may be filed until the specified date at the previously designated location.

Any counties contiguous to the above-named primary counties and not listed herein have been previously declared.

All other information remains the same, i.e., the termination date for filing applications for physical damage is September 6, 1994 and for economic injury the deadline is April 10, 1995.

The economic injury number for Alabama is 829400.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: July 20, 1994.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 94–18441 Filed 7–27–94; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area # 2697/ 2698; Amendment # 4]

California; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended, effective July 11, 1994, to extend the deadline for filing applications for physical damage resulting from the Northridge earthquake and subsequent aftershocks beginning on January 17 and continuing through April 22, 1994. The new deadline is September 16, 1994.

All other information remains the same, i.e., the termination date for filing applications for economic injury is October 17, 1994.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: July 14, 1994.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 94–18442 Filed 7–27–94; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area # 2730; Amendment # 1]

Florida; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended, effective July 13, 1994, to include Bay, Franklin, Gadsden, Liberty, Okaloosa, and Santa Rosa Counties in the State of Florida as a disaster area as a result of damages caused by severe storms and flooding resulting from Tropical Storm Alberto on July 2, 1994, and continuing.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Escambia, Leon, and Wakulla in the State of Florida may be filed until the specified date at the previously designated location.

Any counties contiguous to the above-named primary counties and not listed herein have been previously declared.

All other information remains the same, i.e., the termination date for filing applications for physical damage is September 8, 1994 and for economic injury the deadline is April 10, 1995.

The economic injury number for Florida is 829500.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: July 20, 1994.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 94–18443 Filed 7–27–94; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2728; Amendment #1]

Georgia; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended, in accordance with notices from the Federal Emergency Management Agency dated July 14 and 19, 1994, to include Jasper, Newton, and Quitman Counties in the State of Georgia as a disaster area as a result of damages caused by severe storms and flooding resulting from Tropical Storm Alberto on July 3, 1994, and continuing.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Morgan and Walton in the State of Georgia may be filed until the specified date at the previously designated location.

Any counties contiguous to the above-named primary counties and not listed herein have been previously declared.

All other information remains the same, i.e., the termination date for filing applications for physical damage is September 4, 1994 and for economic injury the deadline is April 7, 1995.

The economic injury number for Georgia is 829300.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: July 20, 1994.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 94–18440 Filed 7–27–94; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

Bureau of Economic and Business Affairs

[Public Notice 2043]

Finding of No Significant Impact: Lakehead Pipe Line Company Pipeline at Neche, ND

AGENCY: Department of State.

ACTION: Notice of a finding of no significant impact with regard to an application to construct, connect, operate and maintain a pipeline to

transport crude oil and natural gas liquids across the U.S.–Canada border.

SUMMARY: The Department of State has conducted an environmental assessment of the proposed construction by Lakehead Pipe Line Company of an oil pipeline across the international boundary at Neche, North Dakota. Based on the environmental assessment and after reviewing all comments, the Department of State has concluded that issuance of a Presidential Permit authorizing construction of the proposed pipeline will not have a significant effect on the human environment within the United States. An environmental impact statement will not be prepared.

FOR FURTHER INFORMATION ON THE PIPELINE PERMIT APPLICATION, CONTACT: Donald E. Grabenstetter, Office of International Energy Policy, Room 3535, U.S. Department of State, Washington, DC, 20520, (202) 647–4557.

FOR FURTHER INFORMATION ON THE ENVIRONMENTAL ASSESSMENT, CONTACT: Evelyn Wheeler, Office of Ecology and Terrestrial Conservation, Room 4325, U.S. Department of State, Washington, DC 20520, (202) 647–3367.

SUPPLEMENTARY INFORMATION: Lakehead Pipe Line Company, Limited Partnership has applied for a Presidential Permit to authorize construction, connection, operation and maintenance of a 20 inch diameter pipeline to convey crude oil and natural gas liquids across the border with Canada at Neche, North Dakota. The proposed pipeline would be constructed in the same right of way presently occupied by three oil pipelines owned and operated by the company. The existing pipelines are operating at full capacity and are unable to transport the volume of oil demanded by U.S. markets in the midwest. The purpose of the proposed new pipeline is to eliminate this capacity constraint.

The Department of State has concluded that issuance of the permit will not have a significant effect on the quality of the human environment within the United States. This finding is based on an environmental assessment conducted by the Department of State which included a review of comments submitted in response to the Notice of Application published on March 4, 1994. On the basis of the environmental assessment, a finding of no significant impact is adopted, and an environmental impact statement will not be prepared.

Construction and operation of the proposed pipeline is subject to regulation by the North Dakota Public Service Commission and the Federal Energy Regulatory Commission.

Dated: June 16, 1994.

Joan E. Spero,

Under Secretary of State, for Economic, Business and Agricultural Affairs.

[FR Doc. 94–18397 Filed 7–27–94; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA, Inc.; RTCA Special Committee 185; Aeronautical Spectrum Planning Issues

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix I), notice is hereby given for the formation of a new Special Committee (185), Aeronautical Spectrum Planning Issues. The notice and the Terms of Reference are as follows:

Subject: Invitation to participate in the work of Special Committee 185, Aeronautical Spectrum Planning Issues.

At its meeting held on July 13, 1994, the RTCA Technical Management Committee established SC–185 to develop *Aeronautical Spectrum Planning Issues* that would:

- investigate current and anticipated frequency allocation initiatives
- their potential impact on the aviation community
- recommend appropriate action

Mr. Kris Hutchison of ARINC was appointed by the Technical Management Committee.

The work of this committee will likely be of particular interest to airlines, the Department of State, the Department of Commerce, NTIA, FCC, business and general aviation, airport operators, communications equipment designers, manufacturers, suppliers and users.

The Proposed Terms of Reference for the committee are enclosed for your reference. All interested individuals are invited to participate in this activity and are encouraged to attend the first meeting to be held on September 1–2, 1994 at the RTCA Conference Room, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC.

Proposed Terms of Reference

Aeronautical Spectrum Planning Issues

On July 13, 1994, the RTCA Technical Management Committee established Special Committee 185 to review current aeronautical frequency allocations and to develop a spectrum to accommodate the operational and technical requirements associated with the evolving Communications, Navigation and Surveillance system. The CNS system is placing new demands on aviation spectrum resources and is changing the way existing systems utilize those resources. Therefore, the Special Committee shall:

- Identify existing aviation spectrum resources
- Determine the near-term and long-term civil aviation spectrum requirements
- Prepare the related technician and operational justification supporting the aeronautical frequency allocations
- Develop and propose recommended changes or additions to the International Radio Regulations as needed to satisfy such requirements.

Guidance

The Special Committee in its work should:

1. Review current requirements and associated frequency allocations for continuing validity both near and long term.

2. Identify requirements for new or planned systems and concepts expected to come into being during the referenced time-frame and recommended specific areas of the spectrum resource needed to satisfy these requirements.

3. Consider the political and regulatory implications, both domestic and international; of current and foreseen demands upon the aeronautical frequency spectrum as they may relate to forthcoming World Radio Conferences of the International Telecommunication Union, and recommend alternative strategies to satisfy such spectrum requirements at these conferences and in the domestic regulatory form.

4. The committee should complete its work within ten months.

Issued in Washington, D.C., on July 22, 1994.

Steve Zaidman,

Acting Designated Officer.

[FR Doc. 94–18393 Filed 7–27–94; 8:45 am]

BILLING CODE 4910–13–M

RTCA, Inc., RTCA Special Committee 182; Minimum Operational Performance Standards (MOPS) for an Avionics Computer Resource (ACR); Third Meeting

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix I), notice is hereby given for Special Committee 183 meeting to be held September 20–21, starting at 9:00 a.m. The meeting will be held at the RCTA Conference Room,

1140 Connecticut Avenue, N.W., Suite 1020, Washington, DC 20036.

The agenda for this meeting is as follows: (1) Chairman's introductory remarks; (2) Review and approval of meeting agenda; (3) Review report of last meeting; (4) Review modifications to the Terms of Reference from 2nd meeting and propose recommendation to RTCA TMC; (5) Discuss "pre-qualification" benefits and develop proposed method; (6) Consider alternative I/O boundary definitions for the ACR; (7) Refine the issues list begun at the second meeting; (8) Review and expand glossary of terms unique to Avionic Computing Resource; (9) Other business; (10) Date and place of next meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, N.W., Suite 1020, Washington, D.C. 20036; (202) 833–9339. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on July 19, 1994.

Steve Zaidman,

Acting Designated Officer.

[FR Doc. 94–18344 Filed 7–27–94; 8:45 am]

BILLING CODE 4910–13–M

RTCA, Inc., RTCA Special Committee 183, Standards for Airport Security/ Access Control Systems; First Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix I), notice is hereby given for Special Committee 183 meeting to be held September 13–14, starting at 9:00 a.m. The meeting will be held at the RTCA Conference Room, 1140 Connecticut Avenue, N.W., Suite 1020, Washington, DC 20036.

The agenda for this meeting is as follows: (1) Administrative remarks; (2) Co-Chair introductions; (3) Approval of agenda; (4) Presentation by Mr. Karl Shrum providing background for the need for airport security requirements; (5) Review Special Committee Terms of Reference, RTCA Paper No. 221–94/ SC183–2; (6) Identify goals, develop work program and examine milestones; (7) Assign tasks; (8) Other business; (9) Establish agenda for next meeting; (10) Date and place of next meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, N.W., Suite 1020, Washington, D.C. 20036; (202) 833–9339. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on July 19, 1994.

Steve Zaidman,

Acting Designated Officer.

[FR Doc. 94–18345 Filed 7–27–94; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement; Pinellas and Pasco Counties, Florida

AGENCY: Federal Highway Administration (FHWA), Florida Department of Transportation (FDOT).

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed highway project in Pinellas and Pasco Counties, Florida.

FOR FURTHER INFORMATION CONTACT: Melisa Ridenour, District Engineer, Federal Highway Administration, 227 N. Bronough Street, Room 2015, Tallahassee, Florida 32301–2015, Telephone: (904) 942–9579.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Florida Department of Transportation will prepare an EIS for a proposal to improve SR 595 in Pinellas and Pasco Counties, Florida. The proposed improvement would involve the reconstruction of SR 595 from S.R. 590 to S.R. 55, a distance of 16.1 miles. Improvements to the corridor are considered necessary to provide for the existing and projected traffic demand.

Alternatives under consideration include (1) taking no action; (2) widening to four or six lane divided roadway; and (3) alternate corridors.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have expressed interest in this proposal. A public meeting will be held within the project limits in the Summer, 1995. In addition a public hearing will be held. Public notice will be given of the time and place of the meetings and hearings. The Draft EIS will be made available for public and agency review and comment.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Melisa Ridenour,

District Engineer, Tallahassee, Florida.

[FR Doc. 94–18407 Filed 7–27–94; 8:45 am]

BILLING CODE 4910–22–M

Federal Aviation Administration

RTCA, Inc.; RTCA Special Committee 183; Standards for Airport Security/ Access Control Systems

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix I), notice is hereby given for the formation of a new Special Committee (183), Standards for Airport Security/Access Control Systems. The notice and the Terms of Reference are as follows:

Subject: Invitation to participate in the work of Special Committee 183, Standards for Airport Security/Access Control Systems.

At its meeting held on April 19, 1994, the RTCA Technical Management Committee established SC–183 to develop *Standards for Airport Security/ Access Control Systems* that:

- comply with FAR Part 107.4
- recognize the range of user needs
- are suitable for use throughout the airports system

Mr. Karl Shurm of the Federal Aviation Administration, Civil Aviation Security Division, and Ms. Paula Bline of the Airport Consultants Council, were appointed to the Technical Management Committee to serve as Co-Chairs.

The work of this committee will be of particular interest to airlines, airport operators, manufacturers, suppliers, installers and users.

The Terms of Reference for the committee, RTCA Paper No. 221–94/ SC183–2 are enclosed for your reference. All interested individuals are invited to participate in this activity and are encouraged to attend the first meeting to be held on September 13–14, 1994 at the RTCA Conference Room 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC.

Terms of Reference

Standards for Airport Security/Access Control Systems

Special Committee 183 shall prepare a minimum performance standard for access control systems that complies with FAR Part 107.14, recognizes the range of user needs, and is suitable for use throughout the airports system.

Guidance

The Special Committee should:

1. Review and incorporate, to the maximum extent practical, information and knowledge gained form the design, test, and implementation of the Universal Access System (UAS) prototype.
2. Review the present security/access control systems from a representative sample of each airport category. To manage this process, an inventory/survey of present systems would have to be conducted.
3. Identify near-term approaches to improvement of maintainability, and easing the difficulties of hardware/software modification.
4. Establish a plan for the progression of existing systems, toward a functionally standard system. This would include, but not be limited to, the development of guidance on function, performance, hardware, software, and communications standards for airport security/access control systems.
5. Establish a standard communications protocol/process and access media.
6. These characteristics, for both hardware and software, would be developed to achieve commonality to save life cycle costs and to stimulate competition to the degree possible, they should promote upgrading of existing systems to the standards.
7. The Special Committee needs to complete its work 9 months from delivery of the initial UAS prototype results.

Issued in Washington, DC., on July 22, 1994.

Steve Zaidman,

Acting Designated Officer.

[FR Doc. 94–18384 Filed 7–27–94; 8:45 am]

BILLING CODE 4910–13–M

RTCA, Inc.; RTCA Special Committee 185; Aeronautical Spectrum Planning Issues; First Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix I), notice is hereby given for Special Committee 185 meeting to be held September 1–2, 1994 starting at 9:00 a.m. The meeting will be held at the RTCA Conference Room, 1140 Connecticut Avenue, N.W., Suite 1020, Washington, DC 20036.

The agenda for this meeting is as follows: (1) Administrative remarks; (2) General introductions; (3) Approval of agenda; (4) Presentation by Mr. Kris Hutchinson providing background for the need for developing Aeronautical Spectrum Planning Issues; (5) Review special committee Proposed Terms of Reference; (6) Identify goals, develop work program and examine milestone; (7) Assign tasks, (8) Other business; (9) Establish agenda for next meeting; (10) Date and place of next meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, N.W., Suite 1020, Washington, D.C. 20036; (202) 833–9339. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on July 21, 1994.

Steve Zaidman,

Acting Designated Officer.

[FR Doc. 94–18385 Filed 7–27–94; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Use the Revenue From a Passenger Facility Charge (PFC) at Southwest Florida International Airport, Fort Myers, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Southwest Florida International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before August 29, 1994.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Orlando Airports District Office, 9677 Tradeport Drive, Suite 130, Orlando, Florida 32827–5397.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Paul Doherty, Executive Director of the Lee County Port Authority at the following address: Lee County Port Authority, 16000 Chamberlin Parkway, Suite 8671, Fort Myers, Florida 33913–8899.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Lee County Port Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Pegy Jones, Airport Plans & Programs Manager, Orlando Airports District Office, 9677 Tradeport Drive, Suite 130, Orlando, Florida 32827–5397, (407) 648–6583. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Southwest Florida International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation regulations (14 CFR Part 158).

On July 21, 1994, the FAA determined that the application to use the revenue from a PFC submitted by the Lee County Port Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than November 5, 1994.

The following is a brief overview of the application:

Level of the proposed PFC: $3.00
Actual charge effective date: November 1, 1992
Estimated charge expiration date: September 1, 2018
Total approved PFC revenue: $257,673,262
Estimated PFC revenue to be used on projects in this application: $51,860,000

Brief description of proposed project(s):

Project 1202 Aircraft Parking Apron
Project 1301 Land Acquisition

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators (ATCO) filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the

application in person at the Lee County Port Authority.

Issued in Orlando, Florida, on July 21, 1994.

John W. Reynolds, Jr.,

Assistant Manager, Orlando Airports District Office, Southern Region.

[FR Doc. 94–18383 Filed 7–27–94; 8:45 am]

BILLING CODE 4910–13–M

National Highway Traffic Safety Administration

Rulemaking, Research and Enforcement Programs Meetings

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of NHTSA Industry Meetings.

SUMMARY: This notice announces a public meeting at which NHTSA will hold a separate public meeting to describe and discuss specific research and development projects .

DATES: The Agency's regular, quarterly public meeting relating to the agency's rulemaking, enforcement and other programs will be held on September 14, 1994, beginning at 9:30 a.m. and ending at approximately 12:30 p.m. Questions relating to the agency's rulemaking, enforcement and other programs must be submitted in writing by September 6, 1994, to the address shown below. If sufficient time is available, questions received after the September 6th date may be answered at the meeting. The individual, group or company submitting a question(s) does not have to be present for the question(s) to be answered. A consolidated list of the questions submitted by September 6, 1994, and the issues to be discussed will be mailed to interested persons by September 9, 1994, and will be available at the meeting.

Also, the agency will hold a second public meeting on September 13th devoted exclusively to a presentation of research and development programs. The meeting will begin at 1:30 p.m. and end at approximately 5:00 p.m. This meeting is described more fully in a separate announcement.

ADDRESSES: Questions for the September 14th Technical Industry Meeting, to be held from 9:30 a.m. to 12:30 p.m., relating to the agency's rulemaking and enforcement programs should be submitted to Barry Felrice, Associate Administrator for Rulemaking, NRM–01, National Highway Traffic Safety Administration, Room 5401, 400 Seventh Street, SW., Washington, DC 20509. Questions for the Research and Development Program Meeting to be held on September 13 from 1:30 p.m. to 5:00 p.m. should be submitted to George L. Parker, Associate Administrator for Research and Development, NRD–01, National Highway Traffic Safety Administration, Room 6206, 400 Seventh Street, SW, Washington, DC 20590. Both meetings will be held at the Ramada Inn, near the Detroit Airport, 8270 Wickham Road, Romulus, MI 48174.

SUPPLEMENTARY INFORMATION: NHTSA will hold its regular, quarterly meeting from 9:30 a.m. to 12:30 p.m., to answer questions from the public and the regulated industries regarding the agency's rulemaking, enforcement and other programs, on September 14, 1994. Since the agency is holding a separate meeting on its research and development programs, any questions on those issues will only be answered at the afternoon meeting to be held on September 13, 1994 from 1:30 p.m. to 5:00 p.m. and should be submitted to the Research and Development Office. However, questions on aspects of the agency's research and development activities that relate to ongoing rulemaking procedures should be submitted, as in the past, to the agency's Rulemaking Office. The meetings will be held at the Ramada Inn, near the Detroit Metro Airport, 8270 Wickman Road, Romulus, MI 48174. The purpose of the meeting is to focus on those phases of NHTSA activities which are technical, interpretative or procedural in nature. Transcripts of the meeting will be available for public inspection in the NHTSA Technical Reference Section in Washington, DC, within four weeks after the meeting. Copies of the transcript will then be available at ten cents a page, (length has varied from 100 to 150 pages) upon request to NHTSA Technical Reference Section, Room 5108, 400 Seventh Street, SW., Washington DC 20590. The Technical Reference Section is open to the public from 9:30 a.m. to 4:00 p.m.

NHTSA will provide auxiliary aids to participants as necessary, during the NHTSA Technical Industry Meeting and the NHTSA Industry Research and Development Meeting. Thus, any person desiring assistance of "auxiliary aids" (e.g., sign-language interpreter, telecommunications devices for deaf persons (TDDs), taped texts, Brailled materials, or large print materials and/or a magnifying device), please contact Barbara Carnes on (202) 366–1810, by COB September 6, 1994, for the 9:30 a.m. to 12:30 p.m. portion of the meeting or Barbara Coleman (202) 366–1537 by COB September 6, 1994 for the 1:30 p.m. to 5:00 p.m. portion.

Issued: July 22, 1994.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 94–18366 Filed 7–27–94; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 94–64; Notice 1]

Accuride Corporation; Receipt of Petition for Determination of Inconsequential Noncompliance

The Accuride Corporation (Accuride) of Henderson, Kentucky, has determined that some of its wheels fail to comply with 49 CFR 571.120, Federal Motor Vehicle Safety Standard (FMVSS) No. 120, "Tire Selection and Rims for Vehicles Other Than Passenger Cars," and has filed an appropriate report pursuant to 49 CFR Part 573, "Defect and Noncompliance Reports." Accuride has also petitioned to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—"Motor Vehicle Safety" on the basis that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under 49 U.S.C. 30118 and 30120 (formerly Section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417)) and does not represent any agency decision or other exercise of judgement concerning the merits of the petition.

FMVSS No. 120, Paragraph S5.2(b) requires that each wheel be marked with the rim size designation.

On January 11, 1994, Accuride produced an estimated 103 Accu-Forge 22.5 × 9.00 inch, 15 degree drop center, one-piece tubeless dual wheels with incorrect size designations for the rim width. The wheels were incorrectly stamped "22.5 × 8.25." The wheels should have been stamped "22.5 × 9.00." All other stampings and markings required by FMVSS No. 120 are correctly identified on each of the subject wheels.

Accuride supports its petition for inconsequential noncompliance with the following:

Accuride has fully analyzed the issues surrounding the incorrect width designation on these wheels and has sought the input of the others with particular expertise on this subject. Based upon all of this analysis and the information obtained, it appears clear that there is no safety-related issue potentially arising from the incorrect width designations indicated on the wheels.

According to the 1994 Tire and Rim Association Yearbook, the permissible tires on a 22.5 × 9.00 inch rim are the 295/75*22.5 and the 12*22.5. The permissible tires for use on a 22.5 x 8.25 inch rim are the 265/75*22.5, 295/75*22.5, 11*22.5, and the

12*22.5 size. Because the 12*22.5 and the 295/75*22.5 tires are acceptable on both the 8.25 inch and 9.00 inch rims, these tire combinations are not of concern. The remaining 11*22.5 and 265/75*22.5 tires that are specified only for the 8.25 inch rim have been given particular attention. Acccuride has carefully evaluated all of the issues surrounding the possible effect of use of such tires on a wider 9.00 inch rim. We have also solicited the input of two major tire manufacturers and specifically inquired as to potential negative effects of such usage. Our analysis, as well as that of the tire manufacturers, is that there is no safety-related issue. Load carrying capacities, air retention, handling characteristics, and other aspects of performance will not be affected to any degree significant to motor vehicle safety. The only potential effect of such usage results from the fact that the tires in question are slightly more spread on the wider 9.00 inch rim resulting in some chance of reduction in tread wear to a minor degree.

It should also be pointed out that the 22.5 × 9.00 inch size is generally a special application tire and wheel combination typically used in North America only on fleets requiring a particular larger tire for the needs of their operation. The wheel in question is heavier and more expensive than a standard 8.25 inch wheel, and these fleets use the product because of specific higher load requirements and would also use the larger tire to meet those same requirements. It is, therefore, Accuride's conclusion that the possibility that narrower tires would be used on these wheels is extremely remote.

Interested persons are invited to submit written data, views, and arguments on the petition of Accuride, 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, D.C., 20590. It is requested but not required that six copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the petition is granted or denied, the notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: August 29, 1994.

(49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8).

Issued on: July 21, 1994.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 94–18365 Filed 7–27–94; 8:45 am]

BILLING CODE 4910–59–M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 144
Thursday, July 28, 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).

FEDERAL ELECTION COMMISSION

DATE & TIME: Tuesday, August 2, 1994 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. §437g.
Audits conducted pursuant to 2 U.S.C. §437g, §438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

DATE & TIME: Thursday, August 4, 1994 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C. (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.
Advisory Opinion 1994–17: Katherine S. Feichtner Ruffolo on behalf of Peter Barca for U.S. Congress.
Advisory Opinion 1994–22: Jack Cheloha on behalf of Patrick Combs for U.S. Congress.
MCFL Rulemaking: Summary of Comments and Draft Final Rules (continued from meeting of July 28, 1994).
Administrative Matters.

* * * * * * *

PERSON TO CONTACT FOR INFORMATION: Ron Harris, Press Officer, Telephone: (202) 219–4155.

Delores Hardy,

Administrative Assistant.

[FR Doc. 94–18570 Filed 7–26–94; 3:14 pm]

BILLING CODE 6715–01–M

POSTAL RATE COMMISSION

TIME AND DATE: 10:30 a.m.—Monday, August 8, 1994.

PLACE: Conference Room, 1333 H Street, NW., Suite 300, Washington, DC 20268.

STATUS: Open.

MATTERS TO BE CONSIDERED: To discuss and vote on the Postal Rate Commission Budget for FY 1995.

CONTACT PERSON FOR MORE INFORMATION: Charles L. Clapp, Secretary, Postal Rate Commission, Suite 300, 1333 H Street, NW., Washington, DC 20268–0001, Telephone (202) 789–6840.

Charles L. Clapp,

Secretary.

[FR Doc. 94–18493 Filed 7–26–94; 9:59 am]

BILLING CODE 7710–FW–P

federal register

Thursday
July 28, 1994

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 93

High Density Airports; Slot Use and Loss Requirements; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No. 27834, Notice No. 94–25]

High Density Airports; Slot Use and Loss Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend the Federal Aviation Regulations pertaining to the slot use and loss provisions for air carrier and commuter operator slots (i.e., instrument flight rules takeoff and landing reservations) at Kennedy International Airport, LaGuardia Airport, O'Hare International Airport, and Washington National Airport. This proposal would codify the agency's historical practice of treating as used, any slot held but not actually operated on Thanksgiving Day, the Friday following Thanksgiving Day, and the period from December 24 through January 2. The proposed revision would permit carriers and commuters to choose which flights to operate at any of the High Density Rule airports during certain days of the winter holiday season without jeopardizing the status of the slots under the "use of lose" requirement.

DATES: Comments must be received on or before September 26, 1994.

ADDRESSES: Comments on this regulation may be mailed in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Rules Docket (AGC–10), Docket No. 27834, 800 Independence Avenue SW., Washington, DC 20591.

Or delivered in triplicate to: Federal Aviation Administration, Rules Docket, room 915, 800 Independence Avenue SW., Washington, DC 20591.

Comments may be examined in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Patricia R. Lane, Office of the Chief Counsel, AGC–230, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–3491.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the proposal by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned decisions on the proposals. Comments are specifically invited on the overall economic, energy, environmental, reporting, and recordkeeping aspects of the proposals. Communications should identify the docket number and be submitted in triplicate to the address above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 27834." Communications received on or before the specified closing date for comments will be considered before taking any further action on the proposals. The proposals contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this proposal will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–430, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future notices should also request a copy of Advisory Circular No. 11–2A, "Notice of Proposed Rulemaking Distribution System," which describes the application procedures.

Background

The High Density Traffic Airport Rule, or "High Density Rule," 14 CFR part 93, subpart K, was promulgated in 1969 to reduce delays at five congested airports: JFK International, LaGuardia, O'Hare International, Washington National, and Newark International (33 FR 17896; December 3, 1968). The regulation limits the number of IFR operations at each airport, by hour or half hour (by half hour at O'Hare), during certain hours of the day. It provides for the allocation to carriers of operational authority, or a "slot" for each instrument flight rule (IFR) landing or takeoff during a specific 30- or 60-minute period. The restrictions were lifted at Newark in the early 1970's.

The proposed amendment would exempt certain holidays from being included in the bimonthly calculations for slot use. Traditionally, air carriers and commuters reduce their scheduled operations on the following holidays: Thanksgiving Day, the Friday following Thanksgiving, Christmas Day, and New Year's Day. Since December 1986, commuter slot-operators have been allowed to temporarily discontinue use of slots for Thanksgiving Day, the Friday following Thanksgiving Day, and the period from December 24 through the first Saturday in January of the new year. This policy was extended to air carrier operators for the 1993 holiday season. There is no reason to expect this agency's historical practice to change and it should be expressly codified in the regulations.

This proposed change in the rule would not result in any additional flights or capacity at the four High Density Traffic Airports. This proposal also would be in the public interest because it would permit air carriers and commuters to choose which flights to operate during the winter holiday season without jeopardizing the status of the slots under the "use or lose" requirement.

Regulatory Evaluation

The FAA has determined that this rulemaking is not a "significant regulatory action," as defined by Executive Order 12866 (Regulatory Planning and Review). The anticipated costs and benefits associated with this proposed rule to amend part 93 of the Federal Aviation Regulations (FAR) are shown below.

Benefits

The proposal would permit the non-operation of certain flights by carriers and commuters operating at any of the High Density Rule airports during certain days of the winter holiday season. But the air carrier could still count those flights toward its slot usage requirement. It would permit an air carrier that could not cover its variable operating costs to not operate those flights and to still meet the slot usage requirements for those particular days. The potential benefits would be primarily cost savings to the airlines.

Costs

The proposed rule would not result in any added costs to the affected air carriers. Fewer landings at the airports affected by this rulemaking could result in reduced airport revenues derived from landing fees. The FAA seeks comments on this issue.

Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) ensures that small entities are not unnecessarily and disproportionately burdened by Government regulations. The RFA requires agencies to review rules that may have a significant economic impact on a substantial number of small entities. The FAA estimates that no small entity would incur incremental compliance costs. Therefore, the FAA has determined that a regulatory flexibility analysis is not necessary.

International Trade Impact Assessment

The proposed rule would neither have an effect on the sale of foreign aviation products or services in the United States, nor would it have an effect on the sale of U.S. products or services in foreign countries. This is because the proposed rule would neither impose costs on aircraft operators nor on U.S. or foreign aircraft manufacturers.

Paperwork Reduction Act

This proposal, if adopted, provides for no changes to the required reporting of information by air carrier and commuter operators to the FAA. Under the requirements of the Federal Paperwork Reduction Act, the Office of Management and Budget has approved the information collection provision of subpart S through August 31, 1995. OMB Approval Number 2120–0524 has been assigned to subpart S.

Federalism Implications

The proposals set forth 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 regulation, if adopted, would not have federalism implications warranting the preparation of a Federalism Assessment.

Conclusion

For the reasons set forth above, the FAA has determined that this proposal (1) Would not be a "significant regulatory action" under Executive Order 12866; and (2) is not a "significant rule" under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Further, I certify that under the criteria of the Regulatory Flexibility Act, this proposal would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 14 CFR Part 93

Air traffic control, Airports, Navigation (air), Reporting and recordkeeping requirements.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, I propose to amend Part 93 of the Federal Aviation Regulations (14 CFR Part 93) as follows:

PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC PATTERNS

1. The authority citation for Part 93 continues to read as follows:

Authority: 49 U.S.C. app. 1302, 1303, 1348, 1354(a), 1421(a), 1424, 2451 et seq.; 49 U.S.C. 106(g).

2. In § 93.227, paragraph (a) is revised and a new paragraph (l) is added to read as follows:

§ 93.227 Slot use and loss.

(a) Except as provided in paragraphs (b), (c), (d), (g), and (l) of this section, any slot not utilized 80 percent of the time over a 2-month period shall be recalled by the FAA.

* * * * *

(l) The FAA will treat as used any slot held by a carrier at a High Density Traffic Airport on Thanksgiving Day, the Friday following Thanksgiving Day, and the period from December 24 through January 2.

* * * * *

Issued in Washington, DC on July 19, 1994.

David J. Hurley,

Director, Office of Air Traffic System Management.

[FR Doc. 94–18179 Filed 7–27–94; 8:45 am]

BILLING CODE 4910–13–M

federal register

Thursday
July 28, 1994

Part III

Department of Education

34 CFR Part 403, et al.
State Vocational and Applied Technology Education Program, National and State-Administered Tech-Prep Education Programs; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Parts 403, 405, and 406

RIN 1830–AA12

State Vocational and Applied Technology Education Program, National Tech-Prep Education Program, and State-Administered Tech-Prep Education Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends regulations governing the State Vocational and Applied Technology Education Program, National Tech-Prep Education Program, and State-Administered Tech-Prep Education Program. These regulations implement statutory changes to the Carl D. Perkins Vocational and Applied Technology Education Act (Act) contained in the Higher Education Technical Amendments of 1993, enacted December 20, 1993, and the School-to-Work Opportunities Act of 1994, enacted May 4, 1994.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person. A document announcing the effective date will be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Sharon A. Jones, Program Analyst, U.S. Department of Education (Mary E. Switzer Building, Room 4050), 400 Maryland Avenue SW., Washington, DC 20202–7120. Telephone: (202)205–8237. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Part 403

The regulations amending part 403 affect the State Vocational and Applied Technology Education Program, which assists States in conducting directly, or through awards to local recipients, vocational education programs. The amendments implement provisions that make consortia of eligible institutions, as defined in 34 CFR 403.117(a), eligible to receive funds under the Postsecondary and Adult Vocational Education Programs (§§ 403.116 (b) and (c) and 403.118 (a), (b), (c)(1), (4) and (5)), describe the conditions that must be met by consortia operating joint projects (§ 403.116(d)), and make conforming changes (§§ 403.32(b)(4), 403.120, and 403.193).

Parts 405 and 406

The regulations amending parts 405 and 406 affect the National Tech-Prep Education Program and the State-Administered Tech-Prep Education Program that provide for sequences of study leading to a two-year associate degree or a two-year certificate and that provide strong comprehensive links between secondary schools and postsecondary educational institutions. The amendments to parts 405 and 406 implement provisions that allow for tech-prep programs to begin in either the ninth or eleventh grades (§§ 405.1, 405.3(a), 406.1(a), and 406.3(b)(2)), and require that special consideration be given to applications that, among other things, are developed in consultation with business, industry, labor unions, and institutions of higher education that award baccalaureate degrees (§§ 405.20(e)(2) and 406.10(b)(2)(ii)).

Waiver of Proposed Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)), and the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, these amendments merely incorporate congressionally mandated statutory changes into the regulations and do not establish substantive policy. Therefore, the Secretary has determined, pursuant to 5 U.S.C. 553(b)(B), that public comment on the regulations is unnecessary and contrary to the public interest.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Assessment of Educational Impact

Based 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

34 CFR Part 403

Business and industry, Colleges and universities, Education, Education of disadvantaged, Education of handicapped, Equal education opportunity, Manpower training programs, Minority groups, Prisoners, Private schools, Reporting and recordkeeping requirements, Schools, Vocational education, and Women.

34 CFR Parts 405 and 406

Business and industry, Colleges and universities, Education, Education of disadvantaged, Education of handicapped, Labor unions, Minority groups, Reporting and recordkeeping requirements, and Vocational education.

(Catalog of Federal Domestic Assistance Numbers 84.048, Basic Grants to States and 84.243, State-Administered Tech-Prep Education Program. A Catalog of Federal Domestic Assistance Number has not been assigned for the National Tech-Prep Education Program.)

Dated: July 19, 1994.

Augusta Souza Kappner,

Assistant Secretary, Office of Vocational and Adult Education.

The Secretary amends Parts 403, 405 and 406 of Title 34 of the Code of Federal Regulations as follows:

PART 403—STATE VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION PROGRAM

1. The authority citation for part 403 continues to read as follows:

Authority: 20 U.S.C. 2301 *et seq.*, unless otherwise noted.

2. Section 403.32 is amended by revising paragraph (b)(4) to read as follows:

§ 403.32 What must the State plan contain?

* * * * *

(b) * * *

(4) The estimated distribution, for each instructional level—secondary, postsecondary, and adult—of funds to corrections educational agencies as prescribed by § 403.100, of funds to local educational agencies, area vocational education schools, or intermediate educational agencies as prescribed by §§ 403.112 and 403.113, and of funds to eligible institutions or consortia of eligible institutions as prescribed by § 403.116.

* * * * *

3. Section 403.116 is amended by revising paragraphs (b) and (c) and by

adding a new paragraph (d) to read as follows:

§ 403.116 How does a State allocate funds under the Postsecondary and Adult Vocational Education Programs?

* * * * *

(b) *General rule.*

(1) A State shall distribute funds reserved for Postsecondary and Adult Vocational Education Programs to eligible institutions or consortia of eligible institutions within the State.

(2) Except as provided in paragraph (c) of this section and §§ 403.118 and 403.119, each eligible institution or consortium of eligible institutions must receive an amount that bears the same relationship to the amount of funds reserved for the Postsecondary and Adult Vocational Education Programs as the number of Pell Grant recipients and recipients of assistance from the Bureau of Indian Affairs enrolled in programs meeting the requirements of § 403.111, including meeting the definition of vocational education in 34 CFR 400.4, offered by the eligible institution or consortium of eligible institutions in the fiscal or program year preceding the fiscal or program year in which the allocation is made bears to the number of those recipients enrolled in these programs within the State in that preceding year.

(c) *Minimum grant amount.*

(1) A State may not provide a grant under paragraph (b) of this section to any institution or consortium of eligible institutions for an amount that is less than $50,000.

(2) Any amounts that are not allocated by reason of paragraph (c)(1) of this section must be redistributed to eligible institutions or consortia of eligible institutions in accordance with the provisions of paragraph (b) of this section.

(d) In order for a consortium of eligible institutions to receive assistance under this section, the consortium must operate joint projects that—

(1) Provide services to all postsecondary institutions participating in the consortium; and

(2) Are of sufficient size, scope, and quality as to be effective.

4. Section 403.118 is amended by revising paragraph (a), paragraph (b) introductory text, and paragraphs (c)(1), (4), and (5) to read as follows:

§ 403.118 Under what circumstances may the Secretary waive the distribution requirements for the Postsecondary and Adult Vocational Education Programs?

* * * * *

(a) Demonstrates that the formula in § 403.116(b)(2) does not result in a distribution of funds to the institutions or consortia of eligible institutions within the State that have the highest numbers of economically disadvantaged individuals and that an alternative formula would result in such a distribution.

(b) Includes a proposal for an alternative formula that may include criteria relating to the number of individuals attending institutions or consortia of eligible institutions within the State who—

* * * * *

(c) * * *

(1) Includes direct counts of students enrolled in the institutions or consortia of eligible institutions;

* * * * *

(4) Does not include fund pools for specific types of institutions or consortia of eligible institutions;

(5) Does not include the direct assignment of funds to a particular institution or consortium of eligible institutions on a non-formula basis; and

* * * * *

5. Section 403.120 is amended by revising paragraph (a) to read as follows:

§ 403.120 How does a State reallocate funds under the Secondary School Vocational Education Program and the Postsecondary and Adult Vocational Education Programs?

(a) In any fiscal or program year that an LEA, area vocational school, intermediate school district, or consortium of those entities, or an eligible institution, or consortium of eligible institutions, does not obligate all of the amounts it is allocated for that year under the Secondary School Vocational Education Program or the Postsecondary and Adult Vocational Education Programs, the LEA, area vocational education school, intermediate school district, or consortium of those entities, or the eligible institution, or consortium of eligible institutions, shall return any unobligated amounts to the State to be reallocated under §§ 403.112(b), 403.113, or 403.116(b), as applicable.

* * * * *

6. Section 403.193 is amended by revising paragraph (c) introductory text and paragraph (c)(1) to read as follows:

§ 403.193 What are the information requirements regarding special populations?

* * * * *

(c) Each eligible institution or consortium of eligible institutions that receives funds under Title II of the Act shall—

(1) Provide the information described in paragraph (a)(1) of this section to each individual who requests information concerning, or seeks admission to, vocational education programs offered by the institution or consortium of eligible institutions; and

* * * * *

PART 405—NATIONAL TECH-PREP EDUCATION PROGRAM

7. The authority citation for part 405 continues to read as follows:

Authority: 20 U.S.C. 2394–2394e, unless otherwise noted.

8. Section 405.1 is revised to read as follows:

§ 405.1 What is the National Tech-Prep Education Program?

The National Tech-Prep Education Program provides financial assistance for projects that develop and operate four-year or six-year sequences of study designed to provide a tech-prep education program leading to a two-year associate degree or a two-year certificate and provides, in a systematic manner, strong comprehensive links between secondary schools and postsecondary educational institutions.

9. Section 405.3 is amended by revising paragraph (a) to read as follows:

§ 405.3 What activities may the Secretary fund?

(a) The Secretary provides grants and cooperative agreements for projects to develop and operate a four-year or six-year tech-prep education program.

* * * * *

10. Section 405.20 is amended by revising paragraph (e)(2) to read as follows:

§ 405.20 How does the Secretary evaluate an application?

* * * * *

(e) * * *

(2) Are developed in consultation with business, industry, labor unions, and institutions of higher education that award baccalaureate degrees; and

* * * * *

PART 406—STATE-ADMINISTERED TECH-PREP EDUCATION PROGRAM

11. The authority citation for part 406 continues to read as follows:

Authority: 20 U.S.C. 2394–2394e, unless otherwise noted.

12. Section 406.1 is amended by revising paragraph (a) to read as follows:

§ 406.1 What is the State-Administered Tech-Prep Education Program?

* * * * *

(a) Planning and developing four-year or six-year programs designed to provide a tech-prep education program

leading to a two-year associate degree or certificate; and

* * * * *

13. Section 406.3 is amended by revising paragraph (b)(2) to read as follows:

§ 406.3 What activities may the Secretary fund?

* * * * *

(b) * * *

(2) Consist of the two years or four years of secondary school preceding graduation and two years of higher education, or an apprenticeship training program of at least two years following secondary instruction, with a common core of required proficiency in mathematics, science, communications, and technologies designed to lead to an associate degree or certificate in a specific career field;

* * * * *

14. Section 406.10 is amended by revising paragraph (b)(2)(ii) to read as follows:

§ 406.10 What must the State application contain?

* * * * *

(b) * * *

(2) * * *

(ii) Are developed in consultation with business, industry, labor unions, and institutions of higher education that award baccalaureate degrees; and

* * * * *

[FR Doc. 94–18203 Filed 7–27–94; 8:45 am]

BILLING CODE 4000–01–P

federal register

Thursday
July 28, 1994

Part IV

Department of Education

Educational Media Research, Production, Distribution, and Training Program; Notice

DEPARTMENT OF EDUCATION

Educational Media Research, Production, Distribution, and Training Program

AGENCY: Department of Education.

ACTION: Notice of Proposed Funding Priorities.

SUMMARY: The Secretary proposes priorities under the Educational Media Research, Production, Distribution, and Training Program. The Secretary takes this action to focus Federal financial assistance on those areas of greatest need. These priorities are intended to ensure the continued availability of closed-captioned daytime television programming, provide cultural experiences to deaf and hard of hearing individuals, continue to provide educational books on audiotapes to people who are visually or print disabled, continue the operation of the captioned films/video distribution system, and support video description of national television programming.

DATES: Comments must be received on or before August 29, 1994.

ADDRESSES: All comments concerning these proposed priorities should be addressed to Ernest E. Hairston, U.S. Department of Education, 400 Maryland Avenue, SW., Room 4629, Switzer Building, Washington, DC 20202–2731.

FOR FURTHER INFORMATION CONTACT: Ernest E. Hairston Telephone: (202) 205–9172; Users of telecommunications devices for the deaf (TDDs) may call (202) 205–8169; or the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: This notice contains five proposed priorities under the Educational Media Research, Production, Distribution, and Training Program authorized under Part F of the Individuals with Disabilities Education Act (IDEA). The purposes of the program are to promote the general welfare of deaf and hard of hearing individuals and individuals with visual impairments, and to promote the educational advancement of individuals with disabilities.

The priorities proposed in this notice would ensure the continued availability of closed-captioned daytime television programming. In addition, the proposed priorities would support activities that provide cultural experiences to enrich the lives of deaf and hard of hearing individuals, including children and youth, as well as adults. The proposed priorities would provide educational reading materials and textbooks on audiotape to persons who are visually or print disabled.

Additional proposed priorities would support a captioned films/videos distribution system to provide hearing impaired and other qualified individuals with access to captioned educational and general interest films and videos on a nonprofit free loan basis, and video description of national television programming in order to make television more accessible to persons with visual impairments.

This program supports the National Education Goals by assisting those with disabilities in school readiness and adult literacy.

The Secretary will announce the final priorities in a notice in the **Federal Register**. The final priorities will be determined by comments received in response to this notice, available funds, and other considerations of the Department. Funding of particular projects depends on the availability of funds, the content of the final priorities, and the quality of the applications received. The publication of these proposed priorities does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only these priorities, subject to meeting applicable rulemaking requirements.

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

Priorities

Under 34 CFR 75.105(c)(3) the Secretary proposes to give an absolute preference to applications that meet the following priorities. The Secretary proposes to fund under these competitions only those applications that meet these absolute priorities:

Proposed Absolute Priority 1—Closed-Captioned Daytime Television Programs

Background

This proposed priority would continue and expand closed-captioning of a variety of daytime television programs broadcast nationally for persons who are deaf or hard of hearing during this segment of the day that has proven to be the most difficult in terms of private sector support.

Priority: To be considered for funding under this proposed priority, a project must—

(1) Include the criteria used to determine which programs are proposed for captioning. These criteria must take into account the preference of consumers for particular programs, the diversity of programming available, and the contribution of programs to the general educational and cultural experiences of individuals with hearing impairments;

(2) Determine the total number of hours and the projected cost per hour for each program to be captioned;

(3) For each proposed program to be captioned, identify the source of private or other public support and the projected dollar amount of that support;

(4) Identify the methods of captioning to be used for each hour and the projected cost per hour for each method used;

(5) Provide and maintain back-up systems that would ensure successful, timely captioning service;

(6) Demonstrate the willingness of major national television networks and companies to permit captioning of their programs; and

(7) Implement procedures for monitoring the extent to which full and accurate captioning is provided and use this information to make refinements in captioning operations.

Proposed Absolute Priority 2—Cultural Experiences for Deaf and Hard of Hearing Individuals

Background

This priority supports a variety of cultural activities designed to enrich the lives of deaf and hard of hearing individuals, including children and youth, as well as adults. These activities must use an integrated approach that mixes children, youth, and adults, who are deaf and hard of hearing with those who can hear while conducting cultural experiences that will increase public awareness and understanding of deafness and other hearing impairments and of the artistic and intellectual achievements of deaf and hard of hearing individuals.

During FY 1992 the Department funded projects that: (1) provided theatrical experiences for deaf and hard of hearing individuals, and (2) used integrated approaches by having among cast members a mixture of deaf, hard of hearing and hearing performers. During FY 1993 cultural experiences were extended specifically to younger people with hearing impairments and to the creation of art as well as theatrical experiences, using the same approaches. Projects under this proposed priority can include a variety of artistic approaches such as the creation of works of art (painting, drawing, designing, etc.), dance, and storytelling,

as well as developing and performing dramatic productions. A grantee *may not* use funds under this priority for passive activities such as viewing a play or video, or passively watching a storyteller or artist at work.

Priority: To be considered for funding under this priority, a project must—

(1) Use an integrated approach that mixes children, youth, and adults who are deaf and hard of hearing, with those who are hearing in carrying out project activities; and

(2) Develop and implement strategies that will increase public awareness and understanding of deafness and other hearing impairments and of the artistic and intellectual achievements of deaf and hard of hearing individuals, including children, youth, and adults. Outreach activities such as promoting the project to schools, community organizations, news media, and relevant national organizations are encouraged.

Invitational Priority

Within this absolute priority 2, the Secretary is particularly interested in applications that meet the following invitational priority. However, pursuant to 34 CFR 75.105(c)(i), an application that meets this invitational priority does not receive competitive or absolute preference over applications that do not meet this priority:

Projects that include people from a variety of cultural, racial, and ethnic backgrounds.

Proposed Absolute Priority 3—Captioned Films and Videos Distribution System

Background

This proposed priority would support the operation of a captioned films/videos distribution system which provides deaf and hard of hearing individuals, as well as other eligible individuals with disabilities, with access to captioned educational and general interest films and videos on a nonprofit free-loan basis. Activities under this proposed priority include, but are not limited to: 1) a computerized user-registration process; 2) circulation of captioned films and videos; 3) development or updating of a catalog of captioned films and videos in the collection; and 4) outreach activities. This proposed priority would provide students and other eligible individuals with disabilities with captioned films and videos so they may benefit from the same educational media used to enrich the educational experiences of students and other individuals who do not have disabilities.

Priority: To be considered for funding under this proposed priority, the project must—

(1) Develop strategies and procedures to be implemented in operating a distribution system, consisting of local and regional centers including depositories, and one central general interest and educational films/video center. Local and regional centers may include State schools for disabled individuals, public or private school systems, public libraries, colleges or universities, or other distribution points that distribute captioned films/videos.

(2) Ensure that the system permits interdepository circulation of captioned films/videos, allows individuals, depositories, and local and regional centers to access booking information from the computerized depositories and the general interest and educational films/video center via modem and *generic* communication software, and provides immediate confirmation or denial of a request;

(3) Establish and describe the computerized registration procedures that will be used to register users. The current computerized system configuration may be used as a basis;

(4) Develop and implement criteria and procedures for replacing irreparable films/videos;

(5) Prepare, update, and distribute copies of a catalog listing all captioned films/videos available under this project;

(6) Convene an annual meeting of depository managers, librarians, and audiovisual and other personnel from local, regional, and State educational agencies for the purpose of training, planning, sharing, brainstorming, and other activities related to improving the access of eligible individuals to audiovisual materials. The Washington, D.C. metropolitan area will be the site of the meeting;

(7) Implement outreach activities, especially activities that reach out to local school systems to make them aware of the open and closed captioned materials that are available to them under this program and from other sources; and

(8) Submit quarterly progress reports to the grants and project officers.

Proposed Absolute Priority 4—Recorded Audio Cassettes for Visually and Print Disabled Students

Background

This proposed priority would support recording, producing, duplicating, and distributing $15/16$ ips (inch per second) four-track cassette versions of textbooks and other educational reading materials for students (elementary, secondary, postsecondary & graduate) who are visually or print disabled. These cassette tapes will help provide equal educational opportunities to target students and lessen some of the barriers they face in classrooms.

Priority: To be considered for funding under this priority, the project must—

(1) Handle all requests for materials, including confirmation of eligibility by disability;

(2) Arrange for use of copyrights from publishers of supplied textbooks;

(3) Record or duplicate the books on $15/16$ ips (inch per second), four-track cassettes of one hour per track recording time. (Publishers must be provided rights to copies of the master tape and rights to market the cassettes as they see fit);

(4) Mail the cassettes on a free-loan, postage paid basis; and

(5) Handle returned cassettes, preservative re-recording, and all other associated administrative and circulation functions.

(6) To the extent that funds are not sufficient to meet the demand for free materials, place a priority on providing free materials that are not otherwise required to be provided by educational agencies or institutions.

Proposed Absolute Priority 5—Video Description Project

Background

This proposed priority supports the description of national television programming in order to make television more accessible to persons with visual impairments. The intent of this priority is to provide access to a diversity of programming available in order to enhance shared educational, social, and cultural experiences for persons who are visually impaired. The range of programs proposed for description may include, but is not limited to, children's programs, prime time programming, emergency broadcasts, sports programs, and documentaries.

Priority

To be considered for funding under this proposed priority, a project must—

(1) For selecting programs to be video described, include criteria that take into account the preference of consumers for particular programs, the diversity of programming available, and the contribution of programs to the general educational, social, and cultural experience of individuals with visual impairments;

(2) Determine the total number of hours and the projected cost per hour for each program to be described;

(3) For each program to be described, identify the source of private or other public support, if any, and the projected dollar amount of that support;

(4) Identify the methods to be used in the provision of described video;

(5) Demonstrate the willingness of major national television networks and companies to permit video description of their programs; and

(6) Implement procedures for monitoring the extent to which an accurate description is provided and use this information to make refinements in the video description operations.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed priorities.

All comments submitted in response to these proposed priorities will be available for public inspection during and after the comment period, in Room 4620, Switzer Building, 330 C Street, S.W., Washington, D.C. between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Applicable Program Regulations: 34 CFR Parts 330, 331, and 332.

Program Authority: 20 U.S.C. 1451, 1452

(Catalogue of Federal Domestic Assistance Number: 84.026, Educational Media Research, Production, Distribution, and Training Program)

Dated: July 22, 1994.

Howard R. Moses,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 94–18340 Filed 7–27–94; 8:45 am]

BILLING CODE 4000–01–P

federal register

Thursday
July 28, 1994

Part V

Department of Justice

Office of Juvenile Justice and Delinquency Prevention

Office of Justice Programs; Juvenile Mentoring Program (JUMP) Guidelines; Notice

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

Office of Justice Programs; Juvenile Mentoring Program (JUMP) Guidelines

AGENCY: Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

ACTION: Notice of the Juvenile Mentoring Program (JUMP) Guidelines and Application Procedures.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is publishing this Notice of Juvenile Mentoring Program (JUMP) Guidelines. Part G of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended by the Juvenile Justice and Delinquency Prevention Amendments of 1992, established the authority for this program and Congress appropriated $4,000,000 for Fiscal Year 1994. JUMP will support one-to-one mentoring programs for youth at-risk of educational failure, dropping out of school, or involvement in delinquency activities. The goals of JUMP are to reduce juvenile delinquency and gang participation, improve academic performance and reduce the dropout rate through the use of adult mentors for at-risk youth. Both local education agencies (LEA) and public/private non-profit organizations may apply for a grant that covers a period of time up to but not exceeding three years, but there must be collaboration with the LEA when the primary applicant is a public/private non-profit agency and collaboration with the public/private non-profit when the LEA is the primary applicant. Individual awards will range from $60,000 to $180,000 for up to a three-year project and budget period. Application narratives may not exceed 25 double-spaced pages. Program requirements are set forth in this Notice.

DATES: Applicants are requested to submit the original, signed application (Standard Form 424) and four copies to OJJDP. The due date for applications is September 14, 1994. Applications must be received by mail or delivered by 5 P.M. e.d.t. on or before that date.

ADDRESSES: Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue N.W., Room 758, Washington, D.C. 20531.

FOR FURTHER INFORMATION CONTACT: Program inquiries can be addressed to Betty M. Chemers, Program Manager, Special Emphasis Division (202) 307–5914.

SUPPLEMENTARY INFORMATION: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is a component of the Office of Justice Programs in the U.S. Department of Justice. In 1992, the Juvenile Justice and Delinquency Prevention Act of 1974, as amended (JJDP Act) was reauthorized by the Juvenile Justice and Delinquency Prevention Amendments of 1992. These Amendments established a new Part G Mentoring Program, providing three-year grants to, or in partnership with, local education agencies for the implementation of mentoring programs designed to link at-risk youth with responsible adults to discourage youth involvement in criminal behavior and violence. This Notice sets forth the guidelines for the Part G Juvenile Mentoring Program (JUMP). An OJJDP Application Kit containing an application form (Standard Form 424), the OJJDP Peer Review Guideline, OJJDP Competition and Peer Review Procedures, and other supplemental information relevant to the application process can be obtained by calling the Juvenile Justice Clearinghouse, toll-free, 24 hours a day, at (800) 638–8736.

JUMP applications will undergo peer review as part of the selection process. In order to facilitate peer review, OJJDP requests that each applicant submit a Notice of Intent to Apply to Betty M. Chemers, Program Manager, Special Emphasis Division, OJJDP, 633 Indiana Avenue, N.W., Washington, D.C. 20531 by August 12, 1994.

Guideline for the Juvenile Mentoring Program

Purpose: To support one-to-one mentoring programs for youth at risk of educational failure, dropping out of school, or involvement in delinquency activities.

Background: Part G of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended (JJDP Act), establishes authority for the Office of Juvenile Justice and Delinquency Prevention (OJJDP) to fund a new Juvenile Mentoring Program (JUMP). For Fiscal Year 1994, Congress appropriated $4,000,000 to implement this program.

Mentoring, as the term is currently used, can be defined as a one-to-one relationship between a pair of unrelated individuals, usually of different ages, which takes place on a regular basis over an extended period of time. It is usually characterized by a "special bond of mutual commitment" and "an emotional character of respect, loyalty and identification." (Hamilton, 1990.)

As a movement, mentoring has its roots in the closing decades of the 19th century with "Friendly Visitors" who would serve as role models for children of the poor. In 1904, Ernest K. Coulter founded a new movement which utilized "Big Brothers" to reach out to children who were in need of socialization, firm guidance and human connection with mainstream adults. The resulting program, Big Brother/Big Sisters of America, continues to operate today as the largest mentoring organization of its kind.

Mentoring underwent a second reincarnation in the 1970's as corporations heralded the concept as one which fosters achievement. Mentoring was seen as a particularly critical ingredient to success on the corporate ladder (Freedman, 1992).

Within the past ten years, mentoring has taken on a new dimension and a new target group, disadvantaged children and youth. It has emerged as a promising approach for enriching children's lives; addressing the isolation of youth from adult contact; and providing, on a one-to-one basis, support and advocacy to children who need it. Mentoring is also recognized as an important vehicle for harnessing the talents of volunteers to address the problems of poverty (Freedman, 1992).

Congress has recognized the potential of mentoring as a tool for addressing two critical concerns: poor school performance and delinquent activity. Accordingly, OJJDP is making funds available for mentoring programs that specifically address these concerns. Congress also has recognized the importance of school collaboration in mentoring programs, whether as a primary applicant or in partnership with other public/non-profit private entities.

Goals of Mentoring Programs:

To reduce juvenile delinquency and gang participation;

To improve academic performance; and

To reduce the dropout rate through the use of mentors for at-risk youth.

Objectives:

Provide general guidance to at-risk youth;

Promote personal and social responsibility among at-risk youth;

Increase at-risk youth participation in and enhance their ability to benefit from elementary and secondary education;

Discourage at-risk youths' use of illegal drugs and firearms, involvement in violence, and other delinquent activity;

Discourage involvement of at-risk youth in gangs; and

Encourage at-risk youths' participation in service and community activity

Program Strategy: Applicants may submit funding requests for project periods up to but not exceeding three

years. OJJDP encourages new programs to apply as well as those which have proven track records of implementing programs and a desire to expand their programs in accordance with these guidelines. All applicants must address the following elements in their application.

1. The Nature of the Partnership with Local Educational Agencies

Both local education agencies (LEA) and public/private non-profit organizations may apply. When public/private non-profit agencies are the primary applicant, their programs must involve collaboration with the LEA. Likewise an LEA must collaborate with a relevant public/private non-profit agency. Because two goals of this program are to improve academic performance and reduce the dropout rate, applications must contain written assurance from the LEA that it will agree to provide academic records in accordance with its own regulations for use in carrying out a funded program and that it will cooperate to the fullest extent possible with a national program evaluator. Another example of the form this collaboration would take would include the designation of a school employee to be a school coordinator. Suggested responsibilities might include assisting with the selection of mentees, advising on the academic needs of the mentee, coordinating meetings, providing academic records when needed, and notifying mentors of the inability of mentees to meet.

2. Target Population

Programs are to be targeted to at-risk youth. These are youth at risk of educational failure, dropping out of school, or involvement in delinquent activities. Priority will be given to programs involving at-risk youth in high crime areas, programs which have 60% or more of their youth eligible to receive Chapter I funds under the Elementary and Secondary Education Act of 1965, and programs which have a considerable number of youth who drop out of school each year.

3. Program Goals and Design

These must be clearly stated. The applicant must show how the proposed program will meet the goals and objectives defined earlier. The role of the mentor, the mentoring site, and specific implementation steps should be provided. These include organizational commitment, mentor recruitment, mentor orientation, mentor screening and training, youth selection and orientation, matching, monitoring, mentor support, and evaluation. Criteria for mentor termination should be specified. Each funding partner and program participant's responsibilities should be spelled out up front: local educational agency, non-profit public/private agency, business, etc., mentors, mentees and mentees' parents. At a minimum, programs must specify that each individual mentor one child for a period of at least a year. It is also recommended that mentor-mentee contact not be less than four hours a month, preferably scheduled weekly.

4. Recruitment, Selection and Screening of Mentors

Only programs using adult mentors qualify. An adult is defined as being 21 years or older. Efforts to enlist mentors who are responsible adults such as law enforcement officers, persons with local businesses, and persons with community-based organizations should be made.

All prospective employees and volunteers who would have contact with youth must be screened. Each program is required to have a written screening policy that would be implemented with great care and applied consistently to all mentors. At a minimum, this policy shall require the names of two to three character references (at least one work reference) and the applicant's consent to check his/her name through criminal and child abuse records. A written form for reference checks should be used and kept on file.

Background searches should include investigations as may appear appropriate under the circumstances and as required by applicable statute or regulation. For example, programs involving young mentees and contacts/activities that do not occur at the school or work site or as part of a larger group should require criminal history checks on all matched volunteers from local, state or national law enforcement authorities, where legally permissible. In general, no background information obtained from screening is an automatic bar to participate unless otherwise provided by statute or regulation. A candidate may be disqualified in order to reasonably protect youth from physical, psychological and/or sexual abuse. A mentor applicant's failure to provide information requested would result in automatic disqualification of the applicant.

5. Youth Selection and Orientation

Criteria should be developed for youth selection based on the program's goals. Parents should be included in an orientation session and written permission for the child's participation obtained.

6. Matching Criteria

The mechanism for matching youth with mentors should be described. Where possible, there should be a match of similar ethnic and gender characteristics.

7. Mentor Support and Training Activities

Mentor support is essential to ensure program success. Each program must employ a program coordinator for mentors to contact for feedback and advice. Periodic feedback from mentors and mentees should be obtained, especially during the first two months of the relationship.

8. Mentor/Mentee Activities

Applicants must assure that projects operated in secondary schools will provide mentees with a variety of activities, including an opportunity to spend time or participate in the work environment, witness job skills useful for obtaining employment, obtain assistance with homework, and be exposed to positive new experiences. Projects involving elementary school age children should include such activities as academic assistance, exposure to positive new activities, and emotional support.

9. Evaluation Methods and Processes

Evaluation is critical to assuring that the mentoring program is operating as designed and that it is meeting its goals both in terms of the process and the impact on the mentee. Data on the program operations must be collected as well as data on whether mentoring is having an impact on academic performance and behavior. OJJDP is required by the Congress to submit a report regarding the success and effectiveness of these programs 120 days after the programs' termination; consequently, programs funded under JUMP must be capable of providing this information and must provide written assurance that they will participate in a national program evaluation.

Applicants should address how their programs either currently comply with these guidelines or describe the steps they will take to assure compliance. Applicants must demonstrate that they have or will create an infrastructure capable of fully supporting their program.

Applicants should provide a specific timetable for all program activities indicating what will be accomplished the first year, the second year, and the third year, if they are requesting funding for multiple years.

Applicants must demonstrate that they have the support of schools and, where appropriate, public agencies and other community groups that might be directly involved.

Applications should not exceed 25 double-spaced pages.

10. Staffing/Budget

Whether the school or an eligible public/private non-profit group is the primary applicant, it is suggested that one full-time staff coordinator oversee up to 60–70 matches. In addition, a second individual, either a volunteer, paid, or assigned employee, should generally be expected to devote at least 6–7 hours a week to this project. A cost of $75 per mentoring-match per year is also recommended. Program funds cannot be used directly to compensate mentors except for reimbursement for reasonable incidental expenses, such as transportation, that are directly associated with the mentoring program.

Products: If appropriate, applicants should describe what written materials they will produce and how materials may be useful to their own program participants and others hoping to replicate their efforts.

References

Freedman, Marc, The Kindness of Strangers: Reflections on the Mentoring Movement, Public/Private Ventures, Philadelphia, Pennsylvania, Winter 1992.

Hamilton, Stephen F., Apprenticeship for Adulthood, Free Press, New York 1990, p. 156.

Eligibility Requirements: Applications are invited from local education agencies and public/private non-profit organizations that can demonstrate knowledge of and/or experience with mentoring programs, as well as working with volunteers and youth. When a local education agency is the primary applicant, it must partner with a public or private agency or a public/private non-profit agency. Likewise, a public/private non-profit agency which applies as a primary applicant must partner with the local education agency. National organizations are not eligible for these funds. Consideration will be given to the geographic distribution (urban and rural) of applications and a variety of program designs.

Selection Criteria: Applications will be rated by a peer review panel on the extent to which they meet the following criteria:

1. Problem Statement (15 points)

The application clearly identifies the need for this project, describes the target population, and establishes that it has the characteristics associated with effective mentoring programs.

2. Goals and Objectives (10 points)

The goals and objectives are clearly defined and the objectives are clear, measurable, and obtainable.

3. Project Design (30 points total, including 5 points for innovative design)

a. The project design is sound and complies with the requirements outlined in the guidelines. The application includes a workplan and timeline for the grant period.

b. Up to five additional points will be given for innovative program design.

4. Project Management (15 points)

The project's management structure and staffing are adequate to complement and complete the project successfully. The applicant demonstrates that the project will be appropriately staffed. Collaborative relationships are established in writing.

5. Organizational Capability (20 points)

The applicant organization's potential to conduct the project successfully, as well as its history of working with volunteers and youth, is documented

6. Budget (10 points)

Budgeted costs are reasonable, allowable and cost effective for the activities proposed.

Award Period: Grantees selected for award will be funded for a project period not to exceed three years.

Award Amount: OJJDP is limiting the amount of individual awards to a minimum of $60,000 and a maximum of $180,000 for up to a three-year project and budget period. Total amount of the funds for the JUMP program in Fiscal Year 1994 is $4,000,000. This amount will include support for any grants covering a project period of up to three years under this request for application. Future funding support beyond the three years is not contemplated.

Due Date: Applications must be received by mail or delivered to OJJDP on or before 5:00 p.m. e.d.t. on September 14, 1994. Application narratives may not exceed 25 double spaced pages. In order to facilitate peer review, it is requested that each applicant intending to apply, submit a brief statement entitled Notice of Intent to Apply by August 12, 1994.

Contact: For further information, contact Betty M. Chemers, Program Manager, Special Emphasis Division, (202) 307–5914.

John J. Wilson,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 94–18447 Filed 7–27–94; 8:45 am]

BILLING CODE 4410–18–P

federal register

Thursday
July 28, 1994

Part VI

Environmental Protection Agency

40 CFR Part 372

Alternate Threshold for Low-Level Releases and Transfers; Toxic Chemical Release Reporting; Community Right-to-Know; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[OPPTS–400087; FRL–4776–8]

RIN 2070-AC70

Alternate Threshold for Low-Level Releases and Transfers; Toxic Chemical Release Reporting; Community Right-to-Know

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to establish an alternate reporting threshold for those facilities with low-level releases and transfers that would otherwise meet reporting requirements under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA). A facility that meets the current section 313 reporting thresholds, but estimates that the sum of its annual releases on-site and transfers off-site (for the purposes of treatment and/or disposal only) of a listed chemical is below 100 pounds, may be eligible to take advantage of this proposed alternate reporting threshold, for that chemical in that year, provided that certain conditions are adhered to. EPA is proposing to establish this alternate reporting threshold in response to petitions received from the Small Business Administration and the American Feed Industry Association.

DATES: Written comments on this proposed rule must be received by August 29, 1994.

ADDRESSES: Written comments should be submitted in triplicate to: OPPT Docket Clerk, TSCA Document Receipt Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. NE–B607, 401 M St., SW., Washington, DC 20460. Comments should include the document control number for this proposal, OPPTS–400087.

FOR FURTHER INFORMATION CONTACT: Tim Crawford, Project Manager, (7408), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. For specific information on this proposed rule, or for more information on EPCRA section 313, the Emergency Planning and Community Right-to-Know Hotline, Environmental Protection Agency, Mail Code 5101, 401 M St., SW., Washington, DC 20460, Toll free: 1–800–535–0202, in Virginia and Alaska: 703–412–9877 or Toll free TDD: 1–800–553–7672.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Statutory Authority

This proposed rule is issued under sections 313(f)(2) and 328 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. 11023(f)(2) and 11048. EPCRA is also referred to as Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA).

Section 313 of EPCRA requires certain facilities manufacturing, processing, or otherwise using listed toxic chemicals in excess of the applicable threshold quantities to report their environmental releases of such chemicals annually. Beginning with the 1991 reporting year, such facilities began reporting pollution prevention and recycling data for listed chemicals, pursuant to section 6607 of the Pollution Prevention Act, 42 U.S.C. 13106. This information is submitted on EPA form 9350–1 (Form R) an compiled in an annual Toxic Release Inventory (TRI). Each covered facility must file a separate Form R for each listed chemical manufactured, processed, or otherwise used in excess of the reporting thresholds established in section 313(f)(1). EPA has authority to revise these threshold amounts pursuant to section 313(f)(2); however, such revised threshold amounts shall obtain reporting on a substantial majority of total releases of the chemical at all facilities subject to section 313. A revised threshold may be based on classes of chemicals or categories of facilities. Section 328 provides EPA with general rulemaking authority to develop regulations necessary to carry out the purposes of the Act.

B. Background on Petitions

On August 8, 1991, the Small Business Administration (SBA) petitioned EPA to exempt from TRI reporting requirements facilities reporting low volumes of chemicals released and transferred. This petition states that:

> Currently, EPA's implementation of SARA mandates a collection of both significant and insignificant data. It unreasonably includes many small facilities whose compliance with present section 313 regulations is overly burdensome. The TRI database is not meaningfully improved by countless entries of zero or de minimis release figures, as it now appears with current Congressionally-specified thresholds. Based on 1988 data, the Office of Advocacy estimated that EPA could generally exclude facilities with releases and transfers of less than 5,000 pounds annually for the vast majority of section 313 chemicals and still satisfy the right to know objectives and the statutory requirements. (Ref. 1).

EPA published this petition in the **Federal Register** (October 27, 1992, 57 FR 48706) (SBA Notice), and received a substantial number of comments in response to this notice. Copies of these comments are available in the TSCA docket, OPPTS docket number 400072. The proposal being put forth in this document is EPA's response to the SBA petition.

EPA received a similar request in a petition from the American Feed Industry Association (AFIA) on February 14, 1992. AFIA requested an exemption of Standard Industrial Classification (SIC) code 2048 from TRI reporting. The general basis of this request is that SIC code 2048, "Prepared Feeds and Feed Ingredients for Animals and Fowls, Except Dogs and Cats," has such small releases of chemicals (primarily feed additives) that the industry as a whole does not contribute information that furthers the purposes of EPCRA and therefore the imposition of TRI reporting on the feed industry is unfair. The AFIA petition suggested, as an alternative to the requested SIC code deletion, EPA's adoption of the approach proposed in the SBA petition.

EPA published this petition in the **Federal Register** (April 13, 1993, 58 FR 19308), and received a substantial number of comments. These comments are available in the TSCA docket, OPPTS docket number 400077.

At this time, EPA has decided to focus on a revision of current reporting requirements that would be applied equally to all industries subject to section 313, as opposed to a revision restricted to target industrial sectors or SIC codes. EPA believes the proposal put forth in this document would effectively address the major points of the AFIA petition. Based on the information provided in the AFIA petition and results from EPA's analysis, approximately 50 percent of all of the facilities reporting under SIC code 2048 will qualify for the threshold modification being proposed (Ref. 4). EPA therefore considers the proposal put forth in this document as a response to the AFIA petition.

II. Explanation for the Alternate Threshold for Low-Level Releases and Transfers

A. General Approach

Congress intended that the data collected by EPA under EPCRA section 313 be used to inform persons about releases of toxic chemicals to the environment, assist the government, researchers, and the public in the conduct of research and data gathering, to aid in the development of appropriate regulations, guidance, and standards, and for other similar purposes (EPCRA

section 313(h)). Congress directed EPA to make this information publicly available on a cost-reimbursable basis through a computer data base, which EPA has done using the on-line TRI system (EPCRA section 313(j)).

EPCRA section 313 established a list of more than 300 chemicals and 20 categories for which TRI reporting is required (EPCRA section 313(c)). Facilities in SIC codes 20–39 which manufacture, process, or otherwise use over certain threshold amounts of a listed chemical must annually report their releases of such chemicals to EPA and the States. However, Congress recognized that this statutory framework need not remain immutable should EPA's experience in collecting data under TRI indicate that certain revisions to the reporting structure may be warranted. In directing and authorizing EPA to maintain and manage the TRI program, Congress also provided EPA with authority to revise the nature of and manner in which TRI data is reported to and collected by the Federal government.

In particular, Congress provided EPA authority to add or delete SIC codes (section 313(b)(1)(B)), apply the reporting requirements to additional facilities (section 313(b)(2)), add chemicals to or delete chemicals from the TRI list (section 313(d)), revise the reporting thresholds (section 313(f)(2)), modify the reporting frequency (section 313(i)), and prescribe such other regulations as may be necessary to carry out the Act (section 328). In providing EPA these authorities, Congress also recognized that EPA may see fit to tailor any such revisions to specific facility or chemical, a broad category of facilities or class of chemicals, to all or only some forms submitted to EPA, or to a specific or more general geographic area.

In the spirit of this broad statutory mandate, and Congressional recognition of the need for flexibility given changing national needs and priorities, EPA has already announced its intent to significantly expand the scope of the TRI program. EPA's proposed rule to add 313 chemicals and a chemical category to the list of reportable chemicals established under EPCRA section 313(c) (January 12, 1994, 59 FR 1788) is expected to add an estimated 28,000 new reports to TRI based on the current threshold levels. In addition, EPA is in the process of identifying and evaluating additional industry sectors for inclusion in TRI reporting. The addition of industry sectors beyond the current manufacturing sector is expected to substantially increase the level of current reporting.

EPA recognizes that the addition of this new information to TRI is expected to carry significant reporting costs to industry, as well as Federal and state costs to manage and provide the data to the public. Nonetheless, given existing national and local concerns over chemical management practices, consistent with its statutory authorities, EPA believes that these anticipated expansions, and their attendant costs, are necessary to provide the public more complete information on significant chemical uses and releases.

However, EPA also believes that its years of experience with the collection of TRI data allow EPA to propose certain changes to the nature of the reporting obligations imposed on industry without compromising EPA's duty to collect and disseminate relevant information to the public on chemical releases. EPA has examined whether some of the information currently collected under TRI as presently structured may be of lesser "value" than some of the new reports expected to be received as a result of EPA's efforts to expand TRI. In particular, many of the forms currently submitted report volumes of zero for releases and transfers. Additionally, there are forms that report zero volumes for all elements on the form. EPA believes that the space that such reports consume in the data base and the effort necessary to submit them would be better applied to those additional reports that contain positive values for releases and transfers of toxic chemicals. This proposal attempts to balance additional data needs with the burden to supply such data. EPA believes that it is possible, and consistent with its authorities under EPCRA, to create an alternative reporting threshold applicable to those facilities which annually release on transfer off-site (for the purpose of treatment and/or disposal) less than a specified amount of a listed TRI chemical. EPA further believes that this alternative reporting threshold, if implemented as proposed, will not result in a significant loss of data on chemical releases.

By creating such an alternative reporting threshold, the number of TRI reports annually submitted to EPA could be reduced by and estimated 20,500. This would result in a cost savings to both government and industry, and would offset some of the expected added costs associated with the anticipated expansions of the TRI program. Today's proposal attempts to balance the additional data needs represented by EPA's TRI expansion efforts with the burden to supply such data.

The proposed revision of the manufacture, process, and otherwise use thresholds described below is based on EPA's analysis and comments received during the pre-proposal process. As part of the pre-proposal process, which included a consideration of the comments received on the SBA Notice, EPA held a public meeting on February 16, 1994, to present its analytical findings and open discussions regarding reduced reporting for low volume releases and transfers. Comment was taken from a variety of positions. Results from EPA's preliminary analysis are presented in an issues paper, *Toxic Release Inventory—Small Source Exemption* (January 27, 1994) (Issues paper), and can be obtained in the TSCA docket, OPPTS docket number 400087 along with copies of the testimony presented at the Public Meeting.

Based on EPA's analysis and comments received, EPA believes that reducing the number of TRI reports by raising reporting thresholds for those facilities having low-level amounts released and transferred will help EPA, states, and the reporting community to focus their attention and resources on reducing chemical uses and releases that are of greatest concern. Therefore, EPA is proposing the development of an alternative threshold based on a category of facilities that have releases and transfers below a specified amount. EPA believes that this optional, alternative threshold will help balance costs (current and anticipated) that are associated with providing TRI information. This analysis is discussed further in part C of this section.

B. Description of Proposal

EPA is proposing that certain facilities may take advantage of a higher reporting threshold than those set out in 40 CFR 372.25 for any listed toxic chemical, if the sum of amounts of that chemical released and transferred (but only for the purpose of treatment and/or disposal) for that facility is below 100 pounds per year.

The revised thresholds would apply to a category of facilities on a per chemical basis for which the sum of the amounts described above is below 100 pounds per year. The alternate manufacture, or process, or otherwise use thresholds for each of the chemicals meeting the "low-level release" category would be an amount equal to or greater than 1 million pounds per year. If a facility meets these conditions, then that facility would not be required to file a Form R report for the reporting year for each chemical for which these conditions are met.

A facility would make several determinations to ascertain if it could take advantage of the higher alternate reporting threshold. The facility would first determine if it was a "covered facility" pursuant to 40 CFR 372.22. Currently, a facility is a "covered facility" for purposes of EPCRA section 313 reporting if it: (a) Has 10 or more full-time employees, (b) is in SIC codes 20 through 39, and (c) manufactures, processes, or otherwise uses a listed toxic chemical in excess of the applicable statutory thresholds. EPA is proposing to amend the last condition to include those facilities which elect to apply the alternate reporting thresholds under the proposed 40 CFR 372.27. Therefore, a facility applying the alternate threshold would still be considered a "covered facility" under 40 CFR 372.22.

Once a facility makes this determination, it would then estimate the sum of its releases and transfers (for purposes of treatment and/or disposal) for each listed chemical manufactured, processed, or otherwise used at the facility. If this sum is below 100 pounds per year, the facility could then apply the higher alternate reporting threshold of 1 million pounds to determine its reporting obligation for that chemical, provided that it also meets the concomitant certification and recordkeeping requirements. A facility eligible for and choosing to apply, the alternate revised threshold, would only be required to file a certification statement and maintain certain records in support of this certification. The facility would not be required to file a full Form R report for that chemical.

To take advantage of the revised thresholds, a facility would be required to: (a) Submit in writing an annual certification, indicating that the chemical for which the alternate threshold applies was released and transferred for the purposes of treatment and/or disposal in the sum of an amount less than 100 pounds per year; and (b) maintain and make available upon request accurate records substantiating the calculations supporting the release and transfer determination.

C. Explanation and Rationale for Proposal

Current reporting thresholds for manufacture, process, or otherwise use of listed section 313 chemicals are set forth in EPCRA section 313(f)(1). EPCRA section 313 does not provide EPA with direct authority to establish a reporting threshold under section 313(f)(1) based solely on amounts of estimated chemical releases. EPCRA section 313(f)(2) does, however, provide EPA authority to revise the established activity threshold amounts in section 313(f)(1).

The Administrator may establish a threshold amount for a toxic chemical different from the amount established by paragraph (1). Such revised threshold shall obtain reporting on a substantial majority of total releases of the chemical at all facilities subject to the requirements of this section. The amounts established under this paragraph may, at the Administrator's discretion, be based on classes of chemicals or categories of facilities.

Today, EPA is proposing to define a category of facilities based on the volume of chemicals released. By establishing a class of chemicals or category of facilities, a threshold modification associated with that class or category can be applied selectively. Facilities having total releases less than a certain amount for one or more chemicals would constitute a category of facilities. This category would then be eligible to take advantage of a revised manufacture, process, or otherwise use threshold for that specific chemical. In this way, only those facilities that fit within the category, and relevant chemicals at those facilities, would be affected.

EPA believes that it is appropriate to base the category determination on releases and transfers (for the purpose of treatment and/or disposal only). Although other elements on Form R may have significant volumes associated with them, EPA believes the combination of releases and such transfers on Form R approximate a facility's actual and/or potential environmental loadings. EPA believes that the proposed aggregate release level of less than 100 pounds represents an optimum balance between the need to limit the loss of TRI information made available to the public while eliminating reporting of data that is of lesser utility to the public. Based on 1991 data, an estimated 20,500 forms, or approximately one quarter of all Form Rs submitted, would qualify for the alternate threshold. As indicated in Table 1 below, the number of reports affected increase at a relatively proportionate rate as the aggregate release level for the category increases. However, above the 100 pound category level, the volumes of releases and transfers (for the purpose of treatment and/or disposal) depict a notable increase from 200,000 to 1,400,000 pounds for the respective category levels of 100 and 250 pounds. Results between the 100 and 250 pound category levels also indicate a significant increase in total waste generated, as well as in the number of counties with resultant decreases of information. These results indicate a natural break in the data indicating a point of balance between the two objectives of reducing the reporting burden and continuing to provide information of the greatest utility to the public. The selection of the alternate threshold for manufacture, process, or otherwise use of 1 million pounds represents a compromise that seeks to provide those facilities with aggregate releases and transfers below 100 pounds per chemical with an effective exemption from Form R reporting, while recognizing that even the most "well-controlled" facilities would find it difficult to manage chemicals in amounts of nearly 1 million pounds per year and only incur aggregate releases and transfers of below 100 pounds per year.

As noted above, EPCRA section 313(f)(2) requires that any revision to the current reporting thresholds continue to capture a substantial majority of total releases of the chemical. EPA believes this requirement should be interpreted as applying to each listed chemical or category, and not to total releases for all chemicals nationally. EPA believes such an interpretation is consistent with the intent of Congress.

The Administrator may modify these threshold amounts for a particular chemical, provided the revised threshold results in reporting on a substantial majority of the aggregate releases of the chemical at facilities subject to this section, but it would not necessarily require reporting from each facility (Ref. 2).

The analysis described in the *Impact on Reporting* discussion below indicates that there would be an almost complete loss of reports on a very limited number of chemicals with very low volumes of releases and transfers based on an alternate reporting threshold below the 100 pound release level. This is confirmed by similar results conducted on the 1992 data set which is also provided in the *Impact on Reporting* discussion. However, EPA believes that the proposed annual certification requirement, if implemented as proposed, would serve to maintain reporting on a substantial majority of releases of all chemicals that may be affected by the proposed alternate reporting threshold, including those discussed below in the unit titled *Impact on Reporting.*

Annual Certification. EPA is proposing that each qualifying facility which chooses to apply the revised manufacture, process, or otherwise use thresholds must file an annual certification statement in lieu of a full

Form R report. The proposed annual certification would provide an indication that the sum of amounts released and transferred for the purpose of treatment and/or disposal for each listed chemical for which the alternate threshold is being applied did not exceed 100 pounds. This information can be made available in the same manner that the information reported on Form R is made available. Currently, facilities releasing less than 100 pounds may indicate on Form R that they released from 1 to 10 pounds and 11 to 499 pounds. This is known as a "range report." The certification statement would act as the functional equivalent of a range report of zero to 99 pounds for combined releases and transfers for treatment and/or disposal. In this way, information on a substantial majority of both releases and transfers for the purpose of treatment and/or disposal would be maintained, which would satisfy the statutory intent of EPCRA section 313(f)(2). EPA also believes that this approach would address several of the concerns addressed by comments during the pre-proposal process.

During the development of this proposal and at the February 16, 1994 Public Meeting, EPA received a number of comments regarding a certification requirement. Some of the commenters favor a one-time certification by a facility that releases and transfers are within the limits established for the alternate threshold. The facility and chemical information would be recorded, and if there are changes in amounts released or transferred which would no longer allow the application of the alternative threshold, then full reporting would be reinstated.

Other commenters support an annual certification. These commenters contend that an annual certification has the effect of continued verification that releases and transfers are below the level established for a facility category. These commenters believe that without an annually submitted certification statement, reports for prior years would have to be compared with each consecutive reporting year to identify a potential non-reporter. Any attempt to verify if non-reporting may have occurred would require a follow up activity. Comments also assert that an annual statement helps to ensure that operators are aware of specific chemical uses and releases, thereby promoting good housekeeping practices. Additional comment in support of an annual certification statement described some state programs that currently survey facilities that reported in prior years but did not submit reports for the year under review.

After considering these comments, and the language of section 313(f)(2), EPA believes that an annual certification statement best addresses the statutory mandates and the public's right-to-know. EPA believes that the proposed annual certification will provide information relating to the location of facilities manufacturing, processing, or otherwise using these chemicals, that the chemicals are being manufactured, processed or otherwise used at current reporting thresholds, and that chemical releases and transfers for the purpose of treatment and/or disposal are below 100 pounds per year (i.e., within a range of zero to 99 pounds per year). This provides a sufficient indication of the potential volume of releases and such data can be made available to the public in the same manner as current Form R data. An annual statement will assist users of TRI data in distinguishing facilities which changed their chemical uses, and therefore were no longer required to report, from those that were required to, but did not report. An annual certification would assist those states that do not have the resources to survey facilities operating in their state as well as the public that use the data.

Finally, EPA believes the proposed annual certification requirements would foster continued attention to chemical management practices and provide a locational tool vital to any compliance program or other interested party. EPA believes it necessary to receive some type of specific indication that a facility was taking advantage of the alternate threshold annually to assist in any compliance monitoring and enforcement efforts.

EPA is interested in receiving comment on this approach and on alternatives, for example, requiring a certification statement every 3 or 5 years as opposed to annually. EPA would also like comment on the elements contained in the certification statement. In particular, are the elements appropriate for such a certification statement, and are all such elements necessary and sufficient? The elements EPA is proposing can be found in the amendment to the regulatory text of § 372.85.

Recordkeeping. EPA is also proposing that each facility taking advantage of the alternate threshold be required to maintain and make available upon request records for a period of 3 years from the date of the submission of the certification statement. These records would provide substantiation that an appropriate threshold determination was made and that estimated releases and transfers, for the purpose of treatment and/or disposal, were below 100 pounds for that reporting year. This documentation is necessary for any compliance effort verifying the claims made by a facility taking advantage of the alternate threshold.

Impact on Reporting. In developing this proposal, EPA analyzed TRI data to determine the impact of various options on the number of Form R reports that would no longer be received by EPA, amount and nature of chemical release information that would no longer be available to the public, and savings to industry, EPA, and State governments due to the reduced reporting and data management costs. EPA's preliminary analysis was contained in an Issues Paper made available at the Public Meeting held on February 16, 1994 (Ref. 3).

After the public meeting, EPA conducted additional analysis to estimate the impact on reporting of the creation of an alternate reporting threshold for a category of facilities for which annual releases and transfers off-site for the purpose of treatment and/or disposal were reported as below certain threshold levels, ranging from zero to below 5,000 pounds.

The following analytical results are based on 1991 and 1992 TRI data. These are the only data sets that contain the information on releases and transfers for the purpose of treatment and/or disposal plus the elements reported under the Pollution Prevention Act needed to calculate the impact of the alternate threshold being proposed by this document. A summary of the major findings for the volume-based category options considered are provided below:

Table 1.—Summary of Analytical Findings (Alternate Reporting Threshold Based on Releases and Transfers*)

Threshold Level (pounds)	No. of Reports Affected (1,000)	Volume Release and Transfers* Affected (pounds)	Percent of Total Release and Transfer*	Volume Total Waste Affected (million pounds)	Percent Total Waste	No. of Counties with 91–100 % Loss of Release and Transfer* Data
0/NA	10.2	0.0	0.00%	1,203.7	3.3%	0

Table 1.—Summary of Analytical Findings (Alternate Reporting Threshold Based on Releases and Transfers*)—Continued

Threshold Level (pounds)	No. of Reports Affected (1,000)	Volume Release and Transfers* Affected (pounds)	Percent of Total Release and Transfer*	Volume Total Waste Affected (million pounds)	Percent Total Waste	No. of Counties with 91–100 % Loss of Release and Transfer* Data
10	16.2	35,000	0.00%	1,687.3	4.9%	36
100	20.5	200,000	0.01%	2,260.7	6.3%	52
250	26.2	1,400,000	0.03%	3,059.7	8.5%	94
500	33.0	4,000,000	0.1%	3,864.3	10.7%	141
1,000	38.9	8,400,000	0.2%	5,583.8	15.5%	177
5,000	50.1	36,200,000	0.8%	7,786.7	21.6%	254

*Release and transfers for the purpose of treatment and/or disposal. (Data taken from 1991 reporting.)

EPA estimates that a total of 20,500 forms reported releases and transfers, as defined by this proposal, within the range of zero to 99 pounds based on both 1991 and 1992 data. For 1991, these forms originated from an estimated 10,200 facilities, of which 3,600 facilities would have met the "low-level release" category determination for all chemical reports submitted. For 1992 reporting, the 20,500 forms affected by the alternate thresholds originated from an estimated 10,600 facilities, of which 3,800 facilities would have met the "low-level release" category determination for all chemical reports submitted.

The amounts reported for releases and transfers as defined by EPA's proposal for the 20,500 forms totaled approximately 200,000 pounds for 1991 reporting and 164,200 pounds for 1992. This represents less than 1/100th of 1 percent of the total (4.5 billion) pounds reported for releases and transfers for treatment and/or disposal for 1991. Results for 1992 data are basically the same. Those Form R reports that indicated a range code of B, which represents a range between 11 and 499 pounds in any of the data elements used to make the "low-level release" category determination, were not counted. For the purpose of data management, a midpoint value is assigned in places where a range code is reported. The value assigned to range code B is 250 pounds. A report that submitted a range code of B in any element used to make the "low-level release" category determination, regardless of the amounts submitted in the remaining elements, would appear to be over the 100 pound category level. Therefore, the following results of EPA's analysis could underestimate the number of reports impacted in cases where actual amounts released or transferred for the purpose of treatment and/or disposal were below 100 pounds and the corresponding report indicated a range code of B. Based on 1991 data, approximately 4,600 Form Rs reported a range code indicating volumes within the range of 11–499 pounds for at least one element being used to define the category.

The total wastes volumes (amounts defined by releases and transfers for the purpose of treatment and/or disposal plus the Pollution Prevention Act reporting elements) associated with the 20,500 forms totaled approximately 2,260,700,000 pounds. This represents approximately 6.3 percent of the total 36 billion pounds reported by all forms for 1991. Total waste volumes associated with the 20,500 forms estimated to be eligible to apply the alternate threshold for 1992 was 6,105,300,000 pounds, which represents approximately 16.7 percent of total waste reported for all forms.

EPA's analysis found that, based on 1991 data, 15 chemicals would no longer be reported on Form R to the Agency. In 1991, these 15 chemicals were reported on a total of 26 Form Rs. The total amounts released and transferred for the purpose of treatment and/or disposal from these 26 forms was less than 350 pounds.

Based on 1991 data, the 15 chemicals for which most or all of the information on Form R would no longer be reported are presented below with the corresponding number of reports submitted per chemical and the total pounds released and transferred for the purpose of treatment and/or disposal.

Chemical Name	Number of Reports	Total pounds
Alpha-Naphthylamine	2	10
4-Aminobiphenyl	1	4
C.I. Food Red 15	4	46
C.I. Solvent Yellow 3	2	15
2-Chloroacetophenone	1	2
2,4-Diaminoanisole	1	85
3,3'-Dimethoxybenzidine	2	4
Heptachlor	1	5
Isosafrole	1	10
Methyl Hydrazine	2	1
Michler's Ketone	1	3
P-Anisidine	3	26
2,4,6-Trichlorophenol	2	82
2,6-Xylindine	2	21
Zineb	1	5
Total	26	319

From these numbers, it can be seen that these are chemicals for which very low releases and transfers are reported nationally. A similar analysis was conducted on 1992 data. Results from the 1992 data, indicate that 7 chemicals would no longer be reported on Form R with a "low-level release" category determination of less than 100 pounds. These 7 chemicals were reported on a total of 14 TRI reporting forms, with total amounts released and transferred for the purpose of treatment and/or disposal of less than 300 pounds.

Based on the 1992 data, the 7 chemicals for which Form R would no longer be filed are presented below with the corresponding number of reports submitted per chemical and the total pounds released and transferred for the purpose of treatment and/or disposal for each chemical.

Chemical Name	Number of Reports	Total Pounds
Alpha-Naphthylamine	2	10
4-Aminobiphenyl	1	3
Cupferron	1	79
3,3'-Dimethoxybenzidine	3	8
p-Anisidine	3	31
2,4,6-Trichlorophenol	1	87
2,6-Xylidine	3	59
Total	14	277

D. Alternative Options

The following four options are being presented for comment as alternatives to EPA's proposal. The first three options are constructed in the same manner as EPA's proposal, except the amount of "low-level releases" presented by the sums of releases and transfers for the purpose of treatment and/or disposal per chemical per year are: (1) Less than 500 pounds, (2) less than 10 pounds or, (3) zero (or not applicable). The fourth alternative that EPA is considering creates a facility category based on amounts reported for total waste generation.

1. *Category: less than 500 pounds per year.* This option would allow facilities that meet current reporting requirements but that have a chemical or chemicals for which the sum of amounts released and transferred for the purpose of treatment and/or disposal is below 500 pounds, to apply a higher reporting threshold to that chemical or chemicals. As described in unit B above, the alternate thresholds for manufacture, process, or otherwise use would be applied on a per chemical basis. The alternative reporting threshold would be equal to or greater than 1 million pounds.

Based on 1991 data, EPA estimates that a total of 33,000 forms reported total releases and transfers for the purpose of treatment and/or disposal of less than 500 pounds. The combined total reported for releases and transfers for the purpose of treatment and/or disposal by these forms was approximately 4,000,000 pounds. This represents approximately 1/10th of 1 percent of the total 4.5 billion pounds reported for such releases and transfers for 1991. The total waste volumes (sum of amounts released and transferred for the purpose of treatment and/or disposal plus the Pollution Prevention Act reporting elements) associated with these 33,000 forms totaled approximately 3,864,300,000 pounds. This represents approximately 10.7 percent of the total 36 billion pounds reported by all forms for 1991.

An alternate threshold applied to a category of less than 500 pounds is estimated to result in 20 chemicals which would no longer be reported on Form R. These 20 chemicals were reported on 37 forms with a national total of 1,814 pounds of releases and transfers for treatment and/or disposal based on 1991 data. The 20 chemicals for which most or all of the information on Form R would no longer be reported are presented below with the corresponding number of reports submitted per chemical and the total pounds released and transferred for the purpose of treatment and/or disposal.

Chemical Name	Number of Reports	Total Pounds
Alpha-Naphylamine	2	10
4-Aminobiphenyl	1	4
4-Aminoazobenzene	1	441
p-Anisidine	3	26
2-Chloroacetophenone	1	2
C.I. Food Red 15	4	46
C.I. Solvent Yellow 3	2	15
2,4-Diaminoanisole	1	85
1,2-Dibromo-3-Chloropropane	2	290
Dichlorobromomethane	1	200
3,3'-Dimethoxybenzidine	2	4
p-Dinitrobenzene	1	164
Heptachlor	1	5
Isosafrole	1	10
Methyl Hydrazine	2	1
Michler's Ketone	1	3
Propyleneimine	6	400
2,4,6-Trichlorophenol	2	82
2,6-Xylidine	2	21
Zineb	1	5
Total	37	1,814

A facility category based on the sum of amounts released and transferred for the purpose of treatment and/or disposal of less than 500 pounds will certainly allow many more facilities to apply for the alternate threshold. Based on 1991 reporting, approximately 40 percent of those forms submitted would be eligible. However as can be seen from referencing Table 1, these additional forms account for a significantly larger amount of release, transfer, and total waste generation data that would no longer be available.

2. *Category: less than 10 pounds per year.* This option would allow facilities that meet current reporting requirements but that have a chemical or chemicals for which the sum of amounts released and transferred for the purpose of treatment and/or disposal is below 10 pounds, to apply a higher reporting threshold to that chemical or chemicals. As described in part B above, the alternate thresholds for manufacture, process, or otherwise use would be applied on a per chemical basis. The alternative reporting threshold would be equal to or greater than 1 million pounds.

Based on 1991 data, EPA estimates that a total of 16,200 forms reported total releases and transfers for the purpose of treatment and/or disposal of less than 10 pounds. The combined total reported for releases and transfers for the purpose of treatment and/or disposal by these forms was approximately 35,000 pounds. This represents less than 1/100th of 1 percent of the total 4.5 billion pounds reported for such releases and transfers for 1991. The total waste volumes (sum of amounts released and transferred for the purpose of treatment and/or disposal plus the Pollution Prevention Act reporting elements) associated with these 16,200 forms totaled approximately 1,687,300,000 pounds. This represents approximately 4.9 percent of the total 36 billion pounds reported by all forms for 1991.

An alternate threshold applied to a category of less than 10 pounds is estimated to result in 9 chemicals which would no longer be reported on Form R. These 9 chemicals were reported on 12 forms with a national total of 44 pounds of releases and transfers for treatment and/or disposal based on 1991 data. The 9 chemicals for which most or all of the information on Form R would no longer be reported are presented below with the corresponding number of reports submitted per chemical and the total pounds released and transferred for the purpose of treatment and/or disposal.

Chemical Name	Number of Reports	Total Pounds
Alpha-Naphylamine	2	10
4-Aminobiphenyl	1	4
2-Chloroacetophenone	1	2
3,3'-Dimethoxybenzidine	2	4
Heptachlor	1	5
Isosafrole	1	10
Methyl Hydrazine	2	1
Michler's Ketone	1	3
Zineb	1	5
Total	12	44

It is apparent from these numbers that a facility category of less than 10 pounds would impact a subset of the information reported by those reports comprising the less than 100 pound category.

3. *Category: zero pounds or not applicable.* This option would create a category of facilities based on the sum of amounts released and transferred for the purpose of treatment and/or disposal of zero pounds or not applicable. As described in EPA's proposal, the alternate manufacture, process, or otherwise use thresholds would be applied on a per chemical basis for those listed chemicals where the sum of amounts released and transferred for the purpose of treatment and/or disposal from a facility was zero pounds or not applicable. The corresponding alternate threshold

would be equal to or greater than 1 million pounds.

A report may indicate not applicable in such cases where a release is not associated with a particular medium for a given chemical. An example of this could be a constituent that is part of an aqueous waste and remains in solution with all releases directed to a receiving stream where there are no direct releases to land. In this case, elements on the form pertaining to land releases would not apply.

EPA estimates that a total of 10,200 forms reported releases and transfers, for the purpose of treatment and/or disposal, of zero or not applicable. These forms originated from an estimated 6,100 facilities, of which 1,900 facilities would have met the "low-level release" category determination for all chemical reports submitted.

By definition, no amounts were reported for releases and transfers, for the purpose of treatment and/or disposal, by the 10,200 forms. However, these forms do have total wastes volumes associated with them. An estimated total of 1,203,700 pounds were reported by the 10,200 forms for the Pollution Prevention Act reporting elements for 1991. This represents approximately 3.3 percent of the total 36 billion pounds reported by all forms.

Form Rs reporting total releases and transfers for treatment or disposal equal to zero pounds or not applicable would by definition not impact the continued collection of a substantial majority of releases for the chemical reported.

4. *Alternate threshold based on total waste generation.* This alternative creates a category based on the total of all volumes reported. Reporting elements included in the total waste generation option include information collected under section 6607 of the Pollution Prevention Act such as amounts treated on-site, amounts recycled on-site and off-site, and volumes used for energy recovery on-site and off-site. This information was first publicly made available in reports submitted for reporting year 1991. The rationale for using this approach is that the data set collected currently is much broader than the data set collected under TRI prior to 1991 and provides more information on the TRI chemicals being managed by reporting facilities. Setting a category designation by only the volume of releases and transfers for treatment and/or disposal results in the loss of the more detailed waste management and source reduction efforts both current and projected. There can be situations in which low volumes of releases in any given year are still associated with large volumes of the TRI chemicals in waste that are treated, recycled or burned for energy recovery. For example, the zero level represented by Alternative 3 above results in a loss of reporting of over 1 million pounds of waste management activity.

One purpose of the Pollution Prevention Act is to help users of the data understand the details of facility waste management and source reduction practices. This reporting also encourages facilities to focus attention on both the current and future potential for release reductions as well as source reduction opportunities.

Presented below in Table 2 are data taken from 1991 indicating the impact of a facility category based on total waste generation at various levels.

Table 2.—Summary of Analytical Findings (Alternative Reporting Threshold Based on Total Waste Generation*)

Category Level (pounds)	No. of Reports Affected (1,000)	Volume Total Waste Affected (million pounds)	Percent Total Waste	No. of Counties with 91–100% Loss of Total Waste Generation* Data
0/NA	6.3	0.0	0.0%	0
10	10.0	0.02	0.0%	13
100	13.0	0.15	0.0%	24
250	16.7	0.94	0.0%	52
500	21.3	2.66	0.01%	89
1,000	25.7	5.86	0.02%	117
5,000	34.8	28.81	0.08%	171

*Total waste generation includes releases and transfers plus the Pollution Prevention Act data. (Data taken from 1991 reporting.)

Based on these figures, it is evident that a cut-off level for defining the category of facilities eligible for the revised threshold based on total waste generation would have to be set at a higher level than one based only on releases and transfers (for the purpose of treatment and/or disposal only) to achieve a similar reduction in the number of Form R reports. For example, in order to eliminate the submission of an estimated 20,500 reports based on a release and transfer category definition, the cut-off level for eligibility would be 100 pounds. See Table 1 above. To achieve a similar reduction in number of reports, an estimated 21,300 reports, based on a total waste category definition, the cut-off level for eligibility would have to be set at 500 pounds. See Table 2 above.

A disadvantage of establishing a category of facilities based on total waste generation is that it provides a much higher standard for facilities to meet in order to take advantage of an alternate threshold. In addition, establishing a category based on total waste generation would require the facility to complete all of the calculations on Form R for a given chemical. This would further diminish the savings in time and resources in preparing these calculations which would be provided by this proposed rule. Finally, EPA would have to carefully consider whether an alternate manufacture, process, or otherwise use threshold of 1 million pounds would be sufficient to effectively exempt those Form R submissions.

III. Other Approaches Considered

EPA requested comment in the SBA notice on alternative approaches to the development of a TRI reporting exemption based on releases and transfers. Numerous suggestions were submitted, and alternative approaches for modifying current reporting were considered. These approaches fall within four main categories: (1) Modifications to the manufacture, process, or otherwise use thresholds based on classes of chemicals or categories of facilities (being proposed in this document); (2) general revision to the manufacture, process, or otherwise use thresholds; (3) altering the frequency of reporting; and (4) other administrative changes, such as a revision of the article exemption.

1. *Threshold modifications based on classes of chemicals or categories of facilities.* The approach put forth in EPA's proposal is a threshold modification for a facility category based on amounts released and transferred for the purpose of treatment

and/or disposal. Another option that falls within an approach based on classes of chemicals or categories of facilities is that put forth in SBA's petition. For the purposes of organizing discussion in this section, SBA's approach will be referred to as a List Division.

List Division. The SBA petition proposed dividing the list of section 313 reportable chemicals and applying different exemption levels to each set of chemicals. The two primary principles behind a list division would be to set a lower reporting threshold for those chemicals thought to pose greater potential hazard concerns, and to ensure that reporting on a substantial majority of releases would be retained for lower volume chemicals. SBA asserts that one benefit of such an approach is that it could eliminate a significant number of reports on "high volume" chemicals while preserving reports on "highly toxic" chemicals released in low volumes. The results of EPA's analysis are presented in Appendix B-1 of the Issues paper (Ref. 3).

Comment received on the SBA Notice addressed the impact of and basis upon which a list division could be created. Some commenters suggested that the list division proposed in the SBA petition was unfounded, and that adopting the Reportable Quantity (RQ) scheme associated with the reporting of extremely hazardous substances (EHS) under EPCRA section 304 would be a more supportable approach because the methodology that distinguishes among chemicals already exists. The classification scheme used to determine reporting obligations under EPCRA section 304 divides the list into chemicals having RQs of 1, 10, 100, 1,000, and 10,000 pounds, depending on the chemical. The application of these values to the TRI listed chemicals could create as many as five classes of chemicals with each having a different release and transfer level. Many of the TRI listed toxic chemicals do not have RQ values assigned to them. This approach would add multiple levels of complexity to the TRI reports. In addition, EPA has received comment regarding the lack of conclusive data supporting a division of the currently listed chemicals to adequately address concerns of carcinogenicity, teratogenicity, and general hazards that may be posed from continued low-level releases that might go unreported if a reporting modification is made. In addition, EPA believes that creating different categories with varying levels assigned by chemical would further complicate an attempt to provide a reduction in burden associated with TRI reporting. It is EPA's intent to develop a reporting modification that can be implemented as simply as possible, while preserving the utility of the TRI data.

2. *Revision of the otherwise use threshold.* EPA has authority under section 313(f)(2) to revise the manufacture, process, or otherwise use threshold amounts. An upward revision of any of these amounts would eliminate reports from those facilities that manufacture, process, or otherwise use a listed chemical below the revised activity threshold level.

Form R does not request information on amounts manufactured, processed, or otherwise used for the chemical being reported. However, the amounts of listed chemicals otherwise used by TRI facilities can be estimated based on analytically plausible assumptions. For this reason, EPA conducted an analysis on an estimated change in the otherwise use threshold. The description of this analysis and the associated findings can be found in Appendix B-2 of the Issues paper (Ref. 3).

One benefit of this approach is that it is simpler to implement and enforce compared to revisions based on sums of volumes reported on Form R, such as that described as an Alternative Threshold Modification. Identifying the amounts otherwise used, manufactured, or processed is one of the first pieces of information a facility develops as part of its compliance determination.

A disadvantage of this approach is that it is much less selective in its ability to equate an effective exemption with a report of relatively low volume of releases. For example, raising the otherwise use threshold from 10,000 to 25,000 pounds could eliminate an estimated 18,000 reports. However, the release information contained in any such report could range from zero to 25,000 pounds per year because certain uses may result in environmental releases of all quantities used.

3. *Altering the reporting frequency.* Section 313(i)(A) provides EPA authority to modify the current annual reporting frequency. Such a modification cannot increase reporting to be more often than on an annual basis. Such a modification can be applied either nationally or to a specific geographic area, to the following: all toxic chemical release forms, a class of chemicals or a category of facilities, a specific toxic chemical, and a specific facility. By reducing the frequency of reporting, facilities would not be subject to an annual reporting requirement, but might be requested to maintain activity information for non-reporting years and submit this information during a reporting year. For example, a class of facilities may be identified as operating in a very similar manner with little chemical use or release changes. For these facilities, it may be sufficient to have Form R reports submitted less frequently than on an annual basis. It could also be possible to define a category of facilities, similar to the alternate threshold modification described above, and make their reporting frequency "0" years, thus effectively exempting these facilities from reporting.

Under section 313(i), to propose a revision of the current reporting frequency, EPA must meet certain conditions. One such condition requires EPA to notify Congress 1 year prior to initiating rulemaking procedures, in addition to making certain findings and meeting a substantial evidence standard of review. EPA believes that such an approach could unduly lengthen the time required to implement the alternative threshold provision.

4. *Revision of the article exemption.* Comments on the SBA notice included suggestions to revise the article exemption, 40 CFR 372.38(b), so that the absence of releases from "articles" would no longer be a condition for retaining the article status of materials processed or used at a facility. Currently, if a toxic chemical is released from the normal processing or use of an item at the facility, then that item cannot be considered an article, unless all such releases are recycled.

By eliminating the release condition within the article definition, more items could be considered as articles and the listed chemicals associated with them would not be counted toward reporting thresholds.

EPA does not believe that elimination of this release criterion is appropriate nor does it provide an effective alternative for establishing a specific low volume, released-based approach for reducing the current level of reporting burden.

IV. Request for Comment on the Issues Listed Below

EPA requests comment on any aspect of this proposal. However, EPA requests specific comment as detailed in the following paragraphs.

Should an alternate reporting threshold based on low-levels of releases and transfers carry with it a provision that would require some period of full Form R reporting prior to taking advantage of the alternate reporting threshold? This provision would apply to reporting by new facilities added either by a change in chemical activity or inclusion of

additional industry sectors, or by adding chemicals to the section 313(c) TRI list. Such a provision could be useful for establishing a "baseline" of activity that would provide reporting on all of the elements contained on Form R prior to accepting an annual certification.

EPA would like to hear from those states that have adopted EPCRA and EPCRA-like laws regarding how adopting an alternate threshold such as that being proposed would affect their program.

Would states find an alternative reporting threshold based on zero releases and transfers more difficult to enforce than an alternative reporting threshold based on another release level (e.g., 10–500 pounds)?

EPA requests comment on the potential loss of Pollution Prevention Act data that would result from adopting a facility category approach defined by amounts released and transferred for the purpose of treatment and/or disposal at any level.

EPA requests comment on the effectiveness, in terms of providing a reduction in the current level of reporting burden with the need to continue to collect data on and promote total waste management, of establishing a facility category based on amounts reported for total waste generation.

EPA requests comment on any activity that has focused on reports of low- level releases, specifically for such reports that would be effected by this proposal.

V. Rulemaking Record

All documents related to this rulemaking (reference docket number OPPTS–400087) are available to the public in the TSCA Nonconfidential Information Center (NCIC) from noon to 4 p.m., Monday through Friday, excluding legal holidays. The NCIC is located at EPA headquarters, Rm. NE–B607, 401 M St., SW., Washington, DC 20460.

VI. References

(1) Memo, "Significance of Small Source Releases in Total Releases and Transfers for TRI Chemicals - Preliminary Data Tables - 1988 TRI Data," Kevin Bromberg to Mary Ellen Weber, Environmental Protection Agency, February 28, 1991.

(2) U.S. Congress, House of Representatives. "Conference Report No. 962," 99th Cong., 2nd Session. 296 (1986).

(3) USEPA/OPPT. Toxic Release Inventory--Small Source Exemption, (Issues Paper). U.S. Environmental Protection Agency, Washington, DC, (January 27, 1994).

(4) SIC Code 2048 Analysis.

VII. Regulatory Assessment Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 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 of 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.

EPA's economic analysis estimates that 20,500 reports submitted on Form R for the currently listed chemicals would be eligible for the certification as a result of the proposed alternative reporting threshold outlined in Unit II.B. of this preamble. This would result in savings of $26 million per year for affected facilities, and $680,000 per year for EPA.

Pursuant to the terms of this Executive Order, EPA has determined that this proposed rule is "significant."

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act of 1980, the Agency must conduct a small business analysis to determine whether a substantial number of small entities would be significantly affected by the proposed rule. Because the proposed rule would result in cost savings to facilities, EPA certifies that small entities would not be significantly affected by the proposed rule.

C. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request document has been prepared by EPA (ICR No. 1704.01) and a copy may be obtained from Sandy Farmer, Information Policy Branch, (Mail Code 2136), EPA, 401 M St., SW., Washington, DC 20460 or by calling (202)260–2740.

This collection of information has an estimated reporting burden averaging 27 hours per response and an estimated annual recordkeeping burden averaging 4 hours per respondent. These estimates include time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The burden for this reporting activity will be subtracted from the Form R information collection when that ICR (No. 1363) is renewed.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Chief, Information Policy Branch, (Mail Code 2136), EPA, 401 M St., SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

List of Subjects in 40 CFR Part 372

Environmental protection, Community right-to-know, Reporting and recordkeeping requirements, Toxic chemicals.

Dated: July 15, 1994.

Carol M. Browner,

Administrator.

Therefore, it is proposed that 40 CFR part 372 be amended as follows:

PART 372—[AMENDED]

1. The authority citation for part 372 would continue to read as follows:

Authority: 42 U.S.C. 11023 and 11048.

2. In § 372.10, by adding a new paragraph (d) to read as follows:

§ 372.10 Recordkeeping.

* * * * *

(d) Each person who determines that they may apply the alternative reporting threshold as specified under § 372.27(a) must retain the following records for a period of 3 years from the date of the submission of the certification as required under § 372.27(b):

(1) A copy of each certification submitted by the person under § 372.27(b).

(2) All supporting materials and documentation used by the person to make the compliance determination that the facility or establishments is a covered facility under §§ 372.22 or 372.45.

(3) Documentation supporting the certification submitted under § 372.27(b) including:

(i) Data supporting the determination of whether the alternative reporting threshold specified under § 372.27(a) applies for each toxic chemical.

(ii) Documentation supporting the calculations of the quantity of each toxic chemical released to the environment or transferred to an off-site location.

(iii) Receipt or manifests associated with the transfer of each chemical in waste to off-site locations.

3. In § 372.25, by revising the introductory paragraph to read as follows:

§ 372.25 Thresholds for reporting.

Except as provided in § 372.27, the threshold amounts for purposes of reporting under § 372.30 for toxic chemicals are as follows:

* * * * *

4. By adding a new § 372.27 to read as follows:

§ 372.27 Alternate threshold and certification.

(a) With respect to manufacture, process, or otherwise use of a toxic chemical, a covered facility may apply an alternative reporting threshold of 1 million pounds per year if the facility calculates that it would have reported releases of less than 100 pounds per year of the toxic chemical, as a combined total of the following:

(1) Releases pursuant to § 372.85(b)(15), and

(2) Transfers, but only for the purpose of treatment and/or disposal, pursuant to § 372.85(b)(16).

(b) If the facility determines that it may apply the alternative reporting threshold specified in paragraph (a) of this section for a specific toxic chemical, the facility is not required to submit a report for that chemical under § 372.30, but must submit a certification statement including the information required under § 372.85(c). The facility must also keep records as specified in § 372.10(d).

(c) Each certification statement under this section for activities involving a toxic chemical that occurred during a calendar year at a covered facility must be submitted on or before July 1 of the next year.

5. In § 372.85, by adding a new paragraph (c) to read as follow:

§ 372.85 Toxic chemical release reporting form and instructions.

* * * * *

(c) Alternative threshold certification statement elements. The following information must be reported on an alternative threshold certification statement pursuant to § 372.27(b):

(1) Reporting year.

(2) An indication of whether the chemical identified is being claimed as trade secret.

(3) Chemical name and CAS number (if applicable) of the chemical, or the category name.

(4) Signature of a senior management official certifying the following:

I hereby certify that for each toxic chemical listed in this report, the combined releases and transfers (for the purpose of treatment and/or disposal only) were less than 100 pounds for this reporting year and that the chemical was not manufactured, processed, or otherwise used in amounts equal to or greater than 1 million pounds during this reporting year.

(5) Date signed.

(6) Facility name and address.

(7) Mailing address of the facility if different than paragraph (c)(6) of this section.

(8) Toxic chemical release inventory facility identification number if known.

(9) Name and telephone number of a Technical Contact.

(10) SIC code(s).

(11) Latitude and longitude.

(12) Dun and Bradstreet Number.

(13) EPA Identification Number(s) (RCRA I.D. Number(s).

(14) Facility NPDES Permit Number(s).

(15) Underground Injection Well Code (UIC) I.D. Number(s).

(16) Name of parent company.

(17) Parent company's Dun and Bradstreet Number.

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Thursday
July 28, 1994

Part VII

Environmental Protection Agency

40 CFR Parts 261 and 266

Identification and Listing of Hazardous Waste; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 261 and 266

[EPA–530–Z–94–009; SWH–FRL–5022–4]

Identification and Listing of Hazardous Waste; Amendments to Definition of Solid Waste

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency is today excluding from the RCRA regulatory definition of solid waste certain in-process recycled secondary materials utilized by the petroleum refining industry. Specifically, today's rule states that oil recovered from petroleum refinery wastewaters and from other sources, both on-site and off-site, is excluded from the regulatory definition of solid waste if it is subsequently inserted (along with normal process streams) into the petroleum refining process prior to crude distillation or catalytic cracking.

EFFECTIVE DATE: This final rule is effective on July 28, 1994.

ADDRESSES: The official record for this rulemaking is identified as Docket Number F–94–SWF–FFFFF and is located in the EPA RCRA docket, Room 2616, 401 M Street SW., Washington, DC 20460. The docket is open from 9:00 to 4:00, Monday through Friday, except for Federal holidays. The public must make an appointment to review docket materials by calling (202) 260–9327. The public may copy a maximum of 100 pages from any one regulatory docket at no cost. Additional copies cost $.15 per page.

FOR FURTHER INFORMATION CONTACT: General questions about the regulatory requirements under RCRA should be directed to the RCRA/Superfund Hotline, Office of Solid Waste, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; Telephone: toll-free at (800) 424–9346, or locally at (703) 412–9810. For the hearing impaired, the number is (800) 553–7672 (toll-free) or (703) 412–3323 (local). For information on specific aspects of today's notice, contact Ross Elliott, Office of Solid Waste (5304), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 260–8551.

SUPPLEMENTARY INFORMATION:

Outline of Today's Rule

I. Authority
II. Background
A. Statutory Definition of Solid Waste
B. Prior Litigation
C. January 8, 1988 Proposal
D. Description of Petroleum Exploration, Development & Production, and the Petroleum Refining Process
E. Petroleum Refining Wastewater Treatment
F. Recovered Oil and Recovered Oil Systems
G. Status of Wastewater Streams, Wastewater Treatment Units, Recovered Oil, and Recovered Oil Systems Under Current RCRA Rules
III. Summary of Today's Final Rule
IV. Scope of Today's Final Rule
A. Limiting Scope to Recovered Oil from Petroleum Refining, Exploration and Production
B. Rationale for Excluding Recovered Oil and Not Wastewater from Being a Solid Waste
C. Rationale for Excluding Recovered Oil from Off-Site Sources
V. Rationale for Conditioning the Exclusion on Recovered Oil Not Being Placed on the Land and Not Being Accumulated Speculatively
VI. Rationale for Not Excluding Recovered Oil that is Inserted into the Petroleum Refining Process After Crude Distillation or Catalytic Cracking (*i.e.*, into Petroleum Coker)
VII. Rationale for Not Excluding Other Oil-Bearing Hazardous Materials
VIII. Demonstration that Recovered Oil Meets Conditions of Exclusion
IX. Examples of How Today's Rule Operates
X. Relationship to Other Programs
A. Clean Air Act (Benzene NESHAP)
B. Clean Water Act
C. RCRA
1. RCRA Air Emission Standards
2. Used Oil
D. Enforcement; Effect of Today's Final Rule on RCRA 3007, 3013, 7002 and 7003 Authorities
XI. State Authority
A. Applicability of Rules in Authorized States
B. Effect on State Authorization
XII. Regulatory Requirements
A. Regulatory Impact Analysis Pursuant to Executive Order No. 12866
B. Regulatory Flexibility Act
C. Paperwork Reduction Act

I. Authority

These regulations are issued under the authority of Sections 2002 and 3001 *et seq.* of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. 6912 and 6921 *et seq.*

II. Background

A. Statutory Definition of Solid Waste

The statutory definition of solid waste, RCRA Section 1004 (27), is the starting point for determining RCRA Subtitle C jurisdiction. This is because the term "hazardous waste" is a subset of "solid waste." RCRA Sections 1004 (5) and 1004 (27). The statutory definition of solid waste indicates that "garbage, refuse, sludge * * * and other discarded material" are solid wastes. The critical issue is when secondary materials (see definition at 50 FR at 616 n. 4, Jan. 4, 1985) that are going to be recycled can be solid wastes. Today's rulemaking addresses this question for certain operations commonly occurring in the petroleum refining and related industries.

The reader should note that EPA is conducting an assessment of the RCRA Definition of Solid Waste, as described in the EPA report, *RCRA Implementation Study Update.*[1] This ongoing effort may result in proposed regulatory changes to the definition set forth in 40 CFR 261.2 and related requirements. Today's action, however, is fairly narrow, applying to situations where certain oil-bearing secondary materials are used or reused within the petroleum refining process. EPA will continue its broad policy review of the Definition of Solid Waste, but deemed unnecessary any delay in issuing today's rule.

B. Prior Litigation

In its decision in *American Mining Congress* v. *EPA*, 824 F. 2d1177 (D.C. Cir. 1987) (*AMC I*), a divided panel of the District of Columbia Circuit held that the Agency's rules defining the statutory term "solid waste," RCRA Section 1004 (27), exceeded the Agency's statutory authority to the extent that the rules asserted RCRA authority over "materials that are recycled and reused in an *ongoing* manufacturing or industrial process." *Id.* at 1186 (emphasis original). Because "these materials have not yet become part of the waste disposal problem", *id.*, they are not yet "discarded" within the meaning of Section 1004 (27) and so cannot be considered to be "solid wastes." Subsequent judicial decisions confirm that the holding in *AMC I* is limited to situations involving "materials that are 'destined for *immediate reuse* in another phase of the industry's ongoing production process' and that 'have not yet become part of the waste disposal problem.'" *American Mining Congress* v. *EPA*, 907 F. 2d 1179, 1186 (D.C. Cir. 1990 (*AMC II*) (emphasis original); *American Petroleum Inst.* v. *EPA*, 906 F. 2d 729, 740–41 (D.C. Cir. 1990) (*API*); *Shell Oil* v. *EPA*, 950 F. 2d 741, 755–56 (D.C. Cir. 1991); *Chemical Waste Management* v. *EPA*, 976 F. 2d 2,

[1] RCRA *Implementation Study Update: The Definition of Solid Waste*, U.S. EPA, July 1992, #EPA530–R–92–021.

14 (D.C. Cir. 1992), *cert. denied* 113 S.Ct. 1961 (1993).

C. January 8, 1988 Proposal

On January 8, 1988, EPA proposed rules to implement the *AMC I* opinion. Of particular significance to today's action, EPA proposed certain amendments relating to the scope of the regulatory definition of solid waste as applied to operations occurring within the petroleum refining industry. In particular, the Agency proposed to exclude from the regulatory definition of solid waste secondary materials associated with "on-going fuel production activities in the petroleum refining industry. These activities involve situations where crude oil is refined, and oil-bearing residues from that refining process are returned for further refining as part of one continuous and on-going process." 53 FR at 525 (Jan. 8, 1988). The Agency specifically proposed to exclude oil-bearing residues from the refining process when those residues are generated on-site and inserted into that on-site petroleum refining process or coker, provided that these residues are not managed in such a way as to be "characterized by elements of discard" such as placement in a disposal unit like a surface impoundment. *Id.* EPA is not taking any action today with respect to the portions of the January 8, 1988 proposal dealing with non-petroleum materials. These issues are being addressed by other on-going Agency activities (see above, Section II.A.). The Agency is, as described below, taking final action with respect to the petroleum materials.

D. Description of Petroleum Exploration, Development & Production, and the Petroleum Refining Process

The presence of petroleum in geologic formations is confirmed by the drilling of exploratory wells. Once located, the development of a petroleum reservoir includes the drilling of additional wells to extract the oil or gas, and well completion and stimulation techniques designed to increase the recovery of oil or gas from that reservoir. Petroleum production generally includes all the activities associated with the recovery of petroleum from the geologic formation. These production activities involve the operation and maintenance of the producing well, and the handling and separation of the recovered crude oil, natural gas, natural gas liquids, and water. The separation of water/crude oil emulsions is performed in tanks by gravity settling, or heat may be added to separate emulsions. Crude oil is then transported via pipeline, vehicle or vessel to stock tanks and ultimately to the refinery.

Petroleum refining involves several manufacturing operations and processes, including crude desalting, atmospheric and vacuum distillation, hydrotreating, catalytic cracking, thermal processing and residual upgrading, light hydrocarbon processing, hydrocracking, catalytic reforming, extraction, isomerization, lubricating oil processing, sulfur removal and recovery, and product blending and inventory. Products manufactured from petroleum refining include hydrogen, fuel gas, sulfur, liquified petroleum gas, butane, aromatic feedstocks, leaded and unleaded motor gasolines, jet fuel, kerosene, diesel, heating oil, fuel oil, and asphalt. See generally, 55 FR at 46359 (Nov. 2, 1990); and EPA's Development Document for the effluent guidelines for the petroleum refining industry.[2]

E. Petroleum Refining Wastewater Treatment

Petroleum refining operations generate large amounts of wastewater that require treatment in order to reduce or remove wastewater pollutants so as to produce effluent that meets discharge requirements of the Clean Water Act. Principal sources of wastewater are refinery process units (where wastewater comes in direct contact with oil), as well as oily cooling waters from cooling towers and heat exchangers. Storm water, which may be subject to minor oil contamination from leaks or spills, is also a type of wastewater at a petroleum refinery.[3]

Wastewater treatment systems at petroleum refineries generally consist of: (1) a drainage and collection system to collect and carry wastewaters to treatment units; (2) a primary treatment system to separate oil/water/solids, and (3) a secondary treatment system, normally involving biological treatment, to remove soluble biodegradable wastewater pollutants. Some refineries have tertiary treatment systems as well, consisting of water polishing steps before discharge. Secondary and tertiary treatment is frequently conducted using surface impoundments. Primary treatment, i.e. the initial separation of water, oil, and solids, normally occurs in tanks.

F. Recovered Oil and Recovered Oil Systems

Today's rule deals primarily with the status under RCRA Subtitle C of recovered oil which is returned to the petroleum refining process. "Recovered oil" is a generic term that applies to secondary materials consisting primarily of oil such as oil separator skimmings from plant wastewaters, slop oil and emulsions, oil skimmed from ballast water tanks, and oil from refinery process units (*e.g.*, off-specification process streams). As explained in detail below, today's rule excludes from the definition of solid waste recovered oil from petroleum exploration and production, petroleum refining, and transportation incident to either of these activities, when the recovered oil is reinserted into a petroleum refining process. The exclusion does not apply to recovered oil generated from petroleum operations downstream of refining such as marketing or retail sales—because this oil is already excluded for the most part, as discussed below —, or from non-petroleum industry operations.

This rule also does not exclude hazardous sludges (such as wastes K048, K051, or F037) or other similar wastes from regulation. Distinguishing between these wastes and recovered oil is sometimes difficult. Factors EPA will consider in making this distinction include water content, solids content, and potentially, metals content. See generally 50 FR at 49170 n. 16 (Nov. 29, 1985). EPA repeats, however, that the salient characteristic of recovered oil is the obvious one: that it consist primarily of oil.

Used oil also is not a type of recovered oil, and hence remains subject to the applicable regulations for used oil. See generally 59 FR 10550 (March 4, 1994). The only exception is when *de minimis* quantities of used oil are incidentally captured by refinery wastewater treatment systems. This could occur, for example, when small leaks, spills, or drippings of used oil from machinery, pumps, or other refinery equipment during normal operations are lost to the wastewater treatment system. In these instances, the used oil present in de minimis quantities in wastewater is not subject to the used oil standards. See generally 57 FR at 41566 (Sept. 10, 1992).

The objective of a recovered oil system is to gather and recycle oil generated throughout the refinery, or (to a lesser extent) generated from off-site

[2] Section III of *Development Document for Effluent Limitations Guidelines, New Source Performance Standards and Pretreatment Standards for the Petroleum Refining Point Source Category*, U.S. EPA, October 1982, National Technical Information Service #PB838–172569.

[3] *Id.*, and see *Manual on Disposal of Refinery Wastes: Volume on Liquid Wastes*, American Petroleum Institute, 1969, pp. 3–4 to 3–5.

sources.[4] Recovered oil operations almost always occur in tanks, usually a series of tanks that successively purify the oil to the point where it is sufficiently clean and dewatered to be inserted into the petroleum refining process. 53 FR at 525. Some oil is collected directly from process units and sent by means of pipes or vacuum trucks to the refinery's dedicated oil tanks. Occasionally this recovered oil is of sufficient purity that it can be inserted directly into the refining process with little or no treatment in the recovered oil system.

Recovered oil from plant wastewater operations is most often a water-in-oil emulsion, which is sent first to tanks where gravity separates much of it into oil, emulsion, and water layers. The intermediate layer of emulsions then may be sent to other tanks where it will undergo further emulsion-breaking treatment (*e.g.*, mechanical centrifuging, heating, or chemical additives). At the end of each stage, the separated water is returned to the refinery oil/water separators, while the oil is either further treated or, if sufficiently dewatered, is returned to one or more refinery process units. These may include crude oil distillation or catalytic cracking units.[5]

G. Status of Wastewater Streams, Wastewater Treatment Units, Recovered Oil, and Recovered Oil Systems Under Current RCRA Rules

Under present RCRA regulations, petroleum refinery wastewaters upstream of a wastewater discharge that is subject to regulation under Sections 307(b) or 402 of the Clean Water Act, are solid wastes. See 40 CFR 261.4(a)(1) and (2). Such petroleum refinery wastewaters are hazardous if they exhibit a characteristic of hazardous waste, or are listed hazardous wastes (although there are presently no specific hazardous waste listings for petroleum refining industry wastewaters). Petroleum refining wastewater storage and treatment operations generate a number of listed hazardous wastes. In particular, sludges from primary treatment operations are listed under the generic F037 and F038 listings. Sludges from Dissolved Air Flotation (DAF) wastewater treatment units and API separators (particular types of primary wastewater treatment devices) are listed as wastes K048 and K051, respectively. Slop oil systems generate listed wastes as well: slop oil emulsion solids are listed as K049. Also, EPA is studying additional petroleum refining wastes as part of a listing determination required by RCRA 3001 (e)(2).

In addition, petroleum refineries typically generate large volumes of wastes that exhibit hazardous waste characteristics. Individual wastewater streams upstream of wastewater treatment may exhibit the Toxicity Characteristic, particularly for chromium, lead and benzene (see 40 CFR 261.24), or the characteristics of corrosivity or ignitability (40 CFR 261.21 and 261.22, respectively). These wastewaters may also contain other hazardous constituents that are not part of the Toxicity Characteristic. See Tables in Section V, *Development Document for Effluent Limitations Guidelines, New Source Performance Standards and Pretreatment Standards for the Petroleum Refining Point Source Category.* Sludges generated from secondary or tertiary wastewater treatment also may exhibit one or more hazardous waste characteristics.

Tanks storing listed wastes which engage in primary wastewater treatment operations are presently exempt from federal Subtitle C regulation because they are wastewater treatment units (*i.e.* tanks). 40 CFR 264.1 (g)(6) and 265.1 (c)(10). Hazardous wastes removed from those units are subject to regulation upon exiting the tanks. However, recovered oil is exempt from Subtitle C regulation, as is any fuel produced from such oil, under the current exemptions at § 261.6 (a)(3)(iv)–(vii). The units engaged in recovered oil operations would also be exempt under current regulations, to the extent that these units are managing materials exempt under § 261.6 (a)(3)(iv)–(vi).

III. Summary of Today's Final Rule

EPA is finalizing a revised version of the January 8, 1988 proposal in today's notice. The final rule states in essence that recovered oil from petroleum refinery operations, petroleum exploration and production, and transportation incident thereto, is excluded from the regulatory definition of solid waste if it is subsequently inserted into the petroleum refining process prior to crude distillation or catalytic cracking. The recovered oil thus need not be generated at the site of the refining process—a potentially significant expansion of the proposal. This exclusion applies, however, only if the oil is not managed in land disposal units or accumulated speculatively before it is inserted.

EPA expects that most of the recovered oil affected by this rule will be generated from wastewater treatment operations. As explained below, EPA is narrowing the proposal (which would have excluded petroleum refining wastewaters containing oil that eventually gets recycled) by finding that refinery operations upstream of recovered oil systems involve wastewater treatment, not an on-going refining process. Thus, petroleum refinery wastewaters undergoing treatment should not be excluded from the definition of solid waste. In addition, even if these wastewater treatment operations are characterized as also involving recycling, the operations involve discarded residuals that can be part of the waste disposal problem, and hence the wastewater treatment operations need not be characterized as part of an "ongoing production process" for purposes of excluding materials from the definition of solid waste. Once oil is recovered, however, the Agency believes it reasonable to exclude it from the definition of solid waste if the oil is to be reused in the refining process (even though the oil may still require a significant amount of further processing before it can actually be so reused). This is because the recovered oil and its management within refining operations can be viewed as part of the petroleum refining process and not part of the waste disposal problem.

EPA is also slightly amending the regulatory exemption for petroleum coke produced using oil-bearing refinery hazardous waste (see § 261.6 (a)(3)(vii), redesignated (a)(3)(vi) in today's rule). The Agency is slightly broadening the current exemption so that it also applies to coke produced by a single petroleum refining entity, but the coker is located at a different facility from where the hazardous wastes are generated.

As a matter of drafting, the principal change brought about by today's rule takes the form of an exclusion from the regulatory definition of solid waste. Specifically, paragraph (12) is being added to the list of exclusions in § 261.4 (a). In addition, EPA is removing the regulatory exemption in § 261.6(a)(3)(v) which is superseded by today's exclusion, and redesignating the remaining exemptions in § 261.6(a)(3) (vi) and (vii) as § 261.6(a)(3) (v) and (vi), respectively, in order to maintain consecutive numbering. EPA is also revising two other regulatory exemptions in § 261.6(a)(3). Finally, EPA is making conforming changes to §§ 261.3(c)(2)(ii)(B) and 266.100(b)(3), both as a result of today's rulemaking, and to reflect conforming changes that EPA inadvertently omitted during promulgation of the used oil final rule (57 FR 41566 (September 10, 1992)).

[4] See RCRA Docket No. F–87–SWRP–FFFFF, submission by the American Petroleum Institute on "Recovered Refinery Oil System", April 16, 1993.

[5] *Id*

IV. Scope of Today's Final Rule

A. Limiting Scope to Recovered Oil From Petroleum Refining, Exploration and Production

As noted above, today's rule excludes recovered oil generated from petroleum exploration, production and refining activities, and from the transportation incident thereto, from being a solid waste when the recovered oil is inserted into a designated point in a petroleum refining process. This section of the preamble discusses why EPA is crafting the exclusion in this manner. More specifically, we discuss why the exclusion does not cover oil recovered in operations downstream from petroleum refining, and why the exclusion does not apply to recovered oil from industries other than petroleum refining, exploration, or production.

EPA is not excluding recovered oil from operations downstream of refining, such as marketing or retail sales, because such oil is already excluded from regulation (so long as it is not disposed of). Under existing section 261.33, unused commercial chemical products that are recycled in most manners are not solid wastes when they are recycled. This principle applies to unused fuels that are recycled by being returned to fuel-production processes. (See also RCRA section 3004 (q)(l), establishing a similar principle.) Thus, for example, if a bulk oil storage terminal has a spill of product and is able to capture the spill and return it to a refinery or other legitimate fuel production operation, the spilled product is not a solid waste. (As noted at 55 FR 22671 (June 1, 1990) however, mere assertion of an intent to recycle a commercial product spill does not convert the spill into a non-waste. There must be objective indicia that recycling is reasonable, and that it will occur in a timely manner.)

For different reasons, EPA is not extending the exclusion to recovered oil from non-petroleum industries. First, such an exclusion is beyond the scope of the proposed rule. It is also beyond the scope of the judicial decisions construing the definition of solid waste. These decisions indicate that when one industry sends its residual materials to another industry for recycling, the initial industry can be considered to have discarded them. *API* v. *EPA*, 906 F. 2d at 741–42; *Ilco* v. *EPA*, 996 F. 2d 1126 (11th Cir. 1993). EPA is also concerned that when recovered oil originates with non-petroleum industries, the likelihood increases that the oil can be contaminated with toxic constituents that would not normally be found in petroleum industry recovered oil. See generally, 56 FR at 48009 (Sept. 23, 1991); and see, e.g., EPA's Development Document for effluent guidelines for the iron and steel industry (skimmed oil from iron and steel industry contains contaminants not found in petroleum recovered oil).[6] Such oily material consequently is more likely to differ from the feedstocks customarily processed by refineries and thus need not be viewed as part of that process, and may also pose risks that can be viewed as part of the waste disposal problem. Finally, the Agency is studying this issue under the aegis of the Solid Waste Definition Task Force and is not at a point where it is in a position to make a final determination.[7]

B. Rationale for Excluding Recovered Oil and Not Wastewater from Being a Solid Waste

EPA is also determining today that the oil that is skimmed from plant wastewaters during wastewater treatment (normally during the initial oil/water/solids separation step occurring during primary wastewater treatment), as well as oil recovered from other sources, is not a solid waste if it is going to be inserted into the refining process prior to the point in the process where crude distillation or catalytic cracking occurs. Thus, the recovered oil systems themselves would not be waste management units. (These units may, however, contain hazardous wastes, such as K049, which become subject to regulation when removed from such units. See 40 CFR 261.4 (c), which says that hazardous waste regulation does not begin for (among other things) hazardous waste which is generated in an associated non-waste-treatment-manufacturing unit until the waste is removed from the unit.)

The petroleum industry argued in its public comments to the January 8, 1988 proposal that plant wastewaters containing oil are not solid wastes either. Rather, they characterize the primary wastewater treatment operations in which oil is skimmed from plant waters as still being part of the refining process. Thus, the argument goes, any step at a refinery that involves some recovery of oil for further use is still part of the ongoing refining process and cannot involve solid waste under the holding of *AMC I*.

EPA disagrees with respect to primary wastewater treatment operations. These operations do not involve secondary materials that are "recycled and reused in an *ongoing* manufacturing or industrial process", *AMC I*, 824 F. 2d at 1186 (emphasis original); *see also AMC II*, 907 F. 2d at 1186 (*AMC I* concerns only "materials that are 'destined for *immediate reuse* in another phase of *the industry's* ongoing production process' ") (emphasis original). Primary wastewater treatment operations exist to treat plant wastewater. The percentage of oil in plant wastewaters that form the influent to primary wastewater treatment is minuscule, on the order of .0001 % to .000001 % (*i.e.* from 1 to 100 parts per million oil). See Tables in Section V, *Development Document for Effluent Limitations Guidelines, New Source Performance Standards and Pretreatment Standards for the Petroleum Refining Point Source Category*. While some oil may be recovered from this wastewater (an activity the Agency certainly encourages, and indeed requires to prevent the oil's discharge to surface waters and POTWs), the amounts are not significant in the context of a refinery's overall production activities. Clearly, wastewater treatment is the main purpose of the systems in question, and any oil recovery is of secondary import.

Refinery wastewater is not a "secondary material immediately reused within an industrial process". *Chemical Waste Management* v. *EPA*, 976 F. 2d at 14. Primary wastewater treatment is the first step in the wastewater treatment process that purifies the discarded wastewaters from the refining process so that those discarded waters can ultimately be discharged to navigable waters pursuant to Clean Water Act requirements. That a small amount of oil is removed from these wastewaters in the course of treatment does not make wastewater treatment a petroleum refining operation. Put another way, the fact that a small amount of oil may be recovered from large volumes of the discarded plant wastewaters does not require EPA to consider those operations to involve non-discarded materials, and hence to exclude all of the materials going to primary wastewater treatment operations from the definition of solid waste. *AMC II*, 907 F.2d at 1186–7 ("discarded" is an

[6] Volumes I–V of *Development Document for Effluent Limitations Guidelines and Standards for the Iron and Steel Manufacturing Point Source Category*, U.S. EPA, May 1982, National Technical Information Service #PB82–240–425, –433, –458, –466, and –474. See specifically Volume III, pp. 395–398; Volume IV, pp. 107–129; Volume V, p. 227.

[7] EPA also notes that when Congress created certain exemptions (not exclusions) from hazardous waste fuel labelling requirements to accommodate certain petroleum industry practices involving recovered oil, it limited the scope of those exemptions to fuels produced from oily materials "resulting from normal petroleum refining, production and transportation practices", RCRA section 3004 (r)(3). This is similar to the scope of today's rule.

ambiguous term that EPA may interpret in a reasonable manner, and EPA's interpretation that recoverable materials managed in wastewater treatment operations containing surface impoundments were discarded solid wastes was reasonable).

On the other hand, recovered oil systems can be legitimately viewed as part of the petroleum refining process. The input to the recovered oil systems is primarily oil skimmed from wastewater treatment operations as well as oil recovered from other sources, not discarded refining process wastewaters. Recovered oil systems do not exist to remove contaminants from wastewater. Rather, their purpose is to restore recovered oil to sufficient purity so that it can be reused as a feedstock material in the refining process. This is a natural point to characterize activities as being part of the refining process.

It is thus EPA's view that until oil is recovered from refinery process wastewaters, the wastewaters are discarded materials and hence solid wastes potentially subject to regulation under RCRA.[8] (Wastewaters remaining after oil has been recovered are still solid wastes, and are typically returned to an upstream point in the refinery's wastewater treatment system.) The oil recovered from such wastewaters is not a solid waste, however (assuming it is reinserted into the refining process). This reading is not only in accord with common sense, as explained above, but also is in accord with RCRA's goals and purposes. *AMC II*, 907 F. 2d at 1186–87; *API*, 906 F. 2d at 740–41. As these cases make clear, EPA may ordinarily consider secondary materials that have "become part of the waste disposal problem" to be discarded. *API*, 906 F. 2d at 741; *AMC II*, 907 F. 2d at 1186. That is the case here. Discarded plant wastewaters up to and including the primary wastewater treatment step, can contain high loadings of hazardous constituents that may pose environmental harm if released. It is estimated that an average of 34% of the benzene (a human carcinogen) entering a petroleum refinery's wastewater treatment system is emitted to air from the wastewater collection portion of the system; when primary wastewater treatment (i.e., a non-enclosed oil-water separator) is included in this calculation, the amount of benzene emitted relative to the influent concentration rises to 47%.[9] Primary wastewater treatment also is sometimes conducted in land-based or in-ground units, which can (and have) resulted in environmental contamination.[10] This further indicates that these operations can be part of the waste management problem.

In addition, petroleum refineries frequently generate individual wastewater streams that exhibit characteristics of hazardous waste, which streams are mixed together so that the characteristic is removed. (The characteristic can be removed either before or during primary treatment.) These aggregated wastewater streams may still contain high volumes of hazardous constituents, however, because aggregation (i.e. dilution) and primary treatment do not significantly remove or destroy all hazardous constituents. See Tables in Section V, *Development Document for Effluent Limitations Guidelines, New Source Performance Standards and Pretreatment Standards for the Petroleum Refining Point Source Category.* The aggregated wastewaters are then managed in surface impoundments, where biological treatment occurs. The D.C. Circuit has made clear, in *Chemical Waste Management* v. *EPA*, that in such circumstances the decharacterized wastewaters cannot be managed in surface impoundments unless they have first been treated to meet the treatment requirements of RCRA Section 3004(m) (requiring treatment that substantially removes or destroys hazardous constituents so that threats to human health and the environment are minimized), or unless treatment equivalent to Section 3004(m) treatment occurs before the wastewaters are discharged. *Id.* at 7, 20–24.[11] The court indeed repeatedly referred to these treatment standards as the core of RCRA's hazardous waste management scheme. *Id.* at 23, 24.

EPA's interpretation that the influent into primary wastewater treatment consists of discarded wastes, not in-process petroleum, is fully in accord with these core principles of RCRA. Decharacterized wastewaters that are going to be managed in surface impoundments would nevertheless receive Section 3004 (m) treatment before their ultimate discharge, as required by the *Chemical Waste Management* opinion. Under industry's preferred reading, however, the decharacterized wastewaters would not be solid wastes at all until all oil recovery has been completed, even if held in impoundments. At that point, the wastewaters would no longer exhibit a characteristic (because they have been diluted through aggregation), and thus would not be prohibited wastes subject to Section 3004 (m) treatment. The "core principles of RCRA" would thus be avoided. EPA considers its interpretation of "discarded," that assures proper treatment of characteristically hazardous petroleum refinery wastewaters that are going to be managed in surface impoundments, to be more reasonable.[12]

EPA acknowledges that it initially proposed to exclude all such wastewaters from the definition of solid waste. 53 FR 525–526. However, the Agency's reasoning was based in part on the same mistaken view of the scope of *AMC I* that was later rejected by the *API* court. 906 F. 2d at 740–41. (EPA even relied in part on the overbroad "indigenous" concept, 53 FR 525, 526, that was remanded in *API*. 906 F. 2d at 739, 742.) The Agency is obviously not bound by its proposal, and subsequent case law makes clear that the Agency has more interpretive discretion than it imagined in 1988. The interpretation adopted in today's rule is reasonable and in accord with statutory goals and purposes.

Nor is today's action inconsistent with *AMC I's* statements regarding the scope of petroleum refining activities that are outside the scope of Subtitle C. That opinion indicated that in

[8] On a similar note, the Agency is aware of activities at petroleum management facilities where free-phase hydrocarbon (from spills, etc.) is removed from the water table as part of groundwater remediation (see 56 FR at 13406 (Apr. 2, 1991)). These hydrocarbon recovery operations can recover materials ranging from mostly water to mostly oil; only recovered materials that are primarily oil, and that can be inserted into a refinery's recovered oil system without pretreatment (or can be inserted directly into the refining process itself), would be considered "recovered oil" eligible for today's exclusion. The management of petroleum-contaminated groundwater in separation and treatment units is clearly solid waste (and potentially hazardous waste) management, essentially wastewater treatment.

[9] The Agency addressed benzene emissions from waste operations in a final rule published January 7, 1993 (58 FR 3072) using risk-based standards for benzene. See also EPA, *Final NESHAP Standards for Waste Operations: Basis for Impact Calculations*, February 16, 1990. This document is available in the Benzene Waste Operations NESHAP docket.

[10] "Background Document to Support Listing of Primary Oil/Water Separation Sludges from the Petroleum Refining Industry," U.S. EPA, December 22, 1989, pp. 6, 10–12.

[11] EPA is still working to interpret the scope of the "equivalence" requirement in the *Chemical Waste Management* opinion, and the language in the text should not be taken as representing the Agency's resolution of the issue. It is clear, however, that the opinion imposes obligations on facilities that use impoundments to manage wastewaters that are decharacterized by means other than full-scale section 3004 (m) treatment.

[12] EPA views the facts here as similar to those in the *AMC II* case. In particular, both situations involve wastewater treatment operations, where plant wastewaters could ultimately be managed in surface impoundments.

petroleum refining operations "(a)ny hydrocarbons that are not usable in a particular form or state are returned to an appropriate stage in the refining process so they can eventually be used. Likewise, the hydrocarbons and materials which escape from a refinery's production vessels are gathered and, by a complex retrieval system, returned to appropriate parts of the refining process." 824 F. 2d at 1181. Today's rule does not assert RCRA jurisdiction over any refining operations that process hydrocarbons into products, nor over hydrocarbons that are lost from process vessels and are gathered for return to refining. Rather, the Agency is stating that up to and including primary wastewater treatment, plant wastewaters are just that, and their management is potentially subject to Subtitle C controls. Oil that is recovered from wastewater, however, is no longer a solid waste, and recovered oil systems that do engage in retrieval of hydrocarbons for eventual refining are not subject to RCRA controls.[13]

C. Rationale for Excluding Recovered Oil From Off-Site Sources

Today's final rule, in defining the scope of recovered oil subject to the exclusion, excludes recovered oil from both off-site and on-site sources. EPA believes that recovered oil from petroleum refining, exploration and production, and transportation incident thereto, whether generated from these off-site or on-site sources, is essentially the same raw material (i.e., "oil") as that which is normally and routinely transported to, and inserted into, petroleum refining processes. Therefore, recovered oil from off-site sources should also be excluded when it is going to be recycled in this manner.[14]

Examples of off-site sources of recovered oil include oil recovered from other petroleum refineries, and from oil and gas drilling operations.[15]

This exclusion is somewhat broader than that proposed in the January 8, 1988 notice, which would have limited the exclusion to materials generated on-site. 53 FR 525. However, the 1988 proposal would not have been limited to recovered oil, but rather would have included all oil-bearing secondary materials, so that the Agency was particularly concerned with limiting the exclusion's scope because such materials as listed sludges, tank bottoms and contaminated media could be excluded. *Id.* In addition, if the exclusion was to cover oil-bearing hazardous secondary materials, EPA was concerned that RCRA Section 3004(r)(2) would be rendered meaningless. *Id.* These concerns are no longer present when the exclusion is limited to recovered oil.

The main reason for extending the exclusion to recovered oil generated at locations other than a refinery (when such oil is ultimately returned to a refinery) is that the oil is essentially the same (in terms of physical composition and potential risk) as recovered oil generated on-site. (The only significant difference is that recovered oil generated off-site is transported—in the same manner as crude oil. EPA does not regard this distinction as significant enough to warrant different regulatory status for off-site recovered oil.) The Agency thus is responding to comments received from industry, urging the Agency to extend the scope of the exclusion to certain off-site activities. However, these commenters argued further that refineries comprise but one segment of a large, integrated industry, extending from the production field, through the pipeline, to the refinery, to the marketing terminal, to tank trucks, and, ultimately, to the customer. EPA does not necessarily accept this argument, which is unnecessary to justify today's rule. Again, EPA will continue its broader policy review of the Definition of Solid Waste. EPA notes as well that the action in today's rule is not precedential for other industries. Determining what activities are a part of on-going production activities and not part of the waste disposal problem necessarily entails fact-specific evaluation. The Agency's conclusions regarding secondary materials generated by particular industries thus need not be germane to the regulatory status of secondary materials generated by other industries.

V. Rationale for Conditioning the Exclusion on Recovered Oil Not Being Placed on the Land and Not Being Accumulated Speculatively

This rule does not exclude land-based hazardous waste management units from which oil may be recovered. Thus, if recovered oil, or material containing oil, is placed in land-based units such as surface impoundments or land treatment units, those units remain subject to Subtitle C requirements (provided the material being placed is hazardous under RCRA). The Agency considers material placed in such units to be discarded, and hence solid wastes. See also *AMC I*, 824 F. 2d at n.20. These are classic disposal practices (see RCRA Section 1002(b)(7)), and placement of oily materials in such units (whether for storage, treatment, or disposal) is inconsistent with the use of the material as a valued product. In addition, the D.C. Circuit held in *AMC II* that materials destined for recycling were still solid wastes if held in surface impoundments before being recycled (907 F. 2d at 1186).

The final condition for the exclusion to apply is that recovered oil not be accumulated speculatively (as defined in § 261.1(c)(8)) before it is recycled back into a petroleum refining process. This is a standard condition that the Agency applies to otherwise excluded secondary materials (see, e.g., § 261.2(e)(2)(iii)) to prevent the materials being held for prolonged periods without being recycled, with attendant increased environmental risk. See 50 FR at 634–635, 658–661 (Jan. 4, 1985). No commenter seriously questioned applying this condition. Thus, recovered oil that would otherwise be excluded that is accumulated speculatively is considered to be discarded and hence a solid waste.

VI. Rationale for Not Excluding Recovered Oil That Is Inserted Into the Petroleum Refining Process After Crude Distillation or Catalytic Cracking (i.e., Into a Petroleum Coker)

Today's final rule is narrower in scope than the January 8, 1988 notice in that the Agency is not finalizing the

[13] The Agency also views its action as consistent with its rulemaking involving residues from coke by-product operations that are returned to the coking process, or related processes. 57 FR 27880 (June 22, 1992). The Agency stated that such materials were not solid wastes provided they were not land disposed before reinsertion. See 40 CFR 261.4(a)(10). However, unlike the petroleum wastewaters containing small amounts of oil at issue here, the coke byproduct residues were found to be very similar to the raw material being replaced, and required no further purification to be usable. They could be inserted more or less directly into the coking or related tar-refining processes. Such residues are conceptually analogous to the purified oil coming from a petroleum slop oil facility.

[14] Certain wastes from petroleum exploration, development and production are currently exempt from Subtitle C regulation under § 261.4(b)(5). There may be a degree of overlap between the materials excluded by today's action, and materials currently exempt under § 261.4(b)(5). See 53 FR at 25446 (July 6, 1988), 58 FR 15284 (Mar. 22, 1993), and *Report to Congress, Management of Wastes from the Exploration, Development, and Production of Crude Oil, Natural Gas, and Geothermal Energy, Volumes 1–3 and Executive Summaries*, December 1987, EPA/530–SW–88–003, for descriptions and clarifications of exempt and non-exempt wastes from oil and gas exploration, development, and production.

[15] As noted above, recovered oil does not include "used oil" (as defined in 40 CFR 279.1) brought to a refinery from off-site sources. (*De minimis* quantities of used oil that are incidentally captured by refinery wastewater treatment systems and subsequently recovered with other oil are not considered used oil.) See 57 FR 41566 (September 10, 1992) and 59 FR 1994 (March 4, 1994) for discussion on the scope of the definition of used oil. See also Section X.C.2 "Used Oil" later in this preamble.

proposed exclusion of recovered oil that is converted to petroleum coke. EPA is deferring the exclusion at this time because EPA lacks data assuring that hazardous constituents from petroleum refining do not end up in the product in quantities that, when such product is utilized as a fuel, could be harmful to human health and the environment. EPA is also concerned that toxic constituents, such as heavy metals, can be discarded by simple incorporation into the coke product. In effect, the product would be used as a disposal medium for toxic constituents, and so could be part of the "waste disposal problem." The Agency also lacks sufficient data to show whether oil recovered from refinery wastewater treatment systems contains toxic metals that are not present in the normal feed to a petroleum coker. Such metals could end up in the coke product.

In contrast, the Agency is excluding recovered oil inserted at or before a point in the refining process designed to remove toxic metal and organic contaminants, *i.e.*, prior to crude distillation or catalytic cracking. See 50 FR 28725 (July 15, 1985) and 50 FR 49169 (November 29, 1985). As explained there, the distillation process splits the feedstock into fractions based on the differing boiling points of feedstock components. Data submitted by API at that time indicated that most metals concentrate in the heavier petroleum fractions, thereby increasing the probability of contaminant removal from many fuel fractions produced using distillation (and other contaminant-removing processes). See 50 FR 49170.

Although the proposed exclusion of recovered oil that is converted to petroleum coke is not being finalized in today's rule, for different reasons EPA is slightly amending the regulatory exemption at § 261.6(a)(3)(vii) (redesignated § 261.6(a)(3)(vi) in today's rule) for petroleum coke produced using oil-bearing refinery hazardous waste. The exemption states that such coke is subject to regulation only if it exhibits a characteristic of hazardous waste. (The exemption recites the provisions of RCRA section 3004(q)(2)(A).) The purpose of the statute, and the exemption, is to allow petroleum companies to recycle their oily refinery waste to their petroleum coker, without automatically subjecting the coke output to the rules applicable to hazardous waste fuels. (Such automatic effect could occur without the exemption, if listed wastes are being reinserted into the coker, because of the derived-from rule.) S. Rept. No. 298, 98th Cong. 1st Sess. 39 (1983).

Both the statutory and current regulatory exemption, however, are worded so as to apply only to situations where petroleum coke is produced from hazardous wastes "at the same facility at which such wastes were generated * * *". EPA believes that this limitation is unnecessarily narrow, and does not foreclose a regulatory expansion. In particular, so long as a petroleum refinery is coking its own wastes, it should not matter whether the coker is located at the site where wastes are generated or at a different facility. Since the generator and coker operator remain the same entity (or "person", as defined in § 260.10) there is sufficient guarantee that hazardous wastes of unknown or uncertain composition will not be used in the coking process, which is the evident concern behind the limitation in the statute. Cf. 50 FR at 28725 (July 15, 1985); 50 FR 49170 (Nov. 29, 1985). Since the hazardous wastes would remain regulated under RCRA when they are generated, transported, and stored prior to recycling, *id.*, potential concerns regarding tracking are also addressed. EPA also sees no difference in the composition of coke produced partially from on-site and off-site hazardous wastes when the coke is produced by the same entity. Consequently, the Agency is slightly broadening the current regulatory exemption so that it applies to coke produced by a single petroleum refining entity, even if the coker is located at a different facility from where the hazardous wastes are generated.

Finally, the coking process itself continues to be exempt from RCRA regulation as a recycling unit, provided this recycling is legitimate. Section 261.6(c)(1) ("The recycling process itself is exempt from regulation except as provided in § 261.6(d)."). Today's rule does not affect this provision.

VII. Rationale for Not Excluding Other Oil-Bearing Hazardous Materials

Just as EPA is not excluding oil-bearing wastewaters from the definition of solid waste, it is not excluding other similar types of oil-bearing materials, such as hazardous wastewater treatment sludges. These materials are not composed primarily of oil; they are unlike raw materials normally used in the petroleum refining process; and the units in which they are managed—API separators, DAF units, land treatment units and surface impoundments—are not parts of the refining process, but rather function as waste holding and treatment units. In addition, there have been many damage incidents associated with management of such materials as toxic sludges from wastewater treatment, confirming that these materials are part of the waste disposal problem, rather than part of an on-going manufacturing operation. (See, for example, the Listing Background Documents for Hazardous Wastes K048–052 and F037–038.) For these reasons, the Agency continues to classify these materials as discarded, within the meaning of RCRA Section 1004 (27). Recovered oil that is obtained from such wastes, however, is excluded from the definition of solid waste under today's final rule (assuming the rule's conditions are satisfied).

The Agency is also aware of various types of units designed to treat wastes K048–K052 and F037–F038, in order to reduce the volume and toxicity of these wastes, as well as to recover oil. See, e.g., 57 FR 37198 (August 18, 1992). EPA does not view these units as part of the manufacturing (i.e., refining) process, because such units are not part of a continuing series of unit operations that crack/distill/fractionate crude oil. The input to these units are materials such as wastewater treatment sludges, that contain relatively small amounts of oil. A different determination frustrates the Congressional objective that hazardous waste be treated properly. These types of units are the basis for treatment standards under the land disposal restrictions for K048–K052 and F037–F038. If the sludges treated in these units are no longer hazardous waste, they would not need to be treated by application of BDAT so as to minimize the threats they pose. Cf. *API*, 906 F. 2d at 741–742. Thus, excluding such sludges from jurisdiction until properly treated could contribute to the waste disposal problem that Congress sought to remedy. Finally, although EPA is not excluding these types of oil-bearing materials (such as hazardous wastewater treatment sludges), the units in which the recovery of oil is occurring may still be a type of recycling unit, and therefore may be exempt from RCRA permitting requirements under 40 CFR 261.6(c)(1).

VIII. Demonstration That Recovered Oil Meets Conditions of Exclusion

Under § 261.2(f), persons claiming that recovered oil is excluded from the definition of solid waste bear the burden of proof in enforcement actions to demonstrate that they qualify for the exclusion. This would normally require some type of demonstration that the recovered oil is going to be and actually is used in a petroleum refining operation prior to crude distillation or catalytic cracking. For on-site sources, this documentation could be entries in

the operating records of the facility showing where the oil is recovered and where it re-enters the refining process. For off-site sources, this demonstration is especially important. Adequate documentation could entail *bona fide* contractual agreements with other facilities to take the recovered oil, shipping or delivery records to the receiving facility, or other similar records. These records are important to show enforcement personnel that the conditions of the exclusion have been met. Without this documentation, the burden of proof will ordinarily not be satisfied because enforcement personnel will have no way of verifying that the recovered oil actually was used in the refining process and the assumption can be made that the oil was not reused, and was instead sent off-site or managed on-site as a hazardous waste.

IX. Examples of How Today's Rule Operates

Example 1

Petroleum refinery A generates wastewater. As part of primary wastewater treatment, it skims oil from the wastewater. This operation occurs in wastewater treatment tanks. The skimmed oil is then gathered and inserted directly into crude oil storage units for insertion into the refining process.

The refinery process wastewater is still considered to be a solid waste, notwithstanding that some oil is skimmed from it. The wastewater treatment tanks used for treating the wastewater are exempt from subtitle C regulation. Section 264.1(g)(6), 265.1(c)(10). The skimmed oil is recovered oil that is excluded from being a solid waste under today's regulation because it originates from petroleum refining, it is not land disposed before being recycled, and it is returned to the designated part of the petroleum refining process. (This answer assumes that the recovered oil is not being accumulated speculatively.)

Example 2

Same facts as Example 1, except that the skimmed oil requires processing in the plant's slop oil system. This process involves demulsifying and separation via chemical addition, thermal treatment, and gravity separation.

Same answer as in Example 1. It should also be noted that water and solids from the slop oil system can be wastes, and if hazardous, can be subject to Subtitle C regulation once they are removed from the slop oil tank.

Example 3

Same facts as Example 1, except that the source of the recovered oil is a petrochemical plant wastewater treatment system.

The oil is not excluded from being a solid waste under today's rule because it does not come from petroleum refining, exploration or production operations.

Example 4

Facility B recovers oil from spills at exploration and production operations. The oil is trucked to a tank, where separation occurs. The separated oil is put into a pipeline for ultimate insertion into crude oil storage units at a petroleum refinery.

The oil recovered from the spills is excluded from being a solid waste. It is a type of recovered oil, and is excluded because it originates from exploration and production activities, is not land disposed or accumulated speculatively, and is inserted into a refining process.

Example 5

Facility C is a bulk petroleum storage facility. Oil spilled from its product storage tanks is too contaminated to be directly used as product. The oil is sent back to a refinery where it is placed in a slop oil system and returned to the refining process.

The spilled oil is excluded from being a solid waste, not under today's rule, but under § 261.33 (and § 261.2 Table 1) because it is a commercial chemical product that is being recycled rather than abandoned. (EPA interprets this principle to apply to commercial chemical products that exhibit characteristics as well as those listed in § 261.33. 50 FR 14219 (April 11, 1985).) (This answer assumes that the oil is recovered promptly and that the spills do not create permanent land disposal units. See 55 FR 22671 (June 1, 1990).)

All of these answers assume that legitimate recycling is occurring. See discussion of sham recycling criteria in many prior Agency notices, such as 53 FR 522 (Jan. 8, 1988) and 56 FR 7143, 7185 (Feb. 21, 1991).

X. Relationship to Other Programs

A. Clean Air Act (Benzene NESHAP)

On January 7, 1993 (58 FR 3072) EPA promulgated under Section 112 of the Clean Air Act (42 U.S.C. 7412) final amendments to the benzene waste operations national emission standards for hazardous air pollutants (NESHAP) (V FF at 40 CFR part 61). Sources affected by V FF include chemical manufacturing plants, by-product recovery plants, petroleum refineries, and facilities at which waste management units are used to treat, store, or dispose of waste generated by chemical manufacturing plants, by-product recovery plants, or petroleum refineries.

B. Clean Water Act

Today's rule does not affect petroleum facilities' obligations under the Clean Water Act, and is consistent with the Agency's prior descriptions of primary wastewater treatment activities at petroleum refineries as involving wastewater treatment, not recycling of in-process material.

C. RCRA

1. RCRA Air Emission Standards

EPA has issued regulations that implement portions of RCRA Section 3004(n), which provision requires EPA to issue rules regulating air emissions resulting from facilities that treat, store, or dispose of hazardous wastes. 40 CFR parts 264 and 265 Subparts AA and BB. These rules control organic emissions from vents and equipment leaks from units managing hazardous wastes, which units either are already subject to RCRA Subtitle C permitting requirements, or are recycling units located at facilities which has other units already subject to Subtitle C permitting requirements.

Today's rule does not affect any units that are subject to regulation under subparts AA or BB. This is because the units that are affected by today's rule are not presently subject to Subtitle C regulation, either because they are wastewater treatment tanks exempt from regulation under §§ 264.1(g)(6) and 265.1(c)(10), because they are recycling units not covered by the Subpart AA or BB regulations (i.e., are not "distillation, fractionation, thin-film evaporation, solvent extraction, or air or steam stripping operation", see §§ 264.1030(b), 264.1050(b), 265.1030(b), and 265.1050(b)) and otherwise exempt from regulation under § 261.6(c)(1), or because they manage materials exempt from regulation under § 261.6(a)(3) (iv), (v) and (vi).

2. Used Oil

Today's rule does not affect petroleum facilities' obligations under the Used Oil Rule. See generally, 57 FR 41566 (September 10, 1992) and 59 FR 1994 (March 4, 1994). Today's rule excludes from RCRA Subtitle C requirements only recovered oil as described. Whether or not recovered oil excluded under today's rule is subject to the used oil management standards depends on whether or not the recovered oil does or does not also meet the definition of used oil. *Id.* The Agency recently issued a final used oil rule on March 4, 1994 (see 59 FR 10550) which affects the definition of used oil and deals with issues similar to those in today's rule. According to this final used oil rule, *de minimis* quantities of used oil that are incidentally captured by a refinery's wastewater treatment system and subsequently recovered along with other oil in a refinery's recovered oil system are not regulated as used oil. 59 FR 10550 (March 4, 1994).

D. Enforcement; Effect of Today's Final Rule on RCRA 3007, 3013, 7002 and 7003 Authorities

EPA's action today affects only the final regulatory definition of solid waste. It does not interpret the scope of the term "solid waste" for purposes of the non-regulatory authorities in RCRA Sections 3007, 3013, 7002 and 7003. See 40 CFR § 261.1(b). Thus, for purposes of those authorities, the Agency (or citizens in the case of citizen suits under Section 7002(a)(1)(B)) would have the benefit of the full jurisdictional reach of the statutory definition of solid waste. See *Comite Pro Rescate de la Salud v. Puerto Rico Aqueduct and Sewer Authority*, 888 F. 2d 180, 185 (1st Cir. 1989), *cert. denied*, 494 U.S. 1029 (1990) (upholding reasonableness of applying narrower definition for regulatory purposes than for purposes of imminent and substantial endangerment authority); *Connecticut Coastal Fishermen's Association* v. *Remington Arms Company*, 989 F. 2d 1305 (2d Cir. 1993) (noting potential appropriateness of applying narrower regulatory definition of solid waste for determining scope of Subtitle C regulation, but applying broader statutory definition in non-regulatory contexts such as RCRA Sections 7002 and 7003).

XI. State Authority

A. Applicability of Rules in Authorized States

Under Section 3006 of RCRA, EPA may authorize qualified States to administer and enforce the RCRA program within the State. (See 40 CFR Part 271 for the standards and requirements for authorization.) Following authorization, authorized States have primary enforcement responsibility, although EPA retains enforcement authority under Sections 3008, 7003 and 3013 of RCRA.

Prior to the Hazardous and Solid Waste Amendments of 1984 ("HSWA"), a State with final authorization administered its hazardous waste program entirely in lieu of EPA administering the Federal program in that State. The Federal requirements no longer applied in the authorized State, and EPA could not issue permits for any facilities in the State which the State was authorized to permit. When new, more stringent Federal requirements were promulgated or enacted, the State was obliged to enact equivalent authority within specified time frames. New Federal requirements did not take effect in an authorized State until the State adopted the requirements as State law.

In contrast, under Section 3006(g) of RCRA, 42 U.S.C. 6926(g), new requirements and prohibitions imposed by HSWA take effect in authorized States at the same time that they take effect in nonauthorized States. EPA is directed to carry out those requirements and prohibitions in authorized States, including the issuance of permits, until the State is granted authorization to do so. While States must still adopt HSWA-related provisions as State law to retain final authorization, the HSWA applies in authorized States in the interim.

Today's amendments are not imposed pursuant to HSWA. The rule changes, therefore, will become effective immediately only in those States without interim or final authorization, not in authorized States. The effect of the rule changes on authorized State programs is discussed next.

B. Effect on Authorized State Programs

Today's rule will not be effective in authorized States since the requirements are not being imposed pursuant to HSWA. Thus, the requirements will be applicable only in those States that do not have interim or final authorization. In authorized States, the requirements will not be applicable until the State revises its program to adopt equivalent requirements under State laws.

40 CFR 271.21(e)(2) requires that States that have final authorization must modify their programs to reflect Federal program changes and must subsequently submit the modifications to EPA for approval. However, it should be noted that authorized States are only required to modify their programs when EPA promulgates Federal standards that are more stringent or broader in scope than the existing Federal standards. Section 3009 of RCRA allows States to impose standards more stringent than those in the Federal program. For those Federal program changes that are less stringent or reduce the scope of the Federal program, States are not required to modify their programs. See 40 CFR 271.1(k). Today's amendments to § 261.4 reduce the scope of the existing Federal requirements. Therefore, authorized States will not be required to modify their programs to adopt requirements equivalent or substantially equivalent to the provisions proposed today.

However, as noted above, States are required by § 271.21 to revise their programs to reflect Federal program changes. 51 FR 33722 (September 22, 1986). A number of States qualified for final authorization prior to being required to adopt the redefinition of solid waste rulemaking of January 4, 1985 (50 FR 614). Since the January 4, 1985 rule is more stringent than the rule under which such States were authorized, such States were required to revise their programs in accordance with Part 271.21. Today's changes will not preclude EPA's ability to authorize States which have subsequently adopted the January 4, 1985 rule since it would reduce the scope of the Federal requirements. However, certain aspects of the State's regulation will be broader in scope than the Federal program and therefore not part of the authorized State program. This means that while they are enforceable under State law, they are not subject to Federal enforcement.

40 CFR 271.21(e) provides for extensions of time at the discretion of the Regional Administrator for States to adopt changes to their regulations and/or statutes to conform to change in the Federal program. The question arises, however, of whether States which have not yet adopted the January 4 rule must adhere to EPA's published compliance schedules for such adoption. Where States have delayed rulemaking pending today's rulemaking clarifying the impact of the court's decision, the EPA Regional Administrators may be flexible in further extending the modification deadlines. EPA Regional Administrators should take into account the States' regulatory and/or legislative procedures in deciding what further extensions may be warranted. However, any States which have delayed rulemaking should now proceed to expeditiously adopt the January 4, 1985 rules as amended by today's notice.

XII. Regulatory Requirements

A. Regulatory Impact Analysis Pursuant to Executive Order No. 12866

Under Executive Order No. 12866 [58 FR 51735 (October 4, 1993)], the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may: (1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal

mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354), requires Federal regulatory agencies to consider the impact of rulemaking on "small entities." If a rulemaking will have a significant impact on a substantial number of small entities, agencies must consider regulatory alternatives that minimize economic impact.

Today's rulemaking does not have a significant impact on any small entity. Rather, it excludes from the definition of solid waste certain petroleum materials being recycled within the petroleum industry. Accordingly, this deregulatory action will not add any economic burdens to any affected entities, small or large, and a regulatory flexibility analysis is not required. Therefore, the Administrator certifies pursuant to 5 U.S.C. 601 *et seq.*, that this rule will not have a significant impact on a substantial number of small entities because today's amendments reduce the scope of the Subtitle C regulatory program.

C. Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, EPA must consider the paperwork burden imposed by any information collection request in a proposed or final rule. This rule will not impose any new information collection requirements.

List of Subjects

40 CFR Part 261

Environmental protection, Hazardous waste, Solid waste, Petroleum, Recycling.

40 CFR Part 266

Environmental protection, Energy, Hazardous waste, Petroleum, Recycling.

Dated: July 15, 1994.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, Chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. In § 261.3, paragraph (c)(2)(ii)(B) is revised to read as follows:

§ 261.3 Definition of hazardous waste.

* * * * *

(c) * * *

(2) * * *

(ii) * * *

(B) Waste from burning any of the materials exempted from regulation by § 261.6(a)(3) (iv) through (vi).

* * * * *

3. A new paragraph (a)(12) is added to § 261.4 to read as follows:

§ 261.4 Exclusions.

* * * * *

(a) * * *

(12) Recovered oil from petroleum refining, exploration and production, and from transportation incident thereto, which is to be inserted into the petroleum refining process (SIC Code 2911) along with normal process streams prior to crude distillation or catalytic cracking. This exclusion applies to recovered oil stored or transported prior to insertion, except that the oil must not be stored in a manner involving placement on the land, and must not be accumulated speculatively, before being so recycled. Recovered oil is oil that has been reclaimed from secondary materials (such as wastewater) generated from normal petroleum refining, exploration and production, and transportation practices. Recovered oil includes oil that is recovered from refinery wastewater collection and treatment systems, oil recovered from oil and gas drilling operations, and oil recovered from wastes removed from crude oil storage tanks. Recovered oil does not include (among other things) oil-bearing hazardous wastes listed in 40 CFR part 261 D (e.g., K048–K052, F037, F038). However, oil recovered from such wastes may be considered recovered oil. Recovered oil also does not include used oil as defined in 40 CFR 279.1.

4. In § 261.6, paragraph (a)(3)(v) is removed, paragraph (a)(3)(vi) is redesignated as (a)(3)(v), and paragraph (a)(3)(vii) is redesignated as (a)(3)(vi). Section 261.6 is further amended by revising paragraphs (a)(3)(iv) and newly redesignated (a)(3)(vi) to read as follows:

§ 261.6 Requirements for recyclable materials.

* * * * *

(a) * * *

(3) * * *

(iv) Fuels produced from the refining of oil-bearing hazardous waste along with normal process streams at a petroleum refining facility if such wastes result from normal petroleum refining, production, and transportation practices (this exemption does not apply to fuels produced from oil recovered from oil-bearing hazardous waste, where such recovered oil is already excluded under § 261.4(a)(12);

* * * * *

(vi) Petroleum coke produced from petroleum refinery hazardous wastes containing oil by the same person who generated the waste, unless the resulting coke product exceeds one or more of the characteristics of hazardous waste in part 261, subpart C.

* * * * *

PART 266—STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES

5. The authority cite for part 266 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, and 6934.

6. Section 266.100(b)(3) is revised to read as follows:

§ 266.100 Applicability.

* * * * *

(b) * * *

(3) Hazardous wastes that are exempt from regulation under §§ 261.4 and 261.6(a)(3) (iv) through (vi) of this chapter, and hazardous wastes that are subject to the special requirements for conditionally exempt small quantity generators under § 261.5 of this chapter; and

* * * * *

[FR Doc. 94–18452 Filed 7–27–94; 8:45 am]

BILLING CODE 6560–50–P

federal register

Thursday
July 28, 1994

Part VIII

Department of the Treasury

Customs Service

19 CFR Part 10, et al.

Express Consignments; Formal and Informal Entries of Merchandise; Administrative Exemptions; Rule

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 10, 101, 111, 123, 128, 141, 143, 145, 148, 159

[T.D. 94–61]

RIN 1515–AB53

Express Consignments; Formal and Informal Entries of Merchandise; Administrative Exemptions

AGENCY: Customs Service, Department of the Treasury.

ACTION: Notice of Temporary Restraining Order Enjoining Implementation and Effectiveness of Interim Regulations.

SUMMARY: This document gives notice that a temporary restraining order was issued by the United States Court of International Trade on July 25, 1994, enjoining Customs from implementing and making effective the interim regulations regarding express consignments, formal and informal entries of merchandise and administrative exemptions that were published in the **Federal Register** on June 13, 1994. The interim regulations were to become effective on July 28, 1994. Unless extended by the court, the temporary restraining order expires on August 10, 1994. A hearing on a motion for a preliminary injunction is scheduled for August 9, 1994.

DATES: As of July 25, 1994, the effective date of the interim regulations published at 59 FR 30289 is delayed by the temporary restraining order.

FOR FURTHER INFORMATION CONTACT: Richard McManus, Office of the Chief Counsel (202) 927–6900.

SUPPLEMENTARY INFORMATION: On June 13, 1994, a document was published by U.S. Customs in the **Federal Register** (59 FR 30289) as T.D. 94–51 setting forth interim regulations implementing certain statutory amendments to the Customs laws contained in the Customs modernization provisions of the North American Free Trade Agreement Implementation Act and clarifying certain procedures for shipments brought into the U.S. by express consignment operators or carriers.

The document provided for a 45-day delayed effective date, with a 30-day comment period preceding that effective date. The effective date was to become July 28, 1994, and comments were requested by July 13, 1994.

On July 25, 1994, the National Customs Brokers and Forwarders Association of America, Inc. filed a motion for a temporary restraining order with the United States Court Of International Trade (Court No: 94–07–00423). Pursuant to the motion, the temporary restraining order was issued by the court; consequently, Customs is restrained and enjoined from implementing and making effective the interim regulations.

Pending the outcome of the hearing on motion for a preliminary injunction, unless otherwise extended by the court, Customs is enjoined until August 10, 1994, from making T.D. 94–51 effective. Consequently, the interim regulations will not become effective prior to August 10, 1994. A hearing on a motion for a preliminary injunction is scheduled for August 9, 1994. When appropriate, Customs will provide further notice, to be published in the **Federal Register**, concerning the effective date of the interim regulations.

Dated: July 26, 1994.

Harold M. Singer,

Chief, Regulations Branch.

[FR Doc. 94–18586 Filed 7–27–94; 10:35 am]

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Reader Aids

Federal Register

Vol. 59, No. 144

Thursday, July 28, 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

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FEDERAL REGISTER PAGES AND DATES, JULY

33897–34342 1
34343–34552 5
34553–34754 6
34755–34966 7
34967–35210 8
35211–35460 11
35461–35606 12
35607–35846 13
35847–36016 14
36017–36350 15
36351–36690 18
36691–36892 19
36893–37152 20
37153–37398 21
37399–37650 22
37651–37928 25
37929–38098 26
38099–38340 27
38341–38548 28

CFR PARTS AFFECTED DURING JULY

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

Administrative Orders:

Presidential Determinations:
No. 94–29 of June 27, 1994 35211
No. 94–30 of June 30, 1994 35607
No. 94–31 of July 1, 1994 35609
No. 94–32 of July 12, 1994 37649
No. 94–33 of July 14, 1994 37147
No. 94–34 of July 15, 1994 (Superseded by publication of July 21) 37149
No. 94–34 of July 15, 1994 (Supersedes publication of July 20) 37397
No. 94–35 of July 17, 1994 38099
No. 94–36 of July 19, 1994 37153

Memorandums:
June 30, 1994 34341
July 11, 1994 36017

Notice:
July 19, 1994 37151

Proclamations:

6641 (See Proc. 6704) 34329
6704 34329
6705 34343
6706 36893
6707 37395

Executive Orders:

1919½ (Revoked in part by PLO 7065) 35054
12002 (See EO 12923) 34551
12214 (See EO 12923) 34551
12722 (Continued by Notice of July 19) 37151
12724 (Continued by Notice of July 19) 37151
12735 (See EO 12923) 34551
12755 (See EO 12923) 34551
12851 (See EO 12923) 34551
12901 (See USTR notice of July 15) 36234
12923 34551

5 CFR

179 ..... 35213, 35215
532 ..... 36019, 36351
772 36352
831 38101
838 38101
841 38101
842 38101
890 38101
2610 34755
2634 34755
2636 34755
2641 34755

Proposed Rules:

575 34393
842 38376
3201 35480

7 CFR

1 36019
2 36020
272 34553
275 34553
283 34553
301 ..... 35611, 37929
319 35564
354 35612
406 35613
916 33897
917 33897
928 ..... 33898, 38102
929 36021
932 38104
944 38104
947 33900
948 38107
953 38107
967 38108
981 ..... 35222, 35847
989 38110
993 38111
998 36353
999 38111
1205 33901
1421 34345
1427 37399
1703 38341
1755 ..... 34353, 34899
4285 38342

Proposed Rules:

46 35487
58 38136
301 36996
322 36373
372 37442
906 38138
925 36091
944 36091
989 36093
1030 36094
1036 33922
1106 36095
1703 38377
1710 36998

8 CFR

103.....33903
212.....35614
245.....33903
245a.....33903
264.....33903
274a.....33903
299.....35978

Proposed Rules:

204.....36729
214.....35866
340.....38381

9 CFR

77.....36691
78.....35615, 36023
92.....34375, 36024
97.....34756
Ch. III.....34375

Proposed Rules:

50.....36374
77.....36374
92.....36374
317.....34396
381.....35639

10 CFR

2.....36026
30.....36026
40.....35618, 36026
50.....35461
70.....36026
72.....35618, 36026
73.....38347
74.....35618
75.....35618
150.....35618
170.....36895
171.....36895
710.....35178

Proposed Rules:

Ch. I.....36374
20.....37950
35.....37950
51.....37724
1003.....34767

11 CFR

102.....35785

12 CFR

207.....37651
215.....37930
220.....37651
221.....37651
224.....37651
607.....37400
611.....37406
614.....37400
615.....37400
618.....37406
620.....37400, 37406
701.....36040
709.....36040
745.....36040
747.....36040
790.....36040
791.....36040
792.....36040
793.....36040
794.....36040
1630.....37931

Proposed Rules:

220.....33923
230.....35271
325.....37726
336.....35480

13 CFR

101.....37413
108.....36042
120.....36042
121.....38113, 38114, 38115, 38116
123.....36042, 36045

14 CFR

21.....34572
23.....34572
39.....34574, 34576, 34757, 34758, 34899, 34967, 35234, 35236, 35237, 35238, 35240, 35242, 35244, 35246, 35247, 36046, 36047, 36930, 36932, 37155, 37414, 37655, 37659, 37662, 37932, 37933, 38116, 38350, 38354, 38355
71.....34577, 34758, 34759, 34760, 35248, 36050, 37156, 37663, 38357
73.....36692
91.....34578, 37663, 37669
97.....35248, 35250, 37416, 37417
1209.....35623
1260.....36355

Proposed Rules:

Ch. I.....35868, 37442
21.....34779, 37878
23.....35196, 37620, 37878
33.....35272
39.....34396, 34584, 35488, 35490, 36096, 36098, 36375, 36376, 36998, 37182, 37183, 37185, 37443, 38139, 38141, 38143, 38144, 38146, 38147, 38384, 38387
71.....34192, 34585, 35492, 35869, 36099, 36100, 36730, 37187, 38366
73.....37188
91.....37620
93.....34192, 38508

15 CFR

Proposed Rules:

801.....38387

16 CFR

2.....34968
4.....34968
305.....34014

Proposed Rules:

Chapter II.....35657
22.....35661
300.....34780
301.....34780
303.....34780
1117.....33925
1307.....35058
1500.....33928, 33932

17 CFR

1.....34376, 38118
33.....34376
190.....34376
228.....36258
229.....36258
230.....36258
232.....36262
259.....36258

Proposed Rules:

1.....37189
3.....37446
228.....36264
229.....36264
230.....36264
232.....36264
239.....36264
240.....34781, 36264
249.....36264
250.....36264
259.....36264
260.....36264
269.....36264
270.....36264
274.....36264

18 CFR

284.....35462

Proposed Rules:

35.....35274

19 CFR

10.....38548
101.....38548
123.....38548
128.....38548
141.....38548
143.....38548
145.....38548
148.....38548
159.....38548
174.....34970

Proposed Rules:

141.....36102
142.....36102

20 CFR

416.....33906

Proposed Rules:

404.....37000, 37002

21 CFR

5.....35848, 37419
172.....37419
173.....36935
341.....36051
343.....37421
510.....33908, 38119
520.....33908, 35251
522.....37421, 38119
558.....35251
1220.....35252

Proposed Rules:

101.....36379, 37190
102.....36103
203.....36107
205.....36107
341.....34781
862.....37378
864.....37378
866.....37378
868.....37378
870.....37378
872.....37378
874.....37378
876.....37378
878.....37378
880.....37378
882.....37378
886.....37378
888.....37378
890.....37378
892.....37378

22 CFR

60.....33909
61.....33909
62.....33909
63.....33909
64.....33909
65.....33909
514.....34760

23 CFR

420.....37548
511.....37548
650.....37935
655.....33909
658.....36051

Proposed Rules:

637.....35493

24 CFR

17.....34578
200.....36692
571.....38326
583.....36886
791.....35253
813.....36662
880.....36616
881.....36616
882.....36616, 36662
883.....36616
884.....36616
885.....36616
886.....36616
887.....36662
889.....36616
904.....36616
905.....36616
906.....36616
953.....38326
960.....36616
982.....36662
3280.....34294
3500.....37422

Proposed Rules:

43.....34300
92.....34300
100.....34902
203.....36846
570.....34300
941.....35834
982.....36846
984.....36846
3500.....37360

25 CFR

Proposed Rules:

Ch. I.....36108
164.....35580
165.....35580

26 CFR

1.....34971, 35030, 35414, 36256, 36356, 36360, 37669
31.....35414
40.....35414
301.....38120
602.....34971, 35030, 36356, 36360, 37669

Proposed Rules:

1.....34398, 35066, 35418, 36114, 36394, 37450, 37733
31.....35418
40.....35418
301.....37450

27 CFR

5.....35623

28 CFR

0.....38121

551 34742
571 35456
Proposed Rules:
31 37866

29 CFR

95 38270
100 37157
1910 ..... 33910, 34580, 36695
1915 ..... 36695, 37816
1917 36695
1918 36695
1926 36695
1928 36695
2610 36054
2619 36055
2622 36054
2644 36058
2676 36055
Proposed Rules:
Ch. XXVI 35067
Ch. XL 35067
15 37540
1915 34586
1926 37951

30 CFR

75 38358
230 38359
914 ..... 36059, 38121
934 ..... 37423, 37432
935 38123
938 36937
944 35255
Proposed Rules:
75 35071
Ch. II 36108
Ch. IV 36108
Ch. VI 36108
Ch. VII 36108
701 37952
784 37952
817 37952
914 36114
920 35289
944 35871

31 CFR

51 35624
52 35624
550 35259

32 CFR

80 37680
90 ..... 34382, 35463, 36367
91 ..... 34382, 35463, 36367
155 35464
369 35261
383 34382
384 35262
389 34382
516 38236
552 ..... 34581, 34761
706 ..... 35033, 35849, 38365
855 38366
Proposed Rules:
553 34782
806b 38389
865 37953

33 CFR

1 36316
4 34210
26 36316
100 37694
117 36062
130 34210
131 34210
132 34210
137 34210
138 34210
160 36316
161 36316
162 36316
164 36316
165 36316
334 35850
Proposed Rules:
80 37003
82 37003
84 37003
87 37003
88 37003
90 37003
165 ..... 35290, 35661
322 34783
334 33939

34 CFR

74 34722
77 34722
403 38512
405 38512
406 38512
641 34198
668 ..... 34964, 36368
682 ..... 34964, 35624
685 34278
690 34964
Proposed Rules:
Ch. VI 34398

35 CFR

Proposed Rules:
133 36398
135 36398

36 CFR

242 36063
292 36866
704 35034
705 38367
Proposed Rules:
Ch. I 36108
7 37734
222 38149

37 CFR

201 38369
211 38369
Proposed Rules:
201 38400

38 CFR

3 ..... 34382, 35265, 35464, 35851, 37695
Proposed Rules:
14 37008

39 CFR

111 33911
233 35851
262 37159
266 ..... 35625, 37159
Proposed Rules:
111 ..... 35873, 37011, 37190

40 CFR

9 ..... 33912, 34070, 38372
35 35852
52 ..... 33914, 34383, 35035, 35036, 35044, 35411, 36700, 37162, 37696, 37698, 37939, 37944, 37947, 38372
55 36065
61 36280
80 ..... 35854, 36944
81 ..... 35044, 37939
85 ..... 33912, 36969
86 ..... 33912, 36368
112 34070
141 34320
142 34320
180 ..... 35627, 35629, 38125
185 35629
186 35629
261 38536
266 38536
271 35266
300 35852
372 34386
600 33912
Proposed Rules:
Ch. I 33940
51 35292
52 ..... 33941, 34399, 34401, 35072, 35079, 35875, 35883, 36116, 36120, 36123, 36128, 36408, 36731, 37018, 37190, 37956, 37957, 38402, 38408
60 36130
63 36130
70 37957
81 ..... 35079, 37190, 37957, 38410
90 37454
141 35891
143 35891
152 35662
174 35662
180 ..... 35663, 37019, 38149, 38151
185 ..... 33941, 37537
260 38288
261 38288
273 38288
281 37455
300 37200
372 38524

41 CFR

Proposed Rules:
51–2 38318
51–3 38318
51–4 38318
51–5 38318
51–6 38318
51–8 38318
51–9 38318

42 CFR

51a 36703
405 36069
412 36707
413 36707
414 36069
417 36072
418 36707
431 36072
434 36072
435 37702
440 37702
441 37702
1003 36072
Proposed Rules:
57 36733
421 ..... 35664, 36415
440 36419
1001 37202

43 CFR

12 36713
Public Land Order:
7055 34899
7064 34582
7065 35054
7067 35859
7068 35859
7069 35267
Proposed Rules:
Ch. I 36108
Ch. II 36108
Subtitle A 36108
4 38153
1780 38153
2800 35596
2810 35596
2880 35596
4100 38153

44 CFR

64 36370
322 36087
362 35630
Proposed Rules:
67 36421
354 38306

45 CFR

5b 36717
Proposed Rules:
606 37437
610 37437
611 37437
612 37437
613 37437
614 37437
615 35079
630 37437
640 37437
641 37437
650 37437
671 37437
672 37437
689 37437

46 CFR

68 36088
Proposed Rules:
502 38411
503 38411
510 38411
514 ..... 38411, 38418
540 38411
552 38418
560 38418
572 38418
583 38411

47 CFR

Ch. I 35631
0 38374
1 ..... 37720, 38127, 38374
2 37439
15 37439
22 ..... 35054, 37163
24 ..... 37164, 37566
43 35632
73 ..... 34391, 34766, 35055, 35268, 36987, 38129
74 35635

80 35268
87 35268
Proposed Rules:
Chapter I 35664
13 38154
20 37734
22 37734
61 33947
64 33947
69 33947
73 ..... 34404, 34405, 35081, 35082, 35292, 35293, 35785, 35893, 35894, 36735, 36736, 37020, 37456, 37737, 37738
74 35665
90 37734
97 36157

48 CFR

206 36088
222 36088
226 36088
237 36088
252 36088
1819 38130
1842 38131
1853 38131

Proposed Rules:
Ch. XIV 36108
209 35895
252 35895
926 35294
952 35294
970 35294

49 CFR

1 36987
171 38040
172 ..... 35411, 37537, 38040
173 38040
178 38040
180 38040
195 ..... 35465, 36256
392 34708
393 ..... 34708, 34712
571 ..... 35636, 37164, 37167
583 37294
1056 34392
Proposed Rules:
37 37208
38 37208
171 36488
172 36488
173 36488
175 36488
176 36488
177 36488
178 36488
383 36338
541 3508
552 37021
571 ..... 34405, 35298, 35300, 35670, 35672
575 38038

50 CFR

14 36719
17 ..... 35860, 36988, 37439
36 38312
100 36063
215 35471
216 35864
229 34899
301 ..... 35474, 35475, 36719, 37721, 37722, 37723
625 36720
630 36090
650 36720
651 ..... 35056, 36725
658 34582
672 ..... 35056, 37180, 37723, 38132
675 ..... 33920, 34392, 34583, 35056, 35057, 35476, 35638, 36727, 38132
681 35270
Proposed Rules:
Ch. I 36108
Ch. II 35674
Ch. IV 36108
17 ..... 34784, 35089, 35303, 35304, 35305, 35307, 35496, 35584, 35674, 35896, 35900, 36737, 37738, 38424, 38426
20 35566
32 ..... 36342, 36348, 37134
222 35089
227 ..... 36158, 37213
644 35308
654 33947
681 38426

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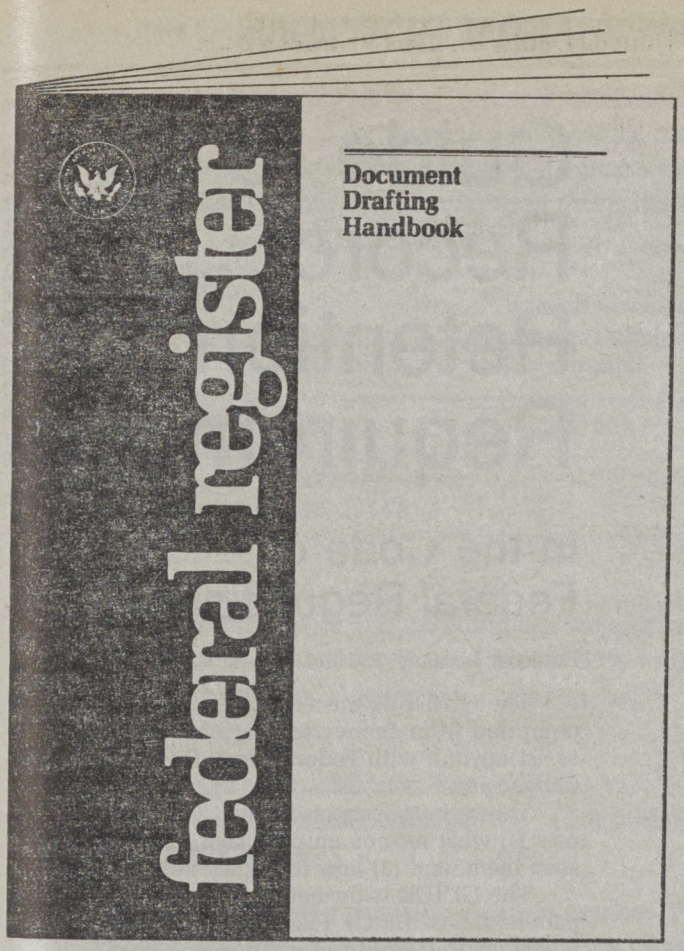
Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List July 27, 1994



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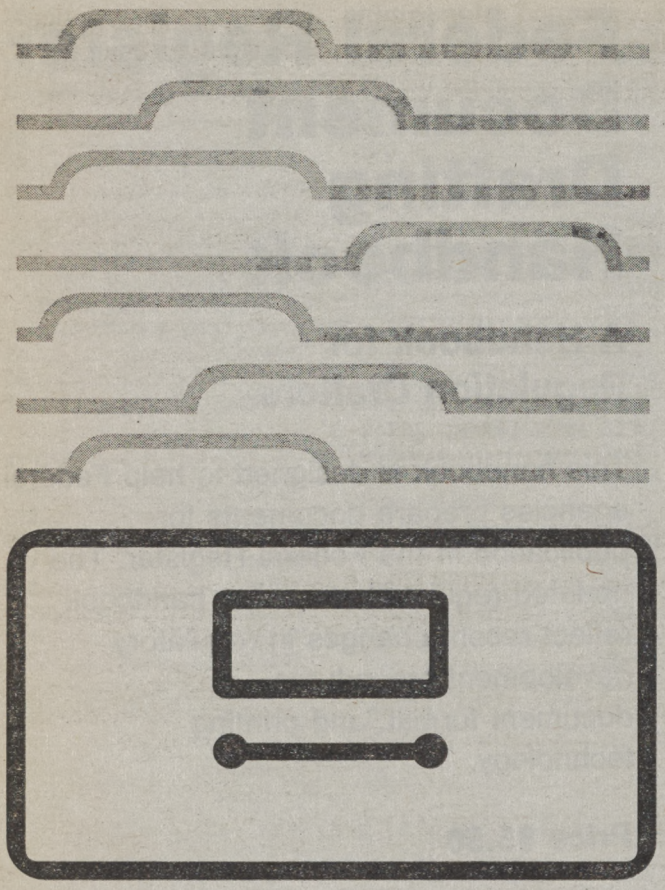

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in the Code of Federal Regulations (CFR)

Revised January 1, 1994

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