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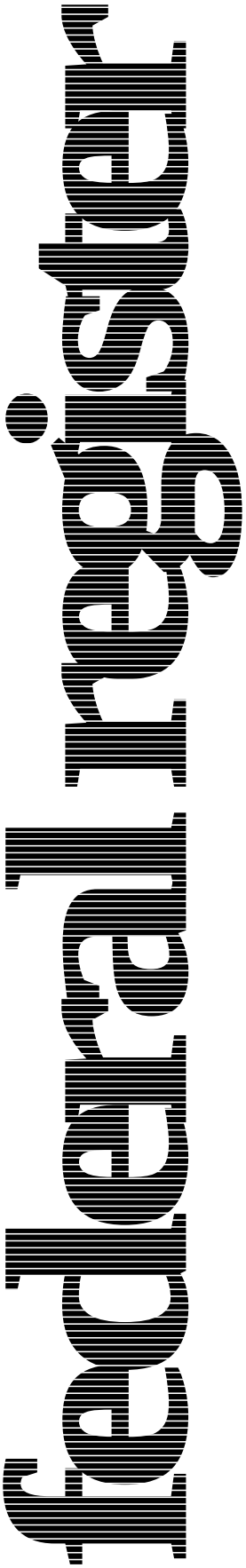

Monday
January 23, 1995

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

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

WASHINGTON, DC

(TWO BRIEFINGS)

WHEN: January 25 at 9:00 am and 1:30 pm

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

RESERVATIONS: 202–523–4538

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Reader Aids

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

Electronic Bulletin Board

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

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
Vol. 60, No. 14
Monday, January 23, 1995

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 94–134–1]

Brucellosis in Cattle; State and Area Classifications; Colorado

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the brucellosis regulations concerning the interstate movement of cattle by changing the classification of Colorado from Class A to Class Free. We have determined that Colorado meets the standards for Class Free status. This action relieves certain restrictions on the interstate movement of cattle from Colorado.

DATES: Interim rule effective January 23, 1995. Consideration will be given only to comments received on or before March 24, 1995.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, P.O. Drawer 810, Riverdale, MD 20738. Please state that your comments refer to Docket No. 94–134–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Michael J. Gilsdorf, Senior Staff Veterinarian, Cattle Diseases and Surveillance Staff, Veterinary Services, APHIS, USDA, P.O. Drawer 810, Riverdale, MD 20738. The telephone number for the agency contact will change when agency offices in Hyattsville, MD, move to Riverdale, MD, during January. Telephone: (301) 436–4918 (Hyattsville); (301) 734–4918 (Riverdale).

SUPPLEMENTARY INFORMATION:

Background

Brucellosis is a contagious disease affecting animals and humans, caused by bacteria of the genus *Brucella.*

The brucellosis regulations, contained in 9 CFR part 78 (referred to below as the regulations), provide a system for classifying States or portions of States according to the rate of *Brucella* infection present, and the general effectiveness of a brucellosis control and eradication program. The classifications are Class Free, Class A, Class B, and Class C. States or areas that do not meet the minimum standards for Class C are required to be placed under Federal quarantine.

The brucellosis Class Free classification is based on a finding of no known brucellosis in cattle for the 12 months preceding classification as Class Free. The Class C classification is for States or areas with the highest rate of brucellosis. Class B and Class A fall between these two extremes. Restrictions on moving cattle interstate become less stringent as a State approaches or achieves Class Free status.

The standards for the different classifications of States or areas entail (1) maintaining a cattle herd infection rate not to exceed a stated level during 12 consecutive months; (2) tracing back to the farm of origin and successfully closing a stated percent of all brucellosis reactors found in the course of Market Cattle Identification (MCI) testing; (3) maintaining a surveillance system that includes testing of dairy herds, participation of all recognized slaughtering establishments in the MCI program, identification and monitoring of herds at high risk of infection (including herds adjacent to infected herds and herds from which infected animals have been sold or received), and having an individual herd plan in effect within a stated number of days after the herd owner is notified of the finding of brucellosis in a herd he or she owns; and (4) maintaining minimum procedural standards for administering the program.

Before the effective date of this interim rule, Colorado was classified as a Class A State.

To attain and maintain Class Free status, a State or area must (1) remain free from field strain *Brucella abortus* infection for 12 consecutive months or longer; (2) trace back at least 90 percent of all brucellosis reactors found in the course of MCI testing to the farm of origin; (3) successfully close at least 95 percent of the MCI reactor cases traced to the farm of origin during the 12 consecutive month period immediately prior to the most recent anniversary of the date the State or area was classified Class Free; and (4) have a specified surveillance system, as described above, including an approved individual herd plan in effect within 15 days of locating the source herd or recipient herd.

After reviewing the brucellosis program records for Colorado, we have concluded that the State meets the standards for Class Free status. Therefore, we are removing Colorado from the list of Class A States in § 78.41(b) and adding it to the list of Class Free States in § 78.41(a). This action relieves certain restrictions on moving cattle interstate from Colorado.

Immediate Action

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. Immediate action is warranted to remove unnecessary restrictions on the interstate movement of cattle from Colorado.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective upon publication in the **Federal Register**. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This interim rule has been reviewed under Executive Order 12866.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

Cattle moved interstate are moved for slaughter, for use as breeding stock, or for feeding. Changing the brucellosis status of Colorado from Class A to Class Free will promote economic growth by reducing certain testing and other requirements governing the interstate movement of cattle from the State. Testing requirements for cattle moved interstate for immediate slaughter or to quarantined feedlots are not affected by this change. Cattle from certified brucellosis-free herds moving interstate are not affected by this change.

The groups affected by this action will be herd owners in Colorado, as well as buyers and importers of cattle from the State.

There are an estimated 13,000 cattle herds in Colorado that would be affected by this rule. Ninety-eight percent of these are owned by small entities. Most of these herds are not certified-free. Test-eligible cattle offered for sale from other than certified-free herds must have a negative test under present Class A status regulations, but not under regulations concerning Class Free status. This testing costs approximately $3.25 per head. If such testing were distributed equally among all herds affected by this rule, Class Free status would save approximately $8.50 per herd.

Therefore, we believe that changing the brucellosis status for Colorado would not have a significant economic impact on the small entities affected by this interim rule.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This document contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 78

Animal diseases, Bison, Cattle, Hogs, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 9 CFR part 78 is amended as follows:

PART 78—BRUCELLOSIS

1. The authority citation for part 78 continues to read as follows:

Authority: 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, and 134f; 7 CFR 2.17, 2.51, and 371.2(d).

§ 78.41 [Amended]

2. Section 78.41, paragraph (a), is amended by adding ''Colorado,'' immediately after ''Arizona,''.

3. Section 78.41, paragraph (b), is amended by removing ''Colorado,''.

Done in Washington, DC, this 17th day of January 1995.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–1636 Filed 1–20–95; 8:45 am]

BILLING CODE 3410–34–P

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9 CFR Part 92

[Docket No. 94–032–2]

Importation of Brushtail Possums and Hedgehogs From New Zealand

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the animal importation regulations to prohibit the importation of brushtail possums and hedgehogs from New Zealand. This action is necessary to prevent the introduction of tuberculous animals into the United States. The intended effect is to protect domestic livestock from tuberculosis.

EFFECTIVE DATE: February 22, 1995.

FOR FURTHER INFORMATION CONTACT: Dr. Samuel Richeson, Senior Staff Veterinarian, Import-Export Animals Staff, National Center for Import-Export, Veterinary Services, APHIS, USDA, room 764, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8170.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective and published in the **Federal Register** on June 6, 1994 (59 FR 29186–29187, Docket No. 94–032–1), we amended the animal importation regulations in 9 CFR part 92 by prohibiting the importation of brushtail possums and hedgehogs from New Zealand.

Comments on the interim rule were required to be received on or before August 5, 1994. We did not receive any comments. The facts presented in the interim rule still provide a basis for the rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Order 12778, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

List of Subjects in 9 CFR Part 92

Animal diseases, Imports, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, we are adopting as a final rule, without change, the interim rule that was published at 59 FR 29186–29187 on June 6, 1994, and that amended 9 CFR part 92 by adding a new subpart G.

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 135, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.17, 2.51, and 371.2(d).

Done in Washington, DC, this 17th day of January 1995.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–1634 Filed 1–20–95; 8:45 am]

BILLING CODE 3410–34–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 122

Business Loans—Export Loans

AGENCY: Small Business Administration (SBA).

ACTION: Final rule.

SUMMARY: Under this final rule, SBA is implementing certain provisions of the ''Small Business Administration Reauthorization and Amendments Act of 1994'', enacted on October 22, 1994, which are relevant to its guaranteed lending programs with respect to export revolving line of credit loans (ERLC) and international trade loans. With respect to ERLC loans, the rule deletes the present regulatory provision limiting such loans to a maturity of three years. In addition, the regulation also provides that SBA may guarantee standby letters of credit issued in connection with ERLC lending. With respect to international trade loans, the rule increases the percentage of the loan which SBA may guarantee from 85 percent to 90 percent. Under the rule, up to $750,000 (instead of $250,000) of an international trade loan could be used for working capital, supplies or ERLC financing.

EFFECTIVE DATES: This rule is effective January 23, 1995.

FOR FURTHER INFORMATION CONTACT: John R. Cox, 202/205–6490.

SUPPLEMENTARY INFORMATION: Pub. L. 103–403 was enacted on October 22, 1994 (1994 legislation). Because this final rule is amending the regulations to reflect literal statutory changes made by the 1994 legislation, SBA is publishing this final rule without opportunity for prior public comment pursuant to 5 U.S.C. 553(b)(A). However, SBA solicits and will consider any comments it receives with respect to this final rule in making adjustments to the ERLC program.

Consistent with section 209 of the 1994 legislation, section 122.54–1 of SBA's regulations (13 CFR § 122.54–1), which sets forth the policy concerning ERLC loans, is amended to eliminate the limitation on the term of those loans to three years. This means that, because of the 1994 legislation, ERLC loans may now be made with maturity periods in excess of three years. Section 209 of the 1994 legislation also authorizes SBA to guarantee standby letters of credit issued in connection with export revolving lines of credit, and § 122.54–1 is amended to reflect this statutory change.

With respect to international trade loans, consistent with § 211 of the 1994 legislation, section 122.57–3 of SBA's regulations (13 CFR § 122.57–3) is amended by substituting a 90 percent SBA guaranty in lieu of the former 85 percent guaranty. In addition, to reflect section 210 of the 1994 legislation, section 122.57–3 is further amended to allow up to $750,000 (increased from the present $250,000) of an international trade loan to be used for working capital, supplies or ERLC financing. Thus, under this final rule, SBA is authorized to provide greater assistance to borrowers engaged in international trade by providing an increased guaranty, and the small business concern may obtain additional benefits because it may apply a larger portion of its loan for working capital, supplies and ERLC financing.

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

For purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, SBA certifies that this final rule does not have a significant economic impact on a substantial number of small entities.

SBA certifies that this final rule does not constitute a significant regulatory action for the purposes of Executive Order 12866, since the change is not likely to result in an annual effect on the economy of $100 million or more.

SBA certifies that the final rule does not impose additional reporting or recordkeeping requirements which would be subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

This final rule does not have federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612.

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

(Catalog of Federal Domestic Assistance Programs, No. 59.012)

List of Subjects in 13 CFR Part 122

Exports, Loan programs—business, Small businesses.

Accordingly, pursuant to the authority contained in section 5(b)(6) of the Small Business Act (15 U.S.C. 634(b)(6), SBA amends part 122, chapter I, title 13, Code of Federal Regulations, as follows:

PART 122—BUSINESS LOANS

1. The authority citation for part 122 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6), 636(a), 636(m).

2. Section 122.54–1 is revised to read as follows:

§ 122.54–1 Policy.

The Act authorizes a revolving line of credit for export purposes generally including, but not limited to, the development of foreign markets. SBA may guarantee standby letters of credit issued in connection with revolving lines of credit for export purposes.

3. Section 122.57–3 is revised to read as follows:

§ 122.57–3 Amount and percentage of loan guaranty.

A guaranty commitment made by SBA pursuant to section 7(a)(16) of the Act shall not exceed 90 percent of the amount of the loan. Such guaranty commitment by SBA shall not exceed $1,250,000, of which not more than $750,000 may be used for working capital, supplies, or financings for export revolving lines of credit under § 122.54. The aggregate amount of $1,250,000 available from the business loan and investment fund under this section shall be reduced by any other financing from SBA pursuant to section 7(a) of the Act.

Dated: December 21, 1994.

Philip Lader,

Administrator.

[FR Doc. 95–1503 Filed 1–20–95; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 28028; Amdt. No. 386]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: 0901 UTC, February 2, 1995.

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

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are unnecessary, impracticable, and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days. The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current.

It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Airspace, Navigation (Air).

Issued in Washington, D.C. on January 6, 1995.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows:

1. The authority citation for part 95 continues to read as follows:

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

2. Part 95 is amended to read as follows:

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES AND CHANGEOVER POINTS

[Amendment 387 Effective Date, February 2, 1995]

From	To	MEA
§ 95.6006 VOR Federal Airway 6 Continued is amended to read in part		
Selinsgrove, PA Vortac	*Snowy, PA Fix	500
*5500—MRA		
§ 95.6023 VOR Federal Airway 23 is amended to read in part		
Red Bluff, CA Vortac	Beira, CA Fix	
	NW BND	8000
	SE BND	3000
Beira, CA Fix	*Shata, CA Fix	
	NW BND	**8000
	SE BND	**6500
*8000—MCA Shata Fix, NW BND		
**5500—MOCA		
§ 95.6046 VOR Federal Airway 46 is amended to read in part		
Hampton, NY Vortac	Libbe, NY Fix	*2500
*1800—MOCA		
Libbe, NY Fix	Clamy, MA Fix	*3000
*2000—MOCA		
Clamy, MA Fix	Nantucket, MA Vortac	2000
§ 95.6093 VOR Federal Airway 93 is amended to read in part		
Patuxent, MD Vortac	Graco, MD Fix	1800
§ 95.6214 VOR Federal Airway 214 is amended to read in part		
Somto, PA Fix	Yardley, PA Vortac	*2400
*1600—MOCA		
§ 95.6433 VOR Federal Airway 433 is amended to read in part		
Somto, PA Fix	Yardley, PA Vortac	*2400

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES AND CHANGEOVER POINTS—Continued

[Amendment 387 Effective Date, February 2, 1995]

From	To	MEA
*1600—MOCA		
§ 95.6445 VOR Federal Airway 445 is amended to read in part		
Somto, PA Fix	Yardley, PA Vortac	*2400
*1600—MOCA		

From	To	MEA	MAA
§ 95.7002 Jet Route No. 2 is amended to read in part			
Lake Charles, LA Vortac	Semmes, AL Vortac	18000	45000
§ 95.7031 Jet Route No. 31 is amended by adding			
Leeville, LA Vortac	Harvey, LA Vortac	18000	45000
Harvey, LA Vortac	Meridian, MS Vortac	18000	45000
is amended to delete			
New Orleans, LA Vortac	Meridian, MS Vortac	18000	45000
§ 95.7035 Jet Route No. 35 is amended by adding			
Leville, LA Vortac	McComb, MS Vortac	1800	45000
is amended to delete			
New Orleans, LA Vortac	McComb, MS Vortac	18000	45000
§ 95.7037 Jet Route No. 37 is amended to read in part			
Hobby, TX VOR/DME	Harvey, LA Vortac	18000	45000
Harvey, LA Vortac	Semmes, AL Vortac	18000	45000
§ 95.7058 Jet Route No. 58 is amended to read in part			
Alexandria, LA Vortac	Harvey, LA Vortac	18000	45000
Harvey, LA Vortac	*NEPTA, FL Fix	18000	45000

[FR Doc. 95–1613 Filed 1–20–95; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Trenbolone Acetate and Estradiol

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Roussel-Uclaf. The NADA provides for use of an ear implant containing trenbolone acetate and estradiol for heifers fed in confinement for slaughter for increased rate of weight gain and improved feed efficiency.

EFFECTIVE DATE: January 23, 1995.

FOR FURTHER INFORMATION CONTACT: Jack Caldwell, Center for Veterinary Medicine (HFV–126), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1638.

SUPPLEMENTARY INFORMATION: Roussel-Uclaf, Division Agro-Veterinaire, 163 Avenue Gambetta, 75020, Paris, France, represented in the United States by Hoechst-Roussel Agri-Vet Co., Rt. 202–206, P.O. Box 2500, Somerville, NJ 08876–1258, filed NADA 140–992 which provides for use of an ear implant containing 7 pellets, each pellet containing 20 milligrams (mg) of trenbolone acetate and 2 mg of estradiol. The implant is used in heifers fed in confinement for slaughter for increased rate of weight gain and improved feed efficiency. The NADA is approved as of December 13, 1994, and the regulations are amended in 21 CFR 522.2477 to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(ii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(ii)), this approval qualifies for a 3-year period of marketing exclusivity beginning on December 13, 1994, because new clinical or field investigations (other than bioequivalence or residue studies), or human food safety studies (other than bioequivalence or residue studies) essential to the approval were

conducted or sponsored by the applicant.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

2. Section 522.2477 is revised to read as follows:

§ 522.2477 Trenbolone acetate and estradiol.

(a) *Sponsor.* See No. 012579 in § 510.600(c) of this chapter.

(b) *Related tolerances.* See §§ 556.240 and 556.739 of this chapter.

(c) *Conditions of use*—(1) *Feedlot steers*—(i) *Amount.* 120 milligrams of trenbolone acetate and 24 milligrams of estradiol (6 pellets, each pellet containing 20 milligrams of trenbolone acetate and 4 milligrams of estradiol) per animal.

(ii) *Indications for use.* For increased rate of weight gain and improved feed efficiency in feedlot steers.

(iii) *Limitations.* Implant subcutaneously in ear only. Do not use in animals intended for subsequent breeding or in dairy animals.

(2) *Heifers*—(i) *Amount.* 140 milligrams of trenbolone acetate and 14 milligrams of estradiol (7 pellets, each pellet containing 20 milligrams of trenbolone acetate and 2 milligrams of estradiol) per animal.

(ii) *Indications for use.* For increased rate of weight gain and improved feed efficiency in heifers fed in confinement for slaughter.

(iii) *Limitations.* Implant subcutaneously in ear only. Do not use in animals intended for subsequent breeding or in dairy animals.

Dated: January 13, 1995.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 95–1654 Filed 1–20–95; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Parts 306 and 357

General Regulations Governing U.S. Securities and Regulations Governing Book-Entry Treasury Bonds, Notes and Bills

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Final rule.

SUMMARY: This final rule amends the general regulations governing United States securities and the regulations governing book-entry Treasury securities to implement a provision of the Treasury, Postal Service and General Government Appropriations Act of 1995. The legislation authorizes the Treasury to collect a fee for each definitive Treasury security issued to customers, and to collect an annual fee for each TREASURY DIRECT securities account that exceeds a stipulated amount.

EFFECTIVE DATE: January 23, 1995.

FOR FURTHER INFORMATION CONTACT: Maureen Parker, Director, Division of Securities Systems, Bureau of the Public Debt, (304) 480–7761; Susan Klimas, Attorney-Adviser, Office of the Chief Counsel, Bureau of the Public Debt, (304) 480–5192.

SUPPLEMENTARY INFORMATION: The Treasury, Postal Service and General Government Appropriations Act of 1995 (Pub. L. 103–329), authorizes the Secretary to collect a fee of not less than $46 for each definitive security issued to customers. The general regulations governing United States securities are contained in 31 CFR Part 306. A definitive security is a Treasury bond, note, certificate of indebtedness, or bill issued in engraved or printed form. Although securities in definitive form are no longer available on original issue, certain older issues of Treasury securities, by the terms of their issue, are still available in definitive form. The fees are to be imposed on each definitive security issued or reissued upon the request of a customer, to enable the Department to recoup the costs connected with such issuance. The fees must be paid in full when the transaction is requested. The Department intends to begin the collection of these fees on January 30, 1995.

Therefore, Part 306 is amended by adding a new Section 306.24, to provide that a fee will be charged for each definitive security issued as a result of a transfer, reissue, exchange or withdrawal from book-entry form, or the granting of relief on account of loss or theft, in accordance with a fee schedule. The fee schedule applicable appears separately as a notice in this issue of the **Federal Register**. Future fee schedule changes, if any, will be announced through a notice published in the **Federal Register**.

The Treasury, Postal Service and General Government Appropriations Act of 1995 (Pub. L. 103–329) also authorizes the Secretary to collect an annual fee of not less than $25.00 for each Treasury Direct Investor Account in the Treasury Direct book-entry securities system which exceeds $100,000 (par value). The regulations governing such securities are contained in 31 CFR Part 357. The category of accounts covered by the legislation is referred to in Part 357 as a ''Securities account'', and defined in Section 357.20. Fees will be charged to reduce the cost of maintaining large Treasury Direct Investor Accounts. A bill will be mailed to the investor for each account subject to the charge. The Department intends to begin the collection of these fees for accounts in the applicable amount as of May 19, 1995.

Accordingly, Part 357 is amended to add new paragraph (f) to Section 357.20. Paragraph (f) provides that accounts above a stipulated par amount will be charged a fee. The accounts to which the fee will apply, and the amount of such fee, are published separately as a notice in this issue of the **Federal Register**.

Procedural Requirements

It has been determined that this final rule does not meet the criteria for a ''significant regulatory action,'' as defined in Executive Order 12866. Therefore, the regulatory review procedures contained therein do not apply.

This final rule relates to matters of public contract and procedures for U.S. securities, as well as the borrowing power and fiscal authority of the United States. Accordingly, pursuant to 5 U.S.C 553(a)(2), the notice, public comment and delayed effective date provisions of the Administrative Procedure Act do not apply. As no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) do not apply.

As there are no new collections of information contained in this final rule, the Paperwork Reduction Act (44 U.S.C. 3504) does not apply.

List of Subjects in 31 CFR Parts 306 and 357

Banks, Banking, Bonds, Federal Reserve System, Government securities.

Dated: January 17, 1995.

Gerald Murphy,

Fiscal Assistant Secretary.

For the reasons set out in the preamble, 31 CFR Parts 306 and 357 are amended, as follows:

PART 306—GENERAL REGULATIONS GOVERNING U.S. SECURITIES

1. The authority citation for Part 306 continues to read as follows:

Authority: 31 U.S.C. Chapter 31, 5 U.S.C. 301 and 12 U.S.C. 391.

2. A new section, 306.24, is added to subpart C to read as follows:

§ 306.24 Collection of fees on definitive securities.

A fee shall be charged for each definitive security, as defined in § 306.115 (a), issued as a result of a transfer, exchange, reissue, withdrawal from book-entry, or the granting of relief on account of loss, theft, destruction, mutilation, or defacement. The applicable fee, and the basis for its determination, will be published by notice in the **Federal Register**.

PART 357—REGULATIONS GOVERNING BOOK-ENTRY TREASURY BONDS, NOTES AND BILLS (DEPARTMENT OF THE TREASURY CIRCULAR, PUBLIC DEBT SERIES NO. 2–86)

3. The authority citation for Part 357 continues to read as follows:

Authority: 31 U.S.C. Chapter 31, 5 U.S.C. 301 and 12 U.S.C. 391.

4. Section 357.20 is amended by adding a new paragraph (f) to read as follows:

§ 357.20 Securities account in TREASURY DIRECT.

* * * * *

(f) *Account maintenance fees.* An annual maintenance fee shall be charged for each TREASURY DIRECT securities account holding securities that in the aggregate exceed a stipulated par amount. The amount of the fee will be published by notice in the **Federal Register**.

* * * * *

[FR Doc. 95–1594 Filed 1–20–95; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–94–164]

RIN 2115–AE47

Drawbridge Operation Regulations; Lake Champlain, NY and VT

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule with request for comments.

SUMMARY: At the request of the Vermont Agency of Transportation (VAOT), the Coast Guard is temporarily changing the regulations governing the Route 2 Bridge over Lake Champlain at mile 91.8 between North Hero and Grand Isle, Vermont, to allow the bridge to remain in the closed position for seventy five (75) days from January 16, 1995 to April 1, 1995. This temporary change is being implemented to allow the bridge to remain in the closed position while major repairs are made to the bridge. Marine traffic which can pass under the closed span may still pass at will.

DATES: Effective: This temporary rule is effective from 7 a.m., January 16, 1995 through 7 a.m., April 1, 1995. Comments must be received on or before February 22, 1995.

ADDRESSES: Comments may be mailed to Commander (obr), First Coast Guard District, Building 135A, Governors Island, New York, 10004–5073, or may be hand delivered to the same address between 7 a.m. and 4 p.m., Monday through Friday, except federal holidays. The telephone number is (212) 668–7170. The comments will become part of this docket and will be available for inspection and copying by appointment at the above address.

FOR FURTHER INFORMATION CONTACT: Waverly W. Gregory, Project Manager, Bridge Branch, (212) 668–7170.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their name and address, identify the bridge, this rulemaking (CGD01–94–164), the specific section of this temporary regulation to which each comment applies, and give reasons for concurrence with or any recommended changes to the rule.

A comment period shorter than the normal 60 days is considered adequate for interested persons in the locality to suggest any changes that should be made to this temporary rule. Preliminary input from marine interests indicate that they have no objections provided the work is completed before April 1, 1995. The Coast Guard requests that all comments and attachments be submitted in an unbound format no larger than 8½″ by 11″, suitable for copying and electronic filing. If that is not practical, a second copy of any bound material is requested. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed post card or envelope.

The Coast Guard will consider all comments received during the comment period, and may change this temporary regulation in light of comments received.

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

Drafting Information

The drafters of this notice are Mr. John W. McDonald, Bridge Management Specialist, Bridge Branch, and Lieutenant Commander Samuel R. Watkins, Project Counsel, District Legal Office.

Background and Purpose

The Route 2 Bridge, built circa 1952, over Lake Champlain between North Hero and Grand Isle, Vermont, has a vertical clearance of 13 feet above mean high water (MHW) and 18 feet above mean low water (MLW).

The VAOT requested that emergency repair work be conducted as a result of difficulties encountered while opening and closing the bridge during the summer of 1993. A Coast Guard letter of approval with conditions was issued in October, 1993 to perform emergency repairs on the bridge. Due to contractual difficulties, a final contract was not awarded until September 1994. The contractor requested that the Coast Guard grant a closure beginning December 1, 1994 and ending on April 1, 1995. Further discussions with the contractor resulted in a subsequent request for a closed period from January 16, 1995 through April 1, 1995. The final agreement to close the bridge beginning on January 16, 1995 did not

allow sufficient time to receive comments prior to the effective date of the closure. The decision to proceed directly to a final temporary regulation was considered because of the urgent need for bridge repairs and the fact that the boating season has concluded. The waterway is generally frozen during the months that this temporary regulation will be in effect.

Discussion of Amendments

The temporary regulations will revise the current regulations for seventy five (75) days and allow the bridge to remain in the closed position at all times beginning at 7 a.m. on January 16, 1995 and ending at 7 a.m. on April 1, 1995. The temporary regulations are issued pursuant to 33 CFR 117.35. The VAOT requested the closure to remove and replace the electrical and mechanical systems of the bridge. The closure of the bridge will prevent vessel transits except for those low clearance vessels which can pass under the closed span. In 1993 there was only one bridge opening prior to May 15. There were 3,645 openings between May 15 and October 15 and four openings after October 15.

An auxiliary motor will be provided during the closure to allow the bridge to open for emergency situations.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the Regulatory Policies and Procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this final temporary regulation to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT, is unnecessary. This opinion is based upon the fact that the closure will be accomplished outside the peak boating season and when the waterway is generally frozen. This final temporary regulation will not prevent the passage of vessels that are able to pass under the closed span.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this final temporary regulation would have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632). Because of the reasons discussed in the Regulatory Evaluation above, the Coast Guard certifies under 5 U.S.C. 605(b) that this final temporary regulation will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This final temporary regulation contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this final temporary regulation in accordance with the principles and criteria contained in Executive Order 12612 and it has determined that this regulation does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this final temporary regulation and concluded that, under section 2.B.2.e.(32)(e) of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons set out in the preamble, the Coast Guard is amending 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, Stat. 5039.

2. In § 117.797, from 7 a.m., January 16, 1995 through 7 a.m., April 1, 1995, paragraph (b) is suspended and a new paragraph (e) is added to read as follows:

§ 117.797 Lake Champlain.

* * * * *

(e) The draw of the US2 bridge, mile 91.8 between Sandy Island and North Hero Island need not open for the passage of any vessel.

3. In § 117.993, from 7 a.m., January 16, 1995 through 7 a.m., April 1, 1995, paragraph (b) is suspended and a new paragraph (e) is added to read as follows:

§ 117.993 Lake Champlain.

* * * * *

(e) The draw of the US2 bridge, mile 91.8 between Sandy Island and North Hero Island need not be opened for the passage of any vessel.

* * * * *

Dated: December 30, 1994.

J.L. Linnon,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 95–1291 Filed 1–20–95; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 161

[CGD09–94–036]

RIN 2115–AF01

Temporary Speed Limits for the St. Marys River

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Commander of the Ninth Coast Guard District is making a temporary amendment to the speed limits for the St. Marys River during the 1994–95 icebreaking season. This amendment reduces the speed limit by 2 miles per hour through that part of the system, between Munuscong Lake Lighted Buoy 8 and Lake Nicolet Light 80 upbound and between Lake Nicolet Light 80 and Munuscong Lake light 9 downbound. These temporary changes to the speed regulations are a precautionary measure to minimize any possible damage to the environment due to movement of large commercial vessels through the ice.

EFFECTIVE DATE: This regulation is effective from December 29, 1994, through April 15, 1995.

FOR FURTHER INFORMATION CONTACT: Scott J. Smith, Lieutenant, U.S. Coast Guard, Aids to Navigation and Waterways Management Branch, Ninth Coast Guard District, 1240 East 9th Street, Cleveland, Ohio 44199–2060, (216) 522–3990.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a Notice of Proposed Rulemaking has not been published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Publication of a notice of proposed rulemaking and delay in the effective date would be contrary to the public interest because immediate

action is necessary to prevent possible damage to the environment. Additionally, the Coast Guard issued this temporary rule for the 1993–94 icebreaking season and no comments were received. Therefore, nothing would apparently be gained by pre-publication.

Discussion of Regulations

In a letter received on February 26, 1993, the Michigan Department of Natural Resources advised the Commander of the Ninth Coast Guard District of concerns over the environmental impact of ship transits through the St. Marys River during the period of March 21 to April 1. March 25 is the fixed date for the opening of the locks at Sault St. Marie, which allows large commercial shipping access to the St. Marys River from Lake Superior. In accordance with an agreement reached on June 29, 1993, with the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service and the Michigan Department of Natural Resources, the Commander of the Ninth Coast Guard District is making this temporary change to the speed regulations during periods when icebreaking is being conducted in the vicinity of Neebish Island, St. Mary's River, Michigan, as a precautionary measure to minimize any possible damage to the environment. The speed limit is being reduced by 2 statute miles per hour in the area between Munuscong Lake Lighted Buoy 8 and Lake Nicolet Light 80, upbound, and between Lake Nicolet Lighted Buoy 80 and Munuscong Lake Light 9, downbound. The Light 9 checkpoint has been added to extend the reduced speed limit area past Winter Point, thereby protecting the sensitive environment between Winter Point and Light 9. Speed limits apply to the average speed between established reporting points.

Drafting Information

The drafters of this regulation are Byron D. Willeford, Lieutenant Junior Grade, U.S. Coast Guard, Project Officer, Aids to Navigation & Waterways Management Branch and Karen E. Lloyd, Lieutenant, U.S. Coast Guard, Project Attorney, Ninth Coast Guard District Legal Office.

Federalism Implications

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

Environment

A recent environmental impact study by the United States Army Corps of Engineers indicated that March 21 is the optimal opening date. (see U.S. Army Corps of Engineers Draft Environmental Impact Statement, Opening Operations of the Lock Facilities on March 21 (February 1993), Supplement III to the Final Environmental Impact Statement, Operations, Maintenance, and Minor Improvements of the Federal Facilities at Sault Ste. Marie, Michigan (July 1977)). The same study by the Corps of Engineers indicates that there is no significant impact on fish populations due to movement of large commercial vessels through the ice. However, the Michigan Department of Natural Resources asserts that there may be such an impact during the early period of March 21 to April 1.

The Ninth Coast Guard District has adopted the U.S. Army Corps of Engineers EIS, EIS Supplements, and EIS studies on Operations, Maintenance, and Minor Improvements of the Federal Facilities at Sault Ste. Marie, Michigan. In addition, the Coast Guard is preparing a supplement for the 1974 Ninth Coast Guard District EIS regarding icebreaking activity on the Great Lakes.

Economic Assessment and Certification

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

Collection of Information

This regulation will impose no collection of information requirements under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

List of Subjects in 33 CFR Part 161

Harbors, Navigation (water), Reporting and recordkeeping requirements, Vessels, Waterways.

Regulations

In consideration of the foregoing, the Coast Guard temporarily amends part 161 of Title 33, Code of Federal Regulations, as follows:

PART 161—VESSEL TRAFFIC MANAGEMENT

1. The authority citation for 33 CFR part 161 continues to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46.

2. From December 29, 1994 through April 15, 1995, § 161.880 is suspended and a new § 161.881 is added to read as follows:

§ 161.881 Maximum speed limits.

(a) The following speed limits indicate the average speed over the ground between reporting points:

The speed limit between	Speed limit	
	Miles/hr	Knots
De Tour Reef Light and Sweets Point Light	14	12.2
Round Island Light and Point Aux Frenes Light 21	14	12.2
Munuscong Lake Lighted Buoy 8 and Everns Point	10	8.7
Everns Point and Reed Point	7	6.0
Reed Point and Lake Nicolet Lighted Buoy 62	8	7.0
Lake Nicolet Lighted Buoy 62 and Lake Nicolet Light 80	10	8.7
Lake Nicolet Lighted Buoy 80 and Munuscong Lake Light 9 (downbound, West Neebish Channel)	8	7.0
Lake Nicolet Light 80 and Winter Point (West Neebish Channel)	8	7.0
Lake Nicolet Light 80 and Six Mile Point Range Rear Light	10	8.7
Six Mile Point Range Rear Light and lower limit of the St. Marys Falls Canal:		
Upbound	8	7
Downbound	10	8.7
Upper limit of the St. Marys Falls Canal and Point Aux Pins Main Light	12	10.4

(b) *Effective date.* This section is effective from 8 a.m. (EDST) December 29, 1994, through 8 a.m. (EDST) on April 15, 1995, unless otherwise terminated by the Ninth Coast Guard District Aids to Navigation Branch.

Dated: December 29, 1994.

Paul J. Pluta,

Captain, Coast Guard, Commander, Ninth Coast Guard District, Acting.

[FR Doc. 95–1292 Filed 1–20–95; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 165

[COTP Los Angeles-Long Beach, 94–004]

RIN 2115–AA97

Safety Zone; Los Angeles Harbor-San Pedro Bay, CA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is adopting as final the interim rule that established safety zones in two locations on the waters of San Pedro Bay, California. The event requiring establishment of these safety zones is the dredging and landfill activities for the Port of Los Angeles Pier 400 project. Duration of this project is estimated to be 33 months. Two separate safety zone locations are covered by this rulemaking. The first location, the site of the future Pier 400, is to the east of the Los Angeles main channel, adjacent to Reservation Point. It encompasses anchorages B1–B3, B6–B8, C1–C3, and C7–C9. The second location, to the southwest of the main channel, will be used to accommodate the transformation of anchorages A1–A5 into a permanent shallow water habitat as a mitigation measure for the Pier 400 landfill project. Entry into, transit through, or anchoring within the safety zones is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATE: This regulation is effective on February 22, 1995.

FOR FURTHER INFORMATION CONTACT: Commander Mike Moore, Chief of Port Operations, Coast Guard Marine Safety Office Los Angeles-Long Beach, California; telephone (310) 980–4454.

SUPPLEMENTARY INFORMATION: These safety zones were established via an Interim Final Rule published in 59 FR 46173 (September 7, 1994), and are necessary in order to provide for the safety of the maritime community during the dredging and fill activities connected with the Los Angeles Pier 400 construction project. The interim rule provided a 60-day period for public comment. No comments were received pertaining to this rulemaking. Therefore, the interim rule is being adopted as a final rule.

Drafting Information

The drafters of this notice are Lieutenant Commander Chris Lockwood, project officer for the Captain of the Port, and Lieutenant Commander Craig Jucknies, project attorney, Eleventh Coast Guard District Legal Office.

Regulatory Evaluation

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

Collection of Information

This regulation contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq.*).

Federalism

The Coast Guard has analyzed this regulation under the principles and criteria contained in Executive Order 12612 and has determined that this regulation does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this regulation and concluded that under section 2.B.2. of Commandant Instruction M16475.1B it will have no significant environmental impact and it is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

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

PART 165—[AMENDED]

1. Accordingly, under the authority of 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46, the interim rule amending 33 CFR Part 165 which was published in 59 FR 46173 on September 7, 1994 is adopted as a final rule without change.

E.E. Page,

Captain, U.S. Coast Guard Captain of the Port, Los Angeles-Long Beach, CA.

[FR Doc. 95–1627 Filed 1–20–95; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–5142–2]

Louisiana; Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency.

ACTION: Review of immediate final rule; response to public comments.

SUMMARY: The State of Louisiana applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) reviewed the Louisiana Department of Environmental Quality's (LDEQ) application and made a decision, subject to public review and comment, that Louisiana's hazardous waste program revision satisfied all of the requirements necessary to qualify for final authorization of many of the provisions of the Hazardous and Solid Waste Amendments of 1984 (HSWA) to RCRA. As such, EPA published an Immediate Final Rule on November 7, 1994, for a 45-day public review and comment period.

During the public comment period, EPA received comments from three commentors opposed to the Agency granting authorization to Louisiana for this program revision, which includes corrective action. Two commentors expressed concern about LDEQ having adequate resources and the will to enforce RCRA regulations, based on its handling of reported violations at Bayou Steel Corporation (Bayou Steel), LaPlace, Louisiana. The third commentor raised concerns about LDEQ's current appeal scheme and position on public participation in settlements. Today's publication is EPA's response to the comments received regarding this program revision authorization, which contains most rules referred to by EPA as HSWA Cluster I.

DATES: This response to the public comments received regarding final authorization for Louisiana affirms the immediate final decision previously published and notifies the public that the final authorization shall be effective on January 23, 1995.

FOR FURTHER INFORMATION CONTACT: Dick Thomas, Region 6 Authorization Coordinator, Grants and Authorization Section, RCRA Programs Branch, U.S. EPA Region 6, First Interstate Bank

Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, phone (214) 665–8528.

SUPPLEMENTARY INFORMATION:

Response to Public Comments

Two commentors stated that LDEQ consistently and repeatedly ignored complaints regarding violations of RCRA and other environmental laws at Bayou Steel. One supplied LDEQ with an independent environmental audit report of conditions at Bayou Steel to support both commentors' claims, and believed LDEQ's lack of enforcement response to those and other complaints demonstrated the State's inability to take on additional program revisions, and unwillingness to appropriately address complaints. Also, the commentors questioned if LDEQ had adequate resources to enforce the RCRA corrective action provisions in this program revision. The incidents the commentors listed do not specifically refer to laws and regulations that are a part of this final authorization, but refer to RCRA or HSWA laws and regulations.

EPA reviewed the commentors' assertions and LDEQ's actions regarding complaints about Bayou Steel. EPA noted LDEQ's files contained numerous complaints regarding Bayou Steel activities, including those from the commentors. The files showed LDEQ initiated investigations to address all but one complaint within seven days of receipt, and in that instance the investigation was initiated within seven days of a records review. State records further revealed that while LDEQ investigated all Bayou Steel complaints in an appropriate and timely manner, including those from the commentors, all were unfounded. LDEQ's inspection reports, the State's only written response to complaints, were in permanent files and available for public review. Copies of requested portions of these files were available to the public upon written request.

The State's records also showed the various divisions of LDEQ conducted twenty-nine inspections at Bayou Steel since 1993. Some resulted in enforcement actions, including penalties, for the facility's violations of Louisiana's hazardous waste regulations. However, all violations were found during State-initiated inspections that occurred prior to LDEQ receiving complaints about the facility.

Also, EPA remained convinced LDEQ has adequate resources to take on the additional portions of RCRA included in this program revision. As noted above, various divisions of LDEQ initiated many inspections at Bayou Steel since 1993, dedicating significant resources to them. These inspections, covering all media, were in addition to inspections and investigations performed by LDEQ at other facilities in the State. Because of the number and variety of complaints LDEQ received regarding Bayou Steel, the State requested EPA use its extensive resources and experience to perform a complete multi-media facility inspection. EPA considered this an entirely appropriate response based on the complaints and LDEQ's prior inspection findings. EPA initiated the Bayou Steel multi-media inspection in June 1994, and is compiling the results. In large measure, EPA's inspection findings at the facility agreed with LDEQ's.

Additionally, some complaints to the State alleged violations of Solid Waste Management Units (SWMU) or involved corrective action proceedings at Bayou Steel. During the time LDEQ inspected the facility, EPA had not authorized the State to regulate or address SWMUs or corrective action in lieu of the Agency. This lack of authority also triggered LDEQ's request to EPA for a Bayou Steel multi-media inspection.

The third commentor expressed concern about the appeal procedures and public participation rights of LDEQ's hazardous waste permitting program. The commentor asserted that LDEQ's Program Description (PD) for this program revision, obtained via a Freedom of Information Act request for documents, did not adequately describe the current State appellate review procedures.

EPA revisited the State's PD submitted with this program revision and determined it agreed with the commentor. As a result, EPA requested LDEQ to revise its PD so it more accurately reflected the State's current statutes regarding appeal procedures. LDEQ provided EPA with a revised PD that addressed these concerns.

The commentor also raised concerns about Louisiana's de novo review provisions of hazardous waste permitting decisions. The commentor asserted that the de novo review provisions could allow the District Court to become the permitting authority in Louisiana, and cited the case of *Pardue* v. *Stevens,* 558 So.2d 1149 (La.App.1 Cir. 1989) to support the concern. The *Pardue* court noted in its decision that a trial de novo in a judicial proceeding meant a trial anew, or from the beginning. Thus, in a trial de novo of an administrative proceeding, the Appellate Court could make its own factual determinations, exercise its own discretion, and substitute its judgment for that of the administrative agency. The Appellate Court could act as the court or agency of original jurisdiction and the entire case would be open for decision.

EPA interpreted Louisiana's de novo provisions as allowing a District Court judge the right of review of the record only. EPA considered Louisiana's ''de novo review'' provision to not be the same as ''trial de novo'' (new trial), and under the de novo review the reviewing court can exercise only appellate jurisdiction (review of the record). The Louisiana legislature enacted laws that mandate the Secretary of LDEQ to grant or deny permits, not the judiciary. Louisiana Revised Statutes, (R.S.) § 30:2011(D)(2) provides: The Secretary shall have the following powers and duties: to grant or deny permits, licenses, * * * as are provided for in this Subtitle. Additionally, R.S. § 30:2014(A) provides, in part, that the Secretary shall act as the primary public trustee of the environment, and shall consider and follow the will and intent of the Louisiana Constitution and Louisiana statutory law in making any determination relative to the granting or denying of permits, * * * authorized by this Subtitle. This matter is also clarified in LDEQ's revised PD, which refers to the review as a de novo review of the record.

Another concern raised by the commentor was the right of citizens to appeal Louisiana hazardous waste permitting decisions. The commentor asserted that although LDEQ represented in the PD submitted with this program revision that any person aggrieved by a final permitting decision could appeal to the Court of Appeal for relief, it has taken contrary positions when its decisions were appealed. The commentor alleged LDEQ argued the courts only have jurisdiction to review its decisions where the decision resulted from an LDEQ mandatory adjudicatory hearing. Only commercial hazardous waste permits are issued after a mandatory adjudicatory hearing. Thus, none of LDEQ's hazardous waste permitting decisions, with the possible exception of commercial transporter, storage, or disposal facility permits, would be subject to judicial review. However, EPA considered this issue resolved by the Louisiana Supreme Court in *Matter of American Waste and Pollution Control Co,* where the Court ruled that LDEQ decisions are appealable whether or not they result from a mandatory adjudicatory hearing.

The commentor also expressed concern about LDEQ's being required to provide assurance that it will provide an opportunity for public notice and comment on settlements of civil

enforcement actions. EPA determined LDEQ has a policy of public noticing settlement agreements and soliciting public comment. LDEQ assured EPA it will maintain this policy and included a restatement of its position in the revised PD.

EPA notes that even as LDEQ becomes authorized for additional RCRA provisions, the Agency will continue to be actively involved in Louisiana's hazardous waste program. EPA retains oversight authority of the delegated program and complete Federal authority over many regulations under HSWA. In addition, EPA retains Federal enforcement authority under RCRA sections 3008, 7003, and 7013.

For almost ten years, EPA and LDEQ have worked closely to address environmental issues in Louisiana. During that time, LDEQ has demonstrated its desire and ability to respond to citizen complaints and concerns about the environment. Further, prior to EPA authorizing Louisiana for the HSWA provisions in this approval, the State demonstrated it had the capability to administer a hazardous waste program that could implement the proposed authorization, as well as effectively implement its currently authorized program. In the spirit of authorization, LDEQ and EPA will monitor and review Louisiana's hazardous waste program to ensure it remains consistent with, equivalent to, and as stringent as the Federal requirements.

EPA will continue its involvement and presence in the implementation and enforcement of LDEQ's hazardous waste program until such time in the future that the State is fully authorized for all applicable Federal laws and regulations, and continuously demonstrates the capability to implement the program to the satisfaction of EPA. Even then, EPA will retain the authority to enforce against violators, even in an authorized State, under RCRA sections 3008, 7003, and 7013.

EPA has reevaluated its decision to approve this final authorization for the State's hazardous waste program and all documentation, including the authorization application with revised PD, and several EPA mid-year and end-of-year evaluation reports on LDEQ. Additionally, EPA considered the LDEQ HSWA capability assessment, and the State/EPA corrective action plan to resolve any Agency concerns in it. EPA hereby affirms its decision to approve this final authorization. This authorization is effective January 23, 1995.

Dated: January 13, 1995.

Barbara J. Goetz,

Acting Regional Administrator.

[FR Doc. 95–1645 Filed 1–20–95; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 60, No. 14
Monday, January 23, 1995

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 1 and 3

[Docket No. 93–076–2]

RIN 0579–AA59

Animal Welfare; Marine Mammals

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the Animal Welfare regulations to establish standards for ''swim-with-the-dolphin'' interactive programs. These proposed standards would be promulgated under the authority of the Animal Welfare Act and appear to be necessary to ensure that the marine mammals used in these programs are handled and cared for in a humane manner.

DATES: Consideration will be given only to comments received on or before February 22, 1995.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, P.O. Drawer 810, Riverdale, MD 20738. Please state that your comments refer to Docket No. 93–076–2. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Barbara Kohn, Senior Staff Veterinarian, Animal Care Staff, Regulatory Enforcement and Animal Care, APHIS, USDA, P.O. Drawer 810, Riverdale, MD 20738. The telephone number for the agency contact will change when agency offices in Hyattsville, MD, move to Riverdale, MD, during February 1995. Telephone: (301) 436–7833 (Hyattsville); (301) 734–8699 (Riverdale).

SUPPLEMENTARY INFORMATION:

Background

Since 1979, the Departments of Commerce and the Interior have shared jurisdiction with the Department of Agriculture for regulating the care and transportation of captive marine mammals. Under the Animal Welfare Act (7 U.S.C. §§ 2131, *et seq.*) (AWA), authority was given by Congress to the Department of Agriculture to promulgate regulations and standards for the humane handling, care, treatment, and transportation of captive marine mammals by regulated entities. In 1979, the Department published a final rule in the **Federal Register** (44 FR 36868) which set forth the regulations and standards for captive marine mammals.

The AWA regulations are contained in title 9 of the Code of Federal Regulations, chapter 1, subchapter A, parts 1, 2, and 3. Part 1 provides definitions of the terms used in parts 2 and 3. Part 2 sets forth the regulations and part 3 sets forth the standards for the humane handling, care, treatment, and transportation of covered animals by regulated entities. Subpart E of part 3 contains the standards applicable to marine mammals.

Under provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. §§ 1361 *et seq.*) (MMPA), the Departments of Commerce and the Interior have had the responsibility for regulating marine mammals in the wild, and those removed from the wild and held in captivity. Such authority is exercised through a permit system whereby permits to obtain new marine mammals or replacements from the wild are issued, provided that the applicants for such permits comply with provisions of these permits with respect to the handling and care of the animals. The National Marine Fisheries Service (NMFS), U.S. Department of Commerce, regulated ''swim-with-the-dolphin'' (SWTD) programs, by incorporating standards of care into the permits. In SWTD programs, members of the public participate in an orientation and education program regarding marine mammals, and then take part in an interactive swimming session with dolphins.

Recently, the regulation of SWTD programs has significantly changed. The April 30, 1994, amendments to the MMPA contain a requirement that holders of marine mammal permits issued by NMFS be licensed by USDA under the AWA. The NMFS permits have changed in that the special conditions concerning standards of care imposed on SWTD permit holders are no longer contained in the permits. Therefore, there are no specific standards in place for SWTD programs.

Although 9 CFR part 3, subpart E contains general standards, developed and enforced by APHIS, for the housing, care, treatment, and transportation of marine mammals, it contains no standards that apply specifically to SWTD programs. Specific APHIS standards for these programs, including exhibit design, veterinary care, personnel training, and recordkeeping, were to be addressed in APHIS's review and anticipated proposed revision of the regulations. As part of this anticipated revision of the regulations, APHIS published an advance notice of proposed rulemaking on July 23, 1993, (58 FR 39458) in which members of the public were invited to submit comments on appropriate specific standards for the care of marine mammals at facilities licensed by or registered with APHIS. The amendments to the MMPA, and the elimination of the MMPA requirement for NMFS to specify conditions for the care and transportation of captive marine mammals used in SWTD programs, has precipitated a need for specific APHIS standards regarding SWTD programs at this time. Therefore, we are proposing such standards to ensure the safety and health of captive marine mammals used in SWTD programs.

Program Animals

This rule proposes standards for SWTD in a new § 3.111. We are providing in proposed § 3.111(d) that only *Tursiops truncatus*, commonly referred to as bottlenose dolphins, may be used in SWTD programs. Industry experience has demonstrated that *Tursiops truncatus* can be adequately trained and conditioned to interact safely with humans. Similar information is not yet available regarding other species of cetaceans.

Space Requirement

We are proposing to require in § 3.111(a) that primary enclosures used to contain dolphins that are used in SWTD programs consist of three areas: An interactive area, a buffer area, and a sanctuary area. Both the buffer area and the sanctuary area would be off-limits to members of the public. The sanctuary area is necessary to allow dolphins to separate themselves voluntarily from the area of the enclosure where humans are permitted during program sessions. The buffer area, situated between the interactive area and the sanctuary area, is necessary to ensure that the sanctuary area is an adequate distance from the interactive area to ensure dolphins the opportunity for complete freedom from the public.

We would establish the same minimum space requirements for each of the three required areas. Each of the areas would be required to meet minimum space requirements for horizontal dimension, surface area, depth, and volume. Each of these proposed space requirements exceeds that in the current regulations for *Tursiops truncatus*. The space requirements set forth in this proposed rule were developed in conjunction with professional industry organizations, and were recommended by those organizations as providing adequate space for the health and well-being of dolphins used in the SWTD programs.

We believe the increased space is necessary in the interactive area to accommodate the presence of both dolphins and humans, and that a like amount of space is necessary in both the buffer area and the sanctuary area, so that the buffer and sanctuary areas are not made intentionally uninviting to participating dolphins. For the same reason, we would prohibit the restriction of a dolphin's entrance into the buffer and sanctuary areas. In our view, SWTD programs are not to be forced contact programs. The dolphins must always have the choice not to participate. In this regard, the dolphin's choice of area should not be influenced by factors such as restricted entrance into an area or differences between sizes of areas (e.g., a sanctuary area that is smaller than the interactive area).

The minimum space requirements for the three required areas and for the entire primary enclosure are set forth in proposed § 3.111(a)(5) in a table which is replicated below.

MINIMUM SPACE REQUIREMENTS FOR EACH AREA AND PRIMARY ENCLOSURE

Number of animals	Minimum horizontal dimension		Surface area		Depth		Volume	
	Each area (ft)	Enclosure (ft)	Each area (ft^2)	Enclosure (ft^2)	Each area (ft)	Enclosure (ft)	Each area (ft^3)	Enclosure (ft^3)
1–2	27	81	572	1,716	9	9	5,148	15,444
3	27	81	1,144	3,432	9	9	10,296	30,888
Each additional animal	(1)	(1)	254	763	(1)	(1)	2,289	6,867

[1] No change.

Proposed section 3.111(a) also sets forth the formulae used to arrive at the space requirements, which are based on the average adult body length of *Tursiops truncatus* (9 feet) and which assume use of a circular pool. The measurements in the table were calculated as follows.

1. *Horizontal dimension.* The minimum horizontal dimension for each area would be at least three times the average adult body length of the species of animal used in the program. As noted above, under this proposed rule, only *Tursiops truncatus* would be allowed in SWTD programs.

2. *Surface area.* The minimum surface area for each of the three required areas would be based on the following formulae:

Up to two dolphins

$$\text{Surface Area (SA)} = \left(\frac{3 \times \text{average adult body length (L)}}{2}\right)^2 \times 3.14$$

Three dolphins

$$SA = \left(\frac{3 \times L}{2}\right)^2 \times 3.14 \times 2$$

Additional SA for each animal in excess of three

$$SA = \left(\frac{2 \times L}{2}\right)^2 \times 3.14$$

3. *Depth.* The average depth for each area would be required to be at least 9 feet.

4. *Volume.* The minimum volume required for each animal would be based on the following formula:

Volume = SA×9

Water Quality

Standards for water quality for marine mammals are set forth in existing § 3.106. In § 3.111(b) of this proposed rule, we are providing that SWTD programs must also maintain sufficient water clarity so that attendants are able to observe dolphins and humans at all times within the interactive area. If the level of water clarity does not allow these observations to be made, the interactive sessions would be required to be canceled until such clarity is achieved.

Personnel

In proposed § 3.111(c), we are setting forth minimum requirements for the type and number of personnel necessary for operating a SWTD program. Additionally, we are proposing to set forth minimum levels of experience necessary for each required employee. We believe this experience is necessary to ensure that these individuals have been exposed to the critical elements of safe human/dolphin interactions.

In this proposed rule, we are providing that each SWTD program must have, at the minimum, the following personnel with the following backgrounds:

(1) Licensee or manager—at least one full-time staff member with at least 6 years in a professional or managerial position dealing with captive cetaceans;

(2) Primary behaviorist—at least one full-time staff member with at least 6 years experience in training cetaceans for SWTD behaviors, or with an equivalent amount of experience involving in-water training of cetaceans, who serves as the head trainer for the SWTD program;

(3) Supervising attendant—at least one full-time staff member with at least 3 years experience involving human/dolphin interactions;

(4) Attending veterinarian—at least one staff or consultant veterinarian who has had at least the equivalent of 2 years experience with cetacean medicine within the past 10 years.

A separate individual would be required to fill each of the required positions.

Handling

We are providing in proposed § 3.111(e)(1) that time dolphins spend interacting with humans as part of a SWTD program may not exceed 2 hours per day, and that each participating dolphin must have no less than 10 continuous hours without public interaction in each 24 hours. We are providing in proposed § 3.111(e)(2) that all dolphins used in the session must be adequately conditioned and trained for interaction, so that they respond in the session to the attendants with appropriate behavior for safe interaction.

We are also providing in proposed § 3.111(e)(3) that the ratio of human participants to dolphins shall not exceed 3:1, and that the ratio of human participants to attendants shall not exceed 3:1. These ratios are based on permit requirements established by NMFS as part of their regulation of SWTD programs, and, based on MNFS' enforcement experience, we believe they are adequate to protect dolphins used in SWTD programs.

Under § 3.111(e)(5) of this proposed rule, all sessions must have at least two attendants, and more if required according to the ratio discussed above. At least one attendant would be required to be positioned in the water, except in cases where at least one attendant is positioned so as to be able to intervene during the interactive session as quickly as if positioned in the water. However, if the program has had more than two incidents during interactive sessions that have been dangerous or harmful to either dolphins or humans, at least one attendant would be required to be positioned in the water.

To help ensure that the requirements of this proposed rule regarding interactive sessions are met, we are requiring in § 3.111(e)(4) that, prior to participation in a SWTD program, members of the public be provided with, and agree in writing to abide by, the SWTD program rules. We are also proposing that any participant who fails to follow the rules or the instructions of the attendants be removed from the session.

Under § 3.111(e)(6) of this proposed rule, a SWTD program must limit contact between humans and dolphins so as to ensure that the dolphins and humans are not harmed, that the element of choice regarding interaction is not removed from the dolphins (such as by recalling the animal from the sanctuary area), and that undesirable behavior is not elicited from the dolphins. At all times, each dolphin must be free to remove itself from the human/dolphin interaction. To ensure that this is possible, grasping or holding of the dolphin's body, unless under the direct and explicit instruction of an attendant eliciting a specific dolphin behavior, and the chasing or harassing of dolphins, would be prohibited by the SWTD programs.

We would require in proposed § 3.111(e)(7) that, in cases where animals used in the program exhibit unsatisfactory behaviors, such as charging, biting, mouthing, or sexual contact between dolphins and humans, these animals must be removed from the interactive session. We recognize that, in some cases, it may become difficult or impossible to remove a particular animal from an interactive session. For instance, in some cases, an animal may refuse to respond to commands from attendants. In order for a facility to anticipate and respond to such situations, we would require that written criteria must be developed and submitted to APHIS regarding conditions and procedures for the termination of a session. The primary behaviorist shall determine when operations will be terminated, and when they may resume. In the primary behaviorist's absence, these determinations shall be made by the supervising attendant.

Recordkeeping

We would establish reporting and recordkeeping requirements for SWTD programs. This information would help us monitor compliance with the regulations, and assist us in evaluating SWTD programs to assess the effectiveness of the regulations.

As part of the reporting requirements, we would require in § 3.111(f)(1) that a description of each SWTD program be provided to APHIS at least 30 days prior to initiation of any SWTD program. Facilities which have programs in place when this rule becomes final would also be required to provide APHIS with the same information within thirty days after the rule becomes final. This description would be required to include, at the minimum, the following: (1) Identification of each dolphin in the program by means of name and/or number, sex, age, and any other means determined by the Administrator as necessary to adequately identify the dolphin; (2) a description of the educational content and agenda of planned interactive sessions, and the anticipated average and maximum frequency and duration, of encounters per dolphin per day; (3) the content and method of pre-encounter orientation, rules, and instructions, including restrictions on types of physical contact with the dolphins; (4) a description of the SWTD facility, including the primary enclosure and other housing at the facility; (5) a description of the training the dolphin has undergone or will undergo prior to the participation in the program; (6) *curriculum vitae* for all staff involved in the handling, care, and maintenance of the dolphins; (7) the current behavior patterns and health of each dolphin, to be assessed and submitted by the attending veterinarian; (8) a written program of veterinary care (APHIS form 7002), including protocols and schedules of professional visits; and (9) a detailed description of the monitoring program to be used to detect and identify changes in the behavior and health of the dolphins.

We would require in § 3.111(f) (3) and (4) that the following records be kept at the SWTD site and be made available to an APHIS official upon request during normal business hours: (1) Individual dolphin veterinary records, including all examinations, lab reports, treatments, and necropsy reports; (2) individual dolphin feeding records; and (3) individual dolphin behavioral records. The veterinary records would be required to be kept at the site at least 5 years. The feeding and behavioral records would be required to be kept at the site at least 3 years.

Under § 3.111(f)(5) of this proposed rule, the following reports would be required to be kept at the SWTD site at least 3 years, and a copy would be required to be submitted to the Administrator on a semi-annual basis: (1) Statistical summaries of the number of minutes per day and the number of hours per week that each animal

participated in an interactive session; (2) a statistical summary of the number of human participants per month in the SWTD program; and (3) a description of any changes made in the SWTD program since the previous report was submitted.

We would also require, in § 3.111(f)(6), that any incident resulting in injury to either dolphins or humans during an interactive session be reported to APHIS within 24 hours of the incident. Within a week of any such incident, a written report would be required to be submitted to the Administrator. The report would be required to provide a detailed description of the incident and must establish a plan of action for the prevention of further occurrences.

Veterinary Care

In § 3.111(g) of this proposed rule, we are establishing standards for veterinary care and veterinary supervision for SWTD programs. The veterinary care standards set forth in this rule are based on documents developed at a NMFS-sponsored workshop by experts in marine mammal medicine and parties experienced in dealing with SWTD animals. We consider these veterinary care standards necessary to safeguard the health of both dolphins and humans participating in interactive programs. The veterinary requirements, discussed below, would require regular monitoring by the attending veterinarian of dolphins used in the programs and of other aspects of the program. This regular monitoring is necessary to help prevent the spread of zoonotic diseases during the program. Additionally, because dolphins often do not exhibit clinical signs of illness until very late in the disease process, early detection of stress or health problems is essential for the well-being of the dolphins.

In § 3.111(g)(1) of this proposed rule, we are requiring that the attending veterinarian conduct on-site evaluations at least once a month of each dolphin used in a SWTD program. The evaluation would have to include a visual inspection of the animal; examination of the behavioral, feeding, and medical records of the animal; and a discussion of each animal with an animal care staff member familiar with the animal. We would require in § 3.111(g)(2) that the attending veterinarian observe an interactive swim sessions at least once a month.

Additionally, under proposed § 3.111(g)(3), the attending veterinarian would be required to conduct a complete physical examination of each dolphin at least once every 6 months. The examination would have to include a profile of the dolphin, including the following: The dolphins's identification (name and/or number, sex, and age), weight, length, axillary girth, appetite, and behavior. The attending veterinarian would also be required to conduct a general examination to evaluate body condition, skin, eyes, mouth, blow hole and cardio-respiratory system, genitalia, and feces (gastrointestinal status). In addition, the examination would have to include a complete blood count and serum chemistry analysis, and cytology and parasite evaluation of fecal and blow hole smears. As part of the examination, the attending veterinarian would be required to record the nutritional and reproductive status of the dolphin (whether in active breeding program, pregnant, or nursing). While at the site, the attending veterinarian would also be required to examine water quality records and make an assessment of the overall water quality during the preceding month.

In proposed § 3.111(g)(6), we are providing that, should a dolphin used in a SWTD program die, complete necropsy results, including all appropriate histopathology, must be recorded in the animal's individual file and be made available to APHIS officials during facility inspections, or as requested by APHIS. The necropsy would be required to be performed within 48 hours of the dolphin's death, by a veterinarian experienced in marine mammal necropsies. If the necropsy is not to be performed within 3 hours of the discovery of the dolphin's death, the dolphin must be refrigerated. We would require that written results of the necropsy be available in the dolphin's individual file within 7 days after death for gross pathology and within 45 days after death for histopathology.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been determined to be significant and was reviewed by OMB under Executive Order 12866.

Under this proposed rule, operators of SWTD programs would be required to meet specified standards for those programs. These standards would include requirements for handling, facility design, reporting, and recordkeeping. Currently, 135 exhibitors in the United States are licensed by APHIS to hold marine mammals. Of this number, four operate SWTD programs. Three of these four exhibitors already meet the standards we are proposing. The fourth exhibitor would have to make certain design changes and provide for additional training to comply with the proposed standards. The cost of the additional training requirements would be approximately $15,000. The estimated costs of materials to complete the design changes would be approximately $850. Based on information provided by the industry concerning the average annual gross revenue of SWTD programs, the additional costs involved in complying with the proposed standards should not pose a significant economic burden on exhibitors.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. The Act does not provide administrative procedures which must be exhausted prior to a judicial challenge to the provisions of this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule will be submitted for approval to the Office of Management and Budget. Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please send a copy of your comments to: (1) Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, P.O. Drawer 810, Riverdale, MD 20738, and (2) Clearance Officer, OIRM, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250.

List of Subjects

9 CFR Part 1

Animal welfare, Animal housing, Dealers, Exhibitors, Humane animal handling, Research facilities.

9 CFR Part 3

Animal welfare, Humane animal handling, Pets, Reporting and recordkeeping requirements, Transportation.

Accordingly, 9 CFR parts 1 and 3 would be amended as follows:

PART 1—[AMENDED]

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

Authority: 7 U.S.C. 2131–2159; 7 CFR 2.17, 2.51, and 371.2(g).

2. In § 1.1, definitions of *buffer area, interactive area, interactive session, sanctuary area,* and *swim-with-the-dolphins (SWTD) program* would be added in alphabetical order, to read as follows:

§ 1.1 Definitions.

* * * * *

Buffer area means that area in a primary enclosure for a swim-with-the-dolphins program that is off-limits to members of the public and that directly abuts the interactive area.

* * * * *

Interactive area means that area in a primary enclosure for a swim-with-the-dolphins program where an interactive session takes place.

Interactive session means a swim-with-the-dolphins program session where members of the public enter a primary enclosure to swim with dolphins.

* * * * *

Sanctuary area means that area in a primary enclosure for a swim-with-the-dolphins program that is off-limits to the public and that directly abuts the buffer area.

* * * * *

Swim-with-the-dolphins SWTD program means any human-dolphin interactive program in which a member of the public enters the primary enclosure in which a dolphin is housed to interact with the animal. This excludes feeding and petting pools and the participation of any member(s) of the public audience as a minor segment of an educational show.

* * * * *

PART 3—[AMENDED]

3. The authority citation for part 3 would be revised to read as follows:

Authority: 7 U.S.C. 2131–2159; 7 CFR 2.17, 2.51, and 371.2(g).

4. In subpart E, footnote 2 would be redesignated as footnote 3, footnote 5 would be redesignated as footnote 2, footnote 8 would be redesignated as footnote 4, and footnote 9 would be redesignated as footnote 5.

5. A new section § 3.111 would be added to read as follows:

§ 3.111 Swim-with-the-dolphins programs.

Swim-with-the-dolphins programs must comply with the requirements in this section, as well as with all other requirements of this subpart pertaining to dolphins.

(a) *Space requirements.* The primary enclosure for SWTD dolphins must contain an interactive area, a buffer area, and a sanctuary area. Movement of dolphins into the buffer or sanctuary area must not be restricted. Notwithstanding the space requirements set forth in § 3.104, each of the three areas required for SWTD programs must meet the following space requirements:

(1) The horizontal dimension for each area must be at least three times the average adult body length of the species of dolphin used in the program.

(2) The minimum surface area required for each area is calculated as follows:

(i) *Up to two dolphins:*

$$\text{Surface Area (SA)} = \left(\frac{3 \times \text{average adult body length (L)}}{2}\right)^2 \times 3.14$$

(ii) *Three dolphins:*

$$SA = \left(\frac{3 \times L}{2}\right)^2 \times 3.14 \times 2$$

(iii) *Additional SA for each animal in excess of three:*

$$SA = \left(\frac{2 \times L}{2}\right)^2 \times 3.14$$

(3) The average depth for each area must be at least 9 feet.

(4) The minimum volume required for each animal is calculated as follows:

Volume=SA×9

(5) Minimum space requirements for each area are summarized in Table VI.

TABLE VI.—MINIMUM SPACE REQUIREMENTS FOR EACH AREA AND PRIMARY ENCLOSURE—SWTD

Number of animals	Minimum horizontal dimension		Surface area		Depth		Volume	
	Each area (ft)	Enclosure (ft)	Each area (ft^2)	Enclosure (ft^2)	Each area (ft)	Enclosure (ft)	Each area (ft^3)	Enclosure (ft^3)
1–2	27	81	572	1,716	9	9	5,148	15,444
3	27	81	1,144	3,432	9	9	10,296	30,888
Each additional animal	(1)	(1)	254	763	(1)	(1)	2,289	6,867

1 No change.

(b) *Water quality.* Sufficient water clarity must be maintained so that attendants are able to observe dolphins and humans at all times while within the interactive area. If water clarity does not allow these observations, the interactive sessions must be canceled until the required clarity is provided.

(c) *Employees and attendants.* Each SWTD program must have, at the minimum, the following personnel, with the following minimum backgrounds (each position must be held by a separate individual):

(1) Licensee or manager—at least one full-time staff member with at least 6 years in a professional or managerial position dealing with captive cetaceans;

(2) Primary behaviorist—at least one full-time staff member with at least 6 years experience in training cetaceans for SWTD behaviors, or an equivalent amount of experience involving in-water training of cetaceans, who serves as the head trainer for the SWTD program;

(3) Supervising attendant—at least one full-time staff member with at least 3 years experience involving human/dolphin interactions; and

(4) Attending veterinarian—at least one staff or consultant veterinarian who

has at least the equivalent of 2 years full-time experience with cetacean medicine within the past 10 years.

(d) *Program animals* Only *Tursiops truncatus* may be used in SWTD programs.

(e) *Handling.* (1) Interaction time for each dolphin shall not exceed 2 hours per day. Each participating dolphin shall have at least one period in each 24 hours of at least 10 continuous hours without public interaction.

(2) All dolphins used in an interactive session must be adequately trained and conditioned in human interaction so that they respond in the session to the attendants with appropriate behavior for safe interaction.

(3) The ratio of human participants to dolphins shall not exceed 3:1. The ratio of human participants to attendants shall not exceed 3:1.

(4) Prior to participating in a SWTD interaction session, members of the public must be provided with written rules and instructions for the session. Members of the public must agree, in writing, the abide by the rules and instructions before being allowed to participate in the session. Any participant who fails to follow the rules or instructions must be removed from the session.

(5) All interactive sessions must have at least two attendants. At least one attendant must be positioned in the water, except in cases where at least one attendant is positioned so as to be able to intervene during the session as quickly as if positioned in the water. However, if the program has had more than two incidents during interactive sessions that have been dangerous or harmful to either a dolphin or a human, at least one attendant must be positioned in the water.

(6) The SWTD program must limit interaction between dolphins and humans so that the interaction does not harm the dolphins, does not remove the element of choice from the dolphins, such as by recalling the animal from the sanctuary area, and does not elicit undesirable responses from the dolphins. The program must prohibit grasping or holding of the dolphin's body, unless under the direct and explicit instruction of an attendant eliciting a specific dolphin behavior, and must prevent the chasing or other harassment of the dolphins.

(7) In cases where dolphins used in an interactive session exhibit unsatisfactory behaviors, such as charging, biting, mouthing, or sexual contact with humans, these dolphins must either be removed from the interactive area or the session must be terminated. Written criteria must be developed and submitted to APHIS [6] regarding conditions and procedures for the termination of a session when removal of a dolphin is not possible and potentially unsafe behaviors are exhibited by one or more dolphins. The primary behaviorist shall determine when operations will be terminated, and when they may resume. In the absence of the primary behaviorist, these determinations shall be made by the supervising attendant.

(f) *Recordkeeping.* (1) In order for APHIS to properly evaluate a proposed or an ongoing SWTD program, each facility must provide APHIS [7] with a description of its program at least 30 days prior to initiation of the program, or in the case of any program already in place, the description must be provided within 30 days from the effective date of this final rule. The description must include at least the following:

(i) Identification of each dolphin in the program, by means of name and/or number, sex, age, and any other means the Administrator determines to be necessary to adequately identify the dolphin;

(ii) A description of the educational content and agenda of planned interactive sessions, and the anticipated average and maximum frequency and duration of encounters per dolphin per day;

(iii) The content and method of pre-encounter orientation, rules, and instructions, including restrictions on types of physical contact with the dolphins;

(iv) A description of the SWTD facility, including the primary enclosure and other housing at the facility;

(v) A description of the training the dolphin has undergone or will undergo prior to participation in the program;

(vi) The *curriculum vitae* of all staff involved in the handling, care, and maintenance of the dolphins;

(vii) The current behavior patterns and health of each dolphin, to be assessed and submitted by the attending veterinarian;

(viii) A written program of veterinary care (APHIS form 7002), including protocols and schedules of professional visits; and

(ix) A detailed description of the monitoring program to be used to detect and identify changes in the behavior and health of the dolphins.

(2) In the case of a new SWTD program which APHIS finds deficient in any respect, the facility will be notified so that it may correct any deficiencies prior to the initiation of its program. In the case of an existing SWTD program which APHIS finds deficient in any respect, the facility will be notified of any deficiencies and provided the opportunity to make corrections.

(3) Individual animal veterinary records, including all examinations, laboratory reports, treatments, and necropsy reports must be kept at the SWTD site for at least 5 years and be made available to an APHIS official upon request during inspection:

(4) The following records must be kept at the SWTD site for at least 3 years and be made available to an APHIS official upon request during inspection:

(i) Individual dolphin feeding records; and

(ii) Individual dolphin behavioral records.

(5) The following reports must be kept at the SWTD site for at least 3 years and a copy must be submitted to APHIS [8] on a semi-annual basis:

(i) Statistical summaries of the number of minutes per day and the number of hours per week that each animal participated in an interactive session;

(ii) A statistical summary of the number of human participants per month in the SWTD program; and

(iii) A description of any changes made in the SWTD program since the previous report was submitted.

(6) All incidents resulting in injury to either dolphins or humans participating in an interactive session must be reported to APHIS within 24 hours of the incident.[9] Within 7 days of any such incident, a written report must be submitted to the Administrator.[10] The report must provide a detailed description of the incident and must establish a plan of action for the prevention of further occurrences.

(g) *Veterinary care.* (1) The attending veterinarian must conduct on-site evaluations of each dolphin at least once a month. The evaluation must include a visual inspection of the animal; examination of the behavioral, feeding, and medical records of the animal; and a discussion of each animal with an animal care staff member familiar with the animal.

(2) The attending veterinarian must observe an interactive swim session at the SWTD site at least once each month.

[6] Send to Administrator, c/o Animal and Plant Health Inspection Service, Regulatory Enforcement and Animal Care, Animal Care, 4700 River Road Unit 84, Riverdale, Maryland 20737–1234.

[7] Send to Administrator, c/o Animal and Plant Health Inspection Service, Regulatory Enforcement and Animal Care, Animal Care, 4700 River Road Unit 84, Riverdale, Maryland 20737–1234.

[8] See footnote 6.

[9] Telephone numbers for Regulatory Enforcement and Animal Care, APHIS, sector offices can be found in local telephone books.

[10] See footnote 6.

(3) The attending veterinarian must conduct a complete physical examination of each dolphin at least once every 6 months. The examination must include a profile of the dolphin, including the dolphin's identification (name and/or number, sex, and age), weight,[11] length, axillary girth, appetite, and behavior. The attending veterinarian must also conduct a general examination to evaluate body condition, skin, eyes, mouth, blow hole and cardio-respiratory system, genitalia, and feces (gastroin estinal status). The examination must also include a complete blood count and serum chemistry analysis. Fecal and blow hole smears must be obtained for cytology and parasite evaluation.

(4) The attending veterinarian must record the nutritional and reproductive status of each dolphin (whether in active breeding program, pregnant, or nursing).

(5) The attending veterinarian must examine water quality records and provide a written assessment, to stay at the SWTD site for at least 3 years, of the overall water quality during the preceding month.

(6) In the event that a dolphin dies, complete necropsy results, including all appropriate histopathology, must be recorded in the dolphin's individual file and be made available to APHIS officials during facility inspections, or as requested by APHIS. The necropsy must be performed within 48 hours of the dolphin's death, by a veterinarian experienced in marine mammal necropsies. If the necropsy is not be performed within 3 hours of the discovery of the dolphin's death, the dolphin must be refrigerated until necropsy. Written results of the necropsy must be available in the dolphin's individual file within 7 days after death for gross pathology and within 45 days after death for histopathology.

Done in Washington, DC, this 18th day of January 1995.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–1637 Filed 1–20–95; 8:45 am]

BILLING CODE 3410–34–M

[11] Weight may be measured either by scale or calculated using the following formulae:

Females: Natural log of body mass= − 8.44+1.34 (natural log of girth)+1.28 (natural log of standard length)

Males: Natural log of body mass= − 10.3+1.62 (natural log of girth)+1.38 (natural log of standard length)

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Ostensible Subcontractor Rule and the Affiliation of Business Concerns Under Joint Venture Arrangements

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The Small Business Administration (SBA) is proposing a revision to its ''ostensible subcontractor'' rule as set forth in its affiliation regulation to permit small businesses to enter into subcontracts with certain public utilities for the lease and use of distribution facilities (telecommunication circuits, petroleum and natural gas pipelines, and electric transmission lines) without being considered affiliated with the public utility where the small business prime contractor adds meaningful value to the contract. This revision is being considered to take into account new business arrangements which have emerged as a result of deregulation of several public utility industries.

DATES: Comments must be submitted on or before March 24, 1995.

ADDRESSES: Send comments to: Gary M. Jackson, Assistant Administrator for Size Standards, 409 3rd Street, SW., Mail Code 6880, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Gary M. Jackson, Assistant Administrator for Size Standards, (202) 205–6618.

SUPPLEMENTARY INFORMATION: The SBA is proposing to revise its ''ostensible subcontractor'' rule as set forth in 13 Code of Federal Regulations (CFR) part 121.401(1)(4) with regard to affiliation arising from certain continuing arrangements. Under this regulation, affiliation is generally found to exist when one firm acting as a prime contractor enters into a subcontracting arrangement with another firm who, in turn, performs the ''primary or vital requirements'' of a contract. Under this arrangement, if the prime contractor is reliant upon the subcontractor to perform the contract to the extent that the subcontractor assumes a controlling role on the contract, then the relationship will be regarded by SBA as a joint venture with the two firms deemed affiliated under the ''ostensible subcontractor'' rule. The size of a joint venture is based on the combined revenues or number of employees, depending on the applicable size standard, of both firms. For a joint venture to be considered a small business, its size cannot exceed the applicable size standard.

The SBA is considering a modification to this ''ostensible subcontractor'' rule by expressly excluding from its coverage subcontracting agreements for the lease and use of distribution facilities of public utilities for telecommunication circuits, petroleum and natural gas pipelines, and electrical transmission lines where the prime contractor lessee contributes meaningful value to the contract. This modification would allow small businesses to enter into certain arrangements with other businesses in the provision of public utility services to the government without being considered joint venturers and affiliates. The SBA is concerned, however, that such a modification could have the unintended effect of allowing a small business to act as a mere broker or intermediary on the behalf of a large business. This possible consequence, addressed in greater detail below, is an issue that the SBA will be examining carefully before making a final decision on this proposal. It should be noted that this proposed rule would specifically exempt a finding of affiliation based solely on subcontracting agreements between firms that lease and use the public utility's distribution facilities and the public utility who owns and maintains the facilities, but other relationships between the firms could still bring about a finding of affiliation.

The impact of several recent size appeal decisions issued by SBA's Office of Hearings and Appeals has led several small businesses to request that SBA reassess its regulations on joint ventures as applied to firms that lease telecommunications circuits. These decisions found resellers of long distance telecommunications services affiliated with the owner of the telephone circuits, on the basis that the provider of the lines would perform the ''primary and vital requirements'' on a government contract by providing, maintaining and repairing telecommunications circuits, and that, therefore, the relationship between the reseller and long distance provider should be regarded as a joint venture arrangement and the firms should be considered affiliated under the ''ostensible subcontractor'' rule. As a result of the existing regulation and these decisions, federal contracting opportunities have been placed in jeopardy for both small businesses and small disadvantaged businesses operating through lease arrangements for telecommunication lines and circuits. SBA believes that its size regulations should be re-evaluated in

order to assess whether the ''ostensible subcontractor'' rule continues to be appropriate in the context of the telecommunications industry as well as the other public utility services industries identified above, which appear to have similar industry characteristics.

Over the past decade, deregulation of the public utility industries identified above has resulted in the open access of certain distribution facilities of public utilities by other firms. This development has encouraged the entrance of new firms in these markets to provide specialized services. For example, in the long distance telephone market a firm (reseller) can purchase bulk access to telecommunication circuits and resell telecommunication services to smaller volume customers. The economic savings from a volume purchase of these circuits by resellers are offered to certain customers who, given their relatively small volume of business or need, could not obtain similar savings by directly obtaining telephone access through the long distance providers. The other two public utility industries under consideration in this proposed rule are also experiencing the emergence of similar business arrangements where other firms utilize the public utility's distribution facilities. In the natural gas industry, open access of interstate pipelines has resulted in a significant change in the marketing of natural gas. Prior to deregulation, 95 percent of natural gas transported through pipelines was owned by the pipeline companies. Today, over 95 percent of natural gas flowing through interstate pipelines is owned by non-pipeline companies. Additionally, open access on a limited basis is now allowed for the provision of electric power, and further modifications to legislative restrictions on the retail sale of electric services are under consideration.

SBA's preliminary assessment of the public utility industries described in this proposed rule is that there may be a legitimate basis to permit resellers of telecommunication services, and other firms that provide public utility services through the lease and use of distribution facilities, to offer their services in the Federal market as they do in the commercial market without running afoul of the affiliation rules. In many instances, these firms may add value to the contract involved and be sound, operating businesses engaged generally in the provision of telecommunications and other public utility services. Moreover, the extensive capital investment necessary to build the distribution facilities associated with providing one of these public utility services essentially precludes a firm, other than the existing public utility firms, from making such an investment in order to perform a specific Federal procurement or in order to serve small volume commercial customers. In addition, remaining regulatory requirements continue to prohibit or constrain the development of capital facilities by new entrants. As indicated above, deregulation occurring in these public utility industries has made available to other firms the use of distribution facilities of the public utilities on a sub-contractual basis. Unlike other industries, the provision of public utility services is limited to one or a few public utility providers, and new firms that are now able to enter the market do so by leasing the distribution facilities of existing public utilities. Firms in other service industries usually do not depend on the exclusive access to a significant amount of capital facilities of one or a few firms within an industry to provide their services.

As indicated above, SBA is concerned that the effect of the present regulations causing affiliation between a prime contractor and an ''ostensible subcontractor,'' based simply on the leasing of distribution facilities, may now be inappropriate with respect to these specific public utility industries. For example, even though the greatest component of value in government contracts providing telecommunications services may be the utility distribution facilities, it nevertheless may not be appropriate to regard the subcontractor or supplier contributing that component as performing a controlling role on the contract where its responsibilities are limited to the provision and maintenance of those facilities and the prime contractor provides other valuable services. The SBA recognizes that firms that lease and use the distribution facilities of these public utilities generally perform an important and legitimate economic role in the provision of utility services to commercial markets, and the ''ostensible subcontractor'' rule may unnecessarily constrain opportunities for small business in obtaining Federal contracts for these public utility services. On the other hand, SBA does not wish to create by this exception a situation in which small business prime contractors qualify for small business preferences when they merely are brokers. Thus, the exception would apply only if the prime contractor also contributes meaningful value to the contract. With respect to the concept of meaningful value, SBA has not attempted to quantify what would constitute meaningful value for purposes of this rule.

The SBA is particularly concerned that the effect of the proposed modification might lead to abuses in the small business preference programs if the modification allows small businesses to act as mere brokers or intermediaries on the behalf of large businesses. To explain further, a small firm acting as a reseller of long distance telephone services might perform several functions, such as consultative services, identification and connection of circuits, problem resolution, and billing services, in providing long distance communication services to its customers. However, these activities may be of such limited significance to the contract as a whole when compared to the services provided by the long distance telephone carrier that the carrier should indeed be properly regarded as a joint venturer of the small firm. One of the primary purposes of the ''ostensible subcontractor'' rule is to ensure that the benefits intended for small business in obtaining a government contract are enjoyed by that small business and not simply passed through to a large business subcontractor. It is not the SBA's intention to depart from this long-held policy as a result of a modification of the ''ostensible subcontractor'' rule. Comments addressing this aspect of the proposed rule would be especially beneficial to SBA's deliberations of this issue.

The SBA seeks public comments on this proposal to modify the ''ostensible subcontractor'' rule. The SBA is particularly interested in obtaining comments which address the following points: (1) The nature of the business relationship between a public utility firm and a firm that leases the public utility's distribution facilities for purposes of reselling public utility services; (2) whether the proposed rule could have an unintended adverse effect on SBA's small business programs by allowing the brokering of services provided by large business; (3) whether a requirement that the prime contractor provide meaningful value to the contract adequately protects against abuse, and if so, how meaningful value should be determined, whether quantitatively or otherwise; (4) whether any modification to the ''ostensible subcontractor'' rule should be applied to public utility industries in addition to those which have been identified in the proposed rule; and, (5) alternative approaches to this proposed rule that address the issues discussed above.

Compliance With Regulatory Flexibility Act; Executive Orders 12612, 12778, and 12866; and the Paperwork Reduction Act.

This rule has been reviewed under Executive Order 12866. SBA certifies that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 15 U.S.C., *et seq*. The SBA has made this determination based on the fact that a limited number of Federal contracts would likely be awarded to small businesses as a direct result of this action. Thus, even though this proposed rule, if adopted as final, would make eligible previously ineligible firms for SBA procurement preference programs, SBA does not expect the number of affected firms to be significant. For purposes of Executive Order 12612, SBA certifies that this proposed rule would not have Federalism implications warranting the preparation of a Federalism assessment. For purposes of Executive Order 12778, SBA certifies that this proposed rule is drafted, to the extent practicable, in accordance with the standards set forth in section 2 of that Order. For purposes of the Regulatory Flexibility Act, the SBA certifies that this proposed rule would not have a significant economic effect on a substantial number of small entities for the same reason indicated above. For purposes of the Paperwork Reduction Act, the SBA certifies that this proposed rule would not impose any new reporting or recordkeeping requirements.

List of Subjects in 13 CFR Part 121

Government procurement, Government property, Grant programs—business, Loan programs—business, Small businesses.

Accordingly, part 121 of 13 CFR is amended as follows:

PART 121—[AMENDED]

1. The authority citation of part 121 continues to read as follows:

Authority: 15 U.S.C. 632(a), 634(b)(6), 637(a), and 644(c); and Pub. L. 102–486, 106 Stat. 2776, 3133.

2. § 121.401(1)(4) is revised to read as follows:

§ 121.401 Affiliation.

* * * * *

(l) * * *

(4) An ostensible subcontractor which performs or is to perform primary or vital requirements of a contract may have such a controlling role that it must be considered a joint venturer affiliated on the contract with the prime contractor. In determining whether subcontracting rises to the level of affiliation as a joint venture, SBA considers whether the prime contractor has unusual reliance on the subcontractor. This provision does not apply to subcontracts entered into with public utility concerns providing open access to distribution facilities if such subcontracts are limited to the lease and use of telecommunication circuits, petroleum pipelines, natural gas pipelines, or electric transmission lines, and if the prime contractor contributes meaningful value to the contract.

* * * * *

Dated: December 2, 1994.

Philip Lader,

Administrator.

[FR Doc. 95–1505 Filed 1–20–95; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Part 203

[Docket No. R–95–1759; FR–3626–P–01]

RIN 2502–AG20

Single Family Mortgage Insurance—Special Forbearance Procedures

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would permit the mortgagee and the mortgagor to enter into a special forbearance agreement requiring the payment of arrearages before maturity of the mortgage without obtaining the prior approval of HUD. It would also eliminate the present gap in reimbursement of debenture interest that occurs if the mortgagor files a petition in bankruptcy after entering into a special forbearance agreement. The purpose of this change is to encourage mortgagees to make greater use of special forbearance procedures when the mortgagor is temporarily unable to make full regular mortgage payments.

DATES: Comment due date: March 24, 1995.

ADDRESSEES: Interested persons are invited to submit comments regarding this rule to the Rules Docket Clerk, Office of the General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410–0500. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection between 7:30 a.m. and 5:30 p.m. at the above address. Facsimile (FAX) comments are not acceptable.

FOR FURTHER INFORMATION CONTACT: Joseph Bates, Director, Single Family Servicing Division, Room 9178, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 706–1672, or, for hearing and speech impaired, (202) 706–4594. (These are not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This rule would revise current HUD regulations governing forbearance procedures in connection with FHA insurance of single-family homes. Under the present forbearance procedures (24 CFR 203.614 (a) and (b)), the mortgagee may suspend or reduce the mortgagor's required payments for the forbearance period, but may not increase payments to recover arrearages until after mortgage maturity unless the mortgagee obtains prior approval from HUD. This rule proposes to add a new paragraph (c) to § 203.614, which would permit the mortgagee to reduce the required payments to an amount not less than 50% of the regular mortgage payments for a forbearance period of up to 6 months. On expiration of the forbearance period, the mortgagee may increase the required payments to not more than 1½ times the regular payment amount until all arrearages are repaid.

Limitations

The new procedure contains several limitations that are intended to avoid arrearages accumulating to an amount that the mortgagor cannot reasonably be expected to repay before maturity. These limitations include:

- Not more than four monthly payments may be due and unpaid at the time of execution of the forbearance agreement;
- The monthly payments may be reduced but not suspended;
- The period of reduced payments may not exceed 6 months;
- The increase in payments may not be required until 6 months after execution of the agreement; and
- The first monthly payment must be made at the time of execution of the agreement.

If greater forbearance relief is needed, the mortgagee may utilize the existing forbearance procedures, under which the mortgagee may not recover

arrearages until after mortgage maturity without HUD's prior approval.

Conditions for New Procedures

The conditions for granting the new form of forbearance relief are as follows:

(1) As under the current regulations, the mortgagor must establish to the satisfaction of the mortgagee that the mortgagor does not own other property subject to a FHA-insured mortgage and that the default was caused by circumstances beyond the control of the mortgagor.

(2) During the period established, the forbearance agreement must provide for payment of not less than 50 percent of the regular mortgage payments, nor more than the regular mortgage payments. The Secretary may adjust the required minimum percentage on a national or regional basis as economic conditions may indicate.

(3) The period of reduced payments may not exceed 6 months after execution of the forbearance agreement.

(4) The agreement must provide for an increase in payments, in order to recover arrearages accruing prior to and during the forebearance period. The increase in the payments is to begin no earlier than 6 months after execution of the agreement.

(5) The increased payments may not exceed 1½ times the regular mortgage payments.

(6) The agreement must provide for resumption of the regular mortgage payments after the total amount of arrearages is repaid.

(7) The agreement must be executed no later than the date on which four full monthly payments are due and unpaid.

(8) At the time the agreement is executed, the mortgagor must pay an amount agreed upon by the mortgagor and the mortgagee, but not less than the first monthly installment due under the agreement.

Other Changes

Current regulations (§§ 203.650–.660) have the effect that if State law, bankruptcy, or assignment considerations preclude a mortgagee from initiating foreclosure within 90 days after the mortgagor fails to meet the requirements of a special forbearance agreement, then neither mortgage or debenture interest is paid on the insurance claim for the period from 90 days after the date of the mortgagor's failure to meet the requirements of a special forbearance agreement until the date foreclosure is initiated (§§ 203.402a and 203.410(a)(3)). The proposed rule would avoid this lapse in interest payments by revising § 203.410(a)(3) to provide that debenture interest payments will begin the day after the date to which mortgage interest is computed.

In addition, the current regulations do not specifically identify assignment consideration as a possible cause for delaying foreclosure initiation; the proposed rule has been expanded to do so.

Finally, the rule would make a conforming revision to § 203.355(c). This section currently requires mortgagees to commence foreclosure within 60 days after the expiration of any prohibition on foreclosure that is found in State law or Federal bankruptcy law. The rule would also apply this 60-day requirement to foreclosures that are commenced due to the mortgagor's failure to meet the requirements of a special foreclosure agreement.

Other Matters

Executive Order 12866

This proposed rule was reviewed by the Office of Management and Budget (OMB) under Executive Order 12866, Regulatory Planning and Review. Any changes made to the proposed rule as a result of that review are clearly identified in the docket file, which is available for public inspection in the office of the Department's Rules Docket Clerk, room 10276, 451 Seventh Street, SW, Washington, DC 20410.

Environmental Impact

In accordance with 40 CFR 1508.4 of the regulations of the Council on Environmental Quality and 24 CFR 50.20 (a) and (l) of the HUD regulations, the policies and procedures contained in this rule relate only to loan terms and individual actions involving single-family housing and, therefore, are categorically excluded from the requirements of the National Environmental Policy Act.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this rule would not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the rule is not subject to review under the Order. Specifically, the requirements of this rule are directed to lenders and do not impinge upon the relationship between the Federal government and State and local governments.

Executive Order 12606, the Family

The General Counsel, as the Designated Official under Executive order 12606, The Family, has determined that this rule would not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order. No significant change in existing HUD policies or programs would result from promulgation of this rule, as those policies and programs relate to family concerns.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this proposed rule, and in so doing certifies that this rule would not have a significant economic impact on a substantial number of small entities. The rule would permit, but would not require, use of a special forbearance procedure by mortgagees. In addition, the number of cases to which the procedure would apply is limited.

Regulatory Agenda

This rule was listed in the Department's Semiannual Agenda of Regulations published on April 25, 1994 (59 FR 202424, 20443), in accordance with Executive Order 12866 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program number is 14.117.

List of Subjects in 24 CFR Part 203

Hawaiian Natives, Home improvement, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

Accordingly, part 203 of title 24 of the Code of Federal Regulations is proposed to be amended as follows:

PART 203—SINGLE FAMILY MORTGAGE INSURANCE

1. The authority citation for part 203 would continue to read as follows:

Authority: 12 U.S.C. 1709, 1715b; 42 U.S.C. 3535(d).

2. In § 203.355, the introductory text of paragraph (a) and paragraph (c) would be revised and new paragraph (h) would be added, to read as follows:

§ 203.355 Acquisition of property.

(a) *In general.* Except as provided in paragraphs (b) through (h) of this section, upon default of a mortgage the mortgagee shall take one of the following actions. Such action shall be taken within 9 months from the date of

default, or within any additional time approved by the Secretary or authorized by §§ 203.345, 203.346, or 203.650 through 203.660:

* * * * *

(c) *Prohibiting of foreclosure within time limits.* If assignment consideration under §§ 203.650 through 203.660, the laws of the State in which the mortgaged property is located, or Federal bankruptcy law:

(1) Do not permit the commencement of foreclosure within the time limits described in paragraphs (a), (b), (g), and (h) of this section, the mortgagee must commence foreclosure within 60 days after the expiration of the time during which foreclosure is prohibited; or

(2) Require the prosecution of a foreclosure to be discontinued, the mortgagee must recommence the foreclosure within 60 days after the expiration of the time during which foreclosure is prohibited.

* * * * *

(h) *Special forbearance.* The mortgagee must commence foreclosure or obtain a deed-in-lieu of foreclosure, with title being taken in the name of the mortgagee or the Secretary, within 90 days following the date the mortgagor fails to meet the requirements of a special forbearance under § 203.614.

3. Section 203.402a would be revised to read as follows:

§ 203.402a Reimbursement for uncollected interest.

The mortgagee shall be entitled to receive an allowance in the insurance settlement for unpaid mortgage interest if the mortgagor fails to meet the requirements of a forbearance agreement entered into pursuant to § 203.614 and this failure continues for a period of 60 days. The interest allowance shall be computed to:

(a) The earliest of the applicable following dates, except as provided in paragraph (b) of this section:

(1) The date of the initiation of foreclosure;

(2) The date of the acquisition of the property by the mortgagee by means other than foreclosure;

(3) The date the property was acquired by the Commissioner under a direct conveyance from the mortgagor;

(4) Ninety days following the date the mortgagor fails to meet the requirements of the forbearance agreement, or such other date as the Commissioner may approve in writing prior to the expiration of the 90-day period; or

(5) The date the mortgagee sends the mortgagor notice of eligibility to participate in the Pre-Foreclosure Sale procedure; or

(b) The date foreclosure is initiated or a deed in lieu is obtained, or the date such actions were required by § 203.355(c), whichever is earlier, if the commencement of foreclosure within the time limits described in § 203.355 (a), (b), (g), or (h) is precluded by:

(1) Assignment consideration under §§ 203.650 through 203.660;

(2) The laws of the State in which the mortgaged property is located; or

(3) Federal bankruptcy law.

4. In § 203.410, the heading of paragraph (a) would be italicized and paragraph (a)(3) would be revised to read as follows:

§ 203.410 Issue date of debentures.

(a) *Conveyed properties, claims without conveyance, pre-foreclosure sales—** * *

(3) As of the day after the date to which mortgage interest is computed as specified in § 203.402a, if the insurance settlement includes an allowance for uncollected interest in connection with a special forbearance.

* * * * *

5. In § 203.614, a new paragraph (c) would be added, to read as follows:

§ 203.614 Conditions of special forbearance.

* * * * *

(c) The mortgagee may grant special forbearance relief providing for increased mortgage payments without the approval of the Secretary, subject to the following conditions:

(1) The conditions of paragraph (b)(1) of this section are met;

(2) The agreement is executed not later than the date on which four full monthly payments are due and unpaid;

(3) At the time of execution of the agreement, the mortgagor must pay an amount agreed upon by the mortgagor and the mortgagee, but not less than the first monthly installment due under the agreement;

(4) The written forbearance agreement shall:

(i) Provide for the payment for a period not to exceed 6 months after execution of the agreement of:

(A) Not less than 50 percent of the regular mortgage payments; or

(B) Such percentage as the Secretary, by administrative instruction, may determine, but not more than the regular mortgage payment;

(ii) Provide for an increase of payments to not more than 1½ times the regular mortgage payments, commencing no sooner than 6 months after execution of the agreement; and

(iii) Provide for resumption of the regular mortgage payments after the total unpaid amount accruing prior to and during the forbearance period is repaid.

Dated: November 4, 1994.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 95–1633 Filed 1–20–95; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

28 CFR Part 90

[OJP No. 1015c]

RIN 1121–AA27

Grants to Combat Violent Crimes Against Women

AGENCY: Office of Justice Programs, Department of Justice.

ACTION: Proposed rule; correction.

SUMMARY: On December 28, 1994 in 59 FR 66830, a proposed rule was published implementing and requesting comments on the Grants to Combat Violence Against Women Program as authorized by Sections 2001 through 2006 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by Title IV, Section 40121 of the Violent Crime Control and Law Enforcement Act of 1994. In the section ''For Further Information Contact'' the incorrect telephone number for the Department of Justice Response Center was listed. This document corrects that inaccuracy and lists the proper number.

FOR FURTHER INFORMATION CONTACT: The Department of Justice Response Center at 1–800–421–6770 or (202) 307–1480.

Olga R. Trujillo,

General Counsel, Office of Justice Programs.

[FR Doc. 95–1650 Filed 1–20–95; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 773

RIN 1029–AB80

Notification and Permit Processing

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior Department.

ACTION: Proposed rule; correction.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of

the U.S. Department of the Interior extended until February 27, 1995, the public comment period on the proposed rule published in the October 26, 1994, **Federal Register** (59 FR 53884). The extension notice was published Friday, December 23, 1994, **Federal Register** (59 FR 66287). This correction provides an INTERNET address where comments can be filed electronically through the end of the comment period.

DATES: Written comments: OSM will accept written comments on the proposed rule until 5:00 p.m. Eastern time on February 27, 1995.

ADDRESSES: Written comments: Hand deliver to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 660, 800 North Capitol St., Washington, DC; or mail to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 660 NC, 1951 Constitution Avenue NW., Washington, DC 20240.

Comments may also be sent through the INTERNET to Scott Boyce, Branch of Research and Technical Standards, INTERNET address: OSMRULES@OSMRE.GOV. Copies of any messages received electronically will be filed with the Administration Record. Please note that this address is different from the address specified in the proposed rule (59 FR 53884).

FOR FURTHER INFORMATION CONTACT: Scott Boyce, Branch of Research and Technical Standards, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Room 640 NC, Washington, DC 20240; telephone (202) 343–3839.

SUPPLEMENTARY INFORMATION: On October 26, 1994 (59 FR 53884), OSM published a proposed rule which would require the regulatory authority to provide to each person who was a party to an informal conference its written findings granting, requiring modification of, or denying a permit application. The rulemaking would also require both that an approved permit contain in its permit area only lands for which the applicant has established a right-to-enter and commence surface coal mining and reclamation operations, and that compliance with an approved permit be based on activities to be conducted solely upon such lands.

The comment period for the proposed rule, which was scheduled to close on December 27, 1994, was extended until February 27, 1995 (59 FR 66287). This notice provides an INTERNET address where comments can be filed electronically. A different INTERNET address was published in the proposed rule (59 FR 53884) which was valid through December 27, 1994. Any comments to the proposed rule filed via the INTERNET during the 60-day extension period should be sent to the address given in this notice. Comments will be accepted until 5 p.m. local time on February 27, 1995.

Dated: January 13, 1995.

Mary Josie Blanchard,

Acting Assistant Director, Program Support.

[FR Doc. 95–1639 Filed 1–20–95; 8:45 am]

BILLING CODE 4310–05–M

National Park Service

36 CFR Part 7

RIN 1024–AC28

Pictured Rocks National Lakeshore; Hunting Closure

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service (NPS), Pictured Rocks National Lakeshore, is proposing regulations closing developed and high visitor use areas of the lakeshore to hunting in the interest of public safety. Hunting in such developed and high visitor use areas can constitute a hazard to the safety of the visiting public. The NPS solicits comments from the public, including hunters, on the proposal.

DATES: Comments are requested by March 24, 1995.

ADDRESSES: All comments should be addressed to the Superintendent, Pictured Rocks National Lakeshore, P.O. Box 40, Munising, Michigan 49862.

FOR FURTHER INFORMATION CONTACT: Larry Hach, Chief of Visitor Services and Land Management, Pictured Rocks National Lakeshore, P.O. Box 40, Munising, MI 49862. Telephone (906) 387–2607.

SUPPLEMENTARY INFORMATION:

Background

Pictured Rocks National Lakeshore's legislative authority, Public Law 89–668 (80 Stat. 922), states ''The Secretary, after consultation with the Michigan Department of Conservation, may designate zones and establish periods where and when no hunting shall be permitted for reasons of public safety, administration, or public use and enjoyment.'' Pictured Rocks National Lakeshore has already consulted with the Michigan Department of Natural Resources on this issue, as well as with other interested groups including the Michigan United Conservation Clubs, areas hunters, and other interested local individuals.

The National Park Services' Management Guidelines (specifically Chapter 8, ''Use of the Parks'') state that the protection of park visitors and providing for visitor safety is a primary goal of park management, and that the Service may establish regulations or closures that are more restrictive than applicable state regulations based on a finding that such restrictions are necessary for public safety, resource protection, or visitor enjoyment. With the increased number of visitors to the lakeshore in recent years (CY 93 visitation was 613,000), and the increase of hunting activities within lakeshore boundaries, conflicts between hunters and non-hunters could directly affect the safety of the visiting public in the developed areas.

Options Considered

According to the park's enabling legislation, hunting in the lakeshore is managed according to the State of Michigan's Department of Natural Resources' hunting regulations and those specific regulations contained in the Superintendent's Compendium, which prohibits spotlighting in accordance with 36 CFR 2.2(e). Continuing under the existing guidelines is dangerous from a safety point of view. A total ban on hunting is neither practical nor necessary. This proposed limited closure is in accordance with stated overall management objectives.

Effects of Revision

Much of the high public use area at the western end of the lakeshore is situated within the corporate limits of the City of Munising in which the discharge of a firearm is already prohibited.

The lakeshore's developed areas, such as campgrounds, parking lots, and overlooks, are heavily used by the visiting public. Hunting in such heavily used areas constitutes a hazard to the safety of the visiting public. State of Michigan regulations already prohibit hunting within 150 yards of occupied dwellings and associated structures for similar public safety reasons. State regulations currently permit hunting within road rights-of-way (ROW's), but because of the heavy volume of traffic on NPS owned roads within the lakeshore, hunting within these ROW's is not conducive to the promotion of visitor safety and enjoyment.

The heaviest public use period for the lakeshore occurs between April 1 and Labor Day when the lakeshore receives approximately 73% of its annual

visitation. During this period, the proposed regulation would prohibit hunting within the park, as it is now done in Michigan State Parks.

The NPS proposal would clarify the lakeshore hunting closure areas as follows:

1. Sand Point area: All that portion of Sand Point described as the area below the top of the bluff in Sections 19 and 30, T47N, R18W, and that area situated within the corporate limits of the City of Munising, including the Sand Point Road.

2. Developed Public Use Areas:

a. The area within 150 yards of any campsite located within the Little Beaver, Twelvemile Beach, and Hurricane River Campground (upper and lower).

b. The developed areas of Miners Castle, Chapel Basin, Au Sable, Log Slide, Grand Sable Lake, Sable Falls, Grand Sable Visitor Center, Grand Marais Quarters, and Coast Guard Point. Within these areas, hunting would be closed 150 yards from any overlook, vehicle parking lot, or visitor use building and within 100 feet of certain trails, platforms, and the centerline of NPS owned roadways.

3. Hunting would be prohibited parkwide during the period of April 1 through Labor Day in keeping with existing state park prohibitions.

Public Participation

The NPS solicits comments and information from all segments of the public, including hunters and other park users with an interest in this area, on recommended ways in which to promote public safety and enjoyment in accordance with the above discussion.

Persons submitting comments based on the above discussion should identify clearly and specifically the aspects of hunting closures that they feel should or should not be regulated and how. Specific reasons should be provided to support such recommendations.

All comments received by the NPS at the address and by the date listed above will be considered in the development of any proposed regulations.

Drafting Information

The author of these regulations is Larry Hach, Chief of Visitor Services and Land Management, Pictured Rocks National Lakeshore.

Paperwork Reduction Act

This revision does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Compliance With Other Laws

This rule was not subject to Office of Management and Budget review under Executive Order 12866. The Department of Interior certifies that this document 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.*). The economic effects of this rule-making are local in nature and negligible in scope.

The National Park Service has determined that this proposed revision will not have a significant effect on the quality of the human environment, health and safety because it is not expected to:

(a) Increase public use to the extent of compromising the nature and character of the area or causing physical damage to it;

(b) Introduce non-compatible uses which might compromise the nature and characteristics of the area, or cause physical damage to it;

(c) Conflict with adjacent ownerships or land uses; or

(d) Cause a nuisance to adjacent owners or occupants.

Based upon this determination, the proposed revision is categorically excluded from the procedural requirements of the National Environmental Policy Act (NEPA) by Departmental regulations in 516 DM 6, (49 FR 21438). As such, neither an Environmental Assessment nor an Environmental Impact Statement has been prepared.

List of Subjects in 36 CFR Part 7

National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, it is proposed to amend 36 CFR Chapter I as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

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

Authority: 16 U.S.C. 1, 3, 9a, 460(q), 462(k); Sec. 7.96 also issued under D.C. Code 8–137 (1981) and D.C. Code 40–721 (1981).

2. Section 7.32 is amended by adding paragraph (c) to read as follows:

§ 7.32 Pictured Rocks National Lakeshore.

* * * * *

(c) *Hunting.* The following Lakeshore areas are closed to hunting:

(1) *Sand Point area.* All that portion of Sand Point described as the area below the top of the bluff in Sections 19 and 30, T47N, R18W, and that area situated within the corporate limits of the City of Munising, including the Sand Point Road.

(2) *Developed public use areas.* (i) The area within 150 yards of any campsite located within the Little Beaver, Twelvemile Beach, and Hurricane River Campground (upper and lower).

(ii) The developed areas of Miners Castle, Chapel Basin, Au Sable, Log Slide, Grand Sable Lake, Sable Falls, Grand Sable Visitor Center, Grand Marais Quarters, and Coast Guard Point. Within these areas, hunting is prohibited within 150 yards of any overlook, vehicle parking lot, or visitor use building and within 100 feet of certain trails, platforms, and the centerline of NPS owned roadways.

(3) *Hunting season.* Hunting is prohibited parkwide during the period of April 1 through Labor Day in accordance with existing State Park hunting prohibitions.

Dated: November 9, 1994.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 95–1576 Filed 1–20–95; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 10

[Docket No. 930366–4319]

RIN 0651–AA65

Cross-Appeals in Patent and Trademark Office Disciplinary Proceedings

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Proposed rulemaking.

SUMMARY: On July 21, 1993, the Patent and Trademark Office (PTO) proposed amending a rule of practice in practitioner disciplinary proceedings. 58 FR 38994. The proposed rule change provides for a time period for a party to a disciplinary proceeding to file a cross-appeal, after the other party (the respondent or the Director of the Office of Enrollment and Discipline) to the proceeding has appealed from the initial decision of the administrative law judge (ALJ) to the Commissioner. Currently, PTO rules do not provide for such a time period. A party in a disciplinary proceeding may be interested in appealing only if the other party has appealed. Allowing a time period for filing a cross-appeal will give parties to disciplinary cases more flexibility after an initial decision by the administrative

law judge and will avoid the necessity of filing contingent appeal simply to preserve rights in the event the other party files an appeal.

One comment to the rule change proposed on July 21, 1993, was received suggesting substantive changes. This second notice adopts that suggested change.

DATES: Written comments must be received on or before February 22, 1995 to ensure consideration. An oral hearing will not be conducted.

ADDRESSES: Address written comments to Commissioner of Patents and Trademarks, Box OED, Washington, DC 20231, marked to the attention of Harry I. Moatz. Written comments will be available for public inspection in Suite 518, on the 5th floor of Crystal Park I, located at 2011 Crystal Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Harry I. Moatz by telephone at (703) 308–5273 or by mail marked to his attention and addressed to Commissioner of Patents and Trademarks, Box OED, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the **Federal Register** (58 FR 38994) on July 21, 1993, and in the Official Gazette of the PTO (1153 Off. Gaz. 32) on August 10, 1993. Comments were due August 20, 1993. One comment was received. The comment suggested a substantive change to the original proposed rulemaking. The PTO has adopted the change and is now publishing a second notice requesting comments on the amended notice.

Pursuant to 37 CFR 10.132 *et seq.*, the Director of the Office of Enrollment and Discipline within the PTO may initiate a disciplinary proceeding against a practitioner. If the proceeding is contested by the practitioner and the Director continues to prosecute, an ALJ for the Department of Commerce enters an initial decision which includes findings of fact, conclusions of law and an order. 37 CFR § 10.154.

Either party to the proceeding may appeal from the initial decision of the ALJ to the Commissioner within thirty (30) days of the date of the decision. 37 CFR § 10.155(a). However, prior to this proposed rule change, § 101.155(a) did not provide for the filing of a cross-appeal.

With regard to interference proceedings, 37 CFR § 1.304(a) addresses the filing of cross-appeals by stating in pertinent part that:

> the time for filing a cross-appeal [to the Court of Appeals for the Federal Circuit] or cross-action [in a district court] expires (1) 14 days after service of the notice of appeal or the summons and complaint or (2) two months after the date of decision of the Board of Patent Appeals and Interferences, whichever is later.

The proposed rule change is similar to the cross-appeal authorized in interference proceedings.

Response to and Analysis of Comment

The single comment suggested that the second sentence of the proposed § 10.155(a) be modified by adding ''pursuant to § 10.142'' after ''(1) 14 days after service of the appeal'' to make clear that the period for filing a cross-appeal or reply brief runs from service pursuant to § 10.142. The suggestion is being adopted. The comment further suggested that the fifth sentence in the rule proposed on July 21, 1993, be separated into three new sentences. The first and second new sentences make clear that ''the other party to an appeal or cross-appeal may file a reply brief,'' and that a ''reply brief by the respondent'' is to be ''served in duplicate with the Director.'' The third new sentence provides a date certain for filing any reply brief by avoiding uncertainty as to when ''receipt'' of an appeal, cross-appeal or copy thereof occurs, and by relying on the date of ''service pursuant to § 10.142'' of an appeal, cross-appeal, or a copy thereof. The suggestions have been adopted in the proposed rules.

Other Considerations

This rule change conforms with the requirements of the Regulatory Flexibility Act (5 U.S.C. 601*et set.*), Executive Orders 12612 and 12866, and the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

The General Counsel of the Department of Commerce has certified to the Chief Counsel for Advocacy, Small Business Administration, that the rule change will not have a significant economic impact on a substantial number of small entities (Regulatory Flexibility Act, 5 U.S.C. 605(b)). The principal impact of the rule change is to provide a time period to file cross-appeal in a PTO disciplinary proceeding. See the original notice of proposed rulemaking published in the **Federal Register**, 58 FR at 38996.

The PTO has determined that the rule change has no Federalism implications affecting the relationship between the National Government and the States as outlined in Executive Order 12612. The Office of Management has determined that the rule change is not significant for the purposes of Executive Order 12866.

The rule change will not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, since no record keeping or reporting requirements within the coverage of the Act are placed upon the public.

List of Subjects in 37 CFR Part 10

Administrative practice and procedure, Inventions and patents, Lawyers, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, and pursuant to the authority contained in 35 U.S.C. 6, the PTO proposes to amend 37 CFR part 10 as follows, wherein deletions are indicated by brackets ([ ]) and additions by arrows (><):

PART 10—REPRESENTATION OF OTHERS BEFORE THE PATENT AND TRADEMARK OFFICE

1. The authority citation for 37 CFR part 10 would continue to read as follows:

Authority: 5 U.S.C. 500; 15 U.S.C. 1123; 35 U.S.C. 6, 31, 32, 41.

2. Section 10.155 is amended by revising paragraph (a) to read as follows:

§ 10.155 Appeal to the Commissioner.

(a) Within thirty (30) days from the date of the initial decision of the administrative law judge under § 10.154, either party may appeal to the Commissioner. >If an appeal is taken, the time for filing a cross-appeal expires (1) 14 days after the date of service of the appeal pursuant to § 10.142 or (2) 30 days after the date of the initial decision of the administrative law judge, whichever is later.< An appeal >or cross appeal< by the respondent will be filed and served with the Director in duplicate and will include exceptions to the decisions of the administrative law judge and supporting reasons for those exceptions. If the Director files the appeal >or cross-appeal<, the Director shall serve >on the other party< a copy of the appeal >or cross-appeal<. >The other party to an appeal or cross-appeal may file a reply brief. A respondent's reply brief shall be filed and served in duplicate with the Director. The time for filing any reply brief expires< [Within] thirty (30) days after >the date of< [receipt] >service pursuant to § 10.142< of an appeal >, cross-appeal< or copy thereof[, the other party may file a reply brief, in duplicate with the Director]. If the Director files [the] >a< reply brief, the Director shall serve >on the other party< a copy of the reply brief. Upon the filing of an appeal >, cross appeal, if any,< and [a] reply brief >s<, if any, the Director shall transmit the entire record to the Commissioner.

* * * * *

Dated: January 13, 1995.

Michael K. Kirk,

Deputy Assistant Secretary of Commerce and Deputy Commissioner of Patents and Trademarks.

[FR Doc. 95–1602 Filed 1–20–95; 8:45 am]

BILLING CODE 3510–16–M

DEPARTMENT OF ENERGY

48 CFR Parts 912, 952 and 970

Acquisition Regulation; Project Control System

AGENCY: Department of Energy (DOE).

ACTION: Withdrawal of Proposed Rule.

SUMMARY: DOE is hereby withdrawing a proposal to amend the Department of Energy Acquisition Regulation (DEAR). The proposed change would have revised coverage addressing the use of contractor project control systems. Subsequent to release of the notice of proposed rulemaking, the Department decided to further revise its policies for applying control systems to the management of contractor projects. At this time, the control system policies are continuing to be defined, and no final rulemaking can be implemented until the program requirements are finalized, at which time, a new notice of proposed rulemaking will be published.

FOR FURTHER INFORMATION CONTACT: Kevin M. Smith, Procurement Policy Division (HR–521.1), Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 586–8189.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Detailed Listing of Changes.

I. Background

Amendments to 48 CFR Parts 912, 952 and 970 were announced in a notice of proposed rulemaking in the February 8, 1994, **Federal Register** (59 FR 5751). DOE invited interested persons to participate in this rulemaking by submitting data, views or arguments with respect to the DEAR amendments set forth in the notice of proposed rulemaking. The public comment period closed on April 11, 1994, a period of 60 days. During that period, comments were received from two interested parties who questioned whether the language of the proposed rulemaking was sufficiently clear. The Department will consider these comments in the development of any future rulemaking.

II. Detailed Listing of Changes

The proposed new subpart 912.70 is withdrawn. The proposed revisions of sections 952.212–73 and 970.5204–50 are withdrawn.

List of Subjects in 48 CFR Parts 912, 952, and 970

Government Procurement.

Issued in Washington, D.C., on January 13, 1995.

Richard H. Hopf,

Deputy Assistant Secretary for Procurement and Assistance Management.

[FR Doc. 95–1641 Filed 1–20–95; 8:45 am]

BILLING CODE 6450–01–P

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1023

[Ex Parte No. MC–100 (Sub-No. 6)]

Single State Insurance Registration [Petition of Lee's Permit Service, et al.]

AGENCY: Interstate Commerce Commission.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Commission is withdrawing its proposal to provide registration procedures tailored to the operations of carriers under temporary authorities. On evaluating the public comments on its proposal, the Commission has determined that the proposed procedures are unnecessary.

FOR FURTHER INFORMATION CONTACT: Kenneth H. Schwartz, (202) 927–5299 or Joseph H. Dettmar, (202) 927–5660. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: In response to a petition jointly filed by motor carrier consulting companies Lee's Permit Service and Little Debby's Tag Service, the Commission proposed to amend the Single State Registration System (SSRS) rules it had promulgated in Single State Insurance Registration, 9 I.C.C.2d 610 (1993). Petitioners had stated that delays by States in issuing registration receipts for new grants of emergency temporary authority or temporary authority had in turn delayed initiation of service, thereby diminishing or negating the usefulness of those authorities.

To address this problem, the Commission proposed expedited registration procedures for carriers operating under temporary authorities. The Commission published notice of its proposal in the **Federal Register** on May 25, 1994 (59 FR 27002) and invited interested parties to submit comments.

The Commission received comments from the National Conference of State Transportation Specialists and the National Association of Regulatory Utility Commissioners, among others, opposing the proposed regulations. It received only a few terse comments in favor of the regulations. No commenters cited any specific examples of delays by States in issuing registration receipts. The Commission concludes that the comments do not show that the procedures under the rules currently in effect pose problems for motor carriers. Rather, it appears that the States are resolving any problems they encounter in the incipient stages of the registration program and that modification of the registration regulations is unnecessary. The Commission is therefore withdrawing the proposed rules and discontinuing the proceeding.

Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to, call, or pick up in person from: Office of the Secretary, Room 2215, Interstate Commerce Commission, 1201 Constitution Avenue, N.W., Washington, DC 20423. Telephone: (202) 927–7428. [Assistance for the hearing impaired is available through TDD service (202) 927–5721.]

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Authority: 49 U.S.C. 10321 and 11506; 5 U.S.C. 553.

Decided: January 9, 1995.

By the Commission, Chairman McDonald, Vice Chairman Morgan, and Commissioners Simmons and Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 95–1629 Filed 1–20–95; 8:45 am]

BILLING CODE 7035–01–P

Notices

Federal Register

Vol. 60, No. 14

Monday, January 23, 1995

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

Animal and Plant Health Inspection Service

[Docket No. 94–129–1]

Availability of Environmental Assessments and Findings of No Significant Impact

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that five environmental assessments and findings of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the issuance of permits to allow the field testing of genetically engineered organisms. The environmental assessments provide a basis for our conclusion that the field testing of these genetically engineered organisms will not present a risk of introducing or disseminating a plant pest and will not have a significant impact on the quality of the human environment. Based on its findings of no significant impact, the Animal and Plant Health Inspection Service has determined that environmental impact statements need not be prepared.

ADDRESSES: Copies of the environmental assessments and findings of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect those documents are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Foudin, Deputy Director, Biotechnology Permits, BBEP, APHIS, USDA, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7612. For copies of the environmental assessments and findings of no significant impact, write to Mr. Clayton Givens at the same address. Please refer to the permit numbers listed below when ordering documents.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340 (referred to below as the regulations) regulate the introduction (importation, interstate movement, and release into the environment) of genetically engineered organisms and products that are plant pests or that there is reason to believe are plant pests (regulated articles). A permit must be obtained before a regulated article may be introduced into the United States. The regulations set forth the procedures for obtaining a limited permit for the importation or interstate movement of a regulated article and for obtaining a permit for the release into the environment of a regulated article. The Animal and Plant Health Inspection Service (APHIS) has stated that it would prepare an environmental assessment and, when necessary, an environmental impact statement before issuing a permit for the release into the environment of a regulated article (see 52 FR 22906).

In the course of reviewing each permit application, APHIS assessed the impact on the environment that releasing the organisms under the conditions described in the permit application would have. APHIS has issued permits for the field testing of the organisms listed below after concluding that the organisms will not present a risk of plant pest introduction or dissemination and will not have a significant impact on the quality of the human environment. The environmental assessments and findings or no significant impact, which are based on data submitted by the applicants and on a review of other relevant literature, provide the public with documentation of APHIS' review and analysis of the environmental impacts associated with conducting the field tests.

Environmental assessments and findings of no significant impact have been prepared by APHIS relative to the issuance of permits to allow the field testing of the following genetically engineered organisms:

Permit No.	Permittee	Date issued	Organisms	Field test location
94–221–01	Monsanto Agricultural Company.	10–27–94	Wheat plants genetically engineered to express tolerance to the herbicide glyphosate and marker genes.	Arizona.
94–213–01	University of Wisconsin.	10–31–94	Cranberry plants genetically engineered to express a gene from *Bacillus thuringiensis* subsp. *kurstaki* (Btk) for resistance to lepidopteran insects.	Wisconsin.
94–217–02	Monsanto Agricultural Company.	10–31–94	Potato plants genetically engineered to express a gene from *Bacillus thuringiensis* subsp. *tenebrionis* (Btt) for resistance to coleopteran insects and to express a gene for resistance to potato leaf roll virus.	California, Florida.
94–280–01	AgrEvo USA ...	11–10–94	Canola plants genetically engineered to express tolerance to the herbicide glufosinate.	California.
94–207–02	University of Wisconsin.	11–21–94	Antibiotic producing *Rhizobium* strain, to inhibit growth of closely related bacteria in the soil.	Wisconsin.

The environmental assessments and findings of no significant impact have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508), (3)

USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1979, and 44 FR 51272–51274, August 31, 1979).

Done in Washington, DC, this 17th day of January 1995.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–1635 Filed 1–20–95; 8:45 am]

BILLING CODE 3410–34–P

Foreign Agricultural Service

American Commonwealth Management Service Company; Demonstration of Safe Drinking Water Technologies in Mexico

AGENCY: Foreign Agricultural Service (FAS).

ACTION: Notice of Intent.

ACTIVITY: FAS/International Cooperation and Development intends to enter into an agreement with the American Commonwealth Management Service Company for a project to demonstrate safe drinking water technologies in Mexico. Federal funding is administered by FAS/ICD for the U.S. Environmental Protection Agency.

AUTHORITY: Section 1458 of the National Agricultural Research, Extension and Teaching Policy Act of 1977, as amended (7 USC 3291), and the Food Security Act of 1985 (Public Law 99–198).

FAS/ICD announces the availability of funds in fiscal year 1995 (FY1995) to enter into an agreement with the American Commonwealth Management Service (ACMS) Company to jointly fund the project entitled ''Demonstration of Safe Drinking Water Technologies in Mexico.'' Technical program assistance cost is shared jointly by the Government and ACMS. The primary goal of this project is to develop and package plant technologies for the control of toxic chemicals and micro-organisms in drinking water.

Based on the above, this is not a formal request for application. An estimated $370,000 in federal funds will be available in FY1995 to support this two-year project.

Information on proposed Agreement 58–3148–5–008 may be obtained from: USDA/FAS/MSD, 0664 South Bldg., Washington, DC 20250–1067.

Dated: January 13, 1995.

Nancy J. Croft,

Contracting Officer.

[FR Doc. 95–1559 Filed 1–20–95; 8:45 am]

BILLING CODE 3410–DP–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 940684–4315]

RIN 0693–AB32

Approval of Federal Information Processing Standards Publication 21–4, COBOL

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: The purpose of this notice is to announce that the Secretary of Commerce has approved a revision of Federal Information Processing Standard 21–3, COBOL, which will be published as FIPS Publication 21–4.

SUMMARY: On July 11, 1994 (59 FR 35312–35315), notice was published in the **Federal Register** that a revision to Federal Information Processing Standard 21–4, COBOL, was being proposed for Federal use.

The written comments submitted by interested parties and other material available to the Department relevant to the revised standard was reviewed by NIST. On the basis of this review, NIST recommended that the Secretary approve the revised standard as a Federal Information Processing Standards Publication (FIPS), and prepared a detailed justification document for the Secretary's review in support of that recommendation.

The detailed justification document which was presented to the Secretary is part of the public record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 6020, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW, Washington, DC 20230.

This FIPS contains two sections: (1) An announcement section, which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) a specifications section which deals with the technical requirements of the standard. Only the announcement section of the standard is provided in this notice.

EFFECTIVE DATE: This revised standard is effective July 17, 1995.

ADDRESSES: Interested parties may purchase copies of this revised standard, including the technical specifications section, from the National Technical Information Service (NTIS). Specific ordering information from NTIS for this standard is set out in the Where to Obtain Copies Section of the announcement section of the standard.

FOR FURTHER INFORMATION CONTACT: Mr. Arnold Johnson, telephone (301) 975–3247, National Institute of Standards and Technology, Gaithersburg, MD 20899.

Dated: January 13, 1995.

Samuel Kramer,

Associate Director.

Federal Information Processing Standards Publication 21–4

(Date)

Announcing the Standard for COBOL

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Institute of Standards and Technology (NIST) after approval by the Secretary of Commerce pursuant to Section 111(d) of the Federal Property and Adminstrative Services Act of 1949 as amended by the Computer Security Act of 1987, Public Law 100–235.

1. *Name of Standard.* COBOL (FIPS PUB 21–4).

2. *Cateogory of Standard.* Software Standard, Programming Language.

3. *Explanation.* This publication announces the adoption of American National Standard COBOL, as specified in ANSI X3.23–1985, X3.23a–1989 and ANSI X3.23b–1993, as a Federal Information Processing Standard (FIPS). This revision supersedes FIPS PUB 21–3 and reflects corrections and clarifications to the COBOL specifications. The American National Standards define the elements of the COBOL programming language and the rules for their use. The purpose of the standards is to promote portability of COBOL programs for use on a variety of data processing systems. The standards are used by implementors as the reference authority in developing processors and by users who need to know the precise syntactic and semantic rules of the standard language.

4. *Approving Authority.* Secretary of Commerce.

5. *Maintenance Agency.* Department of Commerce, National Institute of Standards and Technology (NIST).

6. *Cross Index.*

a. American National Standard for Information Systems—Programming Language—COBOL, ANSI X3.23–1985, ISO 1989–1985.

b. American National Standard for Information Systems—Programming Language—Intrinsic Function Module for COBOL, ANSI X3.23a–1989.

c. American National Standard for Information Systems—Programming Language—Correction and Clarification Amendment for COBOL, ANSI X3.23b–1993.

7. *Related Documents.**

a. Federal Information Resources Management Regulation (FIRMR) Subpart 201.20.303, Standards, and Subpart 201.39.1002, Federal Standards.

b. Federal Information Processing Standards Publication 29, Interpretation Procedures for Federal Information Processing Standards for Software.

c. NBS Special Publication 400–117, Selection and Use of General-Purpose Programming Languages.

8. *Objectives.* Federal standards for high level programming languages permit Federal departments and agencies to exercise more effective control over the production, management, and use of the Government's information resources. The primary objectives of Federal programming language standards are:

—to encourage more effective utilization and management of programmers by insuring that programming skills acquired on one job are transportable to other jobs, thereby reducing the cost of programmer re-training;

—to reduce the cost of program development by achieving the increased programmer productivity that is inherent in the use of high level programming languages;

—to reduce the overall software costs by making it easier and less expensive to maintain programs and to transfer programs among different computer systems, including replacement systems; and

—to protect the existing software assets of the Federal Government by insuring to the maximal feasible extent that Federal programming language standards are technically sound and that subsequent revisions are compatible with the installed base.

9. *Applicability.*

a. Federal standards for high level programming languages should be used for computer applications and programs that are either developed or acquired for government use. FIPS COBOL is one of the high level programming language standards provided for use by all Federal departments and agencies. FIPS COBOL is especially suited for applications that emphasize the manipulation of characters, records, files, and input/output (in contrast to those primarily concerned with scientific and numeric computations).

b. The use of FIPS high level programming languages is strongly recommended when one or more of the following situations exist:

—It is anticipated that the life of the program will be longer than the life of the presently utilized equipment.

—The application or program is under constant review for updating of the specifications, and changes may result frequently.

—The application is being designed and programmed centrally for a decentralized system that employs computers of different makes, models and configurations.

—The program will or might be run on equipment other than for which the program is initially written.

—The program is to be understood and maintained by programmers other than the original ones.

—The advantages of improved program design, debugging, documentation and intelligibility can be obtained through the use of this high level language regardless of interchange potential.

—The program is or is likely to be used by organizations outside the Federal Government (i.e., State and local governments, and others).

c. Nonstandard language features should be used only when the needed operation or function cannot reasonably be implemented with the standard features alone. Although nonstandard language features can be very useful, it should be recognized that their use may make the interchange of programs and future conversion to a revised standard or replacement processor more difficult and costly.

d. It is recognized that programmatic requirements may be more economically, and efficiently satisfied through the use of report generation, database management, or text processing languages. The use of any facility should be considered in the context of system life, system cost, data integrity, and the potential for data sharing.

e. programmatic requirements may be also more economically and efficiently satisfied by the use of automatic program generators. However, if the final output of a program generator is a COBOL source program, then the resulting program should conform to the conditions and specifications of FIPS COBOL.

f. When it is determined that a programming language that has been adopted as a FIPS is to be used for an application or program, a processor conforming to the FIPS programming language shall be used, if available. It is not intended that existing programs be rewritten solely for the purpose of conforming to a FIPS programming language. If a program is to be part of an existing application written in a programming language not conforming to a FIPS, the language processor used for the existing application may be used for the new program.

10. *Specifications.* FIPS COBOL specifications are the same as American National Standard COBOL as specified in ANSI X3.23–1985 ANSI X3.23a–1989 and ANSI X3.23b–1993.

ANSI X3.23–1985, ANSI X3.23a–1989 and ANSI X3.23a–1993 specify the form of a program written in COBOL, formats for data, and rules for program and data interpretation.

The standards do not specify limits on the size of programs, minimum system requirements, the means of supervisory control of programs, or the means of transforming programs internally for processing.

In addition, the following requirements apply:

a. For purposes of FIPS COBOL, the modules defined in ANSI X3.23–1985 and ANSI X3.23a–1989 are combined into three subsets and four optional modules. The three subsets are identified as Minimum, Intermediate, and High. The four optional modules are Report Writer, Communication, Debug, and Segmentation. These four optional modules may be associated with any of the subsets.

The high subset is composed of all language elements of the highest level of all required modules. The intermediate subset is composed of all language elements of level 1 of all required modules except the Intrinsic Function module. The minimum subset is composed of all language elements of level 1 of the Nucleus, Sequential I–O, and Inter-Program Communication modules.

The following table reflects the composition of the required subsets and the relationship of the subsets and the optional modules. The numbers in the table refer to the level within a module as designated in ANSI X3.23–1985 and ANSI X3.23A–1989, and a dash denotes the corresponding module is omitted or may be omitted.

*Refers to most recent revision of FIPS PUBS.

Modules	COBOL Subsets		
	Minimum	Intermediate	High
Required:			
Nucleus	1	1	2
Sequential I–O	1	1	2
Relative I–O		1	2
Indexed I–O		1	2
Inter-Program Communication	1	1	2
Sort-Merge		1	1
Source Text Manipulation		1	2
Intrinsic Function			1
Optional:			
Report Writer	-, or 1	-, or 1	-, or 1
Communication	-, 1, or 2	-, 1, or 2	-, 1, or 2
Debug	-, 1, or 2	-, 1, or 2	-, 1, or 2
Segmentation	-, 1, or 2	-, 1, or 2	-, 1, or 2

b. A facility must be available in the processor for the user to optionally specify monitoring of the source program at compile time. The monitoring may be specified for a FIPS COBOL subset, for any of the optional modules, for all of the obsolete language elements included in the processor, or for a combination of a FIPS COBOL subset, optional modules, and all obsolete elements. The monitoring may be specified for any FIPS COBOL subset at or below the highest subset for which the processor is implemented and for a level of an optional module at or below the level of the optional module for which the processor is implemented. The monitoring is an analysis of the syntax used in the source program against the syntax included in the user selected FIPS COBOL subset and optional modules. Any syntax used in the source program that does not conform to that included in the user selected FIPS COBOL subset and optional modules will be diagnosed and identified to the user through a message on the source program listing. Any syntax for an obsolete language element included in the processor and used in the source program will also be diagnosed and identified through a message on the source program listing. The determination of the need to flag any given source program syntax in accordance with these requirements cannot be logically resolved until the syntactic correctness of the source program has been established. The message provided will identify:

—The level indicator, clause, statement or header that directly contains the nonconforming or obsolete syntax. (For the purpose of this requirement the definitions of level indicator, clause, statement and header contained in American National Standard COBOL, ANSI X3.23–1985, Section III, Glossary, and the definition of syntax contained in American National Dictionary for Information Processing Systems, (ANDIS), ANSI X3.172–1990, apply.)

—The source program line and an indication of the beginning location within the line of the level indicator, clause, statement or header which contains the nonconforming or obsolete syntax.

—The syntax as ''nonconforming standard'' if the nonconforming syntax is included in the processor but is not within the user selected FIPS COBOL subset or optional modules unless monitoring is selected for the obsolete category; in that case obsolete language elements are only flagged as ''obsolete''.

—The syntax as ''nonconforming nonstandard'' if the nonconforming syntax is a nonstandard extension included in the processor.

—The syntax as ''obsolete'' if the syntax identified in the obsolete category within a FIPS COBOL subset or optional module included in the processor.

11. *Implementation.* The implementation of FIPS COBOL involves three areas of consideration: acquisition of COBOL processors, interpretation of FIPS COBOL, and validation of COBOL processors.

11.1 *Acquisition of COBOL Processors.* This publication is effective July 17, 1995. COBOL processors acquired for Federal use after this date should implement at least one of the required subsets of FIPS COBOL. If the functionality of one or more of the optional modules meets programmatic requirements, then those optional modules also should be acquired. Each optional module that is needed to meet programmatic requirements should be explicitly cited as a requirement in the order for the processor. Conformance to FIPS COBOL should be considered whether COBOL processors are developed internally, acquired as part of an ADP system procurement, acquired by separate procurement, used under an ADP leasing arrangement, or specified for use in contracts for programming services.

A transition period provides time for industry to produce COBOL processors conforming to the standard. The transition period begins on the effective date and continues for one (1) year thereafter. The following apply during the transition period:

a. The provisions of FIPS PUB 21–3 apply to processors ordered before the effective date but delivered subsequent to the effective date.

b. The provisions of this publication apply to orders placed after the effective date; however, a processor conforming to FIPS PUB 21–4, if available, may be acquired for use prior to the effective date. If a conforming processor is not available, a processor conforming to FIPS PUB 21–3 may be acquired for interim use during the transition period.

11.2 *Interpretation of FIPS COBOL.* NIST provides for the resolution of questions regarding FIPS COBOL specifications and requirements, and issues official interpretations as needed. All questions about the interpretation of FIPS COBOL should be addressed to:

National Institute of Standards and Technology
ATTN: COBOL Interpretation
Technology Building, Room B–154
Gaithersburg, MD 20899

11.3 *Validation of COBOL Processors.* NIST provides a service for the purpose of validating the conformance to this standard of processors offered for Federal procurement. The validation system reports the nature of any deviations that are detected. This service is offered on a reimbursable basis. Further information about the validation service can be obtained from the Software Standards Validation Group. COBOL Validation, National Institute of

Standards and Technology, Gaithersburg, MD 20899 (301) 975–3247.

12. *Waivers.* Under certain exceptional circumstances, the heads of Federal departments and agencies may approve waivers to Federal Information Processing Standards (FIPS). The head of such agency may redelegate such authority only to a senior official designated pursuant to section 3506(b) of Title 44, United States Code. Waivers shall be granted only when:

a. Compliance with a standard would adversely affect the accomplishment of the mission of an operator of a Federal computer system, or

b. Cause a major adverse financial impact on the operator which is not offset by Government-wide savings.

Agency heads may act upon a written waiver request containing the information detailed above. Agency heads may also act without a written waiver request when they determine that conditions for meeting the standard cannot be met. Agency heads may approve waivers only by a written decision which explains the basis on which the agency head made the required finding(s). A copy of each such decision, with procurement-sensitive or classified portions clearly identified, shall be sent to: National Institute of Standards and Technology; ATTN: FIPS Waiver Decisions, Technology Building, Room B–154; Gaithersburg, MD 20899.

In addition notice of each waiver granted and each delegation of authority to approve waivers shall be sent promptly to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate and shall be published promptly in the **Federal Register**.

When the determination on a waiver applies to the procurement of equipment and/or services, a notice of the waiver determination must be published in the *Commerce Business Daily* as a part of the notice of solicitation for offers of an acquisition or, if the waiver determination is made after that notice is published, by amendment to such notice.

A copy of the waiver, any supporting documents, the document approving the waiver and any supporting and accompanying documents, with such deletions as the agency is authorized and decides to make under 5 U.S.C. Sec. 552(b), shall be part of the procurement documentation and retained by the agency.

13. *Where to Obtain Copies.* Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. (Sale of the included specifications document is by arrangement with the American National Standards Institute.) When ordering, refer to Federal Information Processing Standards Publication 21–4 (FIPSPUB21–4), and title. Payment may be made by check, money order, or deposit account.

[FR Doc. 95–1612 Filed 1–20–95; 8:45 am]

BILLING CODE 3510–CN–M

Patent and Trademark Office

Grant of Certificate of Interim Extension of the Term of U.S. Patent No. Re. 34,617 of U.S. Patent No. 4,005,196; Olestra

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice of Interim Patent Term Extension.

SUMMARY: The Patent and Trademark Office has issued a certificate under 35 U.S.C. § 156(d)(5) for a second one-year interim extension of the term of U.S. Patent No. Re. 34,617 of U.S. Patent No. 4,005,196 that claims the food additive known as olestra.

FOR FURTHER INFORMATION CONTACT: Gerald A. Dost by telephone at (703) 305–9285; or by mail addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231 marked to the attention of Gerald A. Dost, Special Program Examiner, Office of the Deputy Assistant Commissioner for Patent Policy and Projects.

SUPPLEMENTARY INFORMATION: Section 156 of Title 35, United States Code, generally provides that the term of a patent may be extended for a period of up to 5 years if the patent claims a product, or a method of making or using a product, that has been subject to certain defined regulatory review. Under section 156, a patent is eligible for term extension only if regulatory review of the claimed product was completed before the original patent term expired.

On December 3, 1993, section 156 was amended by Pub. L. No. 103–179 to provide that if the owner of record of the patent or its agent reasonably expects the applicable regulatory review period to extend beyond the expiration of the patent, the owner or its agent may submit an application to the Commissioner of Patents and Trademarks for an interim extension of the patent term. If the Commissioner determines that, except for permission to market or use the product commercially, the patent would be eligible for a statutory extension of the patent term, the Commissioner shall issue to the applicant a certificate of interim extension for a period of not more than one year. The owner of record of the patent or its agent may apply for a subsequent one-year interim extension.

On January 7, 1994, The Procter & Gamble Company, owner of record in the Patent and Trademark Office of U.S. Patent No. Re. 34,617 of U.S. Patent No. 4,005,196, filed an application for interim extension of the term of the patent under 35 U.S.C. § 156(d)(5). The application states that the patent claims a composition of matter comprising the food additive product olestra. The application indicates that the product is currently undergoing a regulatory review before the Food and Drug Administration for permission to market or use the product commercially. The original term of the patent expired on January 25, 1994. On January 14, 1994, a first one-year interim extension was granted under 35 U.S.C. § 156(d)(5). The extended term of the patent expires on January 25, 1995. On December 1, 1994, applicant requested a second one-year interim extension of the term of the patent.

Review of the application indicates that, except for permission to market or use the product commercially, the subject patent would be eligible for an extension of the patent term under 35 U.S.C. § 156. Since it is apparent that the regulatory review period may extend beyond the expiration of the first one-year interim extension of the original patent term, a second one-year interim extension of the patent term under 35 U.S.C. § 156(d)(5) is appropriate. Accordingly, a second one-year interim extension under 35 U.S.C. § 156(d)(5) of the term of U.S. Patent No. Re. 34,617 of U.S. Patent No. 4,005,196 has been granted from the expiration of the first one-year interim extension of the original expiration date of the patent.

Dated: January 17, 1995.

Bruce A. Lehman,

Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.

[FR Doc. 95–1603 Filed 1–20–95; 8:45 am]

BILLING CODE 3510–16–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

AmeriCorps State Grant Program

ACTION: Notice.

SUMMARY: In response to public comments on the proposed 1995 grant timeline previously published in the Notice for Proposed Changes in Policies

and Priorities on October 27, 1994 (59 FR 53963) and on December 9, 1994 (59 FR 63770), the Corporation for National and Community Service (the Corporation) has established new and final application deadlines for the following grant programs; AmeriCorps *USA, Learn and Serve America Higher Education, and Learn and Serve America K–12.

FOR FURTHER INFORMATION CONTACT: Programs interested in obtaining copies of the final guidelines and applications should contact their respective State Commission or call the Corporation at (202) 606–5000 x. 474 between the hours of 9 a.m and 6 p.m. Eastern Standard Time. For individuals with disabilities, information will be made available in alternative formats, upon request.

FINAL 1995 GRANT TIMELINE FOR APPLICATION DUE DATES

	AmeriCorps state submission	AmeriCorps direct	Learn & serve higher Ed	Learn & serve K–12
Renewals	May 1, 1995	April 18, 1995	February 28, 1995	February 23, 1995.
New applicants	May 1, 1995	May 9, 1995	April 12, 1995	March 21, 1995.

Dated: January 12, 1995.

Terry Russell,

General Counsel.

[FR Doc. 95–1601 Filed 1–20–95; 8:45 am]

BILLING CODE 6050–28–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Intent To Prepare Environmental Impact Statement for the Hardwood Range Expansion and Related Airspace Actions, Hardwood Range, Wood County, WI

The United States Air Force and the Air National Guard are announcing their intent to prepare an Environmental Impact Statement (EIS) to analyze the proposed action regarding the Hardwood Range expansion into Wood County Wisconsin and modification and/or expansion of related airspace in the states of Iowa, Minnesota and Wisconsin. This action will be known as the Hardwood EIS.

The Air National Guard proposes to modify Hardwood Air-to-Surface Gunnery Range located on the northern most portion of Juneau County near the town of Finley, Wisconsin. This proposed action will expand the land area by approximately 7,130 acres north of the current boundaries into Wood County. A new target area, an area for an aircraft assault strip and a new drop zone is proposed to be developed. The action will provide for multi-directional entry into the range, allowing each unit to accomplish a broader range of training, and helping to reduce the expense incurred in deploying to more distant ranges. This action is also being proposed to enhance operational safety. The proposed expansion would ensure military flights remain over land owned or controlled by the government, further increasing safety for the civilian population near the range. The number of aircraft sorties flown annually would increase from 3,401 to 3,966. Restricted airspace would be modified to include the contiguous new range boundaries to ensure the safety of non-participating aircraft. The action would lower the bottom altitude and expand the lateral confines of the Restricted Airspace 6904B. It would also increase the maximum altitude of R–6904A and R–6904B from 17,000 MSL to 25,000 MSL.

Three stand-alone airspace actions are being proposed which are independent of the range expansion. The first proposed airspace action will establish six new Military Training Routes (MTRs) south of the range that will encompass two ground tracks. The proposed ground tracks would be oriented predominately north-south, and extend approximately 200 Nautical Miles (NM) from Hardwood Range. The two ground tracks merge approximately 60 NM south of the range. The location is southwestern Wisconsin and northeastern Iowa. A total of approximately 2,150 flights would be flown annually along the six routes. These MTRs will allow Air National Guard and other military units closer training airspace, allowing the units to accomplish more training on each flight.

The second airspace proposal will increase the number of sorties flown from 185 to 1,340 in the existing Volk South Military Operations Area (MOA). This MOA is located south of Hardwood Range. It is presently used in conjunction with the range and other adjoining airspace for aircraft training sorties. The use of multi-directional entries into Hardwood Range would increase utilization. Also, new weapons and tactics would require increased use of the Volk South MOA in conjunction with adjoining Volk West and Volk East MOAs.

The third airspace action is to reassess Visual Route-1616 for increased utilization. This MTR begins in southeastern Minnesota and traverses easterly into Hardwood Range. The utilization would increase from 2,187 to 2,423 sorties annually. This increase is expected to satisfy users training requirements.

Alternatives under consideration include establishing a new air-to-surface gunnery range, using the existing US Army Range at Fort McCoy, closing Hardwood Range and redirecting units to other ranges, and the no action alternative.

The Air Force and Air National Guard are planning to conduct a series of scoping meetings on the following dates and times at the indicated locations:

1. Mauston Expo Center, Hickory Street, Mauston, WI, February 14, 1995, 7:00 PM.
2. Independence High School, 108 6th Street, Independence, WI, February 15, 1995, 7:00 PM.
3. Pittsville Community Center, Main Street and 3rd Avenue, Pittsville, WI, February 16, 1995, 7:00 PM.
4. Tilford Middle School, 308 East 13th Street, Vinton, IA, February 21, 1995, 7:00 PM
5. Boscobel Community Center, Oak Street, Boscobel, WI, February 22, 1995, 7:00 PM.
6. Elkader Community School, North 1st Street, Elkader, IA, February 23, 1995, 7:00 PM

The purpose of these meetings is to present information concerning the proposed actions and alternatives under consideration and solicit public input on issues to be addressed, effort to be expended, and alternatives that should be addressed in the EIS. Questions or clarifications concerning the proposal, or any other information presented, will be answered as they relate to the scope of the effort anticipated.

The scoping meetings will provide opportunities for clarification of the proposal and statements from representatives of government agencies and the public. Additional presentations and questions will be accepted at the end of the meeting. Submission of written and oral comments and questions will be accepted. Submission

of written comments is encouraged but is not required. Written comments and questions of any length submitted at the meeting or during the scoping period will be considered in their entirety and will carry the same weight as oral comment.

The Air Force and Air National Guard will accept comments at the address below at any time during the environmental impact analysis process. To ensure the Air Force and the Air National Guard have sufficient time to consider public input in the preparation of the Draft EIS, comments should be submitted to the address below by March 21, 1995. For further information concerning the preparation of the Hardwood EIS, or to provide written comment, contact:

Program Manager, Hardwood EIS, Air National Guard Readiness Center, ANGRC/CEVP, 3500 Fetchet Avenue, Andrews Air Force Base, MD 20331–5157.

Patsy J. Conner,

Air Force Federal Register Liasion Officer.

[FR Doc. 95–1606 Filed 1–20–95; 8:45 am]

BILLING CODE 3910–01–P

THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

Affordable Housing Advisory Board Meeting

AGENCY: Thrift Depositor Protection Oversight Board.

ACTION: Notice of meetings.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App., announcement is hereby published for a meeting of the Affordable Housing Advisory Board. The meeting, which will be held in two sessions, is open to the public.

Dates: The Affordable Housing Advisory Board will hold its meeting in two sessions on February 9 and 10, 1995, in Denver, Colorado:

1. Thursday, February 9—Session I, Planning.

2. Friday, February 10—Session II, General.

Addresses: The sessions of the meeting will be held at the following location:

1. February 9—Session I, Planning—Hyatt Regency Denver, 1750 Welton Street, 8:30 a.m. to noon.

1. February 10—Session II, General—Hyatt Regency Denver, 1750 Welton Street, 8:30 a.m. to noon.

For further information contact: Jill Nevius, Committee Management Officer Thrift Depositor Protection Oversight Board, 808 17th Street, NW., Washington, DC 20232 202/416–2626.

SUPPLEMENTARY INFORMATION: Section 14(b) of the Resolution Trust Corporation Completion Act, Public Law No. 103–204, established the Affordable Housing Advisory Board (AHAB) to advise the Thrift Depositor Protection Oversight Board (Oversight Board) and the Board of Directors of the Federal Deposit Insurance Corporation (FDIC) on policies and programs related to the provision of affordable housing. The Board consists of the Secretary of Housing and Urban Development (HUD) or delegate; the Chairperson of the Board of Directors of the FDIC, or delegate; the Chairperson of the Oversight Board, or delegate; four persons appointed by the Secretary of HUD who represent the interests of individuals and organizations involved in using the affordable housing programs, and two former members of the National housing Advisory Board. The AHAB's charter was issued March 9, 1994.

Agendas

An agenda will be available at each session of the meeting. At the February 9, planning session, the AHAB will review the status of five issues: The merger of the RTC and FDIC affordable housing programs, financing strategies and resources, selection of affordable housing assets, expansion of the Housing Opportunity Hotline and participation of community and nonprofit organizations in the affordable housing programs. In addition, there will be a presentation by a representative of the Neighborhood Revitalization Program in Hartford, Connecticut. Members of the public who attend the planning session will be asked to reserve questions or comments until the second session of the meeting on the following day. At the February 10 general session, the AHAB will receive reports on the FDIC/RTC affordable housing program unification; the FDIC's Division of Compliance Roundtable meetings, as well as RTC reports on its monitoring and compliance efforts, expansion of the Housing Opportunity Hotline, case studies on good market value return and other assets purchased by affordable housing buyers. In addition, there will be a presentation on the effectiveness of RTC's title clearance process. And the AHAB will develop its own recommendations. The AHAB's chairperson or its Delegated Federal Officer may authorize a member or members of the public to address the AHAB during the public forum portion of the second session.

Statements

Interested persons may submit, in writing, data, information or views on the issues pending before the Affordable Housing Advisory Board prior to or at the February 10 general session of the meeting. Seating is available on a first-come first-served basis for each session of the meeting.

Dated: January 18, 1995.

Jill Nevius,

Committee Management Officer.

[FR Doc. 95–1624 Filed 1–20–95; 8:45 am]

BILLING CODE 2221–01–M

National Advisory Board Meeting

AGENCY: Thrift Depositor Protection Oversight Board.

ACTION: Notice of meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App., announcement is hereby published for a meeting of the National Advisory Board. The meeting is open to the public.

DATES: The National Advisory Board meeting is scheduled for Thursday, February 16, 1995, 9 a.m. to 12 noon.

ADDRESSES: The meeting will be held at the Federal Deposit Insurance Corporation, Board Room 6010, 550 17th St., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jill Nevius, Committee Management Officer, Thrift Depositor Protection Oversight Board, 808 17th Street, NW., Washington, DC 20232, 202/416–2626.

SUPPLEMENTARY INFORMATION: Pursuant to section 21A(d) of the Federal Home Loan Bank Act, the Thrift Depositor Protection Oversight Board established a National Advisory Board and six Regional Advisory Boards to advise the Oversight Board and the Resolution Trust Corporation (RTC) on the disposition of real property assets of the Corporation.

Agenda

A detailed agenda will be available at the meeting. The meeting will include remarks from executives of the RTC, the Executive Director of the Thrift Depositor Protection Oversight Board and the chair of the National Advisory Board. In addition, there will be briefings from the chairpersons of the six regional advisory boards on their respective meetings held throughout the country from January 18 through February 2. The Board also will address issues involving the RTC Affordable Housing Disposition Program and the tops addressed at the six meetings: RTC monitoring and compliance efforts,

program successes and lessons learned, and cooperative efforts with state and local governments.

Statements

Interested persons may submit, in writing, data, information or views on the issues pending before the National Advisory Board prior to or at the meeting. Seating is available on a first come first served basis for this open meeting.

Dated: January 18, 1995.

Jill Nevius,

Committee Management Officer.

[FR Doc. 95–1625 Filed 1–20–95; 8:45 am]

BILLING CODE 2222–01–M

DEPARTMENT OF EDUCATION

Advisory Council on Education Statistics Nominations

AGENCY: Department of Education.

ACTION: Acceptance of Nominations for Membership on the Advisory Council on Education Statistics (ACES).

1. Introduction—New reauthorizing legislation for the National Center for Education Statistics, (NCES) in the Office of Educational Research and Improvement, directs the Secretary of Education to expand the membership of the Advisory Council on Education Statistics. In accordance with this directive, notice is hereby given that the Secretary of Education is accepting nominations of individuals who are qualified to advise NCES, as described elsewhere in this Notice. NCES collects, analyzes and reports on the condition of education in the United States. (Section 405 of P.L. 103–382, Improving America's School Act, October 20, 1994; 108 stat. 3513, 4055.)

2. Description of the Council—The Council shall consist of 18 public members. (Previously, there were 7 public members.) There will be three members from each of the following categories: practicing educators, education policymakers, professional statisticians, education researchers, experts in educational measurement, and the general public.

Members of the Council shall be appointed by the Secretary for three year terms, except that some initial terms may be shorter to avoid the expiration of more than six members in the same calendar year. The Council is required to meet at least two times a year.

3. Functions of the Council—The Council has responsibility to:

(a) Review policies for the operation of NCES and advise the Commissioner of NCES on standards to ensure that statistics and other information disseminated by the Center are of high quality and not subject to partisan political influence; and

(b) Advise the Commissioner and the National Assessment Governing Board on technical and statistical matters related to the National Assessment of Educational Progress.

4. Nomination Categories—Nominations are being requested for the 6 categories cited above.

5. Nomination Procedures—Nominations should include the nonimee's name, address, telephone number and brief biography and be mailed, no later than February 10, 1995, to Diane Rossi, U.S. Department of Education, Office of the Secretary of Education, 600 Independence Avenue, SW, Room 6100, Washington, DC 20202–0106. Individuals may nominate themselves for consideration.

Dated: January 17, 1995.

Sharon P. Robinson,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 95–1623 Filed 1–20–95; 8:45 am]

BILLING CODE 4001–01–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 January 13, 1992, an arbitration panel rendered a decision in the matter of *State of Michigan, Michigan Commission for the Blind, Petitioner* v. *U.S. Postal Service, Respondent.* This panel was convened by the Secretary of the U.S. Department of Education pursuant to 20 U.S.C. 107d–2. The Randolph-Sheppard Act (the Act) creates a priority for blind individuals to operate vending facilities on Federal property. Under the Act, State licensing agencies dissatisfied with Federal operation of the vending facility program authorized under the Act may file an arbitration complaint with the Secretary of Education.

FOR FURTHER INFORMATION CONTACT: George F. Arsnow, U.S. Department of Education, 600 Independence 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 section 107d–2(c) of the Randolph-Sheppard Act, the Secretary publishes a synopsis of each arbitration panel decision affecting the administration of vending facilities on Federal property.

Synopsis of Arbitration Panel Decision

Factual Background and Procedural History

Since January 3, 1987, Garnett Laurell, a blind vendor licensed by the Michigan Commission for the Blind (the Commission), has operated the Central Lunchroom that includes 10 vending machines at the Detroit Bulk Mail Center (Mail Center) pursuant to an agreement between the Commission and the U.S. Postal Service (the Postal Service).

The Canteen Corporation (the Canteen), also in an agreement with the Postal Service, operated approximately 21 vending machines located around the workroom floor and vending machines in non-workroom areas (administrative offices and in the truckers' lounge). The Commission asserted that it should have been allowed to operate the vending facilities operated by the Canteen (in addition to the Central Lunchroom) on a permit basis and that, as a result, the Postal Service failed to comply with provisions of the Randolph-Sheppard Act (Act), as amended, 20 U.S.C. 107 *et seq.* On May 3, 1989, the U.S. Department of Education ordered the convening of an arbitration panel pursuant to 20 U.S.C. 107d–1(b), which governs disputes between State licensing agencies.

Previously, on December 27, 1983, the Postal Service had notified the Commission that it could bid on a vending contract at the Mail Center. On February 12, 1984, the Postal Service issued a solicitation for the Central Lunchroom and snack vending at the Mail Center with offers due by March 13, 1985. The Commission did not submit a bid on the basis that it believed that it was entitled to a permit for the facility. The Central Lunchroom and snack vending contract was awarded to the Canteen on March 27, 1985, for a period of three years, with two possible one-year renewals at the Postal Service's option. The Commission's application for a permit to operate the Central Lunchroom at the Mail Center was submitted on November 15, 1985, and was approved by the Mail Center manager on January 6, 1986. In October 1987, the Commission submitted an application for the satellite vending operated by the Canteen. That

application was not approved by the Mail Center.

Testifying for the Commission before the arbitration panel, Ms. Laurell asserted that the vending machines operated by the Canteen were in direct competition with her operation. Additional testimony demonstrated that the Canteen, a national corporation, purchased in bulk and could offer the same products as those available at the Commission facility, but at lower prices, and that the Canteen's low prices were part of a ''no profit'' or ''break even'' policy, which was directed at benefitting the postal employees. As a result, profit from the Commission facility was limited to approximately $24,000 per year, which was too low to make Ms. Laurell's facility a viable operation in terms of sharing of competing vending machine income.

The Administrator of the Business Enterprise Program, Michigan Commission for the Blind, who was involved in setting up the vendor facility at the Mail Center in 1983, believed that the assigned blind vendor should have been given priority to operate all food services at the facility. Postal Service management disagreed, asserting that a blind person could not safely work on the workroom floor because of danger from mechanized equipment as evidenced by incidents in which postal employees had been hit and injured by mail-moving equipment. The Postal Service's position was that blind vendors posed a safety problem and that, if it had been determined that the vending machines were to be operated by blind vendors, management may have decided to remove the machines.

Arbitration Panel Decision

The key issue of the dispute, as identified by the panel, was the extent to which the blind vendor should be given priority in operating all the vending facilities at the Detroit Bulk Mail Center. Because the Randolph-Sheppard Act limited the priority provided to blind vendors to the extent that any facility operated by a blind vendor ''would not adversely affect the interests of the United States,'' the panel concluded that the Postal Service was not required to approve the Commission's request to operate all of the vending machines at the Mail Center. Specifically, the panel identified the possibility for injury as among those circumstances that might adversely affect the Federal Government's interests. Hence, the Postal Service's legitimate safety concerns for a blind vendor servicing machines on the workroom floor supported its decision not to afford the blind vendor priority in operating those facilities. Other factors cited by the panel in support of the Postal Service's position included—(1) the potential negative effect on employee morale that would result from a management decision to eliminate vending machines from the work area for purposes of safety; and (2) the finding that the Canteen-run vending machines on the workroom floor were not in ''direct competition'' with the blind vendor since the Central Lunchroom operated by the blind vendor was not readily accessible to most postal employees.

While the panel offered the preceding rationale for supporting the Postal Service's actions in connection with the workroom floor vending machines, the status of those machines could not be conclusively decided until the Postal Service fully justified its finding in writing to the Secretary, as required under the Act. Accordingly, the panel remanded the issue of the working area machines to the Postal Service, either to resolve with the Commission or to handle in accordance with section 107(b) of the Act.

As to the non-workroom vending facilities, the panel concluded that the blind vendor should be given priority in operating those facilities on the basis that—(1) the potential safety hazards that existed on the workroom floor were not present at those sites; and (2) the vending machines at those locations were situated in non-mail processing areas, were relatively close to the Central Lunchroom operated by the blind vendor, and were, therefore, in direct competition with the blind vendor's operation. Thus, the panel found that the priority requirement of the Act had been satisfied and ruled that the operation of vending machines in the non-workroom area be turned over to the blind vendor or the Commission as soon as possible. In addition, the Postal Service was ordered to pay an amount equal to the profits from the operation of these machines to the blind vendor or the Commission from the time the option to operate those machines became available to the Commission.

The panel member appointed by the Commission, concurring in part and dissenting in part with the majority, wrote a separate opinion in which he stated that he would require the Postal Service to make restitution to the Commission for its failure to follow the law when it denied the blind vendor priority in operating the vending machines at the Mail Center. The panel member also dissented from the majority's conclusions concerning the alleged safety risks to the blind vendor on the workroom floor and the panel's resolution of the direct versus indirect competition issue, citing the absence of competent, factual evidence from both parties.

The views and opinions expressed in the arbitration panel decision do not necessarily represent the views and opinions of the U.S. Department of Education.

Dated: January 17, 1995.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 95–1577 Filed 1–20–95; 8:45 am]

BILLING CODE 4000–01–P

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 August 15, 1991, an arbitration panel rendered a decision in the matter of *Florida Department of Education, Massachusetts Commission for the Blind, and Virginia Department for the Blind and Visually Handicapped* v. *United States Department of Defense, (Docket Nos. R–S/85–8, 87–1, and 87–4).* This panel was convened by the Secretary of the U. S. Department of Education pursuant to 20 U.S.C. 107d–1(b). The Randolph-Sheppard Act (the Act) creates a priority for blind vendors to operate vending facilities on Federal property. Under this section of the Act, the State licensing agency (SLA) may file a complaint with the Secretary if the SLA determines that an agency managing or controlling Federal property fails to comply with the Act or regulations implementing the Act. The Secretary then is required to convene an arbitration panel to resolve the dispute.

FOR FURTHER INFORMATION CONTACT: A copy of the full text of the arbitration panel decision may be obtained from George F. Arsnow, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3230, Mary E. 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.

SUPPLEMENTARY INFORMATION: Pursuant to the Randolph-Sheppard Act (20 U.S.C. 107d–2(c)), the Secretary publishes a synopsis of arbitration panel decisions affecting the administration of vending facilities on Federal and other property.

Background

In 1984 the Department of Defense, through its agents and officers, solicited proposals for fast food hamburger operations. The Army and Air Force Exchange Service (AAFES) and the Navy Resale and Services Support Office (NAVRESSO) subsequently signed contracts with two national fast food companies, McDonald's Corporation and Burger King Corporation. By a contract dated August 7, 1984, the Navy awarded to McDonald's Corporation exclusive rights to operate fast food hamburger facilities on naval installations for a period of 10 years. The contract signed by the Navy involved an exclusive franchise effort consisting of the construction and operation of a minimum of 40 and a maximum of 300 fast food facilities. These facilities would be owned and operated by the McDonald's Corporation. On May 15, 1984, AAFES purchased a franchise from the Burger King Corporation. The AAFES contract involved the construction of 185 franchised facilities. Under the terms of the AAFES contract, the Burger King facilities were to be operated by AAFES, with a portion of the profits being remitted to Burger King.

The SLAs in the four States initially protested the preceding fast food contracts. They were in Florida, Massachusetts, Virginia, and Kansas. The Kansas Department of Rehabilitative Services subsequently withdrew its request for arbitration.

These SLAs, through representative organizations, brought two actions in United States District Court for the District of Columbia regarding the alleged violations of the Act by the Secretary of Defense and the Secretaries of Navy, Army, and Air Force, along with NAVRESSO and AAFES personnel. The SLAs requested the Court to terminate the contracts with McDonald's and Burger King Corporations.

The Court held that the Act did not apply to the disputed contracts. *Randolph-Sheppard Vendors of America* v. *Weinberger*, 602 F. Supp. 1007 (D.D.C. 1985). On appeal, the United States Court of Appeals for the District of Columbia Circuit held that plaintiffs were required to first pursue and exhaust any available remedies under the Act before seeking judicial relief. *Randolph-Sheppard Vendors of America* v. *Weinberger*, 795 F.2d. 90 (D.C. Cir. 1986).

On April 5, 1985, the Florida Department of Education, the SLA, requested the Secretary of Education to convene an arbitration panel concerning the McDonald's contract with the Department of Navy. On December 31, 1986, this request was amended to include the Burger King Corporation contract. The SLA alleged that the Department of Defense (DOD) failed to give notice to any SLA regarding the solicitation of proposals for fast food service on Navy, Army, and Air Force installations and that the awarding of the contracts to McDonald's and Burger King Corporations without regard to the priority given to blind vendors by Congress was a violation of the Act.

In addition, the Florida Department of Education alleged that the McDonald's and Burger King franchises on military installations placed a limitation upon the placement of blind vending facilities and that by imposing such a limitation DOD failed to submit a justification in writing to the Secretary of Education seeking a Secretarial Determination pursuant to 20 U.S.C. 107(b).

On October 21, 1986, the Massachusetts Commission for the Blind requested arbitration concerning McDonald's contract with the Department of the Navy and on March 25, 1987, amended its request to include the Burger King Corporation contract with AAFES. Similarly, on November 28, 1986, the Virginia Department for the Blind and Visually Handicapped requested arbitration concerning McDonald's Corporation contract with the Department of Navy and on August 5, 1988, amended its complaint to include the Burger King Corporation contract with AAFES.

By letter dated April 24, 1987, the arbitration complaints of Florida, Massachusetts, and Virginia were consolidated into one complaint, and hearings were held by the arbitration panel on July 20, 1988 and November 15, 1988 at the United States Department of Education Headquarters Office in Washington, D.C.

Arbitration Panel Decision

In an Interim Award dated January 31, 1990, the arbitration panel found that DOD violated the Randolph-Sheppard Act and applicable regulations.

The panel concluded that DOD failed to notify the SLAs of its intention to solicit bids for vending facilities. DOD contended that it was not obligated to notify the SLAs. The panel ruled that the explicit notice requirements established by Congress in 34 CFR 395.31(c) are evidence of Congressional intent that SLAs be afforded adequate opportunity to protect their interests by receiving advance notification of the Federal Government's plans to purchase, lease, renovate, or otherwise acquire property that might trigger an obligation to provide priority for blind vendors.

Finally, the arbitration panel found that DOD failed to meet the requirements of section 107b, which states in relevant part that ''Any limitation on the placement or operation of a vending facility based on a finding that such placement or operation would adversely affect the interests of the United States shall be fully justified to the Secretary, who shall determine whether such limitation is justified.'' The arbitration panel concluded that, whether or not DOD believed it would gain approval from the Secretary of Education regarding its limitation request, DOD was required to seek the Secretary's approval pursuant to section 107b.

In dissent one panel member agreed with the District Court interpretation of the statutory meaning of the words ''priority'' and ''limitation.'' That panel member stated that DOD's solicitation for fast food operations does not come within the statutory or regulatory definition of cafeteria and that, therefore, no violation of the Act and regulations occurred.

The arbitration panel retained jurisdiction of the complaint for the purpose of determining remedy and other remaining aspects of the dispute. On August 15, 1991, the arbitration panel rendered its final award and opinion on remedy.

The panel ruled that AAFES should contact the petitioner SLAs in each State where a Burger King facility now exists and should establish a procedure acceptable to the SLAs for identifying, training, and installing blind vendors as managers of all current and future Burger King operations conducted within their jurisdiction pursuant to the disputed contract. Additionally, DOD should give the SLAs 120 days written notice of any new Burger King operations to be established. The SLA and DOD would arrange for remuneration of the blind vendor consistent with custom and practice of other SLA-sponsored food facilities under the Act. Any dislocation of persons currently managing these facilities would be at the discretion of AAFES provided that the management of the facility would be transferred to the blind vendor upon successful completion of training.

Regarding the NAVRESSO contract with McDonald's Corporation, DOD would provide to the appropriate SLA no less than 120 days notice of any new McDonald's facility to be established. The SLA then would determine whether it wished to exercise its priority and to

provide funds to build and operate a new McDonald's facility within its jurisdiction. If timely notice were delivered in writing to DOD within 60 days after receipt by the SLA, a priority right to operate the McDonald's franchise would be given to the SLA and to a competent, qualified manager recommended by the SLA.

Further, NAVRESSO within 60 days must communicate to the SLAs involved in the dispute a plan for establishing the priority of blind vendors pursuant to the Act in the event that another McDonald's restaurant would be established within the jurisdiction of these SLAs. The parties also would draft procedures for communicating notice of intent to operate McDonald's restaurants within the jurisdiction and determine criteria for selecting competent blind managers.

Subsequently, concurrent court proceedings before the United States District Court for the District of Columbia regarding this dispute have been cancelled, and the case has been dismissed.

The views and opinions expressed by the panel do not necessarily represent the views and opinions of the U.S. Department of Education.

Dated: January 11, 1995.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 95–1578 Filed 1–20–95; 8:45 am]

BILLING CODE 4000–01–P

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 October 19, 1992, an arbitration panel rendered a decision in the matter of *Keith McMullin* v. *Department of Services for the Blind, State of Washington, (Docket No. R–S/91–8).* This panel was convened by the Secretary of the U. S. Department of Education pursuant to 20 U.S.C. 107d–1(a), upon receipt of a complaint filed by petitioner, Keith McMullin, on April 29, 1991. The Randolph-Sheppard Act provides a priority for blind individuals to operate vending facilities on Federal property. Under this section of the Randolph-Sheppard Act (the Act), a blind licensee dissatisfied with the State's operation or administration of the vending facility program authorized under the Act may request a full evidentiary fair hearing from the State licensing agency (SLA). If the licensee is dissatisfied with the State agency's decision, the licensee may complain to the Secretary, who then is required to convene an arbitration panel to resolve the dispute.

FOR FURTHER INFORMATION CONTACT: A copy of the full text of the arbitration panel decision may be obtained from George F. Arsnow, U. S. Department of Education, 600 Independence 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.

SUPPLEMENTARY INFORMATION: Pursuant to the Randolph-Sheppard Act (20 U.S.C. 107d–2(c)), the Secretary publishes a synopsis of arbitration panel decisions affecting the administration of vending facilities on Federal property.

Background

The complainant, Keith McMullin, is a blind vendor licensed by the respondent, the Washington Department of Services for the Blind, pursuant to the Randolph-Sheppard Act, 20 U.S.C. 107 *et seq.* The Department is the SLA responsible for the operation of the State of Washington's vending facility program for blind individuals.

On November 13, 1964, the General Services Administration (GSA) issued a permit to the SLA to operate a vending facility at the Federal Office Building in Richland, Washington. The articles to be vended were— ''magazines, cigars, cigarettes and related tobacco items, coffee, candy, novelties, ice cream, cold beverages, greeting cards, cookies, etc.'' Mr. McMullin operated the vending facility from the time the building was opened. At that time, a fountain head and jet spray beverage equipment were installed for dispensing soft drinks and juices.

About 1965, a cafeteria operation was added to the Federal Office Building, and it was operated under contract between GSA and a private concessionaire. A dispute arose between Mr. McMullin and the operator of the cafeteria concerning the sale of certain items, including beverages.

On October 22, 1970, the Contracting Officer of the Operations Branch of the Buildings Management Division of GSA wrote a letter to the SLA to resolve the dispute. The letter stated in relevant part, ''The blindstand has exclusive right to sell carbonated drinks. . . and any other items prepackaged by the maker in individual servings. . . The blindstand is not authorized to sell coffee and other hot drinks, as these are to be sold by the cafeteria operator exclusively.'' The letter went on to state that the policy statement had been incorporated into the cafeteria operator's contract and had been discussed with the building manager in Richland and with the complainant at the vending facility. Further, GSA believed that, with the agreement of the SLA, the issuance of the letter would become a part of the operator's agreement under which Mr. McMullin's vending facility operated.

In the years that followed, the SLA treated the arrangement made by GSA as granting the vending facility, and therefore the licensed vendor, the exclusive right to sell carbonated beverages. However, on May 16, 1975, GSA informed the SLA that it did not believe the arrangement between them gave Mr. McMullin the exclusive right to sell consumable food products, such as soft drinks, ice cream, and yogurt. The complainant objected to what he believed to be a violation of his exclusive right, and the SLA supported his position. GSA did not pursue this action until March 14, 1979 when the Chief of Operations Branch of the Buildings Management Division of GSA wrote to the SLA stating, ''We do not object to the blind operator selling other drinks, but we do not agree that he has exclusive rights.''

In 1986 the private concessionaire operating the cafeteria ceased doing business, and the contract was assigned to the SLA. Operation of the cafeteria was awarded by contract to another blind vendor. The contract required the sale of soft drinks as part of the full-line cafeteria food service. However, in a letter dated November 8, 1988, the SLA contacted GSA regarding the operation of the cafeteria. The SLA stated that it did not request any change regarding the sale of carbonated beverages because Mr. McMullin had a permit giving him rights to sell those beverages. The cafeteria continued to operate without selling carbonated beverages until May 1989 when it again came to the attention of GSA personnel.

In a letter dated September 14, 1989, the Director of Real Property Management of GSA informed the Director of the SLA that a new permit application should be made for the operation of the vending facility because the current permit did not comply with regulations governing the operation of such a facility under the Randolph-Sheppard Act. In addition, GSA stated that provisions should be made for the sale of soft drinks by the cafeteria.

The SLA made application for new permits for the operation of the facility and the cafeteria. The application for

the cafeteria designated the facility as a snack bar, which could sell only one hot meal per day, so that it could be operated by a permit rather than a contract. On August 23, 1990, GSA issued new permits effective January 1, 1990. The permit for the snack bar, which was formerly the cafeteria, listed items to be sold as soft drinks, juice, coffee, and other beverages. Likewise, the permit for the vending facility operated by Mr. McMullin listed the same items.

Mr. McMullin requested and received an evidentiary hearing from the SLA regarding his exclusive rights to sell carbonated beverages at the Federal Office Building in Richland, Washington. On April 9, 1991, an Administrative Law Judge (ALJ) for the State of Washington rendered a decision stating that, ''[t]he petitioner did not have an exclusive permit to sell carbonated beverages and other related items at the canteen at the Richland Federal Building.'' Therefore, the ALJ denied Mr. McMullin's petition for relief and for attorney's fees. Subsequently, the SLA adopted the ALJ's opinion as final agency action.

On April 29, 1991, the complainant filed a request with the Secretary of Education to convene a Federal arbitration panel to review the decision of the SLA. An arbitration hearing was held March 12 and 13, 1992.

Arbitration Panel Decision

A majority of the panel ruled that Mr. McMullin did not have an exclusive right to sell carbonated beverages in the Richland Federal Office Building. The panel concluded that, under the Randolph-Sheppard Act, the categories of items to be sold by a blind vendor are fixed in the permit granted by a Federal property managing agency to a State licensing agency. The blind vendor is not the recipient of that permit, nor does the vendor have a contractual relationship with either the property managing agency or the State agency. The vendor receives only a license to operate the vending facility under the terms of the permit held by the State agency. The license is subject to revocation or alteration by the SLA. The panel reasoned that Mr. McMullin had benefited from the Department's advocacy of what was referred to as his ''exclusive right'' to sell carbonated beverages and that, when GSA requested the SLA to submit new permits for the vending facility and the cafeteria, there was nothing to preclude the SLA from changing the categories of items to be sold at the vending facility. The panel member representing complainant dissented from the majority on this point arguing that the governing regulations require involvement of a blind vendor in selection of items to be sold and that the SLA had failed to advocate the complainant's position.

A majority of the panel ruled that Mr. McMullin was not entitled to substantive relief. A different majority concluded that the SLA had so frequently asserted that Mr. McMullin had an exclusive right to sell carbonated beverages that its conduct provided a strong basis for complainant to contest what he believed to be an illegal and improper revision of those rights. Consequently, in asserting those rights, Mr. McMullin was forced to incur considerable legal fees and other costs in challenging changes made regarding operation of his vending facility. That majority ruled that Mr. McMullin was entitled to an award of attorney's fees and other costs that he had incurred in asserting his rights because of his reliance on the SLA's longstanding support of his position. However, the panel member representing the SLA considered that attorney's fees should be awarded only to vendors who succeed on the merits of their claims.

The final award by the arbitration panel held that Mr. McMullin was not entitled to a reinstatement of the alleged exclusive right to sell carbonated beverages. The panel did not award him any damages. However, the award did direct the SLA to compensate Mr. McMullin for the attorney's fees and other litigation costs and expenses he incurred in challenging the revisions made in the permit held by the SLA.

The views and opinions expressed by the panel do not necessarily represent the views and opinions of the U.S. Department of Education.

Dated: January 17, 1995.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 95–1579 Filed 1–20–95; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Financial Assistance Award: Dr. Eskil Karlson

AGENCY: Department of Energy.

ACTION: Notice of Intent.

SUMMARY: The U.S. Department of Energy announces that pursuant to 10 CFR 600.6(a)(2) it is making a financial assistance award under Grant Number DE-FG01–95EE15629 to Dr. Eskil Karlson of Life Support Incorporated. The proposed grant will provide funding in the estimated amount of $93,675 by the Department of Energy for the purpose of saving energy through development of the inventor's Ozone Generator Dielectric Improvement innovation which replaces the energy dissipative glass insulator in ozone generating devices with a high-dielectric, high-breakdown-voltage ceramic thin film.

SUPPLEMENTARY INFORMATION: The Department of Energy has determined in accordance with 10 CFR 600.14(e)(1) that the unsolicited application for financial assistance submitted by Dr. Eskil Karlson is meritorious based on the general evaluation required by 10 CFR 600.14(d) and the proposed project represents a unique idea that would not be eligible for financial assistance under a recent, current or planned solicitation. Laboratory tests have shown this method has already attained a reduction in energy requirements for ozone production of about 50 percent. The inventor and principal investigator, Dr. Eskil Karlson, who has over 100 patents and over twenty years experience in the field of ozone generation, will use his skills and experience and the engineering facilities of Life Support Incorporated for this project. The proposed project is not eligible for financial assistance under a recent, current or planned solicitation because the funding program, the Energy Related Invention Program (ERIP), has been structured since its beginning in 1975 to operate without competitive solicitations because the authorizing legislation directs ERIP to provide support for worthy ideas submitted by the public. The program has never issued and has no plans to issue a competitive solicitation.

FOR FURTHER INFORMATION CONTACT: Please write the U.S. Department of Energy, Office of Placement and Administration, ATTN: Rose Mason, HR–531.23, 1000 Independence Avenue, SW., Washington, D.C. 20585.

The anticipated term of the proposed grant is 18 months from the date of award.

Issued in Washington, D.C. on January 13, 1995.

Richard G. Lewis,

Contracting Officer, Office of Placement and Administration.

[FR Doc. 95–1640 Filed 1–20–95; 8:45 am]

BILLING CODE 6450–01–P

International Energy Agency Meeting

AGENCY: Department of Energy.

ACTION: Notice of meeting.

SUMMARY: The Industry Advisory Board (IAB) to the International Energy Agency (IEA) will meet January 30 and 31, 1995, at the offices of the Organization for Economic Cooperation and Development (OECD) in Paris, France, to permit attendance by representatives of U.S. company members of the IAB at a meeting of the IEA's Standing Group on Emergency Questions on the same date at the OECD offices.

FOR FURTHER INFORMATION CONTACT: Samuel M. Bradley, Acting Assistant General Counsel for International and Legal Policy, Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585, 202–586–6738.

SUPPLEMENTARY INFORMATION: In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)), the following meeting notice is provided:

A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on January 30 and 31, 1995, at the headquarters of the Organization for Economic Cooperation and Development (OECD), 2, rue Andre-Pascal, Paris, France, beginning at 2:30 p.m. on January 30. The purpose of this meeting is to permit attendance by representatives of U.S. company members of the IAB at a meeting of the IEA's Standing Group on Emergency Questions (SEQ) which is scheduled to be held at the OECD on January 30–31, 1995, including a preparatory session for company representatives from 2:00 p.m. to 2:30 p.m. on January 30. The agenda for the preparatory session for company representatives is to elicit views regarding items on the agenda for the SEQ meeting. The agenda for the meeting of the SEQ is under the control of the SEQ. It is expected that the following draft agenda will be followed:

1. Adoption of the Agenda
2. Approval of Summary Record of the 82nd Meeting
3. SEQ Work Program
   —Report by the Secretariat on Governing Board discussion of 1995 Work Program
   —Possible SEQ input to Governing Board meeting at ministerial level
   —Preliminary discussion of preparations for 1996 Work Program
4. Proposals on IEA Emergency Response
   —Report by Chairman of the SEQ on Governing Board meeting of December 14, 1994, and discussion
5. Emergency Reserve Situation of IEA Countries
   —Emergency reserve and net import situation of IEA countries on July 1, 1994
   —Emergency reserve and net import situation of IEA countries on October 1, 1994
   —Report to the Governing Board on the emergency reserve situation of IEA countries on October 1, 1994
6. IAB Activities
7. Emergency Management Manual (EMM)
   —Governing Board decision on the EMM
   —European Union Directorate General XVII Proposals on the EMM
   —Emergency Reference Guide Update
8. The Emergency Response Potential of IEA Countries
   —Status report on publication
9. Emergency Response Reviews
   —Draft revised questionnaire
   —Tentative schedule of reviews
10. Emergency Response Issues in IEA Candidate Countries
    —IEA membership criteria
    —Participation in SEQ activities
11. Coordinated Emergency Response Measures (CERM) Conference/Test
    —Discussion of agenda and work program for preparation of the CERM Conference/Test to be held in May 1995 or September 1995
12. Current Oil Market Situation
13. Emergency Data System and Related Questions
    —Monthly Oil Statistics (MOS) to end July 1994
    —MOS to end August 1994
    —MOS to end September 1994
    —MOS to end October 1994
    —Base Period Final Consumption (BPFC) Q393–Q294
    —BPFC Q493–Q394
    —Revised Questionnaires A and B
    —Quarterly Oil Forecast Q494–Q395
14. Emergency Response Issues Related to Oil Product and Refining Issues
    —Aviation Fuel
    —Outline of Joint SEQ/Standing Group on the Oil Market study on product specifications and related issues
    —Mission report on the 5th International Conference on Stability and Handling of Liquid Products
15. Communications Test
    —Report on test by the Secretariat
16. Policy and Legislative Developments in Member Countries
    —Energy Policy and Conservation Act (U.S.)
    —Other Country Developments
17. IEA Dispute Settlement Centre: Panel of Arbitrators
    —Note by the Secretariat
18. Any other Business

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(ii)), this meeting is open only to representatives of members of the IAB and their counsel, representatives of members of the SEQ, representatives of the Departments of Energy, Justice, and State, the Federal Trade Commission, the General Accounting Office, Committees of the Congress, the IEA, and the European Commission, and invitees of the IAB, the SEQ or the IEA.

Issued in Washington, D.C., January 17, 1995.

Robert R. Nordhaus,

General Counsel.

[FR Doc. 95–1642 Filed 1–20–95; 8:45 am]

BILLING CODE 6450–01–P

Office of Energy Efficiency and Renewable Energy

Advisory Committee on the Demonstration and Commercial Application of Renewable Energy and Energy Efficiency, Open Meeting

Under the provisions of the Federal Advisory Committee Act (Pub. L. 92–463; 86 Stat. 770), notice is hereby given of the following meeting:

Name: Advisory Committee on the Demonstration and Commercial Application of Renewable Energy and Energy Efficiency Technologies.

Date and Time: January 26, 1995, 7:00 p.m.–10 p.m.

Place: The Marriott Crystal Gateway Hotel, 1700 Jefferson Davis Highway, Arlington, VA, 22202

Contact: Thomas W. Sacco, Office of Technical Assistance (EE–542), Energy Efficiency and Renewable Energy, U.S. Department of Energy, Washington, DC 20585, Telephone 202/586–0759.

Purpose of Committee: To advise the Secretary of Energy on the development of the solicitation and evaluation criteria for commercialization ventures, and on otherwise carrying out her responsibilities under the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Pub. L. 101–218, 42 U.S.C. 12005), as amended by the Energy Policy Act of 1992 (Pub. L. 102–486, 42 U.S.C. 13201).

Tentative Agenda: Briefings and discussions of:

- Review of DOE options for hiring a financial intermediary for program implementation;
- Formulation of Committee recommendations to DOE concerning financial intermediaries;
- Other matters requiring Committee consideration;
- Public Comment Period (10 minute rule).

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Thomas W. Sacco at the address or telephone number listed above.

Requests to make oral presentations must be received 2 days prior to the meeting; reasonable provision will be made to include the statement in the agenda. The Chair of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. This notice is being published less than 15 days in advance of the meeting due to urgency of programmatic decisions which must be made by the end of January.

Minutes: The minutes of the meeting will be available for public review and copying within 30 days at the Freedom of Information Public Reading Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on January 18, 1995.

Rachel Murphy Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 95–1643 Filed 1–20–95; 8:45 am]

BILLING CODE 6450–01–P

Office of Fossil Energy

[Docket No. FE C&E 94–17—Certification Notice-145]

City of Brownsville Public Utilities Board (PUB); Notice of Filing of Coal Capability; Powerplant and Industrial Fuel Use Act

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of filing.

SUMMARY: On December 28, 1994, City of Brownsville Public utilities Board, submitted a coal capability self-certification pursuant to section 201 of the Powerplant and Industrial fuel Use Act of 1978, as amended.

ADDRESSES: Copies of self-certification filings are available for public inspection, upon request, in the Office of Fuels Programs, Fossil Energy, Room 3F–056, FE–52 Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Ellen Russell at (202) 586–9624.

SUPPLEMENTARY INFORMATION: Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended (42 U.S.C. 8301 *et seq.*) provides that no new baseload electric powerplant may be constructed or operated without the capability to use coal or another alternate fuel as a primary energy source. In order to meet the requirement of coal capability, the owner or operator of such facilities proposing to use natural gas or petroleum as its primary energy source shall certify, pursuant to FUA section 201(d), to the Secretary of Energy prior to construction or prior to operation as operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) as of the date filed with the Department of Energy. The Secretary is required to publish a notice in the **Federal Register** that a certification has been filed. The following owner/operator of a proposed new baseload powerplant has filed a self-certification in accordance with section 201(d).

Owner: City of Brownsville Public Utilities Board
Operator: City of Brownsville Public Utilities Board
Location: Brownsville, Texas
Plant Configuration: Combined cycle
Capacity: 44.8 megawatts
Fuel: Natural gas
Purchasing Entities: City of Brownsville customers
In-Service Date: late 1996.

Issued in Washington, D.C., January 17, 1995.

Anthony J. Como,

Director, Office of Coal & Electricity, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 95–1644 Filed 1–20–95; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. CP95–149–000]

KO Transmission Company; Application

January 17, 1995.

Take notice that on January 10, 1995, KO Transmission Company (KO Transmission), 139 East Fourth Street, Cincinnati, Ohio 45202, filed in Docket No. CP95–149–000, an application, pursuant to Section 7(c) of the Natural Gas Act and Part 157 and 284 of the Commission's Regulations for a certificate of public convenience and necessity to acquire an undivided 32. 67 interest in Columbia Gas Transmission Corporation's (Columbia) ''Kentucky System'' which consists of approximately 90 miles of pipeline and related facilities and 100 percent of ''Line AM–4'' pipeline facilities which consist of approximately 2.25 miles of 24-inch pipe and .44 miles of 12-inch pipe river crossing; KO Transmission is also requesting a blanket certificate under Subpart G of the Commission's Part 284 regulations to provide open access transportation of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

KO Transmission states that Columbia utilized the facilities to provide firm transportation service for KO Transmission's affiliates, Cincinnati Gas & electric Company (CG&E) and Union Light, Heat and Power Company (Union Light) and KO Transmission upon approval of the application will service those customers as well as other shippers on an open access basis. KO Transmission states that the Kentucky System extends northeasterly from the interconnection with Columbia Gulf Transmission Company near Means, Kentucky to a point of interconnection with Union Light's facilities at its Cold Springs, Kentucky station. KO Transmission explains that Line AM–4 begins in the town of Cold Springs, Kentucky, extends in a northwesterly direction through Campbell County and crosses the Ohio River to a point of termination with its connection to CG&E near Cincinnati, Hamilton County, Ohio. KO Transmission claims that Columbia was authorized to abandon the facilities as part of the Commission's approval of Columbia's June 29, 1989 ''global'' settlement. 49 FERC ¶ 61,071 (1989).

KO Transmission states that with respect to the undivided interest in the Kentucky System, Columbia will continue to operate KO Transmission's share. Additionally, KO Transmission explains that with respect to the 100 percent interest in Line AM–4, the river crossing will be operated by CG&E and Union Light personnel who will allocate a portion of their time to KO Transmission.

KO Transmission asserts that its proposed FERC Gas Tariff provides that the pipeline will operate as an open access carrier and is generally in conformity with the Commission's regulations and the requirements of Order No. 636. However, KO Transmission requests a waiver of Sections 284.8(b)(4) and 284.9(b)(4) of the Commission's regulations requiring pipelines providing service pursuant to a Part 284 open access certificate to operate an interactive EBB. In lieu of an EBB, KO Transmission states that it will operate a Telephone Bulletin Board. KO Transmission states that its rates are based on a total annual cost of service of $1,025,171 and are designed using the straight fixed variable methodology. Further, KO Transmission states that its interruptible transportation rates have been derived using the 100 percent loan factor firm transportation rates.

KO Transmission states that the purchase price for both facilities will be the net depreciated book cost on Columbia's FERC books and account as

of the closing date, which is estimated to be approximately $1.6 million.

Any person desiring to be heard or to make a protest with reference to said application should, on or before February 7, 1995, file with the Federal Energy Regulatory Commission (825 North Capitol Street, NE., Washington, D.C. 20426) a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedures, 18 CFR 385.214 or 385.211 and the Regulation under the Natural Gas Act, 18 CFR 157.10. 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 to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for KO Transmission to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 95–1619 Filed 1–20–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–55–000]

Paiute Pipeline Company; Technical Conference

January 17, 1995.

In the Commission's order issued on December 23, 1994, the Commission directed its staff to convene a technical conference in the above-captioned proceeding. The conference has been scheduled for January 26, 1995, at 10:00 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street NE., Washington, D.C. 20426.

All interested persons and staff are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 95–1621 Filed 1–20–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GP 95–6–000]

Robert F. White; Petition for Waiver

January 17, 1995.

Take notice that on January 9, 1995, Robert F. White (White), filed a petition seeking waiver of the obligation to refund to Williams Natural Gas Company $17,765.05 (principal and interest) attributable to the working interest of Stephen Smith (Smith), and $3,332.78 (principal and interest) attributable to the royalty interest of Diana Sprague (Sprague). The refunds result from the Commission's orders in Docket Nos. GP83–11 and RI83–9 requiring first sellers to refund Kansas ad valorem taxes they collected after June 28, 1988, if such amounts resulted in the collection of prices in excess of the applicable maximum lawful price under the Natural Gas Policy Act of 1978.

White states that he has refunded amounts attributable to other working interest owners from whom he has not yet received payment, but he has not refunded the amounts attributable to Smith's and Sprague's interests. White asserts that there is no possibility he will receive payment from Smith and Sprague since they are elderly, disabled and insolvent. Noting that the Commission's May 19, 1994, order in these proceedings reiterated that the Commission has the discretion to waive a refund if it is demonstrated that the refund is uncollectible due to bankruptcy or if equities warrant a waiver, White asserts that it would be grossly inequitable to require him to refund amounts attributable to Smith's and Sprague's interests since he never received the benefit of those amounts.

Any person desiring to be heard or to protest said filing should, on or before February 9, 1995, file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's regulations. 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 proceedings. Any person wishing to become a party must file a motion to intervene.

Lois D. Cashell,

Secretary.

[FR Doc. 95–1620 Filed 1–20–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–74–000]

Texas Eastern Transmission Corporation; Site Visit

January 17, 1995.

On January 24 and 25, 1995, the OPR staff, accompanied by representatives of Texas Eastern Transmission Corporation (Texas Eastern), will inspect the proposed location of Texas Eastern's Delmont and Shermans Dale Loops in the 1996 Flex-X/ Part I Project. The proposed loops are in Dauphin and Westmoreland Counties, Pennsylvania.

Parties to the proceeding may attend. Those planning to attend must provide their own transportation. For further information, call Jeff Gerber, (202) 208–1121.

Lois D. Cashell,

Secretary.

[FR Doc. 95–1618 Filed 1–20–95; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5142–8]

Stage II Comparability Study for the Northeast Ozone Transport Region—Announcement of Completion of Study and Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Announcement of completion of study and notice of availability.

SUMMARY: Today's action provides notice that the Stage II Comparability Study for the Northeast Ozone Transport Region (OTR) required under the Clean Air Act (Act) is complete. This study provides emissions reduction estimates for Stage II vapor recovery controls (Stage II) and other commonly available stationary and mobile source control measures for certain areas in the Northeast OTR. States in the OTR may use this document to determine what alternative measures can provide comparable emissions reductions to Stage II for their areas.

EFFECTIVE DATE: The effective date of the completion of the Stage II Comparability Study is January 13, 1995.

ADDRESSES: To obtain a copy of the Stage II comparability study for the

Northeast OTR, please send requests to Carla Oldham, U.S. EPA, Office of Air Quality Planning and Standards (MD–15), Research Triangle Park, NC 27711. Telephone: 919–541–3347. FAX: 919–541–0824.

FOR FURTHER INFORMATION CONTACT: Carla Oldham, U.S. EPA, Office of Air Quality Planning and Standards (MD–15), Research Triangle Park, NC 27711. Telephone: 919–541–3347. FAX: 919–541–0824.

SUPPLEMENTARY INFORMATION: Section 184(b)(2) of the Act requires that EPA conduct a study to identify measures capable of achieving emissions reductions comparable to those achievable by Stage II in the Northeast OTR. Because serious and severe ozone nonattainment areas must adopt Stage II controls under a separate Act requirement (section 182(b)(3)), only moderate, marginal, and nonclassifiable ozone nonattainment areas, and attainment portions of the OTR have the flexibility to adopt a comparable measure instead of Stage II.

Dated: January 13, 1995.

Carol M. Browner,

Administrator.

[FR Doc. 95–1649 Filed 1–20–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5142–6]

Acid Rain Program: Notice of Draft Written Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of draft written exemptions.

SUMMARY: The U.S. Environmental Protection Agency is issuing draft written exemptions from Acid Rain permitting and monitoring requirements to 65 utility units at 26 plants in accordance with the Acid Rain Program regulations (40 CFR part 72). Because the Agency does not anticipate receiving adverse comments, the exemptions are also being issued as a direct final action in the notice of written exemptions published elsewhere in today's **Federal Register**.

DATES: Comments on the exemptions proposed by this action must be received on or before February 22, 1995.

ADDRESSES: *Comments.* Send comments to the following addresses:

For plants in Connecticut, Massachusetts, and Rhode Island: Linda Murphy, Director, Air, Pesticides and Toxics Management Division, EPA Region 1, JFK Building, One Congress Street, Boston, MA 02203.

For plants in Maryland and Pennsylvania: Thomas Maslany, Director, Air, Radiation and Toxics Division, EPA Region 3, 841 Chestnut Building, Philadelphia, PA 19107.

For plants in Alabama and North Carolina: Winston Smith, Director, Air, Pesticides and Toxics Management Division, EPA Region 4, 345 Courtland Street NE, Atlanta, GA 30365.

For plants in Minnesota and Ohio: David Kee, Director, Air and Radiation Division, EPA Region 5, 77 West Jackson Blvd., Chicago, IL 60604.

For plants in Texas: A. Stanley Meiburg, Director, Air, Pesticides and Toxics Division, EPA Region 6, First Interstate Bank Tower, 1445 Ross Ave. (MC6T–AN), Dallas, TX 75202–2733.

Submit comments in duplicate and identify the exemption 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 the unit covered by the exemption.

FOR FURTHER INFORMATION CONTACT: For plants in Connecticut, Massachusetts, and Rhode Island: Ian Cohen, (617) 565–3229, EPA Region 1; for plants in Maryland and Pennsylvania: Kimberly Peck, (215) 597–9839, EPA Region 3; for plants in Alabama and North Carolina: Scott Davis, (404) 347–5014, EPA Region 4; for plants in Minnesota: Allan Batka, (312) 353–7316, EPA Region 5; for plants in Ohio: Franklin Echevarria, (312) 886–9653, EPA Region 5; for plants in Texas: Joe Winkler, (214) 665–7243, EPA Region 6.

SUPPLEMENTARY INFORMATION: If no significant, adverse comments are timely received, no further activity is contemplated in relation to these draft written exemptions and the exemptions issued as a direct final action in the notice of written exemptions published elsewhere in today's **Federal Register** will automatically become final on the date specified in that notice. If significant, adverse comments are timely received on any exemption, that exemption in the notice of written exemptions will be withdrawn and all public comment received on that exemption will be addressed in a subsequent final action based on the relevant exemption in this notice of draft written exemptions. Because the Agency will not institute a second comment period on this notice of draft written exemptions, any parties interested in commenting should do so during this comment period.

For further information and a detailed description of the exemptions, see the information provided in the notice of written exemptions elsewhere in today's **Federal Register**.

Dated: January 11, 1995.

Brian J. McLean,

Director, Acid Rain Division, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 95–1648 Filed 1–20–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5142–7]

Acid Rain Program: Notice of Written Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of written exemptions.

SUMMARY: The U.S. Environmental Protection Agency is issuing, as a direct final action, written exemptions from the Acid Rain Program permitting and monitoring requirements to 65 utility units at 26 plants in accordance with the Acid Rain Program regulations (40 CFR part 72). Because the Agency does not anticipate receiving adverse comments, the exemptions are being issued as a direct final action.

DATES: Each of the exemptions issued in this direct final action will be final on March 6, 1995 unless significant, adverse comments are received by February 22, 1995. If significant, adverse comments are timely received on any exemption in this direct final action, that exemption will be withdrawn through a notice in the **Federal Register**.

ADDRESSES: *Administrative Records.* The administrative record for the exemptions, except information protected as confidential, may be viewed during normal operating hours at the following locations:

For plants in Connecticut, Massachusetts, and Rhode Island: EPA Region 1, JFK Building, One Congress Street, Boston, MA 02203.

For plants in Maryland and Pennsylvania: EPA Region 3, 841 Chestnut Building, Philadelphia, PA 19107.

For plants in Alabama and North Carolina: EPA Region 4, 345 Courtland Street NE, Atlanta, GA 30365.

For plants in Minnesota and Ohio: EPA Region 5, Ralph H. Metcalfe Federal Bldg., 77 West Jackson Blvd., Chicago, IL 60604.

For plants in Texas: EPA Region 6, First Interstate Bank Tower, 1445 Ross Ave. (MC6T–AN), Dallas, TX 75202–2733.

Comments. Send comments to the following address:

For plants in Connecticut, Massachusetts, and Rhode Island: Linda

Murphy, Director, Air, Pesticides and Toxics Management Division, EPA Region 1 (address above).

For plants in Maryland and Pennsylvania: Thomas Maslany, Director, Air, Radiation and Toxics Division, EPA Region 3 (address above).

For plants in Alabama and North Carolina: Winston Smith, Director, Air, Pesticides and Toxics Management Division, EPA Region 4 (address above).

For plants in Minnesota and Ohio: David Kee, Director, Air and Radiation Division, EPA Region 5 (address above).

For plants in Texas: A. Stanley Meiburg, Director, Air, Pesticides and Toxics Division, EPA Region 6 (address above).

Submit comments in duplicate and identify the exemption 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 the unit covered by the exemption.

FOR FURTHER INFORMATION CONTACT: For plants in Connecticut, Massachusetts, and Rhode Island: Ian Cohen, (617) 565–3229, EPA Region 1; for plants in Maryland and Pennsylvania: Kimberly Peck, (215) 597–9839, EPA Region 3; for plants in Alabama and North Carolina: Scott Davis, (404) 347–5014, EPA Region 4; for plants in Minnesota: Allan Batka, (312) 353–7316, EPA Region 5; for plants in Ohio: Franklin Echevarria, (312) 886–9653, EPA Region 5; for plants in Texas: Joe Winkler, (214) 665–7243, EPA Region 6.

SUPPLEMENTARY INFORMATION: All public comment received on any exemption in this direct final action on which significant, adverse comments are timely received will be addressed in a subsequent issuance or denial of exemption based on the relevant draft exemption in the notice of draft written exemptions that is published elsewhere in today's **Federal Register** and that is identical to this direct final action.

Under the Acid Rain Program regulations (40 CFR 72.7), utilities may petition EPA for an exemption from permitting and monitoring requirements for any new utility unit that serves one or more generators with total nameplate capacity of 25 MW or less and burns only fuels with a sulfur content of 0.05 percent or less by weight. On the earlier of the date a unit exempted under 40 CFR 72.7 burns any fuel with a sulfur content in excess of 0.05 percent by weight or 24 months prior to the date the exempted unit first serves one or more generators with total nameplate capacity in excess of 25 MW, the unit shall no longer be exempted under 40 CFR 72.7 and shall be subject to all permitting and monitoring requirements of the Acid Rain Program.

EPA is issuing written exemptions effective from January 1, 1995 through December 31, 1999, to the following new units:

Delano unit 7 in Minnesota, owned and operated by Delano Municipal Utilities. The Designated Representative for Delano is Dwight A. Poss.

Easton Utilities Commission Plant No. 1 units 101 and 102 in Maryland, owned and operated by the Town of Easton. The Designated Representative for Easton Utilities Plant No. 1 is Richard H. Plutschak. Easton Utilities Commission Plant No. 2 units 201 and 202 in Maryland, owned and operated by the Town of Easton. The Designated Representative for Easton Utilities Plant No. 2 is Richard H. Plutschak.

Omega JV5 Bowling Green Backup Generation Station units 1, 2, 3 and 4 in Ohio, owned and operated by the Ohio Municipal Electric Generation Agency Joint Venture No. 5. The Designated Representative for Omega JV5 Bowling Green Backup Generation Station is Carroll E. Scheer.

Omega JV5 Jackson Backup Generation Station units 1 and 2 in Ohio, owned and operated by the Ohio Municipal Electric Generation Agency Joint Venture No. 5. The Designated Representative for Omega JV5 Jackson Backup Generation Station is Carroll E. Scheer.

Omega JV5 Napoleon Backup Generation Station units 1, 2 and 3 in Ohio, owned and operated by the Ohio Municipal Electric Generation Agency Joint Venture No. 5. The Designated Representative for Omega JV5 Bowling Green Backup Generation Station is Carroll E. Scheer.

Omega JV5 Niles Backup Generation Station units 1, 2 and 3 in Ohio, owned and operated by the Ohio Municipal Electric Generation Agency Joint Venture No. 5. The Designated Representative for Omega JV5 Niles Backup Generation Station is Carroll E. Scheer.

Omega JV5 Versailles Backup Generation Station units 1 and 2 in Ohio, owned and operated by the Ohio Municipal Electric Generation Agency Joint Venture No. 5. The Designated Representative for Omega JV5 Versailles Backup Generation Station is Carroll E. Scheer.

Omega JV5 Wadsworth Backup Generation Station units 1, 2 and 3 in Ohio, owned and operated by the Ohio Municipal Electric Generation Agency Joint Venture No. 5. The Designated Representative for Omega JV5 Wadsworth Backup Generation Station is Carroll E. Scheer.

Additionally, under the Acid Rain Program regulations (40 CFR 72.8), utilities may petition EPA for an exemption from permitting requirements for units that are retired prior to the issuance of a Phase II Acid Rain permit. Units that are retired prior to the deadline for continuous emissions monitoring system (CEMS) certification may also petition for an exemption from monitoring requirements.

While the exempt retired units have been allocated allowances under 40 CFR part 73, units exempted under 40 CFR 72.8 must not emit any sulfur dioxide or nitrogen oxides on or after the date the units are exempted, and the units must not resume operation unless the designated representative submits an application for an Acid Rain permit and installs and certifies its monitors by the applicable deadlines.

EPA proposes to issue written exemptions, effective from January 1, 1995 through December 31, 1999, unless otherwise noted below, to the following retired units:

Cannon Street unit 3 in Massachusetts, owned and operated by Commonwealth Electric. The Designated Representative for Cannon Street is James J. Keane.

Cape Fear units 3 and 4 in North Carolina, owned and operated by Carolina Power and Light Company. The Designated Representative for Cape Fear is Ronnie M. Coats.

Deepwater units DWP1, DWP2, DWP3, DWP4, DWP5, and DWP 6 in Texas, owned and operated by Houston Lighting and Power Company. The Designated Representative for Deepwater is David G. Tees.

Devon units 3, 4A, 4B, 5A, 5B, and 6 in Connecticut, owned and operated by The Connecticut Light and Power Company. The Designated Representative for Devon is Ronald G. Chevalier.

Front Street units 7, 8, 9, and 10 in Pennsylvania, owned and operated by Pennsylvania Electric Company. The Designated Representative for Front Street is Ronald P. Lantzy.

Gorgas unit 5 in Alabama, owned and operated by Alabama Power Company. The Designated Representative for Gorgas is T. Harold Jones.

Greens Bayou units GBY1, GBY2, GBY3, GBY4 in Texas, owned and operated by Houston Lighting and Power Company. The Designated Representative for Greens Bayou is David G. Tees.

Hiram Clarke units HOC1, HOC2, HOC3, and HOC4 in Texas, owned and

operated by Houston Lighting and Power Company. The Designated Representative for Hiram Clarke is David G. Tees.

Manchester Street units 6, 7, and 12 in Rhode Island, owned and operated by New England Power Company and The Narragansett Electric Company. The Designated Representative for Manchester Street is Andrew H. Aitken.

Middletown unit 1 in Connecticut, owned and operated by The Connecticut Light and Power Company. The Designated Representative for Middletown is Ronald G. Chevalier.

Seaholm unit 9 in Texas, owned and operated by the City of Austin. The Designated Representative for Seaholm is Sam Jones.

South Street units 121 and 122 in Rhode Island, owned and operated by New England Power Company. The Designated Representative for South Street is Andrew H. Aitken.

T.H. Wharton unit THW1 in Texas, owned and operated by Houston Lighting and Power Company. The Designated Representative for T.H. Wharton is David G. Tees.

Trinidad units 7 and 8 in Texas, owned and operated by Texas Utilities Electric Company. The Designated Representative for Trinidad is W.M. Taylor.

Webster units WEB1 and WEB2 in Texas, owned and operated by Houston Lighting and Power Company. The Designated Representative for Webster is David G. Tees.

West Springfield units 1 and 2 in Massachusetts, owned and operated by Western Massachusetts Electric Company. The Designated Representative for West Springfield is Ronald G. Chevalier.

Williamsburg unit 11 in Pennsylvania, owned and operated by Pennsylvania Electric Company. The Designated Representative for Williamsburg is Ronald P. Lantzy.

Dated: January 11, 1995.

Brian J. McLean,

Director, Acid Rain Division, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 95–1647 Filed 1–20–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5142–3]

Science Advisory Board; Closed Meeting

Under Public Law 92–463, notice is hereby given that a meeting of an ad-hoc Subcommittee of the Science Advisory Board will be held in Washington, D.C., on March 23–24, 1995, to determine the recipients of the Agency's 1994 Scientific and Technological Achievement Cash Awards. These awards are established to give honor and recognition to EPA employees who have made outstanding contributions in the advancement of science and technology through their research and development activities, and who have published their results in peer reviewed journals.

In selecting the recipients for the awards, and in determining the actual cash amount of each award, the Agency requires full and frank advice from the Science Advisory Board. This advice will involve professional judgements on those employees whose published research results are deserving of a cash award as well as those that are not. Discussion of such a personal nature, where disclosure would constitute an unwarranted invasion of personal privacy, are exempted under section 10(d) of Title 5, U.S. Code, Appendix 1. In accordance with the provisions of the Federal Advisory Committee Act, minutes of the meeting will be kept for Agency and Congressional review. Inquiries may be made to the Science Advisory Board (1400F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

Pursuant to section 10(d) of the U.S.C. Appendix 1 and 5 U.S.C. 522(c), I hereby determine that this meeting is concerned with information exempt from disclosure, and that the public interest requires that this meeting be closed. The Science Advisory Board shall be responsible for maintaining records of the meeting, and for providing an annual report setting forth a summary of the meeting consistent with the policy of U.S.C. Appendix 1, Section 10(d).

Dated: January 6, 1995.

Carol M. Browner,

Administrator.

[FR Doc. 95–1646 Filed 1–20–95; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Barry Limited Partnership; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 6, 1995.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Barry Limited Partnership, Valparaiso, Nebraska; to acquire Valparaiso Enterprises, Inc., Valparaiso, Nebraska, and thereby engage in general insurance activities in a town with less than 5,000 in population, pursuant to § 225.25(b)(8)(iii)(A) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 17, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–1651 Filed 1–20–95; 8:45 am]

BILLING CODE 6210–01–F

Cooperative Centrale Raiffeisen-Boerenleenbank, B.A., Rabobank Nederland, et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y

(12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 6, 1995.

A. Federal Reserve Bank of New York (William L. Rutledge, Senior Vice President) 33 Liberty Street, New York, New York 10045:

1. Cooperative Centrale Raiffeisen-Boerenleenbank, B.A., Rabobank Nederland, Utrecht, The Netherlands; to engage *de novo* through its subsidiary Utrecht-America Finance Co., New York, New York, in making, acquiring, or servicing loans or other extensions of credit for the subsidiary's account, or for the account of others, such as would be made, acquired or serviced by a commercial finance company, leasing personal or real property or acting as agent, broker or advisor in leasing such property through its subsidiary, pursuant to §§ 225.25 (b)(1) and (b)(5) of the Board's Regulation Y.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Palmer National Bancorp, Washington, D.C.; to engage *de novo* through its subsidiary Palmer National Mortgage, Inc., Rockville, Maryland, in residential mortgage banking activities, pursuant to § 225.25(b)(1)(iii) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 17, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–1652 Filed 1–20–95; 8:45 am]

BILLING CODE 6210–01–F

Hibernia Corporation, 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 February 16, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Hibernia Corporation, New Orleans, Louisiana; to merge with STABA Bancshares, Inc., Donaldsonville, Louisiana, and thereby indirectly acquire State Bank and Trust Company, Donaldsonville, Louisiana.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Goodenow Bancorporation, Inc., Okoboji, Iowa; to acquire 15.74 percent of the voting shares of Jackson Bancorporation, Inc., Fairmont, Minnesota, and thereby indirectly acquire Bank Midwest, Minnesota Iowa, N.A., Fairmont, Minnesota.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Community First Bankshares, Inc., Fargo, North Dakota; to merge with First Community Bankshares, Inc., Englewood, Colorado, and thereby indirectly acquire First National Bank at Burlington, Burlington, Colorado; Republic National Bank of Englewood, Englewood, Colorado; the First National Bank of Fort Morgan, Fort Morgan, Colorado; The First National Bank of Holyoke, Holyoke, Colorado; and the First National Bank of Sterling, Sterling, Colorado.

Board of Governors of the Federal Reserve System, January 17, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–1653 Filed 1–20–95; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee to the Director, Centers for Disease Control and Prevention (CDC); Change of Status

Federal Register Citation of Previous Announcement: 60 FR 2395—dated January 9, 1995.

SUMMARY: Notice is given that the status for the meeting of the Advisory Committee to the Director, CDC, has changed. The meeting times, date, purpose, and matters to be discussed announced in the original notice remain unchanged.

Original Status: Open to the public, limited only by the space available.

New Status: Open: 8:30 a.m.–1 p.m., Closed: 1 p.m.–2:30 p.m., Open: 2:30 p.m.–3 p.m.

Beginning at 1 p.m., through 2:30 p.m., the Advisory Committee to the Director, CDC, will meet to discuss the implications for CDC in the Administration's proposals for the fiscal year 1996 budget. An open meeting could possibly result in the premature disclosure of sensitive information concerning the 1996 Presidential budget. For this reason, this portion is exempt from mandatory disclosure

under the terms of the Government in the Sunshine Act (5 U.S.C. 552b(c)(9)(B)).

Due to programmatic issues that had to be resolved, the **Federal Register** notice amendment is being published less than fifteen days before the date of the meeting.

FOR FURTHER INFORMATION CONTACT: Martha F. Katz, Executive Secretary, Advisory Committee to the Director, CDC, 1600 Clifton Road, NE., Mailstop D–23, Atlanta, Georgia 30333, telephone 404/639–3243.

Dated: January 17, 1995.

William H. Gimson,

Acting Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–1590 Filed 1–20–95; 8:45 am]

BILLING CODE 4163–18–M

National Committee on Vital and Health Statistics (NCVHS), Subcommittee on Mental Health Statistics, and NCVHS Subcommittee on Disability and Long-Term Care Statistics; Meetings

Pursuant to Pub. L. 92–463, the National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC), announces the following subcommittee meetings.

Name: NCVHS Subcommittee on Mental Health Statistics.

Time and Date: 9 a.m.–12 noon, February 7, 1995.

Place: Room 303A–305A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open.

Purpose: The Subcommittee on Mental Health Statistics will review developments in managed care and assess their implications for enrollment and encounter data sets.

Name: NCVHS Subcommittee on Mental Health Statistics and NCVHS Subcommittee on Disability and Long-Term Care Statistics.

Time and Date: 1 p.m.–5 p.m., February 7, 1995.

Place: Room 303A–305A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open.

Purpose: The Subcommittee on Mental Health Statistics and the Subcommittee on Disability and Long-Term Care Statistics will meet jointly to consider disability and health care utilization items for enrollment and encounter data sets.

Name: NCVHS Subcommittee on Disability and Long-Term Care Statistics.

Time and Date: 9:30 a.m.–12:30 p.m., February 8, 1995.

Place: Room 303A–305A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open.

Purpose: The Subcommittee on Disability and Long-Term Care Statistics will receive presentations from staff of the Agency for Health Care Policy and Research on long-term care data in the National Medical Expenditure Survey.

FOR FURTHER INFORMATION CONTACT: Substantive program information as well as summaries of the meeting and a roster of committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, NCHS, CDC, room 1100, Presidential Building, 6265 Belcrest Road, Hyattsville, Maryland 20782, telephone 301/436–7050.

Dated: January 17, 1995.

William H. Gimson,

Acting Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–1589 Filed 1–20–95; 8:45 am]

BILLING CODE 4163–18–M

Board of Scientific Counselors, National Institute for Occupational Safety and Health; Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Board of Scientific Counselors, National Institute for Occupational Safety and Health (BSC, NIOSH).

Times and Dates: 10 a.m.–4:30 p.m., February 7, 1995. 9 a.m.–3 p.m., February 8, 1995.

Place: The Washington Court Hotel, Ash Room, 525 New Jersey Avenue NW., Washington, DC 20001.

Status: Open to the public, limited only by space available.

Purpose: The board reviews research activities to provide guidance on the quality, timeliness, and efficacy of the Institute's programs.

Matters To Be Discussed: The agenda will include the NIOSH Director's report, along with a report from the Deputy Director; a legislative review; a review of recently funded extramural research programs; agricultural program review; construction program review; final disposition of research review and training review; toxicology review; and future activities of the Board of Scientific Counselors. Agenda items are subject to change as priorities dictate. This session will be opened to the public, being limited only by space available.

FOR FURTHER INFORMATION CONTACT: Richard A. Lemen, Ph.D., Executive Secretary, BSC, NIOSH, and Deputy Director, NIOSH, CDC, 1600 Clifton Road, NE., Mailstop D–35, Atlanta, Georgia 30333, telephone 404/639–3773.

Dated: January 17, 1995.

William H. Gimson,

Acting Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–1697 Filed 1–20–95; 8:45 am]

BILLING CODE 4163–19–M

Public Health Service

Food and Drug Administration 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 52 FR 34851, September 15, 1987) is amended to reflect an organizational change in the Food and Drug Administration (FDA).

The positions assigned to perform the centralized investigative activities located in the Division of Ethics and Program Integrity, Office of Management, Office of Management and Systems, FDA, will be transferred to the new Office of Internal Affairs within the Office of the Commissioner. The functions and staff associated with the activities will report directly to FDA's Deputy Commissioner/Senior Advisor in the Immediate Office of the Commissioner. Since these activities could involve investigations of alleged employee misconduct anywhere in the Agency and because of the importance of providing the FDA Commissioner with an early warning of any potential misconduct, the Deputy Commissioner/Senior Advisor to the Commissioner is the appropriate person to direct these activities. Functional statements for the newly established Office of Internal Affairs are identified below.

Under section HF–B, Organization:

1. Insert a new paragraph (*a–5), Office of Internal Affairs (HFA–G*) under the Office of the Commissioner (HFA) reading as follows:

Provides a centralized Agencywide investigative resource for the Commissioner, the Deputy Commissioners, and top Agency management.

Provides a centralized investigative liaison between FDA and the Office of the Inspector General (OIG).

Serves as an FDA investigative resource to conduct internal FDA investigations and to support OIG investigations.

Conducts special assignments relative to the functions of this Office as requested.

2. Delete subparagraph (*h–7), Division of Ethics and Program Integrity (HFA72*) in its entirety and insert a new subparagraph under the Office of Management and Systems (HFA6), Office of Management (HFA7) reading as follows:

(h–7) Division of Ethics and Program Integrity (HFA72). Directs and coordinates a multidiscipline team of administrative and/or program specialists who conduct scheduled reviews of FDA Headquarters and field components to determine adherence to existing managerial policy and practices; assures that recommendations resulting from the review findings are implemented.

Directs FDA's personnel security program and provides professional leadership and authoritative guidance in these areas. Formulates policy and procedures necessary to maintain the integrity of privileged information submitted by industry.

Implements Internal Control Reviews in accordance with OMB guidelines.

Directs the formulation of FDA policies and procedures concerning conflicts of interest and employee associations with regulated industries, reviews financial interests including outside activities of FDA employees, decides conflict of interest issues, and counsels and trains employees on the avoidance of conflicts of interest.

Acts on FDA liaison with the Office of the Inspector General (OIG) regarding audits. Coordinates preparation of FDA responses to OIG audit findings, monitors implementation of FDA responses.

Prior Delegations of Authority. Pending further delegations, directives, or orders by the Commissioner of Food and Drugs, all delegations of authority to positions of the affected organizations in effect prior to this date shall continue in effect in them or their successors.

Dated: January 5, 1995.

Donna E. Shalala,

Secretary.

[FR Doc. 95–1551 Filed 1–20–95; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

[ORD–070–N]

New and Pending Demonstration Project Proposals Submitted Pursuant to Section 1115(a) of the Social Security Act: November and December 1994

AGENCY: Health Care Financing Administration (HCFA).

ACTION: Notice.

SUMMARY: This notice lists new proposals for demonstration projects submitted to the Department of Health and Human Services during the months of November and December 1994 under the authority of section 1115 of the Social Security Act. This notice also lists proposals that have been submitted, approved, or disapproved since January 1993.

Comments: We will accept written comments on these proposals. We will, if feasible, acknowledge receipt of all comments, but we will not provide written responses to comments. We will, however, neither approve nor disapprove a proposal received after the publication of the Department of Health and Human Services' public notice guidelines in the **Federal Register** on September 27, 1994, for at least 30 days after publication of the notice of that proposal in the **Federal Register**, in order to allow time to receive and consider comments. Direct comments as indicated below.

ADDRESSES: Mail correspondence to: Susan Anderson, Office of Research and Demonstrations, Health Care Financing Administration, 2230 Oak Meadows, 6325 Security Boulevard, Baltimore, MD 21207.

FOR FURTHER INFORMATION CONTACT: Susan Anderson, (410) 966–5181.

SUPPLEMENTARY INFORMATION:

I. Background

Under Section 1115 of the Social Security Act (the Act), the Department of Health and Human Services (HHS) may consider and approve research and demonstration proposals with a broad range of policy objectives. These demonstrations can lead to improvements in achieving the purposes of the Act.

In exercising her discretionary authority, the Secretary has developed a number of policies and procedures for reviewing proposals. On September 27, 1994, we published a notice in the **Federal Register** (59 FR 49249) that specified (1) the principles that we ordinarily will consider when approving or disapproving demonstration projects under the authority in section 1115(a) of the Act; (2) the procedures we expect States to use in involving the public in the development of proposed demonstration projects under section 1115; and (3) the procedures we ordinarily will follow in reviewing demonstration proposals. We are committed to a thorough and expeditious review of State requests to conduct such demonstrations.

II. Listing of New and Pending Proposals for the Months of November and December 1994

As part of our procedures, we are publishing a monthly notice in the **Federal Register** of all new and pending proposals. This notice contains proposals for the months of November and December 1994. This initial publication of information on section 1115 demonstration proposals lists all proposals submitted, approved or disapproved since January 1, 1993. Future notices will only list actions occurring in a single month, including new submissions, pending proposals, approvals, and disapprovals. Proposals submitted in response to a grant solicitation or other competitive process will be reported as received during the month that such grant or bid is awarded, so as to prevent interference with the awards process.

A. Comprehensive Health Reform Programs

1. New Proposals

No new proposals were submitted during the months of November and December 1994.

2. Pending Proposals

Demonstration Title/State: The Diamond State Health Plan—Delaware.

Description: Delaware proposes to expand eligibility for Medicaid to persons with incomes up to 100 percent of the Federal poverty level and require that the Medicaid population enroll in managed care delivery systems. The State's current section 1115 demonstration project, the Delaware Health Care Partnership for Children, would be incorporated into the statewide program as an optional provider for eligible children.

Date Received: July 29, 1994.

State Contact: Kay Holmes, DSHP Coordinator, DHSS Medicaid Unit, Biggs Building, P.O. Box 906, New Castle, Delaware 19720, (302) 577–4900.

Federal Project Officer: Rosana Hernandez, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

Demonstration Title/State: MediPlan Plus—Illinois.

Description: Illinois seeks to develop a managed care delivery system using a series of networks, either local or statewide, to tailor its Medicaid delivery system to the needs of local urban neighborhoods or large rural areas.

Date Received: September 15, 1994.

State Contact: Tom Toberman, Manager, Federal/State Monitoring, 201 South Grand Avenue East, Springfield, Illinois 62763, (217) 782–2570.

Federal Project Officer: Gina Clemons, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

Demonstration Title/State: MassHealth—Massachusetts.

Description: Massachusetts proposes to implement a range of strategies to extend Medicaid coverage of its uninsured citizens, including the employed, the short-term unemployed, and the long-term unemployed. The proposed program would employ direct provision of health services as well as indirect strategies to promote market forces to address the needs of the uninsured, including providing subsidies to employees with incomes up to 200 percent of the Federal poverty level.

Date Received: April 15, 1994.

State Contact: Laurie Burgess, Director, Managed Care Program Development, Division of Medical Assistance, 600 Washington Street, Boston, Massachusetts 02111, (617) 348–5695.

Federal Project Officer: Ed Hutton, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

Demonstration Title/State: MinnesotaCare—Minnesota.

Description: Minnesota proposes to expand its use of managed care service delivery and to extend Medicaid eligibility to families and children with incomes up to 275 percent of the Federal poverty level. The State would also integrate Medicaid with other public entities that deliver health services.

Date Received: July 28, 1994.

State Contact: Maria Gomez, Commissioner, Health Care Services Delivery, Minnesota Department of Human Services, 444 Lafayette Road N, St. Paul, Minnesota 55155, (612) 297–4113.

Federal Project Officer: Penny Pine, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

Demonstration Title/State: Missouri.

Description: Missouri proposes to require that beneficiaries enroll in managed care delivery systems, and extend Medicaid eligibility to persons with incomes below 200 percent of the Federal poverty level. As part of the program, Missouri would create a fully capitated managed care pilot program to serve non-institutionalized persons with permanent disabilities on a voluntary basis.

Date Received: June 30, 1994.

State Contact: Donna Checkett, Director, Division of Medical Services, Missouri Department of Social Services, P.O. Box 6500, Jefferson City, Missouri 65102–6500, (314) 751–6922.

Federal Project Officer: Suzanne Rotwein, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

Demonstration Title/State: The Granite State Partnership for Access and Affordability in Health Care—New Hampshire.

Description: New Hampshire proposes to extend Medicaid eligibility to adults with incomes below the AFDC cash standard and to create a public insurance product for low income workers. The State also seeks to implement a number of pilot initiatives to help redesign its health care delivery system.

Date Received: June 14, 1994.

State Contact: Barry Bodell, New Hampshire Department of Health and Human Services, Office of the Commissioner, 6 Hazen Drive, Concord, New Hampshire 03301–6505, (603) 271–4332.

Federal Project Officer: Maria Boulmetis, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

Demonstration Title/State: OhioCare—Ohio.

Description: Ohio proposes to expand Medicaid eligibility to include uninsured persons with incomes up to 100 percent of the Federal poverty level. New and current eligibles in this statewide program would receive services through managed care. Certain special health related services, such as mental health and drug and alcohol addiction services, would also be provided through managed care.

Date Received: March 2, 1994.

State Contact: Kathi Glynn, Director, Ohio Medicaid, 30 East Broad Street, Columbus, Ohio 43266, (614) 644–0140.

Federal Project Officer: David Walsh, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

3. Approved Conceptual Proposals (Award of Waivers Pending)

Demonstration Title/State: Palmetto Health Initiative—South Carolina.

Description: South Carolina proposes to expand Medicaid eligibility to include uninsured persons with incomes of up to 100 percent of the Federal poverty level. New and current eligibles in this statewide program would receive services through either a fully capitated managed health plan or a partially capitated primary care provider. South Carolina also proposes to implement a managed care program, with a focus on home and community-based services, for persons requiring, or at risk of requiring, placement in a nursing facility.

The Health Care Financing Administration (HCFA) will be working with South Carolina over the next year to develop the infrastructure necessary for the proposed demonstration. HCFA will consider the State's request for waivers once the State has successfully completed a set of agreed upon milestones.

Date Received: March 1, 1994.

Date Concept Approved: November 18, 1994.

State Contact: Eugene A. Laurent, Ph.D., Executive Director, State Health and Human Services Finance Commission, P.O. Box 8206, Columbia, South Carolina 29202, (803) 253–6100.

Federal Project Officer: Sherrie Fried, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

4. Approved Proposals

Demonstration Title/State: Florida Health Security Program—Florida.

Description: The Florida Health Security Program is a voluntary, employer-based, discounted premium program designed to provide access to private health insurance for employed but uninsured Floridians. The program will use a managed competition model and will provide health insurance for 1.1 million uninsured Floridians with incomes at or below 250 percent of the Federal poverty level. Health plans (indemnity and HMO) will be offered by Accountable Health Partnerships and administered by Community Health Purchasing Alliances.

Date Received: February 10, 1994.

Date Awarded: September 15, 1994.

Implementation Date: The implementation date has not yet been set, pending approval by the State legislature.

State Contact: Tom Wallace, Agency for Health Care Administration, 325 John Knox Road, Tallahassee, Florida 32303–4131, (904) 922–5760.

Federal Project Officer: Alisa Adamo, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

Demonstration Title/State: QUEST—Hawaii.

Description: The Hawaii QUEST program provides seamless coverage to those persons previously covered through Federal and State programs and those who are uninsured. This is accomplished through expansion of the Medicaid income eligibility level to 300 percent of the Federal poverty level and an elimination of categorical requirements and the assets test. The State is providing Medicaid services through a managed care delivery system.

Date Received: April 20, 1993.

Date Awarded: July 16, 1993.

Implementation Date: August 1, 1994.

State Contact: Winifred N. Odo, Administrator, Med-QUEST Division, Department of Human Services, P.O. Box 339, Honolulu, Hawaii 96809–0339, (808) 586–5391.

Federal Project Officer: Ron Lambert, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

Demonstration Title/State: Kentucky Medicaid Access and Cost Containment Demonstration Project—Kentucky.

Description: The Kentucky program will expand Medicaid eligibility to 100 percent of the Federal poverty level.

Date Received: March 30, 1993.

Date Awarded: December 9, 1993.

Implementation Date: An implementation date has not yet been set, pending approval by the State legislature.

State Contact: Masten Childers, II, Commissioner, Department for Medicaid Services, Cabinet for Human Resources, Commonwealth of Kentucky, Frankfort, Kentucky 40621–0001, (502) 564–4321.

Federal Project Officer: Penny Pine, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

Demonstration Title/State: Oregon.

Description: Oregon's demonstration program expands Medicaid eligibility and shifts delivery of Medicaid services into fully and partially capitated plans and primary care case management programs. The State utilized a public prioritization process to establish the service package provided under Medicaid.

Date Received: August 19, 1991.

Date Awarded: March 19, 1993.

Implementation Date: February 1, 1994.

State Contact: Lynn Read, Office of Medical Assistance Programs, 500 Summer Street NE., Salem, Oregon 97310–1014, (513) 945–6587.

Federal Project Officer: Ron Deacon, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

Demonstration Title/State: RIte Care—Rhode Island.

Description: The RIte Care program provides coverage to pregnant women and children up to 6 years of age with family incomes at or below 250 percent of the Federal poverty level. Individuals eligible for the program are required to enroll in prepaid health plans which contract with the State to provide comprehensive health services for a fixed cost per enrollee per month. Eligible individuals are offered a choice of health plans in which they will enroll.

Date Received: July 2, 1993.

Date Awarded: November 1, 1993.

Implementation Date: August 1, 1994.

State Contact: Robert J. Fallon, Director, Department of Human Services, 600 New London Avenue, Cranston, Rhode Island 02920. (401) 464–2121.

Federal Project Officer: Debbie Van Hoven, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

Demonstration Title/State: TennCare—State of Tennessee.

Description: TennCare is a statewide program to provide health care benefits to Medicaid beneficiaries, uninsured State residents, and those whose medical conditions make them uninsurable. All TennCare enrollees receive services through capitated managed care plans that are either health maintenance organizations (HMOs) or preferred provider organizations (PPOs).

Date Received: June 17, 1993.

Date Awarded: November 18, 1993.

Implementation Date: January 1, 1994.

State Contact: Manny Martins, Tennessee Department of Health, Bureau of Medicaid, 729 Church Street, Nashville, Tennessee 37247–6501, (615) 741–0213.

Federal Project Officer: Rose Hatten, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

5. Disapproved Proposals

No comprehensive health reform proposals have been disapproved since January 1, 1993.

B. Other Section 1115 Demonstration Proposals

1. New Proposals

Demonstration Title/State: Family Planning Proposal—New Mexico.

Description: New Mexico proposes to extend Medicaid eligibility for family planning services to all women of childbearing age with income at or below 185 percent of the federal poverty level.

Date Received: November 1, 1994.

State Contact: Bruce Weydemeyer, Director, Division of Medical Assistance, P.O. Box 2348, Santa Fe, New Mexico 87504–2348, (505) 827–3106.

Federal Project Officers: Alisa Adamo, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

Demonstration Title/State: Georgia's Children's Benefit Plan.

Description: The State of Georgia submitted a Section 1115 proposal entitled ''Georgia Children's Benefit Plan'' that provides preventive and primary care services for children 1 through 5 years of age who are between 133 and 185 percent of Federal poverty level. The duration of the waiver is 5 years with proposed project dates of July 1, 1995 to June 30, 2000.

Date Received: December 12, 1994.

State Contact: Jacquelyn Foster-Rice, Georgia Department of Medical Assistance, Maternal and Child Health, 2 Peachtree Street NW., 27th Floor, Atlanta, Georgia 30303, phone: (404) 651–5785, FAX: (404) 656–4913.

Federal Project Officer: Maria Boulmetis, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

2. Pending Proposals

Demonstration Title/State: Demonstration Project for Family Planning and Reproductive Services—Maryland.

Description: Maryland proposes to extend Medicaid eligibility for family planning and preventive reproductive services for a 5-year period to women who are Medicaid eligible due to their pregnancy and remain Medicaid eligible 60 days postpartum.

Date Received: June 11, 1994.

State Contact: Jane Forman, Department of Health and Mental

Hygiene, room 137, 201 West Preston Street, Baltimore, Maryland 21201, (410) 225–6538.

Federal Project Officer: Alisa Adamo, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

Demonstration Title/State: High Cost User Initiative—Maryland.

Description: Maryland proposes to implement an integrated case management system for high-cost, high-risk Medicaid beneficiaries.

Date Received: July 8, 1994.

State Contact: John Folkemer, Maryland Department of Health and Mental Hygiene, Office of Medical Assistance Policy, 201 West Preston Street, Baltimore, Maryland 21201, (410) 225–5206.

Federal Project Officer: Rosana Hernandez, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

Demonstration Title/State: Minnesota Long Term Care Options Project/ Minnesota.

Description: The State proposes to integrate long-term care and acute care services under combined Medicare and Medicaid capitation payments for elderly dual eligibles.

Date Received: April 18, 1994.

State Contact: Pamela Parker, Minnesota Department of Human Services, Human Services Building, 444 Lafayette Road North, St. Paul, Minnesota 55155, (612) 296–2140.

Federal Project Officer: Melissa McNiff, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

Demonstration Title/State: Pay-in Spenddown Pilot—Ohio.

Description: Ohio proposes to implement a one-county pilot program to allow the medically needy to pay in spenddown amounts in order to qualify for Medicaid to simplify eligibility administration.

Date Received: April 28, 1994.

State Contact: Jeanne Carroll, Ohio Department of Human Services, 30 East Broad Street, Columbus, Ohio 43266, (614) 466–6024.

Federal Project Officer: David Walsh, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

Demonstration Title/State: CHOICES—Citizenship, Health, Opportunities, Interdependence, Choices and Supports—Rhode Island.

Description: Rhode Island proposes to consolidate all current State and Federal funding streams for adults with developmental disabilities under one program using managed care/managed competition.

Date Received: April 5, 1994.

State Contact: Susan Babin, Department of Mental Health, Retardation, and Hospitals, Division of Developmental Disabilities, 600 New London Avenue, Cranston, Rhode Island 02920, (401) 464–3234.

Federal Project Officer: Melissa McNiff, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

Demonstration Title/State: Virginia.

Description: Virginia proposes to expand Medicaid eligibility to children in the State funded KIDS CARE program, and provide them with a limited Medicaid benefit restricted to ambulatory services.

Date Received: May 18, 1994.

State Contact: Janet Kennedy, Suite 1300, 600 East Broad Street, Richmond, Virginia 23219, (804) 371–8855.

Federal Project Officer: Maria Boulmetis, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

Demonstration Title/State: Family Planning Demonstration—Washington.

Description: The State proposes to provide family planning services to low-income women for an additional 10 months postpartum, extending total coverage for such services to one year.

Date Received: April 21, 1994.

State Contact: Claudia Lewis, Medical Assistance Administration, Division of Client Services, P.O. Box 45530, Olympia, Washington 98504–5530, (206) 586–2751.

Federal Project Officer: Maria Boulmetis, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

Demonstration Title/State: Wisconsin.

Description: The State proposes to limit the amount of exempt funds that may be set aside as burial and related expenses for SSI-related Medicaid recipients.

Date Received: March 9, 1994.

State Contact: Jean Sheil, Division of Economic Support, Wisconsin Department of Health and Social Services, 1 West Wilson Street, room 650, P.O. Box 7850, Madison, Wisconsin 53707, (608) 266–0613.

Federal Project Officer: J. Donald Sherwood, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

3. Approved Conceptual Proposals (Award of Waivers Pending)

Demonstration Title/State: Health Services for Children with Special Needs—District of Columbia.

Description: The District of Columbia proposes to implement a specialized managed care program, targeted to the needs of Medicaid-eligible disabled children. Enrollment would be mandatory. The District has been given a 1-year grant to help further develop the model proposed in its application.

Date Received: March 25, 1994.

Date Awarded: August 5, 1994.

State Contact: Deborah Jones, Project Officer, Commission on Health Care Finance, 2100 Martin Luther King Jr. Avenue, SE., suite 302, Washington, DC 20020, (202) 727–2240.

Federal Project Officer: Phyllis Nagy, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

4. Approved Proposals

Demonstration Title/State: The Program for All-Inclusive Care for the Elderly (PACE)—California (Sutter SeniorCare, Sacramento).

Description: The PACE program is a managed care service delivery system for the frail elderly who live in the community but are certified for institutionalization in a nursing home. Most of the 300 participants are dually eligible for Medicare and Medicaid, and all are being assessed for eligibility for nursing home placement according to State standards.

Date Received: July 14, 1993.

Date Awarded: May 1, 1994.

Implementation Date: May 1, 1994.

State Contact: John Rodriguez, Deputy Director, Medical Care Services, California Department of Health Services, 7140 P Street, room 600, Sacramento, California 95814, (916) 654–2254.

Federal Project Officer: Stefan Miller, Health Care Financing Administration, Office of Research and Demonstrations, room 2–F–4 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

Demonstration Title/State: Nemours Children's Program—Delaware.

Description: The State has developed a public/private managed care system which enrolls, on a capitated basis, Medicaid-eligible children in pediatric clinics. The Nemours Foundation developed the clinics and is subsidizing a portion of the service cost.

Date Received: October 13, 1992.
Date Awarded: July 27, 1993.
Implementation Date: December 1993.
State Contact: Phillip P. Soulé, Deputy Director, Delaware Department of Social Services, 1901 North Dupont Highway, New Castle, Delaware 19720, (301) 577–4900.
Federal Project Officer: David Walsh, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.
Demonstration Title/State: Preconception Project—Florida.
Description: This project is a demonstration and evaluation of a preconceptional intervention program. Resource mothers will guide high-risk clients, during home visits, through various risk reduction activities over a 2-year period. The objective is to significantly reduce the incidence of low birth weight infants in the target population.
Date Received: July 31, 1991.
Date Awarded: June 28, 1994.
Implementation Date: June 1, 1994.
State Contact: Marshall E. Kelley, Director of Medicaid, P.O. Box 12800, Tallahassee, Florida 32317–2800, (904) 488–3560.
Federal Project Officer: Rosana Hernandez, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.
Demonstration Title/State: Drug Utilization Review Program—Iowa.
Description: Under this program, the State conducts on-line prospective drug utilization review. There are 250 pharmacies that participate in the project either as randomized control or experimental entities.
Date Received: June 1992.
Date Awarded: September 30, 1992.
Implementation Date: June 13, 1994.
State Contact: Don Herman, State Medicaid Director, East 13th and Walnut, Hoover Building, 5th Floor, Des Moines, Iowa 50319, (515) 281–8794.
Federal Project Officer: Kathleen Gondek, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.
Demonstration Title/State: Primary and Preventive Care for. Kids—Maryland.
Description: Maryland has developed a primary and preventive care program that expands Medicaid eligibility for those services provided to children born after September 30, 1983, with family incomes below 185 percent of the Federal poverty level.
Date Received: February 8, 1993.
Date Awarded: August 9, 1993.
Implementation Date: October 1993.
State Contact: Joseph M. Millstone, Director, Medical Care Policy Administration, Maryland Department of Health and Mental Hygiene, 201 West Preston Street, Baltimore, Maryland 21201, (410) 235–1432.
Federal Project Officer: Sherrie Fried, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore. Maryland 21207.
Demonstration Title/State: Family Planning Project—South Carolina.
Description: South Carolina's project extends Medicaid eligibility for family planning services to all women with incomes below 185 percent of the Federal poverty level who have had one or more Medicaid reimbursed pregnancies.
Date Received: June 23, 1993.
Date Awarded: December 7, 1993.
Implementation Date: October 1994.
State Contact: Rob Erlich, Health and Human Services Finance Commission. P.O. Box 8206, Columbia, South Carolina 29202–8206, (803) 253–4129.
Federal Project Officer: Alisa Adamo, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.
Demonstration Title/State: Medicaid Direct Purchase Vaccine Program (MDPVP)—Virginia.
Description: The MDPVP streamlines the reimbursement process for vaccine, by allowing States to directly reimburse manufacturers for vaccines. Vaccine manufacturers send to each private physician who treats children on Medicaid a shipment of vaccines on consignment at no cost to the physician. Physicians then bill Medicaid for the office visit when they inoculate children, but not for the cost of the vaccine. The Medicaid program reimburses the manufacturer at a discounted rate, according to the number of vaccines administered. The manufacturer then sends quantities of the vaccines to the private physicians to replace the amounts used.
Date Received: August 25, 1992.
Date Awarded: November 4, 1992.
Implementation Date: March 1, 1993.
State Contact: Dee Holmes, Department of Medical Assistance Services, 600 East Broad Street, Richmond, Virginia 23219, (804) 371–8850.
Federal Project Officer: Alisa Adamo, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.
Demonstration Title/State: Drug Utilization Program—Washington.
Description: Under this program, the State allows for pharmacy reimbursement to cognitive services, including pharmacist intervention with patient's drug-related problems. The project encompasses 200 pharmacies, half of which are experimental and the rest are the control group.
Date Received: June 1992.
Date Awarded: September 30, 1992.
Implementation Date: February 1, 1994.
State Contact: Garth Holmes, Medical Assistance Administrator, 623 8th Avenue SE., P.O. Box 45510, Olympia, Washington 98504, (206) 586–7034.
Federal Project Officer: Kathleen Gondek, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

5. Disapproved Proposals

Demonstration Title/State: Iowa.
Description: Iowa sought to waive the transfer of assets requirements, to extend the look-back and penalty periods from 30 to 60 months, and make other changes related to the penalty periods.
Date Received: April 5, 1993.
Date of Disapproval: December 23, 1993.
Federal Project Officer: J. Donald Sherwood, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.
Demonstration Title/State: Long Term Care—Maine.
Description: Maine sought to continue Medicaid eligibility of persons residing in nursing homes to coincide with the State's efforts to eliminate State plan coverage of certain optional eligibility groups. A waiver would have protected current beneficiaries from the proposed change in the State plan.
Date Received: May 11, 1993.
Date of Disapproval: July 13, 1993.
Federal Project Officer: J. Donald Sherwood, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.
Demonstration Title/State: Minnesota.
Description: The State sought to: (1) increase the look-back period for asset transfers in determining Medicaid nursing facility eligibility from 36 to 60 months; (2) to treat the uncompensated transfers of excluded assets in the same manner as non-excluded assets; and (3) to apply any resulting penalty period to

the loss of coverage of all Medicaid services, not just long term care services.

Date Received: October 14, 1993.

Date of Disapproval: April 7, 1994.

Federal Project Officer: J. Donald Sherwood, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

Demonstration Title/State: Project TOOTH—The Project Toward Occupational Opportunity Through Health—New Hampshire.

Description: The State proposed to provide comprehensive dental treatment for approximately 200 AFDC/JOBS program participants whose disfiguring dental status presented the major impediment to their employment following job training.

Date Received: December 6, 1993.

Date of Disapproval: April 19, 1994.

Federal Project Officer: Debbie Van Hoven, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

III. Requests for Copies of a Proposal

Requests for copies of a specific Medicaid proposal should be made to the State contact listed for the specific proposal. If further help or information is needed, inquiries should be directed to the HCFA at the address above.

(Catalog of Federal Domestic Assistance Program, No. 93.779; Health Financing Research, Demonstrations, and Experiments.)

Dated: January 13, 1995.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

[FR Doc. 95–1550 Filed 1–20–95; 8:45 am]

BILLING CODE 4120–01–P

Health Resources and Services Administration

Program Announcement and Proposed Minimum Percentages for ''High Rate'' and ''Significant Increase in the Rate'' for Implementation of the General Statutory Funding Preference for Grants for Residency Training in Preventive Medicine for Fiscal Year 1995

The Health Resources and Services Administration (HRSA) announces that applications will be accepted for fiscal year (FY) 1995 Grants for Residency Training in Preventive Medicine under the authority of section 763, title VII of the Public Health Service Act, as amended by the Health Professions Education Extension Amendments of 1992, Pub. L. 102–408, dated October 13, 1992. Comments are invited on the proposed minimum percentages for ''high rate'' and ''significant increase in the rate'' for implementation of the general statutory funding preference.

Approximately $1,700,000 will be available in FY 1995 for this program. It is anticipated that the $1,700,000 will be available to support approximately 12 competing awards averaging $135,000.

Purpose

Section 763 of the Public Health Service Act authorizes the Secretary to make grants to meet the costs of projects—

(1) to plan and develop new residency training programs and to maintain or improve existing residency training programs in preventive medicine and dental public health; and

(2) to provide financial assistance to residency trainees enrolled in such programs.

This program announcement is limited to residency training programs in preventive medicine.

The period of Federal support will not exceed 3 years.

Eligibility

To be eligible for a Grant for Residency Training in Preventive Medicine, the applicant must be an accredited public or private nonprofit school of allopathic or osteopathic medicine or a school of public health located in a State. Also, an applicant must demonstrate that it has, or will have by the end of 1 year of grant support, full-time faculty with training and experience in the fields of preventive medicine and support from other faculty members trained in public health and other relevant specialties and disciplines. To receive support, programs must meet the requirements of regulations as set forth in 42 CFR part 57, subpart EE.

Project Requirements

A project supported by this grant program must be conducted in accordance with the following requirements:

(a) Each project must have a project director who works at the grantee institution on an appointment consistent with other major departments, heads or will head the unit, and has relevant training and experience in preventive medicine.

(b) Each project must have an appropriate administrative and organizational plan and appropriate staff and facility resources for the achievement of stated objectives.

(c) Each project must systematically evaluate the educational program, including the performance and competence of trainees and faculty, the administration of the program, and the degree to which program and educational objectives are met.

(d) All field experiences must be supervised by a qualified faculty member.

(e) All applicants must either demonstrate an increase in minority and disadvantaged residents or show evidence of efforts to recruit minority and disadvantaged residents.

National Health Objectives for the Year 2000

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS led national activity for setting priority areas. This program is related to the priority area of Health Promotion and Preventive Services. Potential applicants may obtain a copy of *Healthy People 2000* (Full Report; Stock No. 017–001–00474–0) or *Healthy People 2000* (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402–9325 (Telephone 202–783–3238).

Education and Service Linkage

As part of its long-range planning, HRSA will be targeting its efforts to strengthening linkages between U.S. Public Health Service education programs and programs which provide comprehensive primary care services to the underserved.

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.

Review Criteria

The review of applications will take into consideration the following criteria:

1. The potential effectiveness of the proposed project in carrying out the training purposes of section 763 of the PHS Act.

2. The extent of responsiveness to the project requirements.

3. The administrative and management capability of the applicant

to carry out the proposed project in a cost-effective manner.

5. The degree to which the applicant demonstrates institutional commitment to the proposed program.

6. The history of the program including number of residents who successfully completed the program.

Other Considerations

In addition, the following funding factors may be applied in determining funding of approved applications:

A funding preference is defined as the funding of a specific category or group of approved applications ahead of other categories or groups of approved applications.

A funding priority is defined as the favorable adjustment of aggregate review scores of individual approved applications when applications meet specified criteria.

It is not required that applicants request consideration for a funding factor. Applications which do not request consideration for funding factors will be reviewed and given full consideration for funding.

Statutory Funding Preference

As provided in section 791(a) of the PHS Act, preference will be given to qualified applicants that

(1) have a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or

(2) have achieved, during the 2-year period preceding the fiscal year for which an award is sought, a significant increase in the rate of placing graduates in such settings.

This preference will only be applied to applications that rank above the 20th percentile of proposals recommended for approval by the peer review group.

Proposed Minimum Percentages for ''High Rate'' and ''Significant Increase in the Rate''

''High rate'' is defined as a minimum of 25 percent of graduates in academic year 1992–93 or academic year 1993–94, whichever is greater, who spend at least 50 percent of their worktime in clinical practice in the specified settings. Graduates who are providing care in a medically underserved community as a part of a fellowship or other educational experience can be counted.

''Significant increase in the rate'' means that, between academic years 1992–93 and 1993–94, the rate of placing graduates in the specified settings has increased by a minimum of 50 percent and that not less than 15 percent of graduates from the most recent years are working in these settings.

Additional information concerning the implementation of this preference has been published in the **Federal Register** at 59 FR 15743, dated April 4, 1994.

Established Funding Priorities

The following funding priorities were established, after public comment (53 FR 46506, dated November 17, 1988 and 56 FR 46798, dated September 16, 1991), and are being extended in FY 1995. In the funding of approved applications, a funding priority will be given to projects which will:

1. Conduct residency training in areas of general preventive medicine or public health.

2. Enroll at least four residents in the academic year and at least four residents in the field year with evidence provided that the projected number can be realized from a current or projected applicant pool.

3. Propose to provide educational experiences to demonstrate to residents the provision of primary care/preventive services for underserved populations.

Additional Information

Interested persons are invited to comment on the proposed minimum percentages for ''high rate'' and ''significant increase in the rate'' for implementation of the general statutory funding preference. The comment period is 30 days. All comments received on or before February 22, 1995 will be considered before the final minimum percentages for ''high rate'' and ''significant increase in the rate'' for implementation of the general statutory funding preference are established. Written comments should be addressed to: Neil Sampson, Director, Division of Associated, Dental, and Public Health Professions, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8–101, 5600 Fishers Lane, Rockville, Maryland 20857.

All comments received will be available for public inspection and copying at the Division of Associated, Dental, and Public Health Professions, Bureau of Health Professions, at the above address, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

Information Requirements Provision

Under section 791(b) of the Act, the Secretary may make an award under the Grants for Residency Training in Preventive Medicine only if the applicant for the award submits to the Secretary the following information:

1. A description of rotations or preceptorships for students, or clinical training programs for residents, that have the principal focus of providing health care to medically underserved communities.

2. The number of faculty on admissions committees who have a clinical practice in community-based ambulatory settings in medically underserved communities.

3. With respect to individuals who are from disadvantaged backgrounds or from medically underserved communities, the number of such individuals who are recruited for academic programs of the applicant, the number of such individuals who are admitted to such programs, and the number of such individuals who graduate from such programs.

4. If applicable, the number of recent graduates who have chosen careers in primary health care.

5. The number of recent graduates whose practices are serving medically underserved communities.

6. A description of whether and to what extent the applicant is able to operate without Federal assistance under this title.

Additional details concerning the implementation of this information requirement have been published in the **Federal Register** at 58 FR 43642, dated August 17, 1993, and will be provided in the application materials.

Application Requests

Requests for application materials and questions regarding grants policy and business management issues should be directed to: Ms. Brenda Selser, Grants Management Branch, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8C–26, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–6960, FAX: (301) 443–6343.

Completed applications should be returned to the Grants Management Branch at the above address.

If additional programmatic information is needed, please contact: D. W. Chen, M.D., M.P.H., Division of Associated, Dental, and Public Health Professions, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8C–09, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–6896, FAX: (301) 443–1164.

The deadline date for receipt of applications is March 10, 1995. Applications will be considered to be ''on time'' if they are either:

(1) *Received on or before* the established deadline date, or

(2) *Sent on or before* the established deadline date and received in time for orderly processing. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late applications not accepted for processing will be returned to the applicant.

Paperwork Reduction Act

The standard application form PHS 6025–1, HRSA Competing Training Grant Application, General Instructions and supplement for this program have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB Clearance Number is 0915–0060.

This program, Grants for Residency Training in Preventive Medicine, is listed at 93.117 in the *Catalog of Federal Domestic Assistance*. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100). This program is not subject to the Public Health System Reporting Requirements.

Dated: January 17, 1995.

Ciro V. Sumaya,

Administrator.

[FR Doc. 95–1554 Filed 1–20–95; 8:45 am]

BILLING CODE 4160–15–P

National Institutes of Health National Heart, Lung, and Blood Institute; 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 Heart, Lung, and Blood Special Emphasis Panel (SEP) meetings:

Name of SEP: Clinical Trial to Evaluate the Prevention of Events with Angiotensin Converting Enzyme Inhibitor Therapy (PEACE).
Date: February 7–8, 1995.
Time: 7:30 p.m.
Place: Holiday Inn, Bethesda, Maryland.
Contact Person: Anthony M. Coelho, Jr., Ph.D., 5333 Westbard Avenue, Room 548, Bethesda, Maryland 20892, (301) 594–7485.
Purpose/Agenda: To review and evaluate contract proposals.

Name of SEP: SCOR in Transfusion Medicine and Biology.
Date: March 15–16, 1995.
Time: 7:00 p.m.
Place: Holiday Inn, Bethesda, Maryland.
Contact Person: Deborah P. Beebe, Ph.D., 5333 Westbard Avenue, Room 555, Bethesda, Maryland 29892, (301) 594–7418.
Purpose/Agenda: To review and evaluate grant applications.

These meetings will be closed in accordance with the provisions set forth in sec. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health.)

Dated: January 13, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–1561 Filed 1–20–95; 8:45 am]

BILLING CODE 4140–01–M

Notice of Closed Meetings for the National Institute of Mental Health Initial Review Group

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 meetings:

Committee Name: Neuropharmacology and Neurochemistry Review Committee.
Date: February 8–10, 1995.
Time: 8:30 a.m.
Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Shirley H. Maltz, Parklawn Building, Room 9–101, Telephone: 301, 443–3857.
Purpose/Agenda: To review and evaluate grant applications.

Committee Name: Services Research Review Committee.
Date: February 8–10, 1995.
Time: 8:30 a.m.
Place: Embassy Suites at Chevy Chase, 4300 Military Road, N.W., Washington, D.C. 20015.
Contact Person: Angela L. Redlingshafer, Parklawn Building, Room 9C–18, Telephone: 301, 443–1367.
Purpose/Agenda: To review and evaluate grant applications.

Committee Name: Mental Disorders of Aging Review Committee.
Date: February 8–10, 1995.
Time: 9 a.m.
Place: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Phyllis L. Zusman, Parklawn Building, Room 9C–18, Telephone: 301, 443–1340.
Purpose/Agenda: To review and evaluate grant applications.

Committee Name: Clinical Psychopathology Review Committee.
Date: February 8–10, 1995.
Time: 9 a.m.
Place: Barcelo Washington Hotel, 2121 P Street, N.W., Washington, D.C. 20037.
Contact Person: Frances H. Smith, Parklawn Building, Room 9C–18, Telephone: 301, 443–4868.
Purpose/Agenda: To review and evaluate grant applications.

Committee Name: Psychobiology, Behavior, and Neuroscience Review Committee.
Date: February 9–10, 1995.
Time: 9 a.m.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: William H. Radcliffe, Parklawn Building, Room 9–101, Telephone: 301, 443–3857.
Purpose/Agenda: To review and evaluate grant applications.

Committee Name: Clinical Neuroscience and Biological Psychopathology Review Committee.
Date: February 15–17, 1995.
Time: 9 a.m.
Place: Residence Inn, 7335 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Maureen L. Eister, Parklawn Building, Room 9–101, Telephone: 301, 443–3936.
Purpose/Agenda: To review and evaluate grant applications.

Committee Name: Violence and Traumatic Stress Review Committee.
Date: February 15–17, 1995.
Time: 8:30 a.m.
Place: Embassy Suites at Chevy Chase, 4300 Military Road, N.W., Washington, D.C. 20015.
Contact Person: Sheri L. Schwartzback, Parklawn Building, Room 9C–26, Telephone: 301, 443–6470.
Purpose/Agenda: To review and evaluate grant applications.

Committee Name: Cognitive Functional Neuroscience Review Committee.
Date: February 16–17, 1995.
Time: 8:30 a.m.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: Shirley H. Maltz, Parklawn Building, Room 9–101, Telephone: 301, 443–3936.
Purpose/Agenda: To review and evaluate grant applications.

Committee Name: Social and Group Processes Review Committee.
Date: February 16–17, 1995.
Time: 9 a.m.
Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Rehana A. Chowdhury, Parklawn Building, Room 9C–26, Telephone: 301, 443–6470.
Purpose/Agenda: To review and evaluate grant applications.

Committee Name: Molecular, Cellular, and Developmental Neurobiology Review Committee.
Date: February 19–21, 1995.
Time: 6 p.m.
Place: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Katie O'Donnell, Parklawn Building, Room 9–101, Telephone: 301, 443–3857.

Purpose/Agenda: To review and evaluate grant applications.

Committee Name: Child/Adolescent Development, Risk, and Prevention Review Committee.

Date: February 23–24, 1995.

Time: 9 a.m.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Phyllis D. Artis, Parklawn Building, Room 9C–26, Telephone: 301, 443–1177.

Purpose/Agenda: To review and evaluate grant applications.

Committee Name: Perception and Cognition Review Committee.

Date: February 23–24, 1995.

Time: 9 a.m.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Regina M. Thomas, Parklawn Building, Room 9C–26, Telephone: 301, 443–6470.

Purpose/Agenda: To review and evaluate grant applications.

Committee Name: Treatment Assessment Review Committee.

Date: February 23–24, 1995.

Time: 9 a.m.

Place: Barcelo Washington Hotel, 2121 P Street, NW., Washington, DC 20037.

Contact Person: Francis H. Smith, Parklawn Building, Room 9C–18, Telephone: 301, 443–4868.

Purpose/Agenda: To review and evaluate grant applications.

Committee Name: Mental Health Small Business Research Review Committee.

Date: February 27–28, 1995.

Time: 8:30 a.m.

Place: The River Inn, 924 25th Street, NW., Washington, DC 20037.

Contact Person: Angela L. Redlingshafer, Parklawn Building, Room 9C–18, Telephone: 301, 443–1367.

Purpose/Agenda: To review and evaluate grant applications.

Committee Name: Health Behavior and Prevention Review Committee.

Date: February 28–March 1, 1995.

Time: 9 a.m.

Place: One Washington Circle Hotel, One Washington Circle, NW., Washington, DC 20037.

Contact Person: Monica F. Woodfork, Parklawn Building, Room 9C–26, Telephone: 301, 443–4843.

Purpose/Agenda: To review and evaluate grant applications.

The meetings will be closed in accordance with the provisions set forth in sec. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers 93.126, Small Business Innovation Research; 93.176, ADAMHA Small Instrumentation Program Grants; 93.242, Mental Health Research Grants; 93.281, Mental Research Scientist Development Award and Research Scientist Development Award for Clinicians; 93.282, Mental Health Research Service Awards for Research Training; and 93.921, ADAMHA Science Education Partnership Award.)

Dated: January 9, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–1562 Filed 1–20–95; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Alcohol Abuse and Alcoholism; Notice of Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of meetings of the National Institute on Alcohol Abuse and Alcoholism.

The National Advisory Council on Alcohol Abuse and Alcoholism meeting on February 2 will be open to the public, as noted below, to discuss administrative details or other issues relating to committee activities as indicated in the notice. Attendance by the public will be limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Diana Widner at (301) 443–4376.

The following meetings will be closed to the public as indicated below in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6) of Title 5, U.S.C. and sec. 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual research grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Summaries of the meetings and the rosters of committee members may be obtained from: Ms. Diana Widner, NIAAA Committee Management Officer, National Institute on Alcohol Abuse and Alcoholism, Willco Building, Suite 409, 6000 Executive Blvd., Rockville, MD 20892–7003, Telephone: (301) 443–4376. Other information pertaining to the meetings can be obtained from the contact person indicated.

Name of Committee: National Advisory Council on Alcohol Abuse and Alcoholism.

Executive Secretary: James F. Vaughan, 6000 Executive Blvd, Suite 409, Bethesda, MD 20892–7003, 301–443–4375.

Dates of Meeting: February 2, 1995.

Place of Meeting: Conference Room 6, Building 31C, NIH Campus, 9000 Rockville Pike, Bethesda, MD 20892.

Open: February 2, 10:30 a.m. to adjournment.

Agenda: Discussion of Program Policies and Issues.

Closed: February 2, 8:15 a.m. to 10:30 a.m.

Agenda: To review and evaluate grant applications.

The following review committee meetings will be totally closed.

Name of Committee: Biochemistry, Physiology, and Medicine Subcommittee of the Alcohol Biomedical Research Review Committee.

Dates of Meeting: February 6–8, 1995.

Place of Meeting: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Time: 9 a.m. to adjournment.

Contact Person: Ronald Suddendorf, Ph.D., 6000 Executive Blvd., Suite 409, Bethesda, MD 20892–7003, 301–443–2932.

Agenda: To review and evaluate grant applications.

Name of Committee: Neuroscience and Behavior Subcommittee of the Alcohol Biomedical Research Review Committee.

Dates of Meeting: February 8–10, 1995.

Time: 9 a.m. to adjournment.

Place of Meeting: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Antonio Noronha, Ph.D., 6000 Executive Blvd., Suite 409, Bethesda, MD 20892–7003, 301–443–9419.

Agenda: To review and evaluate grant applications.

Name of Committee: Clinical and Treatment Subcommittee of the Alcohol Psychosocial Research Review Committee.

Dates of Meeting: February 23–24, 1995.

Time: 8:30 a.m. to adjournment.

Place of Meeting: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Elsie D. Taylor, 6000 Executive Blvd., Suite 409, Bethesda, MD 20892–7003, 301–443–9787.

Agenda: To review and evaluate grant applications.

Name of Committee: Epidemiology and Prevention Subcommittee of the Alcohol Psychosocial Research Review Committee.

Dates of Meeting: February 23–24, 1995.

Time: 8:30 a.m.to adjournment.

Place of Meeting: River Inn, 924 25th Street, NW., Washington, DC 20037.

Contact Person: Thomas D. Sevy, M.S.W., 6000 Executive Blvd., Suite 409, Bethesda, MD 20892–7003, 301–443–6106.

Agenda: To review and evaluate grant applications.

Name of Committee: Immunology and AIDS Subcommittee of the Alcohol Biomedical Research Review Committee.

Dates of Meeting: March 2, 1995.

Place of Meeting: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Time: 8:30 a.m. to adjournment.

Contact Person: Barbara Smothers, Ph.D., 6000 Executive Blvd, Suite 409, Bethesda, MD 20892–7003, 301–443–4623.

Agenda: To review and evaluate grant applications.

(Catalog of Federal Domestic Assistance Program No. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.281, Scientist Devolopment Award, Research Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.891, Alcohol Research Center Grants; National Institutes of Health).

Dated: January 12, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–1563 Filed 1–20–95; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N–95–3038; FR–2736–N–14]

Regulatory Waiver Requests Granted

AGENCY: Office of the Secretary, HUD.

ACTION: Public notice of the granting of regulatory waivers.

SUMMARY: Under Section 106 of the Department of Housing and Urban Development Reform Act of 1989 (Reform Act), the Department is required to make public all approval actions taken on waivers of regulations. This Notice provides notification of waivers granted during the period from October 26, 1993 to June 30, 1994.

FOR FURTHER INFORMATION CONTACT: For general information about this Notice, contact Camille E. Acevedo, Assistant General Counsel for Regulations, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; (202) 708–2084; (TDD) (202) 708–3259. (These are not toll-free numbers.) For information concerning a particular waiver action, contact the person whose name and address is set out for the particular item in the accompanying list of waiver-grant actions.

SUPPLEMENTARY INFORMATION: Section 106 of the Reform Act amended Section 7 of the Department of Housing and Urban Development Act (42 U.S.C. 3535(q)(3)) to provide:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;

2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary rank or equivalent rank, and the person to whom authority to waive is delegated must also have authority to issue the particular regulation to be waived;

3. Not less than quarterly, the Secretary must notify the public of all waivers of regulations that the Department has approved, by publishing a Notice in the **Federal Register**. These Notices (each covering the period since the most recent previous notification) shall:

a. Identify the project, activity, or undertaking involved;

b. Describe the nature of the provision waived, and the designation of the provision;

c. Indicate the name and title of the person who granted the waiver request;

d. Describe briefly the grounds for approval of the request;

e. State how additional information about a particular waiver grant action may be obtained.

Today's document notifies the public of HUD's waiver-grant activity from October 26, 1993 to June 30, 1994. The next Notice, which will be published in the near future, will cover the period from July 1, 1994 through September 30, 1994.

For ease of reference, waiver requests granted by departmental officials authorized to grant waivers are listed in a sequence keyed to the section number of the HUD regulation involved in the waiver action. For example, a waiver-grant action involving exercise of authority under 24 CFR 24.200 (involving the waiver of a provision in part 24) would come early in the sequence, while waivers in the Section 8 and Section 202 programs (24 CFR Chapter VIII) would be among the last matters listed. Where more than one regulatory provision is involved in the grant of a particular waiver request, the action is listed under the section number of the first regulatory requirement in Title 24 that is being waived as part of the waiver-grant action. (For example, a waiver of both § 811.105(b) and § 811.107(a) would appear sequentially in the listing under § 811.105(b).) Waiver-grant actions involving the same initial regulatory citation are in time sequence beginning with the earliest-dated waiver-grant action.

Should the Department receive additional reports of waiver actions taken during the period covered by this report before the next report is published, the next updated report will include these earlier actions.

Accordingly, information about approved waiver requests pertaining to regulations of the Department is provided in the Appendix to this Notice.

Dated: December 9, 1994.

Henry G. Cisneros,

Secretary.

Appendix

Listing of Waivers of Regulatory Requirements Granted by Officers of the Department of Housing and Urban Development

October 26, 1993 through June 30, 1994

Note to the reader: The person to be contacted for additional information about the waiver grant items in this listing is: Robert J. Coyle, Director, Title I Insurance Division, Department of Housing and Urban Development, 490 L'Enfant Plaza East, Suite 3214, Washington, DC 20024, Telephone 202–755–7400.

1. Regulation: 24 CFR 201.20(a)(3)

Project/Activity: Title I property improvement loans for the repair of damage resulting from the January 1994 earthquake which impacted Los Angeles, Ventura and Orange Counties in California.

Nature of Requirement: For any property improvement loan (or combination of such loans) in excess of $15,000, the borrower must have equity in the property at least equal to the loan amount.

Granted by: Nicolas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 7, 1994.

Reason Waived: The equity requirement makes it extremely difficult for earthquake victims to qualify for loans over $15,000, due to the general loss in property values that occurs following a disaster of this magnitude, as well as the problems in obtaining a valid appraisal of any property that has sustained major earthquake damage. Waiver of the equity requirement makes it possible for greater numbers of earthquake victims to use the Title I property improvement loan program and greatly expedites loan processing.

2. Regulation: 24 CFR 201.20(b)(3)

Project/Activity: Title I property improvement loans for the repair of damage resulting from the January 1994 earthquake which impacted Los Angeles, Ventura and Orange Counties in California.

Nature of Requirement: The proceeds of a property improvement loan may be used only for improvements that are started after loan approval.

Granted by: Nicolas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner.

Dated Granted: February 7, 1994.

Reason Waived: This provision has previously been waived in emergency situations, to allow borrowers to begin work prior to final loan approval. A waiver in this case allows borrowers to make emergency repairs to their properties; however, the lender has to document the loan file giving the reasons why it was necessary to begin work before final loan approval.

3. Regulation: 24 CFR 201.25(c)

Project/Activity: Title I property improvement loans for the repair of damage resulting from the January 1994 earthquake which impacted Los Angeles, Ventura and Orange Counties in California.

Nature of Requirement: The Title I regulations list certain fees and charges which the lender normally collects from the borrower in cash as part of the borrower's initial payment on a property improvement loan. These fees and charges may not be financed or advanced by any party to the loan transaction.

Granted by: Nicolas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner.

Dated Granted: February 7, 1994.

Reason Waived: This waiver permits the following fees and charges to be financed in the Title I loan, as long as the maximum loan limits are not exceeded: (a) A loan origination fee, not to exceed one percent of the loan amount; and (b) recording fees, recording taxes, filing fees and documentary stamp taxes. Financing these fees and charges reduces the initial cash investment required to obtain these loans.

4. Regulation: 24 CFR 201.54(b)(1)

Project/Activity: Title I property improvement loans for the repair of damage resulting from the January 1994 earthquake which impacted Los Angeles, Ventura and Orange Counties in California.

Nature of Requirement: The Title I regulations provide that insurance claims on property improvement loans must be filed with the Department within nine months after the date of default.

Granted by: Nicolas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 7, 1994.

Reason Waived: This waiver permits claims to be filed up to twelve months after the date of default. However, the lender has to document the loan file to show that the borrowers experienced a loss of income or other financial difficulties directly attributable to the earthquake, and that additional time to provide forbearance was required.

5. Regulation: 24 CFR 201.20(b)(3)

Project/Activity: Title I property improvement loan to provide accessibility for handicapped low-income homeowners.

Nature of Requirement: The proceeds of a property improvement loan may be used only for improvements that are started after loan approval.

Granted by: Nicolas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 22, 1994.

Reason Waived: This provision has previously been waived in emergency situations, to allow borrowers to begin work prior to final loan approval. A waiver was granted in this case to allow the borrowers to proceed with the construction of an access ramp and special bathroom railings, so that the home could be occupied as soon as possible after acquisition.

Note to reader: The person to be contacted for additional information about the waiver-grant items in this listing is: Olive Walker, Chief, Directives, Reports and Forms Branch, Office of Housing, Management Division, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, Telephone (202) 708–1694.

6. Regulation: 24 CFR 207.259(e)

Project/Activity: Batavia, New York HA refunding of bonds which financed a Section 8 assisted project, the Washington Towers Apartments (FHA No. 014–35047).

Nature of Requirement: The Regulations set conditions under which HUD may call debentures prior to maturity.

Granted by: Nicolas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: May 5, 1994.

Reasons Waived: This credit enhance refunding bonds not fully secured by the FHA mortgage amount, HUD agrees not to exercise its option under 24 CFR 207.259(e) to call debentures prior to maturity. This refunding proposal was approved by HUD on February 18, 1994. Refunding bonds have been priced to an average yield of 6.43%. The tax-exempt refunding bond issue of $4,850,000 at current low-interest rates will save Section 8 subsidy. The Treasury also gains long-term tax revenue benefits through replacement of outstanding tax-exempt coupons of 9.2% at the call date with tax-exempt bonds yielding 6.43%. The refunding will also substantially reduce the FHA mortgage interest rate at expiration of the HAP contract, from 9.5% to 7.25, thus reducing FHA mortgage insurance risk. The refunding serves the important public purposes of reducing HUD's Section 8 program costs, improving Treasury tax revenues (helping reduce the budget deficit), and increasing the likelihood that projects will continue to provide housing for low-income families after subsidies expire, a priority HUD objective.

7. Regulation: 24 CFR 207.259(e)

Project/Activity: Community Redevelopment Agency of the City of Los Angeles refunding of bonds which financed eight Section 8 assisted projects (list attached).

Nature of Requirement: The Regulation authorizes call of FHA debentures prior to maturity.

Granted by: Nicolas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: June 6, 1994.

Reason Waived: To credit enhance refunding bonds not fully secured by the FHA mortgage amounts, HUD agrees not to exercise its option under 24 CFR 207.259(e) to call debentures prior to maturity. This refunding proposal was approved by HUD on November 18, 1993. Refunding bonds have been priced to an average yield of 6.42%. The tax-exempt refunding bond issue of $20,600,000 at current low-interest rates will save Section 8 subsidy. The Treasury also gains long-term tax revenue benefits through replacement of outstanding tax-exempt coupons at an average yield of 10.65% at the call date with tax-exempt bonds yielding 6.42%. The refunding will also substantially reduce the FHA mortgage interest rate at expiration of the HAP contracts, thus reducing FHA mortgage insurance risk. The refunding serves the important public purposes of reducing HUD's Section 8 program costs, improving Treasury tax revenues (helping reduce the budget deficit), and increasing the likelihood that projects will continue to provide housing for low-income families after subsidies expire, a priority HUD objective.

Note to the reader: The person to be contacted for additional information about this waiver-grant item is: Kevin J. East, Office of Multifamily Housing Programs, U.S. Department of Housing and Urban Development, 451 Seventh

Street, SW., Room 6106, Washington, DC 20410–7000, Phone: (202) 708–2495.

8. Regulation: 24 CFR 248.105(a)(2)

Project/Activity: Rip Van Winkle Apartments Project No. 013–44014.

Nature of Requirement: Regulation prohibits participation in LIHPRHA of 1990 if HUD-held mortgage defaults after date of enactment.

Granted by: Nicolas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: May 25, 1994.

Reason Waived: The project, whose mortgage had been assigned to HUD prior to the enactment of LIHPRHA, had stayed current in its mortgage payments, once the mortgage had been brought current, prior to LIHPRHA's enactment. On three occasions after LIHPRHA's enactment, the mortgage payment was made more than 30 days after the due date, creating a default under the Deed of Trust. The regulation, implementing section 212(c) of LIHPRHA, prohibits projects which have HUD-held mortgages which default after LIHPRHA's enactment from participating in LIHPRHA. The regulation reflects an administrative interpretation of statute which sought to keep HUD-held mortgages, once current, fully current by providing LIHPRHA eligibility as motivation for keeping the mortgage payments current.

The regulation was not intended to capture ''minute'' or momentary defaults, in this instance three in the space of three years, mostly attributable to clerical errors on site in the timely processing of Section 8 HAP payment vouchers. It was intended to capture owners who simply stop making payments on HUD-held mortgages for one reason or another. In this case each payment was made within seven days of the 30 day deadline. A literal application of the regulation in this instance was considered harsh and unnecessarily punitive.

As a result of granting the waiver, the housing will be preserved as a low-income housing resource for at least 30 years after the mortgage and its existing restrictions expire.

Note to reader: The person to be contacted for additional information about waiver-grant item in this listing is: Ms. Linda Cheatham, Director, Office of Insured Multifamily Housing Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–7000, Phone: (202) 708–3000, TDD: (202) 708–4594.

9. Regulation: Notice of Invitation for Applications Accompanying Interim Rule 24 CFR part 266 and § 266.105(b)(1)

Project/Activity: Metropolitan Dade County Housing Finance Authority, Dade County, Florida.

Nature of Requirement: Delay in remitting application fee for review of the Dade County Housing Finance Agency (HFA) under the HRA Risk Sharing program. Internal process for requesting funds from surplus account takes approximately 8 weeks.

Granted by: Linda D. Cheatham.

Reason Waived: The Dade County, Florida could not provide the $10,000 application fee with the application. At the time, they needed the approval from the Board of Directors and the County commissioners which normally takes up to 8 weeks. They would be able to make the wire transfer of $10,000 no later than March 31, 1994. We will grant a waiver to permit them to complete this transaction by March 31, 1994.

10. Regulation: 24 CFR 266.105(b)(11) and Notice of Invitation for Application Accompanying Interim Rule 24 CFR Part 266

Project/Activity: Texas Department of Housing and Community Affairs.

Nature of Requirement: State Law prohibits the Texas Department of Housing and Community Affairs from putting public funds into a private financial institution as required by the Part 266 for HFA Risk-Sharing regulations.

Granted by: Nicolas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 31, 1994.

Reason Waived: State law prohibits the Texas Department of Housing Community Affairs from putting public funds into a private financial institution as required by the Section 542(c) regulations. This Agency is required to deposit all revenues and funds with the Texas Treasury Safekeeping Trust Company, which was created by the State. This Company is not governed by the Comptroller of the currency, FDIC or the Federal Reserve Board nor is its debt rated by Moody's or Standard and Poor's. Their authority does permit them to name HUD as joint owner of the dedicated reserve account allowing HUD the right to approve withdrawals as required in the regulation. We will waive the requirements on the condition that HUD can be named as joint owner of the account and has the right to approve withdrawals.

11. Regulation: 24 CFR 266.10(d)

Project/Activity: Fairfax County Housing and Redevelopment Authority.

Nature of Requirement: The Fairfax County Housing and Redevelopment Authority has requested permission to operate as a State Housing Finance Agency.

Granted by: Nicolas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 31, 1994.

Reason Waived: The Fairfax County Housing and Redevelopment Authority has requested that they be allowed to operate as a State Housing Finance Agency. They also requested that they be allocated the maximum amount of units for the State, as if the State Agency applied for program participation. Section 36 of the Virginia State Code establishes the Fairfax County Housing and Redevelopment Authority as a political subdivision of the Commonwealth of Virginia. In that capacity they have cooperation agreements with other jurisdictions, administer programs, disperse grant funds and finance projects outside Fairfax County. The Fairfax County Housing and Redevelopment Authority has the authority to act on behalf of the State as outlined in Section 36 of the State code. We have granted a waiver to permit the Fairfax County Housing and Redevelopment Authority to function in the capacity of a State Finance housing Agency.

12. Regulation: 24 CFR 266.15(b)(5)(viii)

Project/Activity: New York City Housing Development Corporation.

Nature of Requirement: Section 266.15(5)(viii) requires the Agency to maintain Lender's Fidelity Bond/Surety Bond and Errors and Omissions Insurance.

Granted by: Nicolas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 16, 1994.

Reason Waived: New York City Housing Development corporation requested a waiver to § 266.15(f)(b)(viii) requiring the Agency to maintain Lender's Fidelity Bond/Surety Bond and Errors and Omissions Insurance in such an amount as satisfactory to the Commissioner. We will grant a waiver to this regulation because this Agency is self-insured, which meets the requirement for insurance.

13. Regulation: 24 CFR 811.106(d) and 811.107(d) of 1977 Regulations

Project/Activity: Refunding on behalf of the Housing Authority of Memphis of bonds which financed an uninsured

Section 8 assisted project: Northlake Apartments, HUD Project Number TN40–0002–001.

Nature of Requirement: The Regulations set conditions under which HUD may grant a Section 11(b) letter of exemption of multifamily housing revenue bonds from Federal income taxation.

Granted by: Nicolas P. Retsinas, Assistant Secretary for Housing-FHA Commissioner.

Date Granted: April 14, 1994.

Reason Waived: The part 811 regulations cited above prohibited refundings and required that excess reserve balances be used for project purposes. The issuer has requested HUD permission to refund outstanding bonds at 7.88 percent and release excess reserve balances from the 1978 Trust Indenture to help pay transaction costs. Issuance of the 1994 Bonds at a yield of 5.9 percent will reduce Section 8 assistance payments and provide allocation of 50 percent of such savings to the Housing Authority for project purposes pursuant to Section 1012 of the McKinney Act.

14. Regulation: 24 CFR 811.106(b), 811.106(d), and 811.107(d) of 1977 Regulations.

Project/Activity: Kinston, North Carolina HA refunding of bonds which financed an insured Section 8 assisted project: Kinston Towers, FHA Number 053–94015.

Nature of Requirement: The Regulations set conditions under which HUD may grant a Section 11(b) letter of exemption of multifamily housing revenue bonds from Federal income taxation.

Granted by: Nicolas P. Retsinas, Assistant Secretary for Housing-FHA Commissioner.

Date Granted: April 29, 1994.

Reason Waived: The part 811 regulations cited above restricted to 30 years HAP Contracts for elderly housing, prohibited refundings, and required that excess reserve balances be used for project purposes. The issuer has requested HUD permission to release excess reserve balances from the 1977 Trust Indenture and the Project Residual Receipts Account for use in its housing assistance programs for low- and moderate-income families. Issuance of 1994 refunding bonds under Section 103 of the Tax Code will not reduce project debt service nor generate Section 8 savings. The 1994 Bonds will prepay a Section 223(f) coinsured mortgage which defeased the 1977 Bonds in 1986.

15. Regulation: 24 CFR 811.106(d) and 811.107(d) of 1977 Regulations

Project/Activity: Hickory, North Carolina HA refunding of bonds which financed an uninsured Section 8 assisted project: West Hickory Apartments, HAP Number NC19–0011–060.

Nature of Requirement: The Regulations set conditions under which HUD may grant a Section 11(b) letter of exemption of multifamily housing revenue bonds from Federal income taxation.

Granted by: Nicolas P. Retsinas, Assistant Secretary for Housing-FHA Commissioner.

Date Granted: April 29, 1994.

Reason Waived: The part 811 regulations cited above prohibited refundings and required that excess reserve balances be used for project purposes. The issuer has requested HUD permission to release excess reserve balances from the 1978 Trust Indenture to finance rehabilitation of the project. The 1978 Bonds will be prepaid by a bank loan on terms which will reduce project debt service and Section 8 contract rents.

16. Regulation: 24 CFR 811.107(a)(2), 811.108(a)(1), 811.108(a)(3), 811.114(b)(3) 811.114(d), 811.115(b)

Project/Activity: Briarwick (Kokomo, IN) HDC refunding of bonds which financed a Section 8 assisted project, the Briarwick Apartments (FHA No. 073–35396).

Nature of Requirement: The Regulations set conditions under which HUD may grant a Section 11(b) letter of exemption of multifamily housing revenue bonds from Federal income taxation and authorize call of debentures prior to maturity.

Granted by: Nicolas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner.

Dated Granted: April 14, 1994.

Reasons Waived: The part 811 regulations cited above were intended for original bond financing transactions and do not fit the terms of refunding transactions. To credit enhance refunding bonds not fully secured by the FHA mortgage amount, HUD also agrees not to exercise its option under 24 CFR 207.259(e) to call debentures prior to maturity. This refunding proposal was approved by HUD on March 22, 1994. Refunding bonds have been priced to an average yield of 7.1%. The tax-exempt refunding bond issue of $3,640,000 at current low-interest rates will save Section 8 subsidy. The Treasury also gains long-term tax revenue benefits through replacement of outstanding tax-exempt coupons of 10%–10.25% at the call date with tax-exempt bonds yielding 7.1%. The refunding will also substantially reduce the FHA mortgage interest rate at expiration of the HAP contract, from 10.23% to 7.7%, thus reducing FHA mortgage insurance risk. The refunding serves the important public purposes of reducing HUD's Section 8 program costs, improving Treasury tax revenues (helping reduce the budget deficit), and increasing the likelihood that projects will continue to provide housing for low-income families after subsidies expire, a priority HUD objective.

17. Regulation: 24 CFR 811.107(a)(2), 811.107(b), 811.108(a)(1), 811.108(a)(3), 811.114(b)(3), 811.114(d), 811.115(b)

Project/Activity: Fremont, North Carolina HDC refunding of bonds which financed a Section 8 assisted project, the Torhunta Apartments (FHA No. 053–35429).

Nature of Requirement: The Regulations set conditions under which HUD may grant a Section 11(b) letter of exemption of multifamily housing revenue bonds from Federal income taxation and authorize call of debentures prior to maturity.

Granted by: Nicolas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner.

Dated Granted: April 21, 1994.

Reasons Waived: The part 811 regulations cited above were intended for original bond financing transactions and do not fit the terms of refunding transactions. To credit enhance refunding bonds not fully secured by the FHA mortgage amount, HUD also agrees not to exercise its option under 24 CFR 207.259(e) to call debentures prior to maturity. This refunding proposal was approved by HUD on February 9, 1993. Refunding bonds have been priced to an average yield of 6.74%. The tax-exempt refunding bond issue of $1,385,000 at current low-interest rates will save Section 8 subsidy. The Treasury also gains long-term tax revenue benefits through replacement of outstanding tax-exempt coupons of 11.5% at the call date with tax-exempt bonds yielding 6.74%. The refunding will also substantially reduce the FHA mortgage interest rate at expiration of the HAP contract, from 11.48% to 6.8%, thus reducing FHA mortgage insurance risk. The refunding serves the important public purposes of reducing HUD's Section 8 program costs, improving Treasury tax revenues (helping reduce the budget deficit), and increasing the likelihood that projects will continue to provide housing for

low-income families after subsidies expire, a priority HUD objective.

18. Regulation: 24 CFR 811.107(a)(2), 811.107(b), 811.108(a)(1), 811.108(a)(3), 811.114(b)(3), 811.114(d), 811.115(b)

Project/Activity: Salisbury, North Carolina Housing Corporation of bonds which financed a Section 8 assisted project, the Yadkin Senior Citizens Apartments (FHA No. 053–35296).

Nature of Requirement: The Regulations set conditions under which HUD may grant a Section 11(b) letter of exemption of multifamily housing revenue bonds from Federal income taxation and authorize call of debentures prior to maturity.

Granted by: Nicolas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner.

Dated Granted: April 26, 1994.

Reasons Waived: The part 811 regulations cited above were intended for original bond financing transactions and do not fit the terms of refunding transactions. To credit enhance refunding bonds not fully secured by the FHA mortgage amount, HUD also agrees not to exercise its option under 24 CFR 207.259(e) to call debentures prior to maturity. This refunding proposal was approved by HUD on September 2, 1993. Refunding bonds have been priced to an average yield of 6.74%. The tax-exempt refunding bond issue of $2,190,000 at current low-interest rates will save Section 8 subsidy. The Treasury also gains long-term tax revenue benefits through replacement of outstanding tax-exempt coupons of 9% at the call date with tax-exempt bonds yielding 6.74%. The refunding will also substantially reduce the FHA mortgage interest rate at expiration of the HAP contract, from 9% to 7.4%, thus reducing FHA mortgage insurance risk. The refunding serves the important public purposes of reducing HUD's Section 8 program costs, improving Treasury tax revenues (helping reduce the budget deficit), and increasing the likelihood that projects will continue to provide housing for low-income families after subsidies expire, a priority HUD objective.

19. Regulation: 24 CFR 811.107(a)(2), 811.108(b)(3), 811.107(b), 811.108(b)(4), 811.114(b)(3), 811.114(d), 811.115(b)

Project/Activity: Odessa, Texas HDC refunding of bonds which financed a Section 8 assisted uninsured project, the Chaparral Village Apartments, HAP No. TX16–0018–005.

Nature of Requirement: The Regulations set conditions under which HUD may grant a Section 11(b) letter of exemption of multifamily housing revenue bonds from Federal income taxation.

Granted by: Nicolas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner.

Dated Granted: April 28, 1994.

Reasons Waived: The part 811 regulations cited above were intended for original bond financing transactions and do not fit the terms of refunding transactions. This refunding proposal was approved by HUD on December 27, 1993. Refunding bonds have been priced to an average yield of 6.375%. The tax-exempt refunding bond issue of $1,850,000 at current low-interest rates will save Section 8 subsidy. The Treasury also gains long-term tax revenue benefits through replacement of outstanding tax-exempt coupons benefits through replacement of outstanding tax-exempt coupons of 10.25%–12% at the call date with tax-exempt bonds yielding 6.375%. The refunding serves the important public purposes of reducing HUD's Section 8 program costs, improving Treasury tax revenues (helping reduce the budget deficit), and increasing the likeihood that projects will continue to provide housing for low-income families after subsidies expire, a priority HUD objective.

20. Regulation: 24 CFR 811.107(a)(2), 811.108(a)(1), 811.108(a)(3), 811.114(b)(3), 811.114(d), 811.115(b)

Project/Activity: Warren, Ohio HA refunding of bonds which financed a Section 8 assisted project, the Walnut Towers Apartments (FHA No. 046–35568).

Nature of Requirement: The Regulations set conditions under which HUD may grant a Section 11(b) letter of exemption of multifamily housing revenue bonds from Federal income taxation and authorize call of debentures prior to maturity.

Granted by: Nicolas P. Retsinas, Assistant Secretary for Housing—Federal Housing Commissioner.

Dated Granted: May 16, 1994.

Reasons Waived: The part 811 regulations cited above were intended for original bond financing transactions and do fit the terms of refunding transactions. To credit enhance refunding bonds not fully secured by the FHA mortgage amount, HUD also agrees not to exercise its option under 24 CFR 207.259(e) to call debentures prior to maturity. This refunding proposal was approved by HUD on February 24, 1994. Refunding bonds have been priced to an average yield of 6.86%. The tax-exempt refunding bond issue of $4,600,000 at current low-interest rates will save Section 8 subsidy. The Treasury also gains long-term tax revenue benefits through replacement of outstanding tax-exempt coupons of 10.5% at the call date with tax-exempt bonds at lower current yields. The refunding will also substantially reduce the FHA mortgage interest rate at expiration of the HAP contract, from 10.5% to 7.25%, thus reducing FHA mortgage insurance risk. The refunding serves the important public purposes of reducing HUD's Section 8 program costs, improving Treasury tax revenues (helping reduce the budget deficit), and increasing the likelihood that projects will continue to provide housing for low-income families after subsidies expire, a priority HUD objective.

21. Regulation: 24 CFR 811.107(a)(2), 811.107(b), 811.108(a)(1), 811.108(a)(3), 811.114(b)(3), 811.114(d), 811.115(b)

Project/Activity: Villa Excelsior HDC refunding of bonds which financed a Section 8 assisted project in Providence, Rhode Island, the Villa Excelsior Apartments (FHA No. 016–35074).

Nature of Requirement: The Regulations set conditions under which HUD may grant a Section 11(b) letter of exemption of multifamily housing revenue bonds from Federal income taxation and authorize call of debentures prior to maturity.

Granted by: Nicholas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: May 18, 1994.

Reasons Waived: The part 811 regulations cited above were intended for original bond financing transactions and do not fit the terms of refunding transactions. To credit enhance refunding bonds not fully secured by the FHA mortgage amount, HUD also agrees not to exercise its option under 24 CFR 207.259(e) to call debentures prior to maturity. This refunding proposal was approved by HUD on April 20, 1994. Refunding bonds have been priced to an average yield of 6.79%. The tax-exempt refunding bond issue of $3,565,000 at current low-interest rates will save Section 8 subsidy. The Treasury also gains long-term tax revenue benefits through replacement of outstanding tax-exempt coupons of 11.25% at the call date with tax-exempt bonds at lower current yields. The refunding will also substantially reduce the FHA mortgage interest rate at expiration of the HAP contract, from 11.51% to 7.2%, thus reducing FHA mortgage insurance risk. The refunding serves the important public purposes of reducing HUD's Section 8 program costs, improving Treasury tax revenues (helping reduce

the budget deficit), and increasing the likelihood that projects will continue to provide housing for low-income families after subsidies expire, a priority HUD objective.

22. Regulation: 24 CFR 811.107(a)(2), 811.107(b), 811.108(a)(1), 811.108(a)(3), 811.114(b)(3), 811.114(d), 811.115(b)

Project/Activity: Charlotte, North Carolina HDC refunding of bonds which financed a Section 8 assisted project, the Vantage 78 Apartments (FHA No. 053–35283).

Nature of Requirement: The Regulations set conditions under which HUD may grant a Section 11(b) letter of exemption of multifamily housing revenue bonds from Federal income taxation and authorize call of debentures prior to maturity.

Granted by: Nicholas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: May 26, 1994.

Reasons Waived: The part 811 regulations cited above were intended for original bond financing transactions and do not fit the terms of refunding transactions. To credit enhance refunding bonds not fully secured by the FHA mortgage amount, HUD also agrees not to exercise its option under 24 CFR 207.259(e) to call debentures prior to maturity. This refunding proposal was approved by HUD on January 25, 1994. Refunding bonds have been priced to an average yield of 6.94%. The tax-exempt refunding bond issue of $3,255,000 at current low-interest rates will save Section 8 subsidy. The Treasury also gains long-term tax revenue benefits through replacement of outstanding tax-exempt coupons of 7.8% at the call date with tax-exempt bonds at lower yields. The refunding will also substantially reduce the FHA mortgage interest rate at expiration of the HAP contract, from 7.55% to 6.55%, thus reducing FHA mortgage insurance risk. The refunding serves the important public purposes of reducing HUD's Section 8 program costs, improving Treasury tax revenues (helping reduce the budget deficit), and increasing the likelihood that projects will continue to provide housing for low-income families after subsidies expire, a priority HUD objective.

23. Regulation: 24 CFR 811.107(a)(2), 811.108(a)(1), 811.108(a)(3), 811.114(b)(3), 811.114(d), 811.115(b)

Project/Activity: Town of Bremen, Indiana refunding of bonds which financed a Section 8 assisted project, the Bremen Village Apartments (FHA No. 073–35457).

Nature of Requirement: The Regulations set conditions under which HUD may grant a Section 11(b) letter of exemption of multifamily housing revenue bonds from Federal income taxation and authorize call of debentures prior to maturity.

Granted by: Nicholas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: May 27, 1994.

Reasons Waived: The part 811 regulations cited above were intended for original bond financing transactions and do not fit the terms of refunding transactions. To credit enhance refunding bonds not fully secured by the FHA mortgage amount, HUD also agrees not to exercise its option under 24 CFR 207.259(e) to call debentures prior to maturity. This refunding proposal was approved by HUD on May 18, 1994. Refunding bonds have been priced to an average yield of 7.0%. The tax-exempt refunding bond issue of $1,340,000 at current low-interest rates will save Section 8 subsidy. The Treasury also gains long-term tax revenue benefits through replacement of outstanding tax-exempt coupons of 12% at the call date with tax-exempt bonds at lower yields. The refunding will also substantially reduce the FHA mortgage interest rate at expiration of the HAP contract, from 12% to 8.1%, thus reducing FHA mortgage insurance risk. The refunding serves the important public purposes of reducing HUD's Section 8 program costs, improving Treasury tax revenues (helping reduce the budget deficit), and increasing the likelihood that projects will continue to provide housing for low-income families after subsidies expire, a priority HUD objective.

24. Regulation: 24 CFR 811.107(a)(2), 811.108(a)(1), 811.108(a)(2), 811.108(a)(3), 811.114(b)(3), 811.114(d), 811.115(b)

Project/Activity: Lancaster, Pennsylvania HFC refunding of bonds which financed a Section 8 assisted project, the Lancaster Apartments (FHA No. 073–35201).

Nature of Requirement: The Regulations set conditions under which HUD may grant a Section 11(b) letter of exemption of multifamily housing revenue bonds from Federal income taxation and authorize call of debentures prior to maturity.

Granted by: Nicholas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: June 10, 1994.

Reasons Waived: The part 811 regulations cited above were intended for original bond financing transactions and do not fit the terms of refunding transactions. To credit enhance refunding bonds not fully secured by the FHA mortgage amount, HUD also agrees not to exercise its option under 24 CFR 207.259(e) to call debentures prior to maturity. This refunding proposal was approved by HUD on May 20, 1994. Refunding bonds have been priced to an average yield of 6.8%. The tax-exempt refunding bond issue of $1,625,000 at current low-interest rates will save Section 8 subsidy. The Treasury also gains long-term tax revenue benefits through replacement of outstanding tax-exempt coupons of 11.75% at the call date with tax-exempt bonds yielding 6.8%. The refunding will also substantially reduce the FHA mortgage interest rate at expiration of the HAP contract, from 12% to 8.3%, thus reducing FHA mortgage insurance risk. The refunding serves the important public purposes of reducing HUD's Section 8 program costs, improving Treasury tax revenues (helping reduce the budget deficit), and increasing the likelihood that projects will continue to provide housing for low-income families after subsidies expire, a priority HUD objective.

25. Regulation: 24 CFR 811.107(a)(2), 811.107(b), 811.108(a)(1), 811.108(a)(3), 811.114(b)(3), 811.114(d), 811.115(b)

Project/Activity: Dawson Manor HDC refunding of bonds which financed a Section 8 assisted project, the Dawson Manor Apartments (FHA No. 072–35085).

Nature of Requirement: The Regulations set conditions under which HUD may grant a Section 11(b) letter of exemption of multifamily housing revenue bonds from Federal income taxation and authorize call of debentures prior to maturity.

Granted by: Nicholas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: June 10, 1994.

Reasons Waived: The part 811 regulations cited above were intended for original bond financing transactions and do not fit the terms of refunding transactions. To credit enhance refunding bonds not fully secured by the FHA mortgage amount, HUD also agrees not to exercise its option under 24 CFR 207.259(e) to call debentures prior to maturity. This refunding proposal was approved by HUD on April 28, 1994. Refunding bonds have been priced to an average yield of 6.46%. The tax-exempt refunding bond issue of $3,185,000 at current low-interest rates will save Section 8 subsidy. The Treasury also gains long-term tax revenue benefits through

replacement of outstanding tax-exempt coupons of 10¼%–13% at the call date with tax-exempt bonds yielding 6.46%. The refunding will also substantially reduce the FHA mortgage interest rate at expiration of the HAP contract, from 11.52% to 6.9%, thus reducing FHA mortgage insurance risk. The refunding serves the important public purposes of reducing HUD's Section 8 program costs, improving Treasury tax revenues (helping reduce the budget deficit), and increasing the likelihood that projects will continue to provide housing for low-income families after subsidies expire, a priority HUD objective.

26. Regulation: 24 CFR 811.107(a)(2), 811.107(b), 811.108(a)(1), 811.108(a)(2), 811.108(a)(3), 811.114(b)(3), 811.114(d), 811.115(b)

Project/Activity: Warren (Ohio) Metropolitan Housing Authority refunding of bonds which financed a Section 8 assisted project, the Cambridge Arms II Apartments, FHA No. 046–35572.

Nature of Requirement: The Regulations set conditions under which HUD may grant a Section 11(b) letter of exemption of multifamily housing revenue bonds from Federal income taxation and authorize call of debentures prior to maturity.

Granted by: Nicolas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: June 28, 1994.

Reasons Waived: The part 811 regulations cited above were intended for original bond financing transactions and do not fit the terms of refunding transactions. To credit enhance refunding bonds not fully secured by the FHA mortgage amount, HUD also agrees not to exercise its option under 24 CFR 207.259(e) to call debentures prior to maturity. This refunding proposal was approved by HUD on January 11, 1994. Refunding bonds have been priced to an average yield of 6.56%. The tax-exempt refunding bond issue of $4,340,000 at current low-interest rates will save Section 8 subsidy. The Treasury also gains long-term tax revenue benefits through replacement of outstanding tax-exempt coupons of 9.9% at the call date with tax-exempt bonds yielding 6.56%. The refunding will also substantially reduce the FHA mortgage interest rate at expiration of the HAP contract, from 10.125% to 6.75%, thus reducing FHA mortgage insurance risk. The refunding serves the important public purposes of reducing HUD's Section 8 program costs, improving Treasury tax revenues (helping reduce the budget deficit), and increasing the likelihood that projects will continue to provide housing for low-income families after subsidies expire, a priority HUD objective.

27. Regulation: 24 CFR 811.114(d), 811.115(b), 811.117

Project/Activity: Carbon County, PA HA refunding of bonds which financed a Section 8 assisted project, Palmerton Elderly Apartments, HUD No. PA26–0047–001.

Nature of Requirement: The Regulations set conditions under which HUD may grant a Section 11(b) letter of exemption of multifamily housing revenue bonds from Federal income taxation.

Granted by: Nicolas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 21, 1994.

Reasons Waived: The part 811 regulations cited above were intended for original bond financing transactions and do not fit the terms of refunding transactions under Section 103 of the Tax Code. This refunding proposal was approved by HUD on March 25, 1993. Refunding bonds have been priced to an average yield of 5.74%. The tax-exempt refunding bond issue of $2,470,000 at current low-interest rates will save Section 8 subsidy. The Treasury also gains long-term tax revenue benefits through replacement of outstanding tax-exempt coupons of 9%–9.5% at the call date with tax-exempt bonds yielding 5.74%. The refunding serves the important public purposes of reducing HUD's Section 8 program costs, improving Treasury tax revenues (helping reduce the budget deficit), and increasing the likelihood that projects will continue to provide housing for lower-income families after subsidies expire, a priority HUD objective.

28. Regulation: 24 CFR 811.114(d), 811.115(b), and 811.117

Project/Activity: Burlington, North Carolina HA refunding of bonds which financed a Section 8 assisted project, Alamance Plaza Apartments, FHA No. 053–35319.

Nature of Requirement: The Regulations set conditions under which HUD may grant a Section 11(b) letter of exemption of multifamily housing revenue bonds from Federal income taxation.

Granted by: Nicolas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: June 08, 1994.

Reasons Waived: The part 811 regulations cited above were intended for original bond financing transactions and do not fit the terms of refunding transactions under Section 103 of the Tax Code. To credit enhance refunding bonds not fully secured by the FHA mortgage amount, HUD also agrees not to exercise its option under 24 CFR 207.259(e) to call debentures prior to maturity. This refunding proposal was approved by HUD on September 23, 1993. Refunding bonds have been priced to an average yield of 6.8%. The tax-exempt refunding bond issue of $2,795,000 at current low-interest rates will save Section 8 subsidy. The Treasury also gains long-term tax revenue benefits through replacement of outstanding tax-exempt coupons of 10.8%–11.5% at the call date in 1994 with tax-exempt bonds yielding 6.8%. The refunding will also substantially reduce the mortgage interest rate at expiration of the HAP contract from 12% to 7%, thus reducing FHA mortgage insurance risk. The refunding serves the important public purposes of reducing HUD's Section 8 program costs, improving Treasury tax revenues (helping reduce the budget deficit), and increasing the likelihood that projects will continue to provide housing for lower-income families after subsidies expire, a priority HUD objective.

29. Regulation: 24 CFR 811.114(d), 811.115(b), 811.117

Project/Activity: The Housing Finance Authority of Dade County, Florida refunding of bonds which financed a Section 8 assisted project, Lincoln Fields Apartments, FHA No. 066–35161.

Nature of Requirement: The Regulations set conditions under which HUD may grant a Section 11(b) letter of exemption of multifamily housing revenue bonds from Federal income taxation and authorize call of debentures prior to maturity.

Granted by: Nicolas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: June 28, 1994.

Reasons Waived: The part 811 regulations cited above were intended for original bond financing transactions and do not fit the terms of refunding transactions under Section 103 of the Tax Code. To credit enhance refunding bonds not fully secured by the FHA mortgage amount, HUD also agrees not to exercise its option under 24 CFR 207.259(e) to call debentures prior to maturity. This refunding proposal was approved by HUD on February 9, 1993. Refunding bonds have been priced to an average yield of 6.29%. The tax-exempt refunding bond issue of $6,700,000 at current low-interest rates will save Section 8 subsidy. The Treasury also gains long-term tax revenue benefits through replacement of outstanding tax-exempt coupons of 10.25%–11.25% at

the call date in 1994 with tax-exempt bonds at a substantially lower interest rate. The refunding will also substantially reduce the FHA mortgage interest rate at expiration of the HAP contract, from 11.78% to 6.75%, thus reducing FHA mortgage insurance risk, and will provide funds of $435,000 for project repairs. The refunding serves the important public purposes of reducing HUD's Section 8 program costs, improving Treasury tax revenues (helping reduce the budget deficit), and increasing the likelihood that projects will continue to provide housing for lower-income families after subsidies expire, a priority HUD objective.

30. Regulation: 24 CFR 811.114(d)

Project/Activity: Cranbrook HC of Ann Arbor, Michigan refunding of bonds which financed a Section 8 assisted project, the Cranbrook Apartments, HUD No. MI–28–0013–032.

Nature of Requirement: The Regulations set conditions under which HUD may grant a Section 11(b) letter of exemption of multifamily housing revenue bonds from Federal income taxation.

Granted by: Nicolas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: June 29, 1994.

Reasons Waived: The part 811 regulations cited above were intended for original bond financing transactions and do not fit the terms of refunding bonds to be issued as taxable obligations. Refunding bonds will be issued in an amount sufficient to transfer ownership of the project to a non-profit entity which agrees to extend low-income occupancy for ten years after expiration of the Section 8 Housing Assistance Payments Contract. The Treasury also gains long-term tax revenue benefits through replacement of outstanding tax-exempt bonds with taxable debt. The refunding serves the important public purposes of improving Treasury tax revenues (helping reduce the budget deficit), and increasing the likelihood that projects will continue to provide housing for low-income families after subsidies expire, a priority HUD objective.

Note to Readers: The person to be contacted for additional information about the waiver-grant items in this listing is: Mr. William O. Maynard, Field Coordination Officer, U.S. Department of Housing and Urban Development, Office of Community Planning and Development, 451 7th Street, SW, Washington, DC 20410–7000, Telephone: (202) 708–2565 (This is not a toll-free number).

31. Regulation: 24 CFR 570.200(a)(3)

Project/activity: Waiver of requirements that 70 percent of funds, over a period not to exceed three years, are for activities that benefit low and moderate income persons at 42 U.S.C. 5304(b)(3)(A) and 24 CFR 570.200(a)(3) for CDBG entitlement grantees receiving funding under the Emergency Supplemental Appropriations Act of 1994 (Pub. L. 103–211) for emergency expenses resulting from the January 1994 earthquake in Southern California or the Midwest floods of 1993.

Nature of Requirement: 24 CFR 570.200(a)(3) requires that, over a period not to exceed three years, 70 percent of the aggregate of CDBG expenditures be for activities meeting the criteria at 24 CFR 570.208(a) of benefiting low- and moderate-income persons.

Granted by: Andrew Cuomo, Assistant Secretary for Community Planning & Development.

Dated Granted: April 1, 1994; April 22, 1994.

Reasons Waived: Because the damage to community development and housing was so extensive, without regard to income, it is important to give grantees maximum flexibility to carry out activities within the confines of the CDBG program national objectives. The Department does not intend to waive the requirements that activities meet one of the national objectives at 42 U.S.C. 5304(b)(3) and 24 CFR 570.200(a)(2).

32. Regulation: 24 CFR 570.200(a)(5) and (h)

Project/Activity: Waiver of restrictions on the use of CDBG funds to reimburse local funds used to pay for pre-agreement costs at 24 CFR 570.200(a)(5) and (h), for the CDBG Entitlement program, from the incident date of the earthquake, January 17, 1994, and from the beginning of the ''Incident Period'' for the Midwest floods, for costs incurred on or after that date, for CDBG entitlement grantees receiving funding under the Emergency Supplemental Appropriations Act of 1994 (Pub. L. 103–211) for emergency expenses resulting from the January 1994 earthquake in Southern California or the Midwest floods of 1993.

Nature of Requirement: 24 CFR 570.200(h) permits reimbursement of certain eligible costs incurred prior to the date of the grant agreement. 24 CFR 570.200(a)(5) limits pre-agreement costs to those described in subparagraph 570.200(h), e.g., for environmental assessments, planning and capacity building, engineering and design costs, pre-acquisition costs.

Granted by: Andrew Cuomo, Assistant Secretary for Community Planning & Development.

Date Granted: April 1, 1994; April 22, 1994.

Reasons Waived: The urgency of the need to begin recovery may require that grantees spend local funds on CDBG eligible activities before the CDBG funds are awarded. Waiver of these provisions would permit reimbursement of local funds used from the date of the earthquake and the Midwest floods.

33. Regulation: 24 CFR 570.201(e)(1) or (2)

Project/Activity: Waiver of the limitation on the amount of funds used for public services at 42 USC 5305(a)(8) and 24 CFR 570.201(e)(1) or (2), as applicable to the affected grantee, to hereby modify those provisions to allow an increase of 10 percent above the previous limitation, for CDBG entitlement grantees receiving funding under the Emergency Supplemental Appropriations Act of 1994 (Pub. L. 103–211) for emergency expenses resulting from the January 1994 earthquake in Southern California or the Midwest floods of 1993.

Nature of Requirement: 24 CFR 570.201(e)(1) and (2) set the limitations for use of CDBG funds for public services at 15 percent of each grant plus program income or a higher percentage, in the case of Los Angeles and Los Angeles County, as provided in the 1982 and 1983 appropriations acts.

Granted by: Andrew Cuomo, Assistant Secretary for Community Planning & Development.

Date Granted: April 1, 1994; April 22, 1994.

Reasons Waived: Disaster response may require additional level of public services and public services not previously provided by grantees during emergency and recovery periods, e.g., day care, housing counseling, legal services, health services, safety services.

34. Regulation: 24 CFR 570.204(c)(1)

Project/Activity: Waiver of requirements at 24 CFR 570.204(c)91) for the CDBG entitlement program, as necessary, to authorize a Community Housing Development Organization (CHDO), as defined at 24 CFR 92.2, that has been designated to receive HOME Investment Partnership funds to carry out activities under 24 CFR 570.204(a), for CDBG entitlement grantees receiving funding under the Emergency Supplemental Appropriations Act of 1994 (Pub. L. 103–211) for emergency expenses resulting from the January 1994 earthquake in Southern California or the Midwest floods of 1993.

Nature of Requirement: 24 CFR 570.204(c)(1) provides the requirements for qualifying as a ''neighborhood-based nonprofit organization.''

Granted by: Andrew Cuomo, Assistant Secretary for Community Planning & Development.

Date Granted: April 1, 1994; April 22, 1994.

Reasons Waived: This waiver provides consistency between the CDBG and HOME programs with regard to nonprofit organizations, and recognizes such CHDOs as qualified special subrecipients under § 570.204(c)(1), eligible to carry out new construction of housing where needed to revitalize neighborhoods damaged by the earthquake and the Midwest floods.

35. Regulation: 24 CFR 570.207(a)(1)

Project/Activity: Waiver of restrictions on the repair or reconstruction of buildings used for the general conduct of government at 42 USC 5305 (a)(2) and (a)(14), and 24 CFR 570.207(a)(1) for CDBG entitlement grantees receiving funding under the Emergency Supplemental Appropriations Act of 1994 (Pub. L. 103–211) for emergency expenses resulting from the January 1994 earthquake in Southern California or the Midwest floods of 1993.

Nature of Requirement: 24 CFR 570.207(a)(1) prohibits providing CDBG assistance to activities for buildings, or portions thereof, used for the general conduct of government.

Granted by: Andrew Cuomo, Assistant Secretary for Community Planning & Development.

Date Granted: April 1, 1994; April 22, 1994.

Reasons Waived: Waiver is required because of the significant damage to public buildings.

36. Regulation: 24 CFR 570.207(b)(3)

Project/Activity: Waiver of prohibitions on new housing construction at 24 CFR 570.207(b)(3) for the CDBG entitlement program, for CDBG entitlement grantees receiving funding under the Emergency Supplemental Appropriations Act of 1994 (Pub. L. 103–211) for emergency expenses resulting from the January 1994 earthquake in Southern California or the Midwest floods of 1993.

Nature of Requirement: Prohibits use of funds for new housing construction except for assisted housing under section 17 of the United States Housing Act of 1937, housing constructed by a special subrecipient, pursuant to § 570.204(a), and last resort housing under the Uniform Relocation Act pursuant to 24 CFR Part 42.

Granted by: Andrew Cuomo, Assistant Secretary for Community Planning & Development.

Date Granted: April 1, 1994; April 22, 1994.

Reasons Waived: Because of the large number of housing units destroyed in the Midwest floods and the Northridge earthquake, the flexibility to permit grantees to directly provide new construction assistance is essential in furthering the purposes of disaster recovery.

37. Regulation: 24 CFR 570.208(a)(4)

Project/Activity: Waiver of job retention documentation requirements for CDBG entitlement grantees receiving funding under the Emergency Supplemental Appropriations Act of 1994 (Pub. L. 103–211) for emergency expenses resulting from the January 1994 earthquake in Southern California or the Midwest floods of 1993.

Nature of Requirement: The provisions at 24 CFR 570.208(a)(4), for the CDBG Entitlement program that units of general local government are required, for job retention activities, to document that either or both of the following conditions apply to at least 51 percent of the jobs at the time CDBG assistance is provided: (1) The jobs are known to be held by low or moderate income persons, or (2) the jobs can be expected to turn over within two years and be filled by or made available to low or moderate income persons upon turnover. Instead, units of local governments will be able to presume that the majority of jobs retained as a result of the CDBG funds meet one or both of these conditions. Only the portions of these provisions pertaining to job retention are being waived.

Granted by: Andrew Cuomo, Assistant Secretary for Community Planning & Development.

Date Granted: April 1, 1994; April 22, 1994.

Reasons Waived: From the high estimates of businesses and jobs lost, it is clear that large numbers of persons will have been out of work and experiencing severe financial hardship. The majority of jobs retained as a result of CDBG assistance can therefore be presumed to benefit persons who are, or will soon become, low or moderate-income persons due to job loss.

38. Regulation: 24 CFR 570.208(b)

Project/Activity: Waiver of requirements not mandated by statute at 24 CFR 570.208(b) that qualify activities as aiding in the prevention or elimination of slums or blight for CDBG entitlement grantees receiving funding under the Emergency Supplemental Appropriations Act of 1994 (Pub. L. 103–211) for emergency expenses resulting from the January 1994 earthquake in Southern California.

Nature of Requirement: 24 CFR 570.208(b) provides the criteria for activities that will be considered to aid in the prevention or elimination of slums or blight on an area basis, on a spot basis, and in an urban renewal area.

Granted by: Andrew Cuomo, Assistant Secretary for Community Planning & Development.

Date Granted: April 1, 1994.

Reasons Waived: This waiver provides the grantee the latitude to address slum and blighted areas effected by the earthquake.

39. Regulation: 24 CFR 570.606(c)(1)

Project/Activity: Waiver of one-for-one replacement requirements at 42 USC 5304(d)(2) and 24 CFR 570.606(c)(1) for low and moderate income dwelling units (1) damaged by the disaster, (2) for which CDBG funds are used for demolition, and (3) which are not suitable for rehabilitation, for CDBG entitlement grantees receiving funding under the Emergency Supplemental Appropriations Act of 1994 (Pub. L. 103–211) for emergency expenses resulting from the January 1994 earthquake in Southern California or the Midwest floods of 1993.

Nature of Requirement: 24 CFR 570.606(c)(1) requires that all occupied and vacant occupiable low/moderate income dwelling units that are demolished or converted to a use other than as low/moderate income dwelling units in connection with a CDBG activity must be replaced with low/moderate income dwelling units.

Granted by: Andrew Cuomo, Assistant Secretary for Community Planning & Development.

Date Granted: April 1, 1994; April 22, 1994.

Reasons Waived: Not waiving this provision would discourage grantees from demolition and clearance of dwelling units that would otherwise be appropriate for CDBG assistance. Such inaction would inhibit recovery efforts and add to health and safety problems.

40. Regulation: 24 CFR 570.606(C)(2)

Project/Activity: Waiver of requirement to provide ''section 104(d)'' relocation assistance to the owners of real property purchased under a qualified buyout program, as defined in section 4(b) of Pub. L. 103–181, for CDBG entitlement grantees receiving funding under the Emergency Supplemental Appropriations Act of 1994 (Pub. L. 103–211) for emergency

expenses resulting from the Midwest floods of 1993.

Nature of Requirement: 24 CFR 570.606(C)(2) requires grantees to provide relocation assistance under section 104(d) of the Housing and Community Development Act of 1974, as amended, to all persons displaced as a result of demolition or conversion in connection with a CDBG-assisted activity.

Granted by: Andrew Cuomo, Assistant Secretary for Community Planning & Development.

Date Granted: April 22, 1994.

Reasons Waived: On December 3, 1993, the President signed the Hazard Mitigation and Relocation Assistance Act of 1993 (Pub. L. 103–181). Section 4 of that Act excluded the purchase of real property under a ''qualified buyout program'' from all provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Pub. L. 91–646)(URA). Only voluntary transactions are permitted under qualified buyout programs. This waiver of 104(d) relocation assistance to owners is consistent with Pub. L. 103–181. Low- and moderate-income tenants displaced by conversion or demolition in connection with an assisted project will continue to be eligible for section 104(c) relocation assistance.

Note to the reader: The person to be contacted for additional information about these waiver-grant items is: Margaret Milner, Director, Office of Elderly & Assisted Housing, U.S. Department of Housing & Urban Development, 451 7th Street, SW., Room 6130, Washington, DC 20410–7000, Phone: 202–708–4542.

41. Regulation: 24 CFR 842 and 243—Pet Ownership

PROJECT/ACTIVITY

Project name	Project No.	Regional office
Ecology House	121–HH011	Seattle.

Nature of Requirement: This Regulation provides that no owner or manager of federally assisted rental housing for the elderly or handicapped may as a condition of tenancy or otherwise, prohibit or prevent tenants of such housing from owning or keeping common household pets in their units or restrict or discriminate against persons in connection with admission to, or continued occupancy of such housing because they own common household pets.

Granted by: Nicolas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: Waivers approved between March 1, 1994 and June 1994.

Reason Waived: Due to the fact that this project was built specifically for persons with Multiple Chemical Sensitivities/Environmental Illness where a significant number of people with this disability are adversely affected by animal hair, dander, and excrement this waiver was granted. However, this waiver did not include service animals since service animals are not considered pets.

42. Regulation: 24 CFR 890.215(A)(2)—Units With Three or More Bedrooms Be Developed To Serve Only Disabled Households of One or Two Disabled Parents With Children

PROJECT/ACTIVITY

Project name	Project No.	Regional office
Life Quest Hsg. Inc..	176–HD002	Seattle.

Nature of Requirement: The Regulation requires that units with three or more bedrooms may be developed to serve only disabled households of one or two disabled parents with children.

Granted by: Nicolas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: Waivers approved between March 1, 1994 and June 1994.

Reason Waived: Waiver granted to facilitate the development of the project, which has been occupied under a Property Disposition Dollar a Year Lease Program. This would permit unrelated individuals to remain in the home.

43. Regulation: 24 CFR 890.220(a)—Ineligible Amenities

PROJECT/ACTIVITY

Project name	Project No.	Regional office
Agape House ...	062–HD020	Atlanta
Rodney Scheel House.	075–HD009	Chicago
N.W. AIDS Foundation.	127–HD003	Seattle.

Nature of Requirement: The Regulation cited above provides that projects must be modest in design. Amenities not eligible for HUD funding include individual unit balconies and decks, atriums, bowling alleys, swimming pools, saunas and jacuzzis. Dishwashers, trash compactors, and washers and dryers in individual units will not be funded in independent living facilities.

Granted by: Nicolas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: Waivers approved between March 1, 1994 and June 1994.

Reason Waived: These waivers were granted for this population because the garbage disposals and dishwashers in the individual units are necessary due to health considerations. These amenities will aid in minimizing the risk of infection for individuals whose immune systems are already compromised by the HIV.

44. Regulation: 24 CFR 890.230(4)(g)—Projects Located Adjacent to Prohibited Facilities

PROJECT/ACTIVITY

Project name	Project No.	Regional office
New York Society Deaf.	012–HD017	New York
Life Quest Hsg. Inc.	176–HD002	Seattle

Nature of Requirement: The Regulation states that projects may not be located adjacent to the following facilities, or in areas where such facilities are concentrated; schools or day-care centers for persons with disabilities, workshops, medical facilities or other housing primarily serving persons with disabilities.

Granted by: Nicolas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: Waiver approved between March 1, 1994 and June 1994.

Reason Waived: New York Society for the Deaf waiver granted because of the site's proximity to the sponsor's main office, availability of suitable City-owned property, and the availability of services and transportation required for the intended residents. The waiver for Life Quest Housing Inc. was granted to facilitate the development of the project, which is adjacent to an existing project for persons with disabilities, since it had already been occupied under the Property Disposition Dollar a Year Lease Program.

45. Regulation: 24 CFR 890.305(c)—Transfer of Fund Reservation From One Owner Corporation to Another

Project name	Project No.	Regional office
Parkway Hsg. Inc..	063–HH004	Atlanta.
New Outlook	063–HH005	Atlanta.

Nature of Requirement: The Regulation provides that no part of the funds reserved may be transferred by

the Sponsor, except to the Owner caused to be formed by the Sponsor. This action must be accomplished prior to issuance of a Conditional Commitment.

Granted by: Nicolas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: Waivers approved between March 1, 1994 and June 1994.

Reason Waived: These waivers were granted due to the cost savings that may be realized by the development of one project rather than two. However, these waivers were subject to the determination that the New Outlook project, as amended, would not have adversely altered the competition for the Fiscal Year 1990 funding round.

Note to reader: The person to be contacted for additional information about these waiver-grant items is: Gary Van Buskirk, Director, Homeownership Division, Office of Resident Initiatives, Department of Housing and Urban Development, 451 Seventh Street SW., Room 4112, Washington, DC 20410, Phone: (202) 708–4233. (This is not a toll-free number.)

46. Regulation: 24 CFR part 904 subpart B (Turnkey III Homeownership Opportunity Program) and Corresponding Provisions of the Turnkey III Handbook (7495.3)

Project Activity: Duluth, Minnesota, Redevelopment Housing Authority (DRHA), Turnkey III Homeownership Opportunity Programs Project MN–003009.

Nature of Requirement: 24 CFR part 904 subpart B and the Turnkey III Handbook require that upon sale of a homeownership unit that the monies received be remitted to HUD to reduce the capital indebtedness on the project. Excess Residual Receipts and or Operating Reserves are also to be remitted to HUD.

Granted by: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing, P.

Date Granted: October 26, 1993.

Reason Waived: Project debt forgiveness was authorized by the provisions of Section 3004 of the Housing and Community Development Reconciliation Amendments of 1985 (the Amendments), Pub. L. 99–272 (April 7, 1986), which amends Section 4 of the United States Housing Act of 1937. The Amendments authorized the Secretary of HUD to forgive outstanding principal and interest on loans made by the Secretary to Public Housing Agencies (PHAs)/Indian Housing Authorities (IHAs) and to cancel the terms of any contract with respect to repayment.

Turnkey III debt forgiveness, as authorized above, is implemented according to existing HUD procedures.

The housing authority has shown good cause and demonstrated compliance with all applicable regulatory requirements for debt forgiveness.

47. Regulation: 24 CFR part 904 subpart B (Turnkey III Homeownership Opportunity Program) and Corresponding Provisions of the Turnkey III Handbook (7495.3)

Project/Activity: Richmond, Indiana Housing Authority (HACR), Turnkey III Homeownership Opportunity Programs, Project IN 9–5.

Nature of Requirement: 24 CFR part 904 subpart B and the Turnkey III Handbook require that upon sale of a homeownership unit that the monies received be remitted to HUD to reduce the capital indebtedness on the project. Excess Residual Receipts and or Operating Reserves are also to be remitted to HUD.

Granted by: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing, P.

Date Granted: November 12, 1993.

Reason Waived: Project debt forgiveness was authorized by the provisions of Section 3004 of the Housing and Community Development Reconciliation Amendments of 1985 (the Amendments), Pub. L. 99–272 (April 7, 1986), which amends Section 4 of the United States Housing Act of 1937. The Amendments authorized the Secretary of HUD to forgive outstanding principal and interest on loans made by the Secretary to Public Housing Agencies (PHAs)/Indian Housing Authorities (IHAs) and to cancel the terms of any contract with respect to repayment.

Turnkey III debt forgiveness, as authorized above, is implemented according to existing HUD procedures.

The housing authority has shown good cause and demonstrated compliance with all applicable regulatory requirements for debt forgiveness.

48. Regulation: 24 CFR part 904 subpart B (Turnkey III Homeownership Opportunity Program) and Corresponding Provisions of the Turnkey III Handbook (7495.3)

Project/Activity: The Cambridge, Massachusetts Housing Authority (CHA), Turnkey III Homeownership Opportunity Program Project MA 3–15.

Nature of Requirement: 24 CFR part 904 subpart B and the Turnkey III Handbook require that upon sale of a homeownership unit that the monies received be remitted to HUD to reduce the capital indebtedness on the project. Excess Residual Receipts and or Operating Reserves are also to be remitted to HUD.

Granted by: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing, P.

Date Granted: March 10, 1994.

Reason Waived: Project debt forgiveness was authorized by the provisions of Section 3004 of the Housing and Community Development Reconciliation Amendments of 1985 (the Amendments), Pub. L. 99–272 (April 7, 1986), which amends Section 4 of the United States Housing Act of 1937. The Amendments authorized the Secretary of HUD to forgive outstanding principal and interest on loans made by the Secretary to Public Housing Agencies (PHAs)/Indian Housing Authorities (IHAs) and to cancel the terms of any contract with respect to repayment.

Turnkey III debt forgiveness, as authorized above, is implemented according to existing HUD procedures.

The housing authority has shown good cause and demonstrated compliance with all applicable regulatory requirements for debt forgiveness.

49. Regulation: 24 CFR part 904 subpart B (Turnkey III Homeownership Opportunity Program) and Corresponding Provisions of the Turnkey III Handbook (7495.3)

Project/Activity: Shelby, North Carolina Department of Housing (CSDH), Turnkey III Homeownership Opportunity Program Project NC 34–5.

Nature of Requirement: 24 CFR part 904 subpart B and the Turnkey III Handbook require that upon sale of a homeownership unit that the monies received be remitted to HUD to reduce the capital indebtedness on the project. Excess Residual Receipts and or Operating Reserves are also to be remitted to HUD.

Granted by: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing, P.

Date Granted: March 16, 1994.

Reason Waived: Project debt forgiveness was authorized by the provisions of Section 3004 of the Housing and Community Development Reconciliation Amendments of 1985 (the Amendments), Pub. L. 99–272 (April 7, 1986), which amends Section 4 of the United States Housing Act of 1937. The Amendments authorized the Secretary of HUD to forgive outstanding principal and interest on loans made by the Secretary to Public Housing Agencies (PHAs)/Indian Housing

Authorities (IHAs) and to cancel the terms of any contract with respect to repayment.

Turnkey III debt forgiveness, as authorized above, is implemented according to existing HUD procedures.

The housing authority has shown good cause and demonstrated compliance with all applicable regulatory requirements for debt forgiveness.

50. Regulation: 24 CFR part 904 subpart B (Turnkey III Homeownership Opportunity Program) and Corresponding Provisions of the Turnkey III Handbook (7495.3)

Project/Activity: The Kankakee County, Illinois Housing Authority, Turnkey III Homeownership Opportunity Program Project IL 39–5.

Nature of Requirement: 24 CFR part 904 subpart B and the Turnkey III Handbook require that upon sale of a homeownership unit that the monies received be remitted to HUD to reduce the capital indebtedness on the project. Excess Residual Receipts and or Operating Reserves are also to be remitted to HUD.

Granted by: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing, P.

Date Granted: March 24, 1994.

Reason Waived: Project debt forgiveness was authorized by the provisions of Section 3004 of the Housing and Community Development Reconciliation Amendments of 1985 (the Amendments), Pub. L. 99–272 (April 7, 1986), which amends Section 4 of the United States Housing Act of 1937. The Amendments authorized the Secretary of HUD to forgive outstanding principal and interest on loans made by the Secretary to Public Housing Agencies (PHAs)/Indian Housing Authorities (IHAs) and to cancel the terms of any contract with respect to repayment.

Turnkey III debt forgiveness, as authorized above, is implemented according to existing HUD procedures.

The housing authority has shown good cause and demonstrated compliance with all applicable regulatory requirements for debt forgiveness.

51. Regulation: 24 CFR part 904 subpart B (Turnkey III Homeownership Opportunity Program) and Corresponding Provisions of the Turnkey III Handbook (7495.3)

Project/Activity: The Evansville, Indiana, Housing Authority, Turnkey III Homeownership Opportunity Program Project IN 16–09 (scattered sites).

Nature of Requirement: 24 CFR part 904 subpart B and the Turnkey III Handbook require that upon sale of a homeownership unit that the monies received be remitted to HUD to reduce the capital indebtedness on the project. Excess Residual Receipts and or Operating Reserves are also to be remitted to HUD.

Granted by: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing, P.

Date Granted: March 31, 1994.

Reason Waived: Project debt forgiveness was authorized by the provisions of Section 3004 of the Housing and Community Development Reconciliation Amendments of 1985 (the Amendments), Pub. L. 99–272 (April 7, 1986), which amends Section 4 of the United States Housing Act of 1937. The Amendments authorized the Secretary of HUD to forgive outstanding principal and interest on loans made by the Secretary to Public Housing Agencies (PHAs)/Indian Housing Authorities (IHAs) and to cancel the terms of any contract with respect to repayment.

Turnkey III debt forgiveness, as authorized above, is implemented according to existing HUD procedures.

The housing authority has shown good cause and demonstrated compliance with all applicable regulatory requirements for debt forgiveness.

52. Regulation: 24 CFR part 904 subpart B (Turnkey III Homeownership Opportunity Program) and Corresponding Provisions of the Turnkey III Handbook (7495.3)

Project/Activity: The Peoria, Illinois, Housing Authority, Turnkey III Homeownership Opportunity Program Project IL 3–6.

Nature of Requirement: 24 CFR part 904 subpart B and the Turnkey III Handbook require that upon sale of a homeownership unit that the monies received be remitted to HUD to reduce the capital indebtedness on the project. Excess Residual Receipts and or Operating Reserves are also to be remitted to HUD.

Granted by: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing, P.

Date Granted: April 1, 1994.

Reason Waived: Project debt forgiveness was authorized by the provisions of Section 3004 of the Housing and Community Development Reconciliation Amendments of 1985 (the Amendments), Pub. L. 99–272 (April 7, 1986), which amends Section 4 of the United States Housing Act of 1937. The Amendments authorized the Secretary of HUD to forgive outstanding principal and interest on loans made by the Secretary to Public Housing Agencies (PHAs)/Indian Housing Authorities (IHAs) and to cancel the terms of any contract with respect to repayment.

Turnkey III debt forgiveness, as authorized above, is implemented according to existing HUD procedures.

The housing authority has shown good cause and demonstrated compliance with all applicable regulatory requirements for debt forgiveness.

53. Regulation: 24 CFR part 904 subpart B (Turnkey III Homeownership Opportunity Program) and Corresponding Provisions of the Turnkey III Handbook (7495.3)

Project/Activity: The Virgin Islands Housing Authority, Turnkey III Homeownership Opportunity Programs Projects VO 001013, 001014, 001025.

Nature of Requirement: 24 CFR part 904 subpart B and the Turnkey III Handbook require that upon sale of a homeownership unit that the monies received be remitted to HUD to reduce the capital indebtedness on the project. Excess Residual Receipts and or Operating Reserves are also to be remitted to HUD.

Granted by: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing, P.

Date Granted: May 12, 1994.

Reason Waived: Project debt forgiveness was authorized by the provision of Section 3004 of the Housing and Community Development Reconciliation Amendments of 1985 (the Amendments), Pub. L. 99–272 (April 7, 1986), which amends Section 4 of the United States Housing Act of 1937. The Amendments authorized the Secretary of HUD to forgive outstanding principal and interest on loans made by the Secretary to Public Housing Agencies (PHAs)/Indian Housing Authorities (IHAs) and to cancel the terms of any contract with respect to repayment.

Turnkey III debt forgiveness, as authorized above, is implemented according to existing HUD procedures.

The housing authority has shown good cause and demonstrated compliance with all applicable regulatory requirements for debt forgiveness.

54. Regulation: 24 CFR part 904 subpart B (Turnkey III Homeownership Opportunity Program) and Corresponding Provisions of the Turnkey III Handbook (7495.3)

Project/Activity: Columbus, Ohio Metropolitan Housing Authority, Turnkey III Homeownership Opportunity Programs Projects OH–16–P001–011, 017, and 022 through 027.

Nature of Requirement: 24 CFR part 904 subpart B and the Turnkey III Handbook require that upon sale of a homeownership unit that the monies received be remitted to HUD to reduce the capital indebtedness on the project. Excess Residual Receipts and or Operating Reserves are also to be remitted to HUD.

Granted by: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing, P.

Date Granted: May 16, 1994.

Reason Waived: Project debt forgiveness was authorized by the provision of Section 3004 of the Housing and Community Development Reconciliation Amendments of 1985 (the Amendments), Pub. L. 99–272 (April 7, 1986), which amends Section 4 of the United States Housing Act of 1937. The Amendments authorized the Secretary of HUD to forgive outstanding principal and interest on loans made by the Secretary to Public Housing Agencies (PHAs)/Indian Housing Authorities (IHAs) and to cancel the terms of any contract with respect to repayment.

Turnkey III debt forgiveness, as authorized above, is implemented according to existing HUD procedures.

The housing authority has shown good cause and demonstrated compliance with all applicable regulatory requirements for debt forgiveness.

55. Regulation: 24 CFR part 904 subpart B (Turnkey III Homeownership Opportunity Program) and Corresponding Provisions of the Turnkey III Handbook (7495.3)

Project/Activity: East Grand Forks, Minnesota Redevelopment Authority, Turnkey III Homeownership Opportunity Programs Projects MN 04–5002.

Nature of Requirement: 24 CFR part 904 subpart B and the Turnkey III Handbook require that upon sale of a homeownership unit that the monies received be remitted to HUD to reduce the capital indebtedness on the project. Excess Residual Receipts and or Operating Reserves are also to be remitted to HUD.

Granted by: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing, P.

Date Granted: June 8, 1994.

Reason Waived: Project debt forgiveness was authorized by the provision of Section 3004 of the Housing and Community Development Reconciliation Amendments of 1985 (the Amendments), Pub. L. 99–272 (April 7, 1986), which amends Section 4 of the United States Housing Act of 1937. The Amendments authorized the Secretary of HUD to forgive outstanding principal and interest on loans made by the Secretary to Public Housing Agencies (PHAs)/Indian Housing Authorities (IHAs) and to cancel the terms of any contract with respect to repayment.

Turnkey III debt forgiveness, as authorized above, is implemented according to existing HUD procedures.

The housing authority has shown good cause and demonstrated compliance with all applicable regulatory requirements for debt forgiveness.

56. Regulation: 24 CFR part 904 subpart B (Turnkey III Homeownership Opportunity Program) and Corresponding Provisions of the Turnkey III Handbook (7495.3)

Project/Activity: Saginaw, Michigan Housing Commission, Turnkey III Homeownership Opportunity Programs Projects MI 06–08.

Nature of Requirement: 24 CFR part 904 subpart B and the Turnkey III Handbook require that upon sale of a homeownership unit that the monies received be remitted to HUD to reduce the capital indebtedness on the project. Excess Residual Receipts and or Operating Reserves are also to be remitted to HUD.

Granted by: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing, P.

Date Granted: June 8, 1994.

Reason Waived: Project debt forgiveness was authorized by the provision of Section 3004 of the Housing and Community Development Reconciliation Amendments of 1985 (the Amendments), Pub. L. 99–272 (April 7, 1986), which amends Section 4 of the United States Housing Act of 1937. The Amendments authorized the Secretary of HUD to forgive outstanding principal and interest on loans made by the Secretary to Public Housing Agencies (PHAs)/Indian Housing Authorities (IHAs) and to cancel the terms of any contract with respect to repayment.

Turnkey III debt forgiveness, as authorized above, is implemented according to existing HUD procedures.

The housing authority has shown good cause and demonstrated compliance with all applicable regulatory requirements for debt forgiveness.

57. Regulation: 24 CFR part 904 subpart B (Turnkey III Homeownership Opportunity Program) and Corresponding Provisions of the Turnkey III Handbook (7495.3)

Project/Activity: Cuyahoga Metropolitan Housing Authority (CMHA), Cleveland, Ohio Turnkey III Homeownership Opportunity Programs Projects OH 3–5, 3–43, 3–47, 3–48, 3–49, 3–51, and 3–60 thru 3–69.

Nature of Requirement: 24 CFR part 904 subpart B and the Turnkey III Handbook require that upon sale of a homeownership unit that the monies received be remitted to HUD to reduce the capital indebtedness on the project. Excess Residual Receipts and or Operating Reserves are also to be remitted to HUD.

Granted by: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing, P.

Date Granted: June 8, 1994.

Reason Waived: Project debt forgiveness was authorized by the provision of Section 3004 of the Housing and Community Development Reconciliation Amendments of 1985 (the Amendments), Pub. L. 99–272 (April 7, 1986), which amends Section 4 of the United States Housing Act of 1937. The Amendments authorized the Secretary of HUD to forgive outstanding principal and interest on loans made by the Secretary to Public Housing Agencies (PHAs)/Indian Housing Authorities (IHAs) and to cancel the terms of any contract with respect to repayment.

Turnkey III debt forgiveness, as authorized above, is implemented according to existing HUD procedures.

The housing authority has shown good cause and demonstrated compliance with all applicable regulatory requirements for debt forgiveness.

58. Regulation: 24 CFR part 904 Subpart B (Turnkey III Homeownership Opportunity Program) and Corresponding Provisions of the Turnkey III Handbook (7495.3)

Project/Activity: East St. Louis, Illinois Housing Authority (ESLHA), Turnkey III Homeownership Opportunity Programs Projects IL 1–14, 1–16, 1–18, 1–20, 1–22, 1–23, 1–24. To

permit conversion of selected units to low income rental status.

Nature of Requirement: 24 CFR part 904 subpart B and the Turnkey III Handbook define and govern the Turnkey III Homeownership Opportunity Program.

Granted by: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing, P.

Date Granted: June 30, 1994.

Reason Waived: The East St. Louis, Illinois requested the ability to convert certain housing units of the ESLHA's project numbers IL 1–14, 1–16, 1–18, 1–20, 1–22, 1–23 and 1–24 to low rent public housing status. The Department of Housing and Urban Development has established certain criteria and procedures by which to judge the efficacy of such a conversion on a case by case basis. After investigation of the circumstances, and in an attempt to assist the ESLHA to better serve its low income tenants, the Department decided that granting this conversion was in the best interests of all concerned.

The conversion of Turnkey III units to low income rental is implemented according to existing HUD procedures.

The housing authority has shown good cause and demonstrated compliance with all applicable regulatory requirements for this conversion.

59. Regulation: HOPE for Public and Indian Housing Homeownership (HOPE 1) Program, Guidelines, Section 301(b)(1) as published on January 14, 1992 (57 FR 1522).

Project/Activity: To permit a HOPE 1 mini-planning grantee, the St. Louis, Missouri Housing Authority (SLHA) a time extension to carryout the activities specified in its grant agreement. This extension would be of benefit to the residents participating in homeownership planning at its South Broadway development.

Nature of Requirement: Section 301(b)(3) of the HOPE 1 Program Guidelines limit a HOPE 1 mini-planning grantee to carrying out activities funded under its grant within eighteen (18) months of the effective date of the mini-planning grant agreement.

Granted by: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing, P.

Date Granted: June 27, 1994.

Reason Waived: Pursuant to Section 901 of the HOPE 1 Guidelines, a regulatory provision that is ''not otherwise required by law'' may be waived by the Assistant Secretary for Public and Indian Housing upon a determination of good cause, and upon documentation of the pertinent facts and grounds supporting the waiver.

Good cause was exhibited as follows:

The SLHA was impeded in carrying out grant activities due to the 1993 flood of the Mississippi River. This disaster interrupted early progress made on the grant. The SLHA has demonstrated to the Department that an extension of the grant period is necessary to accomplish its approved plan.

60. Regulation: HOPE for Public and Indian Housing Homeownership (HOPE 1) Program, Guidelines, Section 301(b)(1) as published on January 14, 1992 (57 FR 1522)

Project/Activity: To permit a HOPE 1 mini-planning grantee, the Poughkeepsie, New York Housing Authority (PHA) a time extension to carryout the activities specified in its grant agreement at its Dr. Joseph Brady Gardens (Boulevard Knolls) development. This extension would be of benefit to the residents participating in homeownership planning at the above mentioned development.

Nature of Requirement: Section 301(b)(3) of the HOPE 1 Program Guidelines limit a HOPE 1 mini-planning grantee to carrying out activities funded under its grant within eighteen (18) months of the effective date of the mini-planning grant agreement.

Granted by: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing, P.

Date Granted: June 27, 1994.

Reason Waived: Pursuant to Section 901 of the HOPE 1 Guidelines, a regulatory provision that is ''not otherwise required by law'' may be waived by the Assistant Secretary for Public and Indian Housing upon a determination of good cause, and upon documentation of the pertinent facts and grounds supporting the waiver.

Good cause was exhibited as follows:

The PHA had a recent change in management and the residents have shown a renewed interest in the homeownership program. This revived interest has rectified the non-involvement, lack of communication and participation of the old tenant council. The PHA also wished to reallocate funding to increase economic development planning and to add training and technical assistance to service the renewed resident interest in the grant. Further action on the grant was contingent on the extension being granted.

Note to Reader: The person to be contacted for additional information about these waiver-grant items in this listing is: John Comerford, Director, Financial Management Division, Office of Assisted Housing, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, Phone: (202) 708–1872, TDD: (202) 708–0850 (these are not toll-free numbers).

61. Regulation: 24 CFR 990.104

Project/Activity: Key West, FL, Housing Authority In determining the operating subsidy eligibility, a request was made for funding for five units approved for non-dwelling use to promote an anti-drug program.

Nature of Requirement: The operating subsidy calculation excludes funding for units removed from the dwelling rental inventory.

Granted by: Joseph Shuldiner, Assistant Secretary.

Date Granted: April 18, 1994.

Reason Waived: To allow additional subsidy for units approved for non-dwelling use to promote an anti-drug program pending publication of a final rule implementing this change to the regulation.

62. Regulation: 24 CFR 990.104

Project/Activity: Newberry, SC, Housing Authority In determining the operating subsidy eligibility, a request was made for funding for 1 unit approved for non-dwelling use to promote an economic self-sufficiency program.

Nature of Requirement: The operating subsidy calculation excludes funding for units removed from the dwelling rental inventory.

Granted by: Joseph Shuldiner, Assistant Secretary.

Date Granted: April 18, 1994.

Reason Waived: To allow additional subsidy for a unit approved for non-dwelling use to promote economic self-sufficiency services pending publication of a final rule implementing this change to the regulation.

63. Regulation: 24 CFR 990.104

Project/Activity: Fort Worth, TX, Housing Authority In determining the operating subsidy eligibility, a request was made for funding for four units approved for non-dwelling use to promote economic self-sufficiency and anti-drug programs.

Nature of Requirement: The operating subsidy calculation excludes funding for units removed from the dwelling rental inventory.

Granted by: Joseph Shuldiner, Assistant Secretary.

Date Granted: May 16, 1994.

Reason Waived: To allow additional subsidy for units approved for non-

dwelling use to promote economic self-sufficiency services and anti-drug programs pending publication of a final rule implementing this change to the regulation.

64. Regulation: 24 CFR 990.104

Project/Activity: Parkersburg, WV, Housing Authority In determining the operating subsidy eligibility, a request was approved for funding for 1 unit approved for non-dwelling use to promote an economic self-sufficiency program.

Nature of Requirement: The operating subsidy calculation excludes funding for units removed from the dwelling rental inventory.

Granted by: Joseph Shuldiner, Assistant Secretary.

Date Granted: May 16, 1994.

Reason Waived: To allow additional subsidy for a unit approved for non-dwelling use to promote economic self-sufficiency services pending publication of a final rule implementing this change to the regulation.

65. Regulation: 24 CFR 990.104

Project/Activity: Chetek, WI, Housing Authority In determining the operating subsidy eligibility, a request was made to extend the deadline for submission of a request for adjustment to the Allowable Expense Level.

Nature of Requirement: The Final Rule for PFS Allowable Expense Level appeals imposed a sixty day deadline on submission of requests for adjustment.

Granted by: Joseph Shuldiner, Assistant Secretary.

Date Granted: May 26, 1994.

Reason Waived: The housing authority was undergoing a change in management at the time and did not recognize the significance of the recalculation. This waver was granted based on the Housing Agency's eligibility for a large adjustment and its great need for this funding to support its operations.

66. Regulation: 24 CFR 990.104

Project/Activity: Fort Myers, FL, Housing Authority In determining the operating subsidy eligibility, a request was granted for funding for four units approved for non-dwelling use to promote economic self-sufficiency and anti-drug programs.

Nature of Requirement: The operating subsidy calculation excludes funding for units removed from the dwelling rental inventory.

Granted by: Joseph Shuldiner, Assistant Secretary.

Date Granted: June 3, 1994.

Reason Waived: To allow additional subsidy for units approved for non-dwelling use to promote economic self-sufficiency services and anti-drug programs pending publication of a final rule implementing this change to the regulation.

67. Regulation: 24 CFR 990.104

Project/Activity: Portsmouth, VA, Housing Authority In Determining the operating subsidy eligibly, a request was approved for funding for 1 unit approved for non-dwelling use to promote an economic self-sufficiency program.

Nature of Requirement: The operating subsidy calculation excludes funding for units removed from the dwelling rental inventory.

Granted by: Joseph Shuldiner, Assistant Secretary.

Dated Granted: June 9, 1994.

Reason Waived: To allow additional subsidy for a unit approved for non-dwelling use to promote economic self-sufficiency services pending publication of a final rule implementing this change to the regulation.

68. Regulation: 24 CFR 990.104

Project/Activity: Raton NM, Housing Authority In determining the operating subsidy eligibility, a request was granted for funding for one unit approved for non-dwelling use to promote economic self-sufficiency and anti-drug program.

Nature of Requirement: The operating subsidy calculation excludes funding for units removed from the dwelling rental inventory.

Granted by: Joseph Shuldiner, Assistant Secretary.

Dated Granted: June 9, 1994.

Reason Waived: To allow additional subsidy for a unit approved for non-dwelling use to promote economic self-sufficiency services and anti-drug programs pending publication of a final rule implementing this change to the regulation.

69. Regulation: 24 CFR 990.104

Project/Activity: New Iberia, LA, housing Authority In determining the operating subsidy eligibility, a request was made for funding for one unit approved for non-dwelling use to promote an anti-drug program.

Nature of Requirement: The operating subsidy calculation excludes funding for units removed from the dwelling rental inventory.

Granted by: Joseph Shuldiner, Assistant Secretary.

Dated Granted: June 9, 1994.

Reason Waived: To allow additional subsidy for a unit approved for non-dwelling use to promote an anti-drug program pending publication of a final rule implementing this change to the regulation.

70. Regulation: 24 CFR 990.104

Project/Activity: North Charleston, SC, Housing Authority In determining the operating subsidy eligibility, a request was approved for funding for six units approved for non-dwelling use to promote an economic self-sufficiency program.

Nature of Requirement: The operating subsidy calculation excludes funding for units removed from the dwelling rental inventory.

Granted by: Joseph Shuldiner, Assistant Secretary.

Dated Granted: June 9, 1994.

Reason Waived: To allow additional subsidy for a unit approved for non-dwelling use to promote economic self-sufficiency services pending publication of a final rule implementing this change to the regulation.

71. Regulation: 24 CFR 990.104

Project/Activity: Wilkes-Barre, PA, Housing Authority In determining the operating subsidy eligibility, a request was granted for funding for one unit approved for non-dwelling use to promote economic self-sufficiency and anti-drug programs.

Nature of Requirement: The operating subsidy calculation excludes funding for units removed from the dwelling rental inventory.

Granted by: Joseph Shuldiner, Assistant Secretary.

Dated Granted: June 9, 1994.

Reason Waived: To allow additional subsidy for units approved for non-dwelling use to promote economic self-sufficiency services and anti-drug programs pending publication of a final rule implementing this change to the regulation.

72. Regulation: 24 CFR 990.109(b)(3)(iv)

Project/Activity: A request was made by the Clarkson, NE Housing Authority to use its actual occupancy rate of 57% in determining its operating subsidy eligibility for its fiscal year ending (FYE) 3/31/95.

Nature of Requirement: A public housing agency (PHA) that has completed a Comprehensive Occupancy Plan (COP) without achieving a 97% occupancy percentage or having an average of five or fewer vacant units must use a projected occupancy rate of 97%.

Granted by: Joseph Shuldiner, Assistant Secretary.

Date Granted: April 11, 1994.

Reason Waived: The Clarkson Housing Authority is a small PHA of 30 units, primarily elderly. There has been

a significant decline in the town's population according to census data, as well as loss of businesses and medical staff during the past several years. Because the documented lack of demand was basically beyond the control of the Authority, and in order to preclude further depletion of its operating reserves, the PHA was allowed to use 57% as its occupancy percentage for its fiscal year ending 3/31/95.

73. Regulation: 24 CFR 990.109(b)(3)(iv)

Project/Activity: A request was made by the Kinsley, KS Housing Authority to use its actual occupancy rate of 72% in determining its operating subsidy eligibility for its fiscal year ending (FYE) 3/31/95.

Nature of Requirement: A public housing agency (PHA) that has completed a Comprehensive Occupancy Plan (COP) without achieving a 97% occupancy percentage or having an average of five or fewer vacant units must use a projected occupancy rate of 97%.

Granted by: Joseph Shuldiner, Assistant Secretary.

Date Granted: April 20, 1994.

Reason Waived: The Kinsley Housing Authority is a small PHA of 39 units. It has been experiencing a vacancy problem for the past several years during which it has pursued many vacancy reduction strategies and has reduced the number of vacant units to seven. It now plans to convert efficiency units into one and two bedroom units which is expected to result in fewer vacancies. To prevent undue hardships while it is trying to reduce vacancies, the PHA was allowed to use 72% as its occupancy percentage for its fiscal year ending 3/31/95.

74. Regulation: 24 CFR 990.109(b)(3)(iv)

Project/Activity: A request was made by the Niobrara, NE Housing Authority to use its actual occupancy rate of 55% in determining its operating subsidy eligibility for its fiscal year ending (FYE) 3/31/95.

Nature of Requirement: A public housing agency (PHA) that has completed a Comprehensive Occupancy Plan (COP) without achieving a 97% occupancy percentage or having an average of five or fewer vacant units must use a projected occupancy rate of 97%.

Granted by: Joseph Shuldiner, Assistant Secretary.

Date Granted: May 19, 1994.

Reason Waived: The Niobrara Housing Authority is a small PHA of 20 units. There has been a significant decline in the town's population. In order to be supportive of its efforts to maintain a reasonable level of services to the remaining elderly residents, the PHA was allowed to use 55% as its occupancy percentage for its fiscal year ending 3/31/95.

75. Regulation: 24 CFR 990.109(b)(3)(iv) and 990.118(d)

Project/Activity: Philadelphia Housing Authority, PA. In determining operating eligibility, a request was made to terminate its currently approved Comprehensive Occupancy Plan and use its actual occupancy percentage of 77% for its fiscal year ending in 1994 and to use 78% for 1995 and 82% for 1996.

Nature of Requirement: The regulation defines the term of a Comprehensive Occupancy Plan (COP) and requires that a PHA that completes its COP without achieving a 97% occupancy percentage use a projected occupancy percentage of 97%.

Granted by: Joseph Shuldiner, Assistant Secretary.

Date Granted: May 19, 1994.

Reason Waived: The Department has found that large troubled Housing Authorities often have vacancy problems of such a magnitude and complexity that long term planning is very difficult. COPs for such authorities quickly become obsolete. Agreement was reached on an alternative approach to a COP in which the Housing Authority uses a lower occupancy percentage and at least 60% of the resulting increase in operating subsidy is to be used for specific, identifiable actions to increase occupancy. The Housing Authority is responsible for developing a vacancy reduction strategy which will be approved by HUD. Based on this agreement an occupancy percentage of 77% was approved for the fiscal year ending 3/31/94 and 78% for the fiscal year ending 3/31/95. In February 1995, the Philadelphia HUD Office will conduct an on-site review to check and compare actual accomplishments to date against expected occupancy goals. A decision on the occupancy percentage for 3/31/96 will be based on the results of that review.

[FR Doc. 95–1584 Filed 1–20–95; 8:45 am]

BILLING CODE 4210–32–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–020–1200–00]

Road Closures

AGENCY: Bureau of Land Management, Department of the Interior Action: Notice of temporary closures of public lands in Cassia and Twin Falls Counties, Idaho.

SUMMARY: Notice is hereby given that certain public lands in Idaho, within Cassia and Twin Falls Counties, shall be closed to prevent erosion and rutting of the roads traveled by motor vehicles during wet or snowy conditions. The roads will be closed immediately, and remain closed through April 16, 1995. All roads will be posted at the entrance to public lands.

The legal land descriptions for the road closures are as follows:

The Indian Springs Road (BLM road #4214), from the Foothill Road to the U.S. Forest Service boundary, a distance of approximately 4.5 miles. The road is located at T. 12 S., R. 18 E., section 4 in Twin Falls County.

The Cherry Springs Road (BLM road #4213), from the Rock Creek Road southwest to its intersection with the Indian Springs Road, just north of the U.S. Forest Service boundary. This is a distance of approximately 6 miles. The road is located at T. 12 S. R. 18 E. section 2 in Twin Falls County.

The North Cottonwood Road (BLM road #4221) has two entrances, one on the east side, and one on the west. The east entrance of North Cottonwood Creek Road starts at the Foothill Road and goes to the junction of the North Cottonwood Creek Road, approximately 6 miles. The west entrance to North Cottonwood Road starts at the Foothill Road and goes to the U.S. Forest Service boundary, a distance of approximately 5 miles, and back to the Foothill Road, a loop of approximately 11 miles total. The legal descriptions are T. 12 S., R. 17 E., section 11 (for the west entrance), and T. 12 S., R 18 E., section 06 (for the east entrance), in Twin Falls County).

The Curtis Spring Road (BLM road #42163), begins at the Foothill Road, and goes for approximately 3.5 miles. The legal description is T. 12 S., R. 17 E., section 02, in Twin Falls County.

The Squaw Joe Road (BLM road #4220), south of the Nat-Soo-Pah Warm Springs, to the U.S. Forest Service boundary, approximately 3.5 miles. The legal description is T. 12 S., R. 17 E., section 02, in Twin Falls County.

The West Fork of Dry Creek Road (BLM road #1610), from the Tugaw Ranch southwest to the U.S. Forest Service boundary, a distance of approximately 6 miles. The legal description is T. 12 S., R. 19 E., section 01, in Cassia County.

The East Fork of Dry Creek, off Foothill Road (BLM road #1609), southeast to the U.S.

Forest Service boundary, a distance of approximately 7 miles. The legal description is T. 12 S., R. 19 E., section 01, in Cassia County.

No person may use, drive, move, transport, let stand, park, or have charge or control over any type of motorized vehicle on closed routes.

Exceptions to this order are granted to the following:

Law enforcement patrol and emergency services and administratively approved access for actions such as monitoring, research studies, grazing activity, and access to private lands.

Employees of valid right-of-way holders in the course of duties associated with the right-of-way.

Holders of valid lease(s) and/or permit(s) and their employees in the course of duties associated with the lease and/or permit.

Other actions would be considered on a case-by-case basis.

EFFECTIVE DATE: This closure is effective immediately, and shall remain effective until April 16, 1995 or until rescinded by the Authorized Officer.

FOR FURTHER INFORMATION CONTACT: Tom Dyer, Snake River Resource Area Manager, Rt. 3 Box 1, Burley, ID 83318, (208) 677–6641. A map showing vehicle routes of travel is available from the Burley BLM Office.

SUPPLEMENTARY INFORMATION: Authority for this closure and restriction order may be found in 43 CFR 8364.1. Violation of this closure is punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

Dated: January 12, 1995.

Tom Dyer,

Snake River Resource Area Manager.

[FR Doc. 95–1600 Filed 1–20–95; 8:45 am]

BILLING CODE 4310–GG–P

Emergency Road Closure and Restrictions; Hamaker Mountain Road

AGENCY: Bureau of Land Management, Lakeview District, Klamath Falls Resource Area.

ACTION: Public Notice.

SUMMARY: To protect the flying public, the Federal Aviation Administration has requested the Bureau of Land Management close the Hamaker Mountain access road to motorized vehicle use. The Bureau of Land Management, under the authority of 43 CFR 8364.1(a) will close the Hamaker Mountain access road to motorized vehicles use from 4 p.m. to 1 p.m. the following day, on the following dates: January 19, 21, 23 and February 2, 4, 6, 1995. For example, the road will close at 4 p.m. January 19, 1995 and open at 1 p.m. January 20, 1995. This closure cycle will continue for all the dates listed. The gate located at the junction of the Hamaker Mountain road and highway 66 will be locked on the above dates.

Motorized vehicles include, but are not limited to, automobiles, pick-up trucks, snowmobiles, all terrain vehicles, 4-trax, snowcats, etc. Authorized users of the communication sites on Hamaker Mountain, private land owners that use the Hamaker Mountain road to access their private property, Federal, State and local government administrative personnel, emergency, and law enforcement personnel are exempt from the motorized vehicle restriction.

SUPPLEMENTARY INFORMATION: The road closure is only effective on the dates given above.

Any person who fails to comply with this closure/restriction order is subject to the penalties provided in 8360.0–7. Violations are punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

For more information contact: Lakeview District, Klamath Falls Resource Area Manager, A. Barron Bail, 2795 Anderson Avenue, Building 25, Klamath Falls, OR 97603; 503–883–6916.

Dated: January 9, 1995.

Roy L. Masinton,

Acting Area Manager, Klamath Falls Resource Area.

[FR Doc. 95–1555 Filed 1–20–95; 8:45 am]

BILLING CODE 4310–84–M

[NV–030–5700–77; N–52759, N–56935]

Notice of Realty Action; Proposed Public Land Sales: Churchill County, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following described lands have been examined and determined to be suitable for disposal pursuant to Sec. 203 and Sec. 209 of the Act of October 21, 1976 (FLPMA) (43 U.S.C. 1713, 1719):

Parcel A (N–52759)

Mt. Diablo Meridian, Nevada

T. 16 N., R. 35 E.,
Sec. 3, Lot 3.
T. 17 N., R. 35 E.,
Sec. 34, S½S¼SE¼SW¼.

(containing 36.94 acres)

Parcel B (N–56935)

Mt. Diablo Meridian, Nevada

T. 17 N., R. 35 E.,
Sec. 34, SE¼SE¼.

(containing 40 acres)

The lands will not be sold for less than fair market value. Fair market value for Parcel A has been determined to be $8,300.00. Fair market value for Parcel B has been determined to be $6,400.00.

DATES: The lands will become segregated on January 23, 1995.

FOR FURTHER INFORMATION CONTACT: Jo Ann Hufnagle, Bureau of Land Management, Carson City District Office, 1535 Hot Springs Road, Suite 300, Carson City, Nevada 89706, (702) 885–6000.

SUPPLEMENTARY INFORMATION: This sale is consistent with BLM policies and the Lahontan Resource Management Plan. The public interest will be served by offering these lands for sale. The purpose of these sales is to dispose of 2 parcels of land which are difficult and uneconomical to manage as part of the public lands and to resolve inadvertent unauthorized use of the parcels. No significant resource values will be affected by these transfers. The appraisal report, planning document, and environmental assessment covering the proposed sales are available for review at the BLM, Carson City District Office.

Parcel A will be offered for sale directly to Russell and Fredda Stevenson, adjacent landowners. Parcel B will be offered for sale directly to Charles and Gladys Lowery, adjacent landowners.

Publication of this notice in the **Federal Register** shall segregate the above described public lands from all other forms of appropriation under the public land laws including the general mining laws, but not the mineral leasing laws. The segregative effect of this notice will terminate upon issuance of a conveyance document, 270 days from the date of this publication, or in accordance with a notice of termination published in the **Federal Register**, whichever occurs first.

PATENT TERMS AND CONDITIONS: Patents for Parcel A and Parcel B, when issued will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All minerals other than those having no known mineral values. (A more detailed mineral reservation will appear in the patent.)

Patent for Parcel B will also be subject to:

1. Those rights for highway purposes granted to the Nevada Department of Transportation, its successors or assigns,

by right-of-way Nev-045631, pursuant to the Act of November 9, 1921 (42 Stat 216).

Neither sale will result in a reduction of Animal Unit Months (AUMs) on BLM grazing permits.

For a period of 45 days after publication of this notice in the **Federal Register**, interested parties may submit comments to James M. Phillips, Lahontan Resource Area Manager, Bureau of Land Management, Carson City District Office. Adverse comments will be reviewed by the Carson City District Manager who may sustain, vacate or modify this realty action. In the absence of any adverse comments this realty action will become the final determination of the Department of the Interior.

Dated this 9th day of January, 1995.

James M. Phillips,

Area Manager, Lahontan Resource Area.

[FR Doc. 95–1556 Filed 1–20–95; 8:45 am]

BILLING CODE 4310–HC–P

[NV–050–1430–01; N–36627]

Realty Action: Termination of Recreation and Public Purposes Classification

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice terminates an existing Recreation and Public Purposes Classification N–36627 in its entirety.

EFFECTIVE DATE: January 23, 1995.

FOR FURTHER INFORMATION CONTACT: Cheryl Ruffridge, Bureau of Land Management, Las Vegas District, Stateline Resource Area, 4765 W. Vegas Drive, Las Vegas, NV 89108, (702) 647–5000.

SUPPLEMENTARY INFORMATION: The lands described below were classified suitable for lease or sale pursuant to the Recreation and Public Purposes Act, as amended (43 U.S.C. 869, 869–1 to 869–4) and the land was segregated from appropriation under the public land laws and the general mining laws:

Mount Diablo Meridian, NV

T. 22 S., R. 59 E.,
Sec. 9, lots 15, 16, 17, 18.

Containing 120.00 acres, more or less.

On June 7, 1982, the Humane Society of Southern Nevada applied for use of the subject land pursuant to the Recreation and Public Purposes Act. The applicant was unsuccessful in obtaining the necessary use permits and zoning change allowing construction of a Wild horse and Burro Adoption Center. Pursuant to section 7 of the Taylor Grazing Act (48 Stat. 1272) and the authority delegated by Appendix 1 of the Bureau of Land Management Manual 1203, Nevada Supplement, Release 1–178, the aforementioned Recreation and Public Purposes classification is hereby terminated.

Dated: January 6, 1995.

Gary Ryan,

District Manager, Las Vegas, NV.

[FR Doc. 95–1558 Filed 1–20–95; 8:45 am]

BILLING CODE 4310–HC–M

Fish and Wildlife Service

Receipt of Application(s) for Permit

The following applicant has applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*)

PRT–797196

Applicant: Craig E. Levy, Arizona Department of Health Services, Phoenix, Arizona

The applicant requests a permit to include take activities for Hualapai Mexican Vole (Microtus mexicanus hualapaiensis) for the purpose of scientific research and enhancement of propagation and survival of the species as prescribed by Service recovery documents.

ADDRESS: Written data or comments should be submitted to the Assistant Regional Director, Ecological Services, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103, and must be received by the Assistant Regional Director within 30 days for the date of this publication.

Documents and other information submitted with this application are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the above office within 30 days of the date of publication of this notice. (See **ADDRESS** above.)

Susan MacMullin,

Acting Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 95–1591 Filed 1–20–95; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

Wilderness and Backcountry Management Plan, Joshua Tree National Park, California; Notice of Intent To Prepare an Environmental Impact Statement

SUMMARY: The National Park Service will prepare a Wilderness and Backcountry Management Plan and Environmental Impact Statement (W&BCMP/EIS) for Joshua Tree National Park, California and initiate the scoping process for this document. This notice is in accordance with 40 CFR 1501.7 and 40 CFR 1508.22, of the regulations of the President's Council on Environmental Quality for the National Environmental Policy Act of 1969, Public Law 91–190.

BACKGROUND: The W&BCMP is needed to guide resource protection and visitor use activities in the undeveloped portions of the park. It will be consistent with and provide detailed direction to implement decisions made in the parkwide General Management Plan (GMP), expected to be completed in the next few months. It will serve as an amendment to the GMP in providing planning direction for the recently-authorized additions to the park, which are not covered by the GMP. The plan will provide for visitor access, visitor and resource protection, restoration of damaged areas, management of rock-climbing activities, and monitoring and regulating use to avoid exceeding carrying capacities.

Persons wishing to offer comments or express concerns on the management issues and future management direction of backcountry areas of Joshua Tree National Park should address these to the Superintendent, Joshua Tree National Park, 74485 National Monument Drive, Twentynine Palms, Ca. 92277. (Telephone 619–367–7511). Comments on the scoping of the proposed W&BCMP/EIS should be received no later than February 28, 1995.

Public scoping sessions will be scheduled as needed and notice given in the media.

The responsible official is Stanley T. Albright, Regional Director, Western Region, National Park Service. The draft W&BCMP/EIS is expected to be available for public review in the fall of 1995, and the final W&BCMP/EIS and Record of Decision completed by the end of 1995.

Dated: January 9, 1995.

Bruce M. Kilgore,

Regional Director, Western Region.

[FR Doc. 95–1571 Filed 1–20–95; 8:45 am]

BILLING CODE 4310–70–P

Monocacy National Battlefield, Frederick, Maryland; Draft Environmental Assessment

AGENCY: National Park Service, Interior Department.

ACTION: Notice.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, Public Law 91–190, the National Park Service (NPS) has prepared a Draft Development Concept Plan/ Environmental Assessment: Relocation of Historic Preservation Training Center (DCP/EA) in response to congressional approval and funding for the relocation of the agency's Historic Preservation Training Center (HPTC). The center, now in Chesapeake and Ohio Canal National Historical Park in Williamsport, Maryland will be relocated to Monocacy National Battlefield, near Frederick, Maryland. The DCP/EA was prepared to assess the impacts of HPTC relocation on both Monocacy National Battlefield and the Chesapeake and Ohio Canal National Historical Park.

ADDRESSES: Copies of the DCP/EA may be obtained from the Site Manager, Monocacy National Battlefield, 4801 Urbana Pike, Frederick, MD, 21701. Comments on the document should be received by no later than March 24, 1995 and sent to the above address. Access to the document is also available via internet at: http://www.nps.gov/nps/planning/mono/337–03/intro.htm.

SUPPLEMENTARY INFORMATION: The National Park Service will hold a public open house regarding the DCP/EA on February 9, from 6PM–9PM at the Holiday Inn-Francis Scott Key Mall, 5400 Holiday Drive, Frederick, MD 21701. The purpose of this open house will be to provide the public an opportunity to discuss and review the proposed plan with Park Service officials.

The responsible official is Mr. Robert G. Stanton, Regional Director, National Capital Region, National Park Service, 1100 Ohio Drive, SW., Washington, DC 20242. The DCP/EA is expected to be finalized in the spring, 1995.

Dated: January 12, 1995.

Terry R. Carlstrom,

Regional Director, National Capital Region.

[FR Doc. 95–1568 Filed 1–20–95; 8:45 am]

BILLING CODE 4310–70–M

Maine Acadian Culture Preservation Commission; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463) that the Maine Acadian Culture Preservation Commission will meet on Thursday, February 16, 1995. The meeting will convene at 7:00 p.m. at the Dr. Levesque Elementary School, Frenchville, Aroostook County, Maine. The school is located on U.S. Route 1 next to the St. Luce Church.

The eleven-member Maine Acadian Culture Preservation Commission was appointed by the Secretary of the Interior pursuant to the Maine Acadian Culture Preservation Act (Pub. L. 101–543). The purpose of the Commission is to advise the National Park Service with respect to:

- The development and implementation of an interpretive program of Acadian culture in the state of Maine; and
- The selection of sites for interpretation and preservation by means of cooperative agreements.

The Agenda for this meeting is as follows:

1. Review and approval of the summary report of the meeting held November 17, 1994.

2. Review and approval of the commission's annual report for fiscal year 1994.

3. Reports of Maine Acadian Culture Preservation Commission working groups.

4. Report of the National Park Service planning team.

5. Opportunity for public comment.

6. Proposed agenda, place, and date of the next Commission meeting.

The meeting is open to the public. Further information concerning Commission meetings may be obtained from the Superintendent, Acadia National Park. Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made at least seven days prior to the meeting to: Superintendent, Acadia National Park, P.O. Box 177, Bar Harbor, ME 04609–0177; telephone (207) 288–5472.

Dated: January 12, 1995.

Chrysandra L. Walter,

Deputy Regional Director.

[FR Doc. 95–1569 Filed 1–20–95; 8:45 am]

BILLING CODE 4310–70–P

Native American Graves Protection and Repatriation Review Committee: Meeting

AGENCY: National Park Service, Department of the Interior

ACTION: Notice

Notice is hereby given in accordance with the Federal Advisory Committee Act (FACA), 5 U.S.C. Appendix (1988), that a meeting of the Native American Graves Protection and Repatriation Act Review Committee will be held on February 16, 17, and 18, 1995, in Los Angeles, CA.

The Committee will meet in the Garden A room at the Airport Marina Hotel, 8601 Lincoln Blvd., Los Angeles CA 90045 on the 16th and 17th and in the Bird's Nest at Loyola Marymount University, 7101 West 80th Street, Los Angeles CA 90045 on the 18th of February, 1995. Meetings will begin each day at 8:30 a.m. and conclude not later than 5:00 p.m.

The Native American Graves Protection and Repatriation Review Committee was established by Public Law 101–601 to monitor, review, and assist in implementation of the inventory and identification process and repatriation activities required under the statute.

On the agenda for this meeting will be the Committee's consideration of drafts of three sections that were reserved in the proposed regulations published May 28, 1993: 1) Disposition of Unclaimed Human Remains and Cultural Items from Federal and Tribal Lands (§ 10.7); 2) Disposition of Culturally Unidentifiable Human Remains in Museums and Federal Collections (§ 10.11); and 3) Future Applicability (§ 10.13).

Unclaimed human remains and cultural items are those intentionally excavated or inadvertently discovered on Federal or tribal lands after November 16, 1990, for which, after following the process outlined in section 3 of the statute (25 U.S.C. 3002), no lineal descendant or Indian tribe has made a claim.

Culturally unidentifiable human remains are those in museum or Federal agency collections for which, following the completion of inventories by November 16, 1995, no lineal descendants or culturally affiliated Indian tribe has been determined.

The section on the future applicability of the statute will address the requirements of museums that receive Federal funds after the statutory deadlines for summary and inventory compliance and of museums and

Federal agencies that receive collections after those same deadlines.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited. Persons will be accommodated on a first-come, first-served basis. Any member of the public may file a written statement concerning the matters to be discussed with Dr. Francis P. McManamon, Departmental Consulting Archeologist.

Persons wishing further information concerning this meeting, or who wish to submit written statements may contact Dr. Francis P. McManamon, Departmental Consulting Archeologist, Archeological Assistance Division (MS0436), National Park Service, P.O. Box 37127 Washington, D.C. 20013–7127, Washington D.C. 20002, Telephone (202) 343–4101. Draft summary minutes of the meeting will be available for public inspection about eight weeks after the meeting at the office of the Departmental Consulting Archeologist, Suite 210, 800 North Capital Street, Washington, D.C.

Dated: January 19, 1995

Francis P. McManamon

Departmental Consulting Archeologist and Chief, Archeological Assistance Division

[FR Doc. 95–1732 Filed 1–20–95; 8:45 am]

BILLING CODE 4310–70–F

Sudbury, Assabet and Concord Rivers Wild and Scenic Study, Massachusetts; Sudbury, Assabet and Concord Rivers Study Committee; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App.), that there will be a meeting of the Sudbury, Assabet and Concord Rivers Study Committee on Thursday, February 23, 1995.

The Committee was established pursuant to Public Law 101–628. The purpose of the Committee is to consult with the Secretary of the Interior and to advise the Secretary in conducting the study of the Sudbury, Assabet and Concord River segments specified in Section 5 (a) (110) of the Wild and Scenic Rivers Act. The Committee shall also advise the Secretary concerning management alternatives, should some or all of the river segments studied be found eligible for inclusion in the National Wild and Scenic Rivers System.

The meeting will be held at 7:30 p.m., Thursday February 23, 1995, at the Billerica Town Hall, Billerica, MA. Driving Directions: Billerica's Town Offices are located in a former school building on the south side of Boston Rd. (Rte. 3A), 1/4 mile west of the the town center, where the old Town Hall is located. From Rte. 3 north, take the Concord Rd. exit (Exit 27) and turn right at top of ramp. At Town Center, bear left after passing the common and turn left onto Rte. 3A. The Town Offices are ahead on the left, near the bottom of the hill. Watch for a school department sign and three flagpoles.

Agenda

I. Welcome and introductions, approval of minutes from 1/19/95 meeting—Bill Sullivan, Chairman
II. Brief questions and comments from public
III. Management Plan: Discussion of revised draft
IV. Opportunity for public questions and comments
V. Other Business—Next meeting dates and locations
Adjournment

Interested persons may make oral/written presentations to the Committee during the business meeting or file written statements. Further information concerning the meeting may be obtained from Cassie Thomas, Planner, National Park Service, 15 State Street, Boston, MA 02109 or call (617) 223–5014.

Dated: January 12, 1995.

Chrysandra L. Walter,

Deputy Regional Director.

[FR Doc. 95–1570 Filed 1–20–95; 8:45 am]

BILLING CODE 4310–70–P

Registration of Steamtown National Historic Site and Steamtown Volunteer Association Logos and Park Name

AGENCY: National Park Service; Interior Department.

ACTION: Notice of registration for restricted use.

SUMMARY: This notice announces the registration of Steamtown National Historic Site's and Steamtown Volunteer Association's logos and the park name. The protection of the two logos, as well as the official park name, is needed in order to prevent unauthorized use.

SUPPLEMENTARY INFORMATION: Steamtown National Historic Site was established by Public Law 99–591 to ''* * * further public understanding and appreciation of the development of steam locomotives in the region''.

FOR FURTHER INFORMATION CONTACT: Superintendent, Steamtown National Historic Site, 150 South Washington Avenue, Scranton, Pennsylvania 18503, (717) 961–6062.

Dated: January 10, 1995.

Philip Brueck,

Deputy Regional Director, Mid-Atlantic Region.

[FR Doc. 95–1567 Filed 1–20–95; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–366]

Certain Microsphere Adhesives, Process for Making Same, and Products Containing Same, Including Self-Stick Repositionable Notes; Notice

Notice is hereby given that the supplemental hearing in this matter, scheduled to begin on January 23, 1995, is cancelled.

The Secretary shall publish this notice in the **Federal Register**.

Issued: January 17, 1995.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 95–1580 Filed 1–20–95; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response Compensation and Liability Act

In accordance with Departmental policy, 28 C.F.R. § 50.7, and Section 122(d)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. § 9622(d)(2), notice is hereby given that a proposed consent decree in *United States* v. *American National Petroleum Co. et. al.,* Civil Action No. CV 94–2357, was lodged on December 23, 1994, with the United States District Court for the Western District of Louisiana.

The proposed consent decree settles the government's claims set forth in the complaint pursuant to Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606, 9607, or injunctive relief to abate an imminent and substantial endangerment to the public health, welfare or the environment because of actual or threatened releases of hazardous substances from a facility known as the ''Gulf Coast Vacuum Site'' located in Abbeville, Vermilion Parish, Louisiana and for the recovery of response costs incurred by the United States in connection with a response action taken at that facility. The complaint alleges, *inter alia,* that the defendants are each

persons who were generators of hazardous substances which were disposed of at the facility, and that the United States has incurred and will continue to incur costs in response to the release or threat of release of hazardous substances from the Site.

Under the terms of the proposed consent decree, the defendants agree to fund and implement a remedy at the Gulf Coast Vacuum Site which includes the destruction of organic materials to performance standards as more specifically set forth in the Statement of Work which is appended to the proposed consent decree. In addition, the defendants agree to pay all future response costs incurred by the United States which exceed amounts recovered from de minimis settlors under a separate De Minimis Administrative Order on Consent.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *American National Petroleum Company, et. al.,* DOJ Ref. # 90–11–2–506B.

The proposed consent decree may be examined at the office of the United States Attorney, Western District of Louisiana, United States Courthouse, 300 Fannin St., Suite 3201, Shreveport, LA 71101; the Region VI Office of the Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75502; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor Washington, DC 20005, (202) 624–0892. A copy of from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $24.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Bruce S. Gelber,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Divisions.

[FR Doc. 95–1557 Filed 1–20–95; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

[Docket No. 93–73]

Mukand Lal Arora, M.D.; Revocation of Registration

On July 29, 1993, the Deputy Assistant Administrator (then Director), Office of Diversion Control, Drug Enforcement Administration (DEA), directed an Order to Show Cause to Mukand Lal Arora, M.D. (Respondent), proposing to revoke his DEA Certificate of Registration, AA9610850, as a practitioner under 21 U.S.C. 824(a) (2) and (4), and to deny any pending applications under 21 U.S.C. 823(f). The Order to Show Cause alleged that Respondent had been convicted of a felony related to controlled substances and that his continued registration would be inconsistent with the public interest.

Respondent, through counsel, requested a hearing on the issues raised in the Order to Show Cause. The matter was docketed before Administrative Law Judge Paul, A. Tenney. Following prehearing procedures, a hearing was held in Houston, Texas on April 20, 1994.

On August 9, 1994, Judge Tenney issued his findings of fact, conclusions of law, and recommended ruling in which he recommended that the respondent's registration be revoked. Neither party filed exceptions to this opinion, and on September 9, 1994, the administrative law judge transmitted the record of the proceedings to the Deputy Administrator.

The Deputy Administrator has considered the record in its entirety and, pursuant to 21 CFR 1316.67, enters his final order in this matter, based on findings of fact and conclusions of law as hereinafter set forth.

Judge Tenney found that Respondent completed medical school in New Delhi, India, and subsequently completed a residency and internship in Staten Island, New York, and four years of psychiatric training in Austin, Texas. In 1980, Respondent started a private medical practice in Houston, Texas. Respondent's primary language is Indian-Punjabi, but he was taught English in a professional school in India. Respondent is licensed to practice medicine in Texas, is primarily engaged in a pediatric practice, and has never had his medical license suspended or been previously disciplined.

Judge Tenney found that in 1991, DEA received information from local pharmacists regarding Respondent's prescribing practices. DEA initiated an investigation using a Houston Police Department officer in an undercover capacity. In May 1991, the undercover officer visited Respondent's medical office and requested a prescription for either Vicodin or Tylenol #4 with codeine, Schedule III controlled substances. The visit was monitored and tape-recorded by DEA investigators. The undercover officer told Respondent that he needed the medication ''just to mellow out at the end of the day''. Respondent asked the undercover officer if he was addicted, to which the officer replied, ''no''. Respondent asked the undercover officer whether the prescription was for backache, to which the officer replied, ''no''. Although Respondent did check the undercover officer's blood pressure and chest, he did not pursue the nature of the undercover officer's complaint. The undercover officer was given a prescription for 30 Vicodin tablets. The undercover officer made two subsequent visits to Respondent's office in July 1991, each time receiving another prescription for 30 Vicodin tablets without giving an indication of any medical purpose and denying any physical complaint. During these visits, the undercover officer indicated that he loaded trucks for a local newspaper.

The administrative law judge found that on November 9, 1992, Respondent was convicted in the District Court of Harris County, Texas, of the felony offense of prescribing a controlled substance without a legitimate medical purpose, arising out of one of the aforementioned undercover operations. Respondent was sentenced to two years probation, fined, and was given a deferred adjudication.

Respondent contended that the Government transcripts of the undercover visits were unreliable. The administrative law judge found that although segments of the transcripts of the undercover visits indicated that some parts of the conversations were ''inaudible'', the Government presented persuasive and credible testimony that the transcripts accurately represented the conversations monitored at Respondent's medical office. Neither party offered in evidence the tapes themselves, which were available at the hearing.

In his testimony, Respondent asserted that he considered the nature of the undercover officer's work—specifically, loading trucks for a newspaper—in evaluating the officer's condition and prescribing controlled substances. Respondent further stated that he based the diagnosis of backache on his visual observation of the undercover officer's movement, and that he had not conducted a physical examination because the patient was not cooperative.

Respondent further stated that he understood that when the patient asked for drugs in order to ''mellow out'', that the term meant ''easing of the pain''.

Judge Tenney questioned Respondent's credibility based on findings that Respondent never learned that the undercover officer ostensibly had a job unloading trucks until the second office visit, and thus could not provide a justification for prescribing controlled substances on the first visit. In addition, although Respondent attributed back pain to the undercover officer, which he apparently diagnosed by visual observation, there were no attempts at alternative treatment, no record of a prior history or specific diagnosis, and no verbal indication of pain by the patient. The administrative law judge found that Respondent's question of ''[a]re you addicted?'' to the undercover officer's statement about wanting to ''mellow out'', indicated that Respondent had knowledge of this reference to a street use of Vicodin. The administrative law judge found that Respondent did not prescribe Vicodin for legitimate medical purpose and in the usual course of professional practice.

The administrative law judge found that Respondent made entries in the patient medical record of the undercover officer indicating ''pains and aches'', and notations of ''backaches and headaches'', or ''pain in the lower back'' due to the fact that the patient ''loads and unloads the truck''. The testimony of the Government witnesses and the transcriptions of the tapes had no reference to any pain or aches by the undercover officer. Judge Tenney concluded that Respondent's medical record entries were not consistent with the conversations that were monitored, recorded and transcribed.

Under 21 U.S.C. 824(a)(4), the Deputy Administrator of the Drug Enforcement Administration may revoke the registration of a practitioner upon a finding that the registrant has committed such acts as would render his registration under Section 823 inconsistent with the public interest.

Pursuant to 21 U.S.C. 823(f), ''[i]n determining the public interest, the following factors will be considered:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.''

It is well established that these factors are to be considered in the disjunctive, i.e., the Deputy Administrator may properly rely on any one or a combination of factors, and give each factor the weight he deems appropriate. Henry J. Schwarz, Jr., M.D., 54 FR 16422 (1989).

Of the stated factors, the administrative law judge found that the Government established a prima facie case for revocation under 21 U.S.C. 823(f) (2), (4), and (5) in that Respondent prescribed controlled substances on three occasions, absent a valid medical indication; that he violated Federal and State law by prescribing controlled substances on three occasions without a legitimate medical purpose; and that his conduct in falsifying patient records posed a threat to the public health and safety. Judge Tenney found little evidence that Respondent attempted to treat a medical condition, in that he neglected to learn the patient's medical history or ask the patient about his actual physical complaint before prescribing Vicodin. Judge Tenney also found that Respondent's conviction and sentence of probation and deferred adjudication under Texas law may be considered under factor (3).

Judge Tenney concluded that the preponderance of the evidence establishes that Respondent's registration is not in the public interest. However, Judge Tenney also recommended that in light of Respondent's successful completion of deferred adjudication in the state district court, that favorable consideration be given to Respondent's application after the passage of one year.

The Deputy Administrator adopts the findings of fact, conclusions of law, and recommended ruling of the administrative law judge in its entirety. Based on the foregoing, the Deputy Administrator concludes that Respondent's continued registration is inconsistent with the public interest. Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration, AA9610850, issued to Mukand Lal Arora, M.D., be and it hereby is, revoked, and any pending applications, be, and they hereby are, denied. This order is effective February 22, 1995.

Dated: January 13, 1995.

Stephen H. Greene.

Deputy Administrator.

[FR Doc. 95–1560 Filed 1–20–95; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Employment and Training Administration

Revised Schedule of Remuneration for the UCX Program

Under Section 8521(a)(2) of title 5 of the United States Code, the Secretary of Labor is required to issue from time to time a Schedule of Remuneration specifying the pay and allowances for each pay grade of members of the military services. The schedules are used to calculate the base period wages and benefits payable under the program of Unemployment Compensation for Ex-servicemembers (UCX Program).

The revised schedule published with this Notice reflects increases in military pay and allowances which were effective in January 1995.

Accordingly, the following new Schedule of Remuneration, issued pursuant to 20 CFR 614.12, applies to ''First Claims'' for UCX which are effective beginning with the first day of the first week which begins after April 1, 1995.

Pay grade	Monthly rate
(1) Commissioned Officers:	
0–10	$10,561
0–9	10,005
0–8	9,172
0–7	8,265
0–6	7,030
0–5	5,874
0–4	4,833
0–3	3,893
0–2	3,107
0–1	2,321
(2) Commissioned Officers With Over 4 Years Active Duty As An Enlisted Member Or Warrant Officer:	
0–3E	$4,460
0–2E	3,725
0–1E	3,062
(3) Warrant Officers:	
W–5	$5,242
W–4	4,485
W–3	3,746
W–2	3,171
W–1	2,644
(4) Enlisted Personnel:	
E–9	$4,046
E–8	3,429
E–7	2,975
E–6	2,582
E–5	2,201
E–4	1,828

Pay grade	Monthly rate
E–3	1,603
E–2	1,472
E–1	1,304

The publication of this new Schedule of Remuneration does not revoke any prior schedule or change the period of time any prior schedule was in effect.

Signed at Washington, D.C., on January 13, 1995.

Doug Ross,

Assistant Secretary.

[FR Doc. 95–1638 Filed 1–20–95; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL SCIENCE FOUNDATION

Privacy Act of 1974: Revision to Two Systems of Records

AGENCY: National Science Foundation.

ACTION: Notice of revised systems of records.

SUMMARY: Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), the National Science Foundation is providing notice of a revision to two systems of records—NSF–12, ''Fellowships and other Awards'' and NSF–50, ''Principal Investigator/Proposal File and Associated Records''. Both systems include records maintained by NSF as a result of applications for financial support and subsequent evaluation of applicants and their proposals. System 12 contains records on fellowship applicants and on nominees for fellowships submitted by an institution on behalf of the nominee, and on nominees for other awards. Fellowship awards are usually administered by the applicant or nominee's home institution. System 50 contains records on research and other proposals jointly submitted by individual applicants (principal investigators) and their home academic or other institutions. NSF makes awards to these institutions under which the individual applicants serve as principal investigators.

NSF revised these system notices to eliminate two redundant or otherwise unnecessary routine uses and to alter existing routine uses to make them consistent between each related system. Both system notices are reprinted in their entirety.

In accordance with the requirements of the Privacy Act, NSF has provided a report on the proposed systems of records to the Office of Management and Budget; the Chairman, Senate Committee on Governmental Affairs, and the Chairman, House Committee on Government Operations (now Government Reform and Oversight).

EFFECTIVE DATE: Sections 552a(e) (4) and (11) of Title 5 of the U.S. Code provides the public thirty days to comment on the routine uses of systems of records. The altered routine uses in this notice will take effect on February 22, 1995, unless modified by a subsequent notice to incorporate comments received from the public.

ADDRESSES: Written comments should be submitted to the NSF Privacy Act Officer, National Science Foundation, Division of Contracts, Policy and Oversight, 4201 Wilson Boulevard, room 485, Arlington, Virginia 22230.

Dated: January 17, 1995.

Herman G. Fleming,

NSF Privacy Act Officer.

NSF–12

SYSTEM NAME:

Fellowships and other Awards.

SYSTEM LOCATION:

Decentralized. Numerous separate files are maintained by individual offices and programs at the National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Others are maintained by NSF contractors such as the National Academy of Sciences (NAS), 2101 Constitution Avenue, NW., Washington, DC, and Oak Ridge Associated Universities, PO Box 3010, Oak Ridge, Tennessee 37831–2010.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons applying or nominated for and/or receiving NSF support, either individually or through an academic institution, including fellowships or awards of various types.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information varies depending on type of fellowship or award. Normally the information includes personal information supplied with the application or nomination; reference reports; transcripts and Graduate Record Examination scores to the extent required during the application process; abstracts; evaluations and recommendations, review records and selection process results; administrative data and correspondence accumulating during fellows' tenure; and other related materials. There is a cumulative index of all persons applying for or receiving NSF Graduate and NATO fellowships.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Information from the system may be merged with other computer files in order to carry out statistical studies. Disclosure may be made for this purpose to NSF contractors and collaborating researchers, other Government agencies, and qualified research institutions and their staffs. NSF contractors are subject to the provisions of the Privacy Act. The results of such studies are statistical in nature and do not identify individuals.

2. Disclosure of information from the system may be made to qualified reviewers for their opinion and evaluation of applicants or nominees as part of the application review process; to other Government agencies needing data regarding applicants or nominees as part of the application review process, or in order to coordinate programs; and to contractors assisting NSF staff in the performance of their duties. Contractors are subject to the provisions of the Privacy Act.

3. Information (such as name, Social Security Number, field of study, and other information directly relating to the fellowship, review status including the agency's decision, year of first award, tenure pattern, start time, whether receiving international travel allowance or a mentoring assistantship) is given to the institution the applicant or fellow is attending or planning to attend or employed by for purposes of facilitating review or award decisions or administering fellowships or awards. Notice of the agency's decision may be given to nominators.

4. In the case of Fellows or awardees receiving stipends directly from the Government, information is transmitted to the Department of the Treasury for preparation of checks or electronic fund transfer authorizations.

5. Awardees' name, home institution, and field of study may be released for public information/affairs purposes including press releases.

6. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

7. Information from the system may be given to contractors, grantees, volunteers and other individuals who perform a service or work on or under a contract, grant, cooperative agreement, or other arrangement with or for the Federal government.

8. Information from the system may be given to the Department of Justice or the Office of Management and Budget for the purpose of obtaining advice on the application of the Freedom of Information Act or Privacy Act to the records.

9. Information from the system may be given to another Federal agency, a

court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency when the Government is a party to the judicial or administrative proceeding.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records kept by the NSF contractor are on computer tapes. All original application materials are kept at NSF. However, microfilms of application materials received prior to 1963 are kept at NAS.

RETRIEVABILITY:

Alphabetically by applicant or nominee name.

SAFEGUARDS:

Building is locked during non-business hours. Records at NSF are kept in rooms that are locked during non-business hours. Records maintained by NSF contractors are kept in similar rooms and some records are locked in cabinets. Records maintained in electronic form are accessible only by protected password and available only to those employees with a need-to-know.

RETENTION AND DISPOSAL:

NAS tapes are kept indefinitely. Records at NSF are transferred to the Federal Records Center and destroyed 10 years after completion of Fellowship or award.

SYSTEM MANAGER(S) AND ADDRESS:

Division Director of particular office or program maintaining such records, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

NOTIFICATION PROCEDURE:

Contact the NSF Privacy Act Officer in accordance with procedures found at 45 CFR part 613. You can expedite your request if you identify the fellowship or award program about which you are interested. For example, indicate whether you applied for or received a ''Graduate Fellowship'' or a ''Faculty Fellowship in Science'' as opposed to merely saying you want a copy of your fellowship.

RECORD ACCESS PROCEDURE:

See ''Notification'' above.

CONTESTING RECORD PROCEDURE:

See ''Notification'' above.

RECORD SOURCE CATEGORIES:

Information supplied by of for individuals applying for, nominated for, or receiving support, references, the Education Testing Service, educational institutions supplying transcripts, review records and administrative data developed during selection process and award tenure.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NSF at 45 CFR 613.6 has exempted from disclosure the identity of references and reviewers in accordance with 5 U.S.C. 552a(k)(5).

NSF–50

SYSTEM NAME:

Principal Investigator/Proposal File and Associated Records.

SYSTEM LOCATION:

Decentralized: There are numerous separate files maintained by individual NSF offices and programs. National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Each person that requests, or has previously requested, support from the National Science Foundation, either individually or through an academic or other institution.

CATEGORIES OF RECORDS IN THE SYSTEM:

The name of the principal investigator, the proposal and its identifying number, supporting data from the academic institution or other applicant, proposal evaluations from peer reviewers, a review record, financial data, and other related material. Other related material includes, for example, committee or panel discussion summaries and other agency records containing or reflecting comments on the proposal or the proposers from peer reviewers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101; 42 U.S.C. 1870.

PURPOSE(S):

This system enables program offices to maintain appropriate files and investigatory material in evaluating applications for grants or other support. NSF employees may access the system to make decisions regarding which proposals to fund, and to carry out other authorized internal duties.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure of information from the system may be made to qualified reviewers for their opinion and evaluation of applicants and their proposals as part of the application review process; and to other Federal government agencies needing information regarding applicants or nominees as part of the application review process, or in order to coordinate programs.

2. Information from the system may be provided to the applicant institution for purposes of obtaining data regarding the application review process or award decisions, or administering grant awards.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Information from the system may be disclosed to contractors, grantees, volunteers and other individuals who perform a service or work on or under a contract, grant, cooperative agreement, or other arrangement with or for the Federal government.

5. Information from the system may be given to the Department of Justice or the Office of Management and Budget for the purpose of obtaining advice on the application of the Freedom of Information Act or Privacy Act to the records.

6. Information from the system may be given to another Federal agency, a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency when the Government is a party to the judicial or administrative proceeding.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Various portions of the system are maintained on computer or in hard copy files, depending on the individual program office.

RETRIEVABILITY:

Information can be accessed from the computer database by addressing data contained in the database, including individual names. An individual's name may be used to manually access material in alphabetized hard copy files.

SAFEGUARDS:

All records containing personal information are maintained in secured file cabinets or are accessed by unique passwords and log-on procedures. Only those persons with a need-to-know in order to perform their duties may access the information.

RETENTION AND DISPOSAL:

Files are maintained in accordance with approved record retention schedules. Awarded proposals are transferred to the Federal Records

Center for permanent retention. Declined proposals are destroyed five years after they are closed out.

SYSTEM MANAGER(S) AND ADDRESS:

Division Director of particular office or program maintaining such records, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

NOTIFICATION PROCEDURE:

The NSF Privacy Act Officer should be contacted in accordance with procedures set forth at 45 CFR part 613.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above.

RECORD SOURCE CATEGORIES:

Information is obtained from the principal investigator, academic institution or other applicant, peer reviewers, and others.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The portions of this system consisting of investigatory material which would identify persons supplying evaluations of NSF applicants and their proposals have been exempted pursuant to 5 U.S.C. 552a(k)(5).

[FR Doc. 95–1616 Filed 1–20–95; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Availability of Final Staff Technical Position on Concentration Averaging and Encapsulation

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: The Nuclear Regulatory Commission is announcing the availability of a final revision, in part, to the 1983 Staff Technical Position on Radioactive Waste Classification. The revision is entitled, ''Technical Position on Concentration Averaging and Encapsulation,'' and has involved from earlier proposals that were noticed in the **Federal Register** on June 30, 1992 (57 FR 29105) and September 22, 1993 (58 FR 4933). The final position has been developed after considering the comments received on the two earlier proposals. The position provides guidance on the interpretation of § 61.55(a)(8) of 10 CFR Part 61 as it applies to the classification (e.g., Class A, B, or C waste) of a variety of different types and forms of low-level radioactive waste.

The Technical Position on Radioactive Waste Classification was initially developed in 1983 to provide guidance to low-level radioactive waste generators on four specific topics regarding waste classification: (1) Acceptable Materials Accountability Programs; (2) Determination and Verification of Radionuclide Concentrations and Correlations; (3) Concentration Volumes and Masses; and (4) Reporting on Manifests. Because of the desirability of attempting to achieve consistent waste classification positions among the Commission and Agreement State regulatory authorities, and because of the impact of waste classification positions on other programs (e.g., the Department of Energy's program to accept greater-than Class C waste), a need was identified to expand upon, further define, and replace guidance on the third of the four topics, ''Concentration Volumes and Masses.'' Copies of the two initial proposed Positions were distributed to licensees, Agreement States, Non-Agreement States, State Liaison Officers, and others who are on the NRC's Compact Distribution List, and the second proposal was also distributed to those who specifically submitted comments on the initial proposal. In response to the requests for comments on these earlier proposed Positions, thirty three comment letters were received. Consideration of these comments has led to the final Technical Position that is the subject of this notice. The Technical Position defines a subset of concentration averaging and encapsulation practices that the NRC staff would find acceptable in determining the concentrations of the 10 CFR 61.55 tabulated radionuclides in low-level waste. Because all unique waste types or waste packaging methods are not addressed, an ''Alternative provisions'' paragraph is included in the Technical Position that defines the bases and procedures through which other classification averaging or encapsulation positions may be judged acceptable.

Copies of this final Technical Position, together with an NRC summary of major comments received on the latest proposal and NRC staff responses, are again being distributed (under separate cover) to the aforementioned addresses.

ADDRESSES: Copies of the final Technical Position and the ''NRC Staff's Analysis of and Response to Comments'' may be obtained by writing to W.R. Lahs to Mail Stop T 7F–27, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: W.R. Lahs, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6756.

Dated at Rockville, Maryland, this 17th day of January, 1995.

For the Nuclear Regulatory Commission.

John E. Glenn,

Chief, Low-Level Waste and Decommissioning Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 95–1615 Filed 1–20–95; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Forms Under Review by Office of Management and Budget

AGENCY: Office of Management and Budget.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), this notice announces forms which have been submitted to OMB's Office of Information and Regulatory Affairs for Reinstatement:

Grantee Application Forms

SF–424 Application for Federal Assistance
SF–424A Budget Information—Nonconstruction Programs
SF–424B Assurances—Nonconstruction Programs
SF–424C Budget Information—Construction Programs
SF–424D Assurances—Construction Programs

Grantee Financial Reporting Forms

SF–269 Financial Status Report—Long Form
SF–269A Financial Status Report—Short Form
SF–270 Request for Advance or Reimbursement
SF–271 Outlay Report & Request for Reimbursement for Construction Programs
SF–272 & 272A Federal Cash Transactions Report

Lobbying Disclosure Forms

SF–LLL & LLLA Disclosure of Lobbying Activities

The forms include standard application and financial reporting forms currently prescribed by OMB

Circular A–102, ''Grants and Cooperative Agreements with State and Local Governments,'' and Circular A–110, ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations.'' Federal agencies use the applications to qualify and select grantees and the financial reporting forms to monitor the status of grant funds.

The forms also include the standard disclosure reporting forms for lobbying paid for with non-Federal funds, as required by OMB's governmentwide guidance for new restrictions on lobbying (popularly known as the ''Byrd Amendment'').

Reporting Estimates: Following are the reporting estimates for each of the forms:

Form	Average burden (hours)	Annual forms submitted
SF–424	.75	400,000
SF–424A	3.00	360,000
SF–424B	.25	360,000
SF–424C	3.00	40,000
SF–424D	.25	40,000
SF–269	1.50	200,000
SF–269A	.50	200,000
SF–270	1.00	100,000
SF–271	1.00	40,000
SF–272 & 272A	1.00	100,000
SF–LLL & LLLA	.50	300

FOR FURTHER INFORMATION CONTACT: Barbara F. Kahlow, Office of Federal Financial Management, Room 6025 New Executive Office Building, Washington, DC 20503.

ADDRESSES: Written comments should be sent to: Edward Springer, OMB Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10236 New Executive Office Building, Washington, DC 20503.

John B. Arthur,

Associate Director for Administration.

[FR Doc. 95–1655 Filed 1–20–95; 8:45 am]

BILLING CODE 3110–01–P–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–26218]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

January 13, 1995.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by February 6, 1995, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy of the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Entergy Corp., et al. [70–8529]

Entergy Corporation (''Entergy''), 639 Loyola Avenue, New Orleans, Louisiana 70113, a registered holding company, and its subsidiaries, Entergy Enterprises, Inc. (''Enterprises''), 900 South Shackleford Road, Little Rock, Arkansas 72211, Entergy Services, Inc. (''ESI''), 639 Loyola Avenue, New Orleans, Louisiana 70113, Arkansas Power & Light Company (''AP&L''), 639 Loyola Avenue, New Orleans, Louisiana 70113, Gulf States Utilities Company (''GSU''), 350 Pine Street, Beaumont, Texas 77701, Louisiana Power & Light Company (''LP&L''), 639 Loyola Avenue, New Orleans, Louisiana 70113, Mississippi Power & Light Company (''MP&L''), 308 East Pearl Street, Jackson Mississippi 39215, New Orleans Public Service Inc. (''NOPSI''), 639 Loyola Avenue, New Orleans, Louisiana 70113 (AP&L, GSU, LP&L, MP&L and NOPSI referred to collectively as the ''System Operating Companies''), Entergy Power, Inc. (''EPI''), 900 South Shackleford Road, Little Rock, Arkansas 72211, System Fuels, Inc. (''SFI''), 350 Pine Street, Beaumont, Texas 77701, System Energy Resources, Inc. (''SERI''), 1340 Echelon Parkway, Jackson, Mississippi 39213, and Entergy Operations, Inc. (''EOI''), 1340 Echelon Parkway, Jackson, Mississippi 39213, have filed a declaration under sections 12(d), 12(f) and 13(b) of the Act and rules 44 and 54 thereunder.

Declarants propose that the Commission grant the requisite approvals necessary to implement fully provisions in certain settlement arrangements entered into among Entergy, and retail rate regulators in Arkansas, Louisiana, Mississippi and the City of New Orleans concerning, among other matters, various interassociate transactions. Specifically, Declarants propose that the Commission:

(1) Grant an exemption from the ''at cost'' standards of the Act so that services (excluding; (i) AP&L's charges to EPI for operating and managing the Independence Steam Electric Station Unit No. 2 (''ISES 2'') and the Ritchie Steam Electric Station Unit No. 2; and (ii) the provision of services, such as transmission service, or the sale of electricity at retail pursuant to a rate schedule or tariff filed with or approved by a regulatory authority having jurisdiction over such services or sale, at retail) provided by any of the System Operating Companies, ESI, SFI, SERI or EOI to Enterprises, EPI or other ''Non-Utility Businesses'' may be priced at cost plus 5%; [1]

(2) Authorize the transfer from a ''Regulated Utility'' [2] to a Non-Utility Business or to Entergy Corporation of (i) generating assets, fuel and fuel related assets, and real property and improvements exceeding a fair market value of $100,000 (''Assets'') or (ii) market, technological or similar data (''Data''), priced at the fair market value or book value, whichever is higher, of such Assets or Data. In addition, where product rights, patents, copyrights or similar legal rights (''Intellectual Property'') are transferred from a Regulated utility to a Non-Utility Business or to Entergy, a royalty payment, which would be developed on a case-by-case basis, may be required;

(3) Authorize Regulated Utilities to make procurements (except the procurement of economy energy at a price subject to review by a regulatory

[1] The term ''Non-Utility Business'' shall include EPI, EEI and such other subsidiaries and affiliates as Entergy shall create that are not domestic regulated electric or combination electric and gas utilities primarily engaged in the business of selling electric energy or natural gas at retail or at wholesale to affiliates or are not primarily engaged in the business of providing services or goods to regulated electric or combination electric and gas utility affiliates.

[2] The term ''Regulated Utility'' refers to AP&L, GSU, LP&L, NOPSI, MP&L, SERI, EOI, ESI, and SFI, and such other similar subsidiaries as Entergy shall create whose activities and operations are primarily related to the domestic sale of electric energy at retail or at wholesale to affiliates, or the provision of services or goods thereto.

authority having jurisdiction) in excess of $100,000 from a Non-Utility Business through a competitive bidding processes; and

(4) Approve an allocation methodology whereby profits derived from the marketing to nonaffiliates of products developed by a Regulated Utility and actually used by a Regulated Utility, will be divided evenly between the Regulated Utility responsible for developing the product and the Non-Utility Business responsible for marketing the product after deducting all incremental costs associated with making the product available for sale, including all costs of marketing such product. However, in the event that a product developed by a Regulated Utility to be used in its utility business is not actually so used, and subsequently is marketed by a Non-Utility Business to third parties, such Regulated Utility shall be entitled to recover all of its costs to develop such product before any profits derived from its marketing shall be so divided.

Entergy further proposes that the Commission approve, effective for those services rendered and those assets transferred subsequent to October 31, 1992, the use of other than cost-based pricing for services and transfers of Assets, Data or Intellectural Property, subject to the existence or receipt of requisite Commission authorization in the specific case of any such transfers, and subject further to the terms and conditions of the settlement arrangements. Prior to the time of any such transfer, Entergy and the state regulatory commission(s) having jurisdiction would agree on the consideration to be paid to the particular Regulated Utility by Entergy or its Non-Utility Businesses for the transferred assets. Upon reaching agreement, Entergy would seek any necessary Commission authorization for such transfer, including appropriate exemptions under section 13(b) of the Act.

Finally, GSU, Enterprises and EPI request authority for GSU to provide services to, and receive services from, those respective companies on the same revised terms as the other System Operating Companies.

Central and South West Services, Inc. [70–8531]

Central and South West Services, Inc. (''CSWS''), 1616 Woodall Rodgers Freeway, Dallas, Texas 75202, a wholly owned nonutility subsidiary of Central and South West Corporation (''CSW''), a registered holding company, has filed an application-declaration under sections 9(a) and 10 of the Act and rule 23 thereunder.

CSWS operates an engineering and construction department that provides power plant control system procurement, integration and programming services, and power plant engineering and construction services to associates within the CSW system, including CSW's electric utility subsidiaries and CSW Energy, Inc. CSWS states that, due to changing needs of the CSW system, it is necessary to maintain flexible staffing capabilities and knowledgeable personnel. CSWS also states that the needs of the CSW system for these services change from time to time, and that, as a result, excess resources are sometimes available in its engineering and construction department. CSWS therefore proposes to provide such services to nonassociates at charges to be negotiated between CSWS and such customers. CSWS states that in providing services to nonassociates, it believes it will be serving the public interest as well as most efficiently utilizing its power engineering resources.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–1565 Filed 1–20–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35230; File No. SR–NYSE–94–45]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by New York Stock Exchange, Inc. Relating to Member Organization Facilitation of Customer Stock or Program Orders

January 13, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 6, 1994, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. On January 11, 1995, the Exchange submitted to the Commission Amendment No. 1 to the proposed rule change in order to make certain technical corrections to the text of the proposal.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of an Information Memorandum (''Memorandum'') that states the NYSE's policy regarding member organization facilitation of customer stock or program orders.[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed Memorandum is to advise the Exchange's membership of certain activities that the Exchange believes would be inconsistent with just and equitable principles of trade.

The Memorandum describes a situation where a member organization commits to sell securities to a customer, after the close, at the closing price on the Exchange. To position itself to facilitate the transaction, the member organization buys the stock(s) throughout the day, in a proprietary account, assuming the risk of the market. To reduce its risk, the member organization leaves a portion of the order to be executed at the close. The Memorandum states that, if the size of the transaction(s) that the member organization intends to execute at the close can reasonably be expected to impact the closing price(s), the member organization should not buy any stock related to that position ''near the close.'' Whether or not the purchase would be

[1] See letter from Donald Siemer, Director, Market Surveillance, NYSE, to Beth Stekler, Attorney, Division of Market Regulation, SEC, dated January 11, 1995 (''Amendment No. 1'').

[2] NYSE Rule 80A defines the term ''program trading'' as (1) index arbitrage or (2) any trading strategy involving the related purchase or sale of a ''basket'' or group of 15 or more stocks having a total market value of $1 million or more.

deemed to be ''near the close'' would depend on the degree of risk that could reasonably be attributed to the position established by that trade, versus the reasonably anticipated impact the trade at the close would have on the closing price. Generally, however, trades executed after 3:40 p.m. would be considered to be ''near the close.'' The Memorandum notes that the member organization would not be precluded from executing the customer's order on an agency basis at any time, including at or near the close, but cautions that this would not preclude the Exchange from determining that such activity might be a violation of the anti-manipulation provisions of the Act or Exchange rules.

The Memorandum also restates that the Exchange would deem conduct to be inconsistent with just and equitable principles of trade where a member organization effects any transactions in a stock, knowing of the imminent execution of a block, in order subsequently to liquidate the position by participating on the contra-side of the block transaction. The Memorandum also provides that a person should not disclose to any other person trading strategies or customers' orders for the purpose of that person taking advantage of the information for his or her personal benefit or for the benefit of a member organization.

The Memorandum notes, however, that this would not preclude a member organization from soliciting interest to trade with the contra-side of a block in the normal course of engaging in block facilitation activities.

Finally, the Memorandum reminds the Exchange's membership that they are required to establish and maintain procedures reasonably designed to review facilitation activities for compliance with Exchange rules and federal securities laws. It also states that member organizations must ensure that trading strategies engaged in by their proprietary traders to facilitate customers' orders have an economic basis and are not engaged in to mark the close or to mark the value of a position and that before any at-the-close customer orders are transmitted to the Floor, member organizations accepting such orders must exercise due diligence to learn the essential facts relative to these orders.

2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under section 6(b)(5) that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. The proposed Information Memorandum is consistent with these objectives in that it enhances the Exchange's efforts to educate its membership about practices that the Exchange believes are inconsistent with just and equitable principles of trade.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

By no later than February 27, 1995, or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 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 NYSE. All submissions should refer to File No. SR–NYSE–94–45 and should be submitted by February 13, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–1566 Filed 1–20–95; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Index of Administrator's Decisions and Orders in Civil Penalty Actions; Publication

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of publication.

SUMMARY: This notice constitutes the required quarterly publication of an index of the Administrator's decisions and orders in civil penalty cases. The FAA is publishing an index by order number, an index by subject matter, and case digests that contain identifying information about the final decisions and orders issued by the Administrator. Publication of these indexes and digests is intended to increase the public's awareness of the Administrator's decisions and orders and to assist litigants and practitioners in their research and review of decisions and orders that may have precedential value in a particular civil penalty action. Publication of the index by order number, as supplemented by the index by subject matter, ensures that the agency is in compliance with statutory indexing requirements.

FOR FURTHER INFORMATION CONTACT: James S. Dillman, Assistant Chief Counsel for Litigation (AGC–400), Federal Aviation Administration, 701 Pennsylvania Avenue NW, Suite 925, Washington, DC 20004: telephone (202) 376–6441.

SUPPLEMENTARY INFORMATION: The Administrative Procedure Act requires Federal agencies to maintain and make available for public inspection and copying current indexes containing identifying information regarding materials required to be made available or published. 5 U.S.C. 552(a)(2). In a notice issued on July 11, 1990, and published in the **Federal Register** (55 FR 29148; July 17, 1990), the FAA announced the public availability of several indexes and summaries that provide identifying information about

the decisions and orders issued by the Administrator under the FAA's civil penalty assessment authority and the rules of practice governing hearings and appeals of civil penalty actions. 14 CFR Part 13, Subpart G. The FAA maintains an index of the Administrator's decisions and orders in civil penalty actions organized by order number and containing identifying information about each decision or order. The FAA also maintains a subject-matter index, and digests organized by order number.

In a notice issued on October 26, 1990, the FAA published these indexes and digests for all decisions and orders issued by the Administrator through September 30, 1990. 55 FR 45984; October 31, 1990. The FAA announced in that notice that it would publish supplements to these indexes and digests on a quarterly basis (*i.e.*, in January, April, July, and October of each year). The FAA announced further in that notice that only the subject-matter index would be published cumulatively, and that both the order number index and the digests would be non-cumulative.

Since that first index was issued on October 26, 1990 (55 FR 45984; October 31, 1990), the FAA has issued supplementary notices containing the quarterly indexes of the Administrator's civil penalty decisions as follows:

Dates of quarter	Federal Register publication
10/1/90–12/31/90 ...	56 FR 44886; 2/6/91.
1/1/91–3/31/91	56 FR 20250; 5/2/91.
4/1/91–6/30/91	56 FR 31984; 7/12/91.
7/1/91–9/30/91	56 FR 51735; 10/15/91.
10/1/91–12/31/91 ...	57 FR 2299; 1/21/92.
1/1/92–3/31/92	57 FR 12359; 4/9/92.
4/1/92–6/30/92	57 FR 32825; 7/23/92.
7/1/92–9/30/92	57 FR 48255; 10/22/92.
10/1/92–12/31/92 ...	58 FR 5044; 1/19/93.
1/1/93–3/31/93	58 FR 21199; 4/19/93.
4/1/93–6/30/93	58 FR 42120; 8/6/93.
7/1/93–9/30/93	58 FR 58218; 10/29/93.
10/1/93–12/31/93 ...	59 FR 5466; 2/4/94.
1/1/94–3/31/94	59 FR 22196; 4/29/94.
4/1/94–6/30/94	59 FR 39618; 8/3/94.

Due to administrative oversight, the third quarter index for 1994, including information pertaining to the decisions and orders issued by the Administrator between July 1 and September 30, 1994, was not prepared and published. As a consequence, the information regarding the third quarter's decisions and orders, as well as the fourth quarter's decisions and orders, will be included in this publication of the index.

In the notice published on January 19, 1993, the Administrator announced that for the convenience of the users of these indexes, the order number index published at the end of the year would reflect all of the civil penalty decisions for that year. 58 FR 5044; 1/19/93. The order number indexes for the first, second, and third quarters would be noncumulative. Consequently, this publication includes the cumulative order number index for all decisions and orders issued during 1994.

The Administrator's final decisions and orders, indexes, and digests are available for public inspection and copying at all FAA legal offices. (The addresses of the FAA legal offices are listed at the end of this notice.)

Also, the Administrator's decisions and orders have been published by commercial publishers and are available on computer databases. (Information about these commercial publications and computer databases is provided at the end of this notice.)

Civil Penalty Actions—Orders Issued by the Administrator

Order Number Index

(This index includes all decisions and orders issued by the Administrator from July 1, 1994 to December 31, 1994.)

94–1 Delta Airlines
2/18/94 CP90**0022
94–2 Mary Woodhouse
3/10/94 CP92WP0059
94–3 Valley Air Services
3/10/94 CP91NE0236
94–4 Northwest Aircraft Rental
3/10/94 CP93NM0031
94–5 Meritt A. Grant
3/10/94 CP92SO0471
94–6 Raymond B. Strohl
3/10/94 CP93GL0046
94–7 Eric W. Hereth
3/10/94 CP92WP0444
94–8 Raul Nunez
3/10/94 CP92SO0028
94–9 B&G Instruments
3/29/94 CP93SO0028
94–10 John G. Boyle
3/29/94 CP93SO0060
94–11 Pan American Airways
4/21/94 CP89WP0229, CP89SO0232, CP89SO0239, CP89SO0240
94–12 David Bartusiak
4/28/94 CP93WP0042
94–13 John G. Boyle
5/19/94 CP93SO0060
94–14 B&G Instruments
6/9/94 CP93SO0028
94–15 Anthony Columna
6/15/94 CP94SO0002
94–16 Martha Phyllis Ford
6/15/94 CP93SO0244
94–17 TCI Corp.
6/22/94 88–25(HM)
94–18 Phyllis Jones Luxemburg
6/22/94 CP93SO0105
94–19 Pony Express Courier Corp.
6/22/94 89–4 (HM)
94–20 Conquest Helicopters
6/22/94 CP92NM0500
94–21 Mark L. Sweeney
6/22/94 CP91NM0430
94–22 Jimmy Lee Harkins
6/22/94 CP93AL0214
94–23 Ezequiel Perez
6/27/94 CP93SO0374
94–24 Todd M. Page
6/29/94 CP92NM0486
94–25 Janet Myers
8/23/94 CP94SW0053
94–26 French Aircraft Agency
8/24/94 CP92SO0482
94–27 Michael R. Larsen
9/30/94 CP93NM0024
94–28 Toyota Motor Sales
9/30/94 CP93SO0269
94–29 Robert Sutton
9/30/94 CP93EA0370
94–30 Anthony Columna
9/30/94 CP93SO0002
94–31 Scott Smalling
10/5/94 CP93NM0260
94–32 Detroit Metropolitan Wayne County Airport
10/5/94 CP94GL0032
94–33 Trans World Airlines
10/13/94 CP90GL0085, CP90CE0110, CP90CE0114, CP90CE0134
94–34 American International Airways
11/29/94 CP93EA0051
94–35 American International Airways
11/29/94 CP93WP0296
94–36 American International Airways
11/29/94 CP93GL0053
94–37 Ray Houston
12/9/94 (no docket number)
94–38 Lee Philip Bohan
12/9/94 CP93SO0092
94–39 Boris Kirola
12/9/94 CP94EU0048, CP94EU0051
94–40 Polynesian Airways
12/9/94 CP91WP0455
94–41 Dewey E. Tower
12/16/94 CP93CE00389, CP93CE0390, CP93CE0391
94–42 Francis Taylor
12/16/94 CP94GL0086
94–43 Ezequiel G. Perez
12/20/94 CP93SO0374
94–44 American Airlines
12/20/94 CP93SO0286

Civil Penalty Actions—Orders Issued by the Administrator—Subject Matter Index

[Current as of December 31, 1994]

Civil Penalty Actions—Orders Issued by the Administrator—Subject Matter Index—Continued

[Current as of December 31, 1994]

Civil Penalty Actions—Orders Issued by the Administrator—Subject Matter Index—Continued

[Current as of December 31, 1994]

Civil Penalty Actions—Orders Issued by the Administrator—Subject Matter Index—Continued

[Current as of December 31, 1994]

Civil Penalty Actions—Orders Issued by the Administrator—Subject Matter Index—Continued

[Current as of December 31, 1994]

Civil Penalty Actions—Orders Issued by the Administrator—Subject Matter Index—Continued

[Current as of December 31, 1994]

Regulations (Title 14 CFR, unless Otherwise Noted)

Civil Penalty Actions—Orders Issued by the Administrator—Subject Matter Index—Continued

[Current as of December 31, 1994]

13.232	89–5 Schultz; 90–20 Degenhardt; 92–1 Costello; 92–18 Bargen; 92–32 Barnhill; 93–28 Strohl; 94–28 Toyota.
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Civil Penalty Actions—Orders Issued by the Administrator

Digests

(From July 1 to December 31, 1994)

The digests of the Administrator's final decisions and orders are arranged by order number, and briefly summarize key points of the decision. The following compilation of digests includes all final decisions and orders issued by the Administrator from July 1, 1994 to December 31, 1994.

These digests do not constitute legal authority, and should not be cited or relied upon as such. The digests are not intended to serve as a substitute for proper legal research. Parties, attorneys, and other interested persons should always consult the full text of the Administrator's decisions before citing them in any context.

In the Matter of Janet Myers

Order No. 94–25 (8/23/94)

Appeal Dismissed. Respondent failed to perfect her appeal by filing an appeal brief, and has failed to show good cause for this failure. Respondent's appeal is dismissed.

In the Matter of French Aircraft Agency

Order No. 94–26 (8/24/94)

Appeal Dismissed. Respondent failed to perfect its appeal by filing an appeal brief, and has failed to show good cause for this failure. Respondent's appeal is dismissed.

In the Matter of Michael R. Larsen

Order No. 94–27 (9/30/94)

Motion To Dismiss the Hearing Request. Complainant properly filed a motion to dismiss Respondent's hearing request for untimeliness, instead of a complaint, under the Rules of Practice. The law judge erred in finding that Complainant had no jurisdictional basis for filing the motion to dismiss the hearing request. The general applicability section of the Rules of Practice should be interpreted in the context of the entire subpart.

In the Matter of Toyota Motor Sales, USA, Inc.

Order No. 94–28 (9/30/94)

Civil Penalty Increased. In this hazardous materials case involving air shipment of acid-filled batteries, the law judge committed several errors in his analysis that led him to impose a sanction that was too low. The penalty is increased from $10,000 to $50,000.

Standard for ALJ Reduction of Civil Penalty. Complainant argued in its brief that law judges should reduce the proposed civil penalty only if clear and compelling mitigating circumstances, not made known to Complainant prior to the hearing, exist. This argument is rejected. Under the Rules of Practice, the agency attorney bears the burden of proving the agency's case, including the appropriate amount of the civil penalty. When sanction is an issue, the law judge is expected to give a reasoned explanation of the amount of civil penalty selected, whether or not the penalty is reduced.

Corrective Action. Respondent's decision to stop shipping batteries did not constitute corrective action justifying a lower civil penalty. The type of corrective action that warrants a significant reduction in the civil penalty is action to ensure that hazardous materials will be handled by the respondent in compliance with the regulations in the future—*e.g.*, sending employees to hazardous materials training.

In the Matter of Robert Lee Sutton

Order No. 94–29 (9/30/94)

Failure To File Answer. Respondent raises the possibility that he may have been misled in his discussions with the agency attorney. If communications between Respondent and the agency attorney led Respondent reasonably, but incorrectly, to believe that submitting a settlement proposal was a valid substitute for filing an answer, then in the interest of fairness, good cause may be found and Respondent should be permitted to file an answer. Complainant is directed to provide an additional brief addressing whether Respondent may have been misled by Complainant's words or actions.

In the Matter of Anthony F. Columna

Order No. 94–30 (9/30/94)

Good Cause To Excuse Late Filing of Answer. A statement in the law judge's notice of hearing may have inadvertently misled Respondent, causing him to believe that he could mail his answer after the deadline as long as he provided some explanation for doing so. Good cause has been shown. The order canceling the hearing and assessing the $1,000 civil penalty is vacated, and the case is remanded to the law judge for a hearing.

In the Matter of Scott H. Smalling

Order No. 94–31 (10/5/94)

''Knowing'' Violation of Hazardous Materials Law. Respondent argues that he could not have violated the hazardous materials regulations ''knowingly,'' within the meaning of the Hazardous Materials Transportation Act, because he did not know that the firecrackers in his baggage were hazardous materials and that what he did was wrong. Congress intended to prevent individuals from relying on ignorance of the law as an excuse in civil hazardous materials cases. In this context—a civil case in which specific intent to violate the regulations need not be shown—lack of knowledge of the law is irrelevant. The law judge's decision assessing a $1,250 civil penalty is affirmed.

In the Matter of Detroit Metropolitan Wayne County Airport

Order No. 94–32 (10/5/94)

Interlocutory Appeal Premature. Complainant appealed from actions contemplated by the law judge in an order to show cause. However, none of the possible actions mentioned by the law judge in the order to show cause have yet occurred. Complainant's interlocutory appeal of right is not ripe for review and is dismissed.

Obstreperous or Disruptive Behavior. The meager record to date in this case—two written responses to discovery orders—does not demonstrate conduct by agency counsel that appears to rise to the level of obstreperous or disruptive behavior.

In the Matter of Trans World Airlines, Inc.

Order No. 94–33 (10/13/94)

Appeal Dismissed. Complainant withdrew its notice of appeal, and as a result, its appeal is dismissed.

In the Matter of American International Airways d/b/a Connie Kalitta Services

Order No. 94–34 (11/29/94)

Dismissal of Appeal. Respondent failed to perfect its appeal by filing an appeal brief as required by 14 CFR 13.233(c). Respondent's appeal is dismissed.

In the Matter of American International Airways d/b/a Connie Kalitta Services

Order No. 94–35 (11/29/94)

Dismissal of Appeal. Respondent failed to perfect its appeal by filing an appeal brief as required by 14 CFR 13.233(c). Respondent's appeal is dismissed.

In the Matter of American International Airways d/b/a Connie Kalitta Services

Order No. 94–36 (11/29/94)

Dismissal of Appeal. Respondent failed to perfect its appeal by filing an appeal brief as required by 14 CFR

13.233(c). Respondent's appeal is dismissed.

In the Matter of Ray Houston

Order No. 94–37 (12/9/94)

Request for Hearing. Respondent is the principal officer of Johnson County Aerial Services. Civil penalty action was taken against Respondent and against Johnson County Aerial Services. Respondent did not send a request for hearing with the case number assigned to his case. An order assessing civil penalty was issued by Complainant. Respondent did send a request for hearing that he signed, using the case number assigned to the Johnson County Aerial Services case. Respondent wrote to the law judge, requesting that his case be consolidated with the Johnson County Aerial Services case. He explained that he intended the request for hearing to serve as a request for hearing in both cases. The law judge forwarded Respondent's request to the FAA Decisionmaker.

The matter is remanded to the law judge to determine whether it was reasonable for Respondent to think that the request for hearing that he submitted was a request in both cases, and if so, whether the request for hearing was timely in Respondent's case or whether there is good cause to excuse the untimeliness of the request for hearing.

Jurisdiction of Law Judges. The agency attorney argues that an untimely request for hearing and the issuance of an order assessing civil penalty divest the law judge and the Administrator of jurisdiction. The law judge has jurisdiction to determine whether a request for hearing was late-filed, and therefore, whether the agency attorney issued an order assessing civil penalty in accordance with 14 CFR 13.16(b)(2).

In the Matter of Lee Philip Bohan

Order No. 94–38 (12/9/94)

Minimum Equipment List (MEL). At the time of the incident giving rise to this case, the Delta Boeing 737 MEL specifically permitted the deferral of maintenance of a broken forward observer seat. In contrast, the MEL at the time made no mention of equipment associated with the forward observer seat, such as the oxygen mask. The Delta Boeing 737 MEL was later amended to specifically permit deferral of the forward observer seat and its associated equipment. Prior to the incident, the FAA had informed Delta that the MEL at that time did not permit deferral of maintenance of broken equipment associated with the forward observer seat.

A comparison of the Delta MEL in effect on the day of the incident, which did not expressly defer associated equipment, and the subsequent MEL, which did permit deferral of associated equipment, supports the law judge's findings that the former MEL did not authorize deferral. Moreover, assuming for this decision only that Respondent had the authority to interpret a MEL provision as meaning more than its plain language, Respondent should have realized that this MEL provision did not include the oxygen mask and should have checked further before deferring maintenance on the oxygen mask.

Maintenance. Respondent, a maintenance coordinator in Atlanta, argued that he did not perform maintenance, as that term is used in 14 CFR 43.13(a), when he authorized the deferral of maintenance on the broken forward observer oxygen mask on the aircraft which was then in Kansas City. It is held that Respondent did perform maintenance because he authorized the non-repair or non-replacement of the broken oxygen mask. Respondent performed maintenance contrary to the methods, techniques, and practices acceptable to the Administrator when he authorized the non-repair or non-replacement of the broken oxygen mask. To hold otherwise would be to narrowly restrict Section 43.13(a) to the mechanic or inspector in physical contact with the aircraft although the important maintenance decisions, including the decision not to perform maintenance, are made by supervisors or other officials with corresponding authority.

In the Matter of Boris Kirola

Order No. 94–39 (12/9/94)

Complainant appealed from the ALJ's order denying reconsideration of his order finding that the agency attorney and Assistant Chief Counsel engaged in obstreperous or disruptive behavior. After Complainant withdrew the complaints giving rise to this case, the law judge issued the order finding that the agency attorney had engaged in obstreperous or disruptive behavior by refusing to comply with the law judge's order to list specific civil penalty amounts for each alleged violation and for failing to reply to the order to show cause. The law judge denied reconsideration and found that the Assistant Chief Counsel also engaged in obstreperous or disruptive behavior for failing to respond to an order. The next day, the law judge dismissed the cases.

Jurisdiction of ALJ after Withdrawal of Complaints. Once the complaints were withdrawn, the law judge lacked the authority to issue the orders. The express sanction for obstreperous or disruptive behavior under 14 CFR 13.205(b) is for the law judge to bar the individual from the proceedings. In this case, since the complaints had been withdrawn, the question of barring the attorneys from the proceeding was moot.

Administrative law judges in FAA civil penalty actions do not retain jurisdiction to decide collateral matters after the complaints have been withdrawn.

Obstreperous or Disruptive Conduct. Finally, agency counsel were not obstreperous or disruptive. The case had not yet reached the hearing stage. The law judge's findings of obstreperous and disruptive behavior were based solely on two written responses by Complainant's counsel to discovery orders and on the failure of Complainant's counsel and Assistant Chief Counsel to respond to two orders.

In the Matter of Polynesian Airways, Inc.

Order No. 94–40 (12/9/94)

Weight of Aircraft. Respondent, a Part 135 operator, weighted its aircraft in August 1898, and brought it to a certificated repair station to be reweighed in January, 1990. The weight determined by the 1990 weighing was 244 pounds heavier than that from the August 1989 weighing. Respondent's owner testified that he knew that the aircraft had gained weight and that the August 1989 weighing was no longer reliable because of the installation of floorboards since August 1989. However, he testified, he thought the January 1990 weighing seemed ''too heavy.'' During an inspection on August 16, 1990, FAA inspectors found that Respondent's pilot had used the August 1989 weight to determine the weight and center of gravity of the aircraft on three flight for hire. Complainant alleged that Respondent had violated 14 CFR 135.185(a) and 135.63(c). The law judge dismissed the complaint, finding that Complainant had failed to prove violations of those regulations. Complainant appealed.

It is held that 14 CFR 135.185(a) does not provide that no person may operate a multiengine aircraft unless the current empty weight and center of gravity are calculated from the values established by the latest or the most recent actual weighing. Section 135.185(a) sets forth its own definition of the word ''current.'' According to that regulation, the values from an actual weighing may be used as long as that weighing occurred within the preceding 36 months.

The day of the flights in question, the empty weight and center of gravity had been calculated from values established by an actual weighing that had taken place approximately 12 months earlier. The law judge's finding that Respondent did not violate 14 CFR 135.185(a) is affirmed.

Load Manifests. It is held that Respondent violated 14 CFR 135.63(c), which makes the operator responsible for the accuracy of the load manifest. In meeting the requirements of Section 135.63(c), an operator cannot use an aircraft weight that he knows is inaccurate, even when the empty weight was established by an actual weighing done within the previous 36 months. It is undisputed that if the empty weight and center of gravity figures are wrong, then all of the calculations based thereon, such as the weight and balance for a loaded aircraft, likewise will be wrong.

Equal Protection. There is no merit to Respondent's argument that it is being treated differently than other similarly situated certificate holders who have the right to appeal to the National Transportation Safety Board under the FAA Civil Penalty Assessment Act of 1992. The provisions of that Act do not apply to violations such as the ones in this case that occurred prior to August 26, 1992.

Penalty. A $5000 civil penalty, as sought by Complainant is assessed even though it is found that only 14 CFR 135.63(c) was violated. A $5000 civil penalty is appropriate in light of the totality of the circumstances in this case: (1) The serious safety implications of flying without accurate weight and balance information; (2) Respondent's continued use of the August 1989 weighing despite the FAA inspectors efforts to help Respondent to come into compliance; (3) $5000 is well below the maximum allowable civil penalty.

In the Matter of Dewey E. Towner

Order No. 94–41 (12/16/94)

Withdrawal of Appeal. Complainant withdrew its notice of appeal from the initial decision. Complainant's appeal is dismissed.

In the Matter of Francis Taylor

Order No. 94–42 (12/16/94)

Withdrawal of Appeal. Complainant withdrew its notice of appeal from the initial decision. Complainant's appeal is dismissed.

In the Matter of Ezequiel G. Perez

Order No. 94–43 (12/20/94)

Requirement to File an Answer. The law judge had dismissed Respondent's request for hearing, finding that Respondent had not filed an answer. Respondent appealed and explained that he had sent an answer to the agency counsel in Orlando, Florida.

The Administrator finds that Complainant did not fully respond to Respondent's statement on appeal that he sent an answer to the agency attorney in Orlando. Complainant did not state that Respondent's answer was not received by the agency attorney in Orlando, who initiated the action. Complainant also did not state that no answer was received by agency counsel in the FAA Eastern Region, where the action was transferred for hearing. Agency counsel or the records custodian for agency counsel's office should have made all statements of fact pertaining to the non-receipt of Respondent's answer in an affidavit or declaration. Case is remanded to the law judge with instructions to hold a hearing on the issue of whether Respondent filed an answer and if not, whether, in light of Respondent's language difficulties, good cause exists to excuse the failure to file an answer.

In the Matter of American Airlines

Order No. 94–44 (12/20/94)

Sanction. The law judge found that Respondent had violated 14 CFR 108.5(a)(1) and 108.11(a) by permitting a passenger to board its aircraft with a loaded gun that remained accessible to the passenger during flight. Complainant sought a $10,000 civil penalty. The law judge reduced the civil penalty to $1000 based upon (1) the six-week delay between the incident and the date on which the FAA notified Respondent of the incident, and (2) the absence of any evidence regarding whether Respondent was solely responsible for the operation of the security screening checkpoint that failed to detect the loaded gun. On appeal, the Administrator rejects these two factors as valid grounds for reducing the civil penalty.

A six-week delay by the FAA in notifying an air carrier that an incident involving one of its passengers is under investigation is less than desirable but not *per se* unreasonable. More importantly, nowhere in the record did Respondent explain what it would have done differently to investigate this incident or to take corrective action had Respondent been notified sooner.

The fact that a passenger boarded and flew on Respondent's aircraft with a loaded gun in his accessible carry-on baggage was a failure by Respondent to carry out its security program. Respondent does not avoid its responsibility under its security program by suggesting, without any evidence to support it, that perhaps the passenger went through a security screening checkpoint that was operated by another carrier.

A $5000 civil penalty will adequately reflect the seriousness of the violations committed by Respondent and deter future violations by Respondent and others.

Commercial Reporting Services of the Administrator's Civil Penalty Decisions and Orders

In June 1991, as a public service, the FAA began releasing to commercial publishers the Administrator's decisions and orders in civil penalty cases. The goal was to make these decisions and orders more accessible to the public. The Administrator's decisions and orders in civil penalty cases are now available in the following commercial publications:

AvLex, published by Aviation Daily, 1156 15th Street, NW, Washington, DC 20005, (202) 822–4669;

Civil Penalty Cases Digest Service, published by Hawkins Publishing Company, Inc., P.O. Box 480, Mayo, MD, 21106, (410) 798–1677;

Federal Aviation Decisions, Clark Boardman Callaghan, 50 Broad Street East, Rochester, NY 14694, (716) 546–1490.

The decisions and orders may be obtained on disk from Aviation Records, Inc., P.O. Box 172, Battle Ground, WA 98604, (206) 896–0376. Aeroflight Publications, P.O. Box 854, 433 Main Street, Gruver, TX 79040, (806) 733–2483, is placing the decisions on CD–ROM. Finally, the Administrator's decisions and orders in civil penalty cases are available on the following computer databases: Compuserve; Fedix; and GENIE.

The FAA has stated previously that publication of the subject-matter index and the digests may be discontinued once a commercial reporting service publishes similar information in a timely and accurate manner. No decision has been made yet on this matter, and for the time being, the FAA will continue to prepare and publish the subject-matter index and digests.

FAA Offices

The Administrator's decisions and orders, indexes, and digests are available for public inspection and copying at the following locations in FAA headquarters:

FAA Hearing Docket, Federal Aviation Administration, 800 Independence Avenue, SW., Room 924A,

Washington, DC 20591; (202) 267–3641.

These materials are also available at all FAA regional and center legal offices at the following locations:

Office of the Assistant Chief Counsel for the Aeronautical Center (AMC–7), Mike Monroney Aeronautical Center, 6500 South MacArthur, Oklahoma City, OK 73125; (405) 680–3296.

Office of the Assistant Chief Counsel for the Alaskan Region (AAL–7), Alaskan Region Headquarters, 222 West 7th Avenue, Anchorage, AL 99513; (907) 271–5269.

Office of the Assistant Chief Counsel for the Central Region (ACE–7), Central Region Headquarters, 601 East 12th Street, Federal Building, Kansas City, MO 64106; (816) 426–5446.

Office of the Assistant Chief Counsel for the Eastern Region (AEA–7), Eastern Region Headquarters, JFK International Airport, Fitzgerald Federal Building, Jamaica, NY 11430; (718) 553–1035.

Office of the Assistant Chief Counsel for the Great Lakes Region (AGL–7), Great Lakes Region Headquarters, O'Hare Lake Office Center, 2300 East Devon Avenue, Des Plaines, IL 60018; (708) 294–7108.

Office of the Assistant Chief Counsel for the New England Region (ANE–7), New England Region Headquarters, 12 New England Executive Park, Burlington, MA 01803; (617) 273–7050.

Office of the Assistant Chief Counsel for the Northwest Mountain Region (ANM–7), Northwest Mountain Region Headquarters, 18000 Pacific Highway South, Seattle, WA 98188; (206) 227–2007.

Office of the Assistant Chief Counsel for the Southern Region (ASO–7), Southern Region Headquarters, 1701 Columbia Avenue, College Park, GA 30337; (404) 305–5200.

Office of the Assistant Chief Counsel for the Southwest Region (ASW–7), Southwest Region Headquarters, 4400 Blue Mound Road, Fort Worth, TX 76193; (817) 624–5707.

Office of the Assistant Chief Counsel for the Technical Center (ACT–7), Federal Aviation Administration Technical Center, Atlantic City International Airport, Atlantic City, NJ 08405; (609) 485–7087.

Office of the Assistant Chief Counsel for the Western-Pacific Region (AWP–7), Western-Pacific Region Headquarters, 15000 Aviation Boulevard, Lawndale, CA 90261; (310) 297–1270.

Issued in Washington, DC on January 17, 1995.

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Assistant Chief Counsel for Litigation.

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Federal Transit Administration

Environmental Impact Statement for the Glen Burnie Light Rail Extension in Anne Arundel County, Maryland

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: The Federal Transit Administration (FTA) and the Maryland Mass Transit Administration (MTA) intend to undertake an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act (NEPA). MTA will ensure that the EIS also satisfies the requirements of the Maryland Environmental Policy Act (MEPA).

This effort will be performed in cooperation with the Anne Arundel County Office of Planning and Code Enforcement. Other key supporting agencies include the Anne Arundel County Department of Public Works and the Baltimore Metropolitan Council (BMC).

The Environmental Impact Statement will evaluate alternative light rail alignments in the corridor between the Central Light Rail Line's existing terminus, Cromwell Station, to the central business district (CBD) in Glen Burnie, MD and a parallel hiker/biker trail. In addition, the EIS will evaluate the No-Build alternative. Scoping will be accomplished through correspondence with interested persons, organizations, and federal, state, and local agencies, and through a public meeting. See **SUPPLEMENTARY INFORMATION** below for details.

DATES: Comment Due Date: Written comments on the scope of the alternative alignments and impacts to be considered should be sent to the MTA by February 27, 1995, See **ADDRESSES** below.

Scoping Meeting: The public scoping meeting will be held on Wednesday, January 25, 1995, between 3 p.m. and 9 p.m. at The Pascal Senior Center. See **ADDRESSES** below. People with special needs should contact Lisa Colletti at the address below or by calling (410) 333–3379. A TDD number is also available; (410) 539–3497. The building is accessible to people with disabilities. It is located within one mile of the Cromwell Light Rail Stop as well as transit stops for the 14, 17, and 18 bus lines.

ADDRESSES: Written comments on project scope should be sent to Mr. Anthony J. Brown, Project Manager, Maryland Mass Transit Administration, 300 West Lexington Street, Baltimore, MD 21201–3415. The Scoping Meeting will be held at the following location: The Pascal Senior Center, 125 Dorsey Road, Glen Burnie, Maryland, 21061. See **DATES** above.

FOR FURTHER INFORMATION CONTACT: Mr. Herman Shipman, Deputy Regional Administrator, Federal Transit Administration, Region III, 1760 Market St., Suite 500, Philadelphia, PA 19103 (215) 656–6900.

SUPPLEMENTARY INFORMATION:

I. Scoping

FTA and the MTA invite interested individuals, organizations, and federal, state, and local agencies to participate in defining the alternatives to be evaluated in the EIS and identifying any significant social, economic, or environmental issues related to the alternatives. Scoping comments may be made at the public scoping meeting or in writing. See **DATES** and **ADDRESSES** sections above for locations and times. During scoping, comments should focus on identifying specific social, economic, or environmental impacts to be evaluated and suggesting alternatives which are more cost effective or have less environmental impact while achieving similar transit objectives.

Scoping materials will be available at the meeting or in advance of the meeting by contacting Lisa Colletti at the MTA as indicated above. The meeting will be held in an ''open-house'' format and project representatives will be available to discuss the project throughout the time period given. Informational displays and written materials will also be available throughout the time period given. In addition to written comments which may be made at the meeting or as described below, a stenographer will be available at the meeting to record comments.

II. Description of Study Area and Project Need

The study area is wholly within Anne Arundel County, MD. It is approximately three quarters of a mile long and connects the CBD of Glen Burnie, MD and the existing Central Light Rail Line terminus at Dorsey Road (MD 176) and Baltimore & Annapolis Boulevard (MD 648). The corridor also connects two commercial centers.

Existing transit service in the study area is provided by the Maryland Mass Transit Administration. Existing traffic is primarily carried by Dorsey Road (MD 176) and Baltimore & Annapolis Boulevard (MD 648) with high traffic volumes at many of the signalized intersections.

The proposed light rail extension is intended to provide a high quality connection between the existing Central Light Rail Line terminus at Dorsey Road and the Glen Burnie CBD; to support economic viability of the Glen Burnie area through greater transit accessibility; contribute to higher transit modal splits for work trips between the Glen Burnie and Downtown Baltimore CBDs and employment centers; improve reverse commute transportation options; to help achieve regional clean air goals; and improve travel time in the Baltimore - Glen Burnie corridor.

III. Alternatives

The alternatives proposed for evaluation include: No-Build which involves no change to transportation services or facilities in the corridor beyond those improvements currently programmed; and the light rail transit alternative which consists of providing light rail service via alternative alignments ranging in length from 2,900 feet to 4,570 feet, primarily using single track. One station stop is proposed in conjunction with this alignment.

IV. Probable Effects

FTA and MTA plan to evaluate in the EIS all significant social, economic, and environmental impacts of the alternatives. Among the primary issues are the expected increase in transit ridership, the expected increase in mobility for the corridor's transit dependent, the support of the region's air quality goals, the capital outlays needed to construct the project, the cost of operating and maintaining the facilities created by the project, and the financial impacts on the funding agencies. Environmental and social impacts proposed for analysis include land use and neighborhood impacts, traffic and parking impacts near stations, health and safety impacts on wetland and parkland areas, and noise and vibration impacts. Impacts on natural areas, rare and endangered species, and air and water quality, will also be covered. The impacts will be evaluated both for the construction period and for the long term period of operations. Measures to mitigate adverse impacts will be identified.

V. FTA Procedures

The draft EIS will be prepared in accordance with federal transportation planning and environmental regulations (23 CFR Parts 450 and 771). The draft EIS will document the social, economic, and environmental impacts of the alternatives. Upon completion of the draft EIS, and on the basis of comments received, the MTA Administrator in concert with the Secretary of the Maryland Department of Transportation (MDOT) and BMC, and in consultation with Anne Arundel County, and other affected agencies will select a locally preferred alternative. The MTA will then seek to have BMC, the metropolitan planning organization for the Baltimore area include the preferred alternative in the regional transportation plan, and continue with further preliminary engineering of the project and preparation of the Final EIS.

Issued on: January 18, 1995.

Sheldon A. Kinbar,

FTA Regional Administrator.

[FR Doc. 95–1608 Filed 1–20–95; 8:45 am]

BILLING CODE 4910–57–P

Environmental Impact Statement on Transportation Improvements in Pittsburgh, PA

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of Intent to prepare an Environmental Impact Statement.

SUMMARY: This notice announces that the Federal Transit Administration (FTA), in cooperation with the Port Authority of Allegheny County (PAT), is undertaking the preparation of an Environmental Impact Statement (EIS) for transportation improvements in the North Side, Downtown, Hill/Midtown, and Oakland communities in Pittsburgh, Pennsylvania, referred to as the Spine Line Corridor. The draft EIS will be prepared in conjunction with a major investment study (MIS) being conducted by PAT and the Southwestern Pennsylvania Regional Planning Commission (SPRPC). The EIS is being prepared in conformance with: 40 CFR 1500–1508, Council on Environmental Quality (CEQ), Regulations for Implementing the Procedural Requirements of the National Environmental Policy Act of 1969 as amended; and 23 CFR Part 771, Federal Highway Administration and Federal Transit Administration, Environmental Impact and Related Procedures.

The Spine Line Corridor Study, completed by PAT in 1993, began as an EIS with a Notice of Intent published in the **Federal Register** dated March 11, 1988 and formal scoping meetings held on April 6, 1988. The EIS was not completed because the Airport Busway project took precedence. PAT and FTA are now re-scoping the project as described below in **SUPPLEMENTARY INFORMATION**.

DATES: Comment Due Date: Written comments on the scope of the alternatives and impacts to be considered must be postmarked no later than February 15, 1995 and sent to PAT, See **ADDRESSES** below.

Scoping Meetings: Four (4) separate public scoping meetings will be held jointly by PAT and SPRPC on the following dates: Monday, January 30, 1995, between 7 p.m. and 9 p.m. at the William Pitt Student Union Ballroom in Oakland; Tuesday, January 31, 1995, between 7 p.m. and 9 p.m. at the King Elementary School in the North Side; Wednesday, February 1, 1995, between 12 noon and 2 p.m. at the YWCA Assembly Room in Downtown Pittsburgh; and Wednesday, February 1, 1995, between 7 p.m. and 9 p.m. at the Hill House Auditorium/Canteen in Hill/Midtown. See **ADDRESSES** below. People with special needs should call the Spine Line HOTLINE at (412) 322–6000. The hearing impaired can access the hotline through the Operator Relay Service. Each of the buildings for the scoping meetings is accessible to people with disabilities.

ADDRESSES: Comments on the project scope can be made either orally at the scoping meetings or sent in writing to Mr. Allen D. Biehler, Director of Planning and Business Development, Port Authority of Allegheny County, 2235 Beaver Avenue, Pittsburgh, Pennsylvania 15233–1080. The scoping meetings will be held in the following locations: William Pitt Student Union Ballroom, Bigelow Boulevard & Fifth Avenue, Pittsburgh, Pennsylvania; King Elementary School Gymnasium, 50 Montgomery Place, Pittsburgh, Pennsylvania; YWCA Assembly Room, 305 Wood Street, Pittsburgh, Pennsylvania; and Hill House Auditorium/Canteen, 1835 Centre Avenue, Pittsburgh, Pennsylvania. See **DATES** above.

FOR FURTHER INFORMATION CONTACT: Mr. John Garrity, Federal Transit Administration, Region III, 1760 Market Street, Suite 500, Philadelphia, PA 19103, (215) 656–6900.

SUPPLEMENTARY INFORMATION:

I. Scoping

FTA and PAT invite interested individuals, organizations, and federal, state, and local agencies to attend the

scoping meetings to help establish the purpose, scope, framework, and approach for the analysis. At each meeting, a presentation will be made which will provide a description of the proposed scope of study using maps and visual aids, as well as a plan for an active citizen involvement program, a budgeted work schedule, and an estimated budget. The public is invited to comment on: The alternatives to be assessed; the modes and technologies to be evaluated; the alignments and termination points to be considered; the environmental, social, and economic impacts to be analyzed; and the evaluation approach to be used to select a locally preferred alternative.

II. Corridor Description

Linking the North Side, Downtown, Hill/Midtown, and Oakland communities, the Spine Line Corridor is one of the most heavily traveled corridors in the Pittsburgh Metropolitan area. The corridor generally encompasses the area of the lower North Side across the Allegheny River to the Central Business District of Downtown Pittsburgh, and through the Hill, Midtown, and Pittsburgh Technology Center areas to Oakland.

III. Alternatives

It is expected that the scoping meetings and written comments will be a major source of candidate alternatives for evaluation in the study. In addition to any new alternatives proposed for evaluation at the scoping meetings, other alternatives proposed for consideration will include those evaluated in the previous analysis which was completed in November 1993 as the Spine Line Corridor Study. One major difference is that the eastern end of the corridor under the previous effort was Squirrel Hill, whereas Oakland is the eastern end for this MIS/DEIS. The following describes the No-Build, Transportation Systems Management (TSM) and Light Rail Transit (LRT) Build Alternatives that were evaluated in the previous study and are being suggested for further study in the Spine Line MIS/DEIS:

1. No-Build Alternative—Existing transit service and programmed new transportation facilities with level of transit service expanded as appropriate to meet projected year 2015 travel demand.

2. TSM Alternative—Low-cost transportation improvements that could include actions such as one-way streets, exclusive bus lanes, intersection channelization, and enhanced levels of bus service.

3. LRT North Side to Downtown Alternative—The northern extension of the LRT system would begin at the intersection of Federal Street and North Avenue, cross the Allegheny River on either a new bridge or the existing Sixth Street Bridge, and then connect with the existing subway at Gateway Station.

4. LRT Downtown to Oakland via Centre Avenue Alternative—Beginning at a junction with the existing LRT line under the Manor Building, the line would head east in a tunnel under Centre Avenue, then proceed east through Oakland under Fifth or Forbes Avenue under Morewood Avenue.

5. LRT Downtown to Oakland via Colwell Street Alternative—Beginning at a junction with the existing LRT line under the Manor Building, the line would run along Colwell Street parallel to Fifth Avenue through the Hill and Midtown communities and then pass through Oakland under Forbes or Fifth Avenue to Morewood Avenue.

6. LRT Downtown to Oakland via the Technology Center Alternative—Beginning at a junction with the existing LRT line at First Avenue, this eastern extension would use the former B&O Railroad right-of-way and run east at-grade from the CBD to the Birmingham Bridge, where it would pass over the Parkway East before entering a tunnel in Oakland where it would be built under Fifth or Forbes Avenue to Morewood Avenue.

In addition to the alternatives described above, new elements proposed for study include an Intra-North Shore Circulator and West Garage. To facilitate east-west movement within the North Shore area, a local circulator system is envisioned to have its west terminus at a new parking garage (or the West Garage) situated across North Shore Drive from the Carnegie Science Center, and extend east to Sandusky Street while connecting several major destinations in the Lower North Shore Area. The circulator could take the form of enclosed walkways, enclosed moving walkways, dedicated bus lanes, shuttle buses, or people movers such as the one used at Pittsburgh International Airport.

The above represents the set of alternatives initially being considered for study. Additionally, the MIS/DEIS will consider, based on input received at the four public scoping meetings, variations of the above alternatives and other transportation investments, both transit and non-transit, for the Spine Line Corridor. The four public scoping meetings are the critical first step to chart the course of the MIS/DEIS and will be designed to actively encourage open discussion and identification of all possible study alternatives.

IV. Probable Effects

Impacts proposed for analysis are potential changes on: The physical environment (air quality, noise, water quality, aesthetics, etc.); the social environment (land use, development patterns, neighborhoods, etc.); parklands and historic resources; transportation system performance; capital, operating, and maintenance costs; and financial resources for transportation projects in the Southwestern Pennsylvania region. Impacts will be identified for both the construction period and for the long term operation of the alternatives recommended for detailed study.

Evaluation criteria will include transportation, social, economic, and financial measures to be developed by PAT and SPRPC including consideration of measures recommended at the scoping meetings. Mitigating measures will be explored for any adverse impacts that are identified.

Comments on the environmental, social, and economic impacts should focus on the completeness of the proposed sets of alternatives and the evaluation approach. Other impacts or criteria judged relevant to local decision-making will be identified.

Issued on: January 18, 1995.

Sheldon A. Kinbar,

Regional Administrator.

[FR Doc. 95–1609 Filed 1–20–95; 8:45 am]

BILLING CODE 4910–57–P

National Highway Traffic Safety Administration

[Docket No. 95–003; Notice 1]

Solicitation of Comments for the Content of a Strategic Plan for Research for Heavy Truck Safety

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Request for comment.

SUMMARY: Report 103–310 of the Senate Appropriations Committee, which accompanied H.R. 4556, Department of Transportation and Related Agencies Appropriations Bill 1995, directs the NHTSA to develop a 5-year strategic plan outlining the future of its Heavy Truck Safety Research Program. The report is to be delivered to the House and Senate Appropriations Committee before the agency's FY 1996 Appropriations Committee hearings. The Committee directed that the report outline the scope, nature, and direction

of a revitalized Heavy Truck Safety Research Program, which is to be developed in consultation with the American Trucking Association, the FHWA Office of Motor Carriers and the Motor Vehicle Safety Research Advisory Committee. In the recent past, the NHTSA Heavy Vehicle Research Program has followed a research plan which was developed in response to the requirements of Sections 216 and 217 of the Motor Carrier Safety Act of 1984. Significant portions of that work have not been completed. This new plan will define the research work the Agency will undertake on the subject of heavy vehicle safety, in the near and longer term. Interested parties are invited to propose either broad areas of research, or specific topics which warrant study and which would ultimately enhance heavy vehicle safety.

ADDRESSES: Timely completion of this strategic plan dictates that all comments be submitted no later than March 3, 1995 in order to be considered as part of the preparation of the plan. The docket on this plan will remain open until May 1, 1995, however, comments received after March 1, 1995 may not be reflected in the final version of the plan. All comments to this Notice should refer to the docket and notice number indicated above, and be submitted to the following: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Docket hours are 9:30 a.m., to 4 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Clarke, Heavy Vehicle Research Division, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202) 366–5662.

SUPPLEMENTARY INFORMATION: In response to its statutory responsibility to improve motor vehicle safety, the National Highway Traffic Safety Administration has historically conducted a vigorous program of research to identify ways to enhancing the safety design and performance of heavy vehicles. This program parallels and complements the Agency's and the Federal Highway Administration efforts to address the in-use operational safety aspects of motor carrier operations and commercial driver competency. In late 1986 and early 1987, the Agency published two report (*Truck Occupant Protection*, DOT HS 807 081, and *Heavy Truck Safety Study*, DOT HS 807 109, which are available for review at the NHTSA Technical Reference Division, Room 5110, weekdays between the hours of 9:30 AM and 4:00 PM) in response to a Congressional directive similar to the one now being addressed. Those reports were developed as part of consensus-building effort with industry and other affected and interested parties to identify priority topics of research. Four such topics were identified: brake system performance, handling/stability/controllability, truck occupant protection, and truck aggressivity in truck/car collisions. Work has since been completed on many of the sub issues that were included under these broad topic headings.

For example, the Agency completed an extensive program of both vehicle performance testing and in-service evaluation of the durability/reliability/maintainability of antilock braking systems for heavy vehicles, which culminated in the development of proposed revisions to the braking performance requirements for heavy vehicles contained in Federal Motor Vehicle Safety Standards (FMVSS) 121 and 135. Likewise, the Agency is working cooperatively with industry, under the auspices of the Society of Automotive Engineers (SAE), to support research whose ultimate goal is the development of a number of consensus Recommended Test Procedures to assess the performance of occupant restraints, the occupant impact attenuation properties of cab interior surfaces/steering wheels, and the structural integrity of truck cabs. That work is nearing completion. Also, the agency culminated a substantial portion of the work it had sponsored on handling/stability over a 10 year period, by developing analysis and testing procedures for assessing the rollover propensity of tractors and trailers, as well as the rearward lateral acceleration amplification tendencies of multiple trailer combination-unit trucks making abrupt lane change maneuvers.

While the agency continues to believe it will be necessary to focus some of its heavy vehicle research resources on braking, handling/stability, and truck occupant protection, it believes there are additional new opportunities to further reduce the number of heavy vehicle crashes, and their consequences, through the application and use of advanced electronics and communications technologies in collision avoidance warning/control system applications, by integrating human factors research findings into heavy vehicle cab system and information display designs, and by continuing to seek practical means of reducing truck aggressivity in car/truck collisions.

Accordingly, the agency seeks comments about the appropriateness of content of the broad areas of research outlined above, as well as suggestions for the content of programs addressing these subjects. Additional ideas for specific topics of research or broad subject areas which warrant further attention are also sought.

Issued on: January 17, 1995.

George L. Parker,

Associate Administrator for Research and Development.

[FR Doc. 95–1610 Filed 1–20–95; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 94–27; Notice 2]

Denial of Petition for Import Eligibility Decision

This notice sets forth the reasons for the denial of a petition submitted to the National Highway Traffic Safety Administration (NHTSA) under 49 U.S.C. 30141(a)(B) (formerly section 108(c)(3)(C)(i)(II) of the National Traffic and Motor Vehicle Safety Act (the Act)). the petition, which was submitted by G&K Automotive Conversion, Inc. of Santa Ana, California (B&K), a registered importer of motor vehicles, requested NHTSA to decide that a 1985 Ferrari 412 passenger car that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because its safety features comply with, or are capable of being altered to comply with, those standards based on destructive test information or other evidence the Secretary of Transportation decided in adequate.

NHTA published a notice in the **Federal Register** on April 25, 1994 (59 FR 19745) that contained a thorough description of the petition, and solicited public comments upon it. No comments were received in response to this notice.

Following publication of the notice, NHTSA requested G&K to submit test data or other information to demonstrate that the 1985 Ferrari 412 is capable of being altered to comply with the crashworthiness requirements of Standard Nos. 208 Occupant Crash Protection and 301 Fuel System Integrity G&K was unable to submit this information to NHTSA. Accordingly, NHTSA has concluded that the petition does not clearly demonstrate that the non-U.S. certified 1985 Farrari 412 is eligible for importation. The petition must therefore be denied under 49 CFR 593.7(e).

In accordance with 49 U.S.C. 30141(b)(1) (formerly section 108(c)(3)(C)(ii) of the Act), NHTSA will not consider a new import eligibility petition covering this vehicle until at

least three months from the date of this notice.

Authority: 49 U.S.C. 30141(a)(1)(B) and (b)(1); 49 CFR 593.7; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: January 17, 1995.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 95–1592 Filed 1–20–95; 8:45 am]

BILLING CODE 4910–59–M

Research and Special Programs Administration

Office of Hazardous Materials Safety; Applications for Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for modification of exemptions or applications to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier Federal Register publications, they are not repeated here. Requests for modifications of exemptions (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with suffix ''X'' denote a modification request. Application numbers with the suffix ''P'' denote a party to request. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before February 7, 1995.

ADDRESS COMMENTS TO: Dockets Unit, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Unit, Room 8426, Nassif Building, 400 7th Street SW., Washington, DC.

Application No.	Applicant	Renewal of exemption
9696–X	Fluoroware, Inc., Chaska, MN (see footnote (1)	9696
10589–X	Monsanto, St. Louis, MO (see footnote (2)	10589
11021–X	Union Pacific System, Omaha, NE (see footnote (3)	11021
11281–X	E.I. du Pont de Nemours & Company, Inc., Wilmington, DE (see footnote (4)	11281
11321–X	E.I. du Pont de Nemours & Company, Inc., Wilmington, DE (see footnote (5)	11321

(1) To modify exemption to provide for design changes to non-DOT specification rotationally molded teflon PFA packaging for transporting hazardous materials.

(2) To modify the exemption to provide for various changes to Packaging(s) and Safety Control Measures under Item 7.

(3) To modify exemption to provide for additional tank cars GATX 93328 and 93328 constructed to specification DOT113C60W for use in transporting methane, refrigerated liquid, Division 2.1.

(4) To modify the exemption to provide for rail and cargo vessel as additional modes of transportation for transporting Class 8 and Division 6.1 material in uninsulated and portable tanks.

(5) To modify exemption to provide for rail and cargo vessel as additional modes of transportation for use in transporting Division 6.1 material in uninsulated DOT specification cargo tanks and portable tanks.

Application	Applicant	Parties to exemption
2709–P	Alliant Techsystems, Inc., New Brighton, MN	2709
3126–P	Alliant Techsystems, Inc., New Brighton, MN	3126
5022–P	Alliant Techsystems, Inc., New Brighton, MN	5022
5704–P	Alliant Techsystems, Inc., New Brighton, MN	5704
6293–P	Alliant Techsystems, Inc., New Brighton, MN	6293
6691–P	Raimy Corporation, d/b/a Welders Supply, Erie, PA	6691
6691–P	Ohio Air Products of Canton, Inc., Canton, OH	6691
6691–P	Wolfenden Industries, Inc., Cleveland, OH	6691
7694–P	E-Systems Motek Division, Van Nuys, CA	7694
8236–P	Howard Ternes Packing Company, Redford, MI	8236
8264–P	Alliant Techsystems, Inc., New Brighton, MN	8264
8265–P	Alliant Techsystems, Inc., New Brighton, MN	8265
8273–P	Howard Ternes Packing Company, Redford, MI	8273
8273–P	Chrysler Corporation, Center Line, MI	8273
8451–P	Remington Arms Co., Inc., Wilmington, DE	8451
8451–P	Owen Oil Tools, Inc., Fort Worth, TX	8451
8451–P	Organic Technology, Inc., Fort Worth, TX	8451
8967–P	Alliant Techsystems, Inc., New Brighton, MN	8967
9275–P	Ungerer & Company, Lincoln Park, NJ	9275
9443–P	Alliant Techsystems, Inc., New Brighton, MN	9443
9723–P	ETSS of Ohio, Inc., New Carlisle, OH	9723
9723–P	Clean Venture, Inc., Elizabeth, NJ	9723
9977–P	Alliant Techsystems, Inc., New Brighton, MN	9977
10097–P	Alliant Techsystems, Inc., New Brighton, MN	10097
10688–P	Kenai Air Alaska, Inc., Kenai, AK	10688
10751–P	ETI Explosives Technologies International, Inc., Wilmington, DE	10751
11189–P	Chrysler Corporation, Center Line, MI	11189

Application	Applicant	Parties to exemption
11189–P ...	Howard Ternes Packing Company, Redford, MI	11189
11260–P ...	Texas Instruments Incorporated, Attleboro, MA	11260
11363–P ...	Oncor Incorporated, Gaithersburg, MD	11363

This notice of receipt of applications for modification of exemptions and for party to an exemption is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on January 17, 1995.

J. Suzanne Hedgepeth,

Acting Director, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 95–1574 Filed 1–20–95; 8:45 am]

BILLING CODE 4910–60–M

Office of Hazardous Materials Safety; Notice of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before February 22, 1995.

ADDRESS COMMENTS TO: Dockets Unit, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

FOR FURTHER INFORMATION CONTACT:

Copies of the applications are available for inspection in the Dockets Unit, Room 8426, Nassif Building, 400 7th Street SW., Washington, DC.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11361–N ...	Novacor Chemicals, Inc., Indian Orchard, MA.	49 CFR 174.67(a)(2), 174.67(i).	To authorize rail cars containing Class 3 material to remain attached to connectors without the physical presence of an unloader and to be exempt from the hand brakes and wheels block requirement. (mode 2)
11363–N ...	Appligene, Inc., Pleasanton, CA.	49 CFR 172.203, 172.400, 172.402, 172.504, 173.153, 173.202, 173.203, 173.25, 175.3.	To authorize transportation of limited quantities of phenol solution, Division 6.1, not to exceed 32 ounces in glass containers overpacked in polyethylene film bag inside poly cylinders to be shipped without required labels. (mode 1, 2)
11364–N ...	Staveley Instruments, Inc., Kennewick, WA.	49 CFR 172.101, 173.115(b)(1).	To authorize transportation in commerce of x-ray tubeheads pressurized at 52 psig containing sulfur hexafluoride, Division 2.2 in specially design packaging. (modes 1, 5)
11365–N ...	Akzo Nobel Chemicals, Inc., Chicago, IL.	49 CFR 176.83	To authorize transportation in commerce of Division 4.2 and 4.3 materials in the same cargo transport unit. (mode 3)
11366–N ...	Omni Air Express, Tulsa, OK.	49 CFR 171.11, 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize transportation in commerce of Division 1.1, 1.2, 1.3 and 1.4 explosives that are not permitted for shipment by air or are in quantities greater than those prescribed. (mode 4)
11371–N ...	Liquid Carbonic Bulk Gases, Bozrah, CT.	49 CFR 172.101 Note (k), 4.	To authorize transportation in commerce of liquid oxygen aboard passenger ferries. (modes 1, 3)
11372–N ...	Amerex Corp., Trussville, AL.	49 CFR 173.34(e)(1)(iii).	To authorize an alternate method of marking hydrostatic test data on 4B, 4BW, and 4B240ET cylinders used as fire extinguishers. (modes 1, 2, 3, 4, 5)
11373–N ...	Los Angeles Chemical Co., South Gate, CA.	49 CFR 177.848(d) .	To authorize transportation in commerce of spontaneously combustible materials, Division 4.2 with Class 8 material in the same transport vehicles. (mode 1)
11374–N ...	J.T. Baker, Inc., Phillipsburg, NJ.	49 CFR 173.158(e) .	To authorize transportation in commerce of small quantities of nitric acid (69–72%) in inner teflon bottles not to exceed 2500 ml encased in polyethylene bags inside sealed glass jars overpacked in 4G fiberboard boxes. (modes 1, 2, 3, 4)
11375–N ...	Oceaneering Space Systems, Houston, TX.	49 CFR 178.57	To authorize the manufacture, marking and sale of a breathing and cooling system consisting of a non-specification cylinder, comparable to a DOT Specification 4L cylinder, containing a Division 2.2 material. (modes 1, 2, 3, 4, 5)
11376–N ...	Ashland Chemical Co., Dublin, OH.	49 CFR 173.200	To authorize transportation in commerce of coating solutions, Class 3, material in 55-gallon UN specification 1A2/Y1.4/100 openhead steel drums. (modes 1, 2)

NEW EXEMPTIONS—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11378–N ...	NASA, Washington, DC.	49 CFR 173.201, 173.226, 173.227, 173.40, 178.61–20, 178.61–5.	To authorize transportation in commerce of certain hazardous materials in stainless steel cylinders conforming to DOT–4BW specification. (mode 1)
11380–N ...	Western Atlas International, Houston, TX.	49 CFR 173.34(d), 178.37–13, 178.37–15, 178.37–5.	To authorize transportation in commerce of compressed hydrocarbon gases, Division 2.1, in non-DOT specification seamless steel cylinder with a service pressure of 20,000 psi equipped without safety device similar to DOT Specification 3AA cylinders. (modes 1, 2, 3, 4)
11381–N ...	Nuclear Containers, Inc., Elizabethton, TN.	49 CFR 178.356	To authorize the manufacture, marking and sale of modified DOT Specification 20PF–1/2/3 overpacks suitable packaging for cylinders which carry uranium hexafluoride fissile material. (modes 1, 2, 3, 4, 5)
11382–N ...	Structural Composites Industries, Pomona, CA.	49 CFR 173.302(a)(5), 173.34, 175.3, 178.46.	To authorize the manufacture, marking and sale of non-DOT specification fiber reinforced plastic hoop wrapped composite cylinders for use in transporting certain compressed gases classed in Division 2.1 and 2.2. (modes 1, 2, 3, 4, 5)
11383–N ...	NASA, Washington, DC.	49 CFR 173.336	To authorize transportation in commerce of non-DOT specification stainless cylinders built to 4BW Specification, 30 gallon (250 pound water capacity) 300 psig for use in transportation dinitrogen tetroxide, liquefied. (mode 1)
11384–N ...	Eagle-Picher Industries, Inc., Joplin, MO.	49 CFR 173.159(G)	To authorize transportation in commerce of nickel-hydrogen SPV batteries in specially designed packaging. (modes 1, 4)

NOTE: Notice of Application No. 10429–X Nalco Chemical Company that appeared at page 60680 of the FEDERAL REGISTER for November 25, 1994, should have appeared as follows: To modify exemption to provide for 21A intermediate bulk containers for use in transporting Class 3 and 8 material.

Notice of Application No. 11349–N City of Houston that appeared at page 60679 of the FEDERAL REGISTER for November 25, 1994, should have appeared 11351–N City of Houston.

This notice of receipt of applications for new exemptions is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on January 17, 1995.

J. Suzanne Hedgepeth,

Acting Director, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 95–1575 Filed 1–20–95; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Fee Schedules for the Issuance of Definitive Securities and TREASURY DIRECT Securities Accounts

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Notice.

SUMMARY: This notice announces two schedules of fees to be assessed for marketable Treasury securities. This assessment of fees implements a provision of the Treasury, Postal Service and General Government Appropriations Act of 1995. Treasury will collect fees to offset the cost of providing services. Fees will be assessed for each definitive security issued to customers, and for annual maintenance for certain TREASURY DIRECT securities accounts. A final rule, which authorizes the assessment of fees, is published in this issue of the **Federal Register**.

EFFECTIVE DATE: This notice is effective January 23, 1995. However, fees will be assessed beginning January 30, 1995, for definitive securities, and May 19, 1995, for securities accounts in the TREASURY DIRECT book-entry system.

FOR FURTHER INFORMATION CONTACT: Maureen Parker, Director, Division of Securities Systems, Bureau of the Public Debt (304) 480–7761, Susan Klimas, Attorney-Adviser, Office of the Chief Counsel, Bureau of the Public Debt (304) 480–5192.

SUPPLEMENTARY INFORMATION: The Treasury, Postal Service and General Government Appropriations Act of 1995 (Pub.L. 103–329), authorizes the Secretary to collect a fee of not less than $46 for each definitive security issued to customers. The legislation also authorizes the Secretary to collect an annual fee for each TREASURY DIRECT Investor Account, referred to in the regulations as a ''Securities account'', holding securities which exceed $100,000 in par value. Congress granted the authority to assess fees to enable the Treasury to recover the costs of providing these services to investors.

Fee Schedule for Definitive Securities

Part 306 was amended by a final rule published separately in this issue of the **Federal Register**, to add a new section 306.24.

This section provides that a fee will be charged for each definitive security issued on a transfer, reissue, exchange or withdrawal from book-entry, or the granting of relief on account of loss or theft, in accordance with a fee schedule published in the **Federal Register**. The fees will be imposed beginning January 30, 1995, and the fee schedule appears below in this notice.

Investors requesting a transaction that results in the issue of a registered or bearer Treasury note or bond will be charged a fee of $50 for each new certificate issued. Payment in the form of a check or money order, payable to the Federal Reserve Bank processing the transaction, must accompany the request. Any request submitted without the fee payment will be returned to the investor. Payments from depository institutions may be debited from the reserve account maintained by the institution at the appropriate Federal Reserve Bank.

Fee Schedule for Securities in the TREASURY DIRECT Book-entry System

31 CFR Part 357, which governs Treasury securities held in the TREASURY DIRECT book-entry system, was amended to add a new paragraph (f) to Section 357.20. Paragraph (f) provides that accounts holding securities above a stipulated par amount will be charged a fee in accordance with a fee schedule published in the **Federal Register**. The

fees will be imposed as of May 19, 1995, and the fee schedule applicable appears below in this notice.

Each TREASURY DIRECT Securities Account which exceeds $100,000, par value, will be charged an annual fee of not less than $25. The determination as to the amount of the fee will be made annually.

Dated: January 17, 1995.

Gerald Murphy,

Fiscal Assistant Secretary.

Schedule of Fees Assessed for Marketable Treasury Securities

The fee schedule for the issuance of a definitive security is as follows:

A fee of $50 will be charged for each definitive security issued on a transfer, reissue, exchange or withdrawal from book-entry form, or as a result of the granting of relief on account of loss, theft, destruction, mutilation or defacement. Payment of the fee must accompany the request for the issue of securities in physical form. If a request results in the issuance of more than one security, the amount of the fee is arrived at by multiplying the number of pieces requested by $50. The fee announced above applies beginning January 30, 1995.

Schedule of Fees for TREASURY DIRECT Book-entry System Accounts

The fee schedule for TREASURY DIRECT securities accounts is as follows:

Each TREASURY DIRECT securities account holding Treasury bonds, notes and bills, pursuant to 31 CFR Part 357, that exceeds $100,000 in par amount will be charged an annual maintenance fee in the amount of $25. For 1995, this will be imposed on accounts exceeding $100,000 in par amount as of May 19, 1995. The determination as to what accounts are subject to the fee shall be made annually. Each account holder will be individually billed.

[FR Doc. 95–1595 Filed 1–20–95; 8:45 am]

BILLING CODE 4810–39–P

Sunshine Act Meetings

Federal Register

Vol. 60, No. 14

Monday, January 23, 1995

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).

DEPARTMENT OF ENERGY

FEDERAL ENERGY REGULATORY COMMISSION

Notice

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552b:

DATE AND TIME: January 25, 1995, 10:00 a.m.

PLACE: 825 North Capitol Street N.E., Room 9306, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 208–0400. For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

Consent Agenda—Hydro, 623rd Meeting—January 25, 1995, Regular Meeting (10:00 a.m.)

CAH–1.
Project No. 11151–014, Energy Alternatives of North America, Inc.
CAH–2.
Project No. 1394–009, Southern California Edison Company
CAH–3.
Omitted
CAH–4.
Project No. 10773–014, Alaska Aquaculture, Inc.
CAH–5.
Project No. 10909–002, Kinderhook Hydro, Inc.
CAH–6.
Docket No. HB14–85–1–001, City of Idaho Falls
CAH–7.
Project No. 2727–036, Bangor Hydro-Electric Company
CAH–8.
Project Nos. 2436–019, 2447–018, 2448–025, 2449–017, 2450–016, 2453–014 and 2580–029, Consumers Power Company
CAH–9.
Project Nos. 2396–003, 2397–003, 2399–004 and 2400–003, Central Vermont Public Service Corporation

Consent Agenda—Electric

CAE–1.
Docket No. ER95–254–000, Tapoco, Inc.
CAE–2.
Docket No. ER95–215–000, Southern California Edison Company
CAE–3.
Docket No. EL95–13–000, Indeck-Ilion Limited Partnership and Power City Partners, L.P.
CAE–4.
Docket Nos. ER94–1625–000 and ER95–264–000, Wisconsin Electric Power Company
CAE–5.
Docket No. ER94–1639–000, Wisconsin Public Service Corporation
CAE–6.
Docket Nos. EL95–6–000 and QF92–179–002, Goal Line, L.P.
CAE–7.
Docket No. ER94–1143–000, Interstate Power Company
CAE–8.
Docket No. TX94–4–001, Tex-La Electric Cooperative of Texas, Inc.
Docket No. ER94–1385–001, West Texas Utilities Company
CAE–9.
Omitted
CAE–10.
Docket Nos. ER93–465–006, ER93–922–004, ER93–507–003, EL93–40–002, EL94–12–002 and EL93–28–002, Florida Power & Light Company
CAE–11.
Docket No. ES94–37–002, Baltimore Gas & Electric Company

Consent Agenda—Oil and Gas

CAG–1.
Docket Nos. CP92–182–007 and RP95–103–000, Florida Gas Transmission Company
CAG–2.
Docket Nos. RP95–29–001 and 002, Southern Natural Gas Company
CAG–3.
Docket No. RP95–88–000, Tennessee Gas Pipeline Company
CAG–4.
Docket No. RP95–89–000, Tennessee Gas Pipeline Company
CAG–5.
Docket No. RP95–102–000, Texas Gas Transmission Corporation
CAG–6.
Omitted
CAG–7.
Docket No. RP95–108–000, Southern Natural Gas Company
CAG–8.
Docket No. RP95–112–000, Tennessee Gas Pipeline Company
CAG–9.
Omitted
CAG–10.
Docket No. RP95–115–000, CNG Transmission Corporation
CAG–11.
Omitted
CAG–12.
Docket No. TM95–3–17–000, Texas Eastern Transmission Corporation
CAG–13.
Docket No. RP94–343–002, NorAm Gas Transmission Company
CAG–14.
Docket No. RP95–104–000, Mississippi River Transmission Corporation
CAG–15.
Docket No. RP95–109–000, Kern River Gas Transmission Company
CAG–16.
Omitted
CAG–17.
Docket No. RP95–111–000, Northwest Pipeline Corporation
CAG–18.
Omitted
CAG–19.
Docket Nos. RS92–87–000, RP94–97–000 and RP94–111–000, Transwestern Pipeline Company
CAG–20.
Docket No. RP94–318–000, Columbia Gas Transmission Corporation
CAG–21.
Docket No. PR93–4–000, Transok, Inc.
CAG–22.
Docket No. PR94–16–000, Southern California Gas Company
Docket Nos. CP92–481–000 and PR93–11–000, Northern Illinois Gas Company
CAG–23.
Docket Nos. RP94–96–009 and RP94–213–006, CNG Transmission Corporation
CAG–24.
Docket No. RP95–2–000, Williams Natural Gas Company
CAG–25.
Docket No. RP93–36–009, Natural Gas Pipeline Company of America
CAG–26.
Docket No. RP95–50–000, Northwest Pipeline Corporation
CAG–27.
Docket Nos. RP92–226–000, 003 and RS92–65–000, Kern River Gas Transmission Company
CAG–28.
Docket No. RP95–31–002, National Fuel Gas Supply Corporation
CAG–29.
Docket No. TM95–2–17–001, Texas Eastern Transmission Corporation
CAG–30.
Docket No. RP85–39–019, Wyoming Interstate Company, Ltd.
CAG–31.
Docket No. RP93–186–003, Carnegie Natural Gas Company
CAG–32.
Docket No. RP91–41–031, RP91–90–013, TM91–12–21–006, TM92–2–21–007,

TM92–3–21–007, TM92–9–21–006, TM92–10–21–005, TM92–11–21–004 and TM93–5–21–003, Columbia Gas Transmission Corporation

CAG–33.
Docket No. RP94–374–001, Trunkline Gas Company

CAG–34.
Docket No. RP94–423–001, Texas Gas Transmission Corporation

CAG–35.
Docket No. RP94–286–001, Richmond Power Enterprise, L.P.

CAG–36.
Docket No. RP94–331–003, Questar Pipeline Company

CAG–37.
Docket No. RP94–200–001, Transcontinental Gas Pipe Line Corporation

CAG–38.
Omitted

CAG–39.
Docket Nos. RP94–246–001 and RP94–288–001, Williams Natural Gas Company
Docket No. RP94–355–001, City Utilities of Springfield, Missouri v. Williams Natural Gas Company

CAG–40.
Docket Nos. IS95–21–000, IS95–22–000 and IS94–26–000, *et al.*, Kenai Pipe Line Company

CAG–41.
Docket No. GP94–19–000, Oklahoma Corporation Commission, Tight Formation Area Determination, FERC No. JD94–01286T (Oklahoma-57)

CAG–42.
Docket No. GP95–1–000, State of California, Division of Oil and Gas, Tight Formation Area Determination, FERC No. JD93–00528T (California-2)

CAG–43.
Docket No. MG88–2–006, Algonquin Gas Transmission Company
Docket No. MG95–1–000, Algonquin LNG, Inc.

CAG–44.
Docket No. MG88–15–004, Southern Natural Gas Company
Docket No. MG88–16–003, South Georgia Natural Gas Company

CAG–45.
Docket No. RS92–23–028, Tennessee Gas Pipeline Company
Docket No. RS92–33–011, East Tennessee Natural Gas Company

CAG–46.
Docket Nos. CP94–36–000, 004 and 005, Arkla Gathering Service Company
Docket Nos. CP94–628–000 and 001, NorAm Gas Transmission Company

CAG–47.
Docket No. CP94–282–001, Northwest Pipeline Corporation

CAG–48.
Docket No. CP93–505–001, Panhandle Eastern Pipe Line Company
Docket No. CP93–506–001, Panhandle Gathering Company

CAG–49.
Docket No. CP94–137–001, Tennessee Gas Pipeline Company

CAG–50.
Docket No. CP94–297–000, CNG Transmission Corporation

CAG–51.
Docket No. CP94–667–000, Texas Gas Transmission Corporation

CAG–52.
Docket No. CP95–67–000, Trunkline Gas Company

CAG–53.
Docket No. CP93–255–000, Tennessee Gas Pipeline Company

CAG–54.
Docket No. CP93–324–000, Natural Gas Pipeline Company of America

CAG–55.
Docket No. CP94–353–000, Questar Pipeline Company

CAG–56.
Docket Nos. CP92–188–000, 001 and CP91–2315–000, Boston Gas Company
Docket No. CP91–3236–000, Distrigas of Massachusetts Corporation

CAG–57.
Docket Nos. CP93–613–000, 001, CP93–673–000 and 001, Northwest Pipeline Corporation

CAG–58.
Docket No. CP95–7–000, Questar Pipeline Company

CAG–59.
Docket No. CP91–2315–003, Boston Gas Company

CAG–60.
Docket Nos. CP93–232–001, CP93–256–001 and CP93–275–001, Alabama-Tennessee Natural Gas Company

Hydro Agenda

H–1.
Reserved

Electric Agenda

E–1.
Docket No. TX94–9–000, Borough of Zelienople, Pennsylvania. Order on transmission service.

Oil and Gas Agenda

I. Pipeline Rate Matters

PR–1.
Reserved

II. Pipeline Certificate Matters

PC–1.
Reserved
Dated: January 18, 1995.

Lois D. Cashell,

Secretary.

[FR Doc. 95–1709 Filed 1–19–95; 11:32 am]
BILLING CODE 6717–01–P

Corrections

Federal Register

Vol. 60, No. 14

Monday, January 23, 1995

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611, 672, and 676

[Docket No. 941250-4350; I.D. 112894A]

Foreign Fishing; Groundfish of the Gulf of Alaska; Limited Access Management of Federal Fisheries In and Off of Alaska

Correction

In proposed rule document 94–31400 beginning on page 65990 in the issue of Thursday, December 22, 1994, make the following corrections:

On page 65993, in the table, in the first column, the information for ''Other species'' should appear as follows:

(a) ''NA[16]'' should appear in the third column;

(b) ''15,535'' should appear in the fourth column; and

(c) ''3,884'' should appear in the fifth column.

BILLING CODE 1505–01–D

GENERAL SERVICES ADMINISTRATION

41 CFR Chapter 301

[FTR Amendment 41]
RIN 3090-AF55

Federal Travel Regulation; Maximum Per Diem Rates

Correction

In rule document 94–31244 beginning on page 65682 in the issue of Tuesday, December 20, 1994, make the following correction:

Appendix A to Chapter 301 [Amended]

In Appendix A to Chapter 301, on page 65685, in the Key city entry for Atlanta, Georgia, in the Maximum per diem rate entry the number should read ''119''.

INTERSTATE COMMMERCE COMMISSION

49 CFR Part 1002

[Ex Parte No. 246 (Sub-No.13)]

Regulations Governing Fees For Services Performed in Connection With Licensing and Related Services—1995 Update

Correction

In rule document 94–32071 beginning on page 67642 in the issue of Friday, December 30, 1994, make the following corrections:

§ 1002.2 [Corrected]

On page 67645, in § 1002.2(f), in the table, in the first column:

1. Under Part VII, in entry (62)(i), in the second line, ''proceedings'' should read ''proceeding''.

2. Under Part VIII, in entry (77)(i), in the first line, insert ''bodily'' before ''injury''.

3. Under Part IX, in entries (101)(iv) and (vii) on page 67646, ''Source Codes'' should read ''*Source Codes*''.

BILLING CODE 1505–01–D

Federal Register

Monday
January 23, 1995

Part II

Department of Energy

Office of Energy Efficiency and Renewable Energy

10 CFR Part 440

Weatherization Assistance Program for Low-Income Persons; Proposed Rule

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 440

[Docket No. EE–RM–95–401]

Weatherization Assistance Program for Low-Income Persons

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Department of Energy (DOE) is today publishing a notice of proposed rulemaking to amend the regulations for the Weatherization Assistance Program for Low-Income Persons to propose changes to the formula used to distribute funds among the States under the Program. Pursuant to the Conference Report on the Department of Interior and Related Agencies Appropriations Act, 1995, DOE proposes to change the formula in order to increase the overall equity, among the States, of fund allocations under the program regulations, while at the same time preserving existing State program capabilities. The proposed formula change proposed by DOE addresses several key concerns expressed by many States. The criteria used in the proposed formula would reflect: Number of low-income households by State; climatic conditions using weather data by State; and residential energy expenditures by low-income households by State.

DATES: Written comments (6 copies and, if possible, a computer disk—WP 5.1) must be received by the Department on or before March 9, 1995. Oral views, data and arguments may be presented at public hearings to be held in San Francisco, CA beginning at 5 p.m. on January 23, 1995 and in Washington, DC beginning at 9:30 a.m. on February 14, 1995.

Request to speak at the hearing in San Francisco, CA must be received no later than 4 p.m. on January 19, 1995. Request to speak at the hearing in Washington, DC must be received no later than 4 p.m. on February 10, 1995. The length of each presentation is limited to 10 minutes.

ADDRESSES: All written comments (6 copies) and requests to speak at the hearing should be addressed to: U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, EE–532 WAP Rulemaking, Docket No. EE–RM–95–401, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–3012. In the event any person wishing to submit a written comment cannot provide six copies, alternative arrangements can be made in advance by calling the phone number referenced above.

The hearings will be held at the following locations: Washington DC hearing at U.S. Department of Energy, 1000 Independence Avenue SW., Room 1E–245 beginning at 9:30 a.m. San Francisco, CA hearing at San Francisco Hilton, Continental Ballroom 4, 333 O'Farrell, San Francisco, CA beginning at 5 p.m.

Copies of the transcript of the public hearing and written comments received may be read at the DOE Freedom of Information Reading Room, U.S. Department of Energy, Room 1E–190, 1000 Independence Avenue SW., Washington DC 20585, (202) 586–6020 between the hours of 9 a.m. and 4 p.m. Monday through Friday, except holidays. For more information concerning public participation in this rulemaking proceeding see section titled ''Opportunity for Public Comment'' of this notice.

FOR FURTHER INFORMATION CONTACT: Greg Reamy or Henry Clarius, Weatherization Assistance Program Division, U.S. Department of Energy, Mail Stop EE–532, 1000 Independence Avenue SW., Washington, DC 20585, (202) 426–1698.

Vivian Lewis, Office of General Counsel, Mail Stop GC–72, 6B–256, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9507.

SUPPLEMENTARY INFORMATION:

I. Introduction

Since 1976, the Department of Energy has operated the nation's largest energy conservation program—the Weatherization Assistance Program for Low-Income Persons (Program) pursuant to Title III of the Energy Conservation and Production Act (Act), 42 U.S.C. 6861, *et seq.* Section 411 of the Act, 42 U.S.C. 6861, provides that the Program is ''to develop and implement a weatherization assistance program to increase the energy efficiency of dwellings owned or occupied by low-income persons, reduce their total residential energy expenditures, and improve their health and safety, especially low-income persons who are particularly vulnerable such as the elderly, the handicapped, and children.''

The Program is administered in all 50 States, and the District of Columbia, and by certain Indian tribes, which in turn fund nearly 1,200 local agencies to provide weatherization services to eligible low-income persons. Based on priorities identified by energy audits conducted by local agencies and other weatherization service providers, energy efficiency measures are installed, including modifications to the heating and cooling systems. The overall condition of the dwellings weatherized is usually poor, resulting in high energy bills. If the low-income residents cannot afford to pay expensive fuel bills, the occupants, who may be children, elderly or persons with disabilities, may be rendered homeless because they cannot afford alternative accommodations. Weatherization and incidental repair of such dwellings help keep low-income people in their homes.

The Department of Energy (DOE or Department) today proposes to change the formula used to distribute funds under the Weatherization Assistance Program for Low-Income Persons, which is codified in 10 CFR part 440. The Program is also subject to the DOE general financial assistance regulations in 10 CFR part 600.

In the Conference Report (H.R. Conf. Rep. No. 103–740, 103rd Cong., 2nd Sess. (1994) on the Department of Interior and Related Agencies Appropriations Act, 1995 Pub. L. 103–332, the conference committee stated that sufficient funds were being made available to permit DOE to revise the formula. The intent of the Congress was to provide warmer-weather States a greater share of the funding, while protecting the Program capacity developed over the years by colder-weather States. DOE believes that the proposed formula satisfies this intent and is consistent with the requirements of the Act.

The Act requires DOE to allocate funds to States based on the relative need for weatherization assistance among low-income persons throughout the States, taking into account the following factors: (1) the number of dwelling units to be weatherized; (2) the climatic conditions in each State which may include annual degree days; (3) the various types of weatherization work to be done; and (4) other factors as determined by DOE, such as the cost of heating and cooling. 42 U.S.C. 6864(a).

In order to allocate funds each year, DOE applies the formula in 10 CFR 440.10 to the amount of funds remaining after training and technical assistance funds are subtracted from the annual appropriation. The current formula establishes for each State a minimum base grant level of $100,000 (Alaska receives an additional $100,000). The remaining available funds are allocated by a mathematical formula which takes into account heating/cooling degree days, total residential energy use for space heating/cooling, the number of low-income

owner-occupied dwelling units, and the number of low-income renter occupied dwelling units in the State. 10 CFR 440.10(b). This basic formula has remained unchanged since 1977. Data used in the formula for weather, residential energy use, and population have been updated several times. The formula data for program year 1993 were updated to include the 1990 census data.

Over the years, many of the warmer-weather States have maintained that the current Program formula does not provide them an appropriate share of funds and have encouraged both the Congress and DOE to make changes to the formula. Although the States and Congress have deliberated over this issue at length, there has been no consensus on what changes should be made to the formula or how to implement such changes.

Warmer-weather States believe the current requirement for the squaring of heating and cooling degree days results in an over-allocation of funds to colder-climate States. Many States believe giving only one-half credit for renters in the formula unfairly reduces allocations and does not reflect the true extent of poverty. Many States believe DOE should use State level data for percent of energy used for space heating and space cooling instead of the national average that is currently used.

In analyzing the issues related to the formula, DOE carefully evaluated the impact of making any type of change to the current formula. DOE has received many suggestions from virtually all of the Program's primary stakeholders—the States. Others expressed their concerns or supported changes to the formula.

In an effort to evaluate the current positions of the States on this issue, DOE initiated a study through the National Association of State Community Services Programs (NASCSP), the national organization for State Weatherization directors, to survey all members for their ideas and to make recommendations to DOE. The study was conducted by a NASCSP national review panel representing the ten Federal regions of the country. While not all States are members of NASCSP, copies of a draft of NASCSP's report on the study were made available to non-member States. The findings of this study can be summarized in two key areas: (1) formula criteria, and (2) formula implementation.

A final report of NASCSP, including comments of non-member States, was issued to DOE in November 1993, entitled ''Final Report of the Formula Allocation Project.'' Copies of this report can be obtained from NASCSP, 444 North Capitol Street NW., Washington, DC. DOE will also make available for inspection a copy of the study at the DOE Freedom of Information Office Reading Room, Room 1E–090, 1000 Independence Avenue SW., Washington, DC 20585, between the hours of 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

The Panel submitted for the Department's consideration four formulas, including the Panel's own formula. In addition, one State submitted a formula directly to the Department. The Panel also submitted five alternatives for implementing the formula, including one developed by the Panel. The Department evaluated each of these options, as well as other input, in developing the formula change proposed today.

The Panel's formula includes three elements: the number of low-income households below 125 percent of the poverty level, giving equal weight to owners and renters; climatic conditions across the country using heating and cooling degree days; and residential energy expenditures by low-income household per State. While the Department agrees with the basic premise embodied in the Panel's formula, certain modifications were made by DOE to the individual factors to provide a more equitable distribution of funds among all States.

A second proposed formula submitted to the Panel by Montana would continue to use the current formula. A third formula, submitted by Illinois, suggests allocating half of the funding under the Panel's formula and half under the current formula. A fourth formula, proposed by Minnesota, is based on the Panel formula, but would change the way the climate factor is calculated. Finally, Wisconsin proposed directly to the Department a modification of the current formula regarding the calculation of the cooling component for climatic conditions, consideration of the age of the building stock, and consideration of the percent of multifamily households.

Regarding Montana's recommendation, DOE disagrees with the continued use of the existing formula because of the long-standing perception of many States regarding its inequity. The formula submitted by Illinois does not produce an acceptable distribution of funds among States and would adversely affect the capacity in many State programs. The formula submitted by Minnesota effectively approximates the current squaring of heating and cooling degree days, resulting in a formula that does not sufficiently address States' equity concerns. The Department believes that the more important data necessary to implement the formula submitted by Wisconsin is not readily available.

There was also a divergence of opinion among the States as to the implementation strategy that DOE should use for any formula. The Panel proposed a five year phase-in of its formula with all funds allocated pursuant to the Panel's formula after the five-year phase-in period. An alternative proposed by North Carolina and Oklahoma would immediately implement the Panel's formula in its entirety and without regard to impact on the size of existing State programs. Three other submissions all included various mixes of current and new formulas designed to avoid significant reductions below current levels for existing State programs.

The Department accepts the need to buffer States from serious losses in program capacity, while at the same time seeking to gain the benefits of a new formula. Consistent with these two objectives, the formula implementation proposed today establishes a fixed base amount of funds for each State that is derived from the amount received from the fiscal year 1993, while remaining funds would be distributed pursuant to the proposed formula. Fiscal year 1993 was the most recent available data when Congress passed the fiscal year 1995 appropriation.

II. Amendments to the Weatherization Assistance Program Formula

This part of the Supplementary Information discusses those provisions of the proposed amendments that are not self-explanatory.

§ 440.3 Definitions.

DOE proposes to amend this section to delete the references to the current formula which will not be a part of the proposed formula. The definitions proposed to be deleted are: ''number of owner-occupied units in the State''; ''number of low-income, renter-occupied dwelling units in the State''; ''percentage of total residential energy used for space cooling''; and ''percentage of total residential energy used for space heating''.

In proposing a new formula for the Program, DOE proposes to add several new definitions to § 440.3 which describe the new criteria to be used.

DOE proposes to add a definition of ''base allocation,'' as set forth in proposed § 440.10(b)(1), which refers to the fixed base amount each State receives. That amount is derived from

each State's fiscal year 1993 allocation of funds.

DOE also proposes to add definitions of ''program allocation'' and ''total program allocations.'' The former represents the amount of funds (base allocation plus formula allocation), to be distributed to each State. The latter refers to the annual appropriation less funds reserved for training and technical assistance.

In § 440.12(b)(4) the term ''tentative allocation'' would be deleted and ''program allocation'' would be substituted to provide consistency with the proposed § 440.10. It should be noted that the original intent in using the term ''tentative allocation'' (discretion to reallocated funds if they are not used on a timely basis) is retained by DOE in substituting ''program allocation'' as it applies in proposed § 440.10(f) and (g). In proposed § 440.14(b)(9)(vi) the term ''tentatively'' would be deleted.

In section 440.14(b)(8)(i) the term ''tentative allocation'' has been retained. This term in context refers to State allocation (rather than DOE allocation) of funds among their subgrantees and the right of the State to reduce or withdraw these funds for non-performance or other deficiencies.

§ 440.10 Allocation of funds.

DOE is proposing to delete the current formula in § 440.10 and replace it with the formula set forth in proposed § 440.10(b). Paragraph (b)(1) of proposed § 440.10 would provide for a program allocation (PA) for each State consisting of two parts. The two parts are: (1) a fixed amount of money (approximately equal to the State's FY 1993 allocation), which is referred to as a State's ''Base Allocation'' (BA) (See Table 1); and (2) an amount of money referred to as the ''Formula Allocation, which will be determined by application of the proposed formula.

The program allocation is expressed mathematically as:

PA=BA+FA

Base Allocation

Table 1 presents the ''Base Allocation'' for each State.

TABLE 1.—''BASE ALLOCATION'' BY STATE

Alabama	1,636,000
Alaska	1,425,000
Arkansas	1,417,000
Arizona	760,000
California	4,404,000
Colorado	4,574,000
Connecticut	1,887,000
Delaware	409,000
District of Columbia	487,000
Florida	761,000
Georgia	1,844,000
Hawaii	120,000
Idaho	1,618,000
Illinois	10,717,000
Indiana	5,156,000
Iowa	4,032,000
Kansas	1,925,000
Kentucky	3,615,000
Louisiana	912,000
Maine	2,493,000
Maryland	1,963,000
Massachusetts	5,111,000
Michigan	12,346,000
Minnesota	8,342,000
Mississippi	1,094,000
Missouri	4,615,000
Montana	2,123,000
Nebraska	2,013,000
Nevada	586,000
New Hampshire	1,193,000
New Jersey	3,775,000
New Mexico	1,519,000
New York	15,302,000
North Carolina	2,853,000
North Dakota	2,105,000
Ohio	10,665,000
Oklahoma	1,846,000
Oregon	2,320,000
Pennsylvania	11,457,000
Rhode Island	878,000
South Carolina	1,130,000
South Dakota	1,561,000
Tennessee	3,218,000
Texas	2,999,000
Utah	1,692,000
Vermont	1,014,000
Virginia	2,970,000
Washington	3,775,000
West Virginia	2,573,000
Wisconsin	7,061,000
Wyoming	967,000
Total	171,258,000

Formula Allocation

The amount of total Formula Allocations (the amount which will be distributed among States based on the proposed formula) is calculated by subtracting total Base Allocations ($171,258,000) from the total Program Allocations. For example, if the amount of total Program Allocations is $200,000,000, the amount of total Formula Allocations would be $28,742,000 ($200,000,000–$171,258,000).

The Formula Allocation for each State is calculated by multiplying the total amount of Formula Allocations by each State's Formula Share, which is determined by the proposed formula.

Formula Factors

The proposed formula is composed of three factors for each State. The first factor (F1) is the population factor. The next factor (F2) represents the climatic conditions in each State, derived from heating and cooling degree days. The last factor (F3) is residential energy expenditures by low-income households in each State.

F1 Population Factor

The first factor in the proposed formula is the population factor. This is represented by the share of the Nation's low-income households in each State expressed as a percentage. Unlike the current formula, the proposed formula will give equal weight to owners and renters. The number of low-income households was obtained from a special run by the Bureau of the Census for the Department of Energy, referenced as ''Households at 125% or less, Special Tab #54, Census Bureau''.

F1—State Population Factor

$$F1 = \frac{\text{Total Number of Low-Income Households in the State}}{\text{Total Number of Low-Income Households Nationwide}} \times 100$$

Table 2 presents the number of low-income households and the population factor (F1) for each State.

Table Explanation

Column A—State Name.

Column B—Number of Low-Income Households per State.

Column C—State Population Factor (F1)—is calculated by dividing the number of low-income households in a given State (Column B) by the national total (16,231,250—shown at the bottom of the table) and multiplied by 100.

TABLE 2.—LOW-INCOME HOUSEHOLDS BY STATE

State A	Number of low-income households B	Percent of national low-income households (F1) C
Alabama	386,525	2.3814
Alaska	21,729	0.1339
Arizona	261,161	1.6090
Arkansas	240,155	1.4796
California	1,525,061	9.3958
Colorado	206,052	1.2695
Connecticut	120,483	0.7423
Delaware	31,028	0.1912
District of Columbia	46,438	0.2861
Florida	879,786	5.4203
Georgia	471,834	2.9069
Hawaii	40,856	0.2517
Idaho	69,204	0.4264
Illinois	657,508	4.0509
Indiana	327,581	2.0182
Iowa	184,021	1.1337
Kansas	163,891	1.0097
Kentucky	357,665	2.2036
Louisiana	442,320	2.7251
Maine	80,276	0.4946
Maryland	196,788	1.2124
Massachusetts	313,297	1.9302
Michigan	598,427	3.6869
Minnesota	247,149	1.5227
Mississippi	294,611	1.8151
Missouri	377,864	2.3280
Montana	68,456	0.4218
Nebraska	104,707	0.6451
Nevada	64,869	0.3997
New Hampshire	43,406	0.2674
New Jersey	303,328	1.8688
New Mexico	135,642	0.8357
New York	1,138,016	7.0113
North Carolina	489,172	3.0138
North Dakota	51,103	0.3148
Ohio	705,646	4.3475
Oklahoma	284,883	1.7552
Oregon	191,508	1.1799
Pennsylvania	725,124	4.4675
Rhode Island	57,155	0.3521
South Carolina	274,749	1.6927
South Dakota	56,917	0.3507
Tennessee	418,703	2.5796
Texas	1,345,471	8.2894
Utah	88,775	0.5469
Vermont	32,563	0.2006
Virginia	333,824	2.0567
Washington	280,943	1.7309
West Virginia	184,759	1.1383
Wisconsin	279,527	1.7222
Wyoming	30,294	0.1866
National total	16,231,250	100

F2 Climate Factor

The second factor, climatic conditions, is obtained by adding the heating and cooling degree days for each State, treating the energy needed for heating and cooling proportionately.

The proposed formula uses (as does the current formula) the thirty year averages of heating degree days (HDD) and cooling degree days (CDD) as reported by the National Oceanic and Atmospheric Administration (NOAA) to account for climatic conditions. Heating and cooling consumption data were obtained from Table 28 of the Energy Information Administration's (EIA) Household Energy Consumption and Expenditures 1990.

State Climate Factor

State HDD Ratio

F2=HDD State Ratio + CDD State Ratio

HDD and CDD Ratios

$$\text{State HDD Ratio} = \frac{\text{State HDD}}{\text{National Median HDD}}$$

State CDD Ratio

$$\text{State CDD Ratio} = \frac{\text{State CDD}}{\text{National Median CDD}} \times 0.1$$

where

$$\frac{\text{Cooling Consumption (.49 Quadrillion Btu)}}{\text{Heating Consumption (4.79 Quadrillion Btu)}} = 0.1$$

National heating consumption equals 4.79 quadrillion Btu and air conditioning (cooling) consumption equals .49 quadrillion Btu. Cooling consumption divided by heating consumption rounds to 0.1. The ratio of cooling to heating energy consumption reflects the fact that nationally households use, on average, one tenth as much energy for cooling as for heating. This ratio is reflected in the existing allocation formula. National data are used because of the absence of complete State-specific data.

In order to account for the variation in weather in a simple but equitable manner, DOE compares each State's climate to the national median. Each State's HDD and CDD is divided by the series' median value. Using the median as the denominator ensures that half of the States would fall above 1 and half would fall below 1. A State HDD ratio (HDD divided by the median) greater than 1 indicates a State with relatively cold winters, while a value greater than 1 for a State's CDD ratio indicates a State with a relatively warmer summer. To find the median of any odd series of numbers, the series is arranged in ascending order and the value that occurs in the middle of the series is chosen. The series relevant to F2 is odd because it consists of the 50 States and the District of Columbia. The median value occurs at the 26th observation (State). The median was chosen, rather than the mean, because of its characteristic of being ''insensitive'' to extreme values. States like Alaska and Florida tend to skew or pull the average towards one extreme or another. In calculating the heating and cooling ratios the current formula multiplies each State's HDD's by the national space heating consumption and its CDD's by the national air conditioning (cooling) consumption. The proposed formula simplifies this calculation by combining these two numbers into one by dividing cooling consumption by heating consumption (as reported in Table 28 of the Household Energy Consumption and Expenditures 1990). Each State's CDD ratio is multiplied by this one number (which rounds to 0.1). The final climate factor for each State is then the sum of the HDD and CDD ratios.

Table 3 presents the data used to calculate the climate factor (F2) for each State.

Table Explanation

Column A—State Name.

Column B—State heating degree days (HDD) as reported by the NOAA.

Column C—State HDD Ratio, calculated by dividing each State's HDD by the national median (5,429.9—as shown on the bottom of Table 2).

Column D—State cooling degree days (CDD) as reported by the NOAA.

Column E—State CDD divided by the national median (867.3—as shown on the bottom of Table 2).

Column F—State CDD Ratio, calculated by multiplying Column E by the ratio of cooling consumption to heating consumption, which is 0.1.

Column G—State Climate Factor (F2), calculated by summing each State's HDD and CDD ratios.

TABLE 3.—WEATHER DATA BY STATE

State A	Heating Degree Days B	HDD ratio C	Cooling degree days D	CDD divided by the median E	CDD ratio F	Climate factor (F2) G
Alabama	2,853.8	0.526	1,855.9	2.140	0.214	0.740
Alaska	11,475.2	2.113	1.9	0.002	0.000	2.114
Arizona	2,232.6	0.411	2,695.4	3.108	0.311	0.722
Arkansas	3,365.0	0.620	1,801.2	2.077	0.208	0.827
California	2,663.3	0.490	824.4	0.951	0.095	0.586
Colorado	7,264.0	1.338	280.4	0.323	0.032	1.370
Connecticut	6,122.4	1.128	526.6	0.607	0.061	1.188
Delaware	4,741.7	0.873	1,034.4	1.193	0.119	0.993
District of Columbia	4,785.7	0.881	1,008.5	1.163	0.116	0.998
Florida	715.6	0.132	3,365.1	3.880	0.388	0.520
Georgia	2,842.0	0.523	1,705.7	1.967	0.197	0.720

TABLE 3.—WEATHER DATA BY STATE—Continued

State A	Heating Degree Days B	HDD ratio C	Cooling degree days D	CDD divided by the median E	CDD ratio F	Climate factor (F2) G
Hawaii	0.0	0.000	3,528.0	4.068	0.407	0.407
Idaho	6,960.0	1.282	434.9	0.501	0.050	1.332
Illinois	6,254.3	1.152	894.3	1.031	0.103	1.255
Indiana	5,906.8	1.088	891.7	1.028	0.103	1.191
Iowa	6,894.6	1.270	867.3	1.000	0.100	1.370
Kansas	4,990.9	0.919	1,490.4	1.718	0.172	1.091
Kentucky	4,566.8	0.841	1,174.4	1.354	0.135	0.976
Louisiana	1,826.1	0.336	2,550.0	2.940	0.294	0.630
Maine	8,069.2	1.486	215.6	0.249	0.025	1.511
Maryland	4,785.7	0.881	1,008.5	1.163	0.116	0.998
Massachusetts	6,404.5	1.179	434.6	0.501	0.050	1.230
Michigan	6,837.5	1.259	565.7	0.652	0.065	1.324
Minnesota	8,687.0	1.600	487.3	0.562	0.056	1.656
Mississippi	2,549.5	0.470	2,094.4	2.415	0.241	0.711
Missouri	5,127.4	0.944	1,282.2	1.478	0.148	1.092
Montana	8,144.8	1.500	259.4	0.299	0.030	1.530
Nebraska	6,412.3	1.181	1,052.0	1.213	0.121	1.302
Nevada	4,260.1	0.785	1,572.0	1.813	0.181	0.966
New Hampshire	7,594.6	1.399	289.4	0.334	0.033	1.432
New Jersey	5,429.9	1.000	774.6	0.893	0.089	1.089
New Mexico	4,714.2	0.868	890.2	1.026	0.103	0.971
New York	5,960.8	1.098	641.4	0.740	0.074	1.172
North Carolina	3,492.2	0.643	1,366.3	1.575	0.158	0.801
North Dakota	9,382.8	1.728	471.7	0.544	0.054	1.782
Ohio	5,932.2	1.093	740.2	0.853	0.085	1.178
Oklahoma	3,593.3	0.662	1,941.6	2.239	0.224	0.886
Oregon	5,228.6	0.963	207.0	0.239	0.024	0.987
Pennsylvania	5,920.7	1.090	659.2	0.760	0.076	1.166
Rhode Island	5,942.0	1.094	457.2	0.527	0.053	1.147
South Carolina	2,768.2	0.510	1,787.0	2.060	0.206	0.716
South Dakota	7,613.7	1.402	804.6	0.928	0.093	1.495
Tennessee	4,005.8	0.738	1,337.5	1.542	0.154	0.892
Texas	2,039.7	0.376	2,623.2	3.025	0.302	0.678
Utah	6,451.3	1.188	694.7	0.801	0.080	1.268
Vermont	7,970.9	1.468	280.5	0.323	0.032	1.500
Virginia	4,402.4	0.811	1,052.4	1.213	0.121	0.932
Washington	5,636.0	1.038	174.9	0.202	0.020	1.058
West Virginia	5,271.5	0.971	766.5	0.884	0.088	1.059
Wisconsin	7,679.2	1.414	502.5	0.579	0.058	1.472
Wyoming	8,081.3	1.488	308.5	0.356	0.036	1.524
Median	5,429.9	.....	867.3	.....	.....	.....

F3 Residential Energy Expenditure Factor

The final factor, residential energy expenditures by low-income households was determined to be the closest approximation, given available data, of the financial burden to low-income households of energy use. Based on the same reasoning as discussed for the climate factor, the national median is used to calculate the State residential energy expenditure factors.

State Residential Energy Expenditure Factor

$$F3 = \frac{\text{State Low-Income Household Energy Expenditures}}{\text{National Median Low-Income Household Energy Expenditures}}$$

Due to the lack of State specific data on residential energy expenditures by low-income households, an estimate is calculated based on the published data that is available. Specifically, available residential energy expenditures data at the State level does not distinguish between low-income households and the overall population. Information on residential energy expenditures by low-income households is available at the Census division level. The nine Census divisions including the States contained therein are shown below. Comparing each State's average household residential energy expenditures with the average household residential energy expenditures at its Census division level provides a means of allocating the Census division low-income residential energy expenditures to each State within that division.

Census division	State abbreviations
Northeast (NE)	CT, MA, ME, NH, RI, VT
Mid-Atlantic (MA)	NJ, NY, PA
South Atlantic (SA)	DC, DE, MD, VA, WV
East North Central (ENC).	IL, IN, MI, OH, WI

Census division	State abbreviations
East South Central (ESC).	AL, KY, MS, TN
West North Central (WNC).	IA, KS, MN, MO, ND, NE, SD
West South Central (WSC).	AR, LA, OK, TX
Mountain (MN)	AZ, CO, ID, MT, NM, NV, UT, WY
Pacific (PAC)	AK, CA, HI, OR, WA

Table 4, set forth below, presents the data used to calculate the residential energy expenditures factor for each State.

Table Explanation

Column A—State Abbreviation.

Column B—Census Division Abbreviation.

Column C—Residential Energy Expenditures by State (State EE) is published in the EIA's State Energy Price and Expenditure Report 1990 (SEPER). Data is expressed in millions of dollars.

Column D—Residential Energy Expenditures by Census division (Div EE) is the sum of the State data in Column C for each Census division. Data is expressed in millions of dollars.

Column E—Number of Households per State (State #HH) was obtained from the Bureau of the Census' U.S. Summary of General Housing Characteristics, 1990 Census.

Column F—Number of Households per Census division (Division #HH) is the sum of the State data in Column E for each Census division.

Column G—Residential Energy Expenditures per Low-Income Household for each State's Census division (Division EE/#LIHH) is published in the EIA's Household Energy Consumption and Expenditures 1990—Supplement: Regional.

Column H—The ratio of each State's Residential Energy Expenditures per Household (State EE/#HH) over the Residential Energy Expenditures per Household for each State's Census division (Division EE/#HH) is calculated as follows:

Column I—Residential Energy Expenditures per Low-Income Household by State (State EE/#LIHH) is calculated from columns C through G as follows:

$$\text{Column H} = \frac{\text{Column C/Column E}}{\text{Column D/Column F}}$$

Column J—''Residential Energy Expenditure Factor (F3)'' is calculated by dividing the estimate of residential energy expenditures per low-income households for each State by the national median ($991.6).

TABLE 4.—RESIDENTIAL ENERGY EXPENDITURE FACTOR DETAILS

State abbrev. A	Census division B	Residential energy expenditures (by State) (million $) C	Residential energy expenditures (for census division) (million $) D	Households (by State) E	Households (for census division) F	Residential energy expenditures per low-income household (for Division) G	Ratio of state energy expenditure per household to division energy expenditure per household H	Residential energy expenditures per low-income household (by State) I	Expenditure factor (F3) J
CT	NE	$1,981.6	$7,351.8	1,230,479	4,942,714	$1,150.0	1.083	$1,245.1	1.256
MA	NE	$3,243.9	$7,351.8	2,247,110	4,942,714	$1,150.0	0.971	$1,116.1	1.126
ME	NE	$666.0	$7,351.8	465,312	4,942,714	$1,150.0	0.962	$1,106.6	1.116
NH	NE	$621.3	$7,351.8	411,186	4,942,714	$1,150.0	1.016	$1,168.2	1.178
RI	NE	$502.8	$7,351.8	377,977	4,942,714	$1,150.0	0.894	$1,028.5	1.037
VT	NE	$336.2	$7,351.8	210,650	4,942,714	$1,150.0	1.073	$1,234.0	1.244
NJ	MA	$3,881.6	$18,528.9	2,794,711	13,929,999	$1,157.0	1.044	$1,208.1	1.218
NY	MA	$8,526.0	$18,528.9	6,639,322	13,929,999	$1,157.0	0.965	$1,117.0	1.127
PA	MA	$6,121.3	$18,528.9	4,495,966	13,929,999	$1,157.0	1.024	$1,184.3	1.194
DC	SA	$208.1	$19,120.1	249,634	16,503,063	$988.0	0.720	$710.9	0.717
DE	SA	$346.7	$19,120.1	247,497	16,503,063	$988.0	1.209	$1,194.6	1.205
FL	SA	$5,888.6	$19,120.1	5,134,869	16,503,063	$988.0	0.990	$977.9	0.986
GA	SA	$2,990.0	$19,120.1	2,366,615	16,503,063	$988.0	1.090	$1,077.4	1.087
MD	SA	$2,090.8	$19,120.1	1,748,991	16,503,063	$988.0	1.032	$1,019.4	1.028
NC	SA	$3,226.4	$19,120.1	2,517,026	16,503,063	$988.0	1.106	$1,093.1	1.102
SC	SA	$1,573.1	$19,120.1	1,258,044	16,503,063	$988.0	1.079	$1,066.3	1.075
VA	SA	$2,796.4	$19,120.1	2,291,830	16,503,063	$988.0	1.053	$1,040.5	1.049
WV	SA	$714.8	$19,120.1	688,557	16,503,063	$988.0	0.896	$885.3	0.893
IL	ENC	$5,650.6	$19,424.2	4,202,240	15,596,590	$1,074.0	1.080	$1,159.6	1.169
IN	ENC	$2,503.3	$19,424.2	2,065,355	15,596,590	$1,074.0	0.973	$1,045.2	1.054
MI	ENC	$4,097.2	$19,424.2	3,419,331	15,596,590	$1,074.0	0.962	$1,033.3	1.042
OH	ENC	$5,085.2	$19,424.2	4,087,546	15,596,590	$1,074.0	0.999	$1,072.8	1.082
WI	ENC	$2,087.9	$19,424.2	1,822,118	15,596,590	$1,074.0	0.920	$988.2	0.997
AL	ESC	$1,777.1	$6,157.9	1,506,790	5,651,671	$772.0	1.082	$835.6	0.843
KY	ESC	$1,354.2	$6,157.9	1,379,782	5,651,671	$772.0	0.901	$695.4	0.701
MS	ESC	$1,053.3	$6,157.9	911,374	5,651,671	$772.0	1.061	$818.9	0.826
TN	ESC	$1,973.3	$6,157.9	1,853,725	5,651,671	$772.0	0.977	$754.2	0.761
IA	WNC	$1,281.3	$7,742.7	1,064,325	6,720,385	$968.0	1.045	$1,011.5	1.020
KS	WNC	$1,099.5	$7,742.7	944,726	6,720,385	$968.0	1.010	$977.8	0.986
MN	WNC	$1,745.8	$7,742.7	1,647,853	6,720,385	$968.0	0.920	$890.1	0.898
MO	WNC	$2,363.1	$7,742.7	1,961,206	6,720,385	$968.0	1.046	$1,012.4	1.021
ND	WNC	$281.8	$7,742.7	240,878	6,720,385	$968.0	1.015	$982.9	0.991

TABLE 4.—RESIDENTIAL ENERGY EXPENDITURE FACTOR DETAILS—Continued

State abbrev. A	Census division B	Residential energy expenditures (by State) (million $) C	Residential energy expenditures (for census division) (million $) D	Households (by State) E	Households (for census division) F	Residential energy expenditures per low-income household (for Division) G	Ratio of state energy expenditure per household to division energy expenditure per household H	Residential energy expenditures per low-income household (by State) I	Expenditure factor (F3) J
NE	WNC	$648.4	$7,742.7	602,363	6,720,385	$968.0	0.934	$904.4	0.912
SD	WNC	$322.8	$7,742.7	259,034	6,720,385	$968.0	1.082	$1,047.0	1.056
AR	WSC	$1,125.1	$11,951.9	891,179	9,667,520	$971.0	1.021	$991.6	1.000
LA	WSC	$1,945.3	$11,951.9	1,499,269	9,667,520	$971.0	1.050	$1,019.1	1.028
OK	WSC	$1,477.6	$11,951.9	1,206,135	9,667,520	$971.0	0.991	$962.2	0.970
TX	WSC	$7,403.9	$11,951.9	6,070,937	9,667,520	$971.0	0.986	$957.9	0.966
AZ	MT	$1,623.4	$5,169.9	1,368,843	5,033,336	$888.0	1.155	$1,025.3	1.034
CO	MT	$1,153.3	$5,169.9	1,282,489	5,033,336	$888.0	0.876	$777.5	0.784
ID	MT	$354.7	$5,169.9	360,723	5,033,336	$888.0	0.957	$850.1	0.857
MT	MT	$301.1	$5,169.9	306,163	5,033,336	$888.0	0.957	$850.2	0.857
NM	MT	$536.6	$5,169.9	542,709	5,033,336	$888.0	0.963	$854.8	0.862
NV	MT	$462.0	$5,169.9	466,297	5,033,336	$888.0	0.965	$856.6	0.864
UT	MT	$559.1	$5,169.9	537,273	5,033,336	$888.0	1.013	$899.7	0.907
WY	MT	$179.7	$5,169.9	168,839	5,033,336	$888.0	1.036	$920.2	0.928
AK	PAC	$342.4	$13,097.3	188,915	13,902,132	$676.0	1.924	$1,300.5	1.312
CA	PAC	$9,892.5	$13,097.3	10,381,206	13,902,132	$676.0	1.011	$683.8	0.690
HI	PAC	$255.6	$13,097.3	356,267	13,902,132	$676.0	0.762	$514.8	0.519
OR	PAC	$966.2	$13,097.3	1,103,313	13,902,132	$676.0	0.930	$628.4	0.634
WA	PAC	$1,640.6	$13,097.3	1,872,431	13,902,132	$676.0	0.930	$628.7	0.634

The underlying assumption in the calculation of State residential energy expenditures per low-income household is that the relationship between a State's residential energy expenditures per household and its respective divisional residential energy expenditures per household is the same for its low-income population as it is for its general population. If State Y's average household spends twice the money on its residential energy compared to the average household in its Census division, then it is assumed that the low-income households in State Y will also spend twice the money on residential energy than the average low-income household in its division. For example, assume State Y's residential energy expenditures per general household is $2,000 and the average residential energy expenditures per general household in its division is $1,000. If the average residential energy expenditures per low-income households for the division is $800, then the residential energy expenditures per low-income household for State Y would be $1,600.

Formula Share

The above factors are combined into a single formula by multiplying the percent of low-income households (F1) in each State by the climate factor (F2) and the residential energy expenditures factor (F3) for that State. For explanation purposes, the result of applying the formula to a given State will now be called the State's weight (SW), as follows:

SW=F1×F2×F3.

These State-by-State calculations do not necessarily sum to one. As a result, each State's weight must be divided by the national total of each State's weight to obtain the State's Formula Share, as follows:

State's Formula Share=State's Weight/National Total.

Table 5 shows the three factors (from the previous tables) for each State along with each State's weight and Formula Share.

Table Explanation

Column A—State Name.

Column B—State's Population Factor (F1).

Column C—State's Climatic Factor (F2).

Column D—State's Residential Energy Expenditures Factor (F3).

Column E—State's Weight—F1×F2×F3.

Column F—State's Formula Share—State's weight (Column E) divided by the national total (the sum of Column E).

TABLE 5.—FORMULA FACTORS, WEIGHT AND FORMULA SHARE BY STATE

State A	F1 B	F2 C	F3 D	Weight E	Formula share F
Alabama	2.381	0.740	0.843	1.484	0.0155
Alaska	0.134	2.114	1.312	0.371	0.0039
Arizona	1.609	0.722	1.034	1.201	0.0125
Arkansas	1.480	0.827	1.000	1.224	0.0127
California	9.396	0.586	0.690	3.794	0.0395
Colorado	1.269	1.370	0.784	1.364	0.0142

TABLE 5.—FORMULA FACTORS, WEIGHT AND FORMULA SHARE BY STATE—Continued

State A	F1 B	F2 C	F3 D	Weight E	Formula share F
Connecticut	0.742	1.188	1.256	1.108	0.0115
Delaware	0.191	0.993	1.205	0.229	0.0024
District of Columbia	0.286	0.998	0.717	0.205	0.0021
Florida	5.420	0.520	0.986	2.779	0.0289
Georgia	2.907	0.720	1.087	2.274	0.0237
Hawaii	0.252	0.407	0.519	0.053	0.0006
Idaho	0.426	1.332	0.857	0.487	0.0051
Illinois	4.051	1.255	1.169	5.945	0.0619
Indiana	2.018	1.191	1.054	2.533	0.0264
Iowa	1.134	1.370	1.020	1.584	0.0165
Kansas	1.010	1.091	0.986	1.086	0.0113
Kentucky	2.204	0.976	0.701	1.509	0.0157
Louisiana	2.725	0.630	1.028	1.765	0.0184
Maine	0.495	1.511	1.116	0.834	0.0087
Maryland	1.212	0.998	1.028	1.244	0.0130
Massachusetts	1.930	1.230	1.126	2.672	0.0278
Michigan	3.687	1.324	1.042	5.089	0.0530
Minnesota	1.523	1.656	0.898	2.264	0.0236
Mississippi	1.815	0.711	0.826	1.066	0.0111
Missouri	2.328	1.092	1.021	2.596	0.0270
Montana	0.422	1.530	0.857	0.553	0.0058
Nebraska	0.645	1.302	0.912	0.766	0.0080
Nevada	0.400	0.966	0.864	0.333	0.0035
New Hampshire	0.267	1.432	1.178	0.451	0.0047
New Jersey	1.869	1.089	1.218	2.480	0.0258
New Mexico	0.836	0.971	0.862	0.699	0.0073
New York	7.011	1.172	1.127	9.255	0.0964
North Carolina	3.014	0.801	1.102	2.660	0.0277
North Dakota	0.315	1.782	0.991	0.556	0.0058
Ohio	4.347	1.178	1.082	5.540	0.0577
Oklahoma	1.755	0.886	0.970	1.508	0.0157
Oregon	1.180	0.987	0.634	0.738	0.0077
Pennsylvania	4.467	1.166	1.194	6.224	0.0648
Rhode Island	0.352	1.147	1.037	0.419	0.0044
South Carolina	1.693	0.716	1.075	1.303	0.0136
South Dakota	0.351	1.495	1.056	0.554	0.0058
Tennessee	2.580	0.892	0.761	1.750	0.0182
Texas	8.289	0.678	0.966	5.430	0.0565
Utah	0.547	1.268	0.907	0.629	0.0066
Vermont	0.201	1.500	1.244	0.375	0.0039
Virginia	2.057	0.932	1.049	2.012	0.0210
Washington	1.731	1.058	0.634	1.161	0.0121
West Virginia	1.138	1.059	0.893	1.076	0.0112
Wisconsin	1.722	1.472	0.997	2.527	0.0263
Wyoming	0.187	1.524	0.928	0.264	0.0027
National total	.....	.....	.....	96.022	1.0000

Each State's share of the ''Formula Allocation'' is then calculated by multiplying the total ''Formula Allocation'' by each State's ''Formula Share''.

Proposed § 440.10(b) maintains the current capacity of States to deliver weatherization services and sustains the strong network developed for this purpose by minimizing the impact of the proposed formula change on colder-weather States. Those States would otherwise face layoffs of weatherization crews that would severely restrict their ability to provide reasonable weatherization services to their low-income residents.

Any increase in funds at or above the fiscal year 1995 total program allocations level will be allocated according to the proposed formula. Should total program allocations fall below the fiscal year 1995 level each State's program allocation would be reduced from its fiscal year 1995 level by the same percentage. For example, if total program allocations for a given year were to fall 10 percent below the fiscal year 1995 level, this would result in an across the board reduction of 10 percent for each State from its fiscal year 1995 program allocation. The rationale for this provision is to distribute the effect of lower appropriations equitably.

DOE proposes to add § 440.10(d) to clarify the sources of data used in the proposed formula. All sources of data are publicly available.

Section 440.10(e) is proposed to alert States of possible impacts on their weatherization programs which may occur due to changes in data. In any given program year where changes occur, DOE is proposing to delay reallocations based on new data until the following year. This will allow States to plan for anticipated shifts in funds and develop alternative strategies for minimizing the impact of such a change.

Opportunity for Public Comment

A. Written Comment Procedures

Interested persons, organizations and State governments are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the matters set forth in this notice to the address indicated at the beginning of this notice.

Comments (6 copies) should be identified on the envelope and on the documents themselves with the designation: ''WAP Rulemaking, EE–RM–95–401, and must be received by the date specified at the beginning of this notice. Six copies should be submitted. Additionally, the Department would appreciate an electronic copy of the comments to the extent possible. The Department is currently using Wordperfect 5.1. All comments received by the dates specified at the beginning of this notice and other information will be considered by DOE in the final rule. In the event any person wishing to submit a written comment cannot provide six copies, alternative arrangements can be made in advance with the Hearings and Dockets Office.

All comments received will be available for public inspection in the DOE Freedom of Information Office Reading Room at the address indicated at the beginning of this notice.

Pursuant to the provisions of 10 CFR 1004.11, any person submitting information which that person believes to be confidential and which may be exempt by law from public disclosure, should submit one complete copy as well as two copies from which the information claimed to be confidential has been deleted. DOE shall make its own determination with regard to the confidential status of the information or data and treat it accordingly to its determination.

B. Public Hearing Procedures

DOE will hold two public hearings on this proposed rule. The hearing will be held on the date and at the locations indicated at the beginning of this notice. Any person who has an interest in the proposed regulation or who is a representative of a group or class of persons which has an interest in it may request an opportunity to make an oral presentation. A request to speak at a hearing should be addressed to the address or phone number indicated at the beginning of this notice.

The person making the request should briefly describe his or her interest in the proceedings and, if appropriate, state why that person is a proper representative of a group. The person should also provide a phone number where he or she may be reached during the day. Persons selected to be heard at a public hearing will be notified as to the approximate time they will be speaking. They should bring seven copies of their statement to the hearing. In the event any person wishing to testify cannot meet this requirement, alternative arrangements can be made in advance by so indicating in the letter or phone call requesting an opportunity to make an oral presentation.

DOE reserves the right to select persons to be heard at the hearings, to schedule their presentations, and to establish procedures governing the conduct of the hearing. The length of each presentation will be limited to twenty minutes, or based on the number of persons requesting to speak.

A DOE official will preside at the hearing. This will not be a judicial or evidentiary-type hearing but will be conducted in accordance with 5 U.S.C. 553 and § 336 of the DOE Organization Act, 42 U.S.C. 7191. At the conclusion of all initial oral statements, if time permits, each person may be given the opportunity to make a rebuttal or clarifying statement. These statements will be given in the order in which the initial statements were made and will be limited to five minutes each.

Any participant who wishes to ask a question of a speaker at the hearing may submit the question in writing to the registration desk. The presiding officer will determine whether the question is relevant and material and whether time limitations permit it to be presented for an answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made, and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Office Reading Room at the address indicated at the beginning of this notice. Any person may purchase a copy of the transcript from the hearing reporter.

If DOE must cancel a hearing, DOE will make every effort to publish an advance notice of such cancellation in the **Federal Register**. Notice of cancellation will also be given to all persons scheduled to speak at the hearing. Hearing dates may be canceled in the event no public testimony has been scheduled in advance.

IV. Review Under Executive Order 12866

Today's regulatory action has been determined not to be a significant regulatory action under Executive Order 12866. Accordingly, today's action was not subject to review under the Executive Order by the Office of Management and Budget.

V. Review Under Executive Order 12778

Section 2 of E.O. 12778 instructs each agency to adhere to certain requirements in promulgating new regulations and reviewing existing regulations. These requirements, set forth in Sections 2 (a) and (b)(2), include eliminating drafting errors and needless ambiguity, drafting the regulation to minimize litigation, providing clear and certain legal standards for affected conduct, and promoting simplification and burden reduction. Agencies are also instructed to make every reasonable effort to ensure that the regulation: specifies clearly any preemptive effect, any effect on existing Federal law or regulation, and any retroactive effect; describes any administrative proceedings to be available to judicial review and any provisions for the exhaustion of such administrative proceedings; and defines key terms. DOE certifies that today's proposed regulation meets the requirements of §§ 2 (a) and (b) of E.O. 12778.

VI. Review Under Executive Order 12612

Executive Order 12612 requires that regulations be reviewed for any substantial direct effects on States, on the relationship between the national Government and the States, or on the distribution of power among various levels of Government. If there are sufficient substantial direct effects, the Executive Order requires preparation of a federalism assessment to be used in decisions by senior policymakers in promulgating or implementing the regulation.

Today's regulatory action will not have a substantial direct effect on the traditional rights and prerogatives of States in relationship to the Federal Government. Preparation of a federalism assessment is therefore unnecessary.

VII. Review Under the Regulatory Flexibility Act

The proposed regulations were reviewed under the Regulatory Flexibility Act, Pub. L. 96–354, which requires preparation of a regulatory flexibility analysis for any proposed regulation that will have a significant economic impact on a substantial

number of small entities, i.e., small businesses and small government jurisdictions. DOE has concluded that the proposed rule will affect the States and local agencies operating weatherization programs, especially in the warmer-weather States which will receive more funding. The incremental effect of the proposed changes relates to the distribution of approximately $20 million. Thus this incremental effect when spread among all of the States and the District of Columbia will not have a significant impact on a substantial number of small entities. Therefore, DOE certifies that there will not be a significant economic impact on a substantial number of small entities and that preparation of a regulatory flexibility analysis is not warranted.

VIII. Review Under the Paperwork Reduction Act

No new information collection or recordkeeping requirements are imposed on the public by today's proposed rules. Accordingly, no OMB clearance is required under the Paperwork Reduction Act, 44 U.S.C. 3501, et seq., or implementing regulations at 5 CFR Part 1320.

IX. Review Under National Environmental Policy Act

The rule proposes changes to the current formula used to distribute funds among the States pursuant to the regulations for the Weatherization Assistance Program for Low-Income Persons. Over the years many warmer-weather States have maintained that the current formula over allocates funds to colder-weather States. The purpose of the proposed formula is to increase the overall equity among the States. Since this proposed rule deals only with the manner in which funds will be allocated among the States, the Department has therefore determined that this proposed rule is covered under the Categorical Exclusion found at paragraph A6 of Appendix A to Subpart D, 10 CFR Part 1021, which applies to the establishment of procedural rulemakings. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

X. Other Federal Agencies

DOE provided draft copies of the proposed rule to the Department of Health and Human Services Low-Income Home Energy Assistance Program and the Department of Agriculture Farmers Home Administration. No comments have been received. DOE also provided a draft copy to the Administrator of the Environmental Protection Agency, pursuant to § 7 of the Federal Energy Administration Act, as amended, 15 U.S.C. 766. The Administrator has not made any comment.

XI. The Catalog of Federal Domestic Assistance

The *Catalog of Federal Domestic Assistance* number for the Weatherization Assistance Program for Low-Income Persons is 81.042.

List of Subjects in 10 CFR Part 440

Administrative practice and procedure, aged, energy conservation, grant programs-energy, grant programs-housing and community development, handicapped, housing standards, Indians, reporting and recordkeeping requirements, and weatherization.

Issued in Washington, D.C. on January 11, 1995.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, DOE hereby proposes to amend Chapter II of Title 10, Code of Federal Regulations, as set forth below:

PART 440—WEATHERIZATION ASSISTANCE PROGRAM FOR LOW-INCOME PERSONS

1. The authority citation for part 440 is revised to read as follows: 42 U.S.C. 6861–6871; 42 U.S.C. 7191.

2. In § 440.3, remove the definitions for ''Number of Low-Income, Owner-Occupied Dwelling Units in the State''; ''Number of Low-Income Renter-Occupied Dwelling Units in the State''; ''Percentage of Total Residential Energy Used for Space Cooling''; ''Percentage of Total Residential Energy Used for Space Heating''; and add the following definitions in alphabetical order to read as follows.

§ 440.3 Definitions.

* * * * *

Base Allocation means the fixed amount of funds each State will receive as set forth in § 440.10(b)(1).

* * * * *

Formula Allocation means the amount of funds received by each State based on the formula as calculated in § 440.10(b)(3).

Formula Share means the percentage of the total formula allocation provided to each State as calculated in § 440.10 (b)(3).

* * * * *

Program Allocation means the base allocation plus formula allocation for each State.

* * * * *

Residential Energy Expenditures means the average annual cost of purchased residential energy, including the cost of renewable energy resources.

* * * * *

Total Program Allocations means the annual appropriation less funds reserved for training and technical assistance.

* * * * *

3. Section 440.10 is revised to read as follows:

§ 440.10 Allocation of funds.

(a) DOE shall allocate financial assistance for each State from sums appropriated for any fiscal year, only upon annual application.

(b) Based on total program allocations at or above the 1995 level, DOE shall determine the program allocation for each State from available funds as follows:

(1) Allocate to each State a ''Base Allocation'' as listed in Table 1.

TABLE 1

Alabama	1,636,000
Alaska	1,425,000
Arkansas	1,417,000
Arizona	760,000
California	4,404,000
Colorado	4,574,000
Connecticut	1,887,000
Delaware	409,000
District of Columbia	487,000
Florida	761,000
Georgia	1,844,000
Hawaii	120,000
Idaho	1,618,000
Illinois	10,717,000
Indiana	5,156,000
Iowa	4,032,000
Kansas	1,925,000
Kentucky	3,615,000
Louisiana	912,000
Maine	2,493,000
Maryland	1,963,000
Massachusetts	5,111,000
Michigan	12,346,000
Minnesota	8,342,000
Mississippi	1,094,000
Missouri	4,615,000
Montana	2,123,000
Nebraska	2,013,000
Nevada	586,000
New Hampshire	1,193,000
New Jersey	3,775,000
New Mexico	1,519,000
New York	15,302,000
North Carolina	2,853,000
North Dakota	2,105,000
Ohio	10,665,000
Oklahoma	1,846,000
Oregon	2,320,000
Pennsylvania	11,457,000
Rhode Island	878,000
South Carolina	1,130,000
South Dakota	1,561,000
Tennessee	3,218,000
Texas	2,999,000
Utah	1,692,000

TABLE 1—Continued

Vermont	1,014,000
Virginia	2,970,000
Washington	3,775,000
West Virginia	2,573,000
Wisconsin	7,061,000
Wyoming	967,000
Total	171,258,000

(2) Subtract 171,258,000 from total program allocations.

(3) Calculate each State's formula share as follows:

(i) Divide the number of ''Low Income'' households in each State by the number of ''Low Income'' households in the United States and multiply by 100.

(ii) Divide the number of ''Heating Degree Days'' for each State by the median ''Heating Degree Days'' for all States.

(iii) Divide the number of ''Cooling Degree Days'' for each State by the median ''Cooling Degree Days'' for all States, then multiply by 0.1.

(iv) Calculate the sum of the two numbers from paragraphs (b)(3)(ii) and (iii) of this section.

(v) Divide the residential energy expenditures for each State by the number of households in the State.

(vi) Divide the sum of the residential energy expenditures for the States in each Census division by the sum of the households for the States in that division.

(vii) Divide the quotient from paragraph (b)(3)(v) of this section by the quotient from paragraph (b)(3)(vi) of this section.

(viii) Multiply the quotient from paragraph (b)(3)(vii) of this section for each State by the residential energy expenditures per low-income household for its respective Census division.

(ix) Divide the product from paragraph (b)(3)(viii) of this section for each State by the median of the products of all States.

(x) Multiply the results for paragraphs (b)(3)(i), (iv) and (ix) of this section for each State.

(xi) Divide the product in paragraph (b)(3)(x) of this section for each State by the sum of the products in paragraph (b)(3)(x) of this section for all States.

(4) Calculate each State's program allocation as follows:

(i) Multiply the remaining funds calculated in paragraph (b)(2) of this section by the formula share calculated in paragraph (b)(3)(xi) of this section,

(ii) Add the base allocation from paragraph (b)(1) of this section to the product of paragraph (b)(4)(i) of this section.

(c) Should total program allocations for any fiscal year fall below the total program allocations for fiscal year 1995, then each State's program allocation shall be reduced from its fiscal year 1995 amount by the same percentage as total program allocations for the fiscal year fall below the total program allocations for fiscal year 1995.

(d) All data sources used in the development of the formula are publicly available. The relevant data is available from the Bureau of the Census, the Department of Energy's Energy Information Administration and the National Oceanic and Atmospheric Administration.

(e) Should updates to the data used in the formula become available in any fiscal year, these changes would be implemented in the formula in the following program year.

(f) DOE may reduce the program allocation for a State by the amount DOE determines cannot be reasonably expended by a grantee to weatherize dwelling units during the budget period for which financial assistance is to be awarded. In reaching this determination, DOE will consider the amount of unexpended financial assistance currently available to a grantee under this part and the number of dwelling units which remains to be weatherized with the unexpended financial assistance.

(g) DOE may increase the program allocation of a State by the amount DOE determines the grantee can expend to weatherize additional dwelling units during the budget period for which financial assistance is to be awarded.

(h) The Support Office Director shall notify each State of the program allocation for which that State is eligible to apply.

4. Section 440.12 is amended by revising paragraph (b)(4) to read as follows:

§ 440.12 State application.

* * * * *

(b) * * *

(4) The total number of dwelling units proposed to be weatherized with grant funds during the budget period for which assistance is to be awarded—

(i) With financial assistance previously obligated under this part, and

(ii) With the program allocation to the State;

* * * * *

5. Section 440.14 is amended by revising paragraph (b)(9)(vi) to read as follows:

§ 440.14 State plans.

* * * * *

(b) * * *

(9) * * *

(vi) The amount of weatherization grant funds allocated to the State under this part;

* * * * *

[FR Doc. 95–1432 Filed 1–20–95; 8:45 am]

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Federal Register

Monday
January 23, 1995

Part III

Department of the Interior

Bureau of Indian Affairs

Grant Availability to Federally-Recognized Indian Tribes for Projects Implementing Traffic Safety on Indian Reservations; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Grant Availability to Federally-Recognized Indian Tribes for Projects Implementing Traffic Safety on Indian Reservations

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Indian Affairs intends to make funds available to federally-recognized Indian tribes on an annual basis for the purpose of implementing traffic safety projects which are designed to reduce the number of traffic accidents and their resulting fatalities, injuries, and property damage within Indian reservations. Due to the limited funding available for this program, all projects will be reviewed and selected on a competitive basis. This notice is intended to inform Indian tribes on the availability of funds and the process in which the projects are selected.

DATES: Requests for funds must be received by June 1 of each program year. Information packets will be distributed on February 24, 1995.

ADDRESSES: Each tribe must submit its request to the Bureau of Indian Affairs, Division of Safety Management, Attention: Indian Highway Safety Program Coordinator. Information packets will be distributed on February 24, 1995, to all tribal leaders at the addresses shown on the latest Tribal Leaders List which is compiled by the Bureau of Indian Affairs, Tribal Government Services, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tribes should direct questions concerning the grant program to Norma D. Long, the Bureau's Indian Highway Safety Program Coordinator or to Charles L. Jaynes, Program Administrator, Bureau of Indian Affairs, P.O. Box 2006, Albuquerque, New Mexico 87103; telephone: (505) 766–2181.

SUPPLEMENTARY INFORMATION:

Background

The Federal-Aid Highway Act of 1973 (Pub. L. 93–87) provides for U.S. Department of Transportation funding to assist Indian tribes in implementing highway safety projects. These projects are designed to reduce the number of traffic crashes and their resulting fatalities, injuries, and property damage within Indian reservations. All federally-recognized Indian tribes on Indian reservations are eligible to receive this assistance. All tribes which avail themselves of this assistance are reimbursed for cost incurred under the terms of 23 USC Sec. 402 and subsequent amendments.

Responsibilities

For purposes of application of the Act, Indian reservations are collectively considered a ''State'' and the Secretary, U.S. Department of the Interior (DOI), is considered the ''Governor of a State.'' The Secretary, DOI, delegated the authority to administer the programs throughout all the Indian reservations in the United States to the Assistant Secretary—Indian Affairs. The Assistant Secretary—Indian Affairs further delegated the responsibility for primary administration of the Indian Highway Safety Program to the Central Office Division of Safety Management (DSM), located in Albuquerque, New Mexico. The Chief, DSM, as Program Administrator of the Indian Highway Safety Program, has two full-time staff members to assist in program matters and provide technical assistance to the Indian tribes. It is at this level that contacts with the Department of Transportation are made with respect to program approval, funding of projects and technical assistance. The Department of Transportation, through the National Highway Traffic Safety Administration (NHTSA) and the Federal Highway Administration (FHWA), is responsible for assuring that the Indian Highway Safety Program is carried out in accordance with 23 U.S.C. 402 and other applicable Federal regulations.

The National Highway Traffic Safety Administration is responsible for the apportionment of funds to the Secretary of the Interior, review and approval of the Indian Highway Safety Plan involving NHTSA highway safety program areas and technical guidance and assistance to BIA.

The Federal Highway Administration is responsible for review and approval of the Indian Highway Safety Plan involving FHWA highway safety program areas and technical guidance and assistance to BIA.

Program Areas

The Surface Transportation and Uniform Relocation Assistance Act of 1987, 23 U.S.C. 402(j), required the Department of Transportation to conduct a rulemaking process to determine those programs most effective in reducing traffic crashes, injuries and fatalities. Those program areas were determined to be national priority program areas, and include NHTSA Program areas: (1) Alcohol; (2) Police Traffic Services; (3) Occupant Protection; (4) Traffic Records, and; (5) Emergency Medical Services. FHWA Program Area: Traffic Engineering Services. NHTSA and FHWA Program Areas: Pedestrian and Bicycle Safety.

Funding Criteria

The Bureau of Indian Affairs will reimburse for eligible costs associated with the following:

(1) Alcohol—Salary (DWI enforcement officer); enforcement/education; NHTSA approved Training; Approved breath-testing equipment (must be included on most recent Conforming Product List); community/school alcohol traffic safety education; DWI offender education; prosecution; adjudication; and vehicle expenses.

(2) Police Traffic Services—Salary (traffic enforcement/education); traffic law enforcement/radar training; speed enforcement equipment (must be listed on Consumer Products List); community/school education; and vehicle expenses.

(3) Occupant Protection—(1) Child Passenger Safety—child car seat loaner program; car seat transportation/storage, and; public information/education. (B) Community Seat Belt Program—Salary; education/promotional materials; office expenses, and; NHTSA-approved Occupant Protection Usage and Enforcement (OPUE) Training.

(4) Traffic Records—Salary; computerized equipment.

(5) Emergency Medical Services—Training; public information education.

(6) Traffic Engineering Services—Traffic signs (warning, regulatory, work zone); hardware and sign posts.

Project Guidelines

Information packets will be forwarded to the tribes in the month of February of each program year. Upon receipt of the information packet, each tribe should prepare a proposed project based upon the following guidelines:

A. *Program Planning.* Program planning shall be based upon the highway safety problems identified and countermeasures selected by the tribe for the purpose of reducing traffic crash factors.

B. *Problem Identification.* Highway traffic safety problems shall be identified from the best data available. These data may be found in tribal enforcement records on traffic crashes. Other sources of data include ambulance records, court and police arrest records. The problem identification process may be aided by using professional opinions of personnel in law enforcement, Indian Health Service, driver education, road

engineers, etc. These data should accompany the funding request. Impact problems should be indicated during the identification process. An impact problem is a highway safety problem that contributes to car crashes, fatalities and/or injuries, and one which may be corrected by the application of countermeasures. Impact problems can be identified from analysis of statewide and/or tribal traffic records. The analyses should consider, as a minimum: pedestrian, motorcycle, pedalcycle, passenger car, school bus, and truck accidents; records on problem drivers, roadside and roadway hazards, alcohol involvement, youth involvement, defective vehicle involvement, suspended or revoked driver involvement, speed involvement and child safety seat usage. Data should accompany the funding request.

C. *Countermeasures Selection.* When tribal highway traffic safety problems are identified, appropriate countermeasures shall be developed by the tribe to solve or reduce the problems. The development of these countermeasures should take into account the overall cost of the countermeasures versus its possible effects on the problem.

D. *Objectives/Performance Indicators.* After countermeasure selection, the objective(s) of the project must be expressed in clearly defined, time-framed and measurable terms.

E. *Budget Format.* The activities to be funded shall be outlined according to the following object groups: personnel services, travel and transportation, rent/communications, printing & reproduction, other services, equipment, and training. Each object group shall be quantified, i.e., personnel activities should show number to be employed, hours to be employed, hourly rate of pay, etc. Each object group shall have sufficient detail to show what is to be procured, unit cost, quarter in which the procurement is to be made and the total cost, including any tribal contribution to the project. Due to limited funding, this office will limit indirect costs to a *maximum* of 15%.

F. *Evaluation Plan.* Evaluation is the process of determining whether a highway safety activity should be undertaken, if it is being properly conducted and if it has accomplished its objectives. A plan explaining how the evaluation will be accomplished and identifying the criteria to be used in measuring performance shall be included in the funding request.

G. *Technical Assistance.* The Indian Highway Safety Program staff will be available to tribes for technical assistance in the development of tribal projects.

H. *Section 402 Project Length.* Section 402 funds shall not be used to fund the same project at one location or jurisdiction for more than three years.

I. *Certification Regarding Drug-Free Workplace Requirement.* Indian tribes receiving highway safety grants through the Indian Highway Safety Program must certify that they will maintain a drug-free workplace. The certification must be signed by an individual authorized to sign for the tribe or reservation. The certification must be received by the Department of Transportation prior to the release of grant funds for that tribe or reservation. The certification must be submitted with the tribal highway safety project proposal.

Submission Deadline

Each tribe must submit its funding request to the BIA Indian Highway Safety Program, Albuquerque, NM. The request must be received by the Indian Highway Safety Program by *June 1* of each program year. Requests for extension of this deadline *will not be granted.* Modifications of the funding request received after the close of the funding period will not be considered in the review and selection processes.

Selection Criteria

Each project funding request will be reviewed and evaluated by the Indian Highway Safety Program staff and ranked by assigning points to four areas of consideration. Those areas of consideration and their respective point values are listed below:

Magnitude of Problem—50 Points

1. Does a highway safety problem exist?
2. Is the problem significant?
3. Does the project contribute to the solution of the problem identified?
4. Number of traffic crashes last three years? Alcohol related?
5. Number of reported fatalities last three years? Alcohol related? Speed related?
6. Safety Belt/Child Safety Seat Usage data.
7. Law Enforcement data—violations/tickets issued.
8. Conviction data.
9. Tribal Safety Belt/Child Safety Seat Ordinance implemented.

Countermeasures Selection—40 Points

1. Are the countermeasures selected the most effective?
2. Are they cost effective?
3. Have objectives been stated in realistic performance terms and are they attainable?
4. Are the objectives time-framed and are the time-frames realistic and attainable?

Tribal Leadership and Community Support—10 Points

1. Are tribal resources used in this project? Tribal Resolution?
2. Does the project have community support? Support Letters?
3. Does the tribe have an ordinance or law which supports the project?

Past Performance + or − 10 Points.

1. Reporting (Financial & Programmatic).
2. Accomplishments.

Notification of Selection

The tribes selected to participate will be notified by letter. Each tribe selected must have a *Certification Regarding Drug-Free Workplace Requirements,* and a duly authorized *Tribal resolution* included in their proposal. The certification and resolution must be on file prior to the release of grant funds for the tribe or reservation.

Notification of Non-Selection

The Program Administrator will notify each tribe of non-selection. The tribe will be provided the reason for non-selection.

Uniform Administrative Requirements for Grant-in-Aid

Uniform grant administration procedures have been established on a national basis for all grant-in-aid programs by DOT/NHTSA under 49 CFR Part 18, ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.'' Uniform procedures for State Highway Safety Programs have been codified by NHTSA and FHWA in 23 CFR Parts 1200, 1204, and 1205. Cost principles applicable to grants and contracts with state and local governments have been established by OMB Circular A–87 and NHTSA Order 462–13A. It is the responsibility of the Indian Highway Safety Program to establish operating procedures consistent with the applicable provisions of the aforementioned rules and regulations, and guidelines established under the Intermodal Surface Transportation Efficiency Act of 1991 (P.L. 102–240, 105 Stat. 1914).

Standards for Financial Management System

Tribal financial management systems must provide for:

1. Accurate, current, and complete disclosure of financial results of the highway safety project.

2. Adequate recordkeeping.

3. Control over and accountability for all funds and assets.

4. Comparison of actual with budgeted amounts.

5. Documentation of accounting records.

6. Appropriate auditing. Highway safety projects will be included in the tribal A–128 Single Audit requirement.

Tribes will provide a quarterly financial and a program status report to the Bureau's Indian Highway Safety Program Coordinator, P.O. Box 2006, Albuquerque, NM 87103. These reports will be submitted no later than seven (7) days beyond the reporting month.

Project Monitoring

During the program year, it is the responsibility of the BIA Indian Highway Safety Program to maintain a degree of project oversight, provide technical assistance as needed to assist the project in fulfilling its objectives, and assure that grant provisions are complied with.

Project Evaluation

A performance evaluation will be conducted for each highway safety project by the Bureau of Indian Affairs. The evaluation will measure the actual accomplishments of the planned activity. On-site project evaluation/monitoring will be made at the discretion of the Indian Highway Safety Program Administrator.

Dated: December 30, 1994.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 95–1585 Filed 1–20–95; 8:45 am]

BILLING CODE 4310–02–P

Federal Register

Monday
January 23, 1994

Part IV

Department of the Interior

Bureau of Indian Affairs

Power Rate Adjustments: Mission Valley Power Utility, Montana; San Carlos Indian Irrigation Project (Joint Works), Arizona; and Colorado River Indian Project; Notices

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Power Rate Adjustment: Mission Valley Power Utility, Montana

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of rate change.

SUMMARY: The Bureau of Indian Affairs is increasing the cost of electric power (energy) to customers of Mission Valley Power (MVP), the entity operating the power facility of the Flathead Indian Irrigation Project of the Flathead Reservation. The Bureau of Indian Affairs (BIA) has been informed that the Montana Power Company (MPC), which sells electric power to MVP, has raised its wholesale power rates by approximately 2.0 percent. The MPC increase went into effect on September 5, 1994, and is based on adjustments in the Consumer Price index pursuant to the Federal Energy Regulatory Commission license for MPC's Kerr Dam Hydroelectric Facility. Accordingly, the BIA is adjusting the local retail power rates charged by MVP to reflect the increased cost of purchased power.

DATES: This rate is effective Janury 23, 1995.

FOR FURTHER INFORMATION CONTACT: Area Director, Bureau of Indian Affairs, Portland Area Office, 911 N.E. 11th Avenue, Portland, Oregon 97232–4169, telephone (503) 231–6702; or General Manager, Mission Valley Power, P. O. Box 890, Polson, Montana 59860–0890. Telephone (406)883–5361 or 1–800–823–3758 (in-State Watts).

SUPPLEMENTARY INFORMATION: The authority to issue this document is vested in the Secretary of the Interior by 5 U.S.C. 301; the Act of August 7, 1946, c. 802, Section 3 (60 Stat. 895; 25 U.S.C. 385c); the Act of May 25, 1948 (62 Stat. 269); and the Act of December 23, 1981, section 112 (95 Stat. 1404). The Secretary has delegated this authority to the Assistant Secretary—Indian Affairs pursuant to part 209 Departmental Manual, Chapter 8. 1A and Memorandum dated January 25, 1994, from Chief of Staff, Department of the Interior, to Assistant Secretaries, and Heads of Bureaus and Offices. The approximate 2.0 percent MPC increase causes the BIA to raise its retail rates to recover $24,529 which is the financial impact of that increase. Accordingly, the rate increase will flow through MVP to MPC to offset the increased cost of wholesale energy. This adjustment is the result of an increase in the electric power rates charged by MPC, one of three sources of electric power marketed by MVP. The MPC increase, which went into effect on September 5, 1994, is based on adjustments in the Consumer Price index pursuant to the Federal Energy Regulatory Commission license for MPC's Kerr Dam Hydroelectric Facility. The following table illustrates the financial impact of the new retail rates on each rate class.

Rate class	Present rate	New rate
Residential:		
Basic Charge	$11.00/mo. (includes 127kwh)	[1]
Energy Charge	0.04719/kwh (over 127 kwh)	0.04724
#2 General:		
Basic Charge	11.00/mo. (includes 109 kwh)	[1]
Energy Charge	0.05505/kwh (over 109 kwh)	0.05511
Irrigation:		
Horsepower Charge	10.84/HP	[1]
Energy Charge	0.03600/kwh	0.3605
Minimum Seasonal Charge	132.00 or $6.00/HP, whichever is greater	[1]
Small and Large Commercial:		
Basic Charge	None	[1]
Monthly Minimum	38.00	[1]
Demand Rate	4.34/KW of billing demand	[1]
Energy Rate	0.04264/kwh—First 18,000 kwh	0.04269
	0.03547/kwh—Over 18,000 kwh	0.03551

Area lights	Present rate	New rate
Area light installed on existing pole or structure:		
7,000 lumen unit, M.V.*	$6.94	$6.98
20,000 lumen unit, M.V.*	9.67	9.73
9,000 lumen unit, H.P.S.	6.26	6.30
22,000 lumen unit, H.P.S.	8.53	8.58

	Present monthly rate	New rate
Area light installed with new pole:		
7,000 lumen unit, M.V.*		
20,000 lumen unit, M.V.*	8.64	8.70
9,000 lumen unit, M.V.*	11.37	11.43
22,000 lumen unit, H.P.S*	7.96	8.01
*Continuing service only	10.23	10.28
Street Lighting (Unmetered)	This rate class applies to municipalities or communities where there are ten or more lighting units billed in a group. This rate schedule is subject to a negotiated contract with MVP..	[1]
Street Lighting (Metered)	11.00/mo. (includes 109 kwh)	[1]
Basic Charge	0.05505 (over 109 kwh)	0.05511

[1] No change.

The Notice proposing this increase to the cost of electric power customers of MVP was published on November 16, 1994, 59 FR 59245. The affected public and interested parties were provided the opportunity to submit written comments during the 30-day period subsequent to November 16th.

Dated: January 12, 1995.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 95–1586 Filed 1–20–95; 8:45 am]

BILLING CODE 4310–02–P

San Carlos Indian Irrigation Project (Joint Works) O&M Assessment Rates, Arizona

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of rate change.

SUMMARY: The Bureau of Indian Affairs is decreasing the San Carlos Indian Irrigation Project (Joint Works) Operation and Maintenance assessment rate to $30.00 per assessable acre for the 1995 irrigation season and subsequent seasons. This is a decrease of $5.00 from the current rate of $35.00 per assessable acre.

DATES: This rate is effective January 23, 1995.

FOR FURTHER INFORMATION CONTACT: Project Manager, San Carlos Indian Irrigation Project (Joint Works), P.O. Box 250, Coolidge, Arizona 85228. Telephone: (602) 723 5439.

SUPPLEMENTARY INFORMATION: The authority to issue this document is vested in the Secretary of Interior by 5 U.S.C. 301 and the Act of August 14, 1914 (38 Stat. 583, 25 U.S.C. 385), and has been delegated to the Assistant Secretary—Indian Affairs pursuant to Part 209 Departmental Manual Chapter 8.1 A and Memorandum, from Chief of Staff, Department of the Interior, to Assistant Secretaries, Heads of Bureau and Offices, dated January 25, 1994. The assessment rate is based on an estimate of the cost of normal operation and maintenance of the irrigation project divided by the project acreage. Normal operation and maintenance is defined as the cost of all activities involved in delivering irrigation water, including, but not limited to, labor, materials, equipment and services for irrigation canals, dams, flow control gates, pumps and other facilities.

The effective date of the annual assessment rate adjustment is October 1, 1994. The basic assessment rate was set at $35 for Fiscal Year 1994. This rate was set with the understanding that the BIA was implementing Public Law 102–231, which called for divestiture of the power division at San Carlos Indian Irrigation Project. That divestiture effort has been terminated and the costs associated with it have been removed from the assessment rate calculations. Pursuant to the Act of June 7, 1924 (43 Stat. 476), and supplementary acts, the Repayment Contract of June 8, 1931, as amended, between the United States and San Carlos Irrigation and Drainage District, and in accordance with applicable provisions of the Order of the Secretary of the Interior of June 15, 1938, the basic assessment rate for the operation and maintenance of the Joint Works of the San Carlos Irrigation Project for Fiscal Year 1995 is hereby fixed at $30 for each assessable acre of land. The assessment is due and payable on or before the 15th of May prior to the fiscal year the assessment is for, as provided in the Act of June 7, 1924 (43 Stat. 475–476), as implemented by the Repayment Contract between the United States and the San Carlos Irrigation and Drainage District (as supplemented on November 12, 1935 and May 29, 1947), and the Secretarial Order defining the Joint, District and Indian Works of the San Carlos Federal Irrigation Project, turning over Operation and Maintenance of District Works to the San Carlos Irrigation and Drainage District.

The Notice Proposing this decrease in the Operation and Maintenance Assessment Rate for the San Carlos Indian Irrigation Project (Joint Works) was published on November 16, 1994, 59 FR 59245. The affected public and interested parties were provided the opportunity to submit written comments during the 30-day period subsequent to November 16th.

Dated: January 12, 1995.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 95–1587 Filed 1–20–95; 8:45 am]

BILLING CODE 4310–02–P

Colorado River Indian Irrigation Project

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of rate change.

SUMMARY: The Bureau of Indian Affairs is increasing the Colorado River Indian Irrigation Project's operation and maintenance (O&M) assessment rate per assessable acre for the first 5 acre feet of water to $30.00 in 1995, $31.50 in 1996, $33.00 in 1997, $34.50 in 1998, and $36.00 in 1999 and thereafter until further notice. The $3.00 increase to the current rate of $27.00 per acre in 1995 and the $1.50 increase per acre per year for the next four years 1996 through 1999 will offset cost increases for personnel, supplies, materials and services, and other normal O&M expenses. The charge per acre foot of water in excess of this annual apportionment will be $11.00 per acre foot in 1995, $12.50 per acre foot in 1996, $14.00 per acre foot in 1997, $15.50 per acre foot in 1998, and $17.00 per acre foot in 1999 and thereafter, until further notice. The $3.00 increase to the current rate of $8.00 per acre foot in 1995 and the $1.50 increase per acre foot per year for the next four years 1996 through 1999 will offset cost increases for personnel, supplies, materials and services, and other normal O&M expenses.

The energy costs for pumped water will not be paid by the project but will be billed directly to those receiving pumped water by the electric utility.

DATES: These rates shall become effective on January 1st for the year indicated and remain in effect until modified.

FOR FURTHER INFORMATION CONTACT: Area Director, Phoenix Area Office, Bureau of Indian Affairs, One North First Street, Phoenix, Arizona 85001. Telephone number: (602) 379–6600.

SUPPLEMENTARY INFORMATION: The authority to issue this document is vested in the Secretary of Interior by 5 U.S.C. 301 and the Act of August 14, 1914 (38 Stat. 583, 25 U.S.C. 385) and has been delegated to the Assistant Secretary—Indian Affairs pursuant to Part 209 Departmental Manual Chapter 8.1 A and Memorandum, dated January 25, 1994, from the Chief of Staff, Department of the Interior, to Assistant Secretaries and Heads of Bureau and Offices. The assessment is based on an estimate of the cost of normal operation and maintenance of the irrigation Project. Normal operation and maintenance is defined as the cost of all activities involved in delivering irrigation water, including, but not limited to, the actual costs for labor, materials, equipment, services, energy, equipment replacement and reserves to cover emergency expenses.

The Colorado River Indian Tribes (CRIT) and water users were notified of the proposed changes in the operation and maintenance assessment and excess water rates by letter to CRIT dated March 25, 1994, at the March 16, 1994, CRIT Irrigation Committee Meeting, and at the Pink Boll Worm and White Fly Eradication Committee Meeting for Parker Valley growers on March 22, 1994.

The current operation and maintenance assessment rate of $27.00

became effective January 1, 1994. Since January 1, 1984, when the operation and maintenance assessment rate was raised to $22.00, there had been no other increases in the assessment rate or the excess water rate. The 1994 increase was not sufficient to offset the accumulated annual cost increases for labor, materials, equipment, energy, and services. Costs have depleted reserves and continue to exceed revenue from current assessments. The basic operation and maintenance assessment for a given year is calculated by using the estimated cost of project operation for that calendar year divided by the assessable acreage.

Basic Assessment

The basic assessment rate against the land to which water can be delivered under the Colorado River Indian Irrigation Project, Arizona, for operation and maintenance of the project is hereby fixed at $30.00 per acre for 1995, $31.50 per acre for 1996, $33.00 per acre for 1997, $34.50 per acre for 1998, and $36.00 per acre for 1999 and thereafter until further notice. The assessment is due whether water is used or not. Payment of this assessment will entitle the water user to up to 5 acre-feet of water per year per assessable acre of land.

Excess Water Charge

If and when available, water in excess of the basic allotment may be delivered upon written request to the Superintendent by landowners or users at the following rates per acre foot or fraction thereof: $11.00 per acre foot in 1995, $12.50 per acre foot in 1996, $14.00 per acre foot in 1997, $15.50 per acre foot in 1998, and $17.00 per acre foot in 1999 and thereafter until further notice. The excess water charge is payable at the time of written request for such water and must be paid prior to delivery.

Pumped Water Energy Charges

The energy costs for pumped water will not be paid by the project but will be billed directly to those receiving pumped water by the electric utility.

Effective Period

The assessments and water charges above shall become effective on January 1st for each calendar year 1995 through 1999 and thereafter until further notice.

Distribution and Apportionment

All project water is considered a common water supply in which all assessable lands of the project are entitled to share equally. Such water will be distributed to the lands of the project as equitably as physical conditions permit.

The Notice proposing these operation and maintenance assessements and water charges for the Colorado River Indian Irrigation Project was published on November 16, 1994, 59 FR 59244. The affected public and interested partiesP were provided the opportunity to submit written comments during the 30-day period subsequent to November 16th.

Dated: January 12, 1995.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 95–1588 Filed 1–20–95; 8:45 am]

BILLING CODE 4310–02–P

Federal Register

Monday
January 23, 1995

Part V

Department of the Treasury

Fiscal Service

31 CFR Part 344

Treasury Certificates of Indebtedness, Notes and Bonds—State and Local Government Series; Final Rule

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 344

[Department of the Treasury Circular, Public Debt Series No. 3–72]

United States Treasury Certificates of Indebtedness, Treasury Notes, and Treasury Bonds—State and Local Government Series

AGENCY: Bureau of the Public Debt, Fiscal Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury hereby publishes a final rule governing United States Treasury Certificates of Indebtedness, Notes, and Bonds of the State and Local Government Series (SLGS). These securities are available for purchase, as provided in this offering, by State and local governments and certain other entities with proceeds (or amounts treated as proceeds) which are subject to yield restrictions or arbitrage rebate requirements under the Internal Revenue Code. The securities are characterized in the regulations as time deposit, demand deposit, and special zero interest.

This final rule sets out the regulatory requirements which stem from the Department of the Treasury's new processing environment for United States Treasury Certificates of Indebtedness, Notes, and Bonds of the State and Local Government Series.

The Bureau of the Public Debt is implementing operational and regulatory changes expected to benefit investors by providing streamlined procedures, a centralized processing facility, and improved customer services.

DATES: January 23, 1995.

FOR FURTHER INFORMATION CONTACT: Fred Pyatt, Director, Division of Special Investments, Bureau of the Public Debt (304) 480–7752, Ed Gronseth, Deputy Chief Counsel, or Jim Kramer-Wilt, Attorney-Adviser, Office of the Chief Counsel, Bureau of the Public Debt (304) 480–5190.

SUPPLEMENTARY INFORMATION:

I. Background

On October 6, 1994, the Department of the Treasury published a proposed rule in the **Federal Register** (59 FR 50874) to revise regulations codified at 31 CFR part 344. The comment period expired October 21, 1994. No comments were received. These regulations were last revised on July 7, 1989, at 54 FR 28752, with technical corrections published July 7, 1993, at 58 FR 31908.

In 1992, the Bureau of the Public Debt established the Division of Special Investments at its offices in Parkersburg, West Virginia (WV). The primary mission of the Division of Special Investments has been to provide policy guidance and direction for the SLGS securities program. The Division has reviewed the processing environment and is implementing operational and regulatory changes which are expected to benefit investors in United States Treasury securities of the State and Local Government Series by providing streamlined procedures, a centralized processing facility, and improved customer services.

Prior to the effective date of this final rule, the Bureau of the Public Debt authorized selected Federal Reserve Banks or Branches, acting as fiscal agents of the United States, to provide services in connection with the purchase of, transactions involving, and redemption of SLGS securities. Subscriptions for the purchase of SLGS securities were accepted at designated Federal Reserve Banks or Branches, subject to verification by the Bureau of the Public Debt. Full payment for each subscription was required to be available in an account for debit by the Federal Reserve Bank or Branch on or before the date of issue.

This processing environment required that staffing and technical expertise be maintained at 12 designated Federal Reserve Banks or Branches. The Bureau of the Public Debt, Office of Securities and Accounting Services, Division of Special Investments (hereafter referred to as the Division of Special Investments) has determined that the volume of transactions in this securities program does not merit the expense of maintaining technical expertise at 12 different locations.

The Bureau of the Public Debt has decided to centralize issuance, funds collection, and accounting functions for the SLGS securities program in the Division of Special Investments. The responsibility for these functions is withdrawn from the designated Federal Reserve Banks beginning with issues dated January 30, 1995.

After centralization, Federal Reserve Bank or Branch involvement in this program will be limited to processing interest and redemption payments made through reserve account credits for a very small number of existing securities accounts. This method of payment is limited to securities for which subscriptions were submitted prior to February 1, 1987. More than 98% of all interest and redemption payments for SLGS securities are made by the Automated Clearing House method (ACH), with credit directed to the owner's account at a financial institution.

Beginning on the effective date of the final rule, subscriptions for the purchase of SLGS securities which request issuance on or after January 30, 1995, will only be accepted by the Division of Special Investments. Full payment for each subscription will be submitted by the investor's financial institution on or before the issue date utilizing the Fedwire funds transfer system which is available throughout the commercial banking industry.

This final rule provides investors in SLGS securities with several benefits. Investors will enjoy a higher level of customer service and more consistent application of the regulations pertaining to this securities program. Investors will be dealing directly with staff in the Division of Special Investments who are trained in the unique aspects of SLGS securities and whose principal responsibility it is to manage the SLGS securities program.

In addition, United States taxpayers will benefit in terms of the reduced costs of operating this program which will be realized by centralizing operations within the Division of Special Investments.

II. Section by Section Summary

Most of the changes effected by this final rule are ministerial. For example, to provide new addresses and to remove certain references to the Federal Reserve Banks. The final rule also provides for facsimile transmission of most materials under this offering and provides new procedures concerning amending subscriptions (§ 344.3(b)(3)(iv) and § 344.7(b)) and concerning waivers and fees associated with the failure to settle subscriptions (§ 344.4(b) and § 344.8(b)).

Subpart A—General Information

Provisions included in the general information section apply to time deposit, demand deposit, and special zero interest SLGS securities. Noteworthy changes from the 1989 rule are as follows:

(1) Section 344.0—The term ''date telecopied'' for material sent by facsimile equipment is defined as the date transmitted as it appears on the document received. In the case of other carrier services, the term ''date-stamp'' is defined as the date affixed by the carrier service upon the carrier's taking receipt of the material.

(2)–(3) Section 344.1(a) and Section 344.1(b)—The agency's Parkersburg,

WV, address is substituted for its former Washington, DC, address.

Subpart B—Time Deposit Securities

Time deposit Treasury securities are offered to State and local government investors to enable these investors to satisfy yield restrictions prescribed by the Internal Revenue Code and regulations. Noteworthy changes from the 1989 rule are as follows:

(1) Section 344.2(b)—Reference to the Federal Reserve Banks as a receiving point for initial subscriptions has been deleted. This final rule expressly allows for sending of initial subscriptions by facsimile equipment (FAX) or other carriers, in addition to postal delivery.

(2) Section 344.2(c)(2)—This section clarifies the authority governing Automated Clearing House payments on account of United States securities.

(3) Section 344.2(c)(2)(iii)—This section clarifies that fiscal agency checks, rather than Treasury checks, are an alternative payment mechanism for securities for which subscriptions were submitted prior to February 1, 1987.

(4) Section 344.3(a)—Reference to the Federal Reserve Banks as the receiving point for subscriptions for purchase of securities under this offering, as well as the reference to in person delivery to such Banks, have been deleted. In addition, this final rule expressly allows for sending of initial subscriptions by facsimile equipment. Whether subscriptions are sent by FAX, mail or other carrier, subscribers are encouraged to expedite delivery.

(5) Section 344.3(b)(1)—This section expressly allows sending of initial subscriptions by facsimile and other carriers. In addition, the Bureau of the Public Debt is substituted for the Federal Reserve Banks to reflect the consolidation of program administration in Parkersburg, WV.

(6) Section 344.3(b)(3)—This section requires that amendments to initial subscriptions be filed on or before the issue date, by 3:00 p.m., Eastern time. In addition, this section permits sending of amendments to initial subscriptions by facsimile, provided the notification is clearly identified as an amendment and is immediately followed by the submission by mail or other carrier of written notification of the amendment.

(7) Section 344.3(b)(3)(i)—This section clarifies that an amendment to an initial subscription may not change the issue date to require issuance earlier than the issue date originally specified. In this section, the Bureau of the Public Debt is substituted for the Federal Reserve Banks to reflect the consolidation of program administration in Parkersburg, WV. This final rule requires that changes under this section be submitted no later than 3:00 p.m., Eastern time, one business day before the originally specified issue date.

(8) Section 344.3(b)(3)(iv)—This new section governs amendments to initial subscriptions which are not submitted timely. Where an amendment is not submitted timely, the Division of Special Investments may determine, pursuant to the provisions governing waiver of regulations set forth under 31 CFR 306.126, that such an amendment is acceptable on an exception basis. Where an amendment is determined to be acceptable on an exception basis, the amended information shall be used as the basis for issuing the securities, and an administrative fee of $100 per subscription will be assessed. The Secretary reserves the right to reject amendments which are not submitted timely.

(9) Section 344.3(c)—In this section, the Bureau of the Public Debt is substituted for the Federal Reserve Banks to reflect the consolidation of program administration in Parkersburg, WV. This final rule requires that a final subscription must be submitted by 3:00 p.m., Eastern time, on or before the issue date.

(10) Section 344.4(a)—This section requires that the issue date selected by the subscriber must be a business day and allows for the sending of initial subscriptions by facsimile or other carrier. In this section, the Bureau of the Public Debt is substituted for the Federal Reserve Banks. Under this final rule, full payment for each subscription must be submitted utilizing the Fedwire funds transfer system.

(11) Section 344.4(b)—The 1989 regulations provided that any subscriber which fails to make settlement on a subscription once submitted is ineligible thereafter to subscribe for securities under this offering for a period of six months. This final rule provides that the Division of Special Investments may determine to waive the six month penalty, pursuant to the provisions governing waiver of regulations set forth under 31 CFR 306.126. Where settlement occurs after the proposed issue date and the Division of Special Investments determines, pursuant to 31 CFR 306.126, that settlement is acceptable on an exception basis, the six month penalty will be waived, and the subscriber shall be subject to a late payment assessment. The assessment will include payment of an amount equal to the amount of interest that would have accrued on the securities from the proposed issue date to the date of settlement, as well as an administrative fee of $100 per subscription. Assessments under this subsection are due on demand. Failure to pay an assessment shall render the subscriber ineligible thereafter to subscribe for securities under this offering until the assessment is paid.

(12) Section 344.5(b)(2)—This section adds a reference to a designated Treasury form and deletes a reference to wire as an authorized means of submitting notice for redemption prior to maturity. The agency's Parkersburg, WV, address is substituted for its former Washington, DC, address. This final rule expressly allows that the notice of redemption may be sent by facsimile or by other carriers, and provides that notice be submitted no less than 15 calendar days and no more than 60 calendar days before the requested redemption date.

(13) Section 344.5(b)(3)(ii)—This section clarifies that the applicable rate table for determining the ''current borrowing rate'' is the one in effect on the day the request for early redemption is telecopied, postmarked, or where delivered by other carrier, date-stamped.

Subpart C—Demand Deposit Securities

The Tax Reform Act of 1986 imposed arbitrage rebate requirements on issuers of tax-exempt bonds and directed the Department of the Treasury to accommodate such requirements by enabling entities to invest qualifying funds in a Treasury money-market type investment vehicle. Accordingly, the Department expanded the SLGS securities program, beginning with its 1986 regulations, to include a demand deposit security offering. This security is not treated as investment property for purposes of sections 143(g)(3) and 148 of the Internal Revenue Code and, therefore, enables eligible entities to invest proceeds of tax-exempt bonds in an obligation which avoids the earning of arbitrage subject to rebate. Noteworthy changes from the 1989 rule are as follows:

(1) Section 344.7(a)—In this section the Bureau of the Public Debt is substituted for the Federal Reserve Banks to reflect the consolidation of program activities in Parkersburg, WV. This final rule clarifies that subscriptions may be submitted by certified or registered mail, or by other carrier. In addition, this final rule provides that a subscription may be submitted by facsimile equipment, at least three business days before the issue date, provided that the original subscription form is submitted by mail, or other carrier, and is received by the Bureau of the Public Debt by 3:00 p.m., Eastern time, on the issue date.

(2) Section 344.7(b)—This section provides that the principal amount to be invested may be changed without penalty on or before the issue date, but no later than 1:00 p.m., Eastern time, on the issue date. This final rule allows for sending of amendments to original subscriptions by facsimile, provided the notification is clearly identified as an amendment and is immediately followed by the submission, by mail or other carrier, of written notification of the amendment. Where an amendment is not submitted timely, the Division of Special Investments may determine, pursuant to the provisions governing waiver of regulations set forth under 31 CFR 306.126, that such an amendment is acceptable on an exception basis. Where an amendment is determined to be acceptable on an exception basis, the amended information shall be used as the basis for issuing the securities, and an administrative fee of $100 per subscription will be assessed. The Secretary reserves the right to reject amendments which are not submitted timely.

(3) Section 344.8(a)—In this section, the Bureau of the Public Debt is substituted for the Federal Reserve Banks to reflect the consolidation of program activities in Parkersburg, WV. This final rule requires that full payment for each subscription be submitted utilizing the Fedwire funds transfer system.

(4) Section 344.8(b)—The 1989 regulations provided that any subscriber which fails to make settlement on a subscription once submitted is ineligible thereafter to subscribe for securities under this offering for a period of six months. Under this final rule, the Division of Special Investments may determine to waive the six month penalty, pursuant to the provisions governing waiver of regulations set forth under 31 CFR 306.126. Where settlement occurs after the proposed issue date and the Division of Special Investments determines, pursuant to 31 CFR 306.126, that such settlement is acceptable on an exception basis, the six month penalty will be waived, and the subscriber shall be subject to a late payment assessment. The assessment will include payment of an amount equal to the amount of interest that would have accrued on the securities from the proposed issue date to the date of settlement, as well as an administrative fee of $100 per subscription. Assessments under this subsection are due on demand. Failure to pay an assessment shall render the subscriber ineligible thereafter to subscribe for securities under this offering until the assessment is paid.

(5) Section 344.9(b)—The Bureau of the Public Debt is substituted for the Federal Reserve Banks to reflect the consolidation of program activities in Parkersburg, WV. This final rule expressly allows for sending of the notice of redemption by facsimile or by other carriers. The notice must show the account number and the tax identification number of the subscriber. Under this section, the notice must be received at the Bureau of the Public Debt by 1:00 p.m., Eastern time, one business day prior to the requested redemption date.

Subpart D—Special Zero Interest Securities

To give investors flexibility in investing certain proceeds that may become subject to yield restrictions, a new special zero interest security was offered for the first time with the 1989 rule. Under the terms of this offering, subscribers are not required to certify that as of the date of investment all the proceeds subject to yield restrictions are being invested in SLGS securities. With exceptions, this offering is the same as that for time deposit securities. Noteworthy changes from the 1989 rule are as follows:

Section 344.13—This final rule adds a reference to a designated Treasury form and deletes a reference to wire as an authorized means of submitting notice for redemption prior to maturity. The agency's Parkersburg, WV, address is substituted for its former Washington, DC, address. In addition, the section allows for sending of the notice for redemption by facsimile or by other carriers. Under this final rule, notice is to be submitted no less than 15 calendar days and no more than 60 calendar days before the requested redemption date.

Procedural Requirements

It has been determined that this rule is not a significant regulatory action as defined in Executive Order 12866. Therefore, the regulatory review procedures contained therein do not apply.

Although this final rule was issued in proposed form to secure the benefit of public comment, the rule relates to matters of public contract and procedures for U.S. securities, as well as the borrowing power and fiscal authority of the United States. Accordingly, pursuant to 5 U.S.C. 553(a)(2), the notice, public comment, and delayed effective date provisions of the Administrative Procedure Act are inapplicable. As no notice of proposed rulemaking was required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, et seq.) do not apply.

The collections of information contained in this final rule have been previously reviewed and approved by the Office of Management and Budget, in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1535–0091. The rule does not impose a new collection of information requirement.

List of Subjects in 31 CFR Part 344

Bonds, Government securities, Securities.

Dated: January 17, 1995.

Gerald Murphy,

Fiscal Assistant Secretary.

For the reasons set out in the preamble, 31 CFR Chapter II, Subchapter B, Part 344 is revised to read as follows:

PART 344—REGULATIONS GOVERNING UNITED STATES TREASURY CERTIFICATES OF INDEBTEDNESS—STATE AND LOCAL GOVERNMENT SERIES, UNITED STATES TREASURY NOTES—STATE AND LOCAL GOVERNMENT SERIES, AND UNITED STATES TREASURY BONDS—STATE AND LOCAL GOVERNMENT SERIES

Subpart A—General Information

Subpart B—Time Deposit Securities

Subpart C—Demand Deposit Securities

Subpart D—Special Zero Interest Securities

Authority: 31 U.S.C. 3102, *et seq.*

Subpart A—General Information

§ 344.0 Offering of securities.

(a) In order to provide issuers of tax exempt securities with investments which allow them to comply with yield restriction and arbitrage rebate provisions of the Internal Revenue Code, the Secretary of the Treasury offers for sale the following State and Local Government Series securities:

(1) Time deposit securities:

(i) United States Treasury Certificates of Indebtedness,

(ii) United States Treasury Notes, and

(iii) United States Treasury Bonds.

(2) Demand deposit securities—United States Treasury Certificates of Indebtedness.

(3) Special zero interest securities:

(i) United States Treasury Certificates of Indebtedness.

(ii) United States Treasury Notes.

(b) As appropriate, the definitions of terms used in Part 344 are those found in the relevant portions of the Internal Revenue Code and regulations. The term ''government body'' refers to issuers of State or local government bonds described in section 103 of the Internal Revenue Code, as well as to any other entity subject to the yield restrictions in sections 141–150 of the Internal Revenue Code, or the arbitrage rebate requirements in sections 143(g)(3) or 148 of the Internal Revenue Code. The term ''postmark date'' refers to the date affixed by the U.S. Postal Service, not to a postage meter date. The ''date telecopied'' for material sent by facsimile equipment is the date transmitted, as it appears on the document received. The term ''date-stamp'' refers to the date affixed by the carrier service upon the carrier's taking receipt of the material.

(c) This offering will continue until terminated by the Secretary of the Treasury.

§ 344.1 General provisions.

(a) *Regulations.* United States Treasury securities —State and Local Government Series shall be subject to the general regulations with respect to United States securities, which are set forth in the Department of the Treasury Circular No. 300 (31 CFR part 306), to the extent applicable. Copies of the circular may be obtained from the Bureau of the Public Debt, Forms Management—Room 301, 200 Third Street, PO Box 396, Parkersburg, WV 26102–0396, or a Federal Reserve Bank or Branch.

(b) *Issuance.* The securities will be issued in book-entry form on the books of the Department of the Treasury, Bureau of the Public Debt, Parkersburg, WV 26102–0396. Transfer of securities by sale, exchange, assignment or pledge, or otherwise will not be permitted.

(c) *Transfers.* Securities held in an account of any one type, i.e., time deposit, demand deposit, or special zero interest, may not be transferred within that account or to an account of any other type.

(d) *Fiscal agents.* Selected Federal Reserve Banks and Branches, as fiscal agents of the United States, may be designated to perform such services as may be requested of them by the Secretary of the Treasury in connection with the purchase of, transactions involving, and redemption of, the securities.

(e) *Authority of subscriber.* Where a commercial bank submits an initial or final subscription on behalf of a government body, it must certify that it is acting under the latter's specific authorization; ordinarily, evidence of such authority will not be required. Subscriptions submitted by an agent other than a commercial bank must be accompanied by evidence of the agent's authority to act. Such evidence must describe the nature and scope of the agent's authorization, must specify the legal authority under which the agent was designated, and must relate by its terms to the investment action being undertaken. Subscriptions unsupported by such evidence will not be accepted.

(f) *Reservations.* Transaction requests, including requests for subscription and redemption, will not be accepted if unsigned, inappropriately completed, or not timely submitted. The Secretary of the Treasury reserves the right:

(1) To reject any application for the purchase of securities under this offering;

(2) To refuse to issue any such securities in any case or any class(es) of cases; and

(3) To revoke the issuance of any security, and to declare the subscriber ineligible thereafter to subscribe for securities under this offering, if any security is issued on the basis of an improper certification or other misrepresentation by the subscriber, other than as the result of an inadvertent error, if the Secretary deems such action to be in the public interest.

(4) Any of these actions shall be final. The authority of the Secretary to waive regulations under 31 CFR 306.126 applies to Part 344.

(g) *Debt limit contingency.* The Department of the Treasury reserves the right to change or suspend the terms and conditions of this offering, including provisions relating to subscriptions for, and issuance of, securities, interest payments, redemptions, and rollovers, as well as notices relating hereto, at any time the Secretary determines that issuance of obligations sufficient to conduct the orderly financing operations of the United States cannot be made without exceeding the statutory debt limit. Announcement of such changes shall be provided by such means as the Department deems appropriate.

(Approved by the Office of Management and Budget under control number 1535–0091)

Subpart B—Time Deposit Securities

§ 344.2 Description of securities.

(a) *Terms.*

(1) *Certificates of Indebtedness.* The certificates will be issued in a minimum amount of $1,000, or in any larger amount, in multiples of $100, with maturity periods fixed by the government body, from 30 calendar days up to and including one year, or for any intervening period.

(2) *Notes.* The notes will be issued in a minimum amount of $1,000, or in any larger amount, in multiples of $100, with maturity periods fixed by the government body, from one year and one day up to and including 10 years, or for any intervening period.

(3) *Bonds.* The bonds will be issued in a minimum amount of $1,000, or in any larger amount, in multiples of $100, with maturity periods fixed by the government body, from 10 years and one day up to and including 30 years, or for any intervening period.

(b) *Interest rate.* Each security shall bear such rate of interest as the government body shall designate, but the rate shall not exceed the maximum interest rate. The applicable maximum interest rates for each day shall equal rates shown in a table (Form PD 4262), which will be released to the public by 10:00 a.m., Eastern time, each business day. If the Treasury finds that due to circumstances beyond its control the rates will not be available to the public by 10:00 a.m., Eastern time, on any given business day, it will provide an immediate announcement of that fact and advise that the applicable interest for the last preceding business day shall apply. The applicable rate table for any subscription is the one in effect on the date the initial subscription is telecopied, if transmitted by facsimile equipment, postmarked, if mailed, or carrier date-stamped, if the initial subscription is delivered by other carrier. Subscriptions telecopied, postmarked, or date-stamped on a non-business day will be subject to those interest rates which are in effect for the next business day. The rates specified in the tables are one-eighth of one percent below the then current estimated Treasury borrowing rate for a security of comparable maturity.

(c) *Payment.*

(1) *Interest computation and payment dates.* Interest on a certificate will be computed on an annual basis and will be paid at maturity with the principal. Interest on a note or bond will be paid semiannually. The subscriber will specify the first interest payment date, which must occur any time between 30 days and one year of the date of issue,

and the final interest payment date must coincide with the maturity date of the security. Interest for other than a full semiannual interest period is computed on the basis of a 365-day or 366-day year (for certificates) and on the basis of the exact number of days in the half-year (for notes and bonds). See appendix to subpart E of part 306 of this chapter for rules regarding computation of interest.

(2) *Method of payment.* For securities for which subscriptions are submitted on or after February 1, 1987, payment will only be made by the Automated Clearing House method (ACH) for the owner's account at a financial institution designated by the owner. To the extent applicable, provisions of § 357.26 on ''Payments,'' as set forth in 31 CFR part 357 and provisions of 31 CFR part 370, shall govern ACH payments made under this offering. For securities for which subscriptions were submitted prior to February 1, 1987, payment will be made:

(i) By a direct credit to a Federal Reserve Bank or Branch for the account of the financial institution servicing the investor; or

(ii) By ACH for the owner's account at a financial institution; or

(iii) By fiscal agency check; or

(iv) In accordance with other prior arrangements made by the subscriber with the Bureau of the Public Debt.

§ 344.3 Subscription for purchase.

(a) *Subscription requirements.* Subscriptions for purchase of securities under this offering must be submitted to the Division of Special Investments, Bureau of the Public Debt, 200 Third Street, PO Box 396, Parkersburg, WV 26102–0396. Initial and final subscriptions may be submitted by facsimile equipment at (304) 480–6818, by mail, or by other carrier. All subscriptions submitted by mail, whether initial or final, should be sent by certified or registered mail.

(b) *Initial subscriptions.*

(1) An initial subscription, either on a designated Treasury form or in letter form, stating the principal amount to be invested and the issue date, must be telecopied, postmarked, or where delivered by other carrier, must be date-stamped at least 15 calendar days before issue date. For example, if the securities are to be issued on March 16, the subscription must be telecopied, postmarked, or date-stamped no later than March 1. If the initial subscription is in letter form, it should read substantially as follows:

To: Bureau of the Public Debt

_____

Pursuant to the provisions of Department of the Treasury Circular, Public Debt Series No. 3–72, current revision, the undersigned hereby subscribes for United States Treasury Time Deposit Securities—State and Local Government Series, to be issued as entries on the books of the Bureau of the Public Debt, Department of the Treasury, in the total amount and with the issue date shown below, which date is at least 15 calendar days after the date of this subscription:

Principal Amount

$ _____

Issue Date

_____

The undersigned agrees that the final subscription and payment will be submitted on or before the issue date.

_____

(Tax I.D. Number of State or local government body or other entity eligible to purchase State and Local Government Series securities)

_____

(Name of State or local government body or other entity eligible to purchase State and Local Government Series securities)

_____

(Date)

by _____

(Signature and Title)

(2) The provisions set out in paragraph (e) of § 344.1, dealing with the authority of the subscriber to act on behalf of a government body, and in § 344.4, relating to the failure to complete a subscription, apply to initial, as well as final, subscriptions.

(3) An initial subscription may be amended on or before the issue date, but no later than 3:00 p.m., Eastern time, on the issue date. Notification may be telecopied by facsimile equipment to the Bureau of the Public Debt at (304) 480–6818 provided the request is clearly identified as an amendment and is immediately followed by the submission, by mail or other carrier, of written notification. Amendments to initial subscriptions are acceptable with the following exceptions:

(i) The issue date may not be changed to require issuance earlier than the issue date originally specified or to require issuance more than seven calendar days later than originally specified. If such change is made, notification should be provided to the Bureau of the Public Debt as soon as possible, but no later than 3:00 p.m., Eastern time, one business day before the originally specified issue date;

(ii) The aggregate amount may not be changed by more than the ten percent limitation set out in paragraph (c) of this section;

(iii) An interest rate may not be changed to a rate that exceeds the maximum interest rate in the table that was in effect on the date the initial subscription was submitted; and

(iv) Where an amendment is not submitted timely, the Division of Special Investments may determine, pursuant to the provisions governing waiver of regulations set forth under 31 CFR 306.126, that such an amendment is acceptable on an exception basis. Where an amendment is determined to be acceptable on an exception basis, the amended information shall be used as the basis for issuing the securities, and an administrative fee of $100 per subscription will be assessed. The Secretary reserves the right to reject amendments which are not submitted timely.

(4) No initial subscription will be required where a final subscription is received or postmarked at least 15 calendar days before the issue date. Such final subscription will be treated as the initial subscription for purposes of determining the applicable interest rate table (see § 344.2(b)), and may be amended on or before the issue date, subject to the exceptions in paragraph (b)(3) of this section.

(c) *Final subscriptions.* A final subscription must be received by the Bureau of the Public Debt on or before the issue date, but no later than 3:00 p.m., Eastern time, on the issue date. The final subscription may be telecopied by facsimile equipment to the Bureau of the Public Debt at (304) 480–6818, provided the facsimile is properly identified as a final subscription and is immediately followed by the submission of the original subscription form by mail or other carrier. The final subscription must be for a total principal amount that is no more than ten percent above or below the aggregate principal amount specified in the initial subscription. The final subscription, dated and signed by an official authorized to make the purchase and showing the taxpayer identification number of the beneficial owner, must be accompanied by a copy of the initial subscription, where applicable. The various maturities, interest rates, and semiannual interest payment dates (in the case of notes and bonds), must be specified in the final subscription, as well as the title(s) of the designated official(s) authorized to request early redemption. Final subscriptions submitted for certificates, notes and bonds must separately itemize securities of each maturity and each interest rate. The final subscription

must contain a certification by the subscriber that, as of the date of investment (without regard to any temporary period of no longer than 30 days):

(1) The total investment consists only of proceeds (including amounts treated as proceeds) of a tax-exempt bond issue which are subject to yield restrictions under sections 141–150 of the Internal Revenue Code during the entire period of investment;

(2) The total investment is not less than all of such proceeds except for—

(i) An amount not to exceed $100, and

(ii) Amounts required for payment due less than 30 days from the date of issue;

(3) None of the proceeds submitted in payment is derived (directly or indirectly) from the redemption before maturity of other securities of the State and Local Government Series; and

(4) (i) No portion of the investment is being made (directly or indirectly) with amounts that are to be used to discharge a tax-exempt bond issue and that are derived or are to be derived (directly or indirectly) from the sale of escrowed open market securities, the proceeds of which were to be used to discharge a tax-exempt bond issue; or

(ii) Although a portion of the investment is being made (directly or indirectly) with amounts that are to be used to discharge a tax-exempt bond issue and that are derived or are to be derived (directly or indirectly) from the sale of escrowed open market securities, the proceeds of which were to be used to discharge a tax-exempt bond issue, the composite yield to maturity of all investments being purchased with such amounts does not exceed the composite yield to maturity of the securities that were sold, based on the price at which they were sold.

(5) Where proceeds are subject to yield restrictions for a limited period of time, under paragraph (c)(1) of this section, no investment of such proceeds beyond such period may be made. For example, if a reserve fund of a refunding issue is subject to yield restrictions for a period of four years, the securities purchased as an investment of the reserve fund may not have a maturity longer than four years. With respect to obligations described in section 103 of the Internal Revenue Code issued after January 31, 1987, paragraph (c)(2) of this section is satisfied only if on the date of investment, all the proceeds of the issue which are subject to yield restrictions are invested in State and Local Government Series securities. Paragraph (c)(2) of this section does not apply to purpose investments, such as mortgage notes or student loan obligations. Transferred proceeds of the tax exempt bond issue that were proceeds of another issue shall not be treated as proceeds for purposes of paragraph (c)(2) of this section if no portion of the total investment consists of such proceeds. See § 344.1(f) as to improper certifications.

(Approved by the Office of Management and Budget under control number 1535–0091)

§ 344.4 Issue date and payment.

(a) *General.* The subscriber shall fix the issue date of each security in the initial subscription. The issue date must be a business day and may not exceed by more than 60 calendar days either the date the initial subscription was telecopied to the Bureau of the Public Debt or, where mailed, the postmark date, or where delivered by other carrier, the carrier date-stamp thereof. Full payment for each subscription must be submitted by the Fedwire funds transfer system with credit directed to the Treasury's General Account. Full payment should be submitted by 3:00 p.m., Eastern time, to ensure that settlement on the securities occurs on the date of issue.

(b) *Noncompliance.* The penalty imposed on any subscriber which fails to make settlement on a subscription once submitted shall be to render the subscriber ineligible thereafter to subscribe for securities under this offering for a period of six months, beginning on the date the subscription is withdrawn or the proposed issue date, whichever occurs first. The Division of Special Investments may determine to waive the six month penalty, pursuant to the provisions governing waiver of regulations set forth under 31 CFR 306.126. Where settlement occurs after the proposed issue date and the Division of Special Investments determines, pursuant to 31 CFR 306.126, that settlement is acceptable on an exception basis, the six month penalty will be waived, and the subscriber shall be subject to a late payment assessment. The assessment will include payment of an amount equal to the amount of interest that would have accrued on the securities from the proposed issue date to the date of settlement, as well as an administrative fee of $100 per subscription. Assessments under this subsection are due on demand. Failure to pay an assessment shall render the subscriber ineligible thereafter to subscribe for securities under this offering until the assessment is paid.

(Approved by the Office of Management and Budget under control number 1535–0091)

§ 344.5 Redemption.

(a) *General.* A security may not be called for redemption by the Secretary of the Treasury prior to maturity. Upon the maturity of a security, the Department will make payment of the principal amount and interest due to the owner thereof. A security scheduled for redemption on a non-business day will be redeemed on the next business day.

(b) *Before maturity.*

(1) *In general.* A security may be redeemed at the owner's option no earlier than 25 calendar days after the issue date in the case of a certificate, and one year after the issue date in the case of a note or bond. Partial redemptions may be requested in multiples of $100; however, an account balance of less than $1,000 will be redeemed in total.

(2) *Notice.* Notice of redemption prior to maturity must be submitted, either on a designated Treasury form or by letter, by the official(s) authorized to redeem the securities, as shown on the final subscription form, to the Division of Special Investments, Bureau of the Public Debt, 200 Third Street, PO Box 396, Parkersburg, WV 26102–0396. The notice may be submitted by facsimile equipment to the Bureau of the Public Debt at (304) 480–6818, by mail, or by other carrier. The notice must show the account number, the maturities of the securities to be redeemed, and the tax identification number of the subscriber. The notice of redemption must be telecopied, postmarked, or where delivered by other carrier, must be date-stamped no less than 15 calendar days before the requested redemption date, but no more than 60 calendar days before the requested redemption date. A notice of redemption prior to maturity may not be cancelled.

(3) *Redemption proceeds—Subscriptions on or after September 1, 1989.* For securities subscribed for on or after September 1, 1989, the amount of the redemption proceeds is calculated as follows:

(i) *Interest.* If a security is redeemed before maturity on a date other than a scheduled interest payment date, interest will be paid for the fractional interest period since the last interest payment date.

(ii) *Market charge.* An amount shall be deducted from the redemption proceeds in all cases where the current borrowing rate of the Department of the Treasury for the remaining period to original maturity of the security prematurely redeemed exceeds the rate of interest originally fixed for such security. The amount shall be the present value of the future increased borrowing cost to the Treasury. The

annual increased borrowing cost for each interest period is determined by multiplying the principal by the difference between the two rates. For notes and bonds, the increased borrowing cost for each remaining interest period to original maturity is determined by dividing the annual cost by two. For certificates, the increased borrowing cost for the remaining period to original maturity is determined by multiplying the annual cost by the number of days remaining until original maturity divided by the number of days in the calendar year. Present value shall be determined by using the current borrowing rate as the discount factor. The term ''current borrowing rate'' means the applicable rate shown in the table of maximum interest rates payable on United States Treasury securities—State and Local Government Series—for the day the request for early redemption is telecopied, postmarked, or where delivered by other carrier, date-stamped, plus one-eighth of one percentage point. Where redemption is requested as of a date less than 30 calendar days before the original maturity date, such applicable rate is the rate shown for a security with a maturity of 30 days. The market charge for bonds, notes, and certificates of indebtedness can be computed by use of the formulas in Appendix A to this part.

(4) *Redemption proceeds—Subscriptions from December 28, 1976 through August 31, 1989.* For securities subscribed for from December 28, 1976 through August 31, 1989, the amount of the redemption proceeds is calculated as follows:

(i) *Interest.* Interest for the entire period the security was outstanding shall be recalculated on the basis of the lesser of the original interest rate at which the security was issued, or the interest rate that would have been set at the time of the initial subscription had the term for the security been for the shorter period. If a note or bond is redeemed before maturity on a date other than a scheduled interest payment date, no interest will be paid for the fractional interest period since the last interest payment date.

(ii) *Overpayment of interest.* If there have been overpayments of interest, as determined under paragraph (b)(4)(i) of this section, there shall be deducted from the redemption proceeds the aggregate amount of such overpayments, plus interest, compounded semiannually, thereon from the date of each overpayment to the date of redemption. The interest rate to be used in calculating the interest on the overpayment shall be one-eighth of one percent above the maximum rate that would have applied to the initial subscription had the term of the security been for the shorter period.

(iii) *Market charge.* An amount shall be deducted from the redemption proceeds in all cases where the current borrowing rate of the Department of the Treasury for the remaining period to original maturity of the security prematurely redeemed exceeds the rate of interest originally fixed for such security. The amount shall be calculated using the formula in paragraph (b)(3)(ii) of this section.

(5) *Redemption proceeds—Subscriptions on or before December 27, 1976.*

(i) For securities subscribed for on or before December 27, 1976, the amount of the redemption proceeds is calculated as follows.

(ii) The interest for the entire period the security was outstanding shall be recalculated on the basis of the lesser of the original interest rate at which the security was issued, or an adjusted interest rate reflecting both the shorter period during which the security was actually outstanding and a penalty. The adjusted interest rate is the Treasury rate which would have been in effect on the date of issuance for a marketable Treasury certificate, note, or bond maturing on the quarterly maturity date prior to redemption (in the case of certificates), or on the semiannual maturity period prior to redemption (in the case of notes and bonds), reduced in either case by a penalty which shall be the lesser of:

(A) One-eighth of one percent times the number of months from the date of issuance to original maturity, divided by the number of full months elapsed from the date of issue to redemption, or

(B) One-fourth of one percent.

There shall be deducted from the redemption proceeds, if necessary, any overpayment of interest resulting from previous payments made at a higher rate based on the original longer period to maturity.

(Approved by the Office of Management and Budget under control number 1535–0091)

Subpart C—Demand Deposit Securities

§ 344.6 Description of securities.

(a) *Terms.* The securities are defined as one-day certificates of indebtedness. The securities will be issued in a minimum of $1,000 and any increment above that amount. Each subscription will be established as a unique account. Securities will be automatically rolled over each day unless redemption is requested.

(b) *Interest rate.*

(1) Each security shall bear a variable rate of interest based on an adjustment of the average yield for three-month Treasury bills at the most recent auction. A new rate will be effective on the first business day following the regular auction of three-month Treasury bills and will be shown in the table (Form PD 4262), available to the public on such business day. Interest will be accrued and added to principal daily. Interest will be computed on the balance of the principal, plus interest accrued through the immediately preceding day.

(2) (i) The annualized effective demand deposit rate in decimals, designated ''I'' in Equation 1 is calculated as:

$$I=[(100/P)^{Y/DTM}-1](1-MTR)-TAC$$

(Equation 1)

where

P=The average auction price for the Treasury bill, per hundred, to three decimal places.

Y=365 if the year following issue date does not contain a leap year day and 366 if it does contain a leap year day.

DTM=The number of days from date of issue to maturity for the auctioned Treasury bill.

MTR=Estimated average marginal tax rate, in decimals, of purchasers of short-term tax exempt bonds.

TAC=Treasury administrative costs, in decimals.

(ii) The daily factor for the demand deposit rate is then calculated as:

$$DDR=(1+I)^{1/Y}-1$$

(Equation 2)

(3) Information as to the estimated average marginal tax rate and costs for administering the demand deposit State and Local Government Series securities program, both to be determined by Treasury from time to time, will be published in the **Federal Register**.

(c) *Payment.* Interest earned on the securities will be added to the principal and will be reinvested daily until redemption. At any time the Secretary determines that issuance of obligations sufficient to conduct the orderly financing operations of the United States cannot be made without exceeding the statutory debt limit, the Department will invest any unredeemed demand deposit securities in special 90-day certificates of indebtedness. These 90-day certificates will be payable at maturity, but redeemable before maturity, provided funds are available for redemption, or reinvested in demand deposit securities when regular Treasury borrowing operations resume,

both at the owner's option. Funds invested in the 90-day certificates of indebtedness will earn simple interest equal to the daily factor in effect at the time demand deposit security issuance is suspended, multiplied by the number of days outstanding.

§ 344.7 Subscription for purchase.

(a) *Subscription requirements.* Subscriptions for purchase of securities under this offering must be submitted to the Division of Special Investments, Bureau of the Public Debt, 200 Third Street, PO Box 396, Parkersburg, WV 26102–0396. Subscriptions must be submitted on a designated Treasury form, must specify the principal amount to be invested and the issue date, and must be signed by an official authorized to make the purchase. The Bureau of the Public Debt must receive the subscription at least three business days before the issue date. The subscription may be submitted by certified or registered mail, or by other carrier. The subscription may also be submitted by facsimile equipment at (304) 480–6818, at least three business days before the issue date, provided that the original subscription form is submitted by mail, or by other carrier, and is received by the Division of Special Investments by 3:00 p.m., Eastern time, on the issue date.

(b) *Amending subscriptions.* The principal amount to be invested may be changed without penalty on or before the issue date, but no later than 1:00 p.m. Eastern time, on the issue date. Notification may be telecopied by facsimile equipment to the Division of Special Investments at (304) 480–6818, provided the request is clearly identified as an amendment and is immediately followed by the submission, by mail or other carrier, of written notification. Where an amendment is not submitted timely, the Division of Special Investments may determine, pursuant to the provisions governing waiver of regulations set forth under 31 CFR 306.126, that such an amendment is acceptable on an exception basis. Where an amendment is determined to be acceptable on an exception basis, the amended information shall be used as the basis for issuing the securities, and an administrative fee of $100 per subscription will be assessed. The Secretary reserves the right to reject amendments which are not submitted timely.

(c) *Certification.* By completing the subscription form, subscribers certify to the following:

(1) Neither the aggregate issue price nor the stated redemption price at maturity of the bonds that are part of the tax-exempt issue exceeds $35 million. Issue price and stated redemption price at maturity have the meanings given such terms in sections 1273 and 1274 of the Internal Revenue Code;

(2) No portion of the tax-exempt bond issue has been or will be issued or permitted to remain outstanding, and the expenditure of gross proceeds of the tax-exempt bond issue has not and will not be delayed, for the principal purpose of investing in demand deposit securities;

(3) Only eligible gross proceeds of the tax-exempt bond issue have been and will be submitted in payment for demand deposit securities. Eligible gross proceeds are all gross proceeds of the tax-exempt bond issue except—

(i) Gross proceeds of an advance refunding issue to be used to discharge another issue;

(ii) Gross proceeds accumulated in a reserve or replacement fund (other than a bona fide debt service or reasonably required reserve or replacement fund); and

(iii) Solely for purposes of this paragraph (c)(3), gross proceeds previously invested at any time pursuant to any exception in paragraph (c)(5) of this section, other than paragraph (c)(5)(vi) (Exception 6) (relating to amounts of less than $25,000) and paragraph (c)(5)(viii) (Exception 8) (relating to inadvertent error).

(4) At least 25 percent of the eligible gross proceeds received from the sale of the tax-exempt bond issue have been or will be invested in demand deposit securities within three business days of the date of receipt thereof;

(5) All eligible gross proceeds of the tax-exempt bond issue have been and will be invested within four business days of the date of receipt thereof in demand deposit securities (principal repayments on purpose investments are treated as gross proceeds received on the date of repayment). This paragraph (c)(5) shall not apply to gross proceeds that are at all times (prior to the date of expenditure thereof) invested pursuant to one of the exceptions:

(i) *Exception 1.* Gross proceeds that are invested solely in investments the earnings on which are not subject to rebate under section 143(g)(3) or 148(f) of the Internal Revenue Code (whichever applies).

(ii) *Exception 2.* Gross proceeds that are invested in obligations the earnings on which are not reasonably expected to be subject to rebate by reason of section 148(f)(4)(A)(ii) (relating to certain bona fide debt service funds) of the Internal Revenue Code or section 148(f)(4)(B) (relating to exception for temporary investments) of the Internal Revenue Code.

(iii) *Exception 3.* Gross proceeds that are not reasonably expected to be gross proceeds of the tax-exempt bond issue for more than seven business days.

(iv) *Exception 4.* Gross proceeds that are part of a reasonably required reserve or replacement fund (other than a bona fide debt service fund) for the tax-exempt bond issue.

(v) *Exception 5.* Gross proceeds that are invested in taxable obligations, but only if the yield on each obligation (computed separately and on the basis of an arm's length purchase price) is no higher than the yield on the tax-exempt bond issue.

(vi) *Exception 6.* Eligible gross proceeds that are not invested in one-day certificates of indebtedness or pursuant to paragraphs (c)(5)(i)–(v) (Exceptions 1 through 5), but only if the total amount of such eligible gross proceeds on any particular day is less than $25,000. This paragraph (c)(5)(vi) (Exception 6) shall not apply to gross proceeds that are part of a reasonably required reserve or replacement fund (other than a bona fide debt service fund).

(vii) *Exception 7.* Gross proceeds that are not invested pursuant to paragraph (c)(5)(iv) (Exception 4) or paragraph (c)(5)(vi) (Exception 6), and that are invested in any taxable obligation the yield on which is higher than the yield on the tax-exempt bond issue, but only if taxable obligations described in paragraph (c)(5)(v) (Exception 5), and the tax-exempt obligations described in (c)(5)(i) (Exception 1) are not available for investment (for example, because market interest rates are too high and statutory or indenture restrictions prevent investments in tax-exempt obligations).

(viii) *Exception 8.* Gross proceeds that are not invested in demand deposit securities due to an inadvertent error.

(6) See § 344.1(f) as to improper certifications.

§ 344.8 Issue date and payment.

(a) *General.* The subscriber shall fix the issue date on the subscription, the issue date to be a business day at least three business days after receipt of the subscription by the Division of Special Investments. Full payment for each subscription must be submitted by the Fedwire funds transfer system with credit directed to the Treasury's General Account. Full payment should be submitted by 3:00 p.m., Eastern time, to ensure that settlement on the securities occurs on the date of issue.

(b) *Noncompliance.* The penalty imposed on any subscriber which fails to make settlement on a subscription once submitted shall be to render the subscriber ineligible thereafter to subscribe for securities under this offering for a period of six months, beginning on the date the subscription is withdrawn or the proposed issue date, whichever occurs first. The Division of Special Investments may determine to waive the six month penalty, pursuant to the provisions governing waiver of regulations set forth under 31 CFR 306.126. Where settlement occurs after the proposed issue date and the Division of Special Investments determines, pursuant to 31 CFR 306.126, that settlement is acceptable on an exception basis, the six month penalty will be waived, and the subscriber shall be subject to a late payment assessment. The assessment will include payment of an amount equal to the amount of interest that would have accrued on the securities from the proposed issue date to the date of settlement, as well as an administrative fee of $100 per subscription. Assessments under this subsection are due on demand. Failure to pay an assessment shall render the subscriber ineligible thereafter to subscribe for securities under this offering until the assessment is paid.

(Approved by the Office of Management and Budget under control number 1535–0091)

§ 344.9 Redemption.

(a) *General.* A security may be redeemed at the owner's option, provided a request for redemption is received not less than one business day prior to the requested redemption date. Partial redemptions may be requested; however, an account balance of less than $1,000 will be redeemed in total. Payment will be made by crediting the reserve account maintained at the Federal Reserve Bank or Branch by the financial institution servicing the account owner.

(b) *Notice.* Notice of redemption must be submitted, either on a designated Treasury form or by letter, by the official(s) authorized to redeem the securities, as shown on the subscription form, to the Division of Special Investments, Bureau of the Public Debt, 200 Third Street, PO Box 396, Parkersburg, WV 26102–0396. The notice may be submitted by facsimile equipment to the Bureau of the Public Debt at (304) 480–6818, by mail, or by other carrier. The notice must show the account number and the tax identification number of the subscriber. The notice of redemption must be received at the Bureau of the Public Debt by 1:00 p.m., Eastern time, one business day prior to the requested redemption date.

(c) *Certification.* By completing the redemption form, subscribers certify to the fact that the proceeds to be received will be expended within one day of receipt thereof for the purpose for which the tax-exempt bond was issued.

Subpart D—Special Zero Interest Securities

§ 344.10 General.

Provisions of subpart B of this part (Time Deposit Securities) apply except as specified in subpart D of this part.

§ 344.11 Description of securities.

(a) *Terms.* Only certificates of indebtedness and notes are offered.

(1) *Certificates of Indebtedness.* The certificates will be issued in a minimum amount of $1,000, or in any larger amount, in multiples of $100, with maturity periods fixed by the government body, from 30 calendar days up to and including one year, or for any intervening period.

(2) *Notes.* The notes will be issued in a minimum amount of $1,000, or in any larger amount, in multiples of $100, with maturity periods fixed by the government body, from one year and one day up to and including 10 years, or for any intervening period.

(b) *Interest rate.* Each security shall bear no interest.

§ 344.12 Subscription for purchase.

In lieu of the certification under § 344.3(c), the final subscription must contain a certification by the subscriber that:

(a) The total investment consists only of original or investment proceeds of a tax-exempt bond issue that are subject to yield restrictions under sections 141–150 of the Internal Revenue Code;

(b) None of the original proceeds of the tax-exempt bond issue were subject to arbitrage yield restrictions under section 148 of the Internal Revenue Code on the date of receipt thereof; and

(c) None of the proceeds submitted in payment are proceeds of an advance refunding issue to be used to discharge another issue or part of a reserve or replacement fund for the advance refunding issue.

§ 344.13 Redemption.

(a) *General.* Provisions of § 344.5(a) apply.

(b) *Before maturity.*

(1) *In general.* A security may be redeemed at the owner's option no earlier than 25 calendar days after the issue date in the case of a certificate and one year after the issue date in the case of a note. No market charge or penalty shall apply in the case of the redemption of a special zero interest security before maturity.

(2) *Notice.* Notice of redemption prior to maturity must be submitted, either on a designated Treasury form or by letter, by the official(s) authorized to redeem the securities, as shown on the final subscription form, to the Division of Special Investments, Bureau of the Public Debt, 200 Third Street, PO Box 396, Parkersburg, WV 26102–0396. The notice may be submitted by facsimile equipment to the Bureau of the Public Debt at (304) 480–6818, by mail, or by other carrier. The notice must show the account number, the maturities of the securities to be redeemed, and the tax identification number of the subscriber. The notice of redemption must be telecopied, postmarked, or where delivered by other carrier, must be date-stamped no less than 15 calendar days before the requested redemption date, but no more than 60 calendar days before the requested redemption date. A notice of redemption prior to maturity cannot be cancelled.

(Approved by the Office of Management and Budget under control number 1535–0091)

Appendix A to Part 344—Early Redemption Market Change Formulas and Examples

A. The amount of the market charge for bonds and notes can be determined through use of the following formula:

$$M = \frac{\left(\frac{b}{2}\right)\left(\frac{r}{s}\right)+\frac{b}{2}(a)}{1+\left(\frac{r}{s}\right)\left(\frac{i}{2}\right)}$$

where

M=market charge

b=increased annual borrowing cost (i.e., principal multiplied by the excess of the current borrowing rate for the period from redemption to original maturity of note or bond over the rate for the security)

r=number of days from redemption to beginning of next semiannual interest period

s=number of days in current semiannual period

i=current borrowing rate for period from redemption to maturity (expressed in decimals)

n=number of remaining full semiannual periods to the original maturity date

$$a = \frac{\left(1-v^{n}\right)}{\frac{i}{2}} \qquad \text{(Equation 2)}$$

$$v^n = \frac{1}{\left(1+\frac{i}{2}\right)^n} \qquad \text{(Equation 3)}$$

B. The application of this formula may be illustrated by the following example:

(1) Assume that a $600,000 note is issued on July 1, 1985, to mature on July 1, 1995. Interest is payable at a rate of 8% on January 1 and July 1.

(2) Assume that the note is redeemed on February 1, 1989, and that the current borrowing rate for Treasury at that time for the remaining period of 6 years and 150 days is 11%.

(3) The increased annual borrowing cost is $18,000. ($600,000)×(11%–8%)

(4) The market charge is computed as follows:

$$M = \frac{\left(\frac{\$18{,}000}{2}\right)\left(\frac{150}{181}\right)+\left(\frac{\$18{,}000}{2}\right)(a)}{1+\left(\frac{150}{181}\right)\left(\frac{.11}{2}\right)} =$$

$$\frac{\$7{,}458.56+(\$9{,}000)(a)}{1.045580111} = \qquad \text{(Equation 5)}$$

$$\$7{,}458.56+(\$9{,}000)\left(\frac{1-\frac{1}{(1+\frac{.11}{2})^{12}}}{\frac{.11}{2}}\right) = \qquad \text{(Equation 6)}$$

$$1.045580111$$

$$\frac{\$7{,}458.56+(\$9{,}000)(8.618517849)}{1.045580111} = \qquad \text{(Equation 7)}$$

$$\frac{\$7{,}458.56+\$77{,}566.66}{1.045580111} = \qquad \text{(Equation 8)}$$

$81,318.71

(Equation 9)

C. The amount of the market charge for certificates can be determined through use of the following formula:

$$M = \frac{(b)\left(\frac{r}{s}\right)}{1+\frac{r}{s}(i)} \qquad \text{(Equation 10)}$$

where

M=market charge

b=increased borrowing cost for full period

r=number of days from redemption date to original maturity date

s=number of days in current annual period (365 or 366)

i=current borrowing rate expressed in decimals (discount factor)

D. The application of this formula may be illustrated by the following example:

(1) Assume that a $50,000 certificate is issued on March 1, 1987, to mature on November 1, 1987. Interest is payable at a rate of 10%.

(2) Assume that the certificate is redeemed on July 1, 1987, and that the current borrowing cost to Treasury for the 123-day period from July 1, 1987, to November 1, 1987, is 11.8%.

(3) The increased annual borrowing cost is $900. ($50,000–11.8%–10%)

(4) The market charge is computed as follows:

$$M = \frac{\$900\left(\frac{123}{365}\right)}{1+\left(\frac{123}{365}\right)(.118)} = \qquad \text{(Equation 11)}$$

$$\frac{303.29}{1.039764384} = \qquad \text{(Equation 12)}$$

$291.69

(Equation 13)

[FR Doc. 95–1593 Filed 1–20–95; 8:45 am]

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federal register

Monday
January 23, 1995

Part VI

Environmental Protection Agency

40 CFR Part 799

Toxic Substances; Testing Regulations: Neurotoxicity and Acetone, etc.; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 799

[OPPTS–42134F; FRL–4924–7]

RIN 2070–2033

Revocation of Final Multi-substance Rule for the Testing of Neurotoxicity

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule Revocation.

SUMMARY: This document announces EPA's decision to revoke the Multi-Substance Rule for the Testing of Neurotoxicity, that required manufacturers and processors of acetone (CAS No. 67–64–1), technical grade *n*-amyl acetate (CAS No. 628–63–7), 1-butanol (CAS No. 71–36–3), *n*-butyl acetate (CAS No. 123–86–4), diethyl ether (CAS No. 60–29–7), 2-ethoxyethanol (CAS No. 110–80–5), ethyl acetate (CAS No. 141–78–6), isobutyl alcohol (CAS No. 78–83–1), methyl isobutyl ketone (CAS No. 108–10–1), and tetrahydrofuran (CAS No. 109–99–9) to conduct testing for neurotoxicity. EPA is revoking this rule as part of a settlement agreement reached with the manufacturers of these chemicals, who have agreed to perform certain neurotoxicity and *in vivo* hydrolysis testing of 7 of the 10 chemicals under enforceable consent agreements (''ECAs'').

EFFECTIVE DATE: January 23, 1995.

ADDRESSES: A public version of the administrative record supporting this action, with any confidential business information deleted, is available for inspection at the TSCA Nonconfidential Information Center, also known as the TSCA Public Docket Office (7407), Rm. NE B607, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460 from 12 noon to 4:00 p.m. Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Susan Hazen, Director, Environmental Assistance Division, (7408), Office of Pollution Prevention and Toxics, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: EPA has determined that it is appropriate to revoke the multi-substance rule for the testing of neurotoxicity because the manufacturers of 7 of the 10 chemicals subject to the final test rule have agreed to conduct a modified set of neurotoxicity and *in vivo* hydrolysis testing under ECAs that accomplish many of the goals of the test rule. The following seven chemical substances will be tested pursuant to ECAs: acetone (CAS No. 67–64–1), technical grade *n*-amyl acetate (CAS No. 628–63–7), *n*-butyl acetate (CAS No. 123–86–4), ethyl acetate (CAS No. 141–78–6), isobutyl alcohol (CAS No. 78–83–1), methyl isobutyl ketone (CAS No. 108–10–1), and tetrahydrofuran (CAS No. 109–99–9). Testing is currently underway for *n*-butyl acetate and isobutyl alcohol. *In vivo* hydrolysis testing will be conducted on butyl acetate to determine if its test results for neurotoxicity can be used to assess the neurotoxicity of its metabolite, 1-butanol.

I. Background

On July 27, 1993 (58 FR 40262) EPA issued a test rule under TSCA section 4 that required manufacturers and processors of 10 substances to conduct testing for neurotoxicity (Ref. 1). The test rule required all the testing proposed for the 10 substances on March 4, 1991 (56 FR 9105). The required testing was the same for all 10 substances and included acute and subchronic functional observational battery and motor activity, and subchronic neuropathology and schedule-controlled operant behavior (SCOB). These 10 substances are listed below:

Chemical name	CAS No.
acetone	67–64–1
n-amyl acetate, technical grade	628–63–7
1-butanol	71–36–3
n-butyl acetate	123–86–4
diethyl ether	60–29–7
2-ethoxyethanol	110–80–5
ethyl acetate	141–78–6
isobutyl alcohol	78–83–1
methyl isobutyl ketone	108–10–1
tetrahydrofuran	109–99–9

The manufacturers of these substances petitioned for review of the final rule under TSCA section 19 in the Fifth Circuit Court of Appeals (Ref. 2). Subsequent to the filing of this challenge to the rule, EPA, the Chemical Manufacturers Association (''CMA''), and authorized representatives of all parties challenging the rule, entered into settlement negotiations to resolve the lawsuit.

As a result of these settlement discussions, the parties to the lawsuit agreed, subject to certain conditions set forth in the settlement agreement (Ref. 3), to conduct neurotoxicity and *in vivo* hydrolysis testing of 7 chemical substances under ECAs to be negotiated pursuant to EPA regulations. Testing on two of the chemicals subject to the final rule, *n*-butyl acetate and isobutyl alcohol, was already underway. It was CMA's and the test sponsors stated intent that such testing continue on schedule during the pendency of this proceeding (Ref. 3).

In turn, EPA agreed to propose to withdraw the final test rule. EPA was aware that the settlement agreement contemplated testing fewer chemicals and a reduced set of testing on some of those chemicals than the testing regimen required by the final rule. Although EPA believed that the rulemaking record contained substantial evidence to support the testing requirements in the final rule, EPA believed that the settlement agreement was in the public interest as it allowed testing to proceed on an expedited basis, without the uncertainties of protracted litigation. CMA's lawsuit was dismissed without prejudice by the 5th Circuit Court of Appeals on May 13, 1994, in response to a joint motion for a stay, but it can be reinstated by either party upon filing of a letter with the court (Ref. 4).

On June 27, 1994, EPA published three notices in the **Federal Register**: a Stay of the final test rule (59 FR 33184), a proposal to revoke the final test rule (59 FR 33187), and an announcement of a public meeting to initiate negotiation of consent agreement testing (59 FR 33191). The Stay suspended all requirements of the final test rule until EPA either lifted the Stay or revoked the test rule. Final revocation of the test rule was conditional on the successful negotiation of testing to be performed under ECAs. The public meeting announcement solicited interested parties to participate in the negotiation and/or observation of negotiations. On July 28, 1994, EPA held the public meeting to initiate the negotiations. The ECAs which resulted were signed in November 1994 and January 1995 and required the neurotoxicity and *in vivo* hydrolysis testing of the following 7 substances:

Substance	Tests
acetone	SCOB (subchronic)
n-amyl acetate, technical grade	Functional Observational Battery (acute and subchronic), Motor Activity (acute and subchronic), Neuropathology (subchronic)
n-butyl acetate	Functional Observational Battery (acute and subchronic), Motor Activity (acute and subchronic), Neuropathology (subchronic), SCOB (subchronic), *In Vivo* Hydrolysis
ethyl acetate	Functional Observational Battery (acute and subchronic), Motor Activity (acute and subchronic), Neuropathology (subchronic), SCOB (subchronic)
isobutyl alcohol	Functional Observational Battery (acute and subchronic), Motor Activity (acute and subchronic), Neuropathology (subchronic), SCOB (subchronic)
methyl isobutyl ketone	SCOB (subchronic)
tetrahydrofuran	Functional Observational Battery (acute and subchronic), Motor Activity (acute and subchronic), Neuropathology (subchronic)

The ECA testing program and negotiations are described more fully in the announcement of the signing of the ECAs, published elsewhere in this **Federal Register**. Compared with the final rule, the above testing program represents a retention of the full set of tests for three chemicals (*n*-butyl acetate, ethyl acetate, and isobutyl acetate), a reduction in tests for four chemicals (acetone, *n*-amyl acetate, methyl isobutyl ketone, and tetrahydrofuran), and an elimination of testing for three chemicals (1-butanol, diethyl ether, and 2-ethoxyethanol). It is anticipated, however, that the *in vivo* hydrolysis test of *n*-butyl acetate may indicate that the separate testing of 1-butanol may not be necessary, and because of this, 1-butanol manufacturers have agreed to share in the cost of *n*-butyl acetate testing. The evaluation of the metabolic fate of butyl acetate will be performed in a study of its *in vivo* hydrolysis to 1-butanol. If the conversion of butyl acetate to 1-butanol is sufficiently rapid and complete, EPA may determine that the neurotoxic effects of 1-butanol can be predicted from the results of butyl acetate testing. If this is not the case, EPA may consider reproposing separate testing of 1-butanol.

As mentioned above, a third notice was published on June 27, 1994 (59 FR 33187), which proposed to revoke the final multi-substance rule for the testing of neurotoxicity. This notice allowed all interested parties an opportunity to evaluate and comment on EPA's proposed revocation of the final rule and decision to pursue ECAs as the mechanism for achieving testing.

II. Public Comments

EPA received one comment on the proposed revocation. This comment was from CMA and supported EPA's proposal to revoke the test rule and enter consent agreement negotiations (Ref. 5).

The public meeting to initiate negotiation of consent agreement testing was held on July 28, 1994. No new interested parties identified themselves to EPA at this meeting or during the 30–day comment period. During the meeting, the only comment concerning the proposed revocation came from CMA's legal counsel, and related to procedures for simultaneous signing of the ECAs and the revocation.

III. Revocation of Final Test Rule

EPA is revoking the final Multi-Substance Rule for the Testing of Neurotoxicity (40 CFR 799.5050) based upon the reasons stated in the proposed revocation (59 FR 33187, June 27, 1994, Unit II), the lack of comments opposing the revocation, and the successful negotiation of ECAs. EPA believes the decision to allow manufacturers of these substances to conduct neurotoxicity and *in vivo* hydrolysis testing under ECAs will allow for the most timely development and public availability of data to assess the potential neurotoxicity of these compounds. While EPA acknowledges that the testing that will be conducted under ECAs will not be as extensive as that required by the final test rule, EPA believes that use of the ECA process will result in the fastest development of data. Testing and data development will proceed without the potentially lengthy delay of testing pending resolution of costly litigation on the merits of the final test rule.

IV. Rulemaking Record

EPA has established a record for this revocation under docket number OPPTS–42134F. This record contains the following information:

A. Supporting Documentation

(1) **Federal Register** notices pertaining to this rule consisting of:

(a) Notice of proposed multi-substance rule for the testing of neurotoxcity (56 FR 9105, March 4, 1991).

(b) Notice of final multi-substance rule for the testing of neurotoxicity (58 FR 40262, July 27, 1993).

(c) Notice announcing administrative stay of final multi-substance rule for the testing of neurotoxicity (59 FR 33184, June 27, 1994).

(d) Notice of proposed revocation of final multi-substance rule for the testing of neurotoxicity (59 FR 33187, June 27, 1994).

(e) Notice announcing opportunity to participate in negotiations for neurotoxicity testing; solicitation for interested parties (59 FR 33191, June 27, 1994).

(2) Communications consisting of:

(a) Written letters.

(b) Contact reports of telephone conversations.

(c) Meeting summaries (including public meeting on July 28, 1994).

B. References

(1) Final multi-substance rule for the testing of neurotoxicity (58 FR 40262, July 27, 1993).

(2) Chemical Manufacturers Association (CMA). Petition for Review. Filed with United States Court of Appeals for the Fifth Circuit. (October 8, 1993).

(3) United States Court of Appeals for the Fifth Circuit. Settlement Agreement between Environmental Protection Agency (USEPA) and petitioners. No. 93–5381. (April 28, 1994).

(4) United States Court of Appeals for the Fifth Circuit. Dismissal of petitioners appeal against EPA. No.93–5381. (May 13, 1994).

(5) Latham & Watkins (legal counsel to CMA), Washington, DC. Comment on proposed revocation of final multi-substance rule for the testing of neurotoxicity. Submitted to TSCA Docket Office, USEPA, Washington, DC.(July 20, 1994).

The public record for this rulemaking is available for inspection in the TSCA Nonconfidential Information Center (also known as the TSCA Public Docket Office), Rm. NE B607, 401 M St., SW., Washington, DC from 12 noon to 4:00 p.m., Monday through Friday, except legal holidays.

V. 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 all the requirements of the Executive Order (i.e., Regulatory Impact Analysis and review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines ''significant'' as those actions likely to lead to 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 (aka ''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 entitlements, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order. Pursuant to the terms of this order, EPA has determined that this rule would not be ''significant''.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., EPA is certifying that revocation of this test rule will not have a significant impact on a substantial number of small businesses because only the 24 manufacturers who signed the ECAs, which will replace the revoked test rule, will be responsible for conducting and paying for the testing. None of these manufacturers are small businesses.

C. Paperwork Reduction Act

There are no information collection requirements associated with this revocation covered under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

List of Subjects in 40 CFR Part 799

Chemicals, Chemical export, Environmental protection, Hazardous substances, Health effects, Laboratories, Reporting and recordkeeping requirements, Testing.

Dated: January 10, 1995.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR, chapter I, subchapter R, part 799 is amended as follows:

PART 799—[AMENDED]

1. The authority citation for part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

§799.5050—[Removed]

2. By removing §799.5050.

[FR Doc. 95–1673 Filed 1–20–95; 8:45 am]

BILLING CODE 6560–50–F

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40 CFR Part 799

[OPPTS–42134G; FRL–4924–8]

RIN 2070–2033

Testing Consent Orders for Acetone, n-Amyl Acetate, n-Butyl Acetate, Ethyl Acetate, Isobutyl Alcohol, Methyl Isobutyl Ketone, and Tetrahydrofuran

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Testing Consent Agreements and Orders.

SUMMARY: EPA has issued Testing Consent Orders (Orders) that incorporate Enforceable Consent Agreements (ECAs) pursuant to the Toxic Substances Control Act (TSCA) with companies who have agreed to perform certain neurotoxicity tests with the following seven substances: acetone (CAS No. 67–64–1), *n*-amyl acetate (CAS No. 628–63–7), *n*-butyl acetate (CAS No. 123–86–4), ethyl acetate (CAS No. 141–78–6), isobutyl alcohol (CAS No. 78–83–1), methyl isobutyl ketone (CAS No. 108–10–1), and tetrahydrofuran (CAS No. 109–99–9). This document summarizes the requirements of the ECAs and amends 40 CFR 799.5000 by adding these seven substances to the list of chemical substances and mixtures subject to ECAs. Accordingly, the export notification requirements of 40 CFR part 707 apply to these substances.

EFFECTIVE DATE: January 23, 1995.

ADDRESSES: A public version of the administrative record supporting this action, with any confidential business information deleted, is available for inspection at the TSCA Nonconfidential Information Center, also referred to as the TSCA Public Docket Office (7407), Rm. NE B607, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460 from 12 noon to 4:00 p.m. Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Susan Hazen, Environmental Assistance Division, Office of Pollution Prevention and Toxics, 401 M St., SW., (7408), Washington, DC 20460, (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: Twelve companies that include AlliedSignal, Inc., Aristech Chemical Corp., BTL Specialty Resins Corp., The Dow Chemical Co., Eastman Chemical Co., Exxon Chemical Co., General Electric Co., Georgia Gulf Corp., Goodyear Tire & Rubber Co., Shell Oil Co., Texaco Refining & Marketing, Inc., and Union Carbide Corp. have agreed to perform neurotoxicity testing with acetone. The Union Carbide Corp. has agreed to perform neurotoxicity testing with *n*-amyl acetate. Nine companies that include Aristech Chemical Corp., BASF Corp., BP Chemicals Inc., Eastman Chemical Co., Hoechst Celanese Chemical Group, Inc., Rhone-Poulenc Inc., Shell Oil Co., Union Carbide Corp., and Vista Chemical Co. have agreed to perform neurotoxicity testing with butyl acetate. Six companies that include BP Chemicals Inc., Eastman Chemical Co., Hoechst Celanese Chemical Group, Inc., Monsanto Co., Rhone-Poulenc Inc., and Tolson USA, Inc. have agreed to perform neurotoxicity testing with ethyl acetate. Five companies that include BASF Corp., Eastman Chemical Co., Hoechst Celanese Chemical Group, Inc., Shell Oil Co., and Union Carbide Corp. have agreed to perform neurotoxicity testing with isobutyl alcohol. Six companies that include Eastman Chemical Co., Exxon Chemical Co., Hoechst Celanese Chemical Group, Inc., Rhone-Poulenc Inc., Shell Oil Co., and Union Carbide Corp. have agreed to perform neurotoxicity testing with methyl isobutyl ketone. Six companies that include Arco Chemical Co., BASF Corp., E.I. duPont de Nemours and Co., GE Plastics, ISP Management Company, Inc., and QO Chemical Inc. have agreed to perform neurotoxicity testing with tetrahydrofuran.

I. Background

On March 4, 1991 (56 FR 9105), EPA proposed neurotoxicity testing of 10 substances under section 4 of TSCA. All 10 substances have wide use as solvents (Refs. 10 and 11). A TSCA section 4(a)(1)(B) finding for substantial exposure was made for each substance based on production volume, occupational and consumer exposure,

environmental release, and volatility (Refs. 10–16).

On July 27, 1993, EPA issued a Final Rule (58 FR 40262) requiring the same neurotoxicity testing of the 10 substances that had been proposed. These tests consisted of the Functional Observational Battery (acute and subchronic), Motor Activity (acute and subchronic), Neuropathology (subchronic), and the Schedule-controlled Operant Behavior test (subchronic). The rule responded to comments on the proposed test rule, discussed EPA's TSCA section 4(a) findings, and specified test standards and reporting requirements.

On October 8, 1993, the manufacturers of the 10 substances petitioned for review of the final rule under TSCA section 19 in the Fifth Circuit Court of Appeals (Ref. 1). Subsequent to the filing of this challenge to the rule, EPA, the Chemical Manufacturers Association (''CMA''), and representatives of the parties challenging the rule, entered into settlement negotiations to resolve the lawsuit.

As a result of these settlement discussions, CMA and the other parties to the lawsuit have agreed, subject to certain conditions set forth in the settlement agreement (Ref. 2), to conduct neurotoxicity and pharmacokinetics testing of seven of the original 10 substances under negotiated ECAs, to be implemented by an order issued by EPA under TSCA section 4. Testing on two of the substances subject to the final rule, *n*- butyl acetate and isobutyl alcohol, is already underway.

On June 27, 1994, EPA issued a stay (59 FR 33184) and a proposed revocation (59 FR 33187) of the final multi-substance rule for the testing of neurotoxicity. Comments on the proposed revocation of the final test rule are addressed in the notice to revoke this rule, published elsewhere in this **Federal Register**.

II. Enforceable Consent Agreement Negotiations

Pursuant to EPA regulations, 40 CFR 790 subpart B, EPA published a **Federal Register** notice (59 FR 33191, June 27, 1994) announcing an opportunity for interested parties to participate in or monitor negotiations for the development of consent agreements for the neurotoxicity testing of the seven substances. It was also announced that the testing agreed to in the settlement agreement (Ref. 2) would be the starting point for the negotiations.

EPA met with identified interested parties, on July 28, 1994, to initiate the negotiation of ECAs (Ref. 17). No new interested parties identified themselves to EPA during the 30–day comment period or during the meeting. The testing program outlined in the settlement agreement was proposed as the basis for the ECAs. Tentative schedules for completing the negotiation and signing the ECAs were discussed. EPA announced that it would take comments from the interested parties on the ECAs. The interested parties submitted comments and raised several issues that required subsequent discussion. The discussions, which were completed in early October 1994, addressed the 8(e) reportability of effects seen above the limit dose and effects seen in the schedule-controlled operant behavior tests, the description of EPA's lead role in arranging a workshop on the test results, a request for assurance from EPA that additional neurotoxicity testing of MIBK would not be required by the Hazardous Air Pollutants (HAPs) test rules currently under development, and that EPA's disclosure of test results be governed by TSCA section 14 instead of limiting disclosures to TSCA section 14(b). EPA agreed to provide the requested assurance in the ECA for MIBK concerning neurotoxicity testing of MIBK under the HAPs rule. EPA also agreed to allow section 14 of TSCA to govern disclosure of test results.

EPA's request to add a list of specific graphs to the data reporting requirements in the SCOB guideline (Ref. 18) was rejected, but the test laboratories were represented by CMA as intending to try to provide the results in the requested format. Requests to change the boilerplate language of the consent agreements concerning EPA's right to assess penalties and to use its professional judgement to determine the scientific adequacy and validity of the test results were rejected.

EPA agreed to the following modifications to the testing program or standards outlined in the settlement agreement: (1) renaming of the ''pharmacokinetics/metabolism'' test of butyl acetate to the ''*in vivo* hydrolysis'' test of butyl acetate; (2) changing the deadline for the submission of the *in vivo* hydrolysis test from 30 months to 24 months; (3) allowing laboratory safety conditions to influence the setting of the high dose at 50 percent of the lower explosive limit for all tests; and (4) not requiring positive control data to be generated once every year during the course of testing if laboratory conditions do not change. The modifications were incorporated in the ECAs which EPA provided to CMA for distribution to the companies for signature.

The companies signed the ECAs in November 1994, and the Assistant Administrator for EPA'S Office of Prevention, Pesticides, and Toxic Substances signed the ECAs and accompanying Orders in January 1995 (Refs. 3 through 9). These ECAs and Orders are final actions by EPA on these seven substances.

III. Testing Program

Table 1 lists the tests, test standards, and reporting requirements for the seven substances under the ECAs and Orders. This testing program will allow EPA to further evaluate the potential neurotoxicity resulting from exposure to these substances.

TABLE 1.—REQUIRED TESTING, TEST STANDARDS AND REPORTING REQUIREMENTS

Substance	Test	Deadline for Final Report[1]	Interim Reports Required[2]
acetone	Scheduled-Controlled Operant Behavior, Subchronic[3]	30	4
n-amyl acetate	Acute Neurotoxicity		
	Functional Observational Battery	24	3
	Motor Activity	24	3
	Subchronic Neurotoxicity[4]		
	Functional Observational Battery	36	5
	Motor Activity	36	5

TABLE 1.—REQUIRED TESTING, TEST STANDARDS AND REPORTING REQUIREMENTS—Continued

Substance	Test	Deadline for Final Report[1]	Interim Reports Required[2]
	Neuropathology	36	5
n-butyl acetate	Acute Neurotoxicity[4]		
	Functional Observational Battery	12	1
	Motor Activity	12	1
	Subchronic Neurotoxicity[4]		
	Functional Observational Battery	24	3
	Motor Activity	24	3
	Neuropathology	24	3
	Scheduled-Controlled Operant Behavior, Subchronic[3]	24	3
	In Vivo hydrolysis[5]	24	3
ethyl acetate	Acute Neurotoxicity[4]		
	Functional Observational Battery	18	2
	Motor Activity	18	2
	Subchronic Neurotoxicity[4]		
	Functional Observational Battery	30	4
	Motor Activity	30	4
	Neuropathology	30	4
	Scheduled-Controlled Operant Behavior, Subchronic[3]	30	4
isobutyl alcohol	Acute Neurotoxicity[4]		
	Functional Observational Battery	12	1
	Motor Activity	12	1
	Subchronic Neurotoxicity4		
	Functional Observational Battery	24	3
	Motor Activity	24	3
	Neuropathology	24	3
	Scheduled-Controlled Operant Behavior, Subchronic[3]	24	3
methyl isobutyl ketone	Scheduled-Controlled Operant Behavior, Subchronic[3]	30	4
tetrahydrofuran	Acute Neurotoxicity[6]		
	Functional Observational Battery	24	3
	Motor Activity	24	3
	Subchronic Neurotoxicity[4]		
	Functional Observational Battery	36	5
	Motor Activity	36	5
	Neuropathology	36	5

[1]Number of months after effective date of the ECA when the final report will be submitted to EPA.

[2]Number of interim reports to be submitted to EPA. Interim reports will be due every 6 months from the effective date until the final report is submitted.

[3]The subchronic schedule-controlled operant behavior (SCOB) test shall be conducted in accordance with the 1991 EPA Guideline for Schedule-controlled Operant Behavior (EPA 540/09–01–123, NTIS No.: PB 154617) as modified.

[4] Acute and subchronic neurotoxicity studies shall be conducted in accordance with the 1991 EPA Guidelines in EPA 540/09–01–123, NTIS No.: PB 154617, pages 13–27 as modified for purposes of these enforceable consent agreements.

[5]The *in vivo* hydrolysis test shall be conducted in accordance with the ''Protocol for Determining the *In Vivo* Hydrolysis of *N*- Butyl Acetate in Rats After Intravenous Administration'' (Ref. 5).

[6] Acute and subchronic neurotoxicity studies shall be conducted in accordance with the 1991 EPA Guidelines in EPA 540/09–01–123, NTIS No.: PB 154617, pages 13–27 as modified for purposes of these enforceable consent agreements.

IV. Test Substances

With the exception of *n*-amyl acetate, the purity of the test substances shall be 99 percent or greater. In the case of *n*-amyl acetate, the test sponsor will be required to select and test a technical grade containing a representative percent of *n*-amyl acetate. The test sponsor will indicate the percent of *n*-amyl acetate in the test substance in the test protocol.

V. Export Notification

The issuance of the ECAs and Orders subjects any persons who export or intend to export any of the seven chemical substances, of any purity, to the export notification requirements of section 12(b) of TSCA. The listing of the chemical substance at 40 CFR 799.5000 serves as a notification to persons who export or intend to export a chemical substance or mixture that is the subject of an ECA and Order that 40 CFR part 707 applies.

VI. Public Record

EPA has established a record for these ECAs and Orders under docket number OPPTS–42134G. This record contains the following information:

A. Supporting Documentation

(1) **Federal Register** notices pertaining to this document, ECAs, and Orders consisting of:

(a) Notice of Proposed Multi-substance Rule for the Testing of Neurotoxicity (56 FR 9105, March 4, 1991).

(b) Notice of Final Multi-substance Rule for the Testing of Neurotoxicity (58 FR 40262, July 27, 1993).

(c) Notice announcing Administrative Stay of Final Multi-substance Rule for the Testing of Neurotoxicity (59 FR 33184, June 27, 1994).

(d) Notice of Proposed Revocation of Final Multi-substance Rule for the Testing of Neurotoxicity (59 FR 33187, June 27, 1994).

(e) Notice announcing Opportunity to Participate in Negotiations for Neurotoxicity Testing; Solicitation for Interested Parties (59 FR 33191, June 27, 1994).

(2) Communications consisting of:

(a) Written Letters.

(b) Contact reports of telephone summaries.

(c) Meeting summaries (including public meeting on July 28, 1994).

(3) Reports - published and unpublished factual materials.

B. References

(1) Chemical Manufacturers Association (CMA). Petition for Review. Filed with United States Court of Appeals for the Fifth Circuit. (October 8, 1993).

(2) United States Court of Appeals for the Fifth Circuit. Settlement Agreement between Environmental Protection Agency (USEPA) and petitioners. No. 93–5381. (April 28, 1994).

(3) United States Environmental Protection Agency. USEPA. Enforceable Consent Agreement (ECA) and Order for Acetone. (January 1995).

(4) USEPA. ECA and Order for N-Amyl Acetate. (January 1995).

(5) USEPA. ECA and Order for N-Butyl Acetate. (January 1995).

(6) USEPA. ECA and Order for Ethyl Acetate. (January 1995).

(7) USEPA. ECA and Order for Isobutyl Alcohol (January 1995).

(8) USEPA. ECA and Order for Methyl Isobutyl Ketone. (January 1995).

(9) USEPA. ECA and Order for Tetrahydrofuran. (January 1995).

(10) USEPA. ''Economic impact evaluation of proposed multi-chemical rule for the testing of neurotoxicity .'' Economics and Technology Division, OTS, USEPA. Washington, DC. (July 25, 1990).

(11) USEPA. ''Multi-substance rule for the testing of neurotoxicity; proposed rule.'' (56 FR 9105, March 4, 1991).

(12) NIOSH. National Institute for Occupational Safety and Health. National Occupational Exposure Survey (NOES). Computer printout. ((March 29, 1989).

(13) USEPA. ''Household Solvent Products. A National Usage Survey.'' EPA-OTS 560/5–87–005. (July 1987).

(14) Versar, Inc. Springfield, VA. ''Estimates of consumer exposure to ethyl ether''. Memorandum from Carl D'Ruiz, Versar, Inc., to Conrad Flessner, Exposure Assessment Branch, OTS, USEPA.

(15) Syracuse Research Corporation, Syracuse, NY. ''Technical Support for Selection of Solvents for a Neurotoxicity Test Rule.'' Contract No. 68–D8–0117, Task 103. TR 89–218. (January 11, 1990).

(16) USEPA. Toxics-Release Inventory. EPA 560/4–89–006. Office of Pesticides and Toxic Substances, Washington, DC. (June 1989).

(17) USEPA. Minutes of Neurotoxicity Consent Agreement Public Meeting. (July 28, 1994).

(18) USEPA. Proposed addition to SCOB guideline. (September 22, 1994).

VII. Regulatory Assessment Requirements

The Office of Management and Budget (OMB) has approved the information collection requirements contained in the Consent Agreement under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., and has assigned OMB control 2070–0033.

Public reporting burden for this collection of information is estimated to average 586 hours per response. The estimates include time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

List of Subjects in 40 CFR Part 799

Chemicals, Chemical export, Environmental protection, Hazardous substances, Health effects, Laboratories, Reporting and recordkeeping requirements, Testing.

Dated: January 10, 1995.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR part 799 subpart C is amended as follows:

PART 799—[AMENDED]

1. The authority citation for part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

2. Section 799.5000 is amended by adding acetone, isobutyl alcohol, methyl isobutyl ketone, tetrahydrofuran, *n*-butyl acetate, ethyl acetate, and *n*-amyl acetate to the table in CAS Number order, to read as follows:

§799.5000 Testing consent agreements for substances and mixtures with Chemical Abstract Service Registry Numbers.

* * * * * *

CAS Number	Substance or mixture name	Testing	FR Publication Date
*	*	*	*
67–64–1	Acetone	Health effects	[January 23, 1995]
*	*	*	*
78–83–1	Isobutyl alcohol	Health effects	[January 23, 1995]
*	*	*	*
108–10–1	Methyl isobutyl ketone	Health effects	[January 23, 1995]
109–99–9	Tetrahydrofuran	Health effects	[January 23, 1995]

CAS Number	Substance or mixture name	Testing	FR Publication Date
*	*	*	*
123–86–4	*N*-butyl acetate	Health effects	[January 23, 1995]
*	*	*	*
141–78–6	Ethyl acetate	Health effects	[January 23, 1995]
*	*	*	*
628–63–7	*N*-amyl acetate	Health effects	[January 23, 1995]
*	*	*	*

[FR Doc. 95–1674 Filed 1–20–95; 8:45 am]
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Federal Register

Monday
January 23, 1995

Part VII

Department of Transportation

Coast Guard

46 CFR Parts 10, 12 and 16

Chemical Testing for Dangerous Drugs of Applicants for Issuance or Renewal of Licenses, Certificates of Registry, or Merchant Mariner's Documents; Final Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 10, 12, and 16

[CGD 91–223]

RIN 2115–AE29

Chemical Testing for Dangerous Drugs of Applicants for Issuance or Renewal of Licenses, Certificates of Registry, or Merchant Mariner's Documents

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rulemaking establishes Coast Guard regulations which implement the provisions of the Oil Pollution Act of 1990 (OPA 90) that require chemical testing for use of dangerous drugs of all applicants for issuance or renewal of licenses, certificates of registry (CORs), or merchant mariner's documents (MMDs). Testing of applicants will provide an additional tool in the effort to promote a drug-free work place in the maritime industry.

EFFECTIVE DATE: This rule is effective March 24, 1995.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G–LRA/3406) (CGD 91–223), U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington, DC 20593–0001 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

FOR FURTHER INFORMATION CONTACT: LCDR K. McKinna, Merchant Vessel Personnel Division (G–MVP), (202) 267–0218, or LCDR M. Grossetti, Marine Investigation Division (G–MMI), (202) 276–0415, Office of Marine Safety, Security and Environmental Protection, between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are Mr. James W. Cratty, Project Manager, and Ms. Jacqueline L. Sullivan, Project Counsel, Oil Pollution Act (OPA 90) Staff.

Regulatory History

On March 4, 1994, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled ''Chemical Testing for Dangerous Drugs of Applicants for Issuance or Renewal of Licenses, Certificates of Registry, or Merchant Mariner's Documents'' in the **Federal Register** (59 FR 10544). The 60-day comment period closed on May 3, 1994. The Coast Guard received seven letters commenting on the proposal from mariners, a shipping company, and marine industry representatives. No public hearing was requested, and none was held.

After careful review of the comments and the NPRM, the Coast Guard has finalized the regulations requiring chemical testing for use of dangerous drugs of all applicants for issuance or renewal of merchant mariner credentials. The Coast Guard finds that the regulations provide the maximum flexibility practicable in establishing requirements for chemical testing for use of dangerous drugs.

Background and Purpose

In recent years, several major oil spills from ships have occurred in waters under the jurisdiction of the United States. Among these were the EXXON VALDEZ in Prince William Sound, Alaska, and the AMERICAN TRADER in coastal waters of California. These spills caused extensive damage, including the loss of fish and wildlife. In response to these disasters and others, Congress passed the Oil Pollution Act of 1990 (OPA 90) (Pub. L. 101–380).

Among other things, OPA 90 introduces new safety measures relating to vessel operations. This final rule implements sections 4101(a) and (b) of OPA 90, which amend 46 U.S.C. 7101 and 7302, respectively, to require every person who applies for the issuance or renewal of a license, certificate of registry (COR), or merchant mariner's document (MMD) to be tested for use of dangerous drugs.

Under 46 CFR part 10, the Coast Guard issues licenses to qualified officers such as masters, mates, pilots, engineers, operators, and radio officers, and issues CORs to qualified staff officers such as pursers, medical doctors, and professional nurses.

Under the authority of 46 U.S.C. 7302, any person serving aboard most U.S.-flag merchant vessels of more than 100 gross tons which operate on other than rivers and lakes must hold an MMD issued by the Coast Guard. The MMD serves as a certificate of identification and service, authorizing work in different capacities on deck and in the engine and steward's departments. The MMD, with an appropriate endorsement, is also the credential issued to qualified tankermen.

The statutory language of OPA 90 requires the testing of applicants for issuance or renewal of licenses, CORs, or MMDs for the use of dangerous drugs in violation of law or Federal regulation. Existing Coast Guard drug-testing regulations use the phrase ''chemical test,'' which is already defined in 46 CFR 16.105. For the purposes of this final rule, the ''chemical testing'' required of applicants for issuance or renewal of licenses, CORs, or MMDs relates only to the use of dangerous drugs.

Section 4103(a)(2) of OPA 90 amends 46 U.S.C. 2101 by adding ''dangerous drug'' to the list of general definitions and removes the definition of ''dangerous drugs'' from 46 U.S.C. 7503(a) and 7704(a). The definition of ''dangerous drug'' in section 4103(a)(2) of OPA 90 includes the term ''controlled substance.'' Although ''marijuana'' is not specifically mentioned in the new definition, marijuana is a controlled substance under 21 U.S.C. 802, and is therefore covered by the definition of ''dangerous drug.'' This final rule will revise the definition of ''dangerous drug'' in 46 CFR 16.105 so that it conforms with the definition in 46 U.S.C. 2101, as amended by section 4103(a)(2) of OPA 90. This change has no substantive effect on the existing chemical testing rules in 46 CFR part 16.

To clarify the meaning of ''pass a chemical test for dangerous drugs'' a new definition has been added to 46 CFR 10.103, 12.01–6, and 16.105. It means that the result of a chemical test is reported as negative under 49 CFR part 40.

Currently, 46 CFR 16.220(b) provides exceptions to the periodic chemical test requirement when there has been a recent test for use of dangerous drugs or participation in a random test program. These exceptions were revised by a final rule published in the **Federal Register** on May 28, 1993 (58 FR 31104), and apply to the new testing requirements in this final rule.

Sections 4102(b) and (c) of OPA 90 amend 46 U.S.C 7107 and 7302 to limit the terms of CORs and MMDs to 5 years. On September 27, 1994, the Coast Guard published a final rule entitled ''Five-year Term of Validity for Certificates of Registry and Merchant Mariner's Documents'' (CGD 91–211) in the **Federal Register** (59 FR 49294) to require renewals of MMDs and CORs. Although the final rules for chemical testing and terms of validity both deal with the issuance and renewal of merchant mariner's credentials, separate dockets were maintained for ease of review by the public.

Discussion of Comments and Changes

Seven letters were received in response to the NPRM. The Coast Guard has reviewed all of the comments and,

in some instances, revised the proposed regulations as appropriate. The comments have been grouped by issue, and are discussed as follows.

1. Inactive License Renewals Under 46 CFR 10.209(g)

The Coast Guard solicited comments on the desirability of requiring chemical testing of individuals whose licenses are renewed under 46 CFR 10.209(g) as an inactive license with a ''continuity endorsement.'' Two comments were received addressing this issue. Both comments generally supported this proposed requirement but disagreed as to when the requirement should be implemented. One comment stated that the chemical test should be required when the application for renewal is made. The other comment supports not requiring applicants for inactive credentials to undergo a chemical test for dangerous drugs until they request removal of the ''continuity endorsement'' from the credential. The Coast Guard's position is that a license being renewed ''for continuity purposes only'' is not valid for operating. Therefore, no purpose is served in requiring a chemical test when the inactive merchant mariner credential is requested. The Coast Guard will require that an applicant meet the chemical testing requirement when the applicant requests removal of the continuity endorsement from the credential.

2. Review of a Chemical Test by a Medical Officer

Under 46 CFR 16.370, which is unchanged by this final rule, individuals must have test results reviewed by a Medical Review Officer (MRO) selected by the employer or sponsoring organization. In the NPRM, the Coast Guard solicited comments on whether mariners who do not hold a maritime related job or belong to a union would have difficulty obtaining the services of an MRO to review the results of their chemical test. No comments on this issue were received. The Coast Guard's experience indicates that the Regional Examination Centers (RECs) are able to identify for applicants testing facilities that can perform the required chemical tests and provide the services of an MRO for the individuals. Therefore, the Coast Guard's position is that the services of MROs are available to those individuals who need them.

3. Definitions

One comment pointed out that the term ''fails a chemical test for dangerous drugs'' is defined in 46 CFR part 16 but not included in parts 10 and 12. The final rule revises the definition of ''fails a chemical test for dangerous drugs'' to more clearly state that both the test and the review by the MRO are to be conducted in accordance with 49 CFR part 40, and adds the term to the definitions section in parts 10 and 12.

4. Other Comments

The other comments received were general in nature and supported this Coast Guard rulemaking effort.

5. Additional Changes

On September 27, 1994, the Coast Guard published a final rule entitled ''Five-year Term of Validity for Certificates of Registry and Merchant Mariner's Documents'' (CGD 91–211) in the **Federal Register** (59 FR 49294). That final rule includes a provision to permit renewal of MMDs with qualified ratings ''for continuity purposes only.'' This provision follows the same procedures as the renewal policy for license holders. Therefore, although not in the NPRM, this rule provides that holders of merchant mariner credentials applying for a continuity endorsement will not be required to have a chemical test for dangerous drugs until they request removal of the continuity endorsement from their merchant mariner credential.

The NPRM stated that pilots who must undergo an annual physical examination and who are not excepted from taking a chemical drug test as part of their annual physical would be required to provide the chemical test results to the REC where their license was last renewed. The NPRM did not specify when to provide the test results to the REC. The final rule clarifies the language of this requirement to provide the chemical test results to the Coast Guard whenever the pilot's physical examination results would be required under 46 CFR part 10.

The final rule adds the rating of lifeboatman to the list of MMD endorsements requiring a chemical test. This MMD rating has previously not required a chemical test for dangerous drugs because a physical examination has not been required. The Coast Guard, however, has determined that this is a position of authority and that a chemical test should be required. A chemical test is required for renewal of an MMD with this endorsement. Therefore a test should be required for the issuance of this endorsement, as it is for other MMD qualified ratings.

Assessment

This rulemaking is a significant regulatory action under section 3(f) of Executive Order 12866 and has been reviewed by the Office of Management and Budget under that order. It requires an assessment of potential costs and benefits under section 6(a)(3) of that order. It is significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11040; February 26, 1979) because of the controversy surrounding chemical testing, substantial public interest, and the potential for litigation. A final assessment has been prepared for this rulemaking and is available in the docket (CGD 91–223) for inspection or copying where indicated under **ADDRESSES.** The following information is taken from the Assessment.

Costs to Government

Federal Government costs attributable to implementation of these regulations will be incurred by the 17 Coast Guard RECs. Each applicant is responsible for submitting chemical test results verified by an MRO during the ''evaluation'' phase of the merchant mariner credential transaction. The additional costs, for the ''evaluation'' phase, associated with receiving and handling test results on applicants for merchant mariner credentials will be minimal. The costs incurred as a result of this regulation are a relatively small percentage of the total costs of the ''evaluation'' phase, and do not warrant revision of the current fees for evaluation related to MMD, COR or licensing transactions.

Costs to Public and Respondents

Firms in the maritime industry and some individual respondents (applicants) will bear the incremental costs of this regulation. These costs are addressed in the Assessment.

The cost projections assume that holders of MMDs will not apply for renewals and endorsements at the same time, and that holders of licenses will not apply for renewals and raises in grade at the same time. This approach guards against underestimating costs. However, the projections further assume that holders of licenses who also hold MMDs will renew licenses and MMDs together, and that the few holders of CORs and MMDs will apply for and renew CORs and MMDs together. The cost projections were adjusted to reflect the percentage of merchant mariners that will not have to take a chemical test for the documentation transaction because they already participate in a random chemical testing program for dangerous drugs or they have passed a chemical test within the previous 185 days. Computations show that this regulation would subject an estimated additional 7,258 applicants for credentials each year to chemical testing for dangerous drugs. The cost for each

applicant will be approximately $60, and the total annual incremental cost to the public will be approximately $439,000.

Benefits

The dollar value of direct and societal benefits derived from the regulation are not quantifiable, but may be substantial.

According to a 1987 report published by the National Institute of Drug Abuse, drug-free individuals—

(a) Suffer fewer accidents;

(b) File fewer workers' compensation claims;

(c) Use less sick leave; and

(d) Experience lower medical cost than drug users.

Historical data is insufficient to quantify benefits. However, should the results of this regulation manage to save even one life per year at $2.6 million per statistical life saved (which recent research shows is a reasonable estimate of people's willingness-to-pay for safety), its benefits would exceed its costs. If maritime accidents were reduced even by a small percentage, savings would accrue to the maritime industry through lower vessel repairs and medical costs and to the public through environmental protection.

Small Entities

The costs to small entities will not be significant because the costs of the additional chemical testing for dangerous drugs will be borne primarily by maritime firms and some individual applicants. The approximate cost for each applicant will be about $60. The Coast Guard expects the impact of this regulation on small entities to be minimal. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains collection-of-information requirements. The Coast Guard has submitted the requirements to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), and OMB has approved them. The section numbers are §§ 10.201, 10.202, 10.205, 10.207, 10.209, 10.805, 12.02–9, 12.02–27, and 16.220. The corresponding OMB Control Number was formerly 2115–0574; it has been consolidated into 2115–0003.

Federalism

The Coast Guard has analyzed these regulations under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under paragraph 2.B.2 of Commandant Instruction M16475.1B, the regulations are categorically excluded from further environmental documentation. Section 2.B.2.1 of that instruction excludes administrative actions and procedural regulations and policies which clearly do not have any environmental impacts. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects

46 CFR Part 10

Fees, Reporting and recordkeeping requirements, Schools, Seamen.

46 CFR Part 12

Fees, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 16

Drug testing, Marine safety, Reporting and recordkeeping requirements, Safety, Transportation.

For the reasons set out in the preamble, the Coast Guard amends 46 CFR parts 10, 12, and 16 as follows:

PART 10—LICENSING OF MARITIME PERSONNEL

1. The authority citation for part 10 is revised to read as follows:

Authority: 31 U.S.C. 9701, 46 U.S.C. 2101, 2103, 7101, 7106, 7107; 49 CFR 1.45, 1.46; section 10.107 is also issued under the authority of 44 U.S.C. 3507.

2. Section 10.103 is amended by adding ''fails a chemical test for dangerous drugs'' and ''passes a chemical test for dangerous drugs'' in alphabetical order to the list of definitions to read as follows:

§ 10.103 Definitions of terms used in this part.

* * * * *

Fails a chemical test for dangerous drugs means that the result of a chemical test conducted in accordance with 49 CFR part 40 is reported as ''positive'' for the presence of dangerous drugs or drug metabolites in an individual's system by a Medical Review Officer in accordance with that part.

* * * * *

Passes a chemical test for dangerous drugs means the result of a chemical test conducted in accordance with 49 CFR part 40 is reported as ''negative'' by a Medical Review Officer in accordance with that part.

* * * * *

3. In section 10.201, paragraph (a) is revised to read as follows:

§ 10.201 Eligibility for licenses and certificates of registry, general.

(a) In order to receive a license or certificate of registry, each applicant shall establish to the satisfaction of the Officer in Charge, Marine Inspection (OCMI), that he or she meets all the qualifications (respecting age, experience, training, citizenship, character references, recommendations, physical health, chemical testing for dangerous drugs, and professional competence) required by this part before the OCMI issues a license or certificate of registry.

* * * * *

4. Section 10.202 is amended by revising the section heading and adding paragraph (i) to read as follows:

§ 10.202 Issuance of licenses and certificates of registry.

* * * * *

(i) To obtain an original issuance or a renewal of a license or a certificate of registry, a raise in grade of a license, or a higher grade of certificate of registry each applicant shall produce evidence of having passed a chemical test for dangerous drugs or of qualifying for an exception from testing in § 16.220 of this subchapter. An applicant who fails a chemical test for dangerous drugs will not be issued a license or certificate of registry.

5. Section 10.205 is amended by adding paragraph (j) to read as follows:

§ 10.205 Requirements for original licenses and certificates of registry.

* * * * *

(j) *Chemical testing for dangerous drugs.* To obtain a license or certificate of registry each applicant shall produce evidence of having passed a chemical test for dangerous drugs or of qualifying for an exception from testing in § 16.220 of this subchapter. An applicant who fails a chemical test for dangerous drugs will not be issued a license or certificate of registry.

6. Section 10.207 is amended by adding paragraph (g) to read as follows:

§ 10.207 Requirements for raise of grade of license.

* * * * *

(g) *Chemical testing for dangerous drugs.* To obtain a raise of grade of a license each applicant shall produce evidence of having passed a chemical

test for dangerous drugs or of qualifying for an exception from testing in § 16.220 of this subchapter.

7. Section 10.209 is amended by revising paragraph (g)(1) and by adding a new paragraph (h) to read as follows:

§ 10.209 Requirements for renewal of licenses and certificates of registry.

* * * * *

(g) * * *

(1) Applicants for renewal of licenses who are unwilling or otherwise unable to meet the requirements of paragraphs (c) or (d) of this section may renew their licenses, with the following restrictive endorsement placed on the back of the license: ''License renewed for continuity purposes only; service under the authority of this license is prohibited.'' Holders of licenses with this *continuity endorsement* may have the prohibition rescinded at any time by satisfying the renewal requirements in paragraphs (c), (d), and (h) of this section.

* * * * *

(h) *Chemical testing for dangerous drugs.* Except for applicants requesting an inactive license renewal under paragraph (g) of this section, each applicant for the renewal of a license or of a certificate of registry shall produce evidence of having passed a chemical test for dangerous drugs or of qualifying for an exception from testing in § 16.220 of this subchapter. An applicant who fails a chemical test for dangerous drugs will not be issued a license or certificate of registry.

8. Section 10.805 is amended by adding paragraph (g) to read as follows:

§ 10.805 General requirements.

* * * * *

(g) Each applicant for an original certificate of registry or a higher grade of certificate of registry, as described by paragraph (c) of this section, shall produce evidence of having passed a chemical test for dangerous drugs or of qualifying for an exception from testing in § 16.220 of this subchapter. An applicant who fails a chemical test for dangerous drugs will not be issued a certificate of registry.

PART 12—CERTIFICATION OF SEAMEN

9. The authority citation for part 12 is revised to read as follows:

Authority: 31 U.S.C. 9701, 46 U.S.C. 2101, 2103, 2110, 7301, 7302; 49 CFR 1.46.

10. Section 12.01–6 is amended by adding in alphabetical order ''fails a chemical test for dangerous drugs'' and ''passes a chemical test for dangerous drugs'' to the list of definitions to read as follows:

§ 12.01–6 Definitions of terms used in this part.

* * * * *

Fails a chemical test for dangerous drugs means that the result of a chemical test conducted in accordance with 49 CFR part 40 is reported as ''positive'' for the presence of dangerous drugs or drug metabolites in an individual's system by a Medical Review Officer in accordance with that part.

* * * * *

Passes a chemical test for dangerous drugs means the result of a chemical test conducted in accordance with 49 CFR part 40 is reported as ''negative'' by a Medical Review Officer in accordance with that part.

* * * * *

11. Section 12.02–4 is amended by adding paragraph (c) to read as follows:

§ 12.02–4 Basis for denial of documents.

* * * * *

(c) An applicant who fails a chemical test for dangerous drugs required by § 12.02–9 will not be issued a merchant mariner's document.

12. Section 12.02–9 is amended by adding paragraph (f) to read as follows:

§ 12.02–9 Application for documents.

* * * * *

(f) Except for applicants requesting an inactive merchant mariner's document renewal under § 12.02–27(g) of this part, to obtain an original issuance of a merchant mariner's document, the first endorsement as an able seaman, lifeboatman, qualified member of the engine department, or tankerman, or a reissuance of a merchant mariner's document with a new expiration date, each applicant shall present evidence of having passed a chemical test for dangerous drugs or of qualifying for an exception from testing in § 16.220 of this subchapter.

13. Section 12.02–27 is amended by revising paragraph (g)(1) to read as follows:

§ 12.02–27 Requirements for renewal of merchant mariner's documents.

* * * * *

(g) * * *

(1) Applicants for renewal of merchant mariner's documents that are endorsed with qualified ratings, who are unwilling or otherwise unable to meet the requirements of paragraphs (c) or (d) of this section may renew the merchant mariner's document, with the following restrictive endorsement placed on the document: ''Continuity only; service under document prohibited.'' Holders of merchant mariner's documents with this *continuity endorsement* may have the prohibition rescinded at any time by satisfying the renewal requirements in paragraphs (c) and (d) of this section and § 12.02–9(f) of this part.

* * * * *

PART 16—CHEMICAL TESTING

14. The authority citation for part 16 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 7101, 7301, and 7701; 49 CFR 1.46.

15. Section 16.105 is amended by revising the definitions of ''dangerous drug'' and ''fails a chemical test for dangerous drugs'', and by adding in alphabetical order the definition ''passes a chemical test for dangerous drugs'' to read as follows:

§ 16.105 Definitions of terms used in this part.

* * * * *

Dangerous drug means a narcotic drug, a controlled substance, or a controlled-substance analog (as defined in section 102 of the Comprehensive Drug Abuse and Control Act of 1970 (21 U.S.C. 802)).

* * * * *

Fails a chemical test for dangerous drugs means that the result of a chemical test conducted in accordance with 49 CFR part 40 is reported as ''positive'' for the presence of dangerous drugs or drug metabolites in an individual's system by a Medical Review Officer in accordance with that part.

* * * * *

Passes a chemical test for dangerous drugs means the result of a chemical test conducted in accordance with 49 CFR part 40 is reported as ''negative'' by a Medical Review Officer in accordance with that part.

* * * * *

16. Section 16.220 is revised to read as follows:

§ 16.220 Periodic testing requirements.

(a) Except as provided by paragraph (c) of this section, and §§ 10.209(h) and 12.02–9(f) of this subchapter, an applicant for an original issuance or a renewal of a license or a certificate of registry (COR), a raise in grade of a license, a higher grade of COR, an original issuance of a merchant mariner's document (MMD), the first endorsement as an able seaman, lifeboatman, qualified member of the engine department, or tankerman, or a reissuance of an MMD with a new expiration date shall be required to pass a chemical test for dangerous drugs. The applicant shall provide the results of the test to the Coast Guard Regional

Examination Center (REC) at the time of submitting an application. The test results must be completed and dated not more than 185 days prior to submission of the application.

(b) Unless excepted under paragraph (c) of this section, each pilot required by this subchapter to receive an annual physical examination must pass a chemical test for dangerous drugs as a part of that examination. The individual shall provide the results of each test required by this section to the REC when the pilot applies for a license renewal or when requested by the Coast Guard.

(c) An applicant need not submit evidence of passing a chemical test for dangerous drugs required by paragraph (a) or (b) of this section if he or she provides satisfactory evidence that he or she has—

(1) Passed a chemical test for dangerous drugs required by this part within the previous six months with no subsequent positive chemical tests during the remainder of the 6-month period; or

(2) During the previous 185 days been subject to a random testing program required by § 16.230 for at least 60 days and did not fail or refuse to participate in a chemical test for dangerous drugs required by this part.

(d) Except as provided by paragraph (b) of this section, an applicant is required to provide the results of only one chemical test for dangerous drugs when multiple transactions are covered by or requested in a single application.

17. Section 16.260(b)(1) is revised to read as follows:

§ 16.260 Records.

* * * * *

(b) * * *

(1) Satisfy the requirements of §§ 16.210(b) and 16.220(c) of this part.

* * * * *

Dated: January 17, 1995.

Robert E. Kramek,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 95–1626 Filed 1–20–95; 8:45 am]

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*425–699	(869–022–00153–1)	30.00	July 1, 1994
700–789	(869–022–00154–0)	28.00	July 1, 1994
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1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
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*200–499	(869–022–00178–7)	21.00	Oct. 1, 1994
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*1200–End	(869–022–00199–0)	15.00	Oct. 1, 1994
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1994. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments to this volume were promulgated during the period July 1, 1991 to June 30, 1994. The CFR volume issued July 1, 1991, should be retained.

[6] No amendments to this volume were promulgated during the period January 1, 1993 to December 31, 1993. The CFR volume issued January 1, 1993, should be retained.