1–30–95
Vol. 60 No. 19
Pages 5559–5834

federal register

Monday
January 30, 1995

Briefings on How To Use the Federal Register
For information on briefings in Washington, DC, and Dallas, TX, see announcement on the inside cover of this issue.

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

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

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

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

The annual subscription price for the **Federal Register** paper edition is $494, or $544 for a combined **Federal Register**, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $433. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $8.00 for each issue, or $8.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA or MasterCard. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

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

How To Cite This Publication: Use the volume number and the page number. Example: 60 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**512–1806**

Online:

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

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

Single copies/back copies:

Paper or fiche	**512–1800**
Assistance with public single copies	**512–1803**

FEDERAL AGENCIES

Subscriptions:

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

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

THE FEDERAL REGISTER

WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

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

WASHINGTON, DC

(TWO BRIEFINGS)

WHEN: February 15 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

DALLAS, TX

WHEN: March 30 at 9:00 am
WHERE: Conference Room 7A23
Earle Cabell Federal Building and Courthouse
1100 Commerce Street
Dallas, TX 75242
RESERVATIONS: 1–800–366–2998

Contents

Federal Register

Vol. 60, No. 19

Monday, January 30, 1995

Separate Parts In This Issue

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. 19
Monday, January 30, 1995

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 966

[Docket No. FV94–966–3FR]

Tomatoes Grown in Florida; Reapportionment of Membership on the Florida Tomato Committee

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule reapportions producer membership on the 12-member Florida Tomato Committee (Committee) established under the Federal marketing order regulating the handling of tomatoes grown in Florida. For the purposes of membership, the production area is divided into four geographic districts. The membership in District 1 will be reduced from three to two members and the membership in District 3 will be increased from three members to four members. This reapportionment reflects shifts in acreage within the districts and shipments from the districts in recent years, and provides for more equitable representation on the Committee. This action was unanimously recommended by the Committee, which is responsible for local administration of the marketing order.

EFFECTIVE DATE: This final rule becomes effective on March 1, 1995.

FOR FURTHER INFORMATION CONTACT: Aleck Jonas, Marketing Specialist, Southeast Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883–2276; (813) 299–4770 or FAX (813) 299–5169; or Shoshana Avrishon, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Room 2523–S., P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–3610, or FAX (202) 720–5698.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 966 (7 CFR part 966), both as amended, regulating the handling of tomatoes grown in Florida, hereinafter referred to as the ''order''. The order is authorized by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act''.

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

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

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

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

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

There are approximately 75 handlers of Florida tomatoes subject to regulation under the marketing order and approximately 250 producers in the production area. Small agricultural service firms, including tomato handlers, are defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts are less than $5,000,000, and small agricultural producers have been defined as those having annual receipts of less than $500,000. The majority of the tomato handlers and producers may be classified as small entities.

On September 8, 1994, the Committee met to discuss, among other issues, Committee representation among the four production area districts, and to determine whether any changes were warranted to foster more equitable representation.

Section 966.22 of the order establishes a Committee consisting of 12 producer members. Each member has an alternate. Each person selected as a Committee member and alternate is required to be a producer, or an officer or employee of a corporate producer, in the district for which selected and a resident of the production area. The four districts in the production area are defined in § 966.24.

Prior to this final rule, section 966.161 of the rules and regulations provided for representation among the four districts as follows: (a) District 1—three members and alternates; (b) District 2—two members and alternates, (c) District 3—three members and alternates, and (d) District 4—four members and alternates.

Section 966.25 provides that the Committee may recommend and the Secretary may approve, the reapportionment of members among districts within the production area. In recommending any such changes, the Committee is required to give consideration to various factors, including shifts in tomato acreage within districts during recent years, and the equitable relationship of committee membership and districts.

Prior to this final rule, District 1 had 25 percent of the Committee representatives but produced only 12 percent of the production. District 3 had 25 percent of the Committee representatives but produced 39 percent

of production on 44 percent of the harvested acres.

This final rule provides more equitable representation by transferring one member and one alternate member position from District 1 to District 3. District 1 is reduced to 2 members and alternates (17 percent representation and 12 percent of the production) while District 3 is increased to 4 members and alternates (33 percent representation and 39 percent of production). Districts 2 and 4 continue to be represented by 2 and 4 members and alternates, respectively.

To implement the recommended reapportionment for Districts 1 and 3, paragraphs (a) and (c) of § 966.161 of Subpart—Rules and Regulations (7 CFR 966.100 to 966.323) is revised accordingly.

This final rule provides for equitable and balanced representation on the Committee, and will not impose additional costs on growers and handlers.

Notice of action was published in the **Federal Register** on November 29, 1994 (59 FR 60919). The proposed rule provided a 30-day comment period which ended December 29, 1994. One comment supporting this action was received.

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

After consideration of all relevant information presented, including the committee's unanimous recommendation and other information, it is found that this final rule will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 966

Marketing agreements, Reporting and recordkeeping requirements, Tomatoes.

For the reasons set forth in the preamble, 7 CFR part 966 is amended as follows:

PART 966—TOMATOES GROWN IN FLORIDA

1. The authority citation for 7 CFR part 966 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 966.161 is amended by revising paragraphs (a) and (c) to read as follows:

§ 966.161 [Amended]

* * * * *

(a) District 1—two members and their alternates.

(b) * * *

(c) District 3—four members and their alternates.

* * * * *

Dated: January 24, 1995.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 95–2216 Filed 1–27–95; 8:45 am]

BILLING CODE 3410–02–P

---

7 CFR Part 979

[Docket No. FV94–979–1IFR; Amendment 1]

Melons Grown in South Texas; Increased Expenses and Establishment of Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amended interim final rule with request for comments.

SUMMARY: This interim final rule amends a previous interim final rule which authorized administrative expenses for the South Texas Melon Committee (Committee) under M.O. No. 979. This interim final rule increases the level of authorized expenses and establishes an assessment rate to generate funds to pay those expenses. Authorization of this increased budget enables the Committee to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

DATES: Effective October 1, 1994, through September 30, 1995. Comments received by March 1, 1995, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this action. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, FAX 202–720–5698. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Martha Sue Clark, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, telephone 202–720–9918, or Belinda G. Garza, McAllen Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 1313 East Hackberry, McAllen, TX 78501, telephone 210–682–2833.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 156 and Order No. 979 (7 CFR part 979), regulating the handling of melons grown in South Texas. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

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

This interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order provisions now in effect, South Texas melons are subject to assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable melons handled during the 1994–95 fiscal period, which began October 1, 1994, and ends September 30, 1995. This interim final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

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

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

There are approximately 40 producers of South Texas melons under this

marketing order, and approximately 19 handlers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of South Texas melon producers and handlers may be classified as small entities.

The budget of expenses for the 1994–95 fiscal period was prepared by the South Texas Melon Committee, the agency responsible for local administration of the marketing order, and submitted to the Department of Agriculture for approval. The members of the Committee are producers and handlers of South Texas melons. They are familiar with the Committee's needs and with the costs of goods and services in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of South Texas melons. Because that rate will be applied to actual shipments, it must be established at a rate that will provide sufficient income to pay the Committee's expenses.

Committee administrative expenses of $207,500 for personnel, office, and compliance expenses were recommended in a mail vote. The assessment rate and funding for the research projects were to be recommended at a later Committee meeting. The Committee administrative expenses of $207,500 were published in the **Federal Register** as an interim final rule November 15, 1994 (59 FR 58760). That interim final rule added § 979.217, authorizing expenses for the Committee, and provided that interested persons could file comments through December 15, 1994. No comments were filed.

The Committee subsequently met on December 13, 1994, and unanimously recommended an increase of $9,700 for administrative expenses, plus $158,426 in research expenses, for a total budget of $375,626. Budget items for 1994–95 which have increased compared to those budgeted for 1993–94 (in parentheses) are: Office salaries, $22,000 ($15,600), insurance, $6,250 ($5,250), accounting and audit, $2,600 ($2,300), rent and utilities, $6,000 ($4,000), disease management programs, $86,716 ($82,000), melon breeding and cultivar development, $43,824 ($23,118), and variety evaluation, $9,186 ($8,460). Items which have decreased compared to the amount budgeted for 1993–94 (in parentheses) are: Insect management programs, $18,700 ($34,390), and $3,823 for cultural practices for which no funding was recommended this year. All other items are budgeted at last year's amounts.

The initial 1994–95 budget, published on November 15, 1994, did not establish an assessment rate. Therefore, the Committee also unanimously recommended an assessment rate of $0.07 per carton. This rate, when applied to anticipated shipments of approximately 45,000 cartons, will yield $315,000 in assessment income, which, along with $60,626 from the reserve, will be adequate to cover budgeted expenses. Funds in the reserve as of November 30, 1994, were $367,369, which is within the maximum permitted by the order of two fiscal periods' expenses.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including the information and recommendations submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the fiscal period began on October 1, 1994, and the marketing order requires that the rate of assessment for the fiscal period apply to all assessable melons handled during the fiscal period; (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to that taken for the 1993–94 fiscal period; and (4) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this action.

List of Subjects in 7 CFR Part 979

Marketing agreements, Melons, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 979 is amended as follows:

PART 979—MELONS GROWN IN SOUTH TEXAS

1. The authority citation for 7 CFR part 979 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 979.217 is revised to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§ 979.217 Expenses and assessment rate.

Expenses of $375,626 by the South Texas Melon Committee are authorized and an assessment rate of $0.07 per carton is established for the fiscal period ending September 30, 1995. Unexpended funds may be carried over as a reserve.

Dated: January 24, 1995.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 95–2215 Filed 1–27–95; 8:45 am]

BILLING CODE 3410–02–P

---

7 CFR Part 982

[Docket No. FV94–982–3IFR]

Filberts/Hazelnuts Grown in Oregon and Washington; Establishment of Interim and Final Free and Retricted Percentages for the 1994–95 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule establishes interim and final free and restricted percentages for domestic inshell filberts/hazelnuts for the 1994–95 marketing year under the Federal marketing order for filberts/hazelnuts grown in Oregon and Washington. The percentages allocate the amounts of domestically produced filberts/hazelnuts which may be marketed in domestic, export, and other outlets. The percentages are intended to stabilize the supply of domestic inshell filberts/hazelnuts in order to meet the limited domestic demand for such filberts/hazelnuts and provide reasonable returns to producers. This rule was

recommended by the Filbert/Hazelnut Marketing Board (Board), which is the agency responsible for local administration of the order.

DATES: Effective July 1, 1994 through June 30, 1995. Comments which are received by March 1, 1995 will be considered prior to any finalization of the interim final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456. Three copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours. All comments should reference the docket number, date, and page number of this issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Teresa L. Hutchinson, Marketing Specialist, Northwest Marketing Field Office, Fruit and Vegetable Division, Agricultural Marketing Service, USDA, 1220 SW Third Ave., Room 369, Portland, OR 97204; telephone (503) 326–2725 or Mark A. Slupek, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Room 2536–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 205–2830.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 982 [7 CFR part 982], both as amended, regulating the handling of filberts/hazelnuts grown in Oregon and Washington. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–674], hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is intended that this action apply to all merchantable filberts/hazelnuts handled during the 1994–95 marketing year. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

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

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

There are approximately 1,000 producers of filberts/hazelnuts in the production area and approximately 25 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.601] as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of handlers and producers of filberts/hazelnuts may be classified as small entities.

The Board's recommendation and this interim final rule are based on requirements specified in the order. This rule establishes the amount of inshell filberts/hazelnuts that may be marketed in domestic markets. The domestic outlets for this commodity are characterized by limited demand, and the establishment of interim and final free and restricted percentages will benefit the industry by promoting stronger marketing conditions and stabilizing prices and supplies, thus improving grower returns.

The Board is required to meet prior to September 20 of each marketing year to compute an inshell trade demand and preliminary free and restricted percentages, if the use of volume regulation is recommended during the season. The order prescribes formulas for computing the inshell trade demand, as well as preliminary, interim final, and final percentages. The inshell trade demand establishes the amount of inshell filberts/hazelnuts the handlers may ship to the domestic market throughout the season, and the percentages release the volume of filberts/hazelnuts necessary to meet the inshell trade demand. The preliminary percentages provide for the release of 80 percent of the inshell trade demand. The interim final percentages release 100 percent of the inshell trade demand. The inshell trade demand equals the average of the preceding three ''normal'' years' trade acquisitions of inshell filberts/hazelnuts, rounded to the nearest whole number. The Board may increase such figure by no more than 25 percent, if market conditions warrant such an increase. The final free and restricted percentages release an additional 15 percent of the average of the preceding three years' trade acquisitions of inshell filberts/hazelnuts for desirable carryout.

The preliminary free and restricted percentages make available portions of the filbert/hazelnut crop which may be marketed in domestic inshell markets (free) and exported, shelled, or otherwise disposed of (restricted) early in the 1994–95 season. The preliminary free percentage is expressed as a percentage of the total supply subject to regulation and is based on preliminary crop estimates. The majority of domestic inshell filberts/hazelnuts are marketed in October, November, and December. By November, the marketing season is well under way.

At its August 25, 1994, meeting, the Board computed and announced preliminary free and restricted percentages of 16 percent and 84 percent, respectively, to release 80 percent of the inshell trade demand. The purpose of releasing only 80 percent of the inshell trade demand under the preliminary percentage was to guard against underestimates of crop size. The preliminary free percentage released 3,020 tons of filberts/hazelnuts from the 1994 crop for domestic inshell use. The preliminary restricted percentage is 100 percent minus the free percentage.

On or before November 15, the Board must meet again to recommend interim final and final percentages. The Board uses current crop estimates to calculate the interim final and final percentages. The interim final percentages are calculated in the same way as the preliminary percentages and release 100 percent of the inshell trade demand previously computed by the Board for

the marketing year. Final free and restricted percentages release an additional 15 percent of the average of the preceding three years' trade acquisitions to provide an adequate carryover into the following season. The final free and restricted percentages must be effective at least 30 days prior to the end of the marketing year (July 1 through June 30), or earlier, if recommended by the Board and approved by the Secretary. In addition, revisions in the marketing policy can be made until February 15 of each marketing year. However, the inshell trade demand can only be revised upward.

In accordance with order provisions, the Board met on November 8, 1994, reviewed and approved an amended marketing policy and recommended the establishment of interim final and final free and restricted percentages. Interim final percentages were recommended at 19 percent free and 81 percent restricted, and final free and restricted percentages were recommended at 23 percent and 77 percent, respectively. The interim final percentages make an additional 208 tons of inshell filberts/hazelnuts available for the domestic inshell market. The interim final marketing percentages are based on the industry's final production estimates and release 3,775 tons to the domestic inshell market from the 1994 supply subject to regulation. The final marketing percentages release an additional 626 tons from the 1994 crop for domestic use. Thus, a total of 4,401 tons of inshell filberts/hazelnuts will be available from the 1994 supply subject to regulation for domestic use when the final percentages are established. The Oregon Agricultural Statistics Service (OASS) provided an early estimate of 19,000 tons total filbert/hazelnut production for the Oregon and Washington area. The Board unanimously voted to accept the OASS estimate of 19,000 tons.

The Board determined that the inshell domestic market conditions would allow more supply without depressing the market and recommended immediate release of the additional 15 percent (the final percentages). The Board believed that the immediate release of filberts/hazelnuts by the final percentages would benefit the industry with increased returns to growers and more inshell filberts/hazelnuts available for consumers.

The marketing order also requires that, procedurally, the Board recommend interim final and final percentages. Therefore, the interim final percentages were recommended even though they will not be utilized this marketing season.

The marketing percentages are based on the Board's production estimates and the following supply and demand information for the 1994–95 marketing year:

	Tons
Inshell Supply	
(1) Total production (OASS estimate)	19,000
(2) Less substandard, farm use (disappearance)	1,083
(3) Merchantable production (the Board's adjusted crop estimate)	17,917
(4) Plus undeclared carryin as of July 1, 1994, subject to regulation	1,527
(5) Supply subject to regulation (Item 3 plus Item 4)	19,444
Inshell Trade Demand	
(6) Average trade acquisitions of inshell filberts/hazelnuts for three prior years	4,170
(7) Increase to encourage increased sales (5 percent of Item 6)	208
(8) Less declared carryin as of July 1, 1994, not subject to regulation	603
(9) Adjusted Inshell Trade Demand	3,775
(10) 15 percent of the average trade acquisitions of inshell filberts/hazelnuts for three prior years (Item 6)	626
(11) Adjusted Inshell Trade Demand plus 15 percent for carryout (Item 9 plus Item 10)	4,401

Percentages	Free	Restricted
(12) Interim final percentages (Item 9 divided by Item 5)×100	19	81
(13) Final percentages (Item 11 divided by Item 5)×100	23	77

In addition to complying with the provisions of the marketing order, the Board also considers the Department's 1982 ''Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders'' (Guidelines) when making its computations in the marketing policy. This volume control regulation provides a method to collectively limit the supply of inshell filberts/hazelnuts available for sale in domestic markets. The Guidelines provide that the domestic inshell market have available a quantity equal to 110 percent of prior years' shipments in those outlets before secondary market allocations are approved. This provides for plentiful supplies for consumers and for market expansion while retaining the mechanism for dealing with oversupply situations. At its August 25, 1994, meeting, the Board recommended that an increase of 5 percent (208 tons) for market expansion be included in the inshell trade demand. The established final percentages, which release 100 percent of the inshell trade demand, will make available 4,401 tons from the 1994 crop plus 603 tons of declared carryin which is 120 percent of prior years' sales, thus exceeding the goal of the Guidelines.

Based on the above, the Administrator of the AMS has determined that this interim final rule will not have a significant economic impact on a substantial number of small entities. Written comments, timely received in response to this action, will be considered before finalization of this rule.

After consideration of all available information, it is found that the establishment of interim final and final free and restricted percentages, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined, upon good cause, that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) The 1994–95 marketing year began July 1, 1994, and the percentages established herein apply to all merchantable filberts/hazelnuts handled from the beginning of the crop year; (2) handlers are aware of this rule,

which was recommended at an open Board meeting, and need no additional time to comply with this rule; and (3) interested persons are provided a 30-day comment period in which to respond. All comments timely received will be considered prior to finalization of this action.

List of Subjects in 7 CFR Part 982

Filberts, Hazelnuts, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 982 is amended as follows:

PART 982—FILBERTS/HAZELNUTS GROWN IN OREGON AND WASHINGTON

1. The authority citation for 7 CFR part 982 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 982.243 is added to read as follows:

Note: This section will not be published in the annual Code of Federal Regulations.

§ 982.243 Free and restricted percentages—1994–95 marketing year.

(a) The interim final free and restricted percentages for merchantable filberts/hazelnuts for the 1994–95 marketing year shall be 19 and 81 percent, respectively.

(b) The final free and restricted percentages for merchantable filberts/hazelnuts for the 1994–95 marketing year shall be 23 and 77 percent, respectively.

Dated: January 24, 1995.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 95–2214 Filed 1–27–95; 8:45 am]

BILLING CODE 3410–02–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 101

Administration

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This action is necessary to reflect internal changes which have occurred in the Small Business Administration (SBA). This revision will enhance SBA's ability to process Small Business Institute (SBI) Grants. The SBA is hereby revising its delegation of authority to allow District Directors to execute SBI grants up to $25,000.

EFFECTIVE DATE: January 30, 1995.

FOR FURTHER INFORMATION CONTACT: Sharon Gurley, Director, Office of Procurement and Grants Management, 202/206–6622.

List of Subjects in 13 CFR Part 101

Administration.

For the reasons set forth above, part 101 of title 13, Code of Federal Regulations (CFR), is amended as follows.

PART 101—ADMINISTRATION

1. The Authority citation for Part 101 continues to read as follows:

Authority: Secs. 4 and 5, Pub. L. 85–536, 72 Stat, 384 and 385 (15 U.S.C. 633 and 634, as amended); sec. 308, Pub. L. 85–699, 72 Stat. 694 (15 U.S.C. 687, as amended); sec. 5(b)(11), Pub. L. 93–386 (Aug. 23, 1974); and 5 U.S.C. 552.

2. Part X of Section 101.3–2 is amended by adding a new paragraph 3 to read as follows:

§ 101.3–2 Delegations of authority to conduct program activities in field offices.

* * * * *

Part X—Administrative

* * * * *

3. To execute Small Business Institute Grants authorized by the Small Business Act and in accordance with applicable regulations and OMB Circulars. This authority is non-delegable.

District Directors.....Up to $25,000

Dated: January 23, 1995.

Philip Lader,

Administrator.

[FR Doc. 95–2147 Filed 1–27–95; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–NM–248–AD; Amendment 39–9125; AD 95–01–51]

Airworthiness Directives; Airbus Model A300, A300–600, A310, A330, and A340 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) T95–01–51 that was sent previously to all known U.S. owners and operators of Airbus Model A300, A300–600, A310, A330, and A340 series airplanes by individual telegrams. This AD requires an inspection of the sliding side windows in the cockpit to identify the part number of the windows. For airplanes on which a certain suspect window is installed, this AD requires either deactivation of the sliding window defogging system; or installation of thermo-sensitive indicators, daily inspections of those indicators, and deactivation of the defogging system, if necessary; or replacement of the window with a serviceable window. This amendment is prompted by reports of fracture of the sliding side window in the cockpit, due to thermal stress created by overheating of the wires of the heating element in a localized area. The actions specified by this AD are intended to prevent such fractures, which could lead to rupture of a cockpit sliding window and subsequent rapid decompression of the fuselage.

DATES: Effective February 14, 1995, to all persons except those persons to whom it was made immediately effective by telegraphic AD T95–01–51, issued December 29, 1994, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 14, 1995.

Comments for inclusion in the Rules Docket must be received on or before March 31, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–248–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The applicable service information may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Stephen Slotte, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2797; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION: On December 29, 1994, the FAA issued telegraphic AD T95–01–51, applicable to all Airbus Model A300, A300–600,

A310, A330, and A340 series airplanes, which requires an inspection of the sliding side windows in the cockpit to identify the part number of the windows. For airplanes on which a certain suspect window is installed, this AD also requires either deactivation of the sliding window defogging system; or installation of thermo-sensitive indicators, daily inspections of those indicators, and deactivation of the defogging system, if necessary; or replacement of the window with a serviceable window.

That action was prompted by a report indicating that, during approach for landing, the left-hand sliding side cockpit window installed on a Model A300 B4–200 series airplane fractured. Subsequently, a similar incident occurred during climb on a Model A300–600 series airplane. These windows, which were manufactured by PPG Industries, are installed on Model A300, A300–600, A310, A330, and A340 series airplanes. When these incidents occurred, the windows installed on the Model A300 B4–200 airplane had accumulated 688 hours time-in-service and 621 flight cycles; the windows installed on the Model A300–600 airplane had accumulated 460 hours time-in-service and 232 flight cycles. Subsequent investigation revealed that, in both cases, the two structural plies of the windows were fractured. However, the outer, non-structural, glass ply of the window was not affected.

Results of a failure analysis of these incidents indicated that the fractures of both structural plies occurred due to thermal stress created by overheating of the wires of the heating element in a localized area. This condition, if not corrected, could result in rupture of a cockpit sliding window and subsequent rapid decompression of the fuselage.

Airbus has issued All Operators Telex (AOT) 30–01, dated December 22, 1994, which describes procedures for an inspection of the left- and right-hand sliding side windows in the cockpit to identify the part number of the windows. For airplanes equipped with certain suspect windows manufactured by PPG Industries, the AOT also describes procedures for deactivation of the associated window defogging system; installation of thermo-sensitive indicators, daily inspections of those indicators, and deactivation of the window defogging system, if necessary; and replacement of the sliding windows with serviceable windows.

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, classified the Airbus AOT as mandatory and issued three telegraphic French airworthiness directives in order to assure the continued airworthiness of these airplanes in France. The French airworthiness directives are identified as follows:

94–283–006(B) (for Model A330 series airplanes);
94–284–014(B) (for Model A340 series airplanes); and
94–285–173(B) (for Model A300, A310, and A300–600 series airplanes).

All of these AOT's are dated December 28, 1994.

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design registered in the United States, the FAA issued Telegraphic AD T95–01–51 to prevent rupture of a cockpit sliding window and subsequent rapid decompression of the fuselage. The AD requires an inspection of the left- and right-hand sliding side windows in the cockpit to identify the part number of the windows. If a suspect window is installed, this AD requires accomplishment of one of the following actions:

1. Deactivation of the sliding window defogging system; or

2. Installation of thermo-sensitive indicators, daily inspections of those indicators, and deactivation of the defogging system, if necessary; or

3. Replacement of the window with a serviceable window. The actions are required to be accomplished in accordance with the AOT previously described.

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual telegrams issued on December 29, 1994, to all known U.S. owners and operators of Airbus Model A300, A300–600, A310, A330, and A340 series airplanes. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective as to all persons.

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 94–NM–248–AD.'' The postcard will be date stamped and returned to the commenter.

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

The FAA has determined that this regulation is an emergency regulation

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

95–01–51 Airbus Industrie: Amendment 39–9125. Docket 94–NM–248–AD.

Applicability: All Model A300, A300–600, A310, A330, and A340 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent rupture of a cockpit sliding window and subsequent rapid decompression of the fuselage, accomplish the following:

(a) Within 7 days after the effective date of this AD, perform an inspection of the left- and right-hand sliding side windows in the cockpit to identify the part number (P/N) of those windows, in accordance with paragraph 4.1 of Airbus All Operators Telex (AOT) 30–01, dated December 22, 1994.

(b) If no window manufactured by PPG Industries having P/N NP175202–1 (left-hand side) or NP175202–2 (right-hand side) is installed, no further action is required by this AD.

(c) If any window manufactured by PPG Industries having P/N NP175202–1 (left-hand side) or NP175202–2 (right-hand side) is installed, prior to further flight, accomplish either paragraph (c)(1), (c)(2), or (c)(3) of this AD in accordance with Airbus AOT 30–01, dated December 22, 1994.

(1) Deactivate the associated sliding window defogging system in accordance with the procedures specified in paragraph 4.2.2 of the AOT. The defogging system may remain deactivated until the window is replaced in accordance with paragraph (c)(3) of this AD. Or

Note 2: This AD may permit the defogging system to be deactivated for a longer time than is specified in the Master Minimum Equipment List (MMEL). In any case, the provisions of this AD prevail.

(2) Install thermo-sensitive indicators in two areas of the sliding side window (left- and right-hand sides) in accordance with the procedures specified in paragraph 4.3 of the AOT. Thereafter, perform a daily inspection of the indicators to determine if the 60-degree segment of any indicator turns from light grey to black, in accordance with the procedures specified in paragraph 4.3 of the AOT. If any indicator turns black, prior to further flight, deactivate the associated sliding window defogging system in accordance with paragraph (c)(1) of this AD. Or

(3) Replace the PPG Industries window with a serviceable window manufactured by PPG Industries or by SPS, in accordance with the procedures specified in paragraph 5.1 of the AOT. After such replacement, no further action is required by this AD.

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

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

(f) The actions shall be done in accordance with Airbus All Operators Telex 30–01, dated December 22, 1994. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on February 14, 1995 to all persons except those persons to whom it was made immediately effective by telegraphic AD T95–01–51, issued December 29, 1994, which contained the requirements of this amendment.

Issued in Renton, Washington, on January 19, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–1845 Filed 1–27–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 94–NM–236–AD; Amendment 39–9129; AD 95–02–10]

Airworthiness Directives; Boeing Model 757 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 757 series airplanes. This action requires replacement of the bolts, nuts, and washers that attach the support bracket at the Number 4 and Number 5 transmissions to the wing flap structure. This amendment is prompted by a report of damage to the left inboard trailing edge flap. The actions specified in this AD are intended to prevent these airplanes from taking off with broken bolts that attach the transmission bracket to the wing flap track structure, which could result in the airplane rolling at liftoff.

DATES: Effective February 14, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 14, 1995.

Comments for inclusion in the Rules Docket must be received on or before March 31, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–236–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Carrie Sumner, Aerospace Engineer, Airframe Branch, ANM–121S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2778; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: Recently, the FAA has received a report of damage to the left inboard trailing edge flap on the wing of a Boeing Model 757 series airplane when the flaps were retracted after the airplane had landed. Investigation revealed that six bolts on the attachment bracket of the inboard flap drive had sheared off when the flaps were retracted. Further investigation revealed that the Number 3 inboard flap outboard drive had disconnected inside the angle gear box, while the Number 4 inboard flap inboard drive continued to retract. This caused a flap skew, which applied sufficient load on the drive screw to fracture the six bolts that attach the Number 4 transmission bracket to its mating flap track. Analysis showed that those six bolts, which were made of titanium, do not meet the designed limit load. If an airplane attempts to take off with broken bolts that attach the transmission bracket to the flap track structure, the result may be the airplane rolling at liftoff.

The FAA has reviewed and approved Boeing Alert Service Bulletin 757–27A0118, dated December 15, 1994, which describes procedures for replacement of the six bolts, nuts, and washers that attach the support bracket at the Number 4 and Number 5 transmission to the inboard trailing edge flap system. The replacement bolts, nuts, and washers (kit number 012N8037) are made of Inconel 718 material, which is stronger and will sustain the designed limit load.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to prevent these airplanes from taking off with broken bolts that attach the transmission bracket to the flap track structure, which could result in the airplane rolling at liftoff. This AD requires replacement of the bolts, nuts, and washers that attach the support bracket at the Number 4 and Number 5 transmission to the inboard trailing edge flap system, with items made of Inconel 718 material. The actions are required to be accomplished in accordance with the alert service bulletin described previously.

This AD applies only to airplanes having line numbers 181 through 647, inclusive. The subject six-bolt attachment configuration was incorporated on airplanes starting at line position 181.

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 94–NM–236–AD.'' The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

95–02–10 Boeing: Amendment 39–9129. Docket 94–NM–236–AD.

Applicability: Model 757 series airplanes having line numbers 181 through 647 inclusive, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent these airplanes from taking off with broken bolts that attach the transmission bracket to the flap track structure, which could result in the airplane rolling at liftoff, accomplish the following:

(a) Within 60 days after the effective date of this AD, remove the bolts, nuts, and washers that attach the support bracket at the Number 4 and Number 5 transmission for the inboard trailing edge flap system and install kit number 012N8037, in accordance with Boeing Alert Service Bulletin 757–27A0118, dated December 15, 1994.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

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

(d) The installation shall be done in accordance with Boeing Alert Service Bulletin 757–27A0118, dated December 15, 1994. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on February 14, 1995.

Issued in Renton, Washington, on January 19, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–1850 Filed 1–27–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 94–NM–104–AD; Amendment 39–9111; AD 94–26–16]

Airworthiness Directives; British Aerospace Model Viscount 744, 745D, and 810 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all British Aerospace Model Viscount 744, 745D, and 810 series airplanes, that requires various inspections to detect damage, corrosion, or cracking of certain taper plugs and split bushings of the engine mount, and replacement of taper plugs or split bushings with serviceable parts, if necessary. This amendment is prompted by a report of damage of the taper plug and split bushing of the engine mount due to the effects of corrosion. The actions specified by this AD are intended to prevent such damage, which could lead to failure of the engine mount attachment assembly and consequent separation of the engine from the airplane.

DATES: Effective March 1, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 1, 1995.

ADDRESSES: The service information referenced in this AD may be obtained from British Aerospace Regional Aircraft Ltd., Engineering Support Manager, Military Business Unit, Chadderton Works, Greengate, Middleton, Manchester M24 1SA, England. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all British Aerospace Model Viscount 744, 745D, and 810 series airplanes was published in the **Federal Register** on September 14, 1994 (59 FR 47101). That action proposed to require detailed visual and nondestructive test (NDT) inspections to detect damage, corrosion, or cracking of certain taper plugs and split bushings of the engine mount, and replacement of discrepant parts.

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

The commenter supports the proposed rule.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been added to this final rule to clarify this requirement.

The FAA has recently reviewed the figures it has used over the past several years in calculating the economic impact of AD activity. In order to account for various inflationary costs in the airline industry, the FAA has determined that it is necessary to increase the labor rate used in these calculations from $55 per work hour to $60 per work hour. The economic impact information, below, has been revised to reflect this increase in the specified hourly labor rate.

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

The FAA estimates that 25 Model Viscount 744 and 745D series airplanes

of U.S. registry will be affected by this AD, that it will take approximately 25 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators of these airplanes is estimated to be $37,500, or $1,500 per airplane.

The FAA estimates that 4 Model Viscount 810 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 25 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators of these airplanes is estimated to be $6,000, or $1,500 per airplane.

Based on the above figures, the total cost impact of the actions proposed by this AD on U.S. operators is estimated to be $43,500, or $1,500 per airplane.

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

94–26–16 British Aerospace Regional Aircraft Limited (Formerly British Aerospace Commercial Aircraft Limited, Vickers-Armstrongs Aircraft Limited): Amendment 39–9111. Docket 94–NM–104–AD.

Applicability: All Model Viscount 744, 745D, and 810 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent separation of the engine from the airplane, accomplish the following:

(a) At the next unscheduled engine removal, but no later than 12 months after the effective date of this AD, perform a detailed visual inspection to detect damage, corrosion, or cracking of taper plugs, having part number (P/N) 60216–1017, and split bushings (bushes), having P/N 60216–1019, of the engine mount, in accordance with British Aerospace Viscount Preliminary Technical Leaflet (PTL) 200, Disc.9 Doc.5, dated December 6, 1991 (for Model Viscount 810 series airplanes); or British Aerospace Viscount PTL 329, Disc.9 Doc.2, dated April 1, 1992 (for Model Viscount 744 and 745D series airplanes); as applicable.

(1) If no taper plugs or split bushings are damaged, corroded, or cracked, repeat the inspection thereafter at each unscheduled engine removal, but no later than 48 months after the last visual inspection of the taper plugs and split bushings.

(2) If any taper plug or split bushing is damaged, corroded, or cracked, prior to further flight, replace the taper plug or split bushing with a serviceable part, in accordance with the applicable PTL. Thereafter, repeat the inspection at each unscheduled engine removal, but no later than 48 months after the last visual inspection of the taper plugs and split bushings.

(b) At the next scheduled engine removal, but no later than 12 months after the effective date of this AD, perform detailed visual and nondestructive test (NDT) inspections to detect damage, corrosion, or cracking of all taper plugs and split bushings of the engine mount, in accordance with British Aerospace Viscount PTL 200, Disc.9 Doc.5, dated December 6, 1991 (for Model Viscount 810 series airplanes); or British Aerospace Viscount PTL 329, Disc.9 Doc.2, dated April 1, 1992 (for Model Viscount 744 and 745D series airplanes); as applicable.

(1) If no taper plug or split bushing is damaged, corroded, or cracked, repeat the visual and NDT inspections thereafter at each scheduled engine removal, but no later than 48 months after the last visual and NDT inspections of the taper plugs and split bushings.

(2) If any taper plug or split bushing is damaged, corroded, or cracked, prior to further flight, replace the taper plug or split bushing with a serviceable part, in accordance with the applicable PTL. Thereafter, repeat the visual and NDT inspections at each scheduled engine removal, but no later than 48 months after the last visual and NDT inspections of the taper plugs and split bushings.

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

(e) The inspections and replacements shall be done in accordance with British Aerospace Viscount Preliminary Technical Leaflet (PTL) 200, Disc.9 Doc.5, dated December 6, 1991 (for Model Viscount 810 series airplanes); or British Aerospace Viscount PTL 329, Disc.9 Doc.2, dated April 1, 1992 (for Model Viscount 744 and 745D series airplanes); as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from British Aerospace Regional Aircraft Ltd.,

Engineering Support Manager, Military Business Unit, Chadderton Works, Greengate, Middleton, Manchester M24 1SA, England. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on March 1, 1995.

Issued in Renton, Washington, on December 21, 1994.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–2154 Filed 1–27–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 71

[Airspace Docket No. 94–AEA–06]

Modification of Class D Airspace and Establishment of Class E Airspace; Baltimore, MD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: An error was discovered in a rule that was published in the **Federal Register** on September 12, 1994, Airspace Docket No. 94–AEA–06. The description for Class E airspace at Baltimore, Martin State Airport, MD, should have contained additional exclusions for other classes of adjacent airspace. These exclusions were inadvertently omitted from the rule. This action corrects that error.

EFFECTIVE DATE: January 30, 1995.

FOR FURTHER INFORMATION CONTACT: Frank Jordan, Designated Airspace Specialist, System Management Branch, AEA–530, F.A.A. Eastern Region, Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 553–0857.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 94–21978, Airspace Docket No. 94–AEA–06, published on September 12, 1994 (59 FR 46750), modified the description of Class D airspace and established Class E airspace at Baltimore, Martin State Airport, MD. An error was discovered in the description for Class E airspace at this location. Additional exclusions for the Washington Tri-Area, DC, Class B airspace and Restricted Areas R–4001A and R–4001B located at Aberdeen, MD, were inadvertently omitted from the rule. This action corrects that error.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the description for Class E airspace located at Baltimore, Martin State Airport, MD, as published in the **Federal Register** on September 12, 1994 (59 FR 46750) (**Federal Register** Document 94–21978; page 46751, column 1), and the description in FAA Order 7400.9B, which is incorporated by reference in 14 CFR 71.1 are corrected as follows:

§ 71.1 [Corrected]

On page 46751, in the first column, the description for the Baltimore, Martin State, Airport, MD. Class E airspace is corrected by removing ''Martin NDB.'', located 7 lines from the bottom of the page, and inserting in its place ''Martin NDB, excluding that airspace within the Washington Tri-Area, DC, Class B airspace and Restricted Areas R–4001A and R–4001B when they are in effect.''

Issued in Jamaica, New York, on January 10, 1995.

John S. Walker,

Manager, Air Traffic Division.

[FR Doc. 95–2239 Filed 1–27–95; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 94–AWA–4]

Modification of the El Paso International Airport, TX, and the Lincoln Municipal Airport, NE, Class C Airspace Areas and Establishment of the Lincoln Municipal Airport, NE, Class E Airspace Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule modifies the El Paso International Airport, TX, and the Lincoln Municipal Airport, NE, Class C airspace areas. This action will amend the effective hours to coincide with the associated radar approach control facility's hours of operation. This action will not change the designated boundaries or altitudes of these Class C airspace areas. Class C airspace areas are predicated on an operational air traffic control tower (ATCT) serviced by a radar approach control facility. In addition, this action establishes Class E airspace at Lincoln Municipal Airport, NE, when the associated radar approach control facility is not in operation.

EFFECTIVE DATE: 0901 UTC, March 30, 1995.

FOR FURTHER INFORMATION CONTACT: William C. Nelson, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9295.

SUPPLEMENTARY INFORMATION:

History

On December 2, 1994, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify the El Paso International Airport, TX, and the Lincoln Municipal Airport, NE, Class C airspace areas and establish Class E airspace at Lincoln Municipal Airport, NE (59 FR 63940). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Class C and E airspace designations are published in paragraphs 4000 and 6002, respectively, of FAA Order 7400.9B dated July 18, 1994, and effective September 16, 1994, which is incorporated by reference in 14 CFR 71.1. The Class C and E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) modifies the El Paso International Airport, TX, and the Lincoln Municipal Airport, NE, Class C airspace areas by amending the effective hours to coincide with the associated radar approach control facility's hours of operation. This action will not change the designated boundaries or altitudes of these Class C airspace areas. In addition, this action establishes the Lincoln Municipal Airport, NE, Class E airspace area when the radar approach control facility is not in operation to provide controlled airspace for instrument procedures.

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. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended as follows:

Paragraph 4000—Subpart C-Class C Airspace

* * * * *

ASW TX C El Paso International Airport, TX [Revised]

El Paso International Airport, TX
(Lat. 31°48′24″ N., long. 106°22′40″ W.)
West Texas Airport, TX
(Lat. 31°43′11″ N., long. 106°14′22″ W.)

That airspace extending upward from the surface to and including 8,000 feet MSL within a 5-mile radius of the El Paso International Airport, excluding that airspace west of long. 106°27′02″ W., and that airspace within Mexico; and that airspace extending upward from 5,200 feet MSL to and including 8,000 feet MSL within a 10-mile radius of El Paso International Airport, excluding that airspace beyond an 8-mile arc from the El Paso International Airport beginning at the 115° bearing from the airport clockwise to the Rio Grande River, and that airspace within a 2-mile radius of the West Texas Airport, and that airspace within Mexico, and that airspace west of long. 106°27′02″ W.

* * * * *

ACE NE C Lincoln Municipal, NE [Revised]

Lincoln Municipal Airport, NE
(Lat. 40°51′03″ N., long. 96°45′33″ W.)

That airspace extending upward from the surface to and including 5,200 feet MSL within a 5-mile radius of the Lincoln Municipal Airport and that airspace extending upward from 2,700 feet MSL to 5,200 feet MSL within a 10-mile radius of the airport. This Class C airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6002—Subpart E-Class E airspace areas designated as a surface area for an airport

* * * * *

ACE NE E2 Lincoln Municipal, NE [New]

Lincoln Municipal Airport, NE
(Lat. 40°51′03″ N., long. 96°45′33″ W.)

Within a 5-mile radius of the Lincoln Municipal Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

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

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 95–2245 Filed 1–27–95; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 71

[Airspace Docket No. 94–AGL–12]

Alteration of VOR Federal Airway V–36

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends Federal Airway V–36 by extending the airway from Sault Ste Marie, MI, to Thunder Bay, ON, Canada, via Wawa, ON, Canada. Modifying the airway will simplify routings for air traffic transitioning in that airspace from the United States to Canada. In addition, the airspace designation will be changed to reflect the relocation of the Toronto, ON, Canada, Very High Frequency Omnidirectional Range/Distance Measuring Equipment (VOR/DME).

EFFECTIVE DATE: 0901 UTC, March 30, 1995.

FOR FURTHER INFORMATION CONTACT: Patricia P. Crawford, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace—Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9255.

SUPPLEMENTARY INFORMATION:

History

On October 11, 1994, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by extending V–36 from Sault Ste Marie, MI, to Thunder Bay, ON, Canada, via Wawa, ON, Canada (59 FR 51395). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Domestic VOR Federal airways are published in paragraph 6010(a) of FAA Order 7400.9B dated July 18, 1994, and effective September 16, 1994, which is incorporated by reference in 14 CFR 71.1. The airway listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations modifies V–36 by extending the airway from Sault Ste Marie, MI, to Thunder Bay, ON, Canada, via Wawa, ON, Canada, excluding the airspace in Canada. Extending the airway has become necessary because of the volume of air traffic utilizing V–36. This action will simplify routings and reduce the workload for pilots and controllers. In addition, the airspace designation will be changed to reflect the relocation of the Toronto, ON, Canada, VOR/DME.

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. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended as follows:

Paragraph 6010(a)—Domestic VOR Federal Airways

* * * * *

V–36 [Revised]

From Thunder Bay, ON, Canada; Wawa, ON, Canada; Sault Ste Marie, MI; Elliot Lake, ON, Canada; Wiarton, ON, Canada; INT Wiarton l50° and Toronto, ON, Canada, 304° radials; Toronto; INT Toronto 150° and Buffalo, NY, 306° radials; Buffalo; Elmira, NY; INT Elmira 110° and LaGuardia, NY, 310° radials; to INT LaGuardia 310° and Stillwater, NJ, 043° radials. The airspace within Canada is excluded.

* * * * *

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

Harold W. Becker,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 95–2247 Filed 1–27–95; 8:45 am]

BILLING CODE 4910–13–P

---

14 CFR Part 97

[Docket No. 28055; Amdt. No. 1644]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination—

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

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

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

For Purchase—Individual SIAP copies may be obtained from:

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

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

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

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

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

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

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

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

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

number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC, on January 13, 1995.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

2. Part 97 is amended to read as follows:

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

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

* * * *Effective 30 March 1995*

Galena, AK, Galena, NDB–A, Orig
Warsaw, IN, Warsaw Mini, SDF RWY 9, Amdt 4, CANCELLED
Topeka, KS, Phillip Billard Muni, ILS RWY 13, Amdt 31
Flemingsburg, KY, Fleming-Mason, VOR/DME or GPS–A, Amdt 5
Flemingsburg, KY, Fleming-Mason, NDB or GPS RWY 25, Amdt 7
Georgetown, KY, Georgetown-Scott County Arpt-Marshall Fld, VOR/DME RWY 03, Orig
Mayfield, KY, Mayfield Graves County, VOR/DME–A, Amdt 7
Mayfield, KY, Mayfield Graves County, NDB RWY 36, Amdt 2
Mayfield, KY, Mayfield Graves County, VOR/DME RNAV RWY 18, Amdt 3
Prestonburg, KY, Big Sandy Regional, VOR/DME–A, Amdt 1
Hancock, MI, Houghton County Memorial, VOR or GPS RWY 13, Amdt 15
Hancock, MI, Houghton County Memorial, VOR or GPS RWY 25, Amdt 17
Hancock, MI, Houghton County Memorial, VOR RWY 31, Amdt 14
Hancock, MI, Houghton County Memorial, LOC/DME BC RWY 13, Amdt 11
Hancock, MI, Houghton County Memorial, NDB OR GPS RWY 31, Amdt 11
Hancock, MI, Houghton County Memorial, ILS RWY 31, Amdt 12
Newark, NJ, Newark Intl, COPTER ILS/DME 039, Orig
Newark, NJ, Newark Intl, COPTER ILS/DME 219, Orig
New York, NY, La Guardia, COPTER ILS/DME 224, Orig
Hebronville, TX, Jim Hogg County, NDB RWY 13, Amdt 2
Bluefield, WV, Mercer County, ILS RWY 23, Amdt 14

Note: Remove and destroy the following procedure published in TL 95–01: Little Rock, AR, North Little Rock Muni, VOR/DME RWY 35, Amdt 4, EFF 30 MAR 95, CANCELLED

* * * *Effective 2 March 1995*

Hampton, IA, Hampton Municipal, RNAV or GPS RWY 17 Amdt 1A, CANCELLED
Tipton, IA, Mathews Memorial, VOR or GPS RWY 11, Amdt 2
Hugoton, KS, Hougoton Muni, NDB RWY 2, Amdt 2
Sedalia, MO, Sedalia Memorial, NDB RWY 36, Amdt 8
Dayton, OH, Greene County, VOR–A, Amdt 1, CANCELLED
George West, TX, Live Oak County, VOR/DME or GPS–A, Amdt 1
Houston, TX, Clover Field, VOR/DME–A, Amdt 3

* * * *Effective 2 February 1995*

Little Rock, AR, North Little Rock Muni, VOR/DME or GPS RWY 35, Amdt 4, CANCELLED
Fairmont, MN, Fairmont Muni, ILS RWY 31, Orig

[FR Doc. 95–2244 Filed 1–27–95; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 97

[Docket No. 28008; Amdt. No. 1640]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination—

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

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

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

For Purchase—Individual SIAP copies may be obtained from:

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

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

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

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

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

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further,

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

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

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

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on December 16, 1994.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

2. Part 97 is amended to read as follows:

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

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

** * * Effective March 30, 1995*

Little Rock, AR, North Little Rock Muni, VOR/DME RWY 35, Amdt 4, CANCELLED
Lake Charles, LA, Chennault Industrial Airpark, VOR OR GPS RWY 33L, Amdt 2
Lake Charles, LA, Chennault Industrial Airpark, ILS RWY 15R, Amdt 3
Portsmouth, NH, Pease International Tradeport, VOR OR TACAN OR GPS RWY 16, Amdt 3
Portsmouth, NH, Pease International Tradeport, ILS/DME RWY 34, Orig-A, CANCELLED
Portsmouth, NH, Pease International Tradeport, ILS RWY 34, Amdt 1
Providence, RI, Theodore Francis Green State, VOR RWY 5, Amdt 13
Houston, TX, William P. Hobby, LOC BC RWY 22, Amdt 3A, CANCELLED
Bennington, VT, William H. Morse State, VOR OR GPS–A, Amdt 8

** * * Effective March 2, 1995*

Hartford, CT, Hartford-Brainard, GPS RWY 2, Orig
Caribou, ME, Caribou Muni, VOR OR GPS–A, Amdt 10

** * * Effective February 2, 1995*

Jacksonville, FL, Jacksonville INTL, LOC RWY 25, Amdt 7
Jacksonville, FL, Jacksonville INTL, ILS RWY 7, Amdt 11
Iola, KS, Allen County, NDB RWY 01, Orig
Detroit, MI, Detroit Metropolitan Wayne County, Radar-1, Amdt 22A, CANCELLED
Detroit, MI, Willow Run, Radar-1, Amdt 8, CANCELLED
Teterboro, NJ, TETERBORO, VOR RWY 24, Orig
Teterboro, NJ, Teterboro, VOR/DME 2 RWY 24, Amdt 1, CANCELLED
Binghampton, NY, Binghampton Regional/Edwin A. Link Field, ILS RWY 34, Amdt 2
Montauk, NY, Montauk, VOR OR GPS RWY 6, Amdt 2
Toughkenamon, PA, New Garden, VOR RWY 24, Amdt 6
Gordonville, VA, Gordonsville Muni, NDB RWY 22, Orig
Deer Park, WA, Deer Park, NDB–A, Amdt 1

** * * Effective January 5, 1995*

Fort Leavenworth, KS, Sherman AAF, RNAV RWY 15, Amdt 1 CANCELLED
Plymouth, MA, Plymouth Muni, NDB RWY 6, Amdt 2
Kansas City, MO, Kansas City Intl, ILS RWY 1R, Orig
Kansas City, MO, Kansas City Intl, RNAV RWY 1L, Amdt 5A CANCELLED

** * * Effective Upon Publication*

Yap Island, FM, Yap Intl, NDB RWY 7, Amdt 1
Yap Island, FM, Yap Intl, NDB/DME RWY 7, Amdt 1
Charlotte, NC, Charlotte/Douglas INTL, ILS RWY 18L, Amdt 2

The FAA published an amendment in Docket No. 27980, Amdt. No. 1638 to Part 97 of the Federal Aviation Regulation (VOL 59, FR No. 237, Page 63886; dated Monday, December 12, 1994) under section 97.31 effective January 1995 5, which is hereby amended as follows:

Anchorage, AK, Anchorage International, LOC RWY 6L, Amdt 8, EFF 2 FEB 95
Anchorage, AK, Anchorage International, ILS RWY 6R, Amdt 10, EFF 2 FEB 95.

[FR Doc. 95–2242 Filed 1–27–95; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 97

[Docket No. 28056; Amdt. No. 1645]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational

facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

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

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

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

For Examination—

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

For Purchase—Individual SIAP copies may be obtained from:

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

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

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

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

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

The Rule

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

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

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

Conclusion

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC, on January 13, 1995.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

2. Part 97 is amended to read as follows:

§§ 97.23, 95.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

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

* * * *Effective Upon Publication*

FDC date	State	City	Airport	FDC No.	SIAP
01/03/95 ...	MI	Traverse City	Cherry Capital	FDC 5/0021	ILS RWY 28 AMDT 12...
01/09/95 ...	OH	Middletown	Hook Field Muni	FDC 5/0106	LOC RWY 23 AMDT 7...
01/09/95 ...	UT	St George	St George Muni	FDC 5/0090	VOR–C, AMDT 2...
01/09/95 ...	UT	St George	St George Muni	FDC 5/0091	VOR OR GPS–B, AMDT 2...
01/09/95 ...	UT	St George	St George Muni	FDC 5/0092	VOR–DME OR GPS RWY 34, AMDT 2...
01/11/95 ...	AL	Troy	Troy Muni	FDC 5/0142	RADAR–1 RWY 7, AMDT 6...
12/20/94 ...	ND	Jamestown	Jamestown Muni	FDC 4/7024	VOR OR GPS RWY 31 AMDT 8A...
12/20/94 ...	ND	Jamestown	Jamestown Muni	FDC 4/7025	NDB RWY 31 AMDT 6...
12/20/94 ...	ND	Jamestown	Jamestown Muni	FDC 4/7026	VOR OR GPS RWY 31 AMDT 7A...
12/20/94 ...	ND	Jamestown	Jamestown Muni	FDC 4/7027	LOC/DME BC RWY 13 AMDT 7A...
12/29/94 ...	IA	Washington	Washington Muni	FDC 4/7105	VOR/DME RNAV OR GPS RWY 31 AMDT 4...
12/30/94 ...	NC	Southport	Brunswick County	FDC 4/7120	NDB–A, AMDT 3A...

[FR Doc. 95–2241 Filed 1–27–95; 8:45 am]
BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 28057; Amdt. No. 1646]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination—

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

For Purchase—Individual SIAP copies may be obtained from:

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

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

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

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

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

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

The FAA has determined through testing that current non-localizer type, non-precision instrument approaches developed using the TERPS criteria can be flown by aircraft equipped with Global Positioning System (GPS) equipment. In consideration of the

above, the applicable Standard Instrument Approach Procedures (SIAPs) will be altered to include ''or GPS'' in the title without otherwise reviewing or modifying the procedure. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC, on January 13, 1995.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

2. Part 97 is amended to read as follows:

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

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

Effective March 30, 1995

Ketchikan, AK, Ketchikan Intl, NDB/DME or GPS–A, Amdt 6B
Mekoryuk, AK, Mekoryuk NDB/DME or GPS–A, Amdt 2B
Mekoryuk, AK, Mekoryuk NDB or GPS RWY 23, Amdt 1B
Middleton Island, AK, Middleton Island, VOR/DME or GPS RWY 19, Amdt 4
Middleton Island, AK, Middleton Island, VOR or GPS RWY 1, Amdt 1
Middleton Island, AK, Middleton Island, NDB or GPS–A, Orig
St. George, AK, New St. George, NDB/DME or GPS–A, Orig
Savoonga, AK, Savoonga, VOR/DME or GPS RWY 23, Orig-B
Greensboro, AL, Greensboro Muni, NDB or GPS RWY 36, Orig
Greenville, AL, Greenville Muni, NDB or GPS RWY 32, Amdt 4
Gulf Shores, AL, Jack Edwards, VOR or GPS–A, Amdt 1
Ozark, AL, Blackwell Field, VOR or GPS RWY 30, Amdt 6A
Pell City, AL, Saint Clair County, VOR or GPS–A, Amdt 7
Tuskegee, AL, Moton Field Municipal, VOR or GPS–A, Amdt 3
Vernon, AL, Lamar County, VOR/DME or GPS–A, Amdt 2
Clarksville, AR, Clarksville Muni, NDB or GPS–A, Amdt 4
Harrison, AR, Boone County, VOR or GPS–A, Amdt 12A
Harrison, AR, Boone County, NDB or GPS–B, Amdt 2
Ozark, AR, Ozark-Franklin County, VOR/DME or GPS–A, Amdt 3
Searcy, AR, Searcy Muni, NDB or GPS RWY 1, Amdt 2
Bullhead City, AZ, Laughlin/Bullhead Intl, VOR/DME or GPS RWY 34, Orig
Fort Huachuca/Sierra Vista, AZ, Libby AAF–Sierra Vista Muni, VOR or GPS RWY 26, Amdt 2
Parker, AZ, Avi Suquilla, VOR/DME or GPS–A, Amdt 2A
Phoenix, AZ, Williams Gateway, VOR or TACAN or GPS RWY 30C, Orig
Chico, CA, Chico Muni, VOR/DME or GPS RWY 13L, Amdt 7
Chico, CA, Chico Muni, VOR/DME or GPS RWY 31R, Amdt 8
Oxnard, CA, Oxnard, VOR/DME or GPS RWY 7, Orig
Oxnard, CA, Oxnard, VOR or GPS RWY 25, Amdt 8
Palm Springs, CA, Palm Springs Regional, VOR or GPS–B, Amdt 2
Ramona, CA, Ramona, VOR/DME or GPS–A, Orig
Redding, CA, Redding Muni, VOR or GPS RWY 34, Amdt 10B
Sacramento, CA, Sacramento Executive, VOR or GPS RWY 2, Amdt 9
Sacramento, CA, Sacramento Metropolitan, NDB or GPS RWY 34L, Amdt 4
Sacramento, CA, Sacramento Metropolitan, NDB or GPS RWY 34R, Orig
Durango, CO, Durango-La Plata County, VOR or GPS–A, Amdt 6
Hayden, CO, Yampa Valley, VOR/DME or GPS–B, Orig
Hayden, CO, Yampa Valley, VOR or GPS–A, Amdt 3
Telluride, CO, Telluride Regional, VOR/DME or GPS–A, Amdt 1
Trinidad, CO, Perry Stokes, NDB or GPS–A, Amdt 2
Lawrenceville, GA, Gwinnett County-Briscoe Field, VOR/DME or GPS RWY 7, Amdt 1A
Lawrenceville, GA, Gwinnett County-Briscoe Field, NDB or GPS RWY 25, Orig-A
Macon, GA, Middle Georgia Regional, VOR or GPS RWY 23, Amdt 1A
Macon, GA, Middle Georgia Regional, NDB or GPS RWY 5, Amdt 20A
Thomaston, GA, Thomaston-Upson County, NDB or GPS RWY 30, Orig
Thomson, GA, Thomson-McDuffie County, VOR/DME or GPS–A, Amdt 2
Thomson, GA, Thomson-McDuffie County, NDB or GPS RWY 28, Amdt 8
Waynesboro, GA, Burke County, NDB or GPS RWY 8, Amdt 2
Winder, GA, Winder, VOR/DME RNAV or GPS RWY 23, Orig-A
Winder, GA, Winder, VOR/DME or GPS–A, Amdt 9
Winder, GA, Winder, NDB or GPS RWY 31, Amdt 8
Fort Madison, IA, Fort Madison Muni, VOR/DME or GPS–A, Amdt 6
Fort Madison, IA, Fort Madison Muni, VOR/DME RNAV or GPS RWY 16, Amdt 4
Keokuk, IA, Keokuk Muni, NDB or GPS RWY 14, Amdt 11A
Keokuk, IA, Keokuk Muni, NDB or GPS RWY 26, Orig-A
Idaho Falls, ID, Fanning Field, VOR or GPS RWY 2, Amdt 6
Idaho Falls, ID, Fanning Field, VOR or GPS RWY 20, Amdt 9
Peoria, IL, Greater Peoria Regional, VOR or TACAN or GPS RWY 13, Amdt 23
Peoria, IL, Greater Peoria Regional, NDB or GPS RWY 31, Amdt 14
Peoria, IL, Greater Peoria Regional, RNAV or GPS RWY 22, Amdt 8
Peoria, IL, Mount Hawley Auxiliary, VOR or GPS–A, Amdt 3
Pittsfield, IL, Pittsfield-Penstone Muni, NDB or GPS RWY 31, Amdt 5
Springfield, IL, Capital, NDB or GPS RWY 4, Amdt 18
St. Jacob, IL, Shafer Metro East, VOR or GPS–A, Amdt 3
Sterling Rockfalls, IL, Whiteside County Airport-Joseph H. Bittorf Field, NDB or GPS RWY 7, Amdt 4
Urbana, IL, Frasca Field, VOR/DME or GPS–B, Amdt 6
Urbana, IL, Frasca Field, VOR or GPS–A, Amdt 11
Vandalia, IL, Vandalia Muni, VOR or GPS RWY 18, Amdt 11
Peru, IN, Peru Muni, VOR or GPS RWY 1, Amdt 6
Wichita, KS, Wichita Mid-Continent, VOR or GPS RWY 14, Orig.
Lexington, KY, Blue Grass, NDB or GPS RWY 4, Amdt 19
Many, LA, Hart, NDB or GPS RWY 12, Amdt 4A
Minden, LA, Minden-Webster, VOR/DME or GPS–A, Amdt 4A
Minden, LA, Minden-Webster, NDB or GPS RWY 1, Amdt 2
Minden, LA, Minden-Webster, NDB or GPS RWY 19, Amdt 2
New Iberia, LA, Acadiana Regional, VOR or TACAN or GPS RWY 16, Orig

New Iberia, LA, Acadiana Regional, NDB or GPS RWY 34, Amdt 8
New Orleans, LA, Lakefront, VOR or GPS RWY 18R, Amdt 3
New Roads, LA, False River Air Park, VOR/DME or GPS–A, Amdt 3
New Roads, LA, False River Air Park, NDB or GPS RWY 36, Amdt 1
Opelousas, LA, St Landry Parish-Ahart Field, VOR/DME or GPS RWY 35, Orig-A
Opelousas, LA, St Landry Parish-Ahart Field, NDB or GPS RWY 17, Amdt 1A
Patterson, LA, Harry P Williams Memorial, VOR/DME or GPS–A, Amdt 9
Patterson, LA, Harry P Williams Memorial, NDB or GPS RWY 6, Amdt 9
Leonardtown, MD, St Marys County, VOR or GPS RWY 29, Amdt 4
Portland, ME, Portland Intl Jetport, NDB or GPS RWY 11, Amdt 15
Detroit/Grosse Ile, MI, Grosse Ile Muni, VOR or GPS–A, Amdt 6
Detroit/Grosse Ile, MI, Grosse Ile Muni, NDB or GPS RWY 4, Amdt 1
East Tawas, MI, Iosco County, VOR or GPS–A, Amdt 6A
Eaton Rapids, MI, Skyway Estates, VOR or GPS–A, Amdt 1
Frankfort, MI, City-County, VOR or GPS–A, Amdt 2
Ionia, MI, Ionia County, VOR or GPS–A, Orig
Iron Mountain/Kingsford, MI, Ford, VOR or GPS RWY 31, Amdt 14
Lambertville, MI, Toledo Suburban, VOR or GPS–A, Amdt 7
Lapeer, MI, Dupont-Lapeer, VOR or GPS–A, Amdt 12
Linden, MI, Prices, VOR or GPS–A, Amdt 3
Mackinac Island, MI, Mackinac Island, VOR/DME or GPS–A, Amdt 8
Marlette MI, Marlette, VOR/DME or GPS–A, Amdt 5A
Mason, MI, Mason Jewett Field, VOR or GPS–A, Amdt 3
Menominee, MI, Menominee-Marinette Twin County NDB or GPS RWY 3, Amdt 2A
Midland, MI, Jack Barstow, VOR or GPS–A, Amdt 5A
Niles, MI, Jerry Tyler Memorial, VOR or GPS RWY 3, Amdt 7A
Niles, MI, Jerry Tyler Memorial, VOR or GPS RWY 21, Amdt 3A
Ontonagon, MI, Ontonagon County, NDB or GPS–A, Amdt 4
Owosso, MI, Owosso Community, VOR or GPS RWY 28, Amdt 5A
Port Huron, MI, Saint Clair County Intl, VOR/DME or GPS–A, Amdt 7
Port Huron, MI, Saint Clair County Intl, NDB or GPS RWY 4, Amdt 2
Rogers City, MI, Presque Isle County, NDB or GPS RWY 27, Amdt 2
Romeo, MI, Romeo, VOR/DME or GPS–A, Amdt 7
Saginaw, MI, Harry W. Browne, VOR/DME or GPS–A, Amdt 3
Saginaw, MI, Harry W. Browne, NDB or GPS RWY 27, Orig
Sault Ste Marie, MI, Chippewa County Intl, VOR or TACAN or GPS–A, Amdt 5B
Sault Ste Marie, MI, Chippewa County Intl, NDB or GPS RWY 16, Amdt 5B
Sault Ste Marie, MI, Chippewa County Intl, NDB or GPS RWY 34, Amdt 4B
Sault Ste Marie, MI, Sault Ste Marie Muni/Sanderson Field, VOR or GPS RWY 32, Orig
St. James, MI, Beaver Island, NDB or GPS RWY 27, Orig
Standish, MI, Standish Industrial, VOR or GPS–A, Amdt 3
Jackson, MN, Jackson Muni, NDB or GPS RWY 13, Amdt 7A
Silver Bay, MN, Silver Bay Muni, NDB or GPS RWY 25, Orig
South St Paul, MN, South St Paul Muni-Richard E Fleming Fld, NDB or GPS–B, Amdt 3B
St Paul, MN, Lake Elmo, NDB or GPS RWY 3, Amdt 3A
Camdenton, MO, Camdenton Memorial, VOR or GPS–A, Amdt 3
Gideon, MO, Gideon Memorial, VOR or GPS RWY 15, Amdt 2
Kennett, MO, Kennett Memorial, NDB or GPS RWY 18, Amdt 2A
Lamar, MO, Lamar Muni, NDB or GPS RWY 3, Orig
Lee's Summit, MO, Lee's Summit Municipal, VOR or GPS–B, Amdt 3
Lexington, MO, Lexington Muni, VOR/DME or GPS RWY 22, Orig
Marshall, MO, Marshall Meml Muni, NDB or GPS RWY 36, Orig-A
Mexico, MO, Mexico Memorial, VOR/DME or GPS RWY 24, Orig
Monett, MO, Monett Muni, VOR/DME or GPS–A, Orig
Monroe City, MO, Monroe City Regional, VOR/DME or GPS–A, Amdt 1
Mountain Grove, MO, Mountain Grove Memorial, VOR/DME or GPS RWY 8, Orig
Neosho, MO, Neosho Meml, VOR or GPS–A, Amdt 6
Neosho, MO, Neosho Meml, RNAV or GPS RWY 19, Amdt 3
Nevada, MO, Nevada Muni, VOR/DME RNAV or GPS RWY 20, Amdt 1
Nevada, MO, Nevada Muni, VOR/DME or GPS–A, Amdt 1
New Madrid, MO, County Memorial, VOR/DME or GPS–A, Amdt 3
New Madrid, MO, County Memorial, VOR/DME RNAV or GPS RWY 18, Amdt 1
Ozark, MO, Air Park South, VOR or GPS RWY 17, Amdt 4
Perryville, MO, Perryville Muni, VOR/DME RNAV or GPS RWY 19 Amdt 2
Perryville, MO, Perryville Muni, VOR/DME or GPS–A, Amdt 4
Point Lookout, MO, M. Graham Clark, VOR/DME RNAV or GPS RWY 29, Amdt 2
St Charles, MO, St Charles, VOR or GPS RWY 9, Amdt 4A
St Charles, MO, St Charles County Smartt, VOR or GPS RWY 18, Orig
St. Louis, MO, Arrowhead, VOR or GPS RWY 2, Amdt 5
St. Louis, MO, Arrowhead, VOR or GPS–B, Amdt 3
St. Louis, MO, Creve Coeur, VOR or GPS–A, Amdt 4
St Louis, MO, Spirit of St Louis, VOR or GPS RWY 8R Amdt 7
St Louis, MO, Spirit of St Louis, NDB or GPS RWY 26L, Amdt 1
Stockton, MO, Stockton Muni, VOR/DME or GPS–A, Amdt 1
Washington, MO, Washington Memorial, VOR or GPS RWY 16, Amdt 1
Wentzville, MO, Wentzville, VOR/DME or GPS–A, Amdt 1
Cleveland, MS, Cleveland Muni, VOR or GPS–A, Amdt 7
Cleveland, MS, Cleveland Muni, NDB or GPS RWY 17, Amdt 5
Pembina, ND, Pembina Muni, VOR or GPS RWY 33, Amdt 6A
Valley City, ND, Barnes County Muni, NDB or GPS RWY 31, Amdt 3
Millville, NJ, Millville Muni, VOR/DME RNAV or GPS RWY 32, Amdt 1
Woodbine, NJ, Woodbine Muni, VOR or GPS–A, Amdt 2
Las Cruces, NM, Las Cruces International, NDB or GPS RWY 30, Orig
Portales, NM, Portales Muni, NDB or GPS RWY 1, Orig
Santa Fe, NM, Santa Fe County Muni, VOR/DME or GPS–A, Orig
Santa Fe, NM, Santa Fe County Muni, VOR or GPS RWY 33, Amdt 7
Santa Fe, NM, Santa Fe County Muni, NDB or GPS RWY 2, Amdt 3
Niagara Falls, NY, Niagara Falls Intl, NDB or GPS RWY 28R, Amdt 16
Ogdensburg, NY, Ogdensburg Intl, NDB or GPS RWY 27, Orig
Oneonta, NY, Oneonta Muni, VOR or GPS RWY 6, Amdt 4
Palmyra, NY, Palmyra Airpark, VOR or GPS–A, Orig–A
Potsdam, NY, Potsdam Muni (Damon Field), NDB or GPS RWY 24, Amdt 3A
Saratoga Springs, NY, Saratoga County, VOR or GPS–A, Amdt 4
Sidney, NY, Sidney Muni, VOR/DME or GPS–B, Amdt 2B
Sidney, NY, Sidney Muni, VOR or GPS RWY 25, Amdt 2
Skaneateles, NY, Skaneateles Aero Drome, VOR or GPS–A, Orig–A
Southampton, NY, Southampton, COPTER VOR/DME RNAV or GPS 187, Orig
Stormville, NY, Stormville, VOR or GPS–A, Amdt 4
Syracuse, NY, Syracuse Hancock Intl, VOR/DME or TACAN or GPS RWY 32, Amdt 1
Fremont, OH, Fremont, VOR or GPS RWY 9, Amdt 5A
Gallipolis, OH, Gallia-Meigs Regional, VOR or GPS–B, Orig
Georgetown, OH, Brown County, VOR/DME or GPS–A, Orig
Lorain/Elyria, OH, Lorain County Regional, VOR or GPS–A, Amdt 1A
Marion, OH, Marion Muni, VOR or GPS–A, Orig
Marion, OH, Marion Muni, NDB or GPS RWY 12, Amdt 4
Marysville, OH, Union County, NDB or GPS RWY 27, Amdt 4
Middlefield, OH, Geauga County, VOR or GPS–A, Amdt 5A
Middletown, OH, Hook Field Muni, NDB or GPS RWY 23, Amdt 8
Middletown, OH, Hook Field Muni, NDB or GPS–A, Amdt 2
Millersburg, OH, Holmes County VOR or GPS–A, Amdt 6
Millersburg, OH, Holmes County NDB or GPS RWY 27, Amdt 5
Oxford, OH, Miami University, NDB or GPS RWY 4, Amdt 9
Port Clinton, OH, Carl R Keller Field, VOR/DME or GPS–A, Amdt 6
Port Clinton, OH, Carl R Keller Field, NDB or GPS RWY 27, Amdt 10
Portsmouth, OH, Greater Portsmouth Regional, NDB or GPS RWY 36, Amdt 3

Stillwater, OK, Stillwater Muni, VOR/DME or GPS RWY 35, Orig
Stillwater, OK, Stillwater Muni, VOR or GPS RWY 17, Amdt 13
Portland, OR, Portland Intl, NDB or GPS RWY 28L, Amdt 3
Pawtucket, RI, North Central State, VOR or GPS–A, Amdt 6
Pawtucket, RI, North Central State, VOR or GPS–B, Amdt 6
Loris, SC, Twin City, NDB or GPS RWY 26, Amdt 2
Moncks Corner, SC, Berkeley County, NDB or GPS RWY 5, Amdt 2A
Newberry, SC, Newberry Muni, NDB or GPS RWY 22, Amdt 4
Pageland, SC, Pageland, NDB or GPS RWY 23, Orig–A
Pelion, SC, Corporate, VOR or GPS–A, Amdt 2
Pickens, SC, Pickens County, VOR/DME or GPS–A, Orig
Pickens, SC, Pickens County, NDB or GPS RWY 5, Orig
Spartanburg, SC, Spartanburg Downtown Memorial, NDB or GPS–A, Amdt 8A
Winner, SD, Bob Wiley Field, VOR or GPS–A, Amdt 5
Yankton, SD, Chan Gurney Muni, VOR or GPS RWY 13, Amdt 2
Yankton, SD, Chan Gurney Muni, NDB or GPS RWY 31, Amdt 2
Gallatin, TN, Sumner County Regional, VOR/DME or GPS–A, Amdt 1
Gallatin, TN, Sumner County Regional, NDB or GPS RWY 35, Amdt 1
Knoxville, TN, Knoxville Downtown Island, VOR/DME or GPS–B, Amdt 6
Knoxville, TN, McGhee Tyson, NDB or GPS RWY 5L, Amdt 4
Lafayette, TN, Lafayette Muni, NDB or GPS RWY 19, Amdt 2A
Lebanon, TN, Lebanon Muni, VOR/DME or GPS–A, Amdt 8
Madisonville, TN, Monroe County, NDB or GPS RWY 5, Amdt 4A
Memphis, TN, Memphis Intl, VOR or GPS RWY 27, Amdt 1A
Memphis, TN, Memphis Intl, NDB or GPS RWY 9, Amdt 25C
Murfreesboro, TN, Murfreesboro Muni, NDB or GPS RWY 18, Amdt 2
Nashville, TN, Nashville Intl, NDB or GPS RWY 2L, Amdt 6
Nashville, TN, Nashville Intl, NDB or GPS RWY 20R, Amdt 7
Navasota, TX, Mavasota Muni, VOR or GPS–A, Amdt 1A
Pleasanton, TX, Plesanton Muni, NDB or GPS–A, Amdt 5
Port Isabel, TX, Port Isabel-Cameron County, VOR/DME or GPS–B, Amdt 2
Port Isabel, TX, Port Isabel-Cameron County, VOR or GPS–A, Amdt 5
Port Lavaca, TX, Calhoun County, VOR/DME or GPS–A, Amdt 3
Port Lavaca, TX, Calhoun County, NDB or GPS RWY 14, Amdt 3
Robstown, TX, Nueces County, VOR/DME or GPS–A, Amdt 2
San Angelo, TX, Mathis Field, NDB or GPS RWY 3, Amdt 13
San Antonio, TX, San Antonio Intl, VOR/DME RNAV or GPS RWY 30L, Amdt 11
San Antonio, TX, San Antonio Intl, VOR or GPS–A, Amdt 5
San Antonio, TX, San Antonio Intl, NDB or GPS RWY 3, Amdt 37A
San Antonio, TX, San Antonio Intl, NDB or GPS RWY 12R, Amdt 20A
San Marcos, Tx, San Marcos Muni, VOR/DME or GPS–A, Amdt 5
San Marcos, TX, San Marcos Muni, NDB or GPS RWY 12, Amdt 4
Seminole, TX, Gaines County, NDB or GPS RWY 35, Orig
Spearman, TX, Spearman Municipal, VOR/DME or GPS RWY 2, Orig
Stamford, TX, Arledge Field, NDB or GPS RWY 35, Orig
Stephenville, TX, Clark Field Muni, VOR/DME or GPS–A, Amdt 4
Stratford, TX, Stratford Field, VOR/DME or GPS–A, Amdt 4
Terrell, TX, Terrell Muni, VOR/DME or GPS RWY 35, Amdt 3
Terrell, TX, Terrell Muni, NDB or GPS RWY 17, Amdt 1
Tyler, TX, Tyler Pounds Field, VOR or GPS RWY 31, Orig
Vernon, TX, Wilbarger County, NDB or GPS RWY 20, Orig
Waco, TX, TSTC Waco, NDB or GPS RWY 17L, Amdt 8
Waco, TX, TSTC Waco, NDB or GPS RWY 35R, Amdt 9
Weatherford, TX, Parker County, NDB or GPS RWY 35, Amdt 1
Weslaco, TX, Mid Valley, VOR/DME or GPS–A, Orig
Weslaco, TX, Mid Valley, RNAV or GPS RWY 13, Orig
Winters, TX, Winters Muni, NDB or GPS RWY 35, Orig
Chesapeake, VA, Chesapeake Muni, NDB or GPS RWY 5, Amdt 1A
Luray, VA, Luray Caverns, NDB or GPS–A, Amdt 4
Kelso, WA, Kelso-Longview, NDB or GPS–A, Amdt 5A
Pullman-Moscow, WA, Pullman-Moscow Regional, VOR/DME or GPS–A, Orig
Quincy, WA, Quincy Muni, RNAV or GPS RWY 27, Orig
Richard, WA, Richland, VOR/DME or GPS–A, Amdt 5
Richard, WA, Richland, VOR or GPS RWY 25, Amdt 6
Richard, WA, Richland, NDB or GPS RWY 19, Amdt 5
Delvan, WI, Lake Lawn, NDB or GPS RWY 18, Amdt 2
La Crosse, WI, La Crosse Muni, NDB or GPS RWY 18, Amdt 16
Milwaukee, WI, General Mitchell International, NDB or GPS RWY 1 L/R, Amdt 3
Milwaukee, WI, General Mitchell International, NDB or GPS RWY 7R, Amdt 9
Neillsville, WI, Neillsville Muni, NDB or GPS RWY 27, Amdt 5
New Holstein, WI, New Holstein Muni, VOR/DME or GPS–A, Admt 1
New Richmond, WI, New Richmond Muni, NDB or GPS RWY 14, Orig
Oconto, WI, Oconto Muni, NDB or GPS RWY 29, Orig-A
Osceola, WI, L O Simenstad Muni, NDB or GPS RWY 28, Amdt 9
Phillips, WI, Price County, NDB or GPS RWY 6, Orig
Phillips, WI, Price County, NDB or GPS RWY 24, Amdt 2
Portage, WI, Portage Muni, VOR/DME or GPS–A, Admt 5
Portage, WI, Portage Muni, RNAV or GPS RWY 17, Amdt 3
Rock Springs, WY, Rock Springs-Sweetwater County, VOR/DME or GPS RWY 9, Admt 2
Rock Springs, WY, Rock Springs-Sweetwater County, VOR/DME or GPS RWY 27, Admt 2
Rock Springs, WY, Rock Springs-Sweetwater County, VOR or GPS–B, Amdt 4
Rock Springs, WY, Rock Springs-Sweetwater County, NDB or GPS–C, Amdt 2
Sheridan, WY, Sheridan County, VOR/DME or GPS RWY 31, Admt 6
Sheridan, WY, Sheridan County, VOR or GPS RWY 13, Amdt 5A

The following are *corrected* procedure titles adding ''or GPS'' published in Transmittal Letter 94–25 and 94–26.

Fresno, CA, Fresno-Chandler Downtown, NDB or GPS–B, Amdt 7A
Gardner, KS, Gardner Muni, NDB or GPS–D, Amdt 2
Wichita, KS, Wichita Mid-Continent, NDB or GPS RWY 1R, Amdt 15
Wichita, KS, Wichita Mid-Continent, VOR/DME RNAV or GPS RWY 1L, Admt 1
Wichita, KS, Wichita Mid-Continent, VOR/DME RNAV or GPS RWY 19R, Admt 1
Waseca, MN, Waseca Muni, NDB or GPS RWY 15, Amdt 3A
Waseca, MN, Waseca Muni, VOR or GPS–A, Admt 3A
Wheaton, MN, Wheaton Muni, NDB or GPS RWY 34, Amdt 1A
Kansas City, MO, Kansas City Intl, NDB or GPS RWY 1L, Amdt 15
Sandusky, OH, Griffing Sandusky, VOR/DME or GPS RWY 27, Admt 2

[FR Doc. 95–2240 Filed 1–27–95; 8:45 am]
BILLING CODE 4910–13–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1258

RIN 3095–AA63

NARA Reproduction Fee Schedule

AGENCY: National Archives and Records Administration (NARA).

ACTION: Interim final rule.

SUMMARY: NARA is amending its reproduction fee regulations to correct addresses and remove certain photographic reproductions and fees from the published fee schedule. These processes will continue to be made available; however, alternative methods of providing the reproductions of records held by three NARA offices may have different charges than those currently published in 36 CFR part 1258. Under a one-year trial program intended to improve customer service,

the Still Pictures Branch, the Cartographic and Architectural Branch, and the Nixon Presidential Materials Staff will allow customers to order these reproductions directly from NARA-authorized vendors. NARA will provide individual notice of the NARA reproductions fees or the availability of reproductions from a vendor as we now do for other processes not contained in the published fee schedule. This rule will affect Federal agencies and members of the public who order reproductions from these three NARA offices.

DATES: The effective date of this rule is March 6, 1995. Comment on the interim rule must be received by March 31, 1995.

ADDRESSES: Submit comments to the Director, Policy and Planning Division (PIRM–POL), National Archives at College Park, 8601 Adelphi Road, College Park, MD 20740–6001. Comments may also be faxed to (301) 713–7270.

FOR FURTHER INFORMATION CONTACT: Mary Ann Hadyka or Nancy Allard on (301) 713–6730.

SUPPLEMENTARY INFORMATION: This interim rule is being issued as part of NARA's program to improve customer service by privatizing the order fulfillment process for still photographs, aerial film and maps and drawings in the custody of the Still Picture Branch, the Cartographic and Architectural Records Branch, and the Nixon Presidential Materials Staff. Commencing on March 6, 1995, NARA will permit several vendors to set up copying work stations in Archives II located in College Park, MD, where the still photographs and cartographic and architectural records are housed and made available. During a one-year test period, these three units will refer customer requests for reproduction of these media to the vendors, who will determine fees, collect payments, perform the copying work, and mail the reproductions to the customers. Throughout the test period researchers will still have the option of making their own copies in the research rooms, within certain limitations. Other NARA archival units in the Washington, DC, area, and Presidential libraries and regional archives will continue to offer their traditional reproduction service for still photographs and oversize documents.

We are revising §§ 1258.2(c)(5), 1258.11, and 1258.12 to reflect the removal of published still photography and oversize electrostatic copying processes. We are also revising other paragraphs within § 1258.2(c) to reflect changed mailing addresses and the transfer of the former National Audiovisual Center from NARA to the National Technical Information Service of Department of Commerce, which was effective on October 1, 1994.

This rule is being issued as an interim final rule without prior notice of proposed rulemaking as permitted by the Administrative Procedures Act (5 U.S.C. 553(b)(B)) when the agency for good cause finds that notice and public procedure thereon are impractical, unnecessary, or contrary to the public interest. The new trial procedure for ordering still photographs, aerial film and maps and drawings will begin on March 6, 1995. It is in the public interest to provide this alternative service as early as possible to improve customer service.

This rule is not a significant regulatory action for purposes of Executive Order 12866 of September 30, 1993 and has not been reviewed by the Office of Management and Budget. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small entities.

List of Subjects in 36 CFR Part 1258

Archives and records.

For the reasons set forth in the preamble, chapter XII of title 36, Code of Federal Regulations, is amended as follows:

PART 1258—FEES

1. The authority citation for part 1258 continues to read as follows:

Authority: 44 U.S.C. 2116(c).

2. Section 1258.2 is amended by revising paragraphs (c)(1) through (c)(5) to read as follows:

§ 1258.2 Applicability.

* * * * *

(c) * * *

(1) National Archives publications, including microfilm publications. Prices are available from Publications Distribution (NECD), National Archives, Washington, DC 20408.

(2) Reserved.

(3) Motion picture, sound recording, and video holdings of the National Archives and Presidential libraries. Prices for reproduction of these materials are available from the Motion Picture, Sound and Video Branch (NNSM), National Archives at College Park, 8601 Adelphi Road, College Park, MD 20740–6001, or from the Presidential library which has such materials (see § 1253.3 of this chapter for addresses).

(4) Machine-readable records. Prices for duplication are available from the Center for Electronic Records (NSX), National Archives at College Park, 8601 Adelphi Road, College Park, MD 20740–6001.

(5) Still photography, including aerial film, and oversize maps and drawings. Information on the availability and prices of reproductions of records held in the Still Pictures Branch (NNSP) and the Cartographic and Architectural Branch (NNSC), both located at the National Archives at College Park, 8601 Adelphi Road, College Park, MD 20740–6001, and in the Presidential libraries and regional archives (see §§ 1253.3 and 1253.7 of this chapter for addresses) should be obtained from the unit which has the original records.

* * * * *

§ 1258.12 [Amended]

3. Section 1258.12 is amended by removing and reserving paragraph (b).

Dated: January 20, 1995.

Ralph C. Bledsoe,

Acting Archivist of the United States.

[FR Doc. 95–2157 Filed 1–27–95; 8:45 am]

BILLING CODE 7515–01–P

POSTAL SERVICE

39 CFR Part 233

Changes in Official Titles and Delegations Resulting From Reorganization of Postal Inspection Service

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule amends Postal Service regulations by changing official titles and delegations of authority resulting from the 1993–1994 reorganization of the Postal Inspection Service.

EFFECTIVE DATE: January 30, 1995.

FOR FURTHER INFORMATION CONTACT: Inspection Service Counsel Henry J. Bauman, (202) 268–4415.

SUPPLEMENTARY INFORMATION: Postal Inspection Service/Inspector General authority is established in 39 CFR part 233, which contains official titles and delegations of authority. The 1993–1994 reorganization of the Postal Inspection Service abolished certain headquarters and regional positions, created new positions, changed the titles of certain positions, and revised reporting relationships and delegations of authority. Specifically for the purposes of this revision, the title of Assistant Chief Inspector is changed to Deputy

Chief Inspector; the title of the Inspector in Charge—Special Investigations is changed to Inspector in Charge—Internal Affairs; the positions of Regional Chief Inspector and Assistant Regional Chief Inspector are abolished; the position of Manager, Inspection Service Operating Support Group, is created; and delegations of authority are changed to reflect the new organization.

List of Subjects in 39 CFR Part 233

Crime, Law enforcement, Postal Service, Seizures and forfeitures.

Accordingly, 39 CFR part 233 is amended as set forth below:

PART 233—INSPECTION SERVICE/ INSPECTOR GENERAL AUTHORITY

1. The authority citation for part 233 continues to read as follows:

Authority: 39 U.S.C. 101, 401, 402, 403, 404, 406, 410, 411, 3005(e)(1); 12 U.S.C. 3401–3422; 18 U.S.C. 981, 1956, 1957, 2254, 3061; 21 U.S.C. 881; Inspector General Act of 1978, as amended (Pub. L. No. 95–452, as amended); 5 U.S.C. App. 3.

2. Section 233.1 is amended by revising paragraph (c)(3) to read as follows:

§ 233.1 Arrest and investigative powers of Postal Inspectors.

* * * * *

(c) * * *

(3) The Chief Postal Inspector hereby delegates authority to sign and issue administrative subpoenas to the following officials: Deputy Chief Inspectors; Managers, Inspection Service Operations Support Group; and Inspector in Charge—Internal Affairs.

* * * * *

3. Section 233.7 is amended by revising paragraph (a) and the first four sentences of paragraph (j)(5) to read as follows:

§ 233.7 Forfeiture authority and procedures.

(a) *Designation of officials having forfeiture authority.* The Chief Postal Inspector is authorized to perform all duties and responsibilities necessary on behalf of the Postal Service to enforce 18 U.S.C. 981, 2254, and 21 U.S.C. 881, to delegate all or any part of this authority to Deputy Chief Inspectors, Inspectors in Charge, and Inspectors of the Postal Inspection Service, and to issue such instructions as may be necessary to carry out this authority.

* * * * *

(j) * * *

(5) Upon receipt of a Petition for Remission or Mitigation, or a Petition for Restoration of Proceeds of a Sale, an investigation must be conducted by the Postal Inspection Service to determine the validity of the facts asserted in the Petition. No hearing shall be held. Results of the investigation relating to an administrative forfeiture action must be forwarded in writing to the Deputy Chief Inspector, Criminal Investigations, Headquarters, Postal Inspection Service. Final decision on such Petitions are made by the Deputy Chief Inspector, Criminal Investigations, or a designee, who must promptly notify the Petitioner of the decision. * * *

* * * * *

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 95–2077 Filed 1–27–95; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 95–2–6862; FRL–5144–6]

Approval and Promulgation of Implementation Plans California State Implementation Plan Revision Sacramento Metropolitan Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing the approval of a revision to the California State Implementation Plan (SIP) proposed in the **Federal Register** on December 8, 1994. The revision concerns a rule from the Sacramento Metropolitan Air Quality Management District (SMAQMD). This approval action will incorporate this rule into the federally approved SIP. The intended effect of approving this rule is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The revised rule controls VOC emissions from bakery ovens. Thus, EPA is finalizing the approval of this revision into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

EFFECTIVE DATE: This action is effective on March 1, 1995.

ADDRESSES: Copies of the rule revision and EPA's evaluation report for the rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revision are available for inspection at the following locations:

Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), 401 ''M'' Street, SW., Washington, DC 20460.

Sacramento Metropolitan Air Quality Management District, 8411 Jackson Road, Sacramento, CA 95826.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1197.

SUPPLEMENTARY INFORMATION:

Background

On December 8, 1994 in 59 FR 63288, EPA proposed to approve the following rule into the California SIP: SMAQMD's Rule 458, Large Commercial Bakeries. Rule 458 was adopted by SMAQMD on June 7, 1994. This rule was submitted by the California Air Resources Board (CARB) to EPA on July 13, 1994. This rule was submitted in response to EPA's 1988 SIP-Call and the CAA section 182(b)(2)(C) requirement that nonattainment areas submit reasonably available control technology (RACT) rules for all major sources of VOCs by November 15, 1992 (the RACT catch-up requirements). A detailed discussion of the background of the above rule and nonattainment area is provided in the NPRM cited above.

EPA has evaluated the above rule for consistency with the requirements of the CAA and EPA regulations and EPA interpretation of these requirements as expressed in the various EPA policy guidance documents referenced in the NPRM cited above. EPA has found that the rule meets the applicable EPA requirements. A detailed discussion of the rule provisions and evaluations has been provided in 59 FR 63288 and in the technical support document (TSD) available at EPA's Region IX office (TSD dated July 28, 1994).

Response to Public Comments

A 30-day public comment period was provided in 59 FR 63288. No comments were received.

EPA Action

EPA is finalizing action to approve the above rule for inclusion into the California SIP. EPA is approving the submittal under section 110(k)(3) as meeting the requirements of section

110(a) and part D of the CAA. This approval action will incorporate this rule into the federally approved SIP. The intended effect of approving this rule is to regulate emissions of VOCs in accordance with the requirements of the CAA.

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

Regulatory Process

The OMB has exempted this action from review under Executive Order 12866 which superseded Executive Order 12866.

List of Subjects in 40 CFR Part 52

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

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

Dated: January 17, 1995.

Felicia Marcus,

Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(198)(i)(D) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(198) * * *

(i) * * *

(D) Sacramento Metropolitan Air Quality Management District.

(*1*) Rule 458, adopted on June 7, 1994.

* * * * *

[FR Doc. 95–2152 Filed 1–27–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 52 and 81

[OH06–2–6229A, OH01–2–6230A, OH32–2–6231A; FRL–5144–9]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Ohio

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rule; removal.

SUMMARY: On September 21, 1994, the USEPA published a final rule, through the ''direct final'' procedure, approving three ozone redesignation requests under section 107 of the Clean Air Act (Act) for Preble, Jefferson, and Columbiana Counties in Ohio. See 59 FR 48395. The USEPA is removing this final rule due to adverse comments received on this action. In a subsequent final rule, USEPA will summarize and respond to the comments received on these redesignation requests from the State of Ohio.

EFFECTIVE DATE: January 30, 1995.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following location: United States Environmental Protection Agency, Region 5, Air Enforcement Branch, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: William Jones, Environmental Scientist, Regulation Development Section, Air Enforcement Branch (AE–17J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6058.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Ozone.

40 CFR Part 81

Air pollution control.

Dated: December 14, 1994.

Valdas V. Adamkus,

Regional Administrator.

Chapter 1, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

§ 52.1885 [Amended]

2. Section 52.1885 is amended by removing paragraph (a) (5).

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PURPOSES—OHIO

1. The authority citation of part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. In § 81.336 the ozone table is amended by revising the entries for Columbiana, Preble, and Jefferson Counties to read as follows:

§ 81.336 Ohio.

* * * * *

OHIO—OZONE

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* * *	*	*	*	*
Columbiana County Area:				
Columbiana County	March 1, 1995	Nonattainment		Incomplete Data.
* * *	*	*	*	*
Preble County Area:				
Preble County	March 1, 1995	Nonattainment		Transitional.
Steubenville Area:				
Jefferson County	March 1, 1995	Nonattainment		Transitional

OHIO—OZONE—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* * *	*	*	*	*

[1] This date is November 15, 1990, unless otherwise noted.

[FR Doc. 95–2153 Filed 1–27–95; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 61

RIN 3067–AC29

National Flood Insurance Program; Insurance Coverage and Rates

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This final rule amends the National Flood Insurance Program (NFIP) regulations to increase the waiting period before which flood insurance coverage becomes effective under the Standard Flood Insurance Policy and to increase the limits of coverage available under the NFIP. This final rule is necessary to comply with the waiting period requirement and maximum flood insurance coverage amounts established by the National Flood Insurance Reform Act of 1994. The intent of this final rule is to establish a 30-day waiting period, with certain exceptions, before flood insurance coverage becomes effective under the Standard Flood Insurance Policy and to provide higher limits of flood insurance coverage to current and new policyholders.

EFFECTIVE DATE: March 1, 1995.

FOR FURTHER INFORMATION CONTACT: Charles M. Plaxico, Jr., Federal Emergency Management Agency, Federal Insurance Administration, 500 C Street SW., Washington, DC 20472, (202) 646–3422.

SUPPLEMENTARY INFORMATION: As part of the implementation of the National Flood Insurance Reform Act of 1994 (the Reform Act), on November 15, 1994, the Federal Emergency Management Agency (FEMA) published in the **Federal Register** (Vol. 59, page 58808) a proposed rule to increase the waiting period from five days to 30 days before flood insurance coverage becomes effective under the Standard Flood Insurance Policy and to increase the limits of coverage available under the National Flood Insurance Program.

The Reform Act provided for two exceptions to the 30-day waiting period, i.e., (1) when the initial purchase of flood insurance is in connection with the making, increasing, extension, or renewal of a loan and (2) when the initial purchase of flood insurance occurs during the one-year period following notice of the issuance of a revised flood map for a community.

A 45-day period was provided for review and comment on the proposed changes. FEMA received comments on the proposed changes from five respondents. The tally of comments included representatives from three private insurance companies participating in the NFIP Write Your Own (WYO) Program, one bank, and a national trade association representing savings and community financial institutions.

All five respondents commented on the waiting period.

One WYO company respondent commented that imposing a longer waiting period before coverage becomes effective ''will have a potential negative impact on efforts to market flood insurance'' and that imposing a longer waiting period will also result ''in an increase in disaster assistance payments since, at the time of a flood, people not yet flooded will be less inclined to buy flood insurance.'' Whatever the validity of these points may be, the longer waiting period must be implemented since, as the respondent pointed out, the Reform Act mandates such action.

Another WYO company respondent noted that the waiting period does not apply to the initial purchase of flood insurance in connection with the making, increasing, extension, or renewal of a loan and inquired whether this exception extends to transactions related to refinancing and home equity loans. The exception extends to such transactions so long as the purchase of flood insurance is the *initial* purchase of such insurance. The regulations currently provide for no waiting period in the case of a title transfer, so long as the policy is applied for and the premium is paid at or prior to the title transfer. It is important to point out that the Reform Act does not provide for this exception and, therefore, the current provision related to title transfers will not apply on and after March 1, 1995. This provision has, in essence, been replaced by the loan closing exception which, in most cases, has the same result.

The national trade association respondent commented on the exception to the waiting period in connection with the purchase of new flood insurance coverage for one year after notice of a remapping or redesignation of a flood zone. That respondent noted that the ''provision presupposes that the servicer of the loan has an obligation to require purchase by a borrower within a specific period of time following the publication of a notice of remapping or redesignation'' and further commented that ''it is not clear under either the statute or the proposal just what the nature of the servicer's obligation is as it relates to this form of purchase obligation. The Conference Committee Report refers to 'tripwires' and suggests that the obligation to require purchase by the borrower may only arise when a lender is 'making, increasing, extending or renewing' a loan.''

Based on its interpretation, this respondent commented that ''it would be inappropriate to include the one-year limitation * * * because the purchase obligation could arise at any time, not just within one year of publication of map amendments.'' This respondent further commented that the specific one-year limitation is not included in the language of the statute and suggested that, ''Until the issue of timing of the purchase requirement can be resolved'', FEMA should eliminate the one-year limitation and replace the opening phrase with the following language: ''At any time following the issuance of a revised''.

FEMA is not clear about the respondent's concern and points out that the specific one-year period related to map revisions is indeed included in the statute (sec. 579 of the Reform Act) which revises section 1306 of the National Flood Insurance Act of 1968 to add subsection (c). The specific reference to the one-year period is in section 1306(c)(2)(B).

As pointed out in the **SUPPLEMENTARY INFORMATION** section of the proposed rule, the Reform Act provides that the

one-year period starts on the date of publication of the notice of the revision and requires that the notice be published not later than 30 days after the effective date of the map revision. Since agents using flood maps automatically get copies of revised maps with the effective date of the revision shown on the map but may not see the new notice that is required, FEMA is interpreting the period for this exception to be the 13-month period beginning on the effective date of the map revision. Due to a technical oversight, this 13-month interpretation was not included in the regulatory text of the proposed rule. This oversight has been corrected and the exception to the waiting period in connection with the purchase of new flood insurance coverage made pursuant to a remapping or redesignation of a flood zone is revised in this final rule to reflect the 13-month period.

A WYO company respondent made reference to the current procedure for allowing for the renewal of policies with the same policy number after the 30-day grace period but within 90 days of the policy expiration. In such an instance, current procedures require that the 5-day waiting period be calculated from the date the renewal premium payment is received. In those instances where the policy has lapsed for more than 90 days, a new application is required. This respondent has expressed concern that ''using the 30-day waiting period would require a new application on any renewal payments received sixty (60) or more days after expiration, as the addition of the waiting period would extend the lapsed coverage to ninety (90) days or more.''

This concern indicates a misunderstanding of one of the FEMA rules regarding policy renewal when the renewal payment is received after the 30-day grace period. The respondent mistakenly believes that the premium has to be received early enough so that the 30-day waiting period is over and the coverage is in force by the 90th day. However, in that situation, in order not to be required to submit a new application, it is sufficient that the premium be received within 90 days after expiration. If the renewal notice and premium are received on day 90, the policy bearing the former policy number may be placed in force 30 days following receipt, without a new application.

That respondent and another WYO company respondent expressed concern as to the impact the 30-day waiting period will have on policies issued through the Mortgage Portfolio Protection Program (MPPP). Both of these respondents pointed out that, since the MPPP guidelines require a 45-day notification letter cycle prior to application for force-place flood insurance coverage, imposing the 30-day waiting period for policies issued under the MPPP will result in a minimum of 75 days before coverage could be in effect. The other WYO company respondent further commented that, in accordance with the provisions of the Reform Act, ''if the lender and borrower dispute the flood zone in writing to the Director and the Director does not respond for 45 days, the collateral is still listed as being in a flood zone, and the customer does not purchase the required insurance, collateral could potentially be uninsured for an additional 45 days increasing the total to 120 days.'' Based on their concerns, these respondents urged that the 30-day waiting period *not* be applicable in those instances where the lender is purchasing the flood insurance coverage for the borrower, even though the cost of the policy will be passed on to the borrower.

While FEMA appreciates their concerns, the statute is quite specific concerning the exceptions to the 30-day waiting period and, since the examples cited by these respondents do not fall within those exceptions, FEMA cannot waive the 30-day waiting period for these situations. Therefore, the revisions to the waiting period are incorporated into the final rule as originally proposed, except for the change related to the 13-month period in connection with the remapping or redesignation of a flood zone as discussed above.

As pointed out in the proposed rule, however, the Reform Act requires FEMA to conduct a study to determine the appropriateness of existing requirements regarding the effective date and time of coverage under flood insurance contracts obtained through the national flood insurance program. Congress stipulated that, in conducting the study, the Director shall determine whether any delay between the time of purchase of flood insurance coverage and the time of initial effectiveness of the coverage should differ for various classes of properties or for various circumstances under which such insurance was purchased. The comments received from the respondents will be considered as FEMA conducts this study.

Two of the respondents commented on the proposal to increase the limits of coverage under the NFIP.

A WYO company inquired whether a primary single family residence that is currently insured in the maximum amount of coverage and thus qualifies for replacement cost coverage would still be entitled to replacement cost should a loss occur between the time the increased limits of coverage take effect and the time the policy is due for renewal. The company questioned whether, in such an instance, the loss would be settled on a replacement cost or actual cash value basis. The company also inquired regarding the same scenario when the insured has a three-year policy and in the case of a condominium building which is insured under the Residential Condominium Building Association Policy. FEMA will be issuing implementing instructions which will address this issue and will be sent to this WYO company and all other WYO companies. This WYO company also inquired about the effective date should an agent submit a request to increase limits for a residential structure to the new $250,000 maximum before March 1. In setting forth its understanding, the company correctly concluded that if the endorsement (with appropriate premium, of course) is submitted before March 1, 1995, the endorsement would become effective after five days or on March 1 (whichever is later) and that any endorsement (with appropriate premium) submitted on or after March 1, 1995, would become effective after a 30-day waiting period (unless one of the exceptions applied, of course).

In commenting on the maximum amounts of coverage to be available after March 1, 1995, the national trade association respondent urged FEMA ''to work in conjunction with the bank regulatory agencies on a state and federal level to coordinate the obligations of financial institutions.'' This respondent pointed out that some existing federal regulations require institutions to ''maintain coverage 'for the term of the loan' in an amount 'at least equal to the outstanding principal balance of the loan or the maximum coverage available with respect to the particular type of property under the Act, whichever is less.'' This respondent expressed the belief that compliance with those regulations may require that additional insurance be purchased ''in those instances where insurance must be maintained in the amount of the maximum available under the flood insurance program'' and thus questioned whether the current loan servicer is obligated to act immediately to increase the amount of coverage or whether a reasonable time period will be available for the purchase of additional insurance. This respondent suggested that, given the complexities of present-day loan

servicing, a significant period of time, such as 180 days following the date of availability of the increased coverage, be provided to allow lenders/servicers sufficient time to arrange or cause the borrower to obtain any required additional coverage.

This respondent pointed out that section 524 of the Reform Act ''specifies the notifications required for a property in a designated flood plain 'covered by such insurance in an amount less than the amount required for the property' '' and suggested that FEMA ''clarify that these procedures are the same steps to be followed in the event additional insurance is required.'' It was suggested that the notification and standard hazard determination forms being promulgated pursuant to sections 527 and 528 of the Reform Act ''include language to alert the borrower to the potential requirement to purchase additional insurance at a future date.'' This suggestion will be considered as the notification and standard hazard determination forms are being developed. The final authority regarding regulations relating to the obligations of financial institutions rests with the various federal entities for lending regulation. However, FEMA does have a consulting/coordinating role with those federal entities and will pass these comments along to those entities for their consideration.

National Environmental Policy Act

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

Executive Order 12898, Environmental Justice

The socioeconomic conditions relating to this final rule were reviewed and a finding was made that no disproportionately high and adverse effect on minority or low income populations result from this final rule.

Executive Order 12866, Regulatory Planning and Review

This final rule is not a significant regulatory action within the meaning of Section 2(f) of E.O. 12866 of September 30, 1993, 58 FR 51735, and has not been reviewed by the Office of Management and Budget. Nevertheless, this final rule adheres to the regulatory principles set forth in E.O. 12866.

Paperwork Reduction Act

This final rule does not contain a collection of information requirement as described in section 3504(h) of the Paperwork Reduction Act.

Executive Order 12612, Federalism

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

Executive Order 12778, Civil Justice Reform

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

List of Subjects in 44 CFR Part 61

Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 61 is amended as follows:

PART 61—INSURANCE COVERAGE AND RATES

1. The authority citation for Part 61 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127 of Mar. 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

2. Section 61.6 is revised to read as follows:

§ 61.6 Maximum amounts of coverage available.

(a) Pursuant to section 1306 of the Act, the following are the limits of coverage available under the emergency program and under the regular program.

	Regular program		
	Emergency program [1] first layer	Second layer	Total amount available
Single Family Residential			
Except in Hawaii, Alaska, Guam, U.S. Virgin Islands	35,000	215,000	250,000
In Hawaii, Alaska, Guam, U.S. Virgin Islands	50,000	200,000	250,000
Other Residential			
Except in Hawaii, Alaska, Guam, U.S. Virgin Islands	100,000	150,000	250,000
In Hawaii, Alaska, Guam, U.S. Virgin Islands	150,000	100,000	250,000
Nonresidential			
Small business	100,000	400,000	500,000
Churches and other properties	100,000	400,000	500,000
Contents [2]			
Residential	10,000	90,000	100,000
Small business	100,000	400,000	500,000
Churches, other properties	100,000	400,000	500,000

[1] Only first layer available under emergency program.
[2] Per unit.

(b) In the insuring of a residential condominium building in a regular program community, the maximum limit of building coverage is $250,000 times the number of units in the building (not to exceed the building's replacement cost).

3. Section 61.11 is amended as follows:

a. By revising paragraphs (a), (b), and (c) to read as follows:

§ 61.11 Effective date and time of coverage under the Standard Flood Insurance Policy—New Business Applications and Endorsements.

(a) During the 13-month period beginning on the effective date of a revised Flood Hazard Boundary Map or Flood Insurance Rate Map for a community, the effective date and time of any initial flood insurance coverage shall be 12:01 a.m. (local time) on the first calendar day after the application date and the presentment of payment of premium; for example, a flood insurance policy applied for with the payment of the premium on May 1 will

become effective at 12:01 a.m. on May 2.

(b) Where the initial purchase of flood insurance is in connection with the making, increasing, extension, or renewal of a loan, the coverage with respect to the property which is the subject of the loan shall be effective as of the time of the loan closing, provided the written request for the coverage is received by the NFIP and the flood insurance policy is applied for and the presentment of payment of premium is made at or prior to the loan closing.

(c) Except as provided by paragraphs (a) and (b) of this section, the effective date and time of any new policy or added coverage or increase in the amount of coverage shall be 12:01 a.m. (local time) on the 30th calendar day after the application date and the presentment of payment of premium; for example, a flood insurance policy applied for with the payment of the premium on May 1 will become effective at 12:01 a.m. on May 31.

* * * * *

b. In paragraph (e), by removing, in the second sentence, the phrase ''(P.O. Box 459, Lanham, Maryland 20706)''.

c. By removing paragraphs (f) (1) and (2) and by redesignating paragraph (f)(3) as paragraph (g).

d. In newly redesignated paragraph (g), by removing the word ''this'' and after ''(f)'' add ''of this section''.

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

Dated: January 23, 1995.

Elaine A. McReynolds,

Administrator, Federal Insurance Administration.

[FR Doc. 95–2249 Filed 1–27–95; 8:45 am]

BILLING CODE 6718–05–P

---

44 CFR Part 65

[Docket No. FEMA–7123]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Interim rule.

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

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

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

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

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

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

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

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

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

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

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

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

National Environmental Policy Act

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

Regulatory Flexibility Act

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

Regulatory Classification

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

Executive Order 12612, Federalism

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

Executive Order 12778, Civil Justice Reform

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

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

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

PART 65—[AMENDED]

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

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

§ 65.4 [Amended]

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

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Alabama: Tuscaloosa.	City of Tuscaloosa.	Nov. 25, 1994, Dec. 2, 1994, *The Tuscaloosa News*.	The Honorable Alvin P. DuPont, Mayor of the City of Tuscaloosa, P.O. Box 2089, Tuscaloosa, Alabama 35403.	Nov. 16, 1994 ...	010203
Connecticut: Fairfield county.	City of Stamford	Oct. 19, 1994, Oct. 26, 1994, *Stamford Advocate*.	The Honorable Stanley Esposito, Mayor of the City of Stamford, 888 Washington Boulevard, Stamford, Connecticut 06904–2152.	Sept. 30, 1994 ..	090015 D
Florida: Unincorporated areas.	Collier county	Oct. 28, 1994, Nov. 4, 1994, *Naples Daily News*.	Mr. Timothy Constantine, Chairman of the Collier County Commis- sioners, 3301 Tamiami Trail East, Building F, Naples, Florida 33962.	Oct. 21, 1994	120067 E
Georgia: Unincorporated areas.	Gwinnett county	Sept. 1, 1994, Sept. 8, 1994, *The Atlanta Journal-Constitution*.	Mr. Wayne Hill, Chairman of the Gwinnett County Board of Commissioners, 75 Langley Drive, Lawrenceville, Georgia 30245–6900.	Aug. 25, 1994 ...	130322 C
Indiana: Boone county.	City of Lebanon	Oct. 11, 1994, Oct. 18, 1994, *The Reporter*.	The Honorable James Acton, Mayor of the City of Lebanon, 201 East Main Street, Lebanon, Indiana 46052.	Oct. 3, 1994	180013 C
Minnesota: Hennepin county.	City of St. Louis Park.	Oct. 5, 1994, Oct. 12, 1994, *Sun Sailor*.	The Honorable Lyle Hanks, Mayor of the City of St. Louis Park, 505 Minnetonka Boulevard, St. Louis Park, Minnesota 55416–2290.	Sept. 28, 1994 ..	270184 B
Mississippi: Panola county.	City of Batesville	Oct. 26, 1994, Nov. 2, 1994, *The Panolian*.	The Honorable Bobby Baker, Mayor of the Town of Batesville, P.O. Box 689, Batesville, Mississippi 38606.	Sept. 19, 1994 ..	280126 C
New Jersey: Sussex county.	Township of Byram.	Mar. 23, 1994, Mar. 30, 1994, *The New Jersey Herald*.	The Honorable Richard A. Bowe, Mayor of the Township of Byram, 10 Mansfield Drive, Stanhope, New Jersey 07874.	Sept. 15, 1994 ..	340557
New York: Monroe county.	Town of Gates ..	Oct. 5, 1994, Oct. 12, 1994, *Gates Chili News*.	Mr. Ralph J. Esposito, Supervisor for the Town of Gates, 1605 Buffalo Road, Rochester, New York 14624.	Sept. 28, 1994 ..	360416 B
North Carolina: Unincorporated areas.	Granville county	Sept. 29, 1994, Oct. 6, 1994, *Oxford Public Ledger & Butner Creedmoor News*.	Mr. John W. Lewis, Jr., Granville County Manager, P.O. Box 906, Oxford, North Carolina 27565.	Sept. 23, 1994 ..	370325 C
North Carolina: Pitt county.	City of Greenville.	Nov. 23, 1994, Nov. 30, 1994, *Daily Reflector*.	The Honorable Nancy M. Jenkins, Mayor of the City of Greenville, P.O. Box 7207, Greenville, North Carolina 27835–7207.	Mar. 1, 1995	370191 B
North Carolina: Rockingham county.	City of Reidsville	Oct. 11, 1994, Oct. 18, 1994, *Reidsville Review*.	The Honorable W. Clark Turner, Mayor of the City of Reidsville, 230 West Morehead Street, Reidsville, North Carolina 27320.	Sept. 30, 1994 ..	370209 B
Ohio: Miami county	Unincorporated areas.	Nov. 23, 1994, Nov. 30, 1994, *Troy Daily News*.	Mr. Richard Adams, President of the Miami County Commissioners, 201 West Main Street, Troy, Ohio 45373.	May 16, 1995	390398 B
Pennsylvania: Dauphin county.	Township of Middle Paxton.	Oct. 6, 1994, Oct. 13, 1994, *The Patriot and Evening News*.	Mr. Richard Peffer, Chairman, Middle Paxton Township Board of Supervisors, P.O. Box 277, Dauphin, Pennsylvania 17018.	Jan. 11, 1995	420387 B
West Virginia: Putnam county.	Unincorporated areas of Putnam county.	May 12, 1994, May 19, 1994, *Putnam Democrat*.	Mr. Dave Alford, President of the Putnam County Commission, P.O. Box 149, Winfield, West Virginia 25213.	May 6, 1994	540164
Wisconsin: Dane county.	City of Madison .	Dec. 2, 1994, Dec. 9, 1994, *The Capital Times*.	The Honorable Paul Soglin, Mayor of the City of Madison, City-County Building, Room 403, 210 Martin Luther King, Jr. Boulevard, Madison, Wisconsin 53710.	Nov. 23, 1994 ...	550083

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

Dated: January 23, 1995.

Richard T. Moore,

Associate Director for Mitigation.

[FR Doc. 95–2201 Filed 1–27–95; 8:45 am]

BILLING CODE 6718–03–P

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

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

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

ADDRESSES: The modified base flood elevations for each community are

available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

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

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

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

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

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

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

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

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

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

National Environmental Policy Act

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

Regulatory Flexibility Act

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

Regulatory Classification

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

Executive Order 12612, Federalism

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

Executive Order 12778, Civil Justice Reform

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

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

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

PART 65—[AMENDED]

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

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

§ 65.4 [Amended]

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

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Illinois: Cook and Lake counties (FEMA Docket No. 7104).	Village of Arlington Heights.	June 9, 1994, June 16, 1994, *Daily Herald*.	Ms. Arlene Mulder, President of the Village of Arlington Heights, 33 South Arlington Heights Road, Arlington Heights, Illinois 60005.	Dec. 2, 1994	170056 B
Illinois: DuPage and Will counties (FEMA Docket No. 7111).	City of Naperville.	July 13, 1994, July 20, 1994, *Naperville Sun*.	The Honorable Samuel T. Macrane, Mayor of the City of Naperville, 400 South Eagle Street, Naperville, Illinois 60566–7020.	June 30, 1994 ...	170213 C
Indiana: Hamilton county (FEMA Docket No. 7104).	City of Carmel ...	June 22, 1994, June 29, 1994, *The Carmel News Tribune*.	The Honorable Ted Johnson, Mayor of the City of Carmel, One Civic Square, Carmel, Indiana 40032.	May 24, 1994	180081 C
Minnesota: Anoka county (FEMA Docket No. 7098).	City of Coon Rapids.	Apr. 1, 1994, Apr. 8, 1994, *Coon Rapids Herald*.	Mr. Robert Svehla, Coon Rapids City Manager, 1313 Coon Rapids Boulevard, Coon Rapids, Minnesota 55433–5397.	Mar. 22, 1994 ...	270011 A
Minnesota: Olmsted county (FEMA Docket No. 7111).	City of Rochester.	July 29, 1994, Aug. 5, 1994, *Post Bulletin*.	The Honorable Chuck Hazama, Mayor of the City of Rochester, City Hall, Room 200, Rochester, Minnesota 55902.	July 21, 1994	275246 C
New York: Orange county (FEMA Docket No. 7104).	Village of Goshen.	June 8, 1994, June 15, 1994, *The Independent Republican*.	The Honorable George Lyons, Mayor of the Village of Goshen, 276 Main Street, Goshen, New York 10924.	May 31, 1994	361571 B

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
North Carolina: Buncombe county (FEMA Docket No. 7098).	City of Asheville	Feb. 28, 1994, Mar. 7, 1994, *The Asheville Citizen Times*.	The Honorable Kenneth Michalove, Mayor of the City of Asheville, P.O. Box 7148, Asheville, North Carolina 28802.	Feb. 18, 1994 ...	370032
North Carolina: Dare county (FEMA Docket No. 7085).	Unincorporated areas of Dare county.	Jan. 6, 1994, Jan. 13, 1994, *The Coastland Times*.	Mr. Robert V. Owens, Chairman of the Dare County Board of Commissioners, P.O. Box 1000, Manteo, North Carolina 27954.	Dec. 28, 1993 ...	375348 D
North Carolina: McDowell county (FEMA Docket No. 7104).	Town of Old Fort	July 13, 1994, July 20, 1994, *Old Fort Bulletin*.	The Honorable Wayne Stafford, Mayor of the Town of Old Fort, P.O. Box 908, Old Fort, North Carolina 28762.	Nov. 23, 1994 ...	370149 B
Pennsylvania: Indiana county (FEMA Docket No. 7104).	Borough of Indiana.	July 1, 1994, July 8, 1994, *Indiana Gazette*.	The Honorable John D. Varner, Mayor of the Borough of Indiana, 80 North Eighth Street, Indiana, Pennsylvania 15701.	Oct. 7, 1994	420501 C
Tennessee: Hamilton county, (FEMA Docket No. 7098).	Unincorporated areas of Hamilton county.	Mar. 21, 1994, Mar. 28, 1994, *Chattanooga Free Press*.	Mr. Dalton Roberts, Hamilton County Executive, 208 County Courthouse, Fountain Square, Chattanooga, Tennessee 37402.	Sept. 15, 1994 ..	470071 D
Wisconsin: La Crosse county (FEMA Docket No. 7104).	Unincorporated areas.	June 29, 1994, July 6, 1994, *La Crosse Tribune*.	Mr. James Ehrsam, Chairman of the La Crosse County Board of Supervisors, 400 North Fourth Street, La Crosse, Wisconsin 54601.	June 22, 1994 ...	550217 A

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

Dated: January 23, 1995.

Richard T. Moore,

Associate Director for Mitigation.

[FR Doc. 95–2199 Filed 1–27–95; 8:45 am]

BILLING CODE 6718–03–P

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

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

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

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

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

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

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

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

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

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

National Environmental Policy Act

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

Regulatory Flexibility Act

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

Regulatory Classification

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

Executive Order 12612, Federalism

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

Executive Order 12778, Civil Justice Reform

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

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

Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

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

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

§ 67.11 [Amended]

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

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
ALABAMA	
Tuscaloosa (city), Tuscaloosa County (FEMA Docket No. 7105)	
Cribbs Mill Creek:	
Approximately 1,800 feet downstream of Southern Railway	*145
Approximately 475 feet upstream of the Second Avenue bridge	*191
Cribbs Mill Creek Tributary No. 1:	
At its confluence with Cribbs Mill Creek	*180
Approximately 330 feet downstream of Hargrove Road	*185
Cribbs Mill Creek Tributary No. 5:	
At its confluence with Cribbs Mill Creek	*175
Approximately 700 feet upstream of confluence with Cribbs Mill Creek	*180
Cypress Creek:	
300 feet upstream of U.S. Highway 82	*214
Approximately 1,300 feet upstream of 18th Avenue East	*242
Approximately 25 feet downstream of Spring Lake Dam	*298
Cypress Creek Tributary No. 1:	
Backwater from Cypress Creek along Interlake Road	*275
Maps available for inspection at the City Hall/Community Planning & Development, 2201 University Boulevard, Tuscaloosa, Alabama.	
CONNECTICUT	
Prospect (town), New Haven County (FEMA Docket No. 7105)	
Tributary to Falling Mill Brook:	
Approximately 250 feet downstream of Salem Road (downstream crossing)	*751
Approximately 80 feet upstream of Salem Road (upstream crossing)	*765
Mountain Brook:	
Approximately 80 feet downstream of Juggernaut Road	*588
Approximately 0.9 mile upstream of Juggernaut Road	*613
Tenmile River:	
Approximately 900 feet downstream of abandoned overpass	*237
Approximately 120 feet upstream of Cheshire Road	*263
Maps available for inspection at the Town Hall, 36 Center Street, Prospect, Connecticut.	
FLORIDA	
Altamonte Springs (city), Seminole County (FEMA Docket No. 7105)	
Lake Harriet:	
Entire shoreline within community	*57
Maps available for inspection at the Altamonte Springs Public Library, 281 North Maitland, Altamonte Springs, Florida. Florida	
Casselberry (city), Seminole County (FEMA Docket No. 7097)	
Tributary to Howell Lake:	
At downstream side of State Route 436	*57
Upstream corporate limits	*76
Maps available for inspection at the City Hall, 95 Triplet Lake Drive, Casselberry, Florida.	
Lake Mary (city), Seminole County (FEMA Docket No. 7097)	
Soldier Creek:	
Backwater area between CSX Transportation	*42
AH Zone: Shallow flooding area at Lake Emma Road approximately 1.6 miles north of Longwood Markham Road	*49
AH Zone: Shallow flooding area at Lake Emma Road approximately 2.3 miles north of Longwood Markham Road	*45
Twin Lakes:	
Approximately 0.5 mile east of intersection of Interstate Route 4	*51
Maps available for inspection at the City Engineering Department, 100 North Country Club Road, Lake Mary, Florida	
Longwood (city), Seminole County (FEMA Docket No. 7097)	
Soldier Creek:	
Approximately 1,200 feet downstream of Longwood Mills Road	*54
At upstream side of 14th Avenue	*60
Unnamed Ponding Area:	
South of Longwood Mills Road approximately 1,300 feet west of Longwood Lake Mary Road	*58
Maps available for inspection at the Building and Planning Department, 174 West Church Avenue, Longwood, Florida.	
Oviedo (city), Seminole County (FEMA Docket No. 7097)	
Little Econlockhatchee River:	
Approximately 0.6 mile upstream of Lockwood Road	*32
Approximately 1.5 miles upstream of Lockwood Road	*33
Bath Lake:	
Entire shoreline within community	*68
Maps available for inspection at the Engineering Department, 400 Alexandria Boulevard, Oviedo, Florida.	
Sanford (city), Seminole County (FEMA Docket No. 7097)	
Six Mile Creek Tributary:	
Approximately 0.4 mile upstream of State Route S–427	*31
At Airport Boulevard	*34
Lake Monroe: Entire shoreline	*9
Twin Lake West: Entire shoreline	*51
Twin Lake East: Entire shoreline	*47
Maps available for inspection at the City Hall, 300 North Park Avenue, Sanford, Florida.	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Seminole County (unincorporated areas) (FEMA Docket No. 7039)	
Linden Lake: Entire shoreline within community	*46
Rice Lake: Entire shoreline within community	*46
Twin (Sanford) East: Entire shoreline within community	*47
Twin (Sanford) West: Entire shoreline within community	*51
Bath Lake: Entire shoreline within community	*68
Horseshoe lake: Entire shoreline within community	*40
Lake Markham: Entire shoreline within community	*48
Lake Howard: Entire shoreline within community	*48
Ross Lake: Entire shoreline within community	*48
Lake Cockran: Entire shoreline within community	*30
Mills Lake: Entire shoreline within community	*45
Lake Gore: Entire shoreline within community	*43
Lake Deeks: Entire shoreline within community	*67
Lake Geneva: Entire shoreline within community	*31
Twin (Oviedo): Entire shoreline within community	*34
Buck Lake: Entire shoreline within community	*32
Lake Marion: Entire shoreline within community	*62
Lake Catherine: Entire shoreline within community	*58
Lake Nixon: Entire shoreline within community	*46
Lake Proctor (Upper): Entire shoreline within community	*31
Lake Proctor (Lower): Entire shoreline within community	*29
Lake Rogers: Entire shoreline within community	*75
Lake Lucerne: Entire shoreline within community	*58
Boat Lake: Entire shoreline within community	*55
Clear Lake: Entire shoreline within community	*65
Lake Tony: Entire shoreline within community	*61
Sand Lake: Entire shoreline within community	*116
Pearl Lake: Entire shoreline within community	*54
Forest Lake: Entire shoreline within community	*67
Lake Harriet: Entire shoreline within community	*57
Maps available for inspection at the Seminole County Development Review Department, County Services Building, Room W225, 1101 East First Street, Sanford, Florida.	
Winter Springs (city), Seminole County (FEMA Docket No. 7097)	
Boat Lake:	
Entire shoreline within community	*55
Maps available for inspection at the City Engineering Department, 1126 East State Route 434, Winter Springs, Florida.	
GEORGIA	
Augusta (city), Richmond County (FEMA Docket No. 7079)	
Savannah River:	
Approximately 1.35 miles downstream of the confluence of Butler Creek	*122
Approximately 1.35 miles upstream of Interstate 20	*151
Maps available for inspection at the City-County Municipal Building, 530 Greene Street, Augusta, Georgia.	
Hall County (unincorporated areas) (FEMA Docket No. 7097)	
Flat Creek:	
Upstream side of State Route 13	*1,166
Approximately 100 feet upstream of Southern Railway	*1,179
Limestone Creek:	
At the confluence with Chattahoochee River	*1,077
At upstream side of second crossing of State Route 13	*1,126
Limestone Creek Tributary:	
At confluence with Limestone Creek	*1,089
Approximately 1,000 feet upstream of confluence with Limestone Creek	*1,091
Maps available for inspection at the Hall County Engineering Department, 300 Green Street, Gainesville, Georgia.	
North High Shoals (town), Oconee County (FEMA Docket No. 7105)	
Apalachee River:	
At downstream corporate limits, approximately 0.9 mile downstream of State Highway 186 bridge	*585
At upstream corporate limits, approximately 1.5 miles upstream of State Highway 186 bridge	*652
Maps available for inspection at the Town Hall, 108 Jefferson, High Shoals, Georgia.	
Oconee County (unincorporated areas) (FEMA Docket No. 7097)	
Apalachee River:	
Approximately 3 miles downstream of State Route 186 bridge	*574
Approximately 250 feet upstream of westbound span of U.S. Highway 78 bridge	*692
Maps available for inspection at the Planning and Inspections Building, 23 Water Street, Watkinsville, Georgia.	
Richmond County (unincorporated areas) (FEMA Docket No. 7079)	
Savannah River:	
Approximately 0.6 mile upstream of its confluence with McBean Creek	*108
Approximately 0.9 mile upstream of Sandbar Ferry Road (at City of Augusta corporate limits)	*133
Spirit Creek:	
At confluence with Savannah River	*118
Approximately 400 feet downstream of State Route 56	*125
Maps available for inspection at the City-County Municipal Building, 530 Greene Street, Augusta, Georgia.	
INDIANA	
Shoals (town), Martin County (FEMA Docket No. 7105)	
East Fork White River:	
Approximately 1.2 miles downstream of the confluence of Beaver Creek	*478
Upstream corporate limits	*481
Beaver Creek:	
At the downstream corporate limits	*480
At the upstream corporate limits	*480
Maps available for inspection at the Town Hall, Water Street, Shoals, Indiana.	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
LOUISIANA	
Grand Isle (town), Jefferson Parish (FEMA Docket No. 7110)	
Gulf of Mexico:	
Southern shoreline of Grand Isle	*13
At Bay Lane	*10
From Bayou Thunder Von Tranc to the northern shoreline of Caminada Bay	*12
At bend in Oleander Drive near Bay St. Honore	22
South of Oleander Drive from Caminada Bay to Lona Linda Avenue	*13
Maps available for inspection at the Grand Isle Town Hall, Ludwig Lane, Grand Isle, Louisiana.	
Gretna (city), Jefferson Parish (FEMA Docket No. 7110)	
Ponding Areas South of U.S. Route 90:	
At the intersection of Gretna Boulevard and Willow Drive	−1.5
At the intersection of Mason Street and Cypress Lane	−1.5
Maps available for inspection at the City Hall, 2nd and Huey P. Long Avenue, Gretna, Louisiana. Louisiana	
Harahan (city), Jefferson Parish (FEMA Docket No. 7110)	
Ponding Area 48: At intersection of Murleson and Berkley Avenue	*10.5
Ponding Area 49: At intersection of Imperial and Landcaster Drive	*11.5
Ponding Area 29: Approximately 600 feet east of intersection of Rosedown Place and Walter Road	*1.5
Ponding Area 37: Approximately 500 feet west of intersection of State Route 48 and Normandy	*8.0
Ponding Area 28: From northernmost corporate limits to Sauve Road	*2.0
Maps available for inspection at the City Hall, 6437 Jefferson Highway, Harahan, Louisiana.	
Jean LaFitte (town), Jefferson Parish (FEMA Docket No. 7110)	
Gulf of Mexico:	
At Bayou Baratatia, from State Route 303 to the northern corporate limits	*7.0
At the confluence of Fleming Canal and Unnamed Canal	*9.0
East of Bayou Barataria, from Gloria Drive to southern corporate limits	*8.0
East of Bayou Barataria, from Gloria Drive to the northern corporate limits	*7.0
At unnamed canal, approximately 1,000 feet upstream of confluence with Fleming Canal	*8.0
Maps available for inspection at the City Hall, Route 1, Box 1, Jean LaFitte, Louisiana.	
Jefferson Parish (unincorporated areas) (FEMA Docket No. 7110)	
West Bank Waggaman Basin:	
Ponding Area 1: At intersection of Willswood Lane and Southern Pacific Railroad	*5.0
Ponding Area 2: Approximately 1,000 feet north of intersection of U.S. Route 90 and South Kenner Road	*3.5
Ponding Area 3: Approximately 1,000 feet south of confluence of Avondale Canal and Main Canal	*1.0
Ponding Area 3A: Approximately 1,000 feet southwest of intersection of Avondale Road and U.S. Route 90	*3.5
Ponding Area 4: At intersection of Jamie Boulevard and Anne Drive	*3.5
Ponding Area 5: At intersection of Barnes Street and Wiegand Drive	*5.0
Ponding Area 6: Approximately 500 feet east of intersection of tank farm siding and Bridge City Avenue	*4.0
Ponding Area 7: Approximately 2,000 feet northeast of intersection of U.S. Route 90 and Texas and Pacific Railroad	*2.5
Ponding Area 8: Approximately 2,500 feet northeast of intersection of Texas and Pacific Railroad and tank farm siding	*2.5
Ponding Area 9:	
North of U.S. Route 90 (Business) from West Krueger to Westwego corporate limits	*1.5
North of U.S. Route 90 (Business) from West Krueger west approximately 2,000 feet	*1.5
Ponding Area 10:	
North of main canal to U.S. Route 90 and east of main canal to Labranche Canal	*1.0
Approximately 1,000 feet south of intersection of Labranche Canal and U.S. Route 90	*1.0
Ponding Area 11:	
At intersection of Jung Boulevard and Mayronne Canal	*1.5
North of Lapalco Boulevard from Garden Road east to Ames Boulevard	*1.5
North of Lapalco Boulevard from Ames Boulevard east to Diane Drive	*1.5
Ponding Area 12:	
At the intersection of Lincolnshire Drive and Benedict Drive	*1.0
Approximately 500 feet south of the intersection of Westwood Drive and Lapalco Boulevard	*1.0
Ponding Area 13:	
East of Sauvage Levee Avenue to Caddy Drive, south of Lapalco Boulevard to Coubra	*3.5
West of Mary Drive and east of Nature Drive	*3.5
At intersection of Randolph and James Drive	*3.5
Ponding Area 14:	
At intersection of Patriot Street and Orchid Drive	*1.0
Approximately 300 feet west of intersection of Floral Drive and Warwick Drive	*1.0
Ponding Area 15:	
State Route 45 east to Bayou Des Families Ridge North	*5.0
South of Bayou Des Families to Russell Drive	*5.0
Ponding Area 16: At intersection of Grand Terre Drive and Chenier Street	*5.5
Ponding Area 17:	
At intersection of Teton Street and Oregon	*2.5
At intersection of Pritchard Road and East Ames Boulevard	*2.5
Ponding Area 18: Bayou Des Families Ridge to State Route 3134 South	*5.0
Ponding Area 19: State Route 3134 to Harvey Canal	*1.5
Ponding Area 23: Harvey Canal area of Intracoastal Waterway, north of Bayou Barataria	*5.5
Ponding Area 24:	
From the western Kenner corporate limits to the Jefferson/Orleans Parish boundary, east of Bonnabel Canal, and north of West Metaire Avenue	*3.5

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
From the western Kenner corporate limits to the Jefferson/Orleans Parish boundary, north of Lake Pontchartrain Levee	*15.0
At the intersection of Cherokee Avenue and Poplar Street	*−3.5
Ponding Area 25: At intersection of 35th Street and Ridgelake Drive	*−2.0
Ponding Area 26:	
At intersection of Maple Ridge Drive E and Edinburg	*0.0
At intersection of East Livingston Place and Dolores	*0.0
Ponding Area 27: At intersection of North Upland Avenue and Milan Street	*3.0
Ponding Area 28: At intersection of Mary Lane and Stephen Drive	*2.0
Ponding Area 29: At intersection of Bellegrove Place and Orchard Road	*1.5
Ponding Area 30: At intersection of Powell Street and Wholesalers Parkway	*2.5
Ponding Area 31: At intersection of Morris Place and Gelpi Avenue	*4.5
Ponding Area 32: Approximately 600 feet south on intersection of Maple Ridge Drive and Airline Highway	*0.0
Ponding Area 33: Approximately 500 feet west of intersection of Caroline Street and U.S. Route 48	*7.0
Ponding Area 34: Approximately 500 feet southwest of intersection of Valerie Avenue and State Route 48	*6.5
Ponding Area 35: At intersection of Marigold Street and Hibiscus Place	*4.5
Ponding Area 36: At intersection of 4th and Moss Lane	*6.0
Ponding Area 37: Approximately 500 feet southwest of intersection of Levee View Drive and State Route 48	*8.0
Ponding Area 38: At intersection of South Drive and Central Avenue	*9.5
Ponding Area 39: Riverdale Drive east to Shrewsbury Road, south of U.S. Route 90	*9.0
Ponding Area 40: Approximately 300 feet south of intersection of U.S. Route 90 and Coolidge Street	*4.0
Ponding Area 41: At intersection of Spruce and Brooklyn Avenue	*3.5
Ponding Area 42: At intersection of Byron and Dakin Street	*2.0
Gulf of Mexico: At Hackberry Bay	*16.0
Gulf of Mexico (Lake Cataouache): At Bayou Segnette near Mayronne Canal just south of Westwego corporate limits	*5.0
Gulf of Mexico:	
At Caminada Bay	*13
At Bay Des Ilettes	*15
Northern end of Three Bayou Bay	*12
At confluence of Chenier Traverse Bayou with Bayou Dupont	*12
At confluence of Bayou Des Familles with Bayou Barataria	*7
Maps available for inspection at the Parish Government Office Building, 1221 Elmwood Place Boulevard, Harahan, Louisiana.	
Kenner (city), Jefferson Parish (FEMA Docket No. 7110)	
Ponding Area 24:	
New Orleans International Airport east runway north towards Veterans Memorial Highway	*−3.5
West of East Grandlake Boulevard	*−3.5
At the intersection of Platt and Mesa Streets	*−3.5
Maps available for inspection at the City Hall, 1801 Williams Avenue, Kenner, Louisiana.	
Westwego (city), Jefferson Parish (FEMA Docket No. 7110)	
Ponding Area 9:	
At intersection of Vic A. Pitrie Drive and E Avenue	*1.5
At Angela Street and western corporate limits	*1.5
At intersection of Southern Pacific Railroad and western corporate limits	*1.5
Gulf of Mexico: Dugues Canal at southern corporate limits	*6.0
Maps available for inspection at the City Hall, 419 Avenue A, Westwego, Louisiana.	
MAINE	
Phillips (town), Franklin County (FEMA Docket No. 7083)	
Sandy River:	
Approximately 0.45 mile downstream of Bridge Street	*543
At upstream corporate limit	*818
Orbeton Stream:	
At confluence with Sandy River	*718
Upstream side of Toothaker Pond Road	*737
South Branch Sandy River:	
At confluence with Sandy River	*745
Approximately 0.8 mile upstream of Boise Cascade Road	*913
Toothaker Pond: Entire shoreline within community	*795
Maps available for inspection at the Town Hall, Phillips, Maine.	
MASSACHUSETTS	
Easton (town), Bristol County (FEMA Docket No. 7083)	
Queset Brook:	
Approximately 125 feet upstream of Dean Pond Dam	*97
Approximately 0.28 mile upstream of Canton Street	*183
Gowards Brook:	
Approximately 0.46 mile downstream of Norton Avenue	*94
Upstream side of State Route 106	*147
Whitman Brook:	
At confluence with Queset Brook	*122
Approximately 0.37 mile upstream of CONRAIL	*135
Maps available for inspection at the Planning and Zoning Office, 136 Elm Street, Easton, Massachusetts.	
MISSISSIPPI	
Coahoma (county), Unincorporated Areas (FEMA Docket No. 7097)	
Lake Bayou:	
At confluence with Oxbow Bayou	*159
Approximately 1 mile upstream of the confluence with Oxbow Bayou	*159
Oxbow Bayou:	
Confluence with Cassidy Bayou	*158
Approximately 1–2 miles upstream of Laney Road	*161
Maps available for inspection at the Road Department, 17290 Highway 61 North, Clarksdale, Mississippi.	
NEW HAMPSHIRE	
Raymond (town), Rockingham County (FEMA Docket No. 7093)	
Lamprey River:	
Approximately 80 feet downstream of Epping Road	*187
Approximately 1.2 miles upstream of Dudley Road	*217

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the Town Office, 4 Epping Street, Raymond, New Hampshire.	
NEW YORK	
Hammondsport (village), Steuben County (FEMA Docket No. 7105)	
Glen Brook:	
Approximately 625 feet downstream of Pulteney Street	*721
Approximately 0.4 mile upstream of Pulteney Street	*826
Maps available for inspection at the Village Office, 41 Lake Street, Hammondsport, New York.	
NORTH CAROLINA	
Bertie (county), (unincorporated areas) (FEMA Docket No. 7097)	
Roanoke River:	
At mouth of Roanoke River	*8
At Washington and Martin Counties boundary	*9
Maps available for inspection at the Bertie County Building, Inspector's Department, County Courthouse, Windsor, North Carolina.	
Plymouth (town), Washington County (FEMA Docket No. 7097)	
Roanoke River:	
At downstream extraterritorial corporate limits	*8
At upstream corporate limits ...	*9
Welch Creek:	
At downstream corporate limits	*9
At upstream extraterritorial limits	*9
Maps available for inspection at the City Hall, 132 East Water, Plymouth, North Carolina.	
OHIO	
Gilboa (village), Putnam County (FEMA Docket No. 7110)	
Blanchard River:	
Approximately 1,050 feet downstream of Pearl Street .	*742
Approximately 1,100 feet upstream of Pearl Street	*744
Maps available for inspection at the Municipal Council Room, 206 West Main Street, Gilboa, Ohio.	
Metamora (village), Fulton County (FEMA Docket No. 7105)	
Tenmile Creek:	
Approximately 0.5 mile downstream of Garnsey Street	*715
Approximately 225 feet upstream of Swanton Street	*720
Maps available for inspection at the Metamora Village Municipal Building, 114 East Main Street, Metamora, Ohio.	
Milford Center (village), Union County (FEMA Docket No. 7097)	
Big Darby Creek:	
Approximately 0.3 mile downstream of U.S. Route 36	*979
At upstream corporate limits ...	*985
Maps available for inspection at the Town Hall, 12 Railroad Street, Milford Center, Ohio.	
Richwood (village), Union County (FEMA Docket No. 7097)	
Ash Run:	
At confluence with Fulton Creek	*941
At Race Road	*943
Fulton Creek:	
At confluence of Ash Road	*941
Approximately 1,050 feet upstream of confluence of Ash Run	*941
Maps available for inspection at Village Hall, 101 South Franklin Street, Richwood, Ohio.	
PENNSYLVANIA	
Huntingdon (borough), Huntingdon County (FEMA Docket No. 7105)	
Juniata River:	
Approximately 1,550 feet downstream of the confluence of Standing Stone Creek	*614
Approximately 1.5 miles upstream of the Cypress Island Bridge	*638
Standing Stone Creek:	
At the confluence with the Juniata River	*615
Approximately 0.7 mile upstream of Penn Street	*615
Muddy Run:	
At the confluence with the Juniata River	*619
Approximately 520 feet upstream of the Penn Central Railroad culvert	*620
Maps available for inspection at the Borough Hall, 1001 Moore Street, Huntingdon, Pennsylvania.	
Juniata (township), Huntingdon County (FEMA Docket No. 7097)	
Juniata River:	
At downstream corporate limits	*602
At upstream corporate limits ...	*608
Raystown Branch Juniata River: From the confluence with Juniata River to the T–428	*606
Maps available for inspection at Ms. Alice Kocik, Secretary/Treasurer's residence, R.D. 1, Box 378, Huntingdon, Pennsylvania.	
Port Carbon (borough), Schuylkill County (FEMA Docket No. 7105)	
Mill Creek:	
Approximately 250 feet upstream of the Rose Street footbridge	*634
At upstream corporate limits ...	*642
Maps available for inspection at the Port Carbon Borough Hall, 301 First Street, Port Carbon, Pennsylvania.	
St. Clair (borough), Schuylkill County (FEMA Docket No. 7097)	
Mill Creek:	
Approximately 590 feet downstream of Twing Street	*691
At upstream corporate limits ...	*806
Maps available for inspection at the Borough Hall, 16 South Third Street, St. Clair, Pennsylvania.	
Upper Chichester (township), Delaware County (FEMA Docket No. 7097)	
Spring Run:	
At confluence with Naaman Creek	*89
Approximately 120 feet upstream of West Colonial Drive	*111
Bezor's Run:	
At confluence with Marcus Hook Creek	*84
Approximately 0.9 mile upstream of Bethel Road	*164
Maps available for inspection at the Town Hall, Furey Road, Boothwyn, Pennsylvania.	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
SOUTH CAROLINA	
Berkeley County (unincorporated areas) (FEMA Docket No. 7105)	
Ancrum Creek:	
At confluence with Ancrum Swamp and Limehouse Branch	*35
Upstream of State Route 61	*77
Bennett Branch:	
At confluence with Quinby Creek	*24
Approximately 0.8 mile upstream of confluence with Quinby Creek	*29
Canadys Creek:	
At confluence with Wadboo Creek	*10
Just upstream of Alternate U.S. Highway 17	*28
Crawl Creek:	
Approximately 0.4 mile downstream of U.S. Route 52	*35
Approximately 100 feet upstream of State Road 773	*77
Gravel Hill Swamp:	
Approximately 0.6 mile downstream of State Road 126	*31
At confluence of Walker Swamp	*40
Halfway Swamp:	
At confluence with Walker Swamp	*55
Just upstream of State Route 35	*73
Landfill Branch:	
Approximately 0.3 mile upstream of CSX Transportation	*27
Approximately 0.7 mile upstream of U.S. Highway 52	*59
Landfill Branch Tributary No. 1:	
At confluence with Landfill Branch	*27
Approximately 100 feet upstream of U.S. Highway 17A	*44
Landfill Branch Tributary No. 2:	
At confluence with Landfill Branch	*39
Approximately 0.59 mile upstream of confluence with Landfill Branch	*46
Laurel Swamp:	
Approximately 0.6 mile upstream of Lakewood Dam	*70
Just upstream of Gross Road	*83
Molly Branch:	
Approximately 200 feet upstream of CSX Transportation bridge	*16
Just upstream of State Road 357	*62
Molly Branch Tributary No. 1:	
At confluence with Molly Branch	*34
Just upstream of State Highway 50	*46
Molly Branch Tributary No. 2:	
At confluence with Molly Branch	*34
Just upstream of State Road 357	*47
Quinby Creek:	
Approximately 900 feet downstream of State Route 41	*8
At confluence of Bennett Branch	*24
Northampton Creek:	
At confluence of Bennett Branch	*24
Approximately 1.3 miles upstream of Northampton Road	*46
Sandy Run Creek:	
Approximately 350 feet downstream of U.S. Highway 176	*54
Approximately 2.1 miles upstream of U.S. Highway 176	*81
Sandy Run Creek Tributary No. 1:	
At confluence with Sandy Run Creek	*58
Approximately 1.3 miles upstream of confluence with Sandy Run Creek	*73
Sandy Run Creek Tributary No. 2:	
At confluence with Sandy Run Creek	*58
Approximately 1.19 miles upstream of confluence with Sandy Run Creek	*71
Tributary to Wapoola Creek:	
Approximately 0.6 mile upstream of the Wapoola Creek	*18
Approximately 1.35 miles upstream of U.S. Highway 52	*45
Walker Swamp:	
At confluence with Gravel Hill Swamp	*40
Approximately 1 mile upstream of confluence of Halfway Swamp	*72
Wadboo Creek:	
At upstream side of State Road 44	*10
At confluence of Canadys Creek	*10
Maps available for inspection at the Tax Assessor Office, 223 N. Liveoak, Moncks Corner, South Carolina.	
TENNESSEE	
Collierville (town), Shelby County (FEMA Docket No. 7105)	
Wolf River:	
Approximately 0.75 mile downstream of confluence of Wolf River Lateral J	*287
Approximately 0.70 mile upstream of confluence of Wolf River Lateral J	*289
Maps available for inspection at the Department of Public Services, 167 Washington Street, Collierville, Tennessee.	
Germantown (city), Shelby County (FEMA Docket No. 7105)	
Wolf River:	
About 800 feet upstream of confluence of Wolf River Lateral A	*258
Approximately 0.3 mile downstream of confluence of Wolf River Lateral E	*268
Maps available for inspection at the Department of Engineering, 1930 South Germantown Road, Germantown, Tennessee.	
Lynchburg-Moore County, Metropolitan Government (FEMA Docket No. 7110)	
East Fork Mulberry Creek:	
Approximately 200 feet downstream of Louse Creek Road	*738
Approximately 0.5 mile upstream of the most upstream crossing of Tennessee Highway 55	*828
Price Branch:	
At confluence with East Fork Mulberry Creek	*775
Approximately 1.85 miles upstream of confluence with East Fork Mulberry Creek	*825
Maps available for inspection at the Metro Courthouse, Public Square, Lynchburg, Tennessee.	
Memphis (city), Shelby County (FEMA Docket No. 7105)	
Wolf River:	
At confluence with Mississippi River	*231
Approximately 0.1 mile downstream of Germantown Road	*262
Maps available for inspection at the City Department of Engineering, 125 North Mid America Mall, Memphis, Tennessee.	
Millington (city), Shelby County (FEMA Docket No. 7105)	
North Fork Creek Lateral A:	
At the confluence with North Fork Creek	*263
Approximately 0.44 mile upstream of the confluence with North Fork Creek	*270
Maps available for inspection at the City Hall, Millington, Tennessee.	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Polk County (unincorporated areas) (FEMA Docket No. 7110)	
Hiwassee River:	
Approximately 1.8 miles downstream of Chestuee Creek confluence	*711
Approximately 0.42 mile upstream of CSX Transportation bridge	*714
Ocoee River:	
Approximately 100 feet upstream of Hiwassee River confluence	*714
Immediately downstream of Ocoee Dam #1	*742
Maps available for inspection at the Polk County Courthouse, Main Street, Benton, Tennessee.	
Ripley (town), Lauderdale County (FEMA Docket No. 7097)	
Cane Creek:	
Upstream side of State Route 19 bridge	*322
Approximately 260 feet downstream of Illinois Central Gulf Railroad bridge	*335
Maps available for inspection at City Hall, 110 South Washington Street, Ripley, Tennessee.	
Unincorporated Areas of Shelby County (FEMA Docket No. 7105)	
North Fork Creek Lateral A:	
Approximately 0.62 mile upstream of the confluence with North Fork Creek	*273
Approximately 0.16 mile upstream of Sullivan Road	*273
Maps available for inspection at the Memphis-Shelby County Office of Construction, Code Enforcement, 160 North Mid America Mall, Memphis, Tennessee.	
VIRGINIA	
Lawrenceville (town), Brunswick County (FEMA Docket No. 7105)	
Great Creek:	
Approximately 0.2 mile downstream of U.S. Business Route 58	*173
Approximately 0.4 mile upstream of U.S. Business Route 58	*175
Roses Creek:	
Approximately 250 feet downstream of Norfolk and Western Railway	*179
Approximately 0.3 mile upstream of U.S. Business Route 58	*183
Maps available for inspection at the Town Manager's Office, Town Hall, 400 North Main Street, Lawrenceville, Virginia.	
WEST VIRGINIA	
Mercer County (unincorporated areas) (FEMA Docket No. 7110)	
Brush Creek:	
Approximately 0.4 mile downstream of the U.S. Route 460 bridge	*2,395
At the downstream side of County Route 19/33	*2,414
South Fork:	
Approximately 900 feet upstream of County Route 71/6	*2,415
Approximately 600 feet downstream of confluence of Middle Fork	*2,443
Maps available for inspection at the Mercer County Courthouse, Courthouse Square, Princeton, West Virginia.	
WISCONSIN	
Oshkosh (city), Winnebago County (FEMA Docket No. 7093)	
Sawyer Creek:	
Just downstream of Westfield Street	*753
At West Ninth Avenue	*773
Maps available for inspection at the City Hall, Department of Community Development, 215 Church Avenue, Oshkosh, Wisconsin.	

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

Dated: January 23, 1995.

Richard T. Moore,

Associate Director for Mitigation.

[FR Doc. 95–2200 Filed 1–27–95; 8:45 am]

BILLING CODE 6718–03–P

Proposed Rules

Federal Register
Vol. 60, No. 19
Monday, January 30, 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

Office of the Secretary

7 CFR Part 1

Privacy Act Regulations; Implementation

AGENCY: Office of the Secretary, USDA.

ACTION: Proposed rule.

SUMMARY: The Department of Agriculture (USDA) hereby proposes to amend its regulations by adding one system of records to those exempted from certain sections of the Privacy Act of 1974 (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(k).

DATES: Comments must be received by the contact person listed below on or before March 1, 1995.

FOR FURTHER INFORMATION CONTACT: Andrew Johnson, Jr., Acting Deputy Associate Director, Policy and Planning Division, Office of Civil Rights Enforcement, U.S. Department of Agriculture, 14th and Independence Avenue SW., Room 1364—South Building, Washington, DC 20250–9400, (202) 720–1130 (voice/TDD).

SUPPLEMENTARY INFORMATION: USDA is proposing to exempt, pursuant to subsection (k)(2) of the Privacy Act, 5 U.S.C. 552a(k)(2), Department-wide system of records Program Discrimination Complaints, USDA/OCRE–1, from subsections (c)(3), (d), (e)(1), (e)(4)(H), (e)(4)(I), and (f) of the Act. A separate notice regarding USDA/OCRE–1 will be published in the Federal Register.

The proposed new system will consist of files on complaints of discrimination in USDA federally assisted or federally conducted programs or activities. The information is collected by the Office of Civil Rights Enforcement (OCRE) and by the civil rights compliance offices of the program agencies involved during the course of investigations of program discrimination complaints and includes investigative notes, signed statements, correspondence, case history and status, personal information concerning agency personnel and private individuals, financial information and other related information, and reported findings of OCRE and other USDA entities, such as the Office of Inspector General.

The authority for maintenance of this system is 5 U.S.C. 301; 42 U.S.C. 2000d, *et seq.;* 42 U.S.C. 3608(d); 42 U.S.C. 12101, *et seq.;* 20 U.S.C. 1681, *et seq.;* 29 U.S.C. 794; 15 U.S.C. 1691, *et seq.;* and 7 U.S.C. 2011, *et seq.* These statutes authorize USDA to ensure that USDA federally assisted or federally conducted programs or activities are consistent with civil rights laws.

USDA has determined to exempt this system of records from the above-referenced provisions of the Privacy Act because the exemption is necessary for the agency's law enforcement efforts. The subject individuals of the files in these systems know that USDA is maintaining a file on their complaint and the general nature of the information contained in it. Subject individuals of the files in this system have been provided procedures for agency investigation of their program discrimination complaints by USDA regulations at 7 CFR part 15. Subject individuals of the files in this system, as part of the investigative process, are given the opportunity to submit any relevant information during the investigative process. To allow the subject individuals the additional right under the Privacy Act to have access to, and to amend or correct, the records or information submitted by the allegedly discriminating agency or by witnesses would undermine the investigatory process.

List of Subjects in 7 CFR Part 1

Privacy.

Accordingly, 7 CFR part 1 is proposed to be amended to read as follows:

PART 1—ADMINISTRATIVE REGULATIONS

Subpart G—Privacy Act Regulations

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

Authority: 5 U.S.C. 552a.

2. Section 1.123 is proposed to be amended by adding the following to read as follows:

§ 1.123 Specific exemptions.

* * * * *

Office of Civil Rights Enforcement

Program Discrimination Complaints, USDA/OCRE–1.

Signed at Washington, DC, on January 11, 1995.

Richard E. Rominger,

Acting Secretary.

[FR Doc. 95–1974 Filed 1–27–95; 8:45 am]

BILLING CODE 3410–01–M

Agricultural Marketing Service

7 CFR Part 948

[FV94–948–3PR]

Irish Potatoes Grown in Colorado; Reestablishment of Area No. 2 and Area No. 3 Regulatory Boundaries, and Redistribution of Area No. 2 Committee Representation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would reestablish regulatory area boundaries by moving Chaffee County from Area No. 3 to Area No. 2, and combine Chaffee County with Saguache County for the purpose of providing Chaffee County with producer representation on the Area No. 2, rather than the Area No. 3, Committee. This proposed rule would provide for more effective administration of the marketing order and more effective compliance efforts. This proposed rule was unanimously recommended by the Area No. 2 and Area No. 3 Committees, the administrative agencies established for these regulatory areas under the marketing order for Colorado potatoes.

DATES: Comments must be received by March 1, 1995.

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

FOR FURTHER INFORMATION CONTACT: Dennis L. West, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 SW Third Avenue, Room 369, Portland, Oregon 97204–2807; telephone: (503) 326–2724; or Mark A. Slupek, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2523–S, Washington, D.C. 20090–6456; telephone: (202) 205–2830.

SUPPLEMENTARY INFORMATION: This proposal is issued under Marketing Agreement No. 97 and Marketing Order No. 948 [7 CFR part 948], as amended, regulating the handling of Irish potatoes grown in Colorado. The marketing agreement and order are authorized by the Agricultural Marketing Agreement Act of 1937, as amended, [7 U.S.C. 601–674], hereinafter referred to as the ''Act.''

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

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

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

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

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

There are approximately 120 handlers of Colorado potatoes who are subject to regulation under the marketing order and approximately 400 producers of Colorado potatoes in the regulatory areas. Small agricultural service firms have been defined by the Small Business Administration [13 CFR 121.601] as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those whose annual receipts are less than $500,000. The majority of potato producers and handlers regulated under the marketing agreement and order may be classified as small entities.

The production area under Marketing Order No. 948 is divided into three regulatory areas. Area No. 1 (Area 1), also called the Western Slope, consists of 17 counties in the western portion of the State of Colorado. Marketing order regulations are not currently in effect in Area 1 because of limited potato production. Area No. 2 (Area 2), known as the San Luis Valley, consists of 9 counties and is located in the southern part of the State. Area No. 3 (Area 3), the Greeley area, consists of 37 counties covering most of the eastern part of the State. Producers in Areas 2 and 3 produce significant quantities of potatoes, and, thus, have active committees and regulations.

Section 948.150, reestablished area committees as administrative agencies for both of the active areas.

Section 948.53 provides authority for areas, subdivisions of areas, or distribution of representation among the subdivision of areas, to be reestablished by the Secretary upon area committee recommendations.

This proposed rule would (1) reestablish area boundaries by removing Chaffee County from Area 3 and adding it to Area 2, and (2) combine Chaffee County with Saguache County for the purpose of providing Chaffee County with producer representation on the Area 2 Committee.

The Area 2 and Area 3 Committees met on October 13, 1994, and October 18, 1994, respectively, and each unanimously recommended this reestablishment of boundaries between Area 2 and Area 3. The Colorado Potato Committee, which consists of representatives from both of the area Committees, ratified the recommendation on November 2, 1994. The Area 2 Committee also unanimously recommended that Chaffee County be combined with Saguache County for the purpose of providing Chaffee County with producer representation on the Area 2 Committee, rather than the Area 3 Committee.

The Committees made their recommendations to reestablish boundaries after reviewing a request from a producer/handler located near Salida, Colorado, a relatively new potato production area in Chaffee County. Salida is approximately 250 miles from the administrative headquarters of the Area 3 Committee in Greeley, Colorado, but only 65 miles from the administrative headquarters of the Area 2 Committee in Monte Vista, Colorado.

There are approximately 115 acres of potatoes grown in Chaffee County. Arable land in Chaffee County is generally limited to the area around Salida. Industry estimates place the potential for additional potato production at about 500 acres.

The Chaffee County production area is geographically separated from the rest of Area 3 potato production and is much closer to that of Area 2. Potatoes produced in Chaffee County are marketed similarly to those in Area 2. Potatoes grown in Chaffee County are, for example, often marketed through handlers from Area 2, but seldom marketed by Area 3 handlers located outside of Chaffee County.

The proposed rule would increase the opportunity for the producers or handlers to serve on an area committee by greatly decreasing travel time and cost to attend area Committee meetings. This rule would also enable any Chaffee County producers to be in the same committee area with handlers who most often handle their production.

The proposed rule would also modify the distribution of producer membership of the Area 2 Committee to accommodate the proposed addition of Chaffee County to Area 2. Saguache County, immediately to the south of Chaffee County, currently has one producer representative on the Area 2 Committee. The proposed rule would combine Chaffee and Saguache Counties as one district for the purpose of nominating a producer member to the Area 2 Committee. The change would continue to provide balanced representation on the Area 2 Committee, consistent with acreage and production. Chaffee County handlers also would be represented as the Area 2 Committee has five handler member positions, two representing bulk handlers.

The close proximity of the Area 2 administrative office to Chaffee County would improve the efficiency of

marketing order administration. Marketing order compliance in Chaffee County would be more efficiently administered by the Area 2 Administrative Committee office because of its proximity to Chaffee County.

Although this proposed rule would remove Chaffee County from Area 3, regulatory language in the newly created section 948.153 would only reference the addition of Chaffee County to Area 2. Section 948.4 currently states that Area 3 includes and consists of all the remaining counties in the State of Colorado which are not included in Area 1 or Area 2. Therefore, the addition of Chaffee County to Area 2 would automatically remove Chaffee County from Area 3, with no other corresponding change needed.

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

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

List of Subjects in 7 CFR Part 948

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that 7 CFR Part 948 be amended as follows:

PART 948—IRISH POTATOES GROWN IN COLORADO

1. The authority citation for 7 CFR Part 948 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 948.150 is amended by revising paragraph (a) to read as follows:

§ 948.150 Reestablishment of committee membership.

* * * * *

(a) Area No. 2 (San Luis Valley): Seven producers and five handlers selected as follows:

Two (2) producers from Rio Grande County:

One (1) producer from Chaffee County and Saguache County;

One (1) producer from Conejos County;

Two (2) producers from Alamosa County;

One (1) producer from all other counties in Area No. 2;

Two (2) handlers representing bulk handlers in Area No. 2;

Three (3) handlers representing handlers in Area No. 2 other than bulk handlers.

* * * * *

3. A new § 948.153 is added to read as follows:

§ 948.153 Reestablishment of area.

Pursuant to section 948.53, Area No. 2 is reestablished as follows:

Area No. 2 (San Luis Valley) includes and consists of the counties of Chaffee, Saguache, Huerfano, Las Animas, Mineral, Archuleta, Rio Grande, Conejos, Costilla, and Alamosa, in the State of Colorado.

Dated: January 24, 1995.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 95–2217 Filed 1–27–95; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–NM–98–AD]

Airworthiness Directives; Airbus Industrie Model A320–231 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Model A320–231 series airplanes. This proposal would require repetitive functional checks to detect leakage of the distribution piping of the engine fire extinguishing system, and repair, if necessary; and modification of the piping, which would terminate the inspection requirements. This proposal is prompted by reports of cracking of the engine fire extinguisher pipe, which resulted in leakage of the fire extinguisher agent. The actions specified by the proposed AD are intended to prevent leakage of the fire extinguishing agent, which could prevent the proper distribution of the agent within the nacelle in the event of a fire.

DATES: Comments must be received by March 13, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–98–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Stephen Slotte, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; telephone (206) 227–2797; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 94–NM–98–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–98–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Airbus Model A320–231 series airplanes. The DGAC advises that, during regularly scheduled maintenance of in-service airplanes, two operators found cracking

of the engine fire extinguisher pipe. The cause of this cracking has been attributed to mechanical vibration. Cracking of the fire extinguisher agent distribution pipe between the bottle and the nacelle could cause leakage of the fire extinguisher agent. Such leakage, if not detected and corrected, could prevent the proper distribution of the fire extinguishing agent within the nacelle in the event of a fire.

Airbus has issued All Operators Telex (AOT) 26–11, dated January 3, 1994, which describes procedures for repetitive inspections to detect leakage of fire extinguishing agent from the distribution piping of the engine fire extinguishing system, and repair, if necessary. This AOT also describes procedures for modification of the piping, which would eliminate the need for the repetitive inspections.

Airbus has also issued Service Bulletin A320–26–1032, dated March 31, 1994, which describes inspection and repair procedures that are identical to those described in the AOT. Additionally, Airbus issued Service Bulletin A320–26–1031, dated March 31, 1994, which describes modification procedures that are identical to those described in the AOT. This modification involves replacement of the existing pipe with a new pipe (Mod. 21457P1678), or repair of the pipes (Mod. 24253P3520).

The DGAC classified the AOT and the service bulletins as mandatory and issued French airworthiness directive 94–058–053(B) R1, dated July 6, 1994, in order to assure the continued airworthiness of these airplanes in France.

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require repetitive visual inspections to detect leakage of the distribution piping of the engine fire extinguishing system, and repair, if necessary; and modification of the piping, which would terminate the inspection requirements. The actions would be required to be accomplished in accordance with the AOT or service bulletin described previously.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this notice to clarify this requirement.

The FAA estimates that 14 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 48 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would be provided by the manufacturer at no cost to the operators. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $40,320, or $2,880 per airplane.

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus Industrie: Docket 94–NM–98–AD.

Applicability: Model A320–231 series airplanes; manufacturer's serial numbers (MSN) 028, 035, 037, 038, 043, 045 through 058 inclusive, 064 through 067 inclusive, 074 through 077 inclusive, 080 through 082 inclusive, 089 through 092 inclusive, 095, and 096; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent leakage of the fire extinguishing agent, which could prevent the proper distribution of the agent within the nacelle in the event of a fire, accomplish the following:

(a) Within 500 flight hours after the effective date of this AD, perform a functional check to detect leakage of fire extinguishing agent from the distribution

piping of the engine fire extinguishing system, in accordance with either Airbus All Operators Telex (AOT) 26–11, dated January 3, 1994, or Airbus Service Bulletin A320–26–1032, dated March 31, 1994.

(1) If no leakage is found, or if leakage is within the limits specified in the AOT or the service bulletin, repeat the functional check thereafter at intervals not to exceed 500 flight hours.

(2) If any leakage is beyond the limits specified in the AOT or the service bulletin, prior to further flight, modify the piping in accordance with either the AOT or Airbus Service Bulletin A320–26–1031, dated March 31, 1994.

(b) Within 4,000 flight hours after the effective date of this AD, modify the piping in accordance with either Airbus AOT 26–11, dated January 3, 1994, or Airbus Service Bulletin A320–26–1031, dated March 31, 1994. Accomplishment of this modification constitutes terminating action for the repetitive functional check requirements of this AD.

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

Issued in Renton, Washington, on January 24, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–2178 Filed 1–27–95; 8:45 am]

BILLING CODE 4910–13–U

---

14 CFR Part 71

[Airspace Docket No. 95–AEA–02]

Proposed Revocation of Class E Airspace; Farmington, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revoke Class E airspace extending upwards from 700 feet above the surface at Farmington, PA, due to the cancellation of a standard instrument approach procedure to the Nemacolin Airport, Farmington, PA. Airspace reclassification, in effect as of September 16, 1993, has discontinued the use of the term ''Transition Area,'' and airspace designated from 700 feet above the surface of the earth is now Class E airspace.

DATES: Comments must be received on or before March 15, 1995.

ADDRESSES: Send comments on the proposal in triplicate to: Michael J. Sammartino, Manager, System Management Branch, AEA–530, Docket No. 95–AEA–02, F.A.A. Eastern Region, Fitzgerald Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430.

The official docket may be examined in the Office of the Assistant Chief Counsel, AEA–7, at the same address.

An informal docket may also be examined during normal business hours in the Office of the Manager, System Management Branch, Air Traffic Division, at the address shown above.

FOR FURTHER INFORMATION CONTACT: Frank Jordan, Designated Airspace Specialist, System Management Branch, AEA–530, F.A.A. Eastern Region, Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 553–0857.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 95–AEA–02.'' The postcard will be date/time stamped and returned to the commentor. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Assistant Chief Counsel, AEA–7, F.A.A. Eastern Region, Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulation (14 CFR part 71) to revoke Class E airspace extending upward from 700 feet above the surface at Farmington, PA, due to the cancellation of a SIAP at the Nemacolin Airport, Farmington, PA. Airspace reclassification, in effect as of September 16, 1993, has discontinued the use of the term ''Transition Area,'' and airspace extending upward from 700 feet or more above the surface is now Class E airspace. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be removed subsequently from the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that, when promulgated, this rule will not have a

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended as follows:

Paragraph 6005—Class E airspace areas extending upward from 700 feet or more above the surface of the earth

* * * * *

AEA PA E5 Farmington, PA [Removed]

* * * * *

Issued in Jamaica, New York, on January 18, 1995.

John S. Walker,

Manager, Air Traffic Division.

[FR Doc. 95–2237 Filed 1–27–95; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Office of the Under Secretary for Domestic Finance

17 CFR Part 449

Form G–405

AGENCY: Office of the Under Secretary for Domestic Finance, Treasury.

ACTION: Proposed form amendments.

SUMMARY: The Department of the Treasury (''Department'') is proposing amendments to Form G–405 (Report on Finances and Operations of Government Securities Brokers and Dealers, or the ''FOGS Report''), which is the form that registered government securities brokers and dealers are required to file pursuant to sections 405.2 and 449.5 [1] of the regulations issued under the Government Securities Act of 1986 (the ''Government Securities Act'' or ''GSA'').[2] The purpose of the proposed amendments is to revise Schedule I of the FOGS Report filed by registered government securities brokers and dealers with the Securities and Exchange Commission (the ''Commission'' or ''SEC'') to require such brokers and dealers to disclose their affiliations, if any, with U.S. banks.

DATES: Comments must be submitted on or before March 1, 1995.

ADDRESSES: Comments should be sent to: Government Securities Regulations Staff, Bureau of the Public Debt, Department of the Treasury, 999 E Street, N.W., Room 515, Washington, D.C. 20239–0001. Comments received will be available for public inspection and copying at the Treasury Department Library, Room 5030, Main Treasury Building, 1500 Pennsylvania Avenue NW., Washington, D.C. 20220.

FOR FURTHER INFORMATION CONTACT: Ken Papaj (Director) or Ron Couch (Government Securities Specialist) at 202–219–3632. (TDD for hearing impaired: 202–219–3988.)

SUPPLEMENTARY INFORMATION:

I. Background and Analysis

The Department adopted Form G–405 in the implementing regulations for the GSA issued on July 24, 1987 (52 FR 27910). Sections 405.2 and 449.5 of the GSA regulations require that registered government securities brokers and dealers use the form to make the required monthly, quarterly and annual financial reports to the SEC or to their appropriate regulatory agency in accordance with any plan approved by the SEC. Pursuant to the regulations, registered government securities brokers and dealers are required to file financial reports which include information on their assets, liabilities, liquid capital, total haircuts, and ratio of liquid capital to total haircuts as determined in accordance with section 402.2, among other items, on Form G–405.

To supplement either Part II or IIA of the FOGS Report, registered government securities brokers and dealers are also required to file Schedule I at the end of each calendar year. The purpose of this schedule is to obtain information about the economic and financial characteristics of the reporting government securities broker or dealer.

Item 15 of Schedule I to the FOGS report currently requests information about the broker's or dealer's affiliation with any foreign broker or dealer, or bank. In addition to information about any foreign affiliations, the Department believes that it would be useful for regulatory purposes to obtain information about registered government securities brokers' and dealers' affiliations with U.S. banks. The Department therefore is proposing to amend Schedule I to require registered government securities brokers and dealers to disclose whether they are an affiliate or subsidiary of a U.S. bank, and if so, to give the name of that affiliate or parent company, and the type of institution. The ''General Instructions'' to Schedule I also would be amended to refer to the definition of ''bank'' in section 3(a)(6) of the Securities Exchange Act of 1934 (''Exchange Act'').[3]

Specifically, the amendments to Form G–405 would add a new item 15 to request information about an affiliation with or control by a U.S. bank. Current items 15 through 18 will become items 16 through 19, respectively. The new inquiry would require a yes or no response, and if the response is yes, the respondent must provide the name of the parent or affiliate and the type of institution.

The disclosure of this additional information would correspond to the SEC's recently revised Form X–17A–5, also known as the ''FOCUS'' Report. The amendments are similar to changes made by the SEC to Form X–17A–5 in November 1992.[4] The Form X–17A–5 is filed by registered brokers and dealers with the Commission pursuant to Rule 17a-5 under the Exchange Act,[5] and is similar to the Form G–405 filed by registered government securities brokers and dealers. The Treasury shares the SEC's belief that this information would be useful for regulatory purposes and this proposal is consistent with the recent SEC changes to Form X–17A–5. The Treasury seeks consistency with the SEC approach in order to assure equal treatment for all government securities brokers and dealers. The Treasury was

[1] 17 CFR 405.2 and 17 CFR 449.5, respectively.

[2] Pub. L. No. 99–571, 100 Stat. 3208 (1986).

[3] 15 U.S.C. 78c(a)(6). Under this section, the term ''bank'' is defined as: (a) A banking institution organized under the laws of the United States; (b) a member bank of the Federal Reserve System; (c) any other banking institution doing business under the laws of any state or the United States, a substantial portion of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to national banks under the authority of the Comptroller of the Currency, and which is supervised and examined by state or federal authority having supervision over banks; and (d) a receiver, conservator, or other liquidating agent of any institution or firm included in the above paragraphs.

[4] Securities Exchange Act Release No. 31398 (November 4, 1992), 57 FR 53261 (November 9, 1992).

[5] 17 CFR 240.17a-5.

unable to propose amendments to Form G–405 at the same time the SEC made changes to its respective form since the Treasury's rulemaking authority under the GSA expired on October 1, 1991, and was not reauthorized until December 17, 1993.[6]

The collection of information in these proposed amendments to Form G–405 is contained in the new Item 15 of the form which poses a simple, factual question. Form G–405 is required to be submitted by registered government securities brokers and dealers to the SEC or to the appropriate regulatory authority according to an SEC approved plan. The requirement to file Form G–405 is not applicable to financial institutions that have filed notice as government securities brokers and dealers.

The Department is proposing to add only the new item 15 to Schedule I, and it believes that the changes will not have more than a *de minimis* effect on the amount of time necessary to complete the form. The Department's most recent Paperwork Reduction Act Filing with respect to all parts of Form G–405, which includes Part I, Part IA, Part II, Part IIA, and Part III as well as the proposed amended Schedule I, shows an annual estimate of 41 respondents filing 12 times per year, with a burden of 144 hours per respondent per year. Since Schedule I is only filed once per year while the other parts are filed monthly or quarterly, the burden represented by the entire Schedule I is only a fraction of the burden imposed by the complete form. The requirements for filing Form G–405 have been previously reviewed and approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 3504(h)) and assigned control number 1535–0089. No modification is projected to the reporting burden.

List of Subjects in 17 CFR Part 449

Banks, banking, Brokers, Government securities, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, it is proposed to amend 17 CFR part 449 as follows:

PART 449—FORMS, SECTION 15C OF THE SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for part 449 is revised to read as follows:

Authority: Sec. 101, Pub. L. 99–571, 100 Stat. 3208; Sec. 4(b), Pub. L. 101–432, 104 Stat. 963; Sec. 102, Sec. 106, Pub. L. 103–202, 107 Stat. 2344 (15 U.S.C. 78o-5(a), (b)(1)(B), (b)(4)).

§ 449.5 [Amended]

2. Amend Form G–405, referenced in § 449.5, in Schedule I to add instruction 15 a, b and c to the General Instructions, to redesignate Questions 15–18 as Questions 16–19, and add new Question 15 to read as follows:

Note: The text of Form G–405 does not appear in the Code of Federal Regulations.

Form G–405, Report on Finances and Operations of Government Securities Brokers and Dealers, Schedule I:

* * * * *

General Instructions

* * * * *

15 a, b & c—Report whether respondent directly or indirectly controls, is controlled by, or is under common control with, a U.S. bank. If the answer is ''yes,'' provide the name of the affiliated bank and/or bank holding company, and describe the type of institution. The term ''bank'' is defined in section 3(a)(6) of the Securities Exchange Act of 1934.

* * * * *

15. (a) Respondent directly or indirectly controls, is controlled by, or is under common control with, a U.S. bank.
(Enter applicable code: 1=Yes 2=No)_____
(b) Name of parent or affiliate _____
(c) Type of institution _____

* * * * *

Dated: January 19, 1995.

Frank N. Newman,

Deputy Secretary.

[FR Doc. 95–2135 Filed 1–27–95; 8:45 am]

BILLING CODE 4810–39–P

[6] Pub. L. No. 103–202, 107 Stat. 2344 (1993).

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 778

Availability of Decision; Minimum Requirements for Legal, Financial, Compliance and Related Information

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

ACTION: Notice of decision on petition for rulemaking.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is making available to the public its final decision on a petition for rulemaking from Mr. James Kringlen, Attorney at Law, Appalachian Research and Defense Fund, Inc., Charleston, West Virginia. The petitioner requested that ''* * * a new regulation be issued by the Office of Surface Mining or the Department of the Interior, as appropriate, which would require all permit applications for surface mining include documentation *with public records* identifying the surface owners of the property they propose to mine as well as the property contiguous to the proposed mining property.'' OSM is denying the petition for reasons outlined in this document.

ADDRESSES: Copies of the petition, and other relevant materials comprising the Administrative Record of this petition are available for public review and copying at Office of Surface Mining Reclamation and Enforcement, Room 660, 800 North Capitol Street NW., Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Scott Boyce, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue NW., Washington, DC 20240; Telephone: 202–343–3839.

SUPPLEMENTARY INFORMATION:

I. Petition for Rulemaking Process.
II. The Kringlen Petition.

I. Petition for Rulemaking Process

Pursuant to section 201(g) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act), any person may petition the Director of OSM for a change in OSM's regulations. The regulations governing the handling of rulemaking petitions are found at 30 CFR 700.12. Under the rules, the Director may publish a notice in the Federal Register seeking comments on the petition and hold a public hearing, conduct an investigation, or take other action to determine whether the petition should be granted. If the petition is granted, the Director initiates a rulemaking proceeding. If the petition is denied, the Director notifies the petitioner in writing setting forth the reasons for denial. Under 30 CFR 700.12 the Director's decision constitutes the final decision for the Department of the Interior.

II. The Kringlen Petition

The Department of the Interior received a letter dated January 31, 1994, from James Kringlen, Attorney at Law, Appalachian Research and Defense Fund, Inc., Charleston, West Virginia, as a petition for rulemaking. The petitioner requested that ''* * * a new regulation be issued by the Office of Surface Mining or the Department of the Interior, as appropriate, which would require all permit applications for surface mining include documentation *with public records* identifying the surface owners of the property they propose to mine as well as the property

contiguous to the proposed mining property.''

For the reasons discussed in the appendix to this notice, the Director has denied the petition. The Director's letter of response to the petitioner on this rulemaking petition appears in the appendix to this notice. This letter reports the Director's decision to the petitioner. Included in the appendix is an evaluation report on the issues raised by the petitioner. Included in this report is a discussion of the comments received on the petition and OSM's position on the issues.

Dated: January 18, 1995.

Robert Uram,

Director, Office of Surface Mining Reclamation and Enforcement.

Appendix

January 18, 1995.

Mr. James Kringlen,

Appalachian Research and Defense Fund, Inc., 1116–B Kanawha Boulevard, East, Charleston, West Virginia 25301.

Dear Mr. Kringlen: This is in response to your letter of January 31, 1994, to Bruce Babbitt, Secretary of the Interior, which was forwarded to the Office of Surface Mining Reclamation and Enforcement (OSM) for appropriate action. In your letter you propose that ''. . . a new regulation be issued by OSM or the Department of the Interior (DOI), as appropriate, which would require all permit applications for surface mining include documentation *with public records* identifying the surface owners of the property they propose to mine as well as the property contiguous to the proposed mining property.''

On March 28, 1994, OSM published a notice of availability in the Federal Register and requested comments on the petition (59 FR 14374). The comment period closed on April 27, 1994. Nine comments were received by OSM during the comment period.

After careful consideration of the arguments presented in the petition and public comments, I am denying the petition. The basis for my decision is fully disclosed in the enclosed evaluation of the petition. As provided in 30 CFR 700.12, this decision constitutes the final decision for the Secretary of the Interior.

I would like to take this opportunity to thank you for bringing the problems faced by Mrs. Caudill to our attention. Efforts such as yours provide both the impetus and the guidance necessary for us to critically examine our program and take corrective action where necessary.

Sincerely,

Robert J. Uram,

Director.

Evaluation of the Petition To Amend OSM's Rules Governing Right-of-Entry Documentation Required in Permit Applications

Background on Petition

On February 18, 1994, a petition from Mr. James Kringlen, Appalachian Research and Defense Fund, Inc., 1116–B Kanawha Boulevard, East, Charleston, West Virginia 25301 (the petitioner) was forwarded from the Secretary's Office, Department of the Interior, to OSM. The petition requested that ''* * * a new regulation be issued by the Office of Surface Mining or the Department of the Interior, as appropriate, which would require all permit applications for surface mining include documentation *with public records* (emphasis included) identifying the surface owners of the property they propose to mine as well as the property contiguous to the proposed mining property.''

Section 201(g) of the Surface Mining Control and Reclamation Act of 1977 (the Act) and 30 CFR 700.12 provide that any person may petition the Director to initiate a proceeding for the issuance, amendment, or repeal of a rule promulgated under the Act. These regulations require the petition to set forth the facts, technical justification, and law which require the issuance, amendment, or repeal of a regulation. 30 CFR 700.12(b). Based on this information, the Director shall determine if the petition provides a reasonable basis for the proposed action. Facts, technical justification, or law previously considered in a petition or rulemaking on the same issue shall not provide a reasonable basis. The Director may hold a public hearing or conduct other investigations or proceedings in order to determine whether the petition should be granted. 30 CFR 700.12(c). If the petition is granted, the Director is required to commence a rulemaking proceeding. 30 CFR 700.12(d)(1). If the petition is denied, the Director is required to notify the petitioner in writing of the reasons for denial. 30 CFR 700.12(d)(2).

On March 28, 1994, OSM published a notice in the Federal Register requesting comments on the petition. In the notice, OSM announced that it would not hold a public hearing but would accept written comments on the petition during the comment period which would end on April 27, 1994. It stated that, by appointment, OSM employees would be available to meet with the public during business hours (9 a.m. to 5 p.m. Eastern standard time) during the comment period. The notice also stated that all comments and supporting documents would be entered into the Administrative Record on the petition (59 FR 14374).

OSM received comments from the Ohio Mining and Reclamation Association, the Dickenson County Citizens Committee, the U.S. Department of the Interior Bureau of Mines, the Alabama Coal Association, the Illinois Department of Mines and Minerals, the Wyoming Department of Environmental Quality, the Kentucky Resources Council, the Indiana Department of Natural Resources, and the Joint NCA/AMC Committee on Surface Mining Regulations. These comments have been made part of the Administrative Record.

Applicable Law and Regulations

Sections 102, 201(c), 501(b), 503, 504, and especially 507(b) and 510(b)(6) of the Act which establish application requirements regarding documentation of the right is enter and commence surface mining operations.

30 CFR § 773.15(c) which requires that the regulatory authority find in writing that the application is complete and accurate and that the applicant has complied with the requirements of the Act and the regulatory program.

Section 778.15(a) which requires that the permit applicant describe and identify the documents upon which he bases his right to enter and commence surface mining, and also state whether the right is subject to any pending litigation.

Section 778.15(b) which provides that in the situation where the private mineral estate has been severed from the private surface estate, the applicant must also submit copies of 1) the written consent of the surface owner for the extraction of coal by surface mining methods; 2) copies of the conveyance that expressly grants or reserves the right to extract coal by surface mining methods; or 3) if the conveyance does not expressly grant the right to extract the coal by surface mining methods, documentation that under applicable State law the applicant has the legal authority to extract the coal by those methods.

Section 778.15(c) which closely tracks the language in Sec. 507(b)(9) of the Act by providing that ''(n)othing in this section shall be construed to provide the regulatory authority with the authority to adjudicate property rights disputes.''

30 CFR PART 775—Administrative and Judicial Review of Decisions, Which prescribes requirements for

administrative and judicial review of decisions on permits.

Summary of Petition

The petitioner supports his rulemaking petition by citing the experience of a former client, a Mrs. Caudill, who faced the possibility of having her property mined in accordance with an approved mining permit despite the fact that she had not granted the mining company the right to mine, and despite the fact she had brought this information to the attention of the regulatory authority. In that case, her ownership of the property was not reflected in the documentation provided to the regulatory authority by the permit applicant. Rather, the application and accompanying maps asserted that neighbors on either side of her property were the owners of her property. The situation faced by Mrs. Caudill was exacerbated by the fact that the regulatory authority, when presented with information contradicting the ownership representation of the permit application, took the position that the new information presented by Mrs. Caudill established a property title dispute and it lacked the authority to resolve such disputes.

The petitioner's letter further states that, subsequent to representing his client before the Kentucky Department for Surface Mining Reclamation and Enforcement, he learned that ''very often coal companies knowingly submit permit applications which fail to identify all of the surface owners of record.'' He further states this is done, at least in part, because real estate negotiations relative to the potentially affected properties are continuing subsequent to submission of the permit application. Thus, there is incentive for permit applicants to present real estate information as they expect, or at least hope, it will be at the time of permit issuance. The petitioner concludes: ''(s)ince the states require neither documentation of the ownership of the surface of the property proposed for surface mining, nor verify the information provided by coal companies in the permit application review process, the coal companies have little incentive to accurately identify the surface owners of the property.'' To rectify the problems for landowners associated with this scenario, the petitioner ''proposes a new regulation * * * which would require all permit applications for surface mining include documentation *with public records* (emphasis included) identifying the surface owners of the property they propose to mine as well as the property contiguous to the proposed mining property.''

Analysis and Comments

OSM's summary analysis of the petition and comments received indicates that:

The problem of regulatory authorities issuing permits to mine land for which the permit applicant has not established the right to enter and mine is generally limited to the State of Kentucky;

The implementation of the petitioner's request that public right-of-entry records be included in all cases in the permit application would often create a significant and unnecessary paperwork burden, particularly for regulatory authorities and mining companies in the West;

Including public right-of-entry records in permit applications would not change the decision of the regulatory authority in most instances. For example, of the five Ten Day Notice appeals under 30 CFR 842.15 involving right-of-entry that occurred between 1991 and the present (all appeals were in Kentucky), only one probably would have been decided differently if the public records requested by the petitioner has been available to the regulatory authority.

Kentucky's current right-of-entry permitting procedures, which were implemented subsequent to the incident involving Mrs. Caudill's property, require that whenever a landowner files a protest contesting a permit applicant's right to enter his property, the Natural Resources and Environmental Protection Cabinet must determine whether the applicant has made a *prima facie* case that he has the right to enter and mine.

OSM can respond to the problem raised by the petitioner most efficiently by monitoring Kentucky's protection of landowner rights through oversight of the Kentucky program.

Nine commenters responded to the notice of the Kringlen petition. Two commenters did not provide substantive comments. One of these two responded with a ''no comment.'' The other apparently misread the petition and stated that the existing regulations already contain the provisions sought by the petitioner. Two commenters representing environmental associations concurred in the existence of the problem cited to by the petition. One of these two commenters supported the issuance of the petitioner's requested rulemaking. The other commenter supported the general goals of the petition but did not endorse the requested rule as effectively addressing the basic right-of-entry problem underlying the petition. These two commenters raised issues and made several suggestions which will be discussed below.

Five other commenters argued against the requested rulemaking viewing the right-of-entry problem described by the petitioner as either not being possible within the context of the regulatory programs with which they were familiar or representing merely an isolated aberration to an otherwise adequately functioning program. OSM generally agrees with the second of these assessments. Information available from sources within the Agency corroborate that the right-of-entry problems such as described by the petitioner are relatively infrequent events which have, for all intents and purposes, confined themselves to the State of Kentucky. OSM believes that these problems were due in major part to a failure of the Kentucky regulatory authority to properly implement its existing permit regulations.

Subsequent to the incident involving the Caudill property, Kentucky instituted a new right-of-entry policy which requires that whenever a landowner files a protest contesting a permit applicant's right to enter his property, the Natural Resources and Environmental Protection Cabinet must determine whether the applicant has made a *prima facie* case that he has the right to enter and mine. This new Kentucky right-of-entry policy should dramatically reduce or eliminate the type of problem experienced by Mrs. Caudill. Even if Kentucky had not taken measures to address this problem, OSM submits that one State's problems are not sufficient basis for a national rule. This Office will, however, continue to monitor the protection of landowner rights in Kentucky through its oversight of that program.

One commenter opposing the petition argued that a rulemaking was not necessary in the light of the IBLA decision in *Marion H. Taylor* (No. 92–189, 125 IBLA 271 (1993)). That commenter characterized the decision as requiring that a pending property title dispute raised during permit or administrative review ''* * * *must be resolved by the judiciary prior to a final permitting decision by the regulatory authority, in order for the regulatory authority to make the required permit issuance findings* (emphasis included).'' Another commenter supporting the petition cited the *Taylor* IBLA decision and an August 9, 1993, ten day notice letter from W. Hord Tipton, Deputy Director, OSM, to David Rosenbaum, Department for Surface Mining, Commonwealth of Kentucky, [which letter also cites the Taylor decision] to argue that where there is a ''pending legal challenge'' or ''dispute'' to right-of-entry, the regulatory authority cannot make a *prima facie* determintion of a right to mine; rather, the only proper response of the regulatory authority is to withhold permit issuance pending

resolution of the matter. OSM notes, however, that the *Taylor* decision was vacated on jurisdictional grounds by the U.S. District Court for the Eastern District of Kentucky. *Coal Mac. Inc.* v. *Babbitt,* Civil No. 93–117 (October 3, 1994). The implications of these and other right-of-entry cases for Federal and State programs is under review by OSM.

The two environmental commenters who generally supported the Kringlen petition raised issues and made several rulemaking suggestions which were beyond the narrow scope of the Kringlen petition. OSM is, however, concerned that these comments may reflect some misunderstanding of the operation of the current rules. Therefore, OSM wishes to respond to the comments as follows:

(a) One environmental commenter would require that the permit applicant conduct a record search to ensure that the permit information is accurate and complete as implicitly required by sections 507(b) 1) and (2) and 507(b) (9) and (13) of the Act. OSM readily acknowledges that many times the need for the permit applicant to conduct a record search is implicit in fulfilling the information requirements of the cited sections.

However, there are many other times when a record search would reasonably not be necessary and, therefore, should not be required. For example, one commenter opposing the petition noted that documents dispositive to right-of-entry disputes providing for right-of-way, temporary easements, etc., are often not recorded in the courthouse and therefore would not be included among the petitioner's requested documents of record.

(b) This same environmental commenter opposed the current provisions of 30 CFR 778.15 which specifically require only that the application contain a description of the documents upon which the applicant bases his legal right to enter and begin surface coal mining operations. The commenter faults the preamble logic of the proposed and final § 778.15 which considered and rejected the required submission in *all* cases of actual copies of right-of-entry documents relied upon. 43 FR 41692, September 18, 1978, and 44 FR 15028, March 13, 1979. The commenter argues that the permit applicant should be required to submit in all cases, or at a bare minimum in *disputed* cases, the actual copies of all right-of-entry documents relied upon. For the reasons expressed in its 1978 and 1979 preambles and as echoed by another commenter opposing the instant petition, OSM continues to believe that the required submission of all right-of-entry documents in all cases would often impose a significant and unnecessary burden on the permit applicant.

In support of its argument for the required submission of all right-of-entry documents in *disputed* cases, the prior environmental commenter expressed particular concern that once a right-of-entry dispute arose, the regulatory authority might not have authority under 30 CFR 778.15 to require actual copies of the documents but would have to rely merely on a description of documents upon which the asserted applicant right-of-entry was based. The major industry commenter opposing the petition reviewed the 1979 preamble discussion of proposed 30 CFR 778.15 and concluded that the regulatory authority currently has authority to request such copies to resolve a dispute of fact as to whether a legal right claimed by the applicant exists. OSM concurs that the preamble discussions of proposed and final section 778.15 support this conclusion. 43 FR 41692, September 18, 1978, and 44 FR 15028, March 13, 1979.

Indeed, in most cases it would be difficult to conceive of the regulatory authority being able to resolve such disputes without viewing actual copies of documents relied upon for right-of-entry. Of course, because of the proviso clause in paragraph 507(b)(9) of the Act, such a determination of fact would not mean that the regulatory authority was making a legal determination about the right to enter. 43 FR 41692, September 18, 1978. With regard to the concerns raised by the petitioner, OSM has found that, with the exception of a few instances where the State counterpart to 30 CFR 778.15 was improperly applied in the State of Kentucky, the rule has generally worked to protect the rights of landowners as required by section 102(b) of the Act.

(c) The prior environmental commenter also requested that OSM: (1) Provide clarification as to the appropriate interpretation of existing procedures in the event of a dispute as to right-of-entry information in a permit application; and (2) conduct a national study of the right-of-entry issues raised by the petitioner and commenters. As noted above, these requests extend far beyond the narrow scope of the instant petition.

(d) The other environmental commenter suggested that the regulatory authority check and substantiate all submitted ownership documentation for completeness and authenticity. OSM experience indicates that this is not necessary on a routine basis and should be carried out only when needed. The regulatory authority does not have the manpower to do this on a routine basis nor the statutory authority to resolve the property disputes which could result from efforts to authenticate ownership documentation.

Summary

The information available to OSM indicates that the incident that prompted the petition represents a problem localized in the State of Kentucky. Requiring the applicant in all cases to include documentation with public records identifying the surface owners of the property they propose to mine as well as the property contiguous to the proposed mining property as requested by the petitioner would often impose a substantial and unnecessary burden, particularly to coal companies and regulatory authorities involved in the permitting of large Western mines. Since the incident that prompted the petition, Kentucky has instituted a new policy which requires that when a surface owner files a protest to the issuance of a permit the Natural Resources and Environmental Protection Cabinet must make a determination as to whether the applicant has made a *prima facie* showing that he has the right to enter and mine the property. These facts lead us to conclude that there is insufficient basis for the national rulemaking requested by the petitioner. OSM shall, through its oversight program, evaluate Kentucky's protection of landowner rights to make certain that the State regulations as implemented are as effective as the Federal regulations in protecting those rights. In addition, OSM is reviewing the implications for Federal and State programs of recent court and IBLA decisions on right-of-entry issues. This petition and comments thereto shall become part of the record as OSM conducts oversight of the Kentucky State Program.

[FR Doc. 95–2213 Filed 1–27–95; 8:45 am]

BILLING CODE 4310–05–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–7124]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (100-year) flood elevations and proposed base flood elevation modifications for the communities listed below. The base (100-year) flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

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

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

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) proposes to make determinations of base (100-year) flood elevations and modified base flood elevations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

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

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. As a result, a regulatory flexibility analysis has not been prepared.

Regulatory Classification

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

Executive Order 12612 Federalism

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

Executive Order 12778, Civil Justice Reform

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

List of Subjects in 44 CFR Part 67

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

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

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

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

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
NEW JERSEY	
South Belmar (Borough), Monmouth County	
Polly Pod and Lake Como: Entire shoreline within community	*10
Maps available for inspection at the Office of Administration, 1730 F Street, South Belmar, New Jersey.	
Send comments to The Honorable James Graham, Mayor of the Borough of South Belmar, P.O. Box 569, South Belmar, New Jersey 07719.	
OHIO	
Laurelville (Village), Hocking County	
Laurel Run:	
Approximately 960 feet downstream of downstream corporate limits at the confluence of Salt Creek	*742
Approximately 50 feet upstream of upstream corporate limits	*745
Salt Creek:	
Approximately 0.5 mile downstream of the confluence with Laurel Run	*736
At the confluence of Laurel Run	*742
Maps available for inspection at the Office of the Mayor, Laurelville, Ohio	
Send comments to The Honorable Robert West, Mayor of the Village of Laurelville, Office of the Mayor, Laurelville, Ohio 43135.	
OHIO	
Meigs County (Unincorporated Areas)	
Ohio River:	
Approximately 5.0 river miles downstream of U.S. Route 33	*574
Approximately 4.5 river miles upstream of Belleville Dam	*603
Maps available for inspection at the Commissioner's Office, Courthouse, Second Street, Pomeroy, Ohio.	
Send comments to Mr. Fred Hoffman, President, Meigs County Board of Commissioners, Courthouse, Second Street, Pomeroy, Ohio 45769.	

§ 67.4 [Amended]

3. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Connecticut	Bozrah (Town) ..... New London County.	Yantic River	At downstream corporate limits	*119	*120
			Approximately 0.6 mile upstream of corporate limits.	*121	*122
			Approximately 100 feet upstream of State Route 608.	None	*165
			Approximately 1,900 feet upstream of Gilman Dam.	None	*243
Maps available for inspection at the Town Hall, Bozrah, Connecticut. Send comments to Mr. Raymond C. Barber, First Selectman of the Town of Bozrah, Town Hall, Bozrah, Connecticut 06334.					
Delaware	Dewey Beach (Town) Sussex County.	Atlantic Ocean	Approximately 100 feet east of the intersection of Read Avenue and State Route 1.	*8	Depth 2′
Maps available for inspection at the Town Hall, 105 Rodney Avenue, Dewey Beach, Delaware. Send comments to The Honorable James Lavelle, Mayor of the Town of Dewey Beach, 105 Rodney Avenue, Dewey Beach, Delaware 19971.					
Delaware	Fenwick Island (Town) Sussex County.	Atlantic Ocean	Approximately 500 feet east of the intersection of James Street and State Route 1.	*11	*13
			Approximately 100 feet west of the intersection of Essex Street and Bunting Avenue.	*10	Depth 2′
Maps available for inspection at the Town Hall, 800 Coastal Highway, Fenwick Island, Delaware. Send comments to The Honorable James Elliott, Mayor of the Town of Fenwick Island, 800 Coastal Highway, Fenwick Island, Delaware 19944.					
Delaware	Sussex County (Unincorporated Areas).	Atlantic Ocean	Approximately 100 feet east of the intersection of Palmer Avenue and State Route 1.	*9	Depth 2′
Maps available for inspection at the Planning and Zoning Office, Courthouse Circle, Georgetown, Delaware. Send comments to Mr. Robert Stickels, Sussex County Administrator, P.O. Box 589, Georgetown, Delaware 19947.					
Florida	Seminole County (Unincorporated Areas).	Mud Lake	Entire shoreline within county	None	*85
		Howell Creek	Approximately 1,250 feet downstream of Dyson Drive.	*33	*30
			Approximately 0.66 mile downstream of Red Bud Lake Road.	*36	*35
		Lake Lotus	Entire shoreline within community	None	*64
		Little Wekiva River	Approximately 200 feet upstream of State Route 431.	None	*64
			Approximately 900 feet upstream of State Route 431.	None	*64
		Soldier Creek	At upstream side of State Route 427	*28	*27
			Approximately 150 feet upstream of CSX Transportation.	*41	*42
Maps available for inspection at the Seminole County Development Review Department, County Services Building, Room W225, 1101 East First Street, Sanford, Florida. Send comments to Mr. Ron H. Rabun, Seminole County Manager, 1101 East First Street, Sanford, Florida 32771.					
Georgia	Columbia County (Unincorporated Areas).	Savannah River	Approximately 0.8 mile downstream of the City of Augusta dam and locks.	*164	*151
			Approximately 2,500 feet downstream of Thurmond Dam.	None	*203
		Watery Branch	At its mouth at the Savannah River	*196	*192
			Approximately 600 feet upstream of Point Comfort Road.	*196	*195
		Jones Creek	At its mouth	*198	*193
			Approximately 4,200 feet upstream of its mouth.	*198	*197
		Bettys Branch	At its mouth	*204	*197
			Approximately 0.5 mile upstream of Bettys Branch Road.	*204	*203
		Uchee Creek	At its mouth	*205	*198
			Approximately 250 feet upstream of Washington Road.	*205	*204

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the Engineering Services, 630 Washington West Drive, Evans, Georgia. Send comments to Mr. Richard Reynolds, Chairman of the Columbia County Board of Commissioners, P.O. Box 498, Evans, Georgia 30809.					
Illinois	Elmhurst (City) DuPage County.	Salt Creek	Approximately 0.4 mile downstream of State Route 56 (Butterfield Road).	*663	*662
			Approximately 0.54 mile upstream of State Route 64 (North Avenue).	*675	*673
		Sugar Creek	At the confluence with Salt Creek	*664	*663
			At State Route 83 (Robert Kingery Expressway).	*665	*664
Maps available for inspection at the Public Works Department, Elmhurst City Hall, 209 North York Street, Elmhurst, Illinois. Send comments to The Honorable Thomas D. Marcucci, Mayor of the City of Elmhurst, 209 North York Street, Elmhurst, Illinois 60126–2759.					
Illinois	Hampshire (Village) Kane County.	Hampshire Creek	Approximately 0.25 mile downstream of State Street.	None	*879
			Approximately 0.59 mile upstream of Rowell Road.	None	*906
		Hampshire Creek Tributary No. 1.	Approximately 375 feet downstream of Keyes Drive.	None	*898
			Approximately 720 feet upstream of Keyes Drive.	None	*904
Maps available for inspection at the Village Hall, 234 South State Street, Hampshire, Illinois. Send comments to The Honorable William P. Schmidt, Mayor of the Village of Hampshire, Village Hall, P.O. Box 457, 234 South State Street, Hampshire, Illinois 60140–0457.					
Indiana	Franklin County (Unincorporated Areas).	Whitewater River	At confluence of East Fork Whitewater River.	None	*622
			Approximately 800 feet upstream of confluence of Salt Creek.	None	*680
		East Fork	At confluence with Whitewater River	None	*622
		Whitewater River	At State Route 101	None	**624
		Duck Creek	At confluence with Whitewater River	None	*670
			At Duck Creek Pond	None	*695
Maps available for inspection at the Courthouse, 459 Main Street, Brookville, Indiana. Send comments to Mr. William J. Losekamp, President of the Franklin County Board of Commissioners, 5516 Mueller Road, Cedar Grove, Indiana 47016.					
Maine	Arundel (Town) York County.	Kennebunk River	Approximately 200 feet downstream of confluence of Goff Mill Brook.	None	*9
			Approximately 0.5 mile upstream of U.S. Route 1.	None	*58
Maps available for inspection at the Town Office, 1375 Limerick Road, Kennebunkport, Maine. Send comments to Mr. John Frazier, Arundel Town Manager, R.R. 1, 1375 Limerick Road, Kennebunkport, Maine 04046.					
Maine	Auburn (City), Androscoggin County.	Little Androscoggin River	Approximately 700 feet downstream of Lower Barker Mill Dam.	*137	*136
			Approximately 1,000 feet upstream of the upstream corporate limits.	*231	*227
		Taylor Brook	At the confluence with Little Androscoggin River.	*199	*197
			At the downstream side of Hotel Road	*247	*245
		Taylor Pond	Entire shoreline within the community	None	*247
		Bobbin Mill Brook	Approximately 300 feet upstream of North River Road.	None	*181
			Approximately 120 feet upstream of Fair Street bridge.	None	*254
Maps available for inspection at the Acting City Manager's Office, 45 Spring Street, Auburn, Maine. Send comments to Ms. Pat Finnegan, Acting City Manager for the City of Auburn, 45 Spring Street, Auburn, Maine 04210.					
Maine	Howland (Town)	Piscataquis River	Upstream side of Howland Dam	*156	*157
	Penobscot County		At the confluence of Maxy Brook	*171	*172
Maps available for inspection at the Town Hall, Main Street, Howland, Maine. Send comments to Ms. Glenna Armour, Howland Town Manager, P.O. Box 386, Howland, maine 04448.					

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maine	Milo (Town), Piscataquis County.	Piscataquis River	Approximately 0.7 mile downstream of confluence of Stinking Brook (downstream corporate limits).	*278	*283
			At confluence of Meadow Brook (upstream corporate limits).	*290	*283
		Pleasant River	At downstream corporate limits	*278	*283
			At upstream corporate limits	*328	330
		Sebec River	At confluence with Piscataquis River	*285	*286
			Approximately 700 feet upstream of upstream corporate limits.	*292	*293
		Meadow Brook	At confluence with Piscataquis River	*290	*294
			Approximately 50 feet upstream of River Road.	*290	*294

Maps available for inspection at the Town Hall, Pleasant Street, Milo, Maine.
Send comments to Ms. Jane Jones, Milo Town Manager, P.O. Box 218, Milo, Maine 04463.

Maine	Norridgewock (Town), Somerset County.	Kennebec River	Approximately 260 feet downstream of confluence of Ledge Brook.	*165	*174
			Approximately 0.4 mile upstream of confluence of Sandy River.	*184	*193
		Sandy River	At confluence with Kennebec River	*183	*193
			At upstream corporate limits	*197	*202
		Mill Stream	At confluence with Kennebec River	*170	*177
			Downstream side of West Branch Station Dam.	*170	*177

Maps available for inspection at the Town Office Vault, Perkins Street, Norridgewock, Maine.
Send comments to Mr. Carl Blanchet, Acting Norridgewock Town Manager, P.O. Box 7, Norridgewock, Maine 04957.

Maine	Pittsfield (Town) Somerset County.	Sebasticook River	Approximately 250 feet downstream of corporate limits.	None	*145
			Approximately 100 feet downstream of Horseback Road.	None	*175

Maps available for inspection at the Town Manager's Office, 16 Park Street, Pittsfield, Maine.
Send comments to Mr. Dwight Dougherty, Pittsfield Town Manager, P.O. Box R, 16 Park Street, Pittsfield, Maine 04967.

Maine	Poland (Town) Androscoggin County.	Little Androscoggin River	Approximately 0.3 mile downstream of the confluence of Davis Brook.	*228	225
			Approximately 2.7 miles upstream of State Route 12 and 11.	*250	*246
		Tripp Pond	Entire shoreline within community	None	*309
		Thompson Lake	Entire shoreline within community	None	*327
		Winter Brook	Approximately 1.7 miles downstream of Winter Brook Road.	None	*309
			Approximately 0.78 mile upstream from Winter Brook Road.	None	*309
		Davis Brook	At confluence with Little Androscoggin River.	*228	*225
			Approximately 50 feet upstream of Gravel Road.	None	*226
		Worthley Brook	At confluence with Little Androscoggin River.	236	*232
			Approximately 0.48 mile upstream of confluence with Little Androscoggin River.	*236	*235

Maps available for inspection at the Municipal Office Building, Poland, Maine.
Send comments to Mr. Ralph Stanley, Code Enforcement Officer, Municipal Office Building, P.O. Box 38, Poland, Maine 04273.

Maryland	Oakland (Town) Garrett County.	Bradley Run	At upstream side of CSX Transportation	*2,382	*2,377
			Approximately 1,200 feet upstream of Bradley Lane.	None	*2,399

Maps available for inspection at the Garrett County Courthouse, 313 East Alder Street, Oakland, Maryland.
Send comments to The Honorable Asa M. McCain, Jr., Mayor of the Town of Oakland, City Hall, 15 South Third Street, Oakland, Maryland 21550.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Michigan	Albee (Township) Saginaw County.	Flint River	Approximately 0.4 mile west of intersection of Tom Cresswell Road and corporate limits.	None	*594
			At Sheridan Road	None	*600
		Shiawassee Flats	At intersection of Bishop Road and Fergus Road.	None	*594
		Mistequay Creek	Approximately 600 feet upstream of confluence with Flint River.	None	*594
			At West Gary Road	None	*604

Maps available for inspection at the Township Community Center, 10645 East Road, Burt, Michigan.

Send comments to Mr. Leon Turnwald, Albee Township Supervisor, Saginaw County, 3395 Birch Run Road, Birch Run, Michigan 48417.

Michigan	Brant (Township) .. Saginaw County	Bad River	At downstream corporate limits	None	*595
			Approximately 1,200 feet upstream of downstream corporate limits.	None	*595

Maps available for inspection with Mr. James Lester, Brant Township Clerk, 10510 South Hemlock Road, Brant, Michigan.

Send comments to Mr. Kenneth A. Wilson, Supervisor of the Township of Brant, 16195 West Brant Road, Brant, Michigan 48614.

Michigan	Bridgeport Charter (Township). Saginaw County	Cass River	At Sheridan Road	None	*594
			Approximately 1.1 miles upstream of Grand Trunk Western Railroad.	None	*595
		Flint River	Approximately 0.3 mile south of the intersection of Sheridan Road and Curtis Road.	None	*599
			At the intersection of Townline Road and Railroad Street.	None	*601

Maps available for inspection at the Bridgeport Charter Township Offices, 6206 Dixie Highway, Bridgeport, Michigan.

Send comments to Mr. Steve Clolek, Supervisor of the Township of Bridgeport Charter, Saginaw County, 6206 Dixie Highway, Bridgeport, Michigan 48722.

Michigan	Buena Vista Charter (Township) Saginaw County.	Koehler Drain	Approximately 1,100 feet downstream of East Washington Road.	*589	*590
			Approximately 900 feet upstream of East Washington Road.	*589	*590
		Saginaw River	At downstream county boundary East of Washington Road.	*589	*587

Maps available for inspection at the Township Clerk's Office/Township Office, 1160 South Outer Drive, Saginaw, Michigan.

Send comments to Ms. Frances Hayes, Supervisor of the Buena Vista Charter Township, Saginaw County, 1160 South Outer Drive, Saginaw, Michigan 48601.

Michigan	Kochville (Township) Saginaw County.	Saginaw River	At West Freeland Road	*585	*587
			At Tittabawassee Road	*585	*589
		Kochville Drain	Approximately 1,200 feet downstream of Farm Road.	*585	*588
			At confluence with North Branch Kochville Drain.	*587	*588
		South Branch Kochville Drain.	At confluence with North Branch Kochville Drain.	*587	*588
			Approximately 100 feet downstream of Michigan Road.	*587	*588
		North Branch	At confluence with Kochville Drain	*587	*588
		Kochville Drain	At Kochville Road	*587	*588

Maps available for inspection at the Kochville Township Hall, 5851 Mackinaw Road, Saginaw, Michigan.

Send comments to Mr. Edward Allington, Supervisor of the Township of Kochville, Saginaw County, 5851 Mackinaw Road, Saginaw, Michigan 48604.

Michigan	Maple Grove (Township). Saginaw County	Mistequay Creek	At upstream side of West Gary Road	None	*605
			Approximately 0.76 mile upstream of upstream county boundary.	None	*669

Maps available for inspection at the Maple Grove Township Hall, 17010 Lincoln Road, Maple Grove, Michigan.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Send comments to Mr. Chuck Wendling, Supervisor of the Township of Maple Grove, Saginaw County, 17600 Lincoln Road, New Lothrop, Michigan 48460.					
Michigan	Saginaw (City) Saginaw County.	Saginaw River	Approximately 1,000 feet northeast of intersection of State Route 81 and 13.	*589	*590
Maps available for inspection at the Saginaw City Hall, 1315 South Washington Avenue, Saginaw, Michigan. Send comments to The Honorable Gary Loster, Mayor of the City of Saginaw, Saginaw County, 1315 South Washington Avenue, Saginaw, Michigan 48601–2599.					
Michigan	Spaulding (Township).	Flint River	At Cresswell Road	*594	*595
	Saginaw County		At Sheridan Road	*594	*600
Maps available for inspection at the Spaulding Township Offices, 5025 East Road, Saginaw County, Michigan. Send comments to Mr. J. Donald Sutto, Supervisor of the Township of Spaulding, Saginaw County, 5025 East Road, Saginaw, Michigan 48601–9754.					
Michigan	St. Charles (Township) Saginaw County.	Bad River	At the downstream corporate limits	None	*594
			At the upstream corporate limits	None	*595
		South Branch Bad River	At the downstream corporate limits	None	*594
			Approximately 1,000 feet upstream of downstream corporate limits.	None	*594
		Shiawassee Flats	Flooding affecting community	None	*594
Maps available for inspection at the St. Charles Township Offices, 1003 North Saginaw Street, St. Charles, Michigan. Send comments to Mr. Larry Mahoney, Supervisor of the Township of St. Charles, Saginaw County, 12905 Mahoney Road, St. Charles, Michigan 48655.					
Michigan	Swan Creek (Township) Saginaw County.	Beaver Creek	At Orr Road	None	*594
			At corporate limits with the Village of St. Charles.	None	*594
		Tittabawassee River	Flooding affecting community south of CONRAIL.	None	*596
			At intersection of South Thomas Road and Swan Creek Road.	None	*594
Maps available for inspection at the Swan Creek Township Offices, 11415 Lakefield Road, St. Charles, Michigan. Send comments to Mr. Don Rappley, Supervisor of the Township of Swan Creek, Saginaw County, 11415 Lakefield Road, St. Charles, Michigan 48655.					
Michigan	Taymouth (Township) Saginaw County.	Flint River	At the intersection of Townline Road and Sheridan Road.	None	*600
			Approximately 0.4 mile north of the intersection of Pettit Road and Busch Road.	None	*601
Maps available for inspection at the Taymouth Township Offices, 4343 East Birch Run Road, Birch Run, Michigan. Send comments to Mr. G. Thomas Kerr, Supervisor of the Township of Taymouth, Saginaw County, 4343 East Birch Run Road, P.O. Box 231, Birch Run, Michigan 48415.					
Michigan	Thomas (Township) Saginaw County.	Tittabawassee River	At Tittabawassee Road	*603	*604
			At intersection of CONRAIL and South River Road.	*597	*596
Maps available for inspection at the Thomas Township Offices, 249 North Miller Road, Saginaw County, Michigan. Send comments to Mr. Morrison Stevens, Supervisor of the Township of Thomas, Saginaw County, 249 North Miller Road, Saginaw, Michigan 48609.					
Michigan	Zilwaukee (Township) Saginaw County.	Saginaw River	At downstream county boundary	*586	*587
Maps available for inspection at the Township Hall, 7600 Melbourne Road, Zilwaukee, Michigan. Send comments to Mr. David F. Bradt, Supervisor of the Township of Zilwaukee, 7600 Melbourne Road, Saginaw, Michigan 48604.					
Minnesota	Rochester (City) Olmsted County.	Bear Creek	Approximately 400 feet downstream of 6th Street, S.E.	*995	*993

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 0.8 mile upstream of confluence with South Fork Zumbro River.	*1,008	*1,004
		South Fork	At confluence of Bear Creek	*993	*986
		Zumbro River	Approximately 750 feet upstream of 16th Street, S.W.	*1,010	*1,005

Maps available for inspection at the City Clerk's Office, Government Center, 224 1st Avenue, S.W., Rochester, Minnesota.

Send comments to Mr. Gary Neumann, Assistant Administrator for the City of Rochester, Government Center, 224 1st Avenue, S.W., Rochester, Minnesota 55902–3163.

New Hampshire	Bridgewater (Town) Grafton County.	Pemigewassett River	Approximately 1.7 miles downstream of Woodman and Fog Brooks.	*471	*467
			Approximately 0.6 mile upstream of U.S. Route 3.	*483	*481

Maps available for inspection at the Town Clerk's Office, 297 Mayhew Turnpike, Bridgewater, New Hampshire.

Send comments to Mr. William Thistle, Chairman of the Town of Bridgewater Board of Selectmen, 297 Mayhew Turnpike, Bridgewater, New Hampshire 03222.

North Carolina	Johnston County (Unincorporated Areas).	Black Creek	Approximately 0.45 mile upstream of U.S. Highway 301/St. 96 Highway.	*124	*123
			Approximately 1,000 feet downstream of Secondary Road 1162.	*127	*126

Maps available for inspection at the Johnston County Planning Department, 206 Johnston Street, Smithfield, North Carolina.

Send comments to Mr. Norman C. Denning, Chairman of the Johnston County Board of Commissioners, P.O. Box 1049, Smithfield, North Carolina 27577.

Ohio	Columbus (City) Franklin County.	Barbee Ditch	At Chippewa Street	None	*801
			Approximately 100 feet downstream of Trabe Road.	None	*826
		Barnes Ditch	At confluence with Scioto River	None	*737
			At Wilson Road	None	*836
		Blau Ditch	Approximately 0.42 mile upstream of confluence with Dry Run.	None	*818
			Approximately 1,160 feet upstream of Maclam Drive.	None	*838
		Snyder Run	At confluence with Barnes Ditch	None	*808
			At Wilson Road	None	*843
		Dry Run	At confluence with Scioto River	None	*731
			Approximately 160 feet upstream of Ruth Court.	None	*790
		South Fork Dry Run	At downstream corporate limits	None	*786
			Approximately 1,520 feet upstream of CONRAIL.	None	*803
		Turkey Run	Upstream side of State Route 315	*737	*739
			Approximately 1,850 feet upstream of Tillbury Avenue at the City of Columbus corporate limits.	None	*781
		Little Walnut Creek	Downstream corporate limits	None	*730
			Upstream corporate limits	None	*731
		Big Run	At upstream corporate limits (west of County Route 119).	None	*735
		Utzinger Ditch	Approximately 200 feet downstream of Rose Hill Road.	*883	*882
			At upstream corporate limits	*894	*893
		Tudor Ditch	Approximately 500 feet upstream of confluence with Scioto River.	*770	*769
			Approximately 875 feet upstream of confluence with Scioto River.	None	*780

Maps available for inspection at the Fairwood Complex, 1250 Fairwood Avenue, Columbus, Ohio.

Send comments to The Honorable Gregory S. Lashutka, Mayor of the City of Columbus, Franklin County, 90 West Broad Street, Columbus, Ohio 43215.

Ohio	Hamilton County (Unincorporated Areas).	Winton Woods Creek	At Daly Road	None	*759

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 225 feet downstream of Desoto Drive.	None	*782

Maps available for inspection at the Hamilton County Department of Public Works, Hamilton County Administration Building, Room 800, 138 East Court Street, Cincinnati, Ohio.

Send comments to Mr. David J. Krings, Hamilton County Administrator, Hamilton County Administration Building, Room 603, 138 East Court Street, Cincinnati, Ohio 45202.

Ohio	Napoleon (City), Henry County.	Maumee River	Approximately 1.8 miles downstream of Detroit Toledo Ironton Railroad bridge.	*656	*655
			Approximately 2.3 miles upstream of Perry Street bridge.	*660	*659

Maps available for inspection at the Office of Zoning Administration, 255 West Riverview Avenue, Napoleon, Ohio.

Send comments to The Honorable Robert Heft, Mayor of the City of Napoleon, 255 West Riverview, Napoleon, Ohio 43545–0151.

Pennsylvania	Dunlevy (Borough), Washington County.	Monongahela River	Downstream corporate limits	*763	*765
			Upstream corporate limits	*764	*766

Maps available for inspection with Ms. Jeanne Jacobs, Borough Secretary, Mannina Avenue, Dunlevy, Pennsylvania.

Send comments to The Honorable Norman Carson, Mayor of the Borough of Dunlevy, Washington County, P.O. Box 135, Dunlevy, Pennsylvania 15432.

Pennsylvania	East Bethlehem (Township), Washington County.	Monongahela River	Approximately 1,700 feet downstream of the confluence of Barneys Run (downstream corporate limits).	*777	*780
			At the confluence of Tenmile Creek (upstream corporate limits).	*780	*783
		Tenmile Creek	At confluence with Monongahela River	*780	*783
			Approximately 75 feet downstream of CONRAIL bridge over Tenmile Creek.	*782	*783

Maps available for inspection at the Municipal Building, Water Street, East Bethlehem, Pennsylvania.

Send comments to Mr. Frank S. Burkus, President of the Township of East Bethlehem Board of Supervisors, P.O. Box 687, Fredericksburg, Pennsylvania 15333.

Pennsylvania	East Norwegian (Township) Schuylkill County.	Mill Creek	Approximately 660 feet downstream of Mill Creek Avenue bridge.	None	*641
			Approximately 190 feet upstream of Market Street bridge.	None	*691

Maps available for inspection at the East Norwegian Township Offices, RD 3, Pottsville, Pennsylvania.

Send comments to Mr. Kenneth McCarthy, Chairman of the Board of Supervisors, Township of East Norwegian, RD 3, Pottsville, Pennsylvania 17901.

Pennsylvania	Elco (Borough) Washington County.	Monongahela River	Downstream corporate limits (approximately 0.5 mile downstream of the confluence of Wood Run Hollow).	*766	*769
			Upstream corporate limits (approximately 0.5 mile upstream of the confluence of Wood Run Hollow).	*766	*769

Maps available for inspection at the Elco Municipal Building, Route 88, Elco, Pennsylvania.

Send comments to The Honorable Robert J. Truman, Mayor of the Borough of Elco, Washington County, Box 101, Elco, Pennsylvania 15434–0194.

Pennsylvania	Henderson (Township) Huntingdon County.	Juniata River	Approximately 0.57 mile upstream of State Route 829.	603	614
			At upstream corporate limits	*618	*614

Maps available for inspection at the Chairman of the Board of Supervisor's Home, R.D. 3, Box 223, Huntingdon, Pennsylvania.

Send comments to Mr. William L. Snyder, Chairman of the Board of Supervisors for the Township of Henderson, Huntingdon County, R.D. 3, Box 223, Huntingdon, Pennsylvania 16652.

Pennsylvania	Jefferson (Township) Washington County.	Monongahela River	At the confluence of Tenmile Creek (at the downstream corporate limits).	*780	*783
			Upstream corporate limits	*781	*785

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
		Tenmile Creek	At confluence with Monongahela River	*780	*783
			At the confluence with South Fork Tenmile Creek.	*781	*783
		South Fork	At confluence with Tenmile Creek	*781	*783
		Tenmile Creek	Approximately 500 feet upstream of confluence with Tenmile Creek.	*782	*783

Maps available for inspection at the Township Clerk's Office, Jefferson, Pennsylvania.

Send comments to Mr. Clancy Murray, Chairman of the Township of Jefferson Council, P.O. Box 129, Jefferson, Pennsylvania 15344.

Pennsylvania	New Eagle (Borough).	Monongahahela River	Approximately 200 feet downstream of confluence of Mingo Creek.	*753	*755
	Washington County		Upstream corporate limits	*754	*555

Maps available for inspection at the Borough Office, 157 Main Street, New Eagle, Pennsylvania.

Send comments to The Honorable Gerald Borello, Mayor of the Borough of New Eagle, Washington County, 444–B First Avenue, New Eagle, Pennsylvania 15067.

Pennsylvania	Stroud (Township)	McMichaels	At downstream corporate limits	None	*425
	Monroe County	Creek	At upstream corporate limits	None	*458

Maps available for inspection with Mr. W. J. Gtretkowski, Chairman of the Township of Stroud, Monroe County, 1211 North 5th Street, Stroudsburg, Pennsylvania.

Send comments to Mr. W.J. Gtretkowski, Chairman of the Township of Stroud, Monroe County, 1211 North 5th Street, Stroudsburg, Pennsylvania 18360.

South Carolina	Edgefield County (Unincorporated Areas).	Savannah River	At confluence of Fox Creek	*159	*147
			Approximately 4.65 miles upstream of Stevens Creek Dam.	None	*195
		Fox Creek	At its confluence with the Savannah River	*159	*147
			Approximately 2,750 feet upstream of its confluence with the Savannah River.	*159	*155

Maps available for inspection at the Edgefield County Courthouse, Room 106, Edgefield, South Carolina.

Send comments to Mr. Tom McCain, Edgefield County Administrator, 215 Jeter Street, Edgefield, South Carolina 29824–1318.

South Carolina	McCormick County (Unincorporated Areas).	Savannah River	Approximately 0.7 mile downstream of State Highway 28.	None	*195
			Approximately 0.5 mile downstream of J. Strom Thurmond Dam.	None	*203

Maps available for inspection at the County Administrator's Office, Airport Road, McCormick, South Carolina.

Send comments to Mr. Paul Bjorkman, McCormick County Administrator, Route 2, Box 84AAA, McCormick, South Carolina 29835.

West Virginia	Fairmont (City) Marion County.	Monongahela River	At downstream corporate limits	*869	*870
			Approximately 300 feet downstream of CSX Transportation bridge.	*875	*874

Maps available for inspection with Mr. David J. Marino, Community Planning and Development, 200 Jackson Street, Fairmont, West Virginia.

Send comments to The Honorable Wayne Stutler, Mayor of the City of Fairmont, P.O. Box 1428, Fairmont, West Virginia 26554.

West Virginia	Granville (Town) Monongalia County.	Monongahela River	Approximately 0.72 mile downstream of confluence with Dents Run.	*811	*813
			At confluence of Dents Run	*812	*813
		Dents Run	At confluence with Monongahela River	*812	*813
			Approximately 0.69 mile upstream of the confluence with Monongahela River.	*812	*813

Maps available for inspection at the Town Hall, 233 Dents Run Boulevard, Granville, West Virginia.

Send comments to The Honorable Patricia Lewis, Mayor of the Town of Granville, P.O. Box 119, Granville, West Virginia 26534.

West Virginia	Marion County (Unincorporated Areas).	Monongahela River	At downstream county boundary	None	*862
			Approximately 140 feet upstream of CSX Transportation Railroad bridge.	None	*870

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the Marion County Commissioner's Office, 200 Jackson Street, Fairmont, West Virginia. Send comments to Mr. Jack May, President of Marion County Commission, 200 Jackson Street, Fairmont, West Virginia 26554.					
West Virginia	Morgantown (City) Monongalia County.	Monongahela River	At downstream corporate limits	*810	*812
			Approximately 1,600 feet upstream of confluence with Cobun Creek.	*820	*819
		Cobun Creek	At confluence with Monongahela River	*819	*818
			Approximately 130 feet upstream of U.S. Route 119.	*819	*818
Maps available for inspection at the City Engineering Department, 389 Spruce Street, Morgantown, West Virginia. Send comments to The Honorable Charlene Marshall, Mayor of the City of Morgantown, 389 Spruce Street, Morgantown, West Virginia 26505.					
West Virginia	Star City (Town) Monongalia County.	Monongahela River	Approximately 0.81 mile downstream of Monongahela Boulevard (U.S. Route 19).	*810	*812
			Approximately 1,900 feet upstream of the confluence of Pompano Run.	*811	*813
		Pompano Run	At confluence with Monongahela River	*811	*812
			Approximately 200 feet upstream of confluence with the Monongahela River.	*811	*812
Maps available for inspection at the Town Office, 370 Broadway Avenue, Star City, West Virginia. Send comments to The Honorable Edith Barill, Mayor of the Town of Star City, Monongalia County, 3446 University Avenue, Star City, West Virginia 26505.					
Wisconsin	Kenosha (City) ..... Kenosha County ...	Pike River	At confluence with Lake Michigan	*584	*585
			Approximately 26 feet downstream of State Route 32.	*584	*585
Maps available for inspection at the City Hall, 625 52nd Street, Kenosha, Wisconsin. Send comments to The Honorable John Antaramian, Mayor of the City of Kenosha, Kenosha County, 625 52nd Street, Kenosha, Wisconsin 53140.					
Wisconsin	Pleasant Prairie (Village) Kenosha County.	Lake Michigan	Entire shoreline within community	*584	*585
		Barnes Creek	At the confluence with Lake Michigan	*584	*585
		North Outlet	Approximately 100 feet downstream of First Avenue.	*585	*586
		Barnes Creek	At the confluence with Lake Michigan	*584	*585
		South Outlet	Approximately 200 feet upstream of Third Avenue.	*584	*585
Maps available for inspection at the Village Hall, 9915 39th Avenue, Kenosha, Wisconsin. Send comments to Mr. Michael Pollocoff, Pleasant Prairie Village Administrator, Kenosha County, 9915 39th Avenue, Kenosha, Wisconsin 53142.					
Wisconsin	Washburn (City) Bayfield County.	Lake Superior	Entire shoreline within community	None	*605
Maps available for inspection at the City Hall, 119 Washington Avenue, Washburn, Wisconsin. Send comments to The Honorable Larry Mertsching, Mayor of the City of Washburn, P.O. Box 638, Washburn, Wisconsin 54891.					

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

Dated: January 23, 1995.

Richard T. Moore,

Associate Director for Mitigation.

[FR Doc. 95–2202 Filed 1–27–95; 8:45 am]

BILLING CODE 6718–03–P

Notices

Federal Register
Vol. 60, No. 19
Monday, January 30, 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. 94–119–2]

Boll Weevil Control Program: Availability of Environmental Assessment and Preliminary Finding of No Significant Impact; Public Hearing

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared an environmental assessment and preliminary finding of no significant impact for a proposed program to eradicate the boll weevil in the Lower Rio Grande Valley, Texas. A copy of the environmental assessment and preliminary finding of no significant impact will be made available upon request; comments on the documents are welcome. We also are announcing that a public hearing will be held to provide a forum to explain findings in the environmental assessment, to accept views, and to respond to questions.

DATES: Written comments on the environmental assessment and preliminary finding of no significant impact must be received on or before March 1, 1995. Two public meetings will be held on February 16, 1995, one from 1 p.m. to 5:30 p.m. and the other from 7 p.m. to 10:30 p.m. Pre-hearing registration for oral participation at either hearing may be made by mail (postmarked on or before February 8, 1995), or at the hearing site on the date of the hearing, beginning one hour prior to each hearing.

ADDRESSES: Comments on the environmental assessment and preliminary finding of no significant impact and requests for oral participation at the hearings should be mailed to Vicki Wickheiser, Environmental Analysis and Documentation, BBEP, APHIS, USDA, room 543, Federal Building, 6505 Becrest Road, Hyattsville, MD 20782. The public hearings will be held in the Hoblitzelle Auditorium, Texas Agricultural Experiment Station, 2415 East Highway 83, Weslaco, TX. Copies of the environmental assessment and preliminary finding of no significant impact (in English or Spanish) are available for review between 8 a.m. and 4:30 p.m. Monday through Friday, except holidays, at the APHIS Reading Room, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC. Persons wishing to inspect those documents are requested to call ahead at (202) 690–2817 to facilitate entry into the reading room.

FOR FURTHER INFORMATION CONTACT: Vicki Wickheiser at the address listed above or by telephone at (301) 436–8963. Copies of the environmental assessment and preliminary finding of no significant impact are available in both English and Spanish and may be obtained by contacting Ms. Wickheiser, or by calling Plant Protection and Quarantine, Central Region Office, at (210) 504–4154.

SUPPLEMENTARY INFORMATION:

Background

The Animal and Plant Health Inspection Service (APHIS) has proposed to cooperate in a boll weevil eradication program in the Lower Rio Grande Valley of Texas in the counties of Brooks, Cameron, Hidalgo, Starr, and Willacy. The proposed Lower Rio Grande Valley program would rely on integrated control methods, including the use of chemicals, on cotton crops.

On November 14, 1994 (59 FR 56458, Docket No. 94–119–1), we gave notice of a public meeting to provide a forum for community input on health and environmental issues associated with implementation of the boll weevil control program. That meeting was held on November 29, 1994.

An environmental assessment (EA) is now available that analyzes the potential effects of the program's alternatives and actions on the quality of the human environment in the valley. The EA considers the characteristics of the Lower Rio Grange Valley and focuses on the potential effects of chemical pesticides. Because of the presence of communities in proximity to cotton fields, certain program modifications and some additional protective measures have been proposed. Such protective measures are designed to reduce the potential for adverse environmental effects. After reviewing the EA, the decisionmaker has found preliminarily that no significant impact would result from the implementation of the proposed program. This preliminary finding, together with the underlying environmental assessment, will be made available for public review for a period of 30 days before a final determination is made concerning the need to prepare an environmental impact statement and before the action may begin.

In furtherance of important policy objectives including ''environmental justice,'' two public hearings have been scheduled to provide members of the public with an opportunity to express their views or question agency officials regarding the proposed program and the EA and preliminary finding of no significant impact. Any interested person may appear and may be heard in person, by attorney, or by other representative. Persons who wish to speak may register in advance by mail (see the ADDRESSES section of this notice), or in person at the hearing site. To register by mail, individuals should send a letter or postcard with their name and affiliation (*e.g.*, farm worker, grower, or academician) and should specify which of the hearings they wish to attend, and the approximate length of time needed for their presentation and questions. On the day of the hearing, registration at the hearing site will begin at noon for the 1 p.m. hearing and at 6 p.m. for the 7 p.m. hearing. Attendees who do not register in advance will be allowed to speak after all scheduled speakers have been heard. We ask that anyone who reads a statement provide two copies to the presiding officer at the hearing. The presiding officer may limit the time for each presentation in order to allow everyone wishing to speak the opportunity to be heard.

The substance of this notice will be published in the newspapers (English and Spanish) serving the Lower Rio Grande Valley of Texas.

Done in Washington, DC, this 25th day of January 1995.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–2218 Filed 1–27–95; 8:45 am]

BILLING CODE 3410–34–M

Office of Civil Rights Enforcement

Privacy Act; System of Records

AGENCY: Office of Civil Rights Enforcement (OCRE), Department of Agriculture (USDA).

ACTION: Notice of redesignated and revised Privacy Act System of Records, USDA/OCRE–1.

SUMMARY: Notice is hereby given that USDA is proposing to redesignate system of records USDA/OEO–1 as USDA/OCRE–1 and to revise this system of records concerning complaints alleging discrimination in USDA programs and activities.

EFFECTIVE DATE: This notice will be effective without further notice, on March 31, 1995, unless comments dictate otherwise. Although the Privacy Act requires only that the portion of the system which describes the ''routine uses'' of the system be published for comment, USDA invites comment on all portions of this notice. Comments must be received by the contact person listed below on or before March 1, 1995.

FOR FURTHER INFORMATION CONTACT: Andrew Johnson, Jr., Acting Deputy Associate Director, Policy and Planning Division, Office of Civil Rights Enforcement, USDA, Room 1364-South Building, 14th and Independence Avenue SW., Washington, DC 20250–9400, (202) 720–1130 (voice/TDD).

SUPPLEMENTARY INFORMATION: Pursuant to the Privacy Act, 5 U.S.C. 522a, USDA is redesignating and revising a system of records to be maintained by OCRE. The purpose of this notice is to announce the redesignation of USDA/OEO–1 as USDA/OCRE–1 and the revision of this system of records maintained by OCRE. The system contains information on program discrimination complaints.

This redesignation and revision sets forth the authorities for the processing of program discrimination complaints as well as lists processes and procedures to be followed when assessing information in this system.

A ''Report on New System,'' required by 5 U.S.C. 522a(r), as implemented by OMB Circular A–130, was sent to the Chairman, Senate Committee on Governmental Affairs, the Chairman, House Committee on Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget on December 2, 1994.

Signed at Washington, DC, on October 11, 1994.

Mike Espy,

Secretary.

Privacy Act System USDA/OCRE–1 Report

The purpose of this proposed system or records is to provide the United States Department of Agriculture, (USDA) Office of Civil Rights Enforcement, and the civil rights compliance offices of the USDA program agencies, with the necessary information regarding the processing of program discrimination complaints.

The authority for maintaining this system of record is 42 U.S.C. 2000d, *et seq.*; 42 U.S.C. 3608(d); 42 U.S.C. 12101, *et seq.*; 20 U.S.C. 1681, *et seq.*; 29 U.S.C. 794; 15 U.S.C. 1691, *et seq.*; and 7 U.S.C. 2011, *et seq.*

Use of this system, as established, should not result in infringement of any individual's right to privacy. All individuals about whom information in this system is maintained will voluntarily submit the information for the express purpose of furthering the civil rights objectives of the Department through complaint processing.

Access to these records will be limited to USDA employees whose official duties require such access.

These records are stored in file cabinets at the system locations. These offices are locked when unnoccupied.

The system of records will be exempt pursuant to subsection (k)(2) of the Privacy Act, 5 U.S.C. 552a(k)(2), from the provisions of subsections (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f).

USDA/OCRE–1

SYSTEM NAME:

Program Discrimination Complaints, USDA/OCRE–1.

SYSTEM LOCATION:

Program discrimination complaint files are maintained in the United states Department of Agriculture (USDA), Office of Civil Rights Enforcement (OCRE), and in the civil rights compliance office of the agency with respect to which the complaint of discrimination was filed (see appendix A).

CATEGORIES OR INDIVIDUALS COVERED BY THE SYSTEM:

Indifiduals who file complaints on their behalf, or on the behalf of a group or class of persons, alleging discrimination in USDA federally assisted or federally conducted programs or activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of complete files (i.e., complaints, agency responses to complaint related correspondence inquiries, and investigatory reports) on initial inquiries made by personnel of OCRE and the agencies involved with complaints. The files, where appropriate, may include investigatory reports complied by OCRE or the agency involved.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 42 U.S.C. 2000d, *et seq.*; 42 U.S.C. 3608(d); 42 U.S.C. 12101, *et seq.*; 20 U.S.C. 1681, *et seq.*; 29 U.S.C. 794; 15 U.S.C. 1691, *et seq.*; and 7 U.S.C. 2011, *et seq.*

PURPOSE:

This system is established to maintain records relating to the processing of program discrimination complaints.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Disclosure may be made to the United States Department of Justice (DOJ), a court or other tribunal, or another party before such tribunal, when USDA, any component thereof, or any employee in his or her individual capacity where DOJ (or USDA where it is authorized to do so) has agreed to represent the employee, or the United States where USDA determines that the litigation is likely to affect directly the operations of USDA or any of its components, is a party to the litigation or has an interest in such litigation, and USDA determines that the use of such records by DOJ, the court or other tribunal, or the other party before such tribunal is relevant and necessary to the litigation; provided, however, that in each case, USDA determines that such disclosure is compatible with the purpose for which the records were collected.

(2) In the event that material in this system indicates a violation of law, whether civil or criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be disclosed to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigation or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

(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) Disclosure may be made to the United States Civil Rights Commission in response to its request for information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records maintained by OCRE are stored in file folders at the address listed above; records maintained by the particular USDA agency involved are stored in file folders at the respective civil rights compliance office.

RETRIEVABILITY:

Records are indexed by name of complainant, agency, and address.

SAFEGUARDS:

Records are kept in file cabinets in the office listed above. This office is always locked when unoccupied. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records are maintained for a period of 3-years, after which they are sent to the National Archives and Records Service, Washington, D.C. 20408.

SYSTEM MANAGER(S) AND ADDRESS:

David Montoya, Director, Office of Civil Rights Enforcement, Room 1322–South Building, 14th and Independence Avenue, SW., Washington, DC 20250–9400. Within the agency with respect to which the complaint of discrimination was filed, the System Manager is the head of the office of civil rights compliance or other official designated as responsible for administration and enforcement of program non-discrimination laws and regulations.

NOTIFICATION PROCEDURE:

Any individual may request information regarding this system of records from the System Manager. The request should be in writing.

RECORD ACCESS PROCEDURES:

An individual who wishes to request access to records in the system should submit a written request to the System Manager in an envelope marked ''Privacy Act Request.''

CONTESTING RECORD PROCEDURES:

An individual desiring to contest or amend information maintained in the system should direct the request to the System Manager. The request should include, as appropriate, the reasons for contesting it, and the proposed amendment to the information sought. The regulations governing the contesting of contents of records and appealing initial determinations of such requests are set forth at 7 CFR 1.110–1.123.

RECORD SOURCE CATEGORIES:

Information in this system comes primarily from documents submitted by or obtained from agency personnel, complainants, witnesses, program participants and nonparticipants, investigative personnel, and community leaders. Information in these records is also obtained directly from the individuals in the system.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to subsection (k)(2) of the Privacy Act, 5 U.S.C. 552a(k)(2), this system of records is exempt from subsection (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f) of the Act.

Appendix A

Agricultural Marketing Service, Equal Opportunity Staff, Room 3068–S, 14th and Independence Ave., SW., Washington, DC 20250

Animal Plant and Health Inspection Services, Equal Opportunity Staff, Room 1131–S, 14th and Independence Ave., SW., Washington, DC 20250

Agricultural Stabilization and Conservation Service, Equal Opportunity Staff, Room 5079–S, 14th & Independence Ave., SW., Washington, DC 20250

Cooperative State Research Service, Equal Opportunity Staff, 901 D Street, SW., Room 348 Aero Space Bldg., Washington, DC 20250

Extension Service, Equal Opportunity Staff, Room 3912–S, 14th & Independence Ave., SW., Washington, DC 20250

Federal Crop Insurance Corporation, Equal Opportunity Staff, 2101 L Street NW., Suite 500, Washington, DC 20037

Farmers Home Administration, Equal Opportunity Staff, 501 School Street, SW., Second Floor, Washington, DC 20024

Food and Nutrition Services, Equal Opportunity Staff, 3101 Park Center Drive, Suite 203 B, Alexandria, VA 22302

Forest Service, Equal Opportunity Staff, 1621 Northkent St., Room 5100, Rosslyn, VA 22209

Food Safety and Inspection Services, Equal Opportunity Staff, Room 109 Annex Bldg., 14th and Independence Ave., SW., Washington, DC 20250

Rural Electrification Administration, Equal Opportunity Staff, Room 1239–S, 14th and Independence Ave., SW., Washington, DC 20250

Soil Conversation Service, Equal Opportunity Staff, Room 4248–S, 14th and Independence Ave., SW., Washington, DC 20250.

[FR Doc. 95–1975 Filed 1–27–95; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF COMMERCE

Economic Development Administration

Petitions by Producing Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: To give firms an opportunity to comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 12/16/94–01/18/95

Firm name	Address	Date petition accepted	Product
Top This, Inc	9th and Chestnut St., P.O. Box 204, Vienna, MD.	12/16/94	Women's hats.
Benthos, Inc	49 Edgerton, Inc., Falmouth, MA 02556	12/19/94	Imaging systems: underwater cameras.
Grafico, Inc	8970 B Old Annapolis Road, Columbia, MD 21227.	12/20/94	Computer hardware.
Pawnee Pants Manufacturing Company, Inc.	105 Lackawanna Avenue, Olyphant, PA 18447–1492.	12/23/94	Trousers for men.
MK Enterprises dba Sunset Tropicals	P.O. Box 451, Kula, HI 96790	12/23/94	Tropical flowers: proteas, ginger and heliconia.
Micro Electronic Technologies, Inc	35 South Street, Hopkinton, MA 01748	01/05/95	Memory modules and assembly boards.
Midcon Cables	2500 Davis Boulevard, Joplin, MO 64802.	12/29/94	Insulated wiring sets.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 12/16/94–01/18/95—Continued

Firm name	Address	Date petition accepted	Product
Bollman Hat Company	P.O. Box 517, Adamstown, PA 19501	01/03/95	Felt and cloth hats.
Franwall Optical Co., Inc	86 West Chippewa Street, Buffalo, NY 14202.	01/03/95	Optical lenses and eyeglass frames.
Tieco-Unadilla Corp	14 Depot Steet, Unadilla, NY 13849	01/03/95	Ty-Up bundle and pallet ties and duo card pattern hangers.
Janis Research Company, Inc	Two Jewel Drive, Wilmington, NY 01887	01/05/95	Construction magnet systems, cryogenic systems and parts.
Montgomery Hosiery Mill, Inc	P.O. Box 69, Star, NC 27356	01/06/95	Socks for men, women and children.

The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Trade Adjustment Assistance Division, Room 7023, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: January 24, 1995.

Lewis R. Podolske,

Acting Director, Trade Adjustment Assistance Division.

[FR Doc. 95–2234 Filed 1–27–95; 8:45 am]

BILLING CODE 3510–24–M

International Trade Administration

[A–570–836]

Notice of Final Determination of Sales at Less Than Fair Value: Glycine From the People's Republic of China

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

EFFECTIVE DATE: January 30, 1995.

FOR FURTHER INFORMATION CONTACT: Sue Strumbel, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1442.

Final Determination: We determine that imports of glycine from the People's Republic of China (PRC) are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margin is shown in the ''Continuation of Suspension of Liquidation'' section of this notice.

Case History

Since the preliminary determination (59 FR 220, November 16, 1994) the following events have occurred:

On December 1, 1994, petitioners submitted an allegation of critical circumstances. On January 3, 1995, the Department made an affirmative preliminary determination that critical circumstances exist.

Scope of the Investigation

The product covered by this investigation is glycine which is a freeflowing crystalline material, like salt or sugar. Glycine is produced at varying levels of purity and is used as a sweetener/taste enhancer, a buffering agent, reabsorbable amino acid, chemical intermediate, and a metal complexing agent. Glycine is currently classified under subheading 2922.49.4020 of the *Harmonized Tariff Schedule of the United States* (HTSUS). The scope of this investigation includes glycine of all purity levels.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation (POI) is February 1 through July 31, 1994.

Best Information Available

We sent an antidumping questionnaire to the PRC Ministry of Foreign Economic Trade and Cooperation (MOFTEC) and we met with the China Chamber of Commerce for Metals, Minerals and Chemicals Importers and Exporters (the Chamber) and requested that they: (1) Furnish the questionnaire to any glycine producers and exporters with U.S. sales during the POI, and (2) provide a list of those companies that received the questionnaire. We received a response from the Chamber stating that no Chinese producers or exporters wanted to participate in the case. Accordingly, given that the respondents refused to cooperate in the investigation, we have based our final determination on the best information available (BIA), in accordance with section 776(c) of the Act.

The Department's BIA methodology is described in the notice of the preliminary determination. In this case, BIA is the information contained in the petition, as amended on July 22, 1994. See Initiation of Antidumping Duty Investigations: Glycine from the People's Republic of China (59 FR 38435, July 28, 1994). The amended petition provides a range of margins, from 86.43 to 155.89 percent for all PRC producers and exporters of glycine. Because there were no cooperative respondents in this investigation, we are assigning to all exporters, as BIA, a margin of 155.89 percent, the highest margin calculated in the petition.

Critical Circumstances

Petitioners alleged that critical circumstances exist with respect to imports of glycine from the PRC. In our determination on January 3, 1995, pursuant to section 733(e)(1) of the Act and 19 CFR 353.16, we preliminarily determined that critical circumstances exist because the PRC producers and exporters failed to cooperate with this proceeding.

For purposes of this final determination, we have reconsidered our preliminary determination that failure to cooperate in the investigation warranted an automatic finding that imports were massive over a relatively short period. Section 733(e)(1) of the Act provides that the Department will

determine that critical circumstances exist if:

(A)(i) There is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and

(B) There have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

According to § 353.16(g) of the Department's regulations, we treat imports as being massive if they increase by 15 percent.

To determine whether PRC glycine imports have been massive over a relatively short period, we used import statistics from the Bureau of Census. We were able to use these statistics because the HTSUS statistical category matches the scope of the investigation (see Comment 1, below). In addition, although our standard critical circumstances methodology is based on company specific import data, we believe that the public information regarding the volume of PRC imports into the United States is the best available information for determining whether critical circumstances exist. This is based on the facts that (1) the subject merchandise is the only merchandise imported under the relevant HTSUS number and (2) the Department presumes that all exporters in the PRC are owned or controlled by the PRC government.

Pursuant to § 353.16(g) of the Department's regulations, when making critical circumstances determinations, the Department normally compares the period beginning on the first day of the month of the initiation and ending at least three months later with a comparable period prior to the initiation. The Department considers the period immediately prior to a preliminary determination because it is the period in which exporters of the subject merchandise could take advantage of the knowledge of the dumping investigation to increase exports to the United States without being subject to antidumping duties. See, Final Determination of Sales at Less Than Fair Value of Certain Internal-Combustion, Industrial Forklift Trucks from Japan, (53 FR 12552, April 15, 1988). For purposes of this final determination, we are comparing the four month period prior to the initiation with the four month period after the initiation of this investigation.

Based on our analysis of the available monthly import statistics, we have determined that imports of glycine have not been massive over a relatively short period of time. The import statistics show that volume of the imports has increased by only 7.14 percent. Therefore, we find that the requirements of section 733(e)(1)(B) have not been met with respect to glycine from the PRC.

Because we find that imports of glycine from the PRC have not been massive over a relatively short period, we do not need to consider whether there is a history of dumping or whether importers of this project knew or should have known that it was being sold at less than fair value. Therefore, we determine that critical circumstances do not exist with respect to imports of glycine from the PRC.

Interested Party Comments

Comment 1

Kal Kan Foods, an interested party, argues that the Department's preliminary determination of critical circumstances was unfair and not in accordance with the Department's precedent. Kal Kan contends that U.S. glycine importers had no knowledge that the merchandise was being sold in the United States at less than a fair value. Accordingly to Kal Kan, the Department's non-market economy (NME) methodology, which uses surrogate values, is complex and causes the calculated dumping margins to be unpredictable. Kal Kan further contends that the Department should use the public information of the Bureau of Census to determine the existence of massive imports instead of relying on BIA.

Petitioners disagree with the interested party's argument and argue that the Department should make a final affirmative determination of critical circumstances based on BIA.

DOC Position

Under the circumstances present in this case, it is possible for the Department to use public information, such as Census data, to determine whether imports have been massive over a relatively short period. In this proceeding, the product under investigation has a unique HTSUS number, hence, the import statistics only reflect imports of the subject merchandise. Moreover, in accordance with the Department's presumption that all exporters in the PRC are owned or controlled by the government, we view the exporters as a single company. Given these two factors, the import statistics constitute a reasonable surrogate for company-specific import data.

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(4) of the Act, we are directing the Customs Service to cease suspension of liquidation of all entries of glycine from the PRC that are entered, or withdrawn from warehouse, for consumption from August 18, 1994, (*i.e.*, 90 days prior to the date of publication of our preliminary determination in the **Federal Register**) to November 15, 1994. However, we are directing the Customs Service to continue to suspend liquidation for entries of glycine from the PRC that are entered, or withdrawn from warehouse, for consumption on or after November 16, 1994, the date of the publication of the preliminary determination in the **Federal Register**. The Customs Service shall require a cash deposit or posting of a bond equal to 155.89 percent *ad valorem* on all entries of glycine from the PRC. This suspension of liquidation will remain in effect until further notice.

International Trade Commission (ITC) Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. The ITC will now determine, within 45 days, whether these imports are materially injuring, or threatening material injury to the U.S. industry. If the ITC determines that material injury, or threat of material injury, does not exist, the proceeding will be terminated and all securities posted will be refunded or cancelled. If the ITC determines that such injury does exist, the Department will issue an antidumping order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification to Interested Parties

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act and 19 CFR 353.20(a)(4).

Dated: January 23, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–2235 Filed 1–27–95; 8:45 am]

BILLING CODE 3510–DS–M

[A–588–707]

Granular Polytetrafluoroethylene Resin From Japan; Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests by a respondent and petitioners, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on granular polytetrafluoroethylene (PTFE) resin from Japan. The review period is August 1, 1992, through July 31, 1993. This review covers one company, Daikin Industries, Ltd. As a result of the review, the Department has preliminarily determined that dumping margins exist for the respondent. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 30, 1995.

FOR FURTHER INFORMATION CONTACT: Charles Riggle or Michael Rill, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On August 3, 1993, the Department published in the **Federal Register** a notice of ''Opportunity to Request Administrative Review'' (58 FR 41239) of the antidumping duty order on granular PTFE resin from Japan (53 FR 32287, August 24, 1988). Respondent Daikin Industries, Ltd., and petitioners E. I. Dupont de Nemours & Company and ICI Americas, Inc., requested an administrative review in accordance with 19 CFR 353.22(a) (1993). On September 30, 1993, the Department published a notice of initiation of this review (58 FR 51053), which covers the period August 1, 1992, through July 31, 1993. The Department is now conducting this review pursuant to section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of the Review

The antidumping duty order covers granular PTFE resins, filled or unfilled. The order explicitly excludes PTFE dispersions in water and PTFE fine powders. During the period covered by this review, such merchandise was classified under item number 3904.61.90 of the Harmonized Tariff Schedule (HTS). We are providing this HTS number for convenience and customs purposes only. The written description of scope remains dispositive.

The review covers one manufacturer/exporter of granular PTFE resin, Daikin Industries, Ltd. (Daikin). The period of review is August 1, 1992, through July 31, 1993.

United States Price

In calculating United States price (USP), the Department determined both purchase price (PP) and exporter's sales price (ESP), as defined in section 772 of the Tariff Act, to be appropriate. All sales were made through Daikin America, Inc. (DAI), a related sales agent in the United States, to an unrelated purchaser. However, whenever sales are made prior to the date of importation through a related sales agent in the United States, we typically determine that PP is the most appropriate determinant of the USP if:

1. The merchandise in question was shipped directly from the manufacturer to the unrelated buyer, without being introduced into the inventory of the related shipping agent;

2. Direct shipment from the manufacturer to the unrelated buyers was the customary commercial channel for sales of this merchandise between the parties involved; and

3. The related selling agent in the United States acted only as a processor of sales-related documentation and a communication link with the unrelated U.S. buyers.

Granular Polytetrafluoroethylene Resin From Japan; Final Results of Antidumping Duty Administrative Review, 58 FR 50343, 50344 (September 27, 1993); Final Determination of Sales at Less Than Fair Value: New Minivans From Japan, 57 FR 21937, 21945 (May 26, 1992).

For Daikin's sales which satisfy the criteria listed above, we regard the routine selling functions of the exporter as merely having been relocated from the country of exportation to the United States, where the sales agent performs them. Whether these functions take place in the United States or abroad does not change the substance of the transactions or the functions themselves, and we therefore treated these sales as PP transactions in accordance with § 353.41(b) of the Department's regulations.

During the period of review DAI began to inventory subject merchandise in the United States based on anticipated demand. Where DAI's role included warehousing responsibilities in addition to routine selling functions, such that the date of importation preceded the date of sale, we regarded sales of such merchandise as ESP sales in accordance with § 353.41(c) of the Department's regulations.

We based PP and ESP on the packed, delivered price to unrelated purchasers in the United States. We made deductions, where applicable, for foreign brokerage and handling, foreign inland freight, ocean freight, marine insurance, U.S. brokerage and handling, U.S. inland freight, U.S. duty, U.S. harbor fees and merchandise processing fees, and inland insurance, in accordance with section 772(d) of the Tariff Act. We also treated certain early payment discounts as reductions in price, and deducted them accordingly, in accordance with the Department's policy. See Sonco Steel Tube Div. v. United States, 714 F.Supp 1218, 1222 (CIT 1989). For ESP sales we also made deductions, where applicable, for credit expense, replacement of defective merchandise, commissions paid to unrelated selling agents in the United States and indirect selling expenses, in accordance with section 772(e) of the Tariff Act.

We made an addition to USP for the Japanese consumption tax in accordance with our practice as set forth in Silicomanganese From Venezuela; Preliminary Determination of Sales at Less Than Fair Value (Silicomanganese), 59 FR 31204 (June 17, 1994).

Foreign Market Value

Based on a comparison of the volume of home market and third country sales, we determined that the home market was viable. Therefore, in accordance with section 773(a)(1)(A) of the Tariff Act, we based FMV on the packed, delivered price to unrelated purchasers in the home market.

In the preceding administrative review we found that Daikin made home market sales below the cost of production (COP). Therefore, in accordance with our standard practice, we also conducted a COP investigation during the current administrative review. We calculated COP as the sum of Daikin's reported materials, labor, factory overhead, and general expenses.

We compared COP to home market prices, net of movement charges, price adjustments, and discounts.

As a result of our COP investigation, we found no below-cost sales, and therefore did not disregard any home market sales as being below cost.

We calculated FMV on a monthly weighted-average basis. We compared all U.S. sales to sales of identical merchandise in Japan. In accordance with our practice in this case, we disregarded sample sales as being outside the ordinary course of trade. The sales in question represent small quantities of granular PTFE resin sold to testing facilities in Japan at prices substantially higher than the prices of the vast majority of Daikin's sales. Further, the sales in question were not for consumption, but for evaluation purposes. See PTFE Resin From Japan, 58 FR at 50345.

Where applicable, we made deductions for inland freight, discounts, and post-shipment price adjustments. To adjust for differences in circumstances of sale between the home market and the United States, we first deducted direct selling expenses incurred in the home market, which included credit and replacement of defective merchandise. For comparison to PP sales, we then added direct selling expenses incurred in the United States for replacement of defective merchandise, credit, and commissions (because no commissions were paid in the home market). Where applicable, in accordance with § 353.56(b)(1) of the Department's regulations, we offset U.S. commissions by deducting home market indirect selling expenses from FMV in an amount not exceeding those commissions. For comparison to ESP sales, in accordance with § 353.56(b)(2) of the Department's regulations, we deducted home market indirect selling expenses in an amount not to exceed the sum of U.S. commissions and indirect selling expenses incurred in the United States.

On January 5, 1994, the Court of Appeals for the Federal Circuit, in The Ad Hoc Committee of AZ–NM–TX–FL Producers of Gray Portland Cement v. United States, 13 F.3d 398 (Fed. Cir. 1994), held that the Department could not deduct home market movement charges from FMV pursuant to its inherent power to fill in the gaps in the antidumping statute. Accordingly, we now adjust for home market movement expenses under the circumstance-of-sale (COS) provision of 19 CFR 353.56 and the offset provisions of 19 CFR 353.56(b)(1) and (2), as appropriate. In this review, home market movement expenses incurred between the warehouse and the customer after the sale were treated as direct COS deductions. Home market movement expenses were also incurred between the factory and the warehouse before the sale, and we have adjusted for such expenses as indirect selling expenses under the commission offset provision of 19 CFR 353.56(b)(1) and under the ESP offset provision of 19 CFR 353.56(b)(2), as appropriate.

In order to adjust for differences in packing between the two markets, we deducted home market packing costs from FMV and added U.S. packing costs. We also adjusted for Japanese consumption tax in accordance with our decision in Silicomanganese.

Preliminary Results of Review

As a result of our comparison of USP with FMV, we preliminarily determine that the following dumping margins exist:

Manufacturer/exporter	Period	Margin (percent)
Daikin Industries .	08/01/92–07/31/93	23.19

Interested parties may submit written comments on these preliminary results. Interested parties may request disclosure within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held approximately 35 days from the date of publication. Case briefs and other written comments from interested parties may be submitted not later than 21 days from the date of publication. Rebuttal briefs and rebuttal comments, limited to issues raised in the case briefs, may be filed not later than 28 days from the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between USP and FMV may vary from the percentages stated above. Upon completion of this review, the Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Tariff Act:

(1) The cash deposit rates for the reviewed companies will be those rates established in the final results of this administrative review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 91.74 percent, the rate made effective by the final results of the most recent administrative review of the order (see PTFE Resin From Japan, 58 FR at 50346). As noted in the Department's previous final results in this proceeding, this rate is the ''all others'' rate from the LTFV investigation. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: December 23, 1994.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–2233 Filed 1–27–95; 8:45 am]

BILLING CODE 3510–DS–P

National Institute of Standards and Technology

Patent Licenses; ND Resources, Inc.

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of prospective grant of exclusive patent license.

SUMMARY: This is a notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR

404.7(a)(1)(i) that the National Institute of Standards and Technology (''NIST''), U.S. Department of Commerce, is contemplating the grant of a field of use exclusive license to practice the invention embodied in U.S. Patent Serial No. 08/237,099, titled, ''Method and Apparatus For Visualization Of Internal Stresses In Solid Non-Transparent Materials By Ultrasonic Techniques and Ultrasonic Computer Tomography Of Stresses'' to ND Resources, Inc., having a place of business in Cincinnati, Ohio. The patent rights in this invention have been assigned to the United States of America.

FOR FURTHER INFORMATION CONTACT: Bruce E. Mattson, National Institute of Standards and Technology, Technology Development and Small Business Program, Building 221, Room B–256, Gaithersburg, MD 20899.

SUPPLEMENTARY INFORMATION: The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty days from the date of this published Notice, NIST receives written evidence and argument which establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

U.S. Patent Serial No. 08/237,099 relates to a process for the detection and mapping of internal stresses in the interior of bulk materials by scanning acoustic technique.

NIST may enter into a Cooperative Research and Development Agreement (''CRADA'') to perform further research on the invention for purposes of commercialization. The CRADA may be conducted by NIST without any additional charge to any party that licenses the patent. NIST may grant the licensee an option to negotiate for royalty-free exclusive licenses to any jointly owned inventions which arise from the CRADA as well as an option to negotiate for exclusive royalty-bearing licenses for NIST employee inventions which arise from the CRADA.

The availability of the invention for licensing was published in the **Federal Register,** Vol. 59, No. 195 (October 11, 1994). NIST is also contemplating the grant of a field of use exclusive license for related patent, ''Method And Apparatus For Visualization Of Internal Stresses In Solid Nontransparent Materials by Elastoacoustic Technique,'' U.S. Patent No. 5,307,680, to ND Resources, Inc. The notice of availability of U.S. Patent No. 5,307,680 for licensing was published in the **Federal Register,** Vol. 58, No. 49 (March 16, 1993), and notice of prospective grant of exclusive license of U.S. Patent No. 5,307,680 was published in the **Federal Register,** Vol. 59, No. 187 (September 28, 1994). A copy of the patent application may be obtained from NIST at the foregoing address.

Dated: January 18, 1995.

Samuel Kramer,

Associate Director.

[FR Doc. 95–2191 Filed 1–27–95; 8:45 am]

BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

[I.D. 122095E]

Endangered Species; Permits

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

ACTION: Notice of receipt of two applications for scientific research permits (P504F and P563A) and receipt of an application for modification 1 to scientific research permit 911 (P560).

Notice is hereby given that the U.S. Army Corps of Engineers in Walla Walla, WA (Corps) and the Northern Wasco County People's Utility District in The Dalles, OR (NWCPUD) have applied in due form for scientific research permits (P504F and P563A) and that Oregon State University in Corvallis, OR (OSU) has applied in due form for Modification 1 to scientific research Permit 911 (P560) to take listed species as authorized by the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531-1543) and the NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217–227).

The Corps requests authorization to capture, tag, release, recapture, and re-release juvenile, endangered, artificially propagated spring/summer chinook salmon (*Oncorhynchus tshawytscha*) as part of a turbine passage survival study at Lower Granite Dam on the Snake River in WA. The purpose of the proposed research is to determine the immediate and delayed (48- to 120 -hour) survival rates of run-of-river chinook salmon smolts passing through a turbine at the dam under different locations and operating conditions. This information will be used to: (1) Develop a turbine model study, which is part of a Corps project to minimize fish turbine passage mortality; (2) refine normal dam operations to minimize adverse effects to migrating juvenile fish, and; (3) provide a baseline for turbine survival estimates needed under the changing conditions of a reservoir drawdown. The duration of the study will be from April 15 to June 10 in 1995 only.

NWCPUD requests a permit to conduct research with a take of the following endangered species: Juvenile Snake River sockeye salmon (*Oncorhynchus nerka*), juvenile, naturally produced and artificially propagated, Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*), and juvenile Snake River fall chinook salmon (*Oncorhynchus tshawytscha*). NWCPUD will capture and handle these fish as part of an annual study to assess the run-of-river juvenile anadromous fish condition after passage through the screened turbine intake channel at Dalles Dam, located on the Columbia River. Continued observation of juvenile fish passing through the screened intake channel during the smolt migration provides specific information on possible unsuitable passage conditions below the water surface which are not directly observable. The duration of the permit will be 5 years. The research will take place from April to September each year.

Permit 911 authorizes OSU to harass, capture, and handle juvenile and adult, endangered, Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*) as part of a 2-year study to investigate the potential effects of climate change on thermal complexity and biotic integrity of Oregon rivers and streams, with an emphasis on the seasonal intrusion and resulting competition and predation of non-native coolwater and warmwater fish species into the historic habitats of native salmonids. For Modification 1, OSU requests an increase in the 2-year take of juvenile, endangered, Snake River spring/summer chinook salmon because they encountered larger fish densities than were expected in 1994 and they expect to exceed their current authorized juvenile take in 1995. OSU will be conducting their 1995 research activities from May 15 to September 30. Permit 911 expires on September 30, 1995.

Written data or views, or requests for a public hearing on this application should be submitted to the Chief, Endangered Species Division, Office of Protected Resources, F/PR8, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226, within 30 days of the publication of this notice. Those individuals requesting a hearing should set out the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the

Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in this application summary are those of the applicant and do not necessarily reflect the views of NMFS.

Documents submitted in connection with the above application are available for review by interested persons in the following offices by appointment:

Office of Protected Resources, NMFS, NOAA, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401); and

Environmental and Technical Services Division, NMFS, NOAA, 525 North East Oregon St., Suite 500, Portland, OR 97232 (503–230–5400).

Dated: January 23, 1995.

Patricia A. Montanio,

Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 95–2100 Filed 1–27–95; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Proposed List of Products for Second and Third Phase Integration of Textile and Apparel Products Into GATT 1994

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

NOTICE: Request for public comments on the proposed list of textile and apparel products to be integrated into the GATT 1994 in the second and third phases; notice of a public hearing on integration.

FOR FURTHER INFORMATION CONTACT: Julie Carducci, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3588.

SUPPLEMENTARY INFORMATION: The Uruguay Round Agreement on Textiles and Clothing (ATC), approved by Congress as part of the Uruguay Round Agreements Act, provides for the integration of the textiles and clothing sectors into the World Trade Organization.

The second and third phases of the integration will commence on January 1, 1998, and January 1, 2002, respectively. Products in the second phase will account for not less than 17% of the total volume of imports in 1990 of the products in the annex to the ATC. Products in the third phase will account for not less than 18% of this total volume. (The first integration was done on January 1, 1995 and the list of products in the first integration was published in the **Federal Register** on October 13, 1994 (59 FR 51942). The final phase of the integration will commence on January 1, 2005, and include textile and apparel products in the annex to the ATC which were not integrated during the first, second or third integration phases.)

The Chairman of the Committee for the Implementation of Textile Agreements (CITA) requests interested parties to submit comments on the following proposed list of products for integration in the second and third phases. (The final list for phases two and three will be published in the **Federal Register** no later than May 1, 1995. Parties interested in obtaining the proposed lists for the second, third and final phases electronically, can access the lists through the U.S. Department of Commerce's Economic Bulletin Board, (202) 482–1986.)

Comments must be received on or before February 23, 1995. Comments may be mailed to the Chairman, Committee for the Implementation of Textile Agreements, room 3001, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC 20230.

A hearing to address any significant issues related to the second and third phases of the integration will be held in mid-March in Washington, D.C. The location and time of the hearing will be announced in the **Federal Register**. Parties wishing to participate in the hearing should contact Julie Carducci, (202) 482–3588; fax (202) 482–0858, no later than February 23, 1995 to arrange for their appearance. The time available for individual presentations will be based on the number of participants attending the hearing. Note there will be reasonable time limits on parties' participation in the hearing.

Written testimony and other comments to be presented at the hearing must be submitted to the Chairman of CITA on or before March 2, 1995. Submissions in triplicate may be addressed to the Chairman, Committee for the Implementation of Textile Agreements, room 3001, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC 20230.

All information submitted in response to this notice will be available for public inspection at the same address. Protection of proprietary or business confidential information from disclosure is limited to the requirements of the Freedom of Information Act (5 U.S.C. 552). Therefore, if a participant deems it necessary to submit information intended to be business confidential, the information must be designated as such and accompanied by a non-confidential version. Information designated business confidential will be protected from disclosure only to the extent required by law.

INTEGRATION PHASE 2

1994 Product description	Group	HTS 1990	CAT	Phase	1990 U.S. imports (SME)	Percent of total
ANNEX TOTAL					17,025,193,817	
PHASE 2 TOTAL					2,900,196,546	17.03
BABIES' BLOUSES & SHIRTS EX SET PTS OF COTTON, KNIT.	APPAREL	6111201000	239	2	804,510	.00
BABIES' T-SHIRT & SMLR GRMNT EX SET PT OF COT, KNIT.	APPAREL	6111202000	239	2	685,950	.00
BABIES' SWEATER & SMLR GRMNT EX SET PT OF COT, KNIT.	APPAREL	6111203000	239	2	1,005,953	.01
BABIES' DRESSES OF COTTON, KNIT	APPAREL	6111204000	239	2	243,130	.00
BABIES' TROUSERS, SHORTS EX SET PARTS OF COT, KNIT.	APPAREL	6111205000	239	2	629,055	.00
BABIES' SUNSUITS & SIMILAR APPAREL OF COTTON, KNIT.	APPAREL	6111206010	239	2	3,883,125	.02
BABIES' GRMNTS & CLTHNG ACCESS SETS OF COTTON, KNIT.	APPAREL	6111206020	239	2	28,748,129	.17

INTEGRATION PHASE 2—Continued

1994 Product description	Group	HTS 1990	CAT	Phase	1990 U.S. imports (SME)	Percent of total
BABIES' GRMNT & CLTHNG ACCESS SET PT OF COT, KNIT.	APPAREL	6111206030	239	2	5,115,417	.03
BABIES' OT GRMNTS & CLOTHING ACCESS OF COTTON, KNIT.	APPAREL	6111206040	239	2	7,565,027	.04
BABIES' TROUSERS, SHORTS EX SET PT OF SYN FIB, KNIT.	APPAREL	6111301000	239	2	469,085	.00
BABIES' BLOUSES, SHIRTS EX SET PTS OF SYN FIB, KNIT.	APPAREL	6111302000	239	2	352,454	.00
BABIES' T-SHIRTS, ETC EX SET PARTS OF SYN FIB, KNIT.	APPAREL	6111303000	239	2	108,757	.00
BABIES' SWEATERS ETC EX SET PARTS OF SYN FIB, KNIT.	APPAREL	6111304000	239	2	1,965,632	.01
BABIES' SUNSUITS & SIMILAR APPAREL OF SYN FIB, KNIT.	APPAREL	6111305010	239	2	2,164,208	.01
BABIES' BLANKET SLEEPERS OF SYNTHETIC FIBERS, KNIT.	APPAREL	6111305015	239	2	2,375,352	.01
BABIES' GRMNT & CLTHNG ACCESS SETS OF SYN FIB, KNIT.	APPAREL	6111305020	239	2	29,428,680	.17
BABIES' GRMNT & CLTHNG ACCESS SET PT SYN FIB, KNIT.	APPAREL	6111305030	239	2	2,102,600	.01
BABIES' OT GRMNT & CLOTHING ACCESS OF SYN FIB, KNIT.	APPAREL	6111305040	239	2	14,652,389	.09
BABIES' TROUSERS, SHORTS EX SET PT OF ART FIB, KNIT.	APPAREL	6111901000	239	2	252	.00
BABIES' BLOUSES, SHIRTS EX SET PTS OF ART FIB, KNIT.	APPAREL	6111902000	239	2	13	.00
BABIES' T-SHIRTS, ETC EX SET PARTS OF ART FIB, KNIT.	APPAREL	6111903000	239	2	1,537	.00
BABIES' SWEATERS ETC EX SET PARTS OF ART FIB, KNIT.	APPAREL	6111904000	239	2	8,713	.00
BABIES' SUNSUITS & SIMILAR APPAREL OF ART FIB, KNIT.	APPAREL	6111905010	239	2	2,816	.00
BABIES' GRMNT & CLTHNG ACCESS SETS OF ART FIB, KNIT.	APPAREL	6111905020	239	2	68,160	.00
BABIES' GRMNT & CLTHNG ACCESS SET PT ART FIB, KNIT.	APPAREL	6111905030	239	2	17,105	.00
BABIES' OT GRMNT & CLOTHING ACCESS OF ART FIB, KNIT.	APPAREL	6111905040	239	2	73,269	.00
BABIES' DRESSES OF COTTON, NOT KNIT	APPAREL	6209201000	239	2	553,802	.00
BABIES' BLOUSES & SHIRTS EX SET PTS OF COTTON, N KT.	APPAREL	6209202000	239	2	240,496	.00
BABIES' TROUSERS, SHORTS EX SET PARTS OF COT, N KT.	APPAREL	6209203000	239	2	1,968,996	.01
BABIES' SUNSUITS & SIMILAR APPAREL OF COTTON, N KT.	APPAREL	6209205030	239	2	1,465,682	.01
BABIES' GRMNTS & CLTHNG ACCESS SETS OF COTTON.	APPAREL	6209205035	239	2	5,632,817	.03
BABIES' GRMNT & CLTHNG ACCESS SET PT OF COT, N KT.	APPAREL	6209205045	239	2	9,439,158	.06
BABIES' OT GRMNTS & CLOTHING ACCESS OF COTTON, N KT.	APPAREL	6209205050	239	2	10,766,631	.06
BABIES' BLOUSES, SHIRTS EX SET PTS OF SYN FIB, N KT.	APPAREL	6209301000	239	2	106,659	.00
BABIES' TROUSERS, SHORTS EX SET PT OF SYN FIB, N KT.	APPAREL	6209302000	239	2	186,260	.00
BABIES' SUNSUITS & SIMILAR APPAREL OF SYN FIB, N KT.	APPAREL	6209303010	239	2	1,927,756	.01
BABIES' GRMNT & CLTHNG ACCESS SETS OF SYN FIB, N KT.	APPAREL	6209303020	239	2	11,182,355	.07
BABIES' GRMNT & CLTHNG ACCESS SET PT SYN FIB, N KT.	APPAREL	6209303030	239	2	1,682,837	.01
BABIES' OT GRMNT & CLOTHING ACCESS OF SYN FIB, N KT.	APPAREL	6209303040	239	2	6,277,622	.04
BABIES' BLOUSES, SHIRTS EX SET PTS OF ART FIB, N KT.	APPAREL	6209901000	239	2	473	.00
BABIES' TROUSERS, SHORTS EX SET PT OF ART FIB, N KT.	APPAREL	6209902000	239	2	5,506	.00
BABIES' SUNSUITS & SIMILAR APPAREL OF ART FIB, N KT.	APPAREL	6209903010	239	2	42,645	.00
BABIES' BLANKET SLEEPERS OF ART FIB, NT KT/ CROCHET.	APPAREL	6209903015	239	2	0	.00

INTEGRATION PHASE 2—Continued

1994 Product description	Group	HTS 1990	CAT	Phase	1990 U.S. imports (SME)	Percent of total
BABIES' GRMNT & CLTHNG ACCESS SETS OF ART FIB, N KT.	APPAREL	6209903020	239	2	28,104	.00
BABIES' GRMNT & CLTHNG ACCESS SET PT ART FIB, N KT.	APPAREL	6209903030	239	2	32,760	.00
BABIES' GARMENTS & CLOTHING ACCESS OF ART FIB, N KT.	APPAREL	6209903040	239	2	553,247	.00
HATS & OTHER HEADGEAR, KNITTED OF COTTON FOR BABIES.	APPAREL	6505901515	239	2	75,090	.00
BABY HATS & OTH HDGEAR, NOT KNIT, COTTON & HAND-LM & FLKLR.	APPAREL	6505902030	239	2	184,905	.00
BABY HATS & OTH HDGR MMF, KNT/CROCHET, WHOLE/PRT BRAID.	APPAREL	6505905030	239	2	596,957	.00
BABY HATS & OTH HDGR MMF, KNT/CRCHET, NOT IN PRT BRAID.	APPAREL	6505906030	239	2	240,156	.00
BABY HATS & OTHR HEADGR, MMF, NOT KNITD, WHOLE/PT BRAID.	APPAREL	6505907030	239	2	72,488	.00
BABY HATS & OTH HDGR, MMF, NOT KNITD, NOT IN PART BRAID.	APPAREL	6505908045	239	2	196,963	.00
HANDKERCHIEF HMMD, NT CONT LACE/EMBRDRY COT NT KT.	APPAREL	6213201000	330	2	2,808,389	.02
HANDKERCHIEFS EXCEPT HEMMED, OF COTTON, NOT KNITTED.	APPAREL	6213202000	330	2	2,114,168	.01
SOCKS, OT HOSRY, FTWR W/OUT SLS COT CONT LACE, KNIT.	APPAREL	6115921000	332	2	124,579	.00
SOCKS & OT HOSRY & FTWR W/OUT SOLES OF OT COT, KNIT.	APPAREL	6115922000	332	2	7,466,943	.04
M/B OVERCOATS, CARCOATS ETC OF COTTON & DOWN, NT K.	APPAREL	6201121000	353	2	604,509	.00
M/B ANORAKS SKI-JACKETS ETC OF COTTON & DOWN, NT KT.	APPAREL	6201921000	353	2	2,193,683	.01
M/B ANORAK & SMLR ART F SKI-ST COT CONT DOWN, N KT.	APPAREL	6211201010	353	2	8,936	.00
W/G OVERCOATS, CARCOATS ETC OF COTTON & DOWN, NT KT.	APPAREL	6202121000	354	2	487,899	.00
W/G OVERCOATS, CARCOATS ETC OF COTTON & DOWN, NT KT.	APPAREL	6202921000	354	2	1,840,713	.01
W/G ANORAK SMLR ART FOR SKI-ST COT CONT DWN, N KNIT.	APPAREL	6211201030	354	2	2,829	.00
SOCKS & OT HOSRY & FTWR W/OUT APPLD SLS WOOL, KNIT.	APPAREL	6115910000	432	2	407,185	.00
HANDKERCHIEFS OF MAN-MADE FIBERS, NOT KNIT/ CROCHTD.	APPAREL	6213901000	630	2	2,019,108	.01
PNTY HSE OF SYN FIB MEAS <67 DECTEX/SNGL YRN, KNIT.	APPAREL	6115110020	632	2	23,714,668	.14
WOMEN'S HOSERY MEAS <67 DCTX/YARN OF MMF, KNIT.	APPAREL	6115200010	632	2	1,979,097	.01
SOCKS, OT HOSRY, FTWR W/OUT SL SYNFIB CONT LACE, KNIT.	APPAREL	6115931000	632	2	2,439,117	.01
SOCKS OT HOSRY, FTWR W/OUT SOLES OT SYN FIB, KNIT.	APPAREL	6115932000	632	2	18,102,204	.11
SOCKS, OT HOSRY, FTWR W/OUT SL ARTFIB CONT LACE, KNIT.	APPAREL	6115991400	632	2	53,014	.00
SOCKS OT HOSRY, FTWR W/OUT SOLES OT ART FIB, KNIT.	APPAREL	6115991800	632	2	773,137	.00
M/B OVERCOATS & CARCOATS ETC OF MMF AND DOWN, NT KT.	APPAREL	6201131000	653	2	2,076,210	.01
M/B ANORAKS & SKI-JACKETS OF MMF & DOWN, NOT KNIT.	APPAREL	6201931000	653	2	6,435,596	.04
M/B ANORAK SMLR ART F SKI-ST TEXMTRL CONT DWN, N KT.	APPAREL	6211201020	653	2	9,212	.00
W/G OVERCOATS, CARCOATS ETC OF MMF & DOWN, NT KNIT.	APPAREL	6202131000	654	2	1,780,338	.01
W/G OVERCOATS, CARCOATS ETC OF MMF & DOWN, NT KT.	APPAREL	6202931000	654	2	3,609,287	.02
W/G ANORAK SMLR ART F SKI-ST TEXMTRL CONT DWN, N KT.	APPAREL	6211201040	654	2	1,518	.00
M/B ENS ST-TYPE JCKT OT TEX MATL >=70% SILK, KNIT.	APPAREL	6103292034	733	2	0	.00
M/B SUIT-TYPE JACKET OF SILK CONT 70% SILK, KNIT.	APPAREL	6103392040	733	2	5,484	.00

INTEGRATION PHASE 2—Continued

1994 Product description	Group	HTS 1990	CAT	Phase	1990 U.S. imports (SME)	Percent of total
M/B ENS HEADING 6203 TEX MAT CONT >=70% SILK, N KT.	APPAREL	6203293026	733	2	30	.00
M/B SUIT-TYPE JACKET CONT >=70% SLK/SLK WST, NT KT.	APPAREL	6203394040	733	2	1,652,774	.01
M/B OVERCOAT ETC OF SILK 70% OR MORE SILK, KNIT.	APPAREL	6101900040	734	2	104	.00
M/B ENS OVERCOAT ETC OT TEXT MATL >=70% SILK, KNIT.	APPAREL	6103292028	734	2	0	.00
JACKET FOR TRACK STS OT TEX MAT CON 70% SILK, KNIT.	APPAREL	6112192010	734	2	0	.00
M/B OVERCOAT ETC OTH TEX MAT >70% SILK, NOT KNIT.	APPAREL	6201190040	734	2	93,392	.00
M/B ANORAKS ETC SILK >=70% BY WGHT SILK, NOT KNIT.	APPAREL	6201990040	734	2	291,353	.00
M/B ENS OVERCOAT OT TEX MAT CONT >=70% SILK, N KT.	APPAREL	6203293010	734	2	0	.00
W/G OVERCOAT ETC OF SILK 70% OR MORE SILK, KNIT.	APPAREL	6102900020	735	2	4,313	.00
W/G ENS OF OVRCT ETC OF SILK CONT >=70% SILK, KNIT.	APPAREL	6104292016	735	2	138	.00
W/G SUIT-TYPE JACKET OF SILK 70% MORE SILK, KNIT.	APPAREL	6104392040	735	2	22,667	.00
PARTS COATS & JACKETS TEX MTRL >70% SILK WGHT, KNIT.	APPAREL	6117900038	735	2	35	.00
W&G OVRCTS & SMLR CTS CONT >=70% BY WT OF SLK, N KN.	APPAREL	6202190040	735	2	531,749	.00
W/G ANORAKS & SMLR ART >=70% SILK, NT KNT/ CROCHTED.	APPAREL	6202990040	735	2	1,479,705	.01
W/G ENS OF HDNG 6202 & 6204 SLK CONT >=70% SLK WOV.	APPAREL	6204294016	735	2	349,140	.00
W/G SUIT-TYPE JACKET OF SILK 70% MORE SILK, NT KT.	APPAREL	6204394040	735	2	7,033,239	.04
W/G N KT GARMENTS NESOI 70% SILK OR MORE, ANORAKS.	APPAREL	6210502030	735	2	1,214	.00
PARTS COATS & JACKETS OT TEX MTRL >70% SILK, N KT.	APPAREL	6217900040	735	2	1,415	.00
W/G DRESSES OF SILK CONT 70% MORE SILK, KNIT .	APPAREL	6104490040	736	2	119,726	.00
WG DRESSES OF SILK CONT >=70% SLK/SLK WST, NT KNIT.	APPAREL	6204490040	736	2	11,001,574	.06
M/B ENS SHIRTS OT TEX MAT CONT 70% MORE SILK, KNIT.	APPAREL	6103292052	738	2	0	.00
M/B SHIRTS OF SILK CONT 70% MORE SILK, KNIT	APPAREL	6105903040	738	2	27,210	.00
M/B T-SHIRTS ETC CONT 70% MORE SILK BY WEIGHT, KNIT.	APPAREL	6109902010	738	2	121,485	.00
M/B PULLOV & SMLR ART SILK CONT 70% MORE SILK, KNIT.	APPAREL	6110900080	738	2	32,325	.00
SHIRT FOR TRACK STS OT TEX MAT CONT 70% SILK, KNIT.	APPAREL	6112192040	738	2	0	.00
TOPS CONT >=70% SILK OR SILK WASTE, KNIT	APPAREL	6114900005	738	2	1,963	.00
W/G ENS BLOUSE OF SILK CONT 70% MORE SILK, KNIT.	APPAREL	6104292052	739	2	50	.00
W/G BLOUSES OF SILK CONT 70% MORE SILK, KNIT .	APPAREL	6106902040	739	2	85,538	.00
W/G T-SHIRTS ETC CONT 70% MORE SILK BY WEIGHT, KNIT.	APPAREL	6109902020	739	2	218,038	.00
W/G PULLOV & SMLR ART SILK CONT 70% MORE SILK, KNIT.	APPAREL	6110900082	739	2	169,088	.00
PARTS BLOUSES & SHIRTS TEX MTRL >70% SILK WGHT, KT.	APPAREL	6117900028	739	2	0	.00
M/B ENS SHIRTS OT TEX MAT CONT 70% MORE SILK, N KT.	APPAREL	6203293050	740	2	0	.00
M/B SHIRTS SILK CONT >70% SILK, NOT KNIT	APPAREL	6205902040	740	2	4,653,994	.03
W/G ENS BLOUSE OF SILK CONT 70% MORE SILK, NT KNIT.	APPAREL	6204294052	741	2	223,197	.00
W/G BLOUSES OF SILK CONT 70% MORE SILK, NOT KNIT.	APPAREL	6206100040	741	2	23,377,043	.14
PARTS BLOUSES/SHIRTS TEX MTRL >70% SILK, NOT KNIT.	APPAREL	6217900015	741	2	206	.00
W/G ENS OF SKIRTS OF SILK CONT 70% MORE SILK, KNIT.	APPAREL	6104292028	742	2	89	.00
W/G SKIRTS OF SILK CONT 70% MORE SILK, KNIT	APPAREL	6104592040	742	2	64,398	.00

INTEGRATION PHASE 2—Continued

1994 Product description	Group	HTS 1990	CAT	Phase	1990 U.S. imports (SME)	Percent of total
W/G ENS OF SKIRTS OF SILK CONT 70% MORE SILK, NT KT.	APPAREL	6204294028	742	2	405,027	.00
W/G SKIRTS OF SILK CONT 70% MORE SILK, NOT KNIT.	APPAREL	6204594040	742	2	4,530,837	.03
M/B SUITS OF SILK CONTAINING 70% SILK/WASTE, KNIT.	APPAREL	6103194060	743	2	305	.00
M/B SUITS CONT >=70% SILK/SILK WASTE, NT KT/ CROCHD.	APPAREL	6203194060	743	2	75,264	.00
W/G SUITS OF SILK CONTAINING 70% MORE SILK, KNIT.	APPAREL	6104192070	744	2	2,846	.00
W/G SUITS OF SILK CONT >=70% SLK/SLK WST, NT KT/CR.	APPAREL	6204193070	744	2	711,008	.00
M/B ENS OF SWEATER OF SILK CONT 70% MORE SILK, KNIT.	APPAREL	6103292064	745	2	0	.00
M/B SWEATERS OF SILK CONTAINING 70% SILK, KNIT.	APPAREL	6110900016	745	2	379,364	.00
W/G ENS SWEATERS OF SILK 70% MORE SILK, KNIT	APPAREL	6104292062	746	2	0	.00
W/G SWEATERS OF SILK CONTAINING 70% SILK, KNIT.	APPAREL	6110900032	746	2	1,717,747	.01
PARTS OF SWEATERS OF SILK >70% SILK BY WEIGHT, KT.	APPAREL	6117900016	746	2	1,663	.00
M/B ENS TROUSERS OT TEX MATL >=70% SILK, KNIT	APPAREL	6103292040	747	2	0	.00
MEN'S TROUSERS ETC OF SILK CONT 70% MORE SLK, KNIT.	APPAREL	6103493016	747	2	2,771	.00
TRSRS FOR TRACK STS OT TEX MAT CONT 70% SILK, KNIT.	APPAREL	6112192070	747	2	0	.00
M/B ENS TRSRS CONT >=70% SILK/SLK WST, NOT KN/CRC.	APPAREL	6203293030	747	2	0	.00
MB TROUSER ETC CONT >=70% SLK/SLK WST, NT KNT/CRCH.	APPAREL	6203493035	747	2	460,544	.00
MB SHORTS CONT >=70% SLK/SLK WST, NOT KT/ CROCHETED.	APPAREL	6203493050	747	2	240,680	.00
W/G ENS TROUSER OF SILK CONT 70% MORE SILK, KNIT.	APPAREL	6104292040	748	2	15	.00
W/G TROUSERS OF SILK CONT 70% MORE SILK, KNIT.	APPAREL	6104693028	748	2	14,840	.00
PARTS TROUSERS SHORTS TEX MTRL >70% SILK WGHT, KNIT.	APPAREL	6117900048	748	2	0	.00
W/G ENS TROUSER OF SLK CONT >=70% BY WT SLK, NT KT.	APPAREL	6204294040	748	2	18,804	.00
W/G TROUSER ETC SILK >70 PERCENT SILK, NOT KNIT.	APPAREL	6204693040	748	2	5,478,343	.03
W/G N KT GARMENTS NESOI 70% SILK OR MORE, TROUSERS.	APPAREL	6210502030	748	2	15,100	.00
PARTS TROUSERS/BREECHES TEX MTRL > 70% SILK, NT KT.	APPAREL	6217900065	748	2	60	.00
M/B BATHROBES ETC OF TEX MATL CONT 70% SILK, KNIT.	APPAREL	6107994010	750	2	509,070	.00
W/G NEGLIGEES, ETC TEX MAT CONT 70% MORE SILK,KNIT.	APPAREL	6108994010	750	2	2,124,206	.01
M/B BATHROBES ETC OT TEX MAT CONT >=70% SILK, N KT.	APPAREL	6207996010	750	2	211,850	.00
W/G NEGLIGEES, ETC CONT >=70% SLK/SLK WST, N KT.	APPAREL	6208996010	750	2	773,233	.00
M/B NIGHTSHIRTS OF TEXTILE MATL CONT 70% SILK,KNIT.	APPAREL	6107294010	751	2	16,617	.00
W/G NIGHTDRESS ETC OF TEX MAT CONT 70% SILK, KNIT.	APPAREL	6108392010	751	2	67,991	.00
M/B NIGHTSHIRTS OT TEX/MAT CONT >=70% SILK N KT.	APPAREL	6207290020	751	2	200,492	.00
W/G NIGHTDRESS ETC OT TEX MAT CONT 70% SILK, N KT.	APPAREL	6208290020	751	2	1,260,282	.01
M/B UNDERPANTS OT TEX MAT CONT 70% MORE SILK, KNIT.	APPAREL	6107190010	752	2	496,912	.00
W/G SLIP & PETTICOAT OT TEX MAT CONT 70%SILK,KNIT.	APPAREL	6108190020	752	2	12,355	.00
W/G BRIEFS & PANTIES OF TEX MATL CONT 70% SILK,KT.	APPAREL	6108290010	752	2	95,716	.00
M/B UNDERPANTS & BRIEFS OT >=70% BY WGT SLK/ SLK WS.	APPAREL	6207190020	752	2	1,433,063	.01
M/B SINGLETS UNDERSHIRTS OT TEXT MAT >=70% SLK,N K.	APPAREL	6207996030	752	2	83,375	.00

INTEGRATION PHASE 2—Continued

1994 Product description	Group	HTS 1990	CAT	Phase	1990 U.S. imports (SME)	Percent of total
W/G SLIPS & PETTICOATS TEX MATL >=70% SILK, NT KT.	APPAREL	6208194010	752	2	120,694	.00
W/G BRFS PNTS SNGLTS & OT UNDSHRTS >=70% SILK,N KN.	APPAREL	6208996030	752	2	1,265,402	.01
TIES BOW TIES & CRAVATS SILK > 70% WGHT SILK, KNIT.	APPAREL	6117200040	758	2	73,676	.00
TIES & CRAVATS SILK CONT >=70 PERCENT SILK, NT KT.	APPAREL	6215100040	758	2	3,640,771	.02
M/B ENS NESOI OF TEX MAT CONT 70% SILK, KNIT ...	APPAREL	6103292080	759	2	0	.00
M/B OVERALLS OF SILK CONT 70% MORE SILK, KNIT	APPAREL	6103493039	759	2	0	.00
W/G ENS NESOI OF SILK CONT 70% MORE-SILK, KNIT.	APPAREL	6104292080	759	2	86	.00
W/G OVERALLS OF SILK CONT 70% MORE SILK, KNIT	APPAREL	6104693016	759	2	49,363	.00
M/B VESTS (EXC SWTR VEST) OF SILK >=70% SILK, KNIT.	APPAREL	6110900056	759	2	2,074	.00
W/G VESTS (EXC SWTR VEST) OF SILK >=70% SILK, KNIT.	APPAREL	6110900058	759	2	212,069	.00
JUMPERS CONT >=70% SILK OE SLK WASTE, KNIT	APPAREL	6114900015	759	2	1,541	.00
SUNSUIT & SMLR APPL OT TEX MATL 70% SILK MORE,KNIT.	APPAREL	6114900025	759	2	0	.00
COVERALL & SMLR APPL >=70% BY WGT SLK/SLK WST,KNIT.	APPAREL	6114900035	759	2	14,414	.00
OTHER GARMENTS CONTAINING >=70% SILK/SLK WST; KNIT.	APPAREL	6114900060	759	2	16,661	.00
CLOTHING ACCESSORIES NESOI CONT >70% SILK, KNIT.	APPAREL	6117800040	759	2	5,587	.00
PARTS GARMENTS EXC SWEATER TEX MTRL >70% SLK, KNIT.	APPAREL	6117900058	759	2	1,771	.00
M/B ENS NESOI CONT >=70% BY WGT OF SLK/SLK WST N K.	APPAREL	6203293070	759	2	14	.00
MB OVERALLS CONT >=70% BY WGT OF SLK/SLK WST NT KN.	APPAREL	6203493010	759	2	101	.00
W/G ENS NESOI OF SILK CONT 70% MORE SILK, NT KNIT.	APPAREL	6204294064	759	2	8,741	.00
W/G OVERALLS CONT <70% SLK/SLK WST, NT KNIT/ CROCHD.	APPAREL	6204693060	759	2	62,582	.00
W/G N KNIT GARMENTS NESOI 70% SILK OR MORE, OTHER.	APPAREL	6210502050	759	2	1,041	.00
M/B SWIMWEAR CONT >=70% SILK, NOT KNIT	APPAREL	6211112030	759	2	418	.00
W/G SWIMWEAR TEX MATL CONT > 70% SILK, NOT KNIT.	APPAREL	6211123010	759	2	1,771	.00
M/B GARMENT NESOI TEX MTRL CONT >=70% SILK, NOT KT.	APPAREL	6211390010	759	2	555,422	.00
W/G GARMENTS NESOI TEX MTRL CONT > 70% SILK, NT KT.	APPAREL	6211490010	759	2	2,874,499	.02
ACCESSORIES OT TEX FIBERS CONT > 70% SILK, NT KNIT.	APPAREL	6217100040	759	2	314,150	.00
PARTS GARMENTS NESOI OT TEX MTRL > 70% SILK, NT KT.	APPAREL	6217900090	759	2	87,192	.00
HATS&OTH HDGR, KNITD/CRCHETD, > 70% BY WEIGHT OF SILK.	APPAREL	6505909030	759	2	99,029	.00
WOMEN'S HOSRY MEAS <67 DCTX/YRN CONT <70% SLK KNIT.	APPAREL	6115200030	832	2	27,003	.00
SOCKS OT HOSRY, FTWR W/OUT SOLES CON <70% SILK KNT.	APPAREL	6115992020	832	2	15,983	.00
M/B ENS NESOI OF OTH TEX MATERIALS, <70% SILK KNIT.	APPAREL	6103292082	859	2	0	.00
M/B OVERALLS CONT <70% BY WGT SLK/SLK WASTE KNIT.	APPAREL	6103493040	859	2	0	.00
M/B OVERALLS OF OTH TEXTILE MATERIALS NESOI, KNIT.	APPAREL	6103493060	859	2	38	.00
W/G ENS NESOI CONT <70% BY WGT SILK/SILK WST, KNIT.	APPAREL	6104292082	859	2	0	.00
W/G ENS OF TEXTILE MATERIALS NESOI, KNIT	APPAREL	6104292090	859	2	0	.00
W/G OVERALLS OF SILK CONT <70% SILK, KNIT	APPAREL	6104693018	859	2	238	.00
W/G OVERALLS OF TEXTILE MATERIALS NESOI, KNIT	APPAREL	6104693020	859	2	49,913	.00
M/B VESTS (EXC SWEATER VEST) CONT <70% SILK, KNIT.	APPAREL	6110900060	859	2	2,600	.00
W/G VESTS (EXC SWEATER VEST) CONT <70% SILK, KNIT.	APPAREL	6110900062	859	2	10,038	.00
M/B VESTS (EXC SWEATER VEST) OF OTH TEX MATL, KNIT.	APPAREL	6110900064	859	2	3,250	.00

INTEGRATION PHASE 2—Continued

1994 Product description	Group	HTS 1990	CAT	Phase	1990 U.S. imports (SME)	Percent of total
W/G VEST (EXC SWEATER VEST) OF OTH TEX MATL, KNIT.	APPAREL	6110900066	859	2	20,613	.00
SKI-SUITS OF OTHER TEXTILE MATERIALS, KNIT	APPAREL	6112202030	859	2	663	.00
M/B SWIMWEAR OF OTHER TEXTILE MATERIALS, KNIT.	APPAREL	6112390020	859	2	338	.00
W/G SWIMWEAR OTHER THAN COTTON OR SYN FIBER, KNIT.	APPAREL	6112490020	859	2	10,238	.00
JUMPERS OF OTHER TEXTILE MATERIALS, KNIT	APPAREL	6114900020	859	2	325	.00
SUNSUITS & SIMILAR APPRL <70% SILK/SILK WASTE,KNIT.	APPAREL	6114900030	859	2	38	.00
COVERALLS & SIML APPRL <70% WGT SLK/SLK WST, KNIT.	APPAREL	6114900040	859	2	38	.00
OTHER GARMENTS CONT <70% SILK OR SILK WASTE, KNIT.	APPAREL	6114900065	859	2	325	.00
OTH GARMENTS OF TEXTILE MATERIALS, NESOI, KNIT.	APPAREL	6114900070	859	2	48,025	.00
OTHER ACC EX SCARVES & TIES <70% BY WGT SILK, KNIT.	APPAREL	6117800050	859	2	688	.00
CLOTHING ACCESSORIES OF TEXILE MATERIALS, NESOI,KT.	APPAREL	6117800060	859	2	15,400	.00
PARTS OF GARMENTS OF TEXTILE MATERIALS NESOI, KNIT.	APPAREL	6117900060	859	2	8,200	.00
M/B ENS NESOI OF CONT <70% WGT SLK/SLK WST NOT KNT.	APPAREL	6203293080	859	2	0	.00
MB OVERALLS CONT <70% SLK/SLK WST, NT KT/ CROCHETED.	APPAREL	6203493015	859	2	502,113	.00
W/G ENS NESOI OF SILK CONT <70% WGT SLK/SLK WST,NK.	APPAREL	6204294066	859	2	38	.00
W/G ENS OF TEXTILE MATERIALS NESOI, NOT KNIT ..	APPAREL	6204294068	859	2	513	.00
W/G OVERALLS <70% BY WGT SILK/SILK WASTE, NOT KNIT.	APPAREL	6204693070	859	2	379,088	.00
W/G OVERALLS TEXTILE MATERIALS NESOI, NOT KNIT.	APPAREL	6204699050	859	2	1,912,313	.01
M/B SWIMWEAR CONT <70% BY WGT SLK/SLK WST, NOT KNT.	APPAREL	6211112040	859	2	301,050	.00
W/G SWIMWEAR TEX MTRL <70% SLK/SLK WST NESOI, N KN.	APPAREL	6211123025	859	2	6,750	.00
M/B SKI-SUIT, NESOI, OF OTH TEXT MATER, N KT/ CROCH.	APPAREL	6211204060	859	2	788	.00
W/G SKI-SUIT OF OTHER TEXTILE MATERIALS NESOI,N KT.	APPAREL	6211207060	859	2	2,138	.00
M/B COVERALL & SMLR APPAREL TEX MTRL NESOI, NT KT.	APPAREL	6211390020	859	2	4,263	.00
M/B WASHSUITS & SMLR APPAREL TEX MTRL NESOI, NT KT.	APPAREL	6211390030	859	2	1,850	.00
M/B VESTS TEXT MATER NESOI <70% SLK/SLK WST NT KNT.	APPAREL	6211390070	859	2	39,188	.00
M/B GRMNTS OT TEXT MAT NESOI <70% SLK/SLK WST N KT.	APPAREL	6211390080	859	2	3,939	.00
W/G COVERALLS AND SMLR APPAREL TEX MTRL, NOT KNIT.	APPAREL	6211490020	859	2	3,241,638	.02
W/G WASHSUITS & SIMILAR APPAREL OT TEX MTRL, NT KT.	APPAREL	6211490030	859	2	273,263	.00
W/G JUMPERS OF OT TEX MAT <70% SLK/SLK WST NT KNIT.	APPAREL	6211490070	859	2	1,144,250	.01
W/G VESTS OF OT TEX MAT <70% SLK/SLK WST NOT KNIT.	APPAREL	6211490080	859	2	500,188	.00
W/G GARMENT NESOI OT TEX MAT <70% SLK/SLK WST, N K.	APPAREL	6211490090	859	2	372,540	.00
HANDKERCHIEF SILK CONT <70% SILK, NOT KNIT	APPAREL	6213102000	859	2	8,225	.00
HANDKERCHIEFS OF TEXTILE MATERIALS NESOI, NOT KNIT.	APPAREL	6213902000	859	2	71,000	.00
ACCESSORIES OTH TEX FIB NESOI, NOT KNIT OR CROCHTD.	APPAREL	6217100050	859	2	257,838	.00
PARTS OF GARMENTS OF TEX MATERIALS NESOI, NOT KNIT.	APPAREL	6217900095	859	2	117,075	.00
PRTS OF FTWR TEX MAT OTH LEG-WARMERS OTHER NESOI.	APPAREL	6406991570	859	2	25	.00
HATS&OTHER HEADGEAR, KNITTED OF FLAX OR FLAX&COTTON.	APPAREL	6505901560	859	2	28,288	.00
NOT KNITTED COTTON HEADGEAR: NESOI	APPAREL	6505902500	859	2	2,299,281	.01

INTEGRATION PHASE 2—Continued

1994 Product description	Group	HTS 1990	CAT	Phase	1990 U.S. imports (SME)	Percent of total
HATS&OTH HDGR >70% SILK&/OR NESOI, KNITTED/ CRCHETD.	APPAREL	6505909060	859	2	374,573	.00
BABIES' GRMNT ETC OF TEX MAT CONT 70% SILK, KNIT.	APPAREL	6111906010	913	2	878	.00
PANTY HOSE & TIGHT CONT >=70% SLK/SLK WASTE, KNIT.	APPAREL	6115190030	913	2	1,627	.00
WOMEN'S HOSERY MEAS <67 DCTX/YRN CONT 70% SLK,KNIT.	APPAREL	6115200020	913	2	2,231	.00
SCK, OT HSRY, FTWR W/OUT SL CONT 70% MORE SILK, KNIT.	APPAREL	6115992010	913	2	24,339	.00
GLOVES OF SILK CONTAIN >70% SILK/SILK WASTE, KNIT.	APPAREL	6116998040	913	2	2,346	.00
SHAWLS SCARVE MUFFLER MANTILLA VEILS >=70% SILK KT.	APPAREL	6117104000	913	2	80,179	.00
BABIES' GRMNT ETC OF TEX MAT CONT 70% SILK, NT KT.	APPAREL	6209904010	913	2	12,082	.00
DISPOSABLE BRIEFS DESIGNED FOR ONE TIME USE	APPAREL	6210104025	913	2	9,818	.00
M & B CVRAL & SIMILR APPAREL COT =>15% DOWN, NT KT.	APPAREL	6211320003	913	2	640,339	.00
M/B CVRALS & SMI APPAREL MMF =>15% DOWN, NOT KNIT.	APPAREL	6211330003	913	2	125,467	.00
W & G CVRALS & SIMILAR APPRL COT =>15% DOWN, NT KT.	APPAREL	6211420003	913	2	867	.00
W & G CVRALS & SIM APPAREL MMF =>15% DOWN, NT KT.	APPAREL	6211430003	913	2	26,885	.00
BRAS CONT LACE NET ETC TEX MTRL >=70% SILK, NT KT.	APPAREL	6212101030	913	2	7,920	.00
BRAS NT CONT LACE NET ETC OT TEX MTRL >=70% SILK.	APPAREL	6212102030	913	2	18,156	.00
BRACES SMLR ART & PTS OT TEX MAT CONT =>70% SILK.	APPAREL	6212900050	913	2	86,270	.00
HANDKERCHIEFS SLK/SLK WST CONT >=70% SLK, NOT KNIT.	APPAREL	6213101000	913	2	367,566	.00
SHAWLS SCARVES & THE LIKE CON >=70% SLK/SLK WST NK.	APPAREL	6214101000	913	2	4,936,536	.03
PLATES, ETC, CELL, PLM VY CHLO, M-M FB PRED, NESOI.	FABRIC ...	3921121500	229	2	845,458	.00
PLATES, ETC, CELL, POLYURETHAN, M-M FB PRED, NESOI.	FABRIC ...	3921131500	229	2	677,987	.00
PLATES, ETC PLS, EX CEL, TEXT <=1.492KG/M2, M-M, NESOI.	FABRIC ...	3921901500	229	2	75,162,154	.44
PLATES, ETC, PLAS, EX CEL, TEX >1.492KG/M2, M-M, NESOI.	FABRIC ...	3921902550	229	2	171,510	.00
MADE UP FISH NET NESOI OF MANMADE TEXTILE MATERIAL.	FABRIC ...	5608110000	229	2	4,699,711	.03
MADE UP FISH NET NESOI OF MANMADE TEXTILE MATERIAL.	FABRIC ...	5608110090	229	2	3,357,432	.02
SALMON GILL NETTING OF NYLON OR OTHER POLYAMIDES.	FABRIC ...	5608191010	229	2	4,214,776	.02
FISH NETTING NESOI OF MANMADE TEXTILE MATERIALS.	FABRIC ...	5608191020	229	2	22,812,055	.13
KNOTTED NETTING OF TWINE NESOI OF MANMADE TEXT MAT.	FABRIC ...	5608192000	229	2	4,294,839	.03
KNOTTED NET OF TWINE CORDAGE EX HAMMOCKS; OF COT.	FABRIC ...	5608902000	229	2	2,336,154	.01
KNOTTED NET OF TWINE CORDAGE EX HAMMOCKS; OF COT.	FABRIC ...	5608902090	229	2	193,011	.00
TULLES & OTH NET FAB OF COTTON OR MAN-MADE FIBERS.	FABRIC ...	5804100020	229	2	896,934	.01
LACE IN PCE, STRIP, MOTIF MECHANICAL MADE MMF.	FABRIC ...	5804210000	229	2	5,763,204	.03
MECH MDE LACE COT LACE IN PIECE, STRIP, MOTIFS.	FABRIC ...	5804290020	229	2	1,296,937	.01
HAND-MADE LACE OF COTTON OR OF MAN-MADE FIBERS.	FABRIC ...	5804300020	229	2	97,022	.00
WOVEN PILE NARROW AND CHENILLE FABRICS: OF COTTON.	FABRIC ...	5806101000	229	2	101,211	.00
WOV NARROW PILE & CHENILLE FABRICS: OF MAN-MADE FIB.	FABRIC ...	5806102000	229	2	9,997,850	.06
OTH NAR WOV FAB >5% ELASTOMERIC YRN/RUBBER THRD.	FABRIC ...	5806200000	229	2	5,425,475	.03
NARROW WOVEN FABRICS, NESOI, OF COTTON	FABRIC ...	5806310000	229	2	10,369,782	.06

INTEGRATION PHASE 2—Continued

1994 Product description	Group	HTS 1990	CAT	Phase	1990 U.S. imports (SME)	Percent of total
RIBBONS OF NARROW WOVEN FABRICS: MAN-MADE FIBERS.	FABRIC ...	5806321090	229	2	11,673,519	.07
NARROW WOVEN FABRICS OF MAN-MADE FIBER, NESOI.	FABRIC ...	5806322000	229	2	11,509,843	.07
NARROW WOVEN FABRICS EX LABELS ETC OF METALIZED YN.	FABRIC ...	5806393020	229	2	271,891	.00
BRAIDS IN PCE SUIT MKG/ORN HDWR OF COTTON OR MMF.	FABRIC ...	5808102010	229	2	755,684	.00
BRAIDS IN THE PIECE, NESOI, OF COTTON; OF MMF	FABRIC ...	5808103010	229	2	2,768,606	.02
ORN TRIM IN PCE, W/O EMBROID, OTH KNT OF COT/MMF.	FABRIC ...	5808900010	229	2	4,596,882	.03
WOVEN FABRICS OF METAL THREAD & METALIZED YARN NEC.	FABRIC ...	5809000000	229	2	3,452,904	.02
EMBROID IN PCE, STRIPS, MOTIFS W/O VISABLE GROUND.	FABRIC ...	5810100000	229	2	726,974	.00
EMB IN PCE, STRIPS, MOTIFS COT >200G/M2 W VSB GRND.	FABRIC ...	5810910010	229	2	138,924	.00
EMB IN PCE STRIPS MOTIFS COT W VSB GRND <=200 G/M2.	FABRIC ...	5810910020	229	2	1,236,498	.01
EMBROIDERY MMF ON A GROUND <100 G/M2 WIDTH>225 C/M.	FABRIC ...	5810920050	229	2	71,155	.00
EMBRDRY OF MMF OT THAN GRD <100G/M2 & WIDTH >225CM.	FABRIC ...	5810920080	229	2	4,831,903	.03
QUILT TEX PROD IN PCE 1> LAYERS TEX MAT W/PAD: CUT.	FABRIC ...	5811002000	229	2	1,086,069	.01
QUILT TEX PROD IN PCE 1> LAYERS TEX MAT W/PAD: MMF.	FABRIC ...	5811003000	229	2	945,894	.01
TEXTILE FABRICS COATED FOR BOOK COVERS, MMF.	FABRIC ...	5901101000	229	2	891,058	.01
TEXTILE FABRICS COATED FOR BOOK COVERS, EXCEPT MMF.	FABRIC ...	5901102000	229	2	202,490	.00
TRACING CLOTH; PAINTING CANVAS ETC, MANMADE FIBERS.	FABRIC ...	5901902000	229	2	59,214	.00
TRACING CLOTH; PAINTING CANVAS ETC, EXCEPT MMF.	FABRIC ...	5901904000	229	2	252,389	.00
TIRE CORD FABRIC OF HIGH TENACITY YARN, NYLON ETC.	FABRIC ...	5902100000	229	2	58,876,943	.35
TIRE CORD FABRIC OF HIGH TENACITY YARN, POLYESTERS.	FABRIC ...	5902200000	229	2	16,747,924	.10
TIRE CORD FABRIC OF HIGH TENACITY YARN, VISC RAYON.	FABRIC ...	5902900000	229	2	4,024,430	.02
TEXTILE FABRIC NESOI PVC BOND MMF FAB, OTHER	FABRIC ...	5903101800	229	2	65,280	.00
TEXTILE FABRIC NESOI PVC ETC MMF NESOI NO 70% R PL.	FABRIC ...	5903102500	229	2	20,677,467	.12
TEX FABRIC NESOI PU BOND MMF FAB OTH OV 60% PLASTC.	FABRIC ...	5903201800	229	2	337,130	.00
TEXTILE FABRIC NESOI PU ETC MMF NESOI NOV 70% R PL.	FABRIC ...	5903202500	229	2	23,882,212	.14
TEX FABRIC NESOI, NO PVC PU, MM BD, OTH OV 60% PLAST.	FABRIC ...	5903901800	229	2	579,945	.00
TEXT FABRIC NESOI NO PVC PU, NN C OTH NOV 70% RU PLA.	FABRIC ...	5903902500	229	2	56,012,443	.33
TEXTILE WALL COVERINGS NESOI	FABRIC ...	5905009000	229	2	550,079	.00
RUB TEXTILE FABRIC NESOI KNIT ETC MMF NO 70% RU PL.	FABRIC ...	5906912500	229	2	3,558,970	.02
RUB TEXTILE FABRIC NESOI, NO KNIT MM NO 70% RU PLA.	FABRIC ...	5906992500	229	2	12,811,581	.08
MMF FABRICS LAMINATED OR SPEC BONDED NESOI	FABRIC ...	5907001000	229	2	260,100	.00
TEX FABRICS IMPREGNATED ETC OF MAN MADE FIBERS.	FABRIC ...	5907009090	229	2	18,079,065	.11
TEXTILE BOLTING CLOTH NESOI, EXCEPT SILK	FABRIC ...	5911203000	229	2	1,677,941	.01
OTH FAB WIDTH <30 CM OPEN-WK FAB WRP KNT <=30 CM.	FABRIC ...	6002201000	229	2	761,532	.00
OT WARP KNIT FAB(INCL GALLOON) MMF OPEN-WORK FABRC.	FABRIC ...	6002430010	229	2	9,617,906	.06
SANITARY TOWELS/TAMPONS DIAPERS SMLR ART OF COTTON.	MADE-UP	5601101000	369	2	1,538,254	.01
ARTICLES OF WADDING NESOI OF COTTON	MADE-UP	5601210090	369	2	5,813,074	.03
TEXTILE CARPETING, MACHINE-KNOTTED PILE, COTTON.	MADE-UP	5701901020	369	2	91,962	.00
CARPETS & TEXT FLOOR COVERING KNOTTED COTTON NESOI.	MADE-UP	5701902020	369	2	10,115	.00

INTEGRATION PHASE 2—Continued

1994 Product description	Group	HTS 1990	CAT	Phase	1990 U.S. imports (SME)	Percent of total
TEXTILE CARPETS, WOVEN KELAM ETC COTTON N CERT.	MADE-UP	5702109020	369	2	4,205,324	.02
TEXTILE CARPETS, WOVEN COTTON PILE, NOT MADE UP.	MADE-UP	5702392010	369	2	11,951	.00
WOV TEX CRPTS, PILE, OF COT, NT MADE ON POWER LOOM.	MADE-UP	5702491010	369	2	5,806,197	.03
CARPETS & FLOOR COVERING, COT PILE NT M POWER LOOM.	MADE-UP	5702491090	369	2	2,254,362	.01
TEXTILE CARPETS, WOV NO PILE, COTTON, NOT MADE UP.	MADE-UP	5702591000	369	2	89,318	.00
TEXTILE CARPETS WOV NO PILE COT H-LM MADE UP.	MADE-UP	5702991010	369	2	76,883,478	.45
TEXTILE CARPETS WOV NO PILE COT MADE UP	MADE-UP	5702991090	369	2	665,958	.00
TEXTILE CARPETS NESOI, OF COTTON	MADE-UP	5705002020	369	2	1,240,431	.01
TEXTILE CARPET, H-KNOT ALPACA ETC N-CERT	MADE-UP	5701101600	465	2	35,165	.00
TEXT FLOOR COVERING, HAND-HOOKED/KNOTTED, WOOL/FAH.	MADE-UP	5701102010	465	2	1,840,793	.01
TEXTILE CARPETING, KNOTTED, WOOL/FAH NESOI ...	MADE-UP	5701102090	465	2	1,532,742	.01
TEXTILE CARPETS, WOVEN KELAM ETC WOOL N CERT.	MADE-UP	5702109010	465	2	513,612	.00
TEXTILE CARPETS, WOV WILTON ETC, WL PILE N MADE UP.	MADE-UP	5702311000	465	2	213,631	.00
TEXTILE CARPETS, WOV WOOL PILE, NOT MADE UP NESOI.	MADE-UP	5702312000	465	2	928,627	.01
TEXTILE CARPETS, WOV WILTON ETC, WL PILE, MADE UP.	MADE-UP	5702411000	465	2	1,966,093	.01
TEXTILE CARPETS, WOVEN WOOL PILE NESOI, MADE UP.	MADE-UP	5702412000	465	2	1,249,060	.01
TEXTILE CARPETS, WOV NO PILE, WOOL HD LM, NOT MADE.	MADE-UP	5702512000	465	2	107,949	.00
TEXTILE CARPETS, WOV NO PILE, WOOL NESOI, NOT MADE.	MADE-UP	5702514000	465	2	40,791	.00
TEXTILE CARPETS, WOV NO PILE, WL OTH H-LM MADE UP.	MADE-UP	5702913000	465	2	980,731	.01
TEXTILE CARPETS, WOV NO PILE, WOOL N H-LM, MADE UP.	MADE-UP	5702914000	465	2	198,656	.00
TEXTILE CARPETS, TUFTED, OF WOOL OR FAH	MADE-UP	5703100000	465	2	1,571,047	.01
TEXTILE CARPETS NESOI, OF WOOL OR FINE ANIMAL HAIR.	MADE-UP	5705002010	465	2	143,225	.00
WADDING & ARTICLES OF WADDING NESOI OF WOOL.	MADE-UP	5601290020	469	2	6,275	.00
NONWOVEN FLOOR COV UNLAY WOOL OR FINE ANIMAL HAIR.	MADE-UP	5603001010	469	2	851	.00
TEXTILE CARPETING, MACHINE-KNOTTED PILE, MMF FIBER.	MADE-UP	5701901030	665	2	128,029	.00
CARPETNG & TEXT FLOOR COVERINGS KNOTTED, MMF NESOI.	MADE-UP	5701902030	665	2	32,354	.00
TEXTILE CARPETS, WOVEN KELAM ETC MMF N CERT.	MADE-UP	5702109030	665	2	76,259	.00
TEXTILE CARPETS, WOV WILTON ETC, MMF PILE, N M/UP.	MADE-UP	5702321000	665	2	108,053	.00
TEXTILE CARPETS, WOV MANMADE PILE, N MADE UP NESOI.	MADE-UP	5702322000	665	2	67,686	.00
TEXTILE CARPETS, WOV WILTON ETC, MMF PILE, MADE UP.	MADE-UP	5702421000	665	2	3,778,057	.02
WOV TEX CARPET OF MMF, NOT MADE ON POW DRIVEN LOOM.	MADE-UP	5702422010	665	2	0	.00
CARPETS & FLR CVRNG MMF PILE, MADE-UP NESOI WOVEN.	MADE-UP	5702422090	665	2	900,370	.01
TEXTILE CARPETS, WOV NO PILE, MMF, NOT MADE UP.	MADE-UP	5702520000	665	2	21,319	.00
TEXTILE CARPET WOV NO PILE MMF H-LM MADE-UP	MADE-UP	5702920010	665	2	75,899	.00
TEXTILE CARPETS, WOV NO PILE, MMF, MADE UP	MADE-UP	5702920090	665	2	259,634	.00
TEXTILE CARPETS, TUFTED, OF NYLON ETC, HAND-HOOKED.	MADE-UP	5703201000	665	2	52,037	.00
TX CRPT TFTD NYL ETC, <=5.25M2 IN AREA N HAND-HKD.	MADE-UP	5703202010	665	2	691,352	.00
TEXTILE CARPETS TUFTED NYLON ETC OTHER	MADE-UP	5703202090	665	2	4,891,250	.03
TEX CRPT TUFTED, MMF MEAS <=5.25 M2 IN AREA ...	MADE-UP	5703300010	665	2	281,846	.00
TEXTILE CARPETING TUFTED, MMF OTHER	MADE-UP	5703300090	665	2	4,630,186	.03
TEX CARPET TILES FELT, NOT TUFT, SA<.3M2, NT W OR FAH.	MADE-UP	5704100000	665	2	246,016	.00

INTEGRATION PHASE 2—Continued

1994 Product description	Group	HTS 1990	CAT	Phase	1990 U.S. imports (SME)	Percent of total
TEXTILE CARPET TILES FELT, NOT TUFTED ETC, NESOI.	MADE-UP	5704900000	665	2	2,292,169	.01
TEXTILE CARPETS NESOI, OF MANMADE FIBER	MADE-UP	5705002030	665	2	1,919,887	.01
SANTI TOWELS/TAMPONS DIAPERS SMLR ART TEX EX COTN.	MADE-UP	5601102000	669	2	3,974,558	.02
ARTICLES OF WADDING NESOI OF MANMADE FIBERS.	MADE-UP	5601220090	669	2	63,882,878	.38
CORDAGE ETC OF POYLETHYLENE/POLYPROPLENE NESOI.	MADE-UP	5607493000	669	2	14,525,179	.09
TWINE, CORDAGE, ETC OF OTH SYNTHETIC FIBERS, NESOI.	MADE-UP	5607504000	669	2	17,981,467	.11
WADDING & ARTICLES OF WADDING OF TEXT FIBERS NESOI.	MADE-UP	5601290090	899	2	9,351,239	.05
TULLES & OTH NET FAB NT WOV, KNIT, CROCHETED NESOI.	MADE-UP	5804100090	899	2	115,473	.00
MECH MDE LACE OTH TEX MAT LCE PIECE, STRIP, MOTIFS.	MADE-UP	5804290090	899	2	37,685	.00
HAND-MADE LACE, OF OTH TEX MAT N WOV KNT OR CROC.	MADE-UP	5804300090	899	2	4,496	.00
WOVEN PILE NARROW & CHENILLE FABRIC; OF OTH TEX MT.	MADE-UP	5806103090	899	2	5,572	.00
NAR WOV FAB OTH TEX MAT VEGETABLE FIBER EXC COTTON.	MADE-UP	5806392000	899	2	3,655,041	.02
NARROW WOVEN FABRICS EX LABEL ETC OF TEX MAT NESOI.	MADE-UP	5806393080	899	2	147,575	.00
BRAIDS IN PCE SUIT MAKING/ORN HDWEAR ABACA/RAMIE.	MADE-UP	5808101000	899	2	95,915	.00
OTHER KNITTED OR CROCHETED FABRICS; WIDTH <30 CM.	MADE-UP	6002209000	899	2	58,353	.00
OTHER WARP KNIT FABRICS (INCLUDING GALLOON); OTHER.	MADE-UP	6002490000	899	2	58,830	.00
KNITTED OR CROCHETED FABRICS NESOI	MADE-UP	6002990090	899	2	124,831	.00
BLANKET AND TRAVEL RUG OF FB NESOI <85% SILK OR SW.	MADE-UP	6301900030	899	2	30,037	.00
BED LINEN OF OTHER PRINT TEXTILE MATERIALS, NESOI.	MADE-UP	6302290020	899	2	11,244	.00
BED LINEN OF TEXTILE MATERIAL, NESOI	MADE-UP	6302390030	899	2	122,944	.00
TABLE LINEN KNIT OR CROCHETED OF VEG FIB (EXC COT).	MADE-UP	6302401000	899	2	161,094	.00
TABLECLOTHS AND NAPKINS, DAMASK, FLAX	MADE-UP	6302521010	899	2	75,991	.00
TABLECLOTHS & NAPKINS, FLAX NOT DAMASK	MADE-UP	6302521020	899	2	1,046,741	.01
TABLE LINEN OF FLAX; OTHER THAN TABLECLOTH/NAPKINS.	MADE-UP	6302522000	899	2	538,461	.00
TABLE LINEN OF OTHER TEXTILE MATERIALS, NESOI	MADE-UP	6302590000	899	2	3,103,671	.02
BED, TABLE, TOILET & KITCHEN LINEN EX TOWEL, FLAX.	MADE-UP	6302920020	899	2	24,276	.00
BED, TABLE, TOILET, KIT LINEN TEXTILE MATL NESOI.	MADE-UP	6302992000	899	2	28,805	.00
CURTAIN & INTER BLINDS/BED VAL, KT TEX MAT, NESOI.	MADE-UP	6303190020	899	2	77,212	.00
CURTAIN & INT BLNDS/BED VAL NESOI, NESOI MAT NESOI.	MADE-UP	6303990020	899	2	155,533	.00
OTHER FURNISH ART EXC 9404 BEDSPD KT/CROCHET NESOI.	MADE-UP	6304113000	899	2	3,885	.00
BEDSPREADS OF NESOI MATERIAL NOT KNITTED OR CROCHE.	MADE-UP	6304193060	899	2	94,716	.00
OTHER FURNISHING ART NESOI KT/CROCHET NESOI, NESOI.	MADE-UP	6304910070	899	2	23,077	.00
OTHER FURN ART NESOI NT KT NESOI MAT NESOI VEG FIB.	MADE-UP	6304992000	899	2	1,631,889	.01
OTHER FURN ART NESOI NT KT NESOI MAT NESOI VEG FIB.	MADE-UP	6304993500	899	2	1,063,158	.01
OTH FURN ART N/KT NESOI MAT NESOI NESOI <85%WT SLK.	MADE-UP	6304996040	899	2	204,773	.00
SACK & BAG USED FOR PACKING GOODS NESOI TEX MAT.	MADE-UP	6305900000	899	2	762,059	.00
TARPAULIN, AWNING & SUNBLIND OTH TEX MAT, NESOI.	MADE-UP	6306190020	899	2	779,975	.00
QUILTS, EIDERDOWNS & COMFORTRS OF OTH TEXT MAT, NESO.	MADE-UP	9404909030	899	2	29,404	.00
QUILTS, EIDERDOWNS & COMFORTRS OF OTH TEXT MAT, NESO.	MADE-UP	9404909035	899	2	75,968	.00
ARTICLES OF BEDDING, NESOI	MADE-UP	9404909040	899	2	16,768	.00

INTEGRATION PHASE 2—Continued

1994 Product description	Group	HTS 1990	CAT	Phase	1990 U.S. imports (SME)	Percent of total
JEWELRY BOX & SIMIL CONT, RETAIL W CONTENTS, COTTON.	MADE-UP	4202926000	914	2	2,874,425	.02
OTHER, JEWELRY BOXES, & SIMIL CONT, RETAIL, W CONTEN.	MADE-UP	4202929020	914	2	6,901,812	.04
OTHER, JEWELRY BOXES, & SIMIL CONT, RETAIL, W CONTEN.	MADE-UP	4202929030	914	2	4,099	.00
HAND-CAST STRING-DRAWN MADE UP FISH NET, MMDE MAT.	MADE-UP	5608110010	914	2	1,016,274	.01
HAMMOCKS OF KNOT NETTING OF TWINE, CORDAGE; COTTON.	MADE-UP	5608902010	914	2	1,327,455	.01
WALL HANGINGS OF JUTE NOT KNIT, EXCL HEADING 9494.	MADE-UP	6304992500	914	2	359,496	.00
SCREEN HOUSES OF SYNTHETIC FIBERS	MADE-UP	6306229010	914	2	4,533,509	.03
CLEANING CLOTHS NESOI	MADE-UP	6307102030	914	2	10,663,080	.06
LIFEJACKETS AND LIFEBELTS	MADE-UP	6307200000	914	2	1,802,088	.01
PERINEAL TOWELS OF FABRIC FORMED ON BASE OF PAPER.	MADE-UP	6307906000	914	2	20,514,240	.12
PERINEAL TOWELS OF FABRIC FORMED ON BASE OF PAPER.	MADE-UP	6307906010	914	2	14,803	.00
OTH SURGL DRAPES OF FABRIC FORMED ON BASE OF PAPER.	MADE-UP	6307906090	914	2	74,536,114	.44
SURGICAL DRAPES DISPOSAL & NONWOVEN MANMADE FIBERS.	MADE-UP	6307907010	914	2	88,280,294	.52
SURGICAL DRAPES NESOI	MADE-UP	6307907020	914	2	631,168	.00
NESOI TOYS FOR PETS OF TEXTILE MATERIALS	MADE-UP	6307907500	914	2	5,495,471	.03
WALL BANNERS, OF MANMADE FIBERS	MADE-UP	6307908500	914	2	760,421	.00
NATIONAL FLAGS OF NATIONS OTHER THAN THE U.S.A.	MADE-UP	6307909035	914	2	313,851	.00
COTTON SLEEPING BAG SHELLS	MADE-UP	6307909050	914	2	68,220,173	.40
NATIONAL FLAGS OF NATIONS OTHER THAN THE U.S.A.	MADE-UP	6307909535	914	2	538,424	.00
COTTON SLEEPING BAG SHELLS	MADE-UP	6307909550	914	2	45,488,226	.27
COTTON SLEEPING BAG SHELLS	MADE-UP	6307909590	914	2	146,250,278	.86
QUILTS, EIDERDOWNS ETC, 85% OF SILK/SILK WASTE.	MADE-UP	9404909025	914	2	36,308	.00
ARTICLES OF BEDDING, NESOI	MADE-UP	9404909040	914	2	0	.00
SYNTHETIC FILAMENT TOW OF NYLON OR OTHER POLYAMIDE.	YARN	5501100000	911	2	18,216,562	.11
SYNTHETIC FILAMENT TOW OF POLYESTERS	YARN	5501200000	911	2	3,244,341	.02
SYNTHETIC FILAMENT TOW OTHER	YARN	5501900000	911	2	1,967,845	.01
ARTIFICIAL FILAMENT TOW	YARN	5502000000	911	2	15,559,463	.09
SYN STP FIB NT CRD, CMB OR PRSD SPNG: NYL/ OT PLYM.	YARN	5503100000	911	2	124,047,162	.73
SYN STP FIB NT CRD, CMB OR PRSD SPNG: ACRY/ MODACRY.	YARN	5503300000	911	2	57,712,705	.34
SYN STP FIB NT CRD, CMB OR PRSD SPNG: POLYPROPLENE.	YARN	5503400000	911	2	5,545,196	.03
SYN STP FIB NOT CARD, CMB OR PRSD SPNG: NESOI.	YARN	5503900000	911	2	11,028,147	.06
ARTIF STP FIB NT CRD, CMB OR PRSD SPNG: VIS RAYON.	YARN	5504100000	911	2	284,591,727	1.67
ART STP FIB NOT CRD, CMB OR PRSD SPNG: OTH VIS RYN.	YARN	5504900000	911	2	18,725,251	.11
WSTE NOILS YRN WS&GARN STK MMF SYN FIB OF NYLN &OT.	YARN	5505100020	911	2	73,618,320	.43
WASTE NOILS YRN WST & GARN STCK MMF SYN FIB PLYSTR.	YARN	5505100040	911	2	84,376,705	.50
WASTE NOILS YARN WST & GARN STCK MMF SYN FIB NESOI.	YARN	5505100060	911	2	29,687,508	.17
WASTE NOILS, YARN WST & GARN STCK MMF ARTIF FIBER.	YARN	5505200000	911	2	1,347,734	.01
SYN STP FIB CRD CMB OR PRS SPNG NYL OR OTH PLYAMD.	YARN	5506100000	911	2	1,410,370	.01
SYN STPL FIB CRD CMB OR PRCD SPNG OF POLYESTER.	YARN	5506200000	911	2	1,108,772	.01
SYN STP FIB CRD CMB OR PRCD SPNG ACRYLIC/ MDACRYLC.	YARN	5506300000	911	2	3,935,098	.02
SYNT STP FIB CARD COMB OR OTRWS PRSD SPNG NESOI.	YARN	5506900000	911	2	956,886	.01
ARTIFIC STPL FIBER CRD CMB OR OTHWS PRCD FOR SPNG.	YARN	5507000000	911	2	20,633	.00

INTEGRATION PHASE 2—Continued

1994 Product description	Group	HTS 1990	CAT	Phase	1990 U.S. imports (SME)	Percent of total
WADDING & ARTILCES OF WADDING NESOI CONT >=85% SLK.	YARN	5601290010	911	2	3,269	.00
TEXTILE FLOCK AND DUST AND MILL NEPS	YARN	5601300000	911	2	4,439,729	.03
TEXTILE YARN AND STRIP, NESOI	YARN	5604900000	911	2	1,013,955	.01
MTL CTD/LMNTD FIL/STRP UNGIMP/UNTWST OR TWST <5 MT.	YARN	5605000010	911	2	483,958	.00
TWINE CORD ROPE & CABLE OF JUTE OR OTHER TEX BAST.	YARN	5607100000	911	2	21,645,897	.13
BINDER OR BALER TWINE OF SISAL FIBERS	YARN	5607210000	911	2	519,009,758	3.05
TWINE CORD ETC EX BINDER OR BALER OF SISAL FIBERS.	YARN	5607290000	911	2	47,552,642	.28
TWINE CORD ETC OF ABACA FIB STRND CONS >=1.88CM DI.	YARN	5607301000	911	2	19,707,194	.12
TWINE, CORD, ROPE AND CABLE OF ABACA FIBERS, NESOI.	YARN	5607302000	911	2	29,375,665	.17
BINDER/BALER TWN WD NFIBRL STRP OF POLYETH/ POLYPRP.	YARN	5607411000	911	2	1,470,463	.01
TWINE ETC POLYETHYLENE NESOI WIDE NONFIBRILLATED.	YARN	5607491000	911	2	18,956,061	.11
TWINE, CORDAGE, ROPE, CABLE, OF COIR	YARN	5607901000	911	2	540	.00
INTEGRATION Phase 3						
Annex Total	.....	.....	.....	.....	17,025,193,817	
Phase 3 TOTAL	.....	.....	.....	.....	3,069,984,941	18.03%
GLVS VEG FIB KT IMPREG PLAS W/OUT 4CHETT COT RES.	APPAREL	6116101520	331	3	169,380	.00
GLVS VEG FIB KT IMPREG PLAS W/OUT 4CHETT COT RES.	APPAREL	6116101820	331	3	20,155	.00
GLVS EX VEG FIB KT IMPREG PLAS W/OUT 4CHETT COT RS.	APPAREL	6116102520	331	3	7,250	.00
GLVS IMPREG PLAS/RBR W/OUT 4CHTTS SUBJ COT RES, KT.	APPAREL	6116103510	331	3	175,160	.00
GLVS >=50% COT MMF TEX MT KT IMPREG W 4CHETT COTRS.	APPAREL	6116104510	331	3	1,595	.00
GLVS >=50% COT MMF TEX MT KT IMPREG W 4CHETT COTRS.	APPAREL	6116106010	331	3	6,815	.00
GLVS IMPREG PLAS/RBR W/OUT 4CHTTS SUBJ COT RES, KT.	APPAREL	6116107010	331	3	14,019	.00
GLVS PRE-EXIST MACH COT LP PILE FAB W/OUT 4CHTT KT.	APPAREL	6116922010	331	3	211,535	.00
GLVS PRE-EXIST MACH COT NAP FAB W/OUT 4CHTT, KNIT.	APPAREL	6116922020	331	3	13,681,771	.08
GLVS PRE-EXIST MACH COT LSLE FAB W/OUT 4CHTT, KNIT.	APPAREL	6116922030	331	3	9,527,106	.06
GLVS PRE-EXIST MACH COTT KNIT FAB W/OUT 4CHTT,KNIT.	APPAREL	6116922040	331	3	4,168,071	.02
GLOVES PRE-EXIST MACH COT NAPPD FAB WITH 4CHTT, KT.	APPAREL	6116922050	331	3	133,931	.00
GLOVES PRE-EXIST MACH COT NAPPD FAB WITH 4CHTT, KT.	APPAREL	6116922060	331	3	329,921	.00
GLVS PRE-EXIST MACH COTTON KNIT FAB W 4CHTTS, KNIT.	APPAREL	6116922070	331	3	534,519	.00
GLVS OF COTTON EX SKI OR PRE-EXIST MACH KNIT, KNIT.	APPAREL	6116923000	331	3	2,520,199	.00
GLVS PRE-EXIST MACH COT LP PILE FAB W/OUT 4CHTT KT.	APPAREL	6116926010	331	3	27,202	.00
GLVS PRE-EXIST MACH COT NAP FAB W/OUT 4CHTT, KNIT.	APPAREL	6116926020	331	3	1,748,758	.00
GLVS PRE-EXIST MACH COT LSLE FAB W/OUT 4CHTT, KNIT.	APPAREL	6116926030	331	3	1,251,501	.00
GLVS PRE-EXIST MACH COTT KNIT FAB W/OUT 4CHTT,KNIT.	APPAREL	6116926040	331	3	500,502	.00
GLOVES PRE-EXIST MACH COT NAPPD FAB WITH 4CHTT, KT.	APPAREL	6116926050	331	3	96,222	.00
GLOVES PRE-EXIST MACH COT NAPPD FAB WITH 4CHTT, KT.	APPAREL	6116926060	331	3	110	.00
GLVS PRE-EXIST MACH COTTON KNIT FAB W 4CHTTS, KNIT.	APPAREL	6116926070	331	3	20,042	.00
GLVS OF COTTON EX SKI OR PRE-EXIST MACH KNIT, KNIT.	APPAREL	6116929000	331	3	142,422	.00

INTEGRATION PHASE 2—Continued

1994 Product description	Group	HTS 1990	CAT	Phase	1990 U.S. imports (SME)	Percent of total
GLOVES OT TEXTILE MATERIALS SUBJ COTTON RES, KNIT.	APPAREL	6116999010	331	3	2,320	.00
GLV VEG FB IMPG PLS/RBR W/OUT 4CHTTS COT RES NT KT.	APPAREL	6216001220	331	3	51,608	.00
GLV VEG FB IMPG PLS/RBR W/OUT 4CHTTS COT RES NT KT.	APPAREL	6216001520	331	3	64,859	.00
GLV NESOI FAB IMPG PLS/RBR W/OT 4CHTTS CT RS NT KT.	APPAREL	6216002020	331	3	39,005	.00
GLV IMPREG PLAS/RBR W/OUT 4CHTTS SUB COT RES, N KT.	APPAREL	6216002510	331	3	58,070	.00
GLV IMPREG PLAS/RBR W/OUT 4CHTTS SUB COT RES, N KT.	APPAREL	6216002710	331	3	34,800	.00
GLV IMPREG PLAS/RBR W/OUT 4CHTTS SUB COT RES, N KT.	APPAREL	6216002810	331	3	2,944	.00
GLV IMPREG PLAS/RBR 4CHTTS CON >=50% COT,MMF NT KT.	APPAREL	6216003010	331	3	13,131	.00
GLV IMPREG PLAS/RBR 4CHTTS CON >=50% COT,MMF NT KT.	APPAREL	6216003110	331	3	29,000	.00
GLOVES EX SKI COTTON WOUT 4CHTTS, NOT KNIT ..	APPAREL	6216003810	331	3	16,465,159	10
GLOVES EX SKI COTTON WOUT 4CHTTS, NOT KNIT ..	APPAREL	6216003811	331	3	3,222,451	.02
GLOVES EX SKI COTTON WITH FOURCHETTS, NOT KNIT.	APPAREL	6216003820	331	3	1,481,978	.01
GLOVES EX SKI COTTON WITH FOURCHETTS, NOT KNIT.	APPAREL	6216003821	331	3	398,970	.00
GLOVES EX SKI COTTON WOUT 4CHTTS, NOT KNIT ..	APPAREL	6216003910	331	3	1,940,657	.01
GLOVES EX SKI COTTON WITH FOURCHETTS, NOT KNIT.	APPAREL	6216003920	331	3	160,988	.00
BRASSIERES CONT LACE, NET OR EMBROIDERY OF COTTON.	APPAREL	6212101010	349	3	95,384	.00
BRAS NOT CONTAINING LACE NET OR EMBROIDERY COTTON.	APPAREL	6212102010	349	3	4,046,280	.02
GIRDLES AND PANTY-GIRDLES OF COTTON	APPAREL	6212200010	349	3	6,332	.00
CORSETS OF COTTON	APPAREL	6212300010	349	3	3,932	.00
MEN'S ROBES & DRESSING GOWN, COTTON, KNIT ...	APPAREL	6107910010	350	3	182,294	.00
BOYS' ROBES & DRESSING GOWN COTTON, KNIT	APPAREL	6107910020	350	3	36,617	.00
WOMEN'S NEGLIGEES, BATHROBES ETC OF COTTON, KNIT.	APPAREL	6108910030	350	3	5,383,149	.03
GIRLS' NEGLIGEES, BATHROBES ETC OF COTTON, KNIT.	APPAREL	6108910040	350	3	80,855	.00
M/B BATHROBES, DRESSING GOWN ETC COTTON, NOT KNIT.	APPAREL	6207911000	350	3	12,971,317	.08
WOMEN'S NEGLIGEES, BATHROBES ETC OF COTTON, NT KT.	APPAREL	6208911010	350	3	26,195,890	.15
GIRLS' NEGLIGEES, BATHROBES ETC OF COTTON, NT KT.	APPAREL	6208911020	350	3	208,399	.00
PANTY HOSE AND TIGHTS OF COTTON, KNIT	APPAREL	6115190010	359	3	16,902,522	.10
SHAWLS SCARVES MUFFLERS MANTILLAS VEILS COTTON KNT.	APPAREL	6117106010	359	3 1	160,778	.00
TIES, BOW TIES AND CRAVATS OF COTTON, KNIT	APPAREL	6117200010	359	3	5,508	.00
M/B JUDO KARATE ORIENTL MARTIAL ART UNFRM COT N KT.	APPAREL	6203221000	359	3	4,017,355	.02
W/G JUDO KARATE MARTIAL ARTS UNIFORM COTTON, NT KT.	APPAREL	6204221000	359	3	1,676,753	.01
BRACES GARTERS SMLR ART & PTS COTTN/COT & RBR/PLAS.	APPAREL	6212900010	359	3	1,111,741	.01
SHAWLS SCARVES & THE LIKE OF COTTON NESOI, NT KNIT.	APPAREL	6214900010	359	3	1,105,306	.01
PRTS OF FTWR TEX MAT OTH LEG WARMERS OF COTTON.	APPAREL	6406991550	359	3	186,031	.00
MITTENS AND MITTS OF WOOL OR FINE ANIMAL HAIR, KNIT.	APPAREL	6116910000	431	3	528,233	.00
GLVS SYN FIBER >=23% WOOL W/OUT FOURCHETTES, KNIT.	APPAREL	6116931510	431	3	37,285	.00
GLOVES SYN FIBER >=23% WOOL WITH FOURCHETTES, KNIT.	APPAREL	6116931520	431	3	10,582	.00
GLVS SYN FIBER >=23% WOOL W/OUT FOURCHETTES, KNIT.	APPAREL	6116936010	431	3	5,290	.00
GLOVES OT TEXTILE MATERIALS SUBJ WOOL RES, KNIT.	APPAREL	6116999020	431	3	3,024	.00
GLVS EX SKI MMF >=36% WOOL/FAH WITHOUT 4CHTTS, NK.	APPAREL	6216004810	431	3	0	.00

INTEGRATION PHASE 2—Continued

1994 Product description	Group	HTS 1990	CAT	Phase	1990 U.S. imports (SME)	Percent of total
GLVS,MTTNS,MTS:MMF:4CHETTE,SDWLLS >=36% WL OR FAH.	APPAREL	6216004820	431	3	0	.00
GLVS EX SKI MMF >=36% WOOL/FAH WITHOUT 4CHTTS, NK.	APPAREL	6216004910	431	3	108	.00
GLVS,MTTNS,MTS:MMF:4CHETTE,SDWLLS >=36% WL OR FAH.	APPAREL	6216004920	431	3	0	.00
GLOVES OF WOOL OR FN ANML HAIR, NOT KNIT OR CROCHT.	APPAREL	6216005000	431	3	9,434	.00
GLVS EX SKI MMF >=36% WOOL/FAH WITHOUT 4CHTTS, NK.	APPAREL	6216005210	431	3	326	.00
GLVS,MTTNS,MTS:MMF:4CHETTE,SDWLLS >=36% WL OR FAH.	APPAREL	6216005220	431	3	0	.00
GLOVES OF WOOL OR FN ANML HAIR, NOT KNIT OR CROCHT.	APPAREL	6216008000	431	3	6,644	.00
PANTY HOSE AND TIGHTS OF WOOL OR FAH, KNIT ..	APPAREL	6115190020	459	3	96,211	.00
SHAWLS SCARVES MUFFLERS MANTILLAS VEILS WOOL, KNIT.	APPAREL	6117101000	459	3	322,807	.00
SHAWLS SCARVES MUFFLERS ETC MMF =>23% WOOL, KNIT.	APPAREL	6117102010	459	3	73,852	.00
TIES, BOW TIES AND CRAVATS OF WOOL, KNIT	APPAREL	6117200020	459	3	2,150	.00
BRACES GARTERS SMLR ART & PTS WOOL/WOOL & RBR/PLAS.	APPAREL	6212900020	459	3	1,458	.00
SHAWLS SCARVES AND THE LIKE OF WOOL, NOT KNIT.	APPAREL	6214200000	459	3	1,149,882	.00
OTH FTWEAR W UPRS TEX MAT W SLS&UPRS WOOL FELT MEN.	APPAREL	6405206030	459	3	63,000	.00
OT FTWEAR W UPRS TEX MAT W SLS&UPRS WOOL FELT WMEN.	APPAREL	6405206060	459	3	52,599	.00
OT FTWR W UPR TEX MAT W SL/UPRS WL FELT F OTH TNMW.	APPAREL	6405206090	459	3	56,162	.00
LEG WARMERS OF MANMADE FIBERS CONT =>23% WOOL.	APPAREL	6406991505	459	3	41	.00
PRT OF FTW TX MT OTH LEG-WARMERS-OTH WOOL/FN AN HR.	APPAREL	6406991560	459	3	2,453	.00
GLVS VEG FIB KT IMPREG PLAS W/OUT 4CHETT MMF RES.	APPAREL	6116101530	631	3	61	.00
GLVS EX VEG FIB KT IMPREG PLAS W/OUT 4CHETT MMF RS.	APPAREL	6116102530	631	3	56,785	.00
GLVS IMPREG PLAS/RBR W/OUT 4CHTTS SUBJ MMF RES, KT.	APPAREL	6116103520	631	3	1,595,360	.01
GLVS >=50% COT MMF TEX MT KT IMPREG W 4CHETT MMFRS.	APPAREL	6116104525	631	3	35,830	.00
GLVS EX VEG FIB KT IMPREG PLAS W/OUT 4CHETT MMF RS.	APPAREL	6116104575	631	3	4,495	.00
GLVS >=50% COT MMF TEX MT KT IMPREG W 4CHETT MMFRS.	APPAREL	6116106025	631	3	364,359	.00
GLVS IMPREG PLAS/RBR W/OUT 4CHTTS SUBJ MMF RES, KT.	APPAREL	6116107020	631	3	145,487	.00
GLVS >=50% COT MMF TEX MT KT IMPREG W 4CHETT MMFRS.	APPAREL	6116109025	631	3	34,951	.00
GLVS SYNTHETIC FIB NOT <23% WOOL W/OUT 4CHTT, KNIT.	APPAREL	6116932010	631	3	13,163,718	.08
GLVS SYNTHETIC FIB NOT <23% WOOL W/OUT 4CHTT, KNIT.	APPAREL	6116932011	631	3	2,824,142	.02
GLVS SYNTHETIC FIB <23% WOOL WITH 4CHTT, KNIT	APPAREL	6116932020	631	3	3,483,352	.02
GLVS SYNTHETIC FIB <23% WOOL WITH 4CHTT, KNIT	APPAREL	6116932021	631	3	658,358	.00
GLVS SYNTHETIC FIB NOT <23% WOOL W/OUT 4CHTT, KNIT.	APPAREL	6116939010	631	3	817,638	.00
GLVS SYNTHETIC FIB <23% WOOL WITH 4CHTT, KNIT	APPAREL	6116939020	631	3	455,549	.00
GLOVES ARTIFICIAL FIBERS W/OUT FOURCHETTES, KNIT.	APPAREL	6116995020	631	3	3,640	.00
GLOVES ARTIFICIAL FIBERS WITH FOURCHETTES, KNIT.	APPAREL	6116995040	631	3	6,247	.00
GLOVES ARTIFICIAL FIBERS W/OUT FOURCHETTES, KNIT.	APPAREL	6116996020	631	3	212,750	.00
GLOVES ARTIFICIAL FIBERS W/OUT FOURCHETTES, KNIT.	APPAREL	6116996021	631	3	13,346	.00
GLOVES ARTIFICIAL FIBERS WITH FOURCHETTES, KNIT.	APPAREL	6116996040	631	3	35,334	.00
GLOVES ARTIFICIAL FIBERS WITH FOURCHETTES, KNIT.	APPAREL	6116996041	631	3	6,061	.00

INTEGRATION PHASE 2—Continued

1994 Product description	Group	HTS 1990	CAT	Phase	1990 U.S. imports (SME)	Percent of total
GLOVES OT TEXTILE MATERIALS SUBJECT MMF RES, KNIT.	APPAREL	6116998030	631	3	104	.00
GLOVES OT TEXTILE MATERIALS SUBJECT MMF RES, KNIT.	APPAREL	6116999030	631	3	48,065	.00
GLV VEG FB IMPG PLS/RBR W/OUT 4CHTTS MMF RES NT KT.	APPAREL	6216001530	631	3	3,718	.00
GLV NESOI FIB IPG PLS/RB W/OUT 4CHTS MMF RES NT KT.	APPAREL	6216001830	631	3	93	.00
GLV NESOI FIB IPG PLS/RB W/OUT 4CHTS MMF RES NT KT.	APPAREL	6216002030	631	3	4,483	.00
GLV IMPRG PLAS/RBR W/OUT 4CHTTS SUBJ MMF RES, N KT.	APPAREL	6216002525	631	3	115,698	.00
GLV IMPRG PLAS/RBR W/OUT 4CHTTS SUBJ MMF RES, N KT.	APPAREL	6216002725	631	3	74,118	.00
GLV IMPRG PLAS/RBR W/OUT 4CHTTS SUBJ MMF RES, N KT.	APPAREL	6216002825	631	3	13,601	.00
GLV IMPREG PLAS/RBR 4CHTTS CON >=50% COT, MMF NT KT.	APPAREL	6216003025	631	3	10,962	.00
GLV IMPREG PLAS/RBR 4CHTTS CON >=50% COT, MMF NT KT.	APPAREL	6216003125	631	3	7,349	.00
GLV IMPREG PLAS/RBR 4CHTTS CON >=50% COT, MMF NT KT.	APPAREL	6216003225	631	3	145	.00
GLOVES EX SKI MMF NESOI WITHOUT FOURCHETTES, NT KT.	APPAREL	6216004835	631	3	2,586,261	.02
GLVS EX SKI OF MMF NESOI W 4RCHETS <36% W/ FAH NK.	APPAREL	6216004845	631	3	508,416	.00
GLOVES EX SKI MMF NESOI WITHOUT FOURCHETTES, NT KT.	APPAREL	6216004935	631	3	1,395,431	.01
GLVS EX SKI OF MMF NESOI W 4RCHETS <36% W/ FAH NK.	APPAREL	6216004945	631	3	169,876	.00
GLOVES EX SKI MMF NESOI WITHOUT FOURCHETTES, NT KT.	APPAREL	6216005235	631	3	324,594	.00
GLVS EX SKI OF MMF NESOI W 4RCHETS <36% W/ FAH NK.	APPAREL	6216005245	631	3	98,185	.00
BRASSIERES CONT LACE NET/EMBROIDERY MAN-MADE FIBERS.	APPAREL	6212101020	649	3	5,884,716	.03
BRAS NOT CONTAINING LACE NET OR EMBROIDERY MMF.	APPAREL	6212102020	649	3	57,257,320	.34
GIRDLES AND PANTY-GIRDLES OF MAN-MADE FIBERS.	APPAREL	6212200020	649	3	3,629,748	.02
CORSETS OF MAN-MADE FIBERS	APPAREL	6212300020	649	3	187,276	.00
MEN'S ROBES & DRESSING GOWN, MMF, KNIT	APPAREL	6107920010	650	3	128,631	.00
BOYS' ROBES & DRESSING GOWN MMF, KNIT	APPAREL	6107920020	650	3	84,812	.00
WOMEN'S NEGLIGEE, BATHROBE, ETC OF MANMADE FIB, KNIT.	APPAREL	6108920030	650	3	9,137,061	.05
GIRLS' NEGLIGEES, BATHROBE, ETC OF MANMADE FIB, KNIT.	APPAREL	6108920040	650	3	482,786	.00
M/B BTHROBE DRESSNG GOWN ETC MMF <36% WL/ FAH, N KT.	APPAREL	6207922020	650	3	1,334,360	.01
WOMEN'S NEGLIGEE, BATHROBE, ETC OF MANMADE FIB, N KT.	APPAREL	6208920010	650	3	24,186,959	.14
GIRLS' NEGLIGEES, BATHROBE, ETC OF MANMADE FIB, N KT.	APPAREL	6208920020	650	3	365,380	.00
TIGHT OF SYN FIB MEASURE <67 DECTEX/SNGL YARN, KNIT.	APPAREL	6115110010	659	3	7,481,866	.04
PANTY HOSE & TGHT SYN FIB >=67 DCTX/SNGL YRN, KNIT.	APPAREL	6115120000	659	3	3,026,995	.02
SHAWLS SCARVES MUFFLERS ETC MANMADE FIB NESOI, KT.	APPAREL	6117102000	659	3	4,513,579	.03
SHAWLS SCARVES MUFFLERS ETC MANMADE FIB NESOI, KT.	APPAREL	6117102030	659	3	8,012,405	.05
TIES, BOW TIES & CRAVATS OF MANMADE FIBERS, KNIT.	APPAREL	6117200030	659	3	46,555	.00
BRACES GRTERS SMLR ART & PTS MMF OR MMF & RBR/PLAS.	APPAREL	6212900030	659	3	9,893,995	.06
SHAWLS SCARVES AND THE LIKE OF SYNTHETIC FIB, N KT.	APPAREL	6214300000	659	3	21,588,883	.13
SHAWLS SCARVES AND THE LIKE ARTIFICIAL FIBER, N KT.	APPAREL	6214400000	659	3	6,684,019	.04
LEG WARMERS OF MANMADE TEXTILE MATERIALS NESOI.	APPAREL	6406991510	659	3	12,701	.00

INTEGRATION PHASE 2—Continued

1994 Product description	Group	HTS 1990	CAT	Phase	1990 U.S. imports (SME)	Percent of total
LEG WARMERS OF MANMADE TEXTILE MATERIALS NESOI.	APPAREL	6406991520	659	3	413,827	.00
PARTS OF FOOTWEAR OF TEXTILE MATERIALS-MMF OTHER.	APPAREL	6406991540	659	3	1,591,229	.01
GLVS VEG FIB KT IMPRG PLAS W/OUT 4CHETT NESOI.	APPAREL	6116101540	831	3	435	.00
GLVS EX VEG FIB KT IMPREG PLAS W/OUT 4CHETT NESOI.	APPAREL	6116102540	831	3	725	.00
GLVS IMPREG PLAS W/OUT 4CHTT N SUBJ COT/MMF RES KT.	APPAREL	6116103530	831	3	0	.00
GLVS >=50% COT MMF TEX MT KT IMPREG W 4CHETS OTHER.	APPAREL	6116104530	831	3	0	.00
GLVS EX VEG FIB KT IMPREG PLAS W/OUT 4CHETT NESOI.	APPAREL	6116104595	831	3	23	.00
GLVS >=50% COT MMF TEX MT KT IMPREG W 4CHETS OTHER.	APPAREL	6116106030	831	3	0	.00
GLOVES OF SILK CONT <70% SILK/SLK WASTE, KNIT	APPAREL	6116999050	831	3	290	.00
GLOVES OF TEXTILE MATERIALS, NESOI, KNIT	APPAREL	6116999060	831	3	3,344	.00
GLV VG FB IMPG PLS/RBR W/OUT 4CHTTS OT TEX MAT WOV.	APPAREL	6216001540	831	3	5,823	.00
GLV OF OTH FIB IPG PLS/RB W/OT 4CHT NESOI NT KT.	APPAREL	6216001840	831	3	99	.00
GLV OF OTH FIB IPG PLS/RB W/OT 4CHT NESOI NT KT.	APPAREL	6216002040	831	3	0	.00
GLV IMPRG PLAS W/OUT 4CHTT N SUBJ COT/MMF RES N KT.	APPAREL	6216002530	831	3	7,520	.00
GLV IMPRG PLAS W/OUT 4CHTT N SUBJ COT/MMF RES N KT.	APPAREL	6216002730	831	3	113,057	.00
GLV IMPRG PLAS W/OUT 4CHTT N SUBJ COT/MMF RES N KT.	APPAREL	6216002830	831	3	853	.00
GLV IMPREG PLAS/RBR 4CHTTS CON >=50% COT, MMF NT KT.	APPAREL	6216003030	831	3	0	.00
GLV IMPREG PLAS/RBR 4CHTTS CON >=50% COT, MMF NT KT.	APPAREL	6216003130	831	3	0	.00
GLOVES OF OTH TEX MATERIALS NESOI, N NT OR CROCHTD.	APPAREL	6216006000	831	3	544,829	.00
GLOVES OF OTH TEX MATERIALS NESOI, N NT OR CROCHTD.	APPAREL	6216009000	831	3	63,991	.00
M/B ENS ST–TYPE JCKT OT TEX MATL <70% SILK, KNIT.	APPAREL	6103292036	833	3	0	.00
M/B SUIT–TYPE JCKT & BLZR <70% SLK/SLK WST, KNIT.	APPAREL	6103392050	833	3	121	.00
M/B SUIT–TYPE JACKET & BLAZER TEX MAT NESOI, KNIT.	APPAREL	6103392060	833	3	33,088	.00
M/B ENS OF HDNG 6203 CONT <70% WGT SLK/SLK WST, WV.	APPAREL	6203293028	833	3	0	.00
M/B ST–TYPE JAC/BLAZ <70% SLK/SLK WST, NT KT/ CROCH.	APPAREL	6203394050	833	3	138,744	.00
M/B SUIT–TYPE JACKET & BLAZER TEX MAT NESOI, NT KT.	APPAREL	6203394060	833	3	799,617	.00
M/B OVERCOAT ETC OF SILK LESS THAN 70% SILK, KNIT.	APPAREL	6101900050	834	3	621	.00
M/B OVERCOAT ETC OF TEXTILE MATERIALS NESOI, KNIT.	APPAREL	6101900060	834	3	1,760	.00
M/B ENS OF OVRCT ETC OT TEX MATL <70% SILK, KNIT.	APPAREL	6103292030	834	3	0	.00
M/B JACKETS FOR TRACK SUITS CONT <70% SILK, KNIT.	APPAREL	6112192020	834	3	0	.00
M/B OVERCOAT ETC < 70% SILK/SILK WASTE, NOT KNIT.	APPAREL	6201190050	834	3	2,415	.00
M/B OVERCOAT ETC TEXTILE MATERIAL NESOI, NOT KNIT.	APPAREL	6201190060	834	3	116,403	.00
M/B ANORAKS ETC SILK <70% BY WGHT SILK, NOT KNIT.	APPAREL	6201990050	834	3	11,696	.00
M/B ANORAKS ETC OT TEXTILE MATERIALS, NOT KNIT.	APPAREL	6201990060	834	3	306,878	.00
M/B ENS OF OVRCTS CONT <70% WGT SLK/SLK WST, NT KN.	APPAREL	6203293020	834	3	0	.00
M/B ANORAK/SMLR ART FOR SKI-ST TEX MTRL NESOI, N KT.	APPAREL	6211202040	834	3	2,864	.00
M/B TRACK SUIT EX TROUSERS TEX MATERIAL NESOI, N KT.	APPAREL	6211390050	834	3	1,277	.00

INTEGRATION PHASE 2—Continued

1994 Product description	Group	HTS 1990	CAT	Phase	1990 U.S. imports (SME)	Percent of total
M/B JACKTS, OT TEXT MAT NESOI,<70% SLK/SLK WST N KT.	APPAREL	6211390080	834	3	198	.00
W/G OVERCOAT ETC OF SILK LESS THAN 70% SILK, KNIT.	APPAREL	6102900025	835	3	587	.00
W/G OVERCOAT ETC OF TEXTILE MATERIALS NESOI, KNIT.	APPAREL	6102900030	835	3	15,146	.00
W/G ENS OF OVRCT ETC OF SILK CONT <70% SILK, KNIT.	APPAREL	6104292018	835	3	0	.00
W/G ENS OF OVRCT ETC OF OT TEXTILE MATERIALS, KNIT.	APPAREL	6104292020	835	3	0	.00
W/G SUIT–TYPE JACKET CONT <70% BY WEIGHT SILK, KNIT.	APPAREL	6104392050	835	3	587	.00
W/G SUIT–TYPE JACKET TEXTILE MATERIALS NESOI, KNIT.	APPAREL	6104392090	835	3	42,815	.00
W/G JACKETS FOR TRACK SUITS CONT <70% SILK, KNIT.	APPAREL	6112192030	835	3	1,829	.00
PARTS COATS AND JACKETS <70% BY WGT SILK, KNIT.	APPAREL	6117900040	835	3	0	.00
W&G OVRCTS & SMLR CTS CONT <70% BY WT SILK, NT KNT.	APPAREL	6202190050	835	3	17,354	.00
W OR G OVRCTS & SMLR CTS OTH MAT NOT KNIT OR CRCH.	APPAREL	6202190060	835	3	294,596	.00
W/G ANORAK & SMLR ART <70% SILK, N KNIT/CROCHETED.	APPAREL	6202990050	835	3	9,281	.00
W/G ANORAKS & SMLR ART TEXTILE MTRLS NESOI, NT KT.	APPAREL	6202990060	835	3	1,163,685	.01
WG ENS HDNG 6202/6204 SLK CNT <70% SLK/SLK WST WOV.	APPAREL	6204294018	835	3	104	.00
W/G ENS HDNG 6202 & 6204 OF TEXT MATER NESOI WOVEN.	APPAREL	6204294020	835	3	49,542	.00
W/G SUIT–TYPE JACKET OTHER SILK, NOT KNIT	APPAREL	6204394050	835	3	267,341	.00
W/G SUIT–TYPE JACKET TEXTILE MATERIALS NESOI, N KT.	APPAREL	6204394060	835	3	5,790,618	.03
W/G SKI–SUIT ANORAK & SMLR ART TEX MTRL NESOI, N KT.	APPAREL	6211205040	835	3	11,592	.00
W/G TRACK SUITS EXCEPT TROUSERS TEX MTRLS, NT KNIT.	APPAREL	6211490050	835	3	242	.00
W/G JACKETS, NESOI OT TEX MAT <70% SLK/SLK WST, N K.	APPAREL	6211490090	835	3	15,523	.00
PARTS COATS & JACKETS OT TEX MTRL NESOI, NOT KNIT.	APPAREL	6217900045	835	3	14,387	.00
W/G DRESSES CONT <70% BY WGT SLK/SLK WST KNIT.	APPAREL	6104490050	836	3	135,151	.00
W/G DRESSES OF OTHER TEXTILE MATERIALS NESOI, KNIT.	APPAREL	6104490060	836	3	167,291	.00
WG DRESSES OF SLK, <70% BY WGT SLK/SLK WST NT KNIT.	APPAREL	6204490050	836	3	301,495	.00
W/G DRESSES OF TEXTILE MATERIALS NESOI, NOT KNIT.	APPAREL	6204490060	836	3	7,521,634	.04
M/B ENS OF SHIRTS OTHER TEX MATL <70% SILK, KNIT.	APPAREL	6103292054	838	3	0	.00
W/G ENS BLOUSE CONT <70% BY WEIGHT SILK, KNIT.	APPAREL	6104292053	838	3	0	.00
W/G ENS BLOUSE OF OT TEXTILE MATERIALS NESOI, KNIT.	APPAREL	6104292054	838	3	47	.00
M/B SHIRTS OF SILK CONT <70% SILK, KNIT	APPAREL	6105903050	838	3	725	.00
M/B SHIRTS OF TEXTILE MATERIALS NESOI, KNIT	APPAREL	6105903060	838	3	7,500	.00
W/G BLOUSES OF SILK CONT <70% SILK, KNIT	APPAREL	6106902050	838	3	5,686	.00
W/G BLOUSES OF TEXTILE MATERIALS NESOI, KNIT .	APPAREL	6106903040	838	3	177,208	.00
M/B T–SHIRTS ETC OF OT TEX MAT, <70% BY WT SILK KNT.	APPAREL	6109902015	838	3	10,811	.00
W/G T–SHIRTS ETC OF OTH TEX MAT, CON <70% WT SIK KT.	APPAREL	6109902030	838	3	173,398	.00
M/B PULLOVERS AND SIMILAR ART CONT <70% SILK KNIT.	APPAREL	6110900084	838	3	749	.00
W/G PULLOVERS AND SIMILAR ART CONT <70% SILK KNIT.	APPAREL	6110900086	838	3	5,955	.00
M/B PULLOVERS AND SIMILAR ART OF OT TEX MAT, KNIT.	APPAREL	6110900088	838	3	12,297	.00
W/G PULLOVERS AND SIMILAR ART OF OT TEX MAT, KNIT.	APPAREL	6110900090	838	3	435,345	.00

INTEGRATION PHASE 2—Continued

1994 Product description	Group	HTS 1990	CAT	Phase	1990 U.S. imports (SME)	Percent of total
M/B SHIRTS FOR TRACK SUITS CONT <70% SILK, KNIT.	APPAREL	6112192050	838	3	12	.00
W/G SHIRTS FOR TRACK SUITS CONT <70% SILK, KNIT.	APPAREL	6112192060	838	3	0	.00
TOPS CONT <70% BY WEIGHT SILK OR SILK WASTE, KNIT.	APPAREL	6114900010	838	3	1,580	.00
PARTS BLOUSES & SHIRTS TEX MTRL NOT >70% SILK KNIT.	APPAREL	6117900030	838	3	1,229	.00
BABIES' GRMNT ETC OF TEX MATL CONT <70% SILK, KNIT.	APPAREL	6111906020	839	3	4,832	.00
BABIES' GRMNT & CLTHNG ACCESS <70% SLK/SLK WS N KT.	APPAREL	6209904020	839	3	70,554	.00
M/B ENS OF SHIRTS CONT <70% BY WGT SLK/SLK WST N K.	APPAREL	6203293060	840	3	17	.00
WG ENS BLOUSE OF SLK <70% BY WGT SLK/SLK WST, N KT.	APPAREL	6204294054	840	3	3,741	.00
W/G ENS BLOUSE OF OT TEXTILE MATERIALS NESOI, N KT.	APPAREL	6204294056	840	3	214,077	.00
M/B SHIRTS OF SILK CONT <70% SLK/SLK WST, NOT KNIT.	APPAREL	6205902050	840	3	81,062	.00
M/B SHIRTS OF OTHER TEXTILE MATRLS NESOI, NOT KNIT.	APPAREL	6205904040	840	3	1,684,980	.01
W/G BLOUSES OF SLK CONT <70% SLK/SLK WST, NOT KNIT.	APPAREL	6206100050	840	3	358,916	.00
W/G BLOUSES OF OTHR TEXTILE MATRLS NESOI, NOT KNIT.	APPAREL	6206900040	840	3	8,980,208	.05
M/B SHIRTS TEXT MATER NESOI <70% SLK/SLK WST NT KN.	APPAREL	6211390060	840	3	19,806	.00
W/G BLSES SHRT SHRT-BLSES; <70% BY WGT SLK NT KNT.	APPAREL	6211490060	840	3	349,247	.00
PARTS BLOUSES/SHIRTS TEXTILE MATERIALS NESOI, N KT.	APPAREL	6217900020	840	3	0	.00
W/G ENS OF SKIRTS CONT <70% BY WEIGHT SILK, KNIT.	APPAREL	6104292030	842	3	0	.00
W/G ENS OF SKIRTS OF TEXTILE MATERIALS NESOI, KNIT.	APPAREL	6104292032	842	3	4,813	.00
W/G SKIRTS OF SILK CONT <70% SILK, KNIT	APPAREL	6104592050	842	3	116,324	.00
W/G SKIRTS OF TEXTILE MATERIALS NESOI, KNIT	APPAREL	6104592090	842	3	275,367	.00
W/G ENS OF SKIRTS NESOI COT <70% BY WGT SILK NT KT.	APPAREL	6204294030	842	3	2,518	.00
W/G ENS OF SKIRTS OF TEXTILE MATERIALS NESOI, NT KT.	APPAREL	6204294032	842	3	136,126	.00
W/G SKIRTS OF SLK; <70% BY WGT SLK/SLK WST, NOT KN.	APPAREL	6204594050	842	3	94,794	.00
W/G SKIRTS OF TEXTILE MATERIALS NESOI, NOT KNIT.	APPAREL	6204594060	842	3	5,090,421	.03
M/B SUITS OF SILK CONT <70% SILK/SILK WASTE, KNIT.	APPAREL	6103194070	843	3	11	.00
M/B SUITS OF TEXTILE MATERIALS NESOI, KNIT	APPAREL	6103194080	843	3	4,019	.00
MEN'S OR BOYS' SUITS <70% SLK/SLK WST, N K/ CROCHTD.	APPAREL	6203194070	843	3	17,578	.00
M/B SUITS OF OTHER TEXTL MATERIALS NESOI, NOT KNIT.	APPAREL	6203194080	843	3	217,832	.00
W/GSUITS CONT <70% BY WGT SILK/SILK WST KNIT .	APPAREL	6104192080	844	3	105	.00
W/GSUITS OF OTHER TEXTILE MATERIALS NESOI, KNIT.	APPAREL	6104192090	844	3	24,839	.00
WG SUITS OF SLK CONT <70% BY WGT SLK/SLK WST, N KT.	APPAREL	6204193080	844	3	85,078	.00
W/GSUITS OF OTH TEXTILE MATERIALS NESOI, NOT KNIT.	APPAREL	6204193090	844	3	5,778,548	.03
M/BENS TROUSERS, BREECHES OT TEX MATL<70% SLK, KT.	APPAREL	6103292042	847	3	0	.00
M/BTROUSERS, BREECHES OF OTHER SLK, KNIT	APPAREL	6103493018	847	3	30	.00
M/BTROUSERS, BREECHES OF OT TEX MAT, KNIT	APPAREL	6103493020	847	3	15,958	.00
W/GENS TROUSERS, BREECHES CONT<70% BY WGT SLK, KNT.	APPAREL	6104292042	847	3	0	.00
W/GENS TROUSERS, BREECHES OF TEXT MAT NESOI, KNIT.	APPAREL	6104292044	847	3	0	.00
W/GTROUSERS, BREECHES OF SILK CONT<70% SILK, KNIT.	APPAREL	6104693030	847	3	5,945	.00

INTEGRATION PHASE 2—Continued

1994 Product description	Group	HTS 1990	CAT	Phase	1990 U.S. imports (SME)	Percent of total
W/GTROUSERS, BREECHES OF TEXT MAT NES0I, KNIT.	APPAREL	6104693032	847	3	123,834	.00
M/BTROUSERS FOR TRACK SUIT CONT <70% SILK, KNIT.	APPAREL	6112192080	847	3	75	.00
W/GTROUSERS FOR TRACK SUIT CONT <70% SILK, KNIT.	APPAREL	6112192090	847	3	1,654	.00
PARTS TROUSERS SHORTS <70% SILK/SILK WASTE, KNIT.	APPAREL	6117900050	847	3	1,669	.00
M/BENS OF TROUSERS, ETC CONT <70% SLK/SLK WST N K.	APPAREL	6203293040	847	3	3,278	.00
MB TROUSER ETC CONT < 70% SLK/SLK WST, NT KT/CROCH.	APPAREL	6203493040	847	3	91,218	.00
M/BTROUSERS ETC OTHER TEXTILE MATERIALS, NOT KNIT.	APPAREL	6203493045	847	3	4,208,490	.02
MB SHORTS CONT <70% SLK/SLK WST, NOT KNT/CROCHETED.	APPAREL	6203493060	847	3	7,153,252	.04
WG ENS TROUS, BREECHES OT SLK<70% BY WGT SLK, NT KNT.	APPAREL	6204294042	847	3	30	.00
W/GENS TROUSER, BREECHES OF TEXT MAT NESOI, NT KT.	APPAREL	6204294044	847	3	74,366	.00
W/GTROUSERS, BREECHES <70% WHT SLK/SLK WST, NT KNT.	APPAREL	6204693050	847	3	388,726	.00
W/GTROUSERS, BREECHES OF OTH TEXT MAT NESOI, NT KNT.	APPAREL	6204699040	847	3	30,005,605	.18
M/BSKI-SUIT TROUSERS/BREECHES TEX MTRL NESOI, N KT.	APPAREL	6211203040	847	3	15	.00
W/GSKI-SUIT TROUSERS/BREECHES TEX MTRL NESOI, N KT.	APPAREL	6211206040	847	3	7,599	.00
M/BTRACKSUIT TROUSERS TEX MATERIAL NESOI, NT KT.	APPAREL	6211390040	847	3	328	.00
W/GTRACK SUIT TROUSERS TEXTILE MATERIALS, NT KNIT.	APPAREL	6211490040	847	3	1,877	.00
PARTS TROUSERS & BREECHES TEX MTRL NESOI, NOT KNIT.	APPAREL	6217900070	847	3	28,027	.00
M/BBATHROBES ETC OF TEX MATL CONT <70% SILK, KNIT.	APPAREL	6107994020	850	3	5,623	.00
W/GNEGLIGEES ETC OF OTHER TEXTILE MATERIALS, KNIT.	APPAREL	6108994020	850	3	23,813	.00
M/BBATHROBES ETC OT TEX MAT CONT < 70% SLK, N KT.	APPAREL	6207996020	850	3	1,491	.00
W/GBATHROBES ETC SILK CONT < 70% BY WGT SLK N KNT.	APPAREL	6208996020	850	3	21,769	.00
W/GNEGLIGEES ETC OF OTHER TEXTILE MATERIALS, N KT.	APPAREL	6208998010	850	3	4,175	.00
M/BNIGHTSHIRTS OF TEX MATL CONT <70% SILK, KNIT.	APPAREL	6107294020	851	3	0	.00
W/GNIGHTDRESSES & PAJAMAS OF OT TEXTILE MAT, KNIT.	APPAREL	6108392020	851	3	4,002	.00
M/BNGHTSHRTS & PJMS <70% SLK/SLK WST NT KNIT	APPAREL	6207290030	851	3	4,307	.00
W/GNGHTDRSS & PJMS < 70% BY WGT SLK/SLK WST, N KT.	APPAREL	6208290030	851	3	43,718	.00
TIES BOW TIES & CRAVATS <70% WGHT OF SLK, KNIT.	APPAREL	6117200050	858	3	11,669	.00
TIES BOW TIES AND CRAVATS OT TEXTILE MATERIAL, KNIT.	APPAREL	6117200060	858	3	3,419	.00
TIES BOW TIES AND CRAVATS SILK NESOI, NOT KNIT.	APPAREL	6215100090	858	3	126,232	.00
TIES & CRAVATS TEXTILE MATERIALS NESOI, NOT KNIT.	APPAREL	6215900020	858	3	4,052	.00
PANTY HOSE & TIGHTS CONT <70% SLK/SLK WASTE, KNIT.	APPAREL	6115190040	859	3	61,938	.00
SHAWLS SCARVES MUFFLERS ETC TEX MATL NESOI, KNIT.	APPAREL	6117106020	859	3	10,975	.00
BRAS CONT LACE NET ETC TEX MTRL <70% SILK, NT KT.	APPAREL	6212101040	859	3	3,913	.00
BRAS NT CONT LACE NET ETC OT TEX MTRL <70% SLK N K.	APPAREL	6212102040	859	3	2,463	.00
GIRDLES & PANTY-GIRDLES TEX MTRL EX COTTON/MMF.	APPAREL	6212200030	859	3	6,750	.00
CORSETS TEXTILE MATERIALS EX COTTON & MAN-MADE FIB.	APPAREL	6212300030	859	3	1,438	.00

INTEGRATION PHASE 2—Continued

1994 Product description	Group	HTS 1990	CAT	Phase	1990 U.S. imports (SME)	Percent of total
BRACES SMLR ARTICLES & PTS OF TEXTILE MAT NESOI.	APPAREL	6212900040	859	3	35,200	.00
BRACES SMLR ARTICLES & PTS OF TEXTILE MAT NESOI.	APPAREL	6212900090	859	3	11,675	.00
SHAWLS SCARVES & THE LIKE CON O 70% SLK/SLK WST NK.	APPAREL	6214102000	859	3	332,325	.00
SHAWLS SCARVES AND THE LIKE TEXTILE MTRL NESOI, NKT.	APPAREL	6214900090	859	3	32,900	.00
OTH KNT COT FAB <30 CM WD >5% ELSTMRC YRN/ RUB THRD.	FABRIC ...	6002104000	222	3	552,860	.00
OTH KNIT FAB <30 CM WD >5% ELSTOMERIC YRN/ RUB THRD.	FABRIC ...	6002108000	222	3	743,978	.00
OTHER KNITTED OR CROCHET COTTON WIDTH<30 CM.	FABRIC ...	6002203000	222	3	1,238,672	.01
OTHER KNITTED OR CROCHETED MMF S WIDTH<30 CM.	FABRIC ...	6002206000	222	3	2,143,669	.01
OTHER KNIT/CROCHET ; 5% OR > ELASTOMERIC YRN.	FABRIC ...	6002302000	222	3	31,732,376	.19
OTHER KNIT OR CROCHET 5% OR > RUBBER THREAD.	FABRIC ...	6002309000	222	3	1,744,066	.01
OTHER WARP KNIT S(INCLUDNG GALLOON)OF COTTON.	FABRIC ...	6002420000	222	3	4,086,638	.02
S OF MANMADE FIBERS NESOI, WARP KNIT	FABRIC ...	6002430080	222	3	14,134,926	.08
OTHER COT KT OR CROCHD FAB, CIR KNIT, >100 MET NUM.	FABRIC ...	6002920000	222	3	56,303,594	.33
OTH KNT/CROCHET FAB DBL KNIT/INTERLOCK NYLON, NESOI.	FABRIC ...	6002930020	222	3	2,141,627	.01
OTH KNT/CRCHET FAB DBL KNT/INTRLCK POLYESTER, NESOI.	FABRIC ...	6002930040	222	3	20,240,228	.12
OTH KNT/CROCHET FAB DBL KNT/INTRLOCK OTH MMF, NESOI.	FABRIC ...	6002930060	222	3	3,244,642	.02
OTHER KNIT/CROCHET OF MAN-MADE FIBERS, NESOI.	FABRIC ...	6002930080	222	3	12,508,928	.07
WADDING IN THE PIECE OF COTTON	FABRIC ...	5601210010	223	3	2,683,744	.02
WADDING IN THE PIECE OF MANMADE FIBERS	FABRIC ...	5601220010	223	3	664,594	.00
LAM NEEDLELOOM FELTS & STICH-BONDED FIBER FABRICS.	FABRIC ...	5602101000	223	3	177,464	.00
NEEDLELOOM FELTS AND STITCH-BONDED FIBER FAB NESOI.	FABRIC ...	5602109090	223	3	30,130,156	.18
FELT NOT IMPREG COAT COVER OR LAMIN TEX MAT NESOI.	FABRIC ...	5602290000	223	3	1,250,704	.01
FELT NESOI OF LAMINATED FABRICS	FABRIC ...	5602903000	223	3	23,688	.00
FELT NOT LAMINATED NESOI OF MANMADE FIBER ...	FABRIC ...	5602906000	223	3	2,170,084	.01
NONWOVEN LAM FAB OTH THAN FLOOR COVERING UNDERL AY.	FABRIC ...	5603003000	223	3	1,300,180	.01
NONWOVENS IMPREG, COATED, COVERED; IMITATION SUEDE.	FABRIC ...	5603009010	223	3	45,871,798	.27
NONWOVENS, THERMAL BONDED, OF STAPLE FIBERS.	FABRIC ...	5603009030	223	3	98,652,022	.58
NONWOVENS, OBTAIN BY MECH ENTANGLEMNT, STAPLE FIBER.	FABRIC ...	5603009050	223	3	12,934,334	.08
NONWOVENS, OF FILAMENTS	FABRIC ...	5603009070	223	3	181,510,084	.07
NONWOVENS, OF STAPLE FIBERS	FABRIC ...	5603009090	223	3	72,829,428	.43
STITCH–BONDED GOODS OF MANMADE FIBERS, WARP KNIT.	FABRIC ...	6002430020	223	3	222,488	.00
WOVEN FAB CARD NOT < 85% BY WT WOOL NOT > 300 G/M2.	FABRIC ...	5111112000	414	3	11	.00
WOVEN TAPSTY/UPHOLSTY NT < 85% WT WOOL/ANIMAL HAIR.	FABRIC ...	5111191000	414	3	732,847	00
WOV TPSTY/UPHOLTY WOOL/ANIMAL HAIR MM FIL >300G/M2.	FABRIC ...	5111200500	414	3	161,017	00
WOVEN FAB CARD MIXED MM FILAMENTS WOOL/ ANIMAL HAIR.	FABRIC ...	5111201000	414	3	624	00
WOV TPSTY/UPHOLTY WOOL/ANIMAL HAIR MM STP >300G/M2.	FABRIC ...	5111300500	414	3	319,592	.00
WOVEN FAB CARD MIXED MM STPLE FIB WOOL/ANIMAL HAIR.	FABRIC ...	5111301000	414	3	0	.00
WOVEN FABRICS CARDED WOOL/FINE ANIMAL HAIR: OTHER.	FABRIC ...	5111904000	414	3	85,019	.00
WOVEN FABRICS CARDED WOOL/FINE ANIMAL HAIR: OTHER.	FABRIC ...	5111905000	414	3	101	.00

INTEGRATION PHASE 2—Continued

1994 Product description	Group	HTS 1990	CAT	Phase	1990 U.S. imports (SME)	Percent of total
WV FB CM WL/CM FAH CN >=85% W/FAH WGT <=200G/2S OT.	FABRIC ...	5112111000	414	3	2,820	.00
WOV TAPESTY/UPHOLSTY NOT < 85% WT WOOL/ANIMAL HAIR.	FABRIC ...	5112191000	414	3	1,365,437	.01
WOV TAPESTY/UPHOLSTY NOT < 85% WT WOOL/ANIMAL HAIR.	FABRIC ...	5112191001	414	3	221,220	.00
WOV TAPESTY/UPHOLSTY NOT < 85% WT WOOL/ANIMAL HAIR.	FABRIC ...	5112192000	414	3	140,378	.00
WOVEN FAB COMB W/FAH MIXED M/S WITH MM FILAMENTS.	FABRIC ...	5112201000	414	3	3,321	.00
WOVEN FAB COMB W/FAH MIXED M/S WITH MM FILAMENTS.	FABRIC ...	5112202000	414	3	736	.00
WOV FAB OF COMB W/FAH MIXED M/S MM STAPLE FIBER.	FABRIC ...	5112301000	414	3	2,274	.00
WOV FAB OF COMB W/FAH MIXED M/S MM STAPLE FIBER.	FABRIC ...	5112302000	414	3	689	.00
WOVEN FABRICS COMBED WOOL/FINE ANIMAL HAIR: OTHER.	FABRIC ...	5112904000	414	3	7,081	.00
WOVEN FABRICS COMBED WOOL/FINE ANIMAL HAIR: OTHER.	FABRIC ...	5112905000	414	3	193	.00
NEEDLELOOM FELTS & STITCH–BONDED FIB FAB OF WOOL.	FABRIC ...	5602109010	414	3	251,667	.00
FELTNOT IMPREG COAT COVER OR LAMIN OF WOOL OR FAH.	FABRIC ...	5602210000	414	3	788,656	.00
FELT NOT LAMINATED NESOI	FABRIC ...	5602909000	414	3	110,989	.00
WOV PILE & CHENILLE FABRICS OF WOOL/FINE ANIM HAIR.	FABRIC ...	5801100000	414	3	933,800	.01
TUFTED TEXTILE FABRICS OF WOOL OR FINE ANIMAL HAIR.	FABRIC ...	5802300020	414	3	5,057	.00
GAUZE, NT NAR FAB OTH TEX MAT, OF WOOL/FNE ANML HR.	FABRIC ...	5803901000	414	3	6,924	.00
GAUZE, NT NAR FAB OTH TEX MAT, OF WOOL/FNE ANML HR.	FABRIC ...	5803901100	414	3	0	.00
GAUZE, NT NAR FAB OTH TEX MAT, OF WOOL/FNE ANML HR.	FABRIC ...	5803901200	414	3	6,199	.00
HAND–WOV TAPESTRIES, NESOI, WOOL/FINE HAIR, NESOI.	FABRIC ...	5805002500	414	3	65,584	.00
WOVEN NARROW PILE & CHENILLE FAB, WOOL/FINE HAIR.	FABRIC ...	5806103020	414	3	283	.00
NARROW WOVEN FABRICS OF WOOL OR FINE ANIMAL HAIR.	FABRIC ...	5806391000	414	3	23,708	.00
EMBROID IN PCE, STRIPS NESOI OF WOOL/FNE ANML HAIR.	FABRIC ...	5810990010	414	3	10,842	.00
QUILT TEX PROD IN PCE 1> LAYER MAT WOOL ANIM HAIR.	FABRIC ...	5811001000	414	3	168	.00
WOOL/FINE AN HR FABRC IMPREGNATD ETC W POLYURATHNE.	FABRIC ...	5903203010	414	3	2,346	.00
WOOL/FINE AN HAIR FABRIC IMPREG W PLAS EX PU/PVC.	FABRIC ...	5903903010	414	3	8,963	.00
LOOPED PILE FABRICS OTHER TEX MAT, KNIT OR CROCHET.	FABRIC ...	6001290000	414	3	246	.00
OTHER PILE FABRIC OTHER TEXTILE MATRL KNIT/CROCHET.	FABRIC ...	6001990090	414	3	3,044	.00
OTHER WARP KNIT FABRIC OF WOOL OR FINE ANIMAL HAIR.	FABRIC ...	6002410000	414	3	171,864	.00
OTH KNIT/CROCHET FABRC,WOOL/FINE ANIMAL HAIR, NESOI.	FABRIC ...	6002910000	414	3	129,242	.00
NYL/POLYMDS UNBL/BL TYPWRTR RIB BOTH SELVAGES WOVN.	FABRIC ...	5407410010	621	3	0	.00
NYLON/POLYAMDS UNBLCH/BLCH TYPEWRITER RIBON OTHER.	FABRIC ...	5407410020	621	3	222,955	.00
TYPEWRITER OR SIM RIB NAR WOV FAB: OF MAN–MADE FIB.	FABRIC ...	5806321010	621	3	2,135,290	.01
TYPEWRITER RIBBONS WOVEN, OF MAN–MADE FIBERS.	FABRIC ...	9612109010	621	3	5,377,838	.03
NARROW FABRICS, WOVEN, OF GLASS FIBERS	FABRIC ...	7019201000	622	3	1,407,684	.01
WOVEN FABRICS (EXC NARROW FAB), GLS FIBR NT COLORD.	FABRIC ...	7019202000	622	3	24,056,735	.14
WOVEN FABRICS (EXC NARROW FAB), GLS FIBER, COLORED.	FABRIC ...	7019205000	622	3	5,998,063	.04

INTEGRATION PHASE 2—Continued

1994 Product description	Group	HTS 1990	CAT	Phase	1990 U.S. imports (SME)	Percent of total
WOVEN FABRIC OF NOIL SILK: <85% SLK/SLK WST, NESOI.	FABRIC ...	5007106090	810	3	80,454	.00
WV FAB CONT <85% N SUB W/C/MMF REST, NESOI ...	FABRIC ...	5007906090	810	3	675,473	.00
WOV FAB OF FLAX CON >=85 FLAX BLCH UBL WID > 127CM.	FABRIC ...	5309110010	810	3	4,578,199	.03
WOV FAB OF FLAX CON >=85% FLAX UNBL BL WID <=127CM.	FABRIC ...	5309110090	810	3	1,064,800	.01
WOV FAB OF FLX CON >=85% FLAX NT BL OR UBL W>127CM.	FABRIC ...	5309190010	810	3	1,842,051	.01
WOV FAB FLAX >=85% FLAX N–BL/UNBL WIDTH <=127CM.	FABRIC ...	5309190090	810	3	904,512	.01
WOV FAB FX LESS 85 PER FX NOT SUB COT MM RES OTHR.	FABRIC ...	5309213090	810	3	128,707	.00
WOV FAB FX <85% FX <=17% W/FAH N–COT/MMF WD >127CM.	FABRIC ...	5309214010	810	3	1,032,211	.01
WOV FAB FLX <85% FX UBL OR BL, <=17% W/FAH, <=127CM.	FABRIC ...	5309214090	810	3	1,533,884	.01
WOV FAB FX <85% FX, CONT COT & MMF, UBL & BL, NO R.	FABRIC ...	5309293090	810	3	1,014,040	.01
WOV FAB FLX < 85% FLX NOT BL OR UBL, WIDTH > 127CM.	FABRIC ...	5309294010	810	3	2,562,632	.02
WOV FAB FLX<85% FLX, NOT BLCH OR BLCH WIDTH<=127CM.	FABRIC ...	5309294090	810	3	1,543,284	.01
WV FB VEG FB CN CT/MMF NOT SUB COT/MMF RES NESOI.	FABRIC ...	5311003090	810	3	253,741	.00
WOV FAB VEG FIB <=17% W/FAH N–CNT COT/MMF, NESOI.	FABRIC ...	5311004000	810	3	6,999,826	.04
WOV PILE & CHENILLE FIB OF VEG FIBERS, EXC COTTON.	FABRIC ...	5801901000	810	3	46,083	.00
WOV PILE & CHENILLE FABRIC TEX MAT, NESOI, NESOI.	FABRIC ...	5801902090	810	3	28,679	.00
TERRY TOWELING, NOT NARROW OTH TEX MATERIAL, OTHER.	FABRIC ...	5802200090	810	3	8	.00
TUFTED TEX FAB, OT CARPET AND OT TEX FLR COVRNG OT.	FABRIC ...	5802300090	810	3	63,563	.00
GAUZE, NT NAR FAB OTH TEX MAT, VEG FIB, EXC COTTON.	FABRIC ...	5803902000	810	3	43,225	.00
GAUZE, NOT NARROW OTH TEXTILE MAT, NESOI, NESOI.	FABRIC ...	5803904090	810	3	500	.00
TEX FABRICS IMPREG ETC NESOI, VEG FIBER NOT COTTON.	FABRIC ...	5907009010	810	3	9,187	.00
TRUNKS, SUITCASES, ETC, VEG FIBER, NOT PILE, OF COTTON.	MADE–UP	4202124000	369	3	4,345,957	.03
ATTACHE CASES, BRIEF CASES, ETC, OF COTTON ...	MADE–UP	4202128020	369	3	403,716	.00
TRUNKS, SUITCASES, VANITY CASES, ETC, OF COTTON.	MADE–UP	4202128060	369	3	544,663	.00
HANDBAGS, OUTR SURF TEXT, WHOLLY/PART BRAID, COTTON.	MADE–UP	4202224020	369	3	899,394	.01
HANDBAGS, OTR SURF TEX, NOT BRAID, NOT TUFT/PL, COTTON.	MADE–UP	4202224500	369	3	46,030,960	.27
HANDBAG,OTR SUR TEX,EX BRAID,EX TUF/PL,VEG FBR,NES.	MADE–UP	4202228030	369	3	1,115,829	.01
ART FOR POCKET/HANDBAG,NOT PILE OR TUFTD,OF COTTON.	MADE–UP	4202324000	369	3	4,295,331	.03
ART FOR POCKET OR HANDBAG, OF COTTON	MADE-UP	4202329530	369	3	478,261	.00
TRAVEL, SPORTS & SIMILAR BAGS, OUTER SURF COTTON.	MADE-UP	4202921500	369	3	44,160,832	.26
TRAVEL, SPORTS BAGS, ETC. OF COTTON	MADE-UP	4202923015	369	3	1,818,677	.01
OTHER BAGS, OF COTTON	MADE-UP	4202926000	369	3	3,969,444	.02
HAND-WOVEN TAPESTRIES, NESOI: OF COTTON	MADE-UP	5805003000	369	3	355,836	.00
WOV LABELS, SIMI ART TEX MAT, NOT EMBROID OF COTTON.	MADE-UP	5807101010	369	3	34,442	.00
KNITTED LABEL, OF TEX MAT NOT EMBROID OF COTTON.	MADE-UP	5807901010	369	3	2,967	.00
BLANKET N/ELEC & TRAVEL RUGS OF COTTON, WOVEN.	MADE-UP	6301300010	369	3	15,592,968	.09
BLANKET N/ELEC & TRAVEL RUGS OF COTTON, NESOI.	MADE-UP	6301300020	369	3	1,378,760	.01
TABLECLOTHS & NAPKINS, DAMASK, COTTON	MADE-UP	6302511000	369	3	3,395,878	.02
TABLECLOTHS AND NAPKINS, PLAIN WOVEN, COTTON.	MADE-UP	6302512000	369	3	11,855,052	.07

INTEGRATION PHASE 2—Continued

1994 Product description	Group	HTS 1990	CAT	Phase	1990 U.S. imports (SME)	Percent of total
TABLCLOTH & NAPKINS, COTTON, NESOI	MADE-UP	6302513000	369	3	41,035,255	.24
TABLE LINEN OF COTTON, NESOI	MADE-UP	6302514000	369	3	24,472,656	.14
DISH TOWELS OF TERRY TOWELING FABRIC, COTTON.	MADE-UP	6302600010	369	3	10,641,609	.06
TOILET & KIT LINEN EXCEPT TOWELS, TERRY FAB COTTET.	MADE-UP	6302600030	369	3	50,016,210	.29
COTTON DISH TOWELS OF PILED OR TUFTED CONSTRUCTION.	MADE-UP	6302910005	369	3	14,976,660	.09
TLT & KIT LINEN OT THAN TOWELS OF COT, PLD/TFT CON.	MADE-UP	6302910025	369	3	1,517,862	.01
COT DISH TOWELS, N-JACQ FIG, N-PILED/TUFTED CONSTR.	MADE-UP	6302910045	369	3	40,799,873	.24
COT TOWELS N-DISH TOWELS: N-JAQ FIG OR PLD/TFT CON.	MADE-UP	6302910050	369	3	21,047,904	.12
TOWELS OT THAN TOLIET & KITCHN LINEN OF COT, NESOI.	MADE-UP	6302910060	369	3	2,971,770	.02
CURTAIN (DRAPES) & INT BLNDS/BD VAL KT/CROCHET COT.	MADE-UP	6303110000	369	3	987,896	.01
CURTAIN & INTERIOR BLINDS/BED VALANCES, NESOI, COT.	MADE-UP	6303910000	369	3	6,944,067	.04
OTHER FURNISHING ART NT 9404 NESOI KT/CROCHET COT.	MADE-UP	6304910020	369	3	7,117,509	.04
OTHER FURNISH ART NT 9404 NESOI NT KT/CROCHET COT.	MADE-UP	6304920000	369	3	26,716,393	.16
SACKS & BAGS KIND USED FOR PACKING OF GOODS COTTON.	MADE-UP	6305200000	369	3	1,761,948	.01
TARPAULINS, AWNINGS AND SUNBLINDS OF COTTON.	MADE-UP	6306110000	369	3	4,726	.00
DUSTCLOTHS, MOP CLOTHS & POLISHING CLOTHS OF COT.	MADE-UP	6307101000	369	3	7,624,101	.04
BAR MOPS OF COTTON TERRY FABRIC	MADE-UP	6307102020	369	3	74,930,696	.44
LABELS OF COTTON	MADE-UP	6307903010	369	3	2,287	.00
CORDS AND TASSELS OF COTTON	MADE-UP	6307904010	369	3	138,746	.00
CORSET, FOOTWEAR OR SIMILAR LACING OF COTTON.	MADE-UP	6307905010	369	3	32,734	.00
SURGICAL TOWELS	MADE-UP	6307908710	369	3	40,516,075	.24
SURGICAL TOWELS	MADE-UP	6307909010	369	3	12,799,861	.08
PILLOW SHELLS, OF COTTON	MADE-UP	6307909050	369	3	18,337,581	.11
OTHER TOWELS OF COTTON	MADE-UP	6307909050	369	3	1,746,436	.01
PILLOW SHELLS, OF COTTON	MADE-UP	6307909545	369	3	375,947	.00
OTHER TOWELS OF COTTON	MADE-UP	6307909550	369	3	1,152,368	.01
OTHER TOWELS OF COTTON	MADE-UP	6307909590	369	3	3,705,007	.02
UPR & PARTS FTWEARCOT >=50% OUTR SRFCE OF TEXT MAT.	MADE-UP	6406107560	369	3	13,734,385	.08
UPR & PARTS FTWEARCOT >=50% OUTR SRFCE OF TEXT MAT.	MADE-UP	6406107700	369	3	13,921,598	.08
PILLOWS, CUSHIONS AND SIMILAR FURNISHING OF COTTON.	MADE-UP	9404901000	369	3	2,263,746	.01
BEDDING ARTICLES OF COTTON NOT DECORATED NESOI.	MADE-UP	9404908000	369	3	1,292,018	.010
MATTRESS SUPPORTS OF COTTON, NESOI	MADE-UP	9404909040	369	3	480,671	.00
BLANKET N/ELEC & TRAVEL RUG WOOL F/HAIR NT>3M LGTH.	MADE-UP	6301200010	464	3	747,139	.00
BEDSPREADS CONT >=85% BY WGT OF WOOL/FAH NOT KNIT.	MADE-UP	6304193040	469	3	18,478	.00
OTHER FURNISH ART NESOI KT/CROCHET NESOI WOOL HAIR.	MADE-UP	6304910050	469	3	70,696	.00
OTHER NT KT NESOI MAT WALL HANG WOOL HAIR NESOI.	MADE-UP	6304991500	469	3	45,739	.00
OTHER NT KT NESOI TEX MAT NESOI NESOI WOOL HAIR.	MADE-UP	6304996010	469	3	251,448	.00
NEDLECRFT SET WOV TAB & YRN/RETAIL SALE WOOL YARN.	MADE-UP	6308000010	469	3	47,730	.00
PRT FTWR OT UPR & PRT OT STF OT TX M O CT OF W/FAH.	MADE-UP	6406108020	469	3	805,571	.00
PRT FTWR OT UPR & PRT OT STF OT TX M O CT OF W/FAH.	MADE-UP	6406109020	469	3	526,314	.00
HAND-WOVEN TAPESTRIES, NESOI: NESOI, MAN-MADE FIBER.	MADE-UP	5805004010	666	3	98,309	.00
ELECTRIC BLANKETS	MADE-UP	6301100000	666	3	229,493	.00
BLANKET N/ELEC & TRAVEL RUGS OF SYN FIBERS, WOVEN.	MADE-UP	6301400010	666	3	62,665,200	.37

INTEGRATION PHASE 2—Continued

1994 Product description	Group	HTS 1990	CAT	Phase	1990 U.S. imports (SME)	Percent of total
BLANKETS N/ELEC & TRAVEL RUGS OF SYN FIBERS, NESOI.	MADE-UP	6301400020	666	3	9,580,594	.06
BLANKETS AND TRAVELING RUGS OF ARTIFICIAL FIBER.	MADE-UP	6301900010	666	3	541,498	.00
TABLECLOTHS AND NAPKINS, DAMASK, MANMADE FIBERS.	MADE-UP	6302530010	666	3	3,486,211	.02
TABLECLOTH & NAPKIN, MANMADE FIBERS EXCEPT DAMASK.	MADE-UP	6302530020	666	3	13,844,131	.08
TABLE LINEN EX TABLECLOTH/NAPKIN OF MANMADE FIBER.	MADE-UP	6302530030	666	3	13,154,875	.08
BED,TABLE,TOILET,KT LNEN NESOI MMF PILE/TUFT CONST.	MADE-UP	6302931000	666	3	106,805	.00
BED, TABLE, TOILET, & KITCHEN LINEN NESOI, MMF .	MADE-UP	6302932000	666	3	740,477	.00
CURTAIN (DRAPE) & INTER BLND/BD VAL KT/CRO SYN FIB.	MADE-UP	6303120000	666	3	15,054,926	.09
CURTAIN & INT BLINDS; VALANCES, KNIT ARTIFICIAL FB.	MADE-UP	6303190010	666	3	49,334	.00
CURT & INTER BLINDS/BED VALCS, SUBHEAD 5407 ETC..	MADE-UP	6303920000	666	3	47,747,534	.28
CURTN & INT BLNDS/BED VAL NESOI, NESOI MAT ART FIB.	MADE-UP	6303990010	666	3	113,328	.00
OTHER FURNISH ART EXC 9404 BEDSPRED KT/CROCHET MMF.	MADE-UP	6304112000	666	3	4,421,333	.03
OTHER FURNISH ART NT 9404 BEDSPRD NESOI MMF W/TRIM.	MADE-UP	6304191500	666	3	3,474,878	.02
OTHER FURNISH ART NT 9404 BEDSPRD NESOI MMF NESOI.	MADE-UP	6304192000	666	3	6,039,691	.04
OTHER FURNISHING ART NT 9404 NESOI KT/CROCHET MMF.	MADE-UP	6304910040	666	3	9,748,814	.06
OTHER FURN ART NT 9404 NESOI NT KT/CROCHET SYN FIB.	MADE-UP	6304930000	666	3	42,879,730	.25
OTHER NT KT NESOI TEX MAT NESOI NESOI ARTI FIBERS.	MADE-UP	6304996020	666	3	952,906	.01
OTHER TOWELS OF MAN-MADE FIBERS	MADE-UP	6307909050	666	3	1,964,740	.01
OTHER TOWELS OF MAN-MADE FIBERS	MADE-UP	6307909550	666	3	1,394,972	.01
OTHER TOWELS OF MAN-MADE FIBERS	MADE-UP	6307909590	666	3	4,485,008	.03
QUILTS,EIDERDOWNS,COMFORTR,OTR SHELL MAN-MADE FIBR.	MADE-UP	9404909020	666	3	3,501,778	.02
MATTRESS SUPPORTS OF MAN-MADE FIBERS, NESOI.	MADE-UP	9404909040	666	3	61,481	.00
WOVEN LABELS, SIMI ART TEX MAT, N0T EMBROID MMF.	MADE-UP	5807101020	669	3	4,577,746	.03
WOV LABEL OF TEX MAT NOT EMBROID OF MMF	MADE-UP	5807901020	669	3	423,691	.00
EMBROIDERY WITH VISIBLE GROUND OF MMF; LABELS.	MADE-UP	5810920030	669	3	50,170	.00
SACK & BAG FOR PKG GOOD M–M MAT POLYETHYLENE >=1KG.	MADE-UP	6305310010	669	3	14,344,157	.08
SACK & BAG FOR PKG GOOD M–M MAT POLYETHYLENE < 1KG.	MADE-UP	6305310020	669	3	145,775,707	.86
SACK & BAG FOR PKG GOOD MANMADE TEXTILE MAT NESOI.	MADE-UP	6305390000	669	3	18,416,736	.11
TARPAULIN, AWNINGS & SUNBLINDS OF SYNTHETIC FIBERS.	MADE-UP	6306120000	669	3	2,071,368	.01
TARPAULIN, AWNING & SUNBLIND ARTIFICAL FIBERS	MADE-UP	6306190010	669	3	130,824	.00
TENTS, EXCEPT SCREEN HOUSES, OF SYNTHETIC FIBERS.	MADE-UP	6306229000	669	3	89,570,664	.53
TENTS, EXCEPT SCREEN HOUSES, OF SYNTHETIC FIBERS.	MADE-UP	6306229030	669	3	30,375,677	.18
LABELS OF TEXTILE MATERIALS OTHER THAN COTTON.	MADE-UP	6307903020	669	3	244,555	.00
CORDS AND TASSELS OF TEXTILE MATERIALS EX COTTON.	MADE-UP	6307904020	669	3	1,083,125	.01
CORSET, FOOTWEAR OR SIMILAR LACING, TEX MAT EX COT.	MADE-UP	6307905020	669	3	2,995,661	.02
NEDLECRFT SET WOV FAB & YRN FOR RETAIL SALE NESOI.	MADE-UP	6308000020	669	3	294,034	.00
PRT FTWR OT UPR & PRT OT STF OT TX M O CT OF MMF.	MADE-UP	6406108040	669	3	4,272,422	.03
PRT FTWR OT UPR & PRT OT STF OT TX M O CT OF MMF.	MADE-UP	6406109040	669	3	4,827,888	.03
ATTACHE CASES, BRIEF CASES, ETC, OF MAN-MADE FIBERS.	MADE-UP	4202128030	670	3	10,802,054	.06

INTEGRATION PHASE 2—Continued

1994 Product description	Group	HTS 1990	CAT	Phase	1990 U.S. imports (SME)	Percent of total
TRUNKS, SUITCASES, VANITY CASE, ETC, OF MAN-MADE FIBER.	MADE-UP	4202128070	670	3	71,386,413	.42
HANDBAGS, OUTR SURF TEX, WHO/PT BRAID, MAN-MADE FIBR.	MADE-UP	4202224030	670	3	355,293	.00
HANDBAGS, OTR SURF TEX, EX BRAID, PIL/TUFT, M–M FIBER.	MADE-UP	4202228050	670	3	10,610,268	.60
ART FOR POCKET OR HANDBAG, OF MAN-MADE FIBERS.	MADE-UP	4202329550	670	3	5,735,259	.03
BACKPACKS, OF MAN-MADE FIBER	MADE-UP	4202923020	670	3	18,745,554	.11
TRAVEL, SPORTSBAGS, ETC, NOT BACKPACKS, MANMADE-FIBER.	MADE-UP	4202923030	670	3	136,578,130	.80
OTHER BAGS, OUTER SURFACE OF MAN-MADE FIBERS.	MADE-UP	4202929020	670	3	9,531,075	.06
TRUNKS, SUITCASES, ETC, VEG FIBER, NOT PILE, NESOI.	MADE-UP	4202126000	870	3	33,479,831	.20
ATTACHE CASES, BRIEF CASES, SCHOOL SATCHEL, ETC, NESOI.	MADE-UP	4202128040	870	3	154,490	.00
TRUNKS, SUITCASE, VANITY CASE, ETC, SURF TEXTILE, NESOI.	MADE-UP	4202128080	870	3	403,171	.00
TRAVEL, SPORTS & SIMILAR BAGS, OUTER SURF EXC COTTON.	MADE-UP	4202922000	870	3	12,748,605	.07
TRAVEL, SPORTS BAGS, ETC, OF TEXTILE MATERIALS, NESOI.	MADE-UP	4202923040	870	3	608,010	.00
OTHER BAGS, OUTER SURF TEXTILE MATERIALS, NESOI.	MADE-UP	4202929030	870	3	132,527	.00
HANDBAGS, OUTR SURF TEX, WHOLLY/PART BRAID, NESOI.	MADE-UP	4202224040	871	3	197,454	.00
HANDBAG, OTR SUR TEX, EX BRAID, EX TUF/PL, VEG FBR, NES.	MADE-UP	4202226000	871	3	2,774,086	.02
HANDBAGS, OTR SURF TEX, EX BRAID, PIL/TUFT, NESOI.	MADE-UP	4202228060	871	3	208,044	.00
ART FOR POCKET/HANDBG, VEG FIBR, NOT PILE/TUFT, NESOI.	MADE-UP	4202328000	871	3	50,368	.00
ART FOR POCKET OR HANDBAG, OUTER SURFACE TEXT, NESOI.	MADE-UP	4202329560	871	3	13,982	.00
PRT FTWR OT UPR & PRT OT STF OT TX M O CT OTHER.	MADE-UP	6406108060	899	3	36,297	.00
PRT FTWR OT UPR & PRT OT STF OT TX M O CT OTHER.	MADE-UP	6406109060	899	3	72,272	.00
NYLON TEXTURED SINGLE YRN <= 500 DECITEX NT RETAIL.	YARN	5402313000	600	3	4,375,228	.03
NYLON TEXTURED MULTIPLE YN <= 500 DECTEX NT RETAIL.	YARN	5402316000	600	3	6,167,668	.04
NYLON TEXTURED SINGLE YARN >500 DECITEX NOT RETAIL.	YARN	5402323000	600	3	80,338,928	.47
NYLON TEXTURED MULTIPLE YARN >500 DECTEX NT RETAIL.	YARN	5402326000	600	3	3,311,133	.02
POLYESTER TEXTURED SINGLE YARN NOT FOR RETAIL SALE.	YARN	5402333000	600	3	28,676,161	.17
POLYESTER TEXTURED MULTIPLE/CABLED YARN NOT RETAIL.	YARN	5402336000	600	3	2,494,180	.01
SYN FIL TEX YN OF POLYETHYLENE/PROPYLENE NT RETAIL.	YARN	5402393010	600	3	43,747,321	.26
SYN FIL TEX YN EXC NYL/POLYESTER/ETHYLENE/PROPYLEN.	YARN	5402393090	600	3	6,508,470	.04
SYN FIL YN POLYETHYLENE/PROPYLENE <67 DEC MULT CAB.	YARN	5402396010	600	3	9,244,294	.05
S FL YR N SW T N RT SL I S MNF <67 DCX TX Y O M/CB.	YARN	5402396090	600	3	1,086,703	.01
ARTIFICIAL FILAMENT TEXTURED SINGLE YARN NT RETAIL.	YARN	5403203000	600	3	1,021,404	.01
ARTIFICIAL FILAMENT TEXTURED MULTIPLE YN NT RETAIL.	YARN	5403206000	600	3	52,780	.00
NYL HIGH TENACITY MULTIFLMNT YRN NT RTL TWST >=5 M.	YARN	5402103040	606	3	19,218,213	.11
NYLON HIGH TENACITY MULTIPLE/CABLED YARN NT RETAIL.	YARN	5402106000	606	3	2,211,543	.01
POLY HGH TNCTY MULTIFLMNT YN N RTL TWST >=5 PR MTR.	YARN	5402203040	606	3	12,218,750	.07
POLYESTERS HIGH TENACITY MULTIPLE/CABLED NT RETAIL.	YARN	5402206000	606	3	467,687	.00

INTEGRATION PHASE 2—Continued

1994 Product description	Group	HTS 1990	CAT	Phase	1990 U.S. imports (SME)	Percent of total
NYLON MULTIFLMNT YRN W TWIST >=5<=50 TRN PER MTR.	YARN	5402410040	606	3	38,951,971	.23
POLY, 75 > DECITEX > 80, TWIST >=5 TRUNS PER MET.	YARN	5402430040	606	3	51,263,563	.30
SYN FIL YRN POLYETHYLENE/PROPYLENE MULT >=5<=50TM2.	YARN	5402490070	606	3	3,162,695	.02
SYN FIL YRN OTH TEX MAT MONO<67 DC MULT >=5<=50TM2.	YARN	5402490080	606	3	15,052,307	.09
NYLON FILAMENT YN TWIST >50 TURNS/M NT RETAIL SALE.	YARN	5402510000	606	3	3,261,386	.02
POLY TWIST >50 TURNS/MET, 75<DECITEX<80	YARN	5402520000	606	3	609,151	.00
SYN FILA YARN EXC NYLON/POLYESTER TWST >50 TURNS/M.	YARN	5402590000	606	3	2,525,485	.01
NYLON FILAMENT YARN MULTIPLE/CABLED NT RETAIL SALE.	YARN	5402610000	606	3	694,194	.00
POLYESTERS FILMT YN MULTIPLE/CABLED NT RETAIL SALE.	YARN	5402620000	606	3	5,757,947	.03
SYN FILA YN EXC NYLON/POLYESTERS MULTIPLE/CABLED.	YARN	5402690000	606	3	5,782,268	.03
VISC RYN HGH TNCTY MONO/MULTIFLMNT UNT/TW <5 TRN/M.	YARN	5403103040	606	3	20,198,329	.12
VISCOSE RAYON HI TENCITY MULTIPLE/CABLED NT RETAIL.	YARN	5403106000	606	3	331,349	.00
VISC RYN TWST 'N'>=5<=120 TRNS PER MTR MULTIFILMNT.	YARN	5403310040	606	3	63,273,956	.37
VISCOSE RAYON TWIST >120 TURNS/M YN NT RETAIL SALE.	YARN	5403320000	606	3	6,294,074	.04
CELL ACE MULTIFLMNT YARN TWST >=5 TR/M <67 DECITEX.	YARN	5403330040	606	3	46,472,607	.27
ART FILA MULTIFILAMENT <67 DECITEX W TWST >=5 TR/M.	YARN	5403390040	606	3	278,063	.00
VISCOSE RAYON MULTIPLE/CABLED NOT FOR RETAIL SALE.	YARN	5403410000	606	3	6,589,564	.04
CELLULOSE ACETATE MULTIPLE/CABLED NOT RETAIL SALE.	YARN	5403420000	606	3	557,855	.00
ART FILA EXP VISCOSE RAYON/ACETATE MULTIPLE/CABLED.	YARN	5403490000	606	3	844,602	.00
YRN N SWG TD SYN ST F N RT SL O PY ST F M AS F S Y.	YARN	5509513000	607	3	27,703	.00
YRN N SWG TD SYN ST F N RT SL O PY ST F M AS F MCY.	YARN	5509516000	607	3	2,646	.00
YRN N SWG THD SYN ST FB MX MNLY/SLY WL OR FN AN HR.	YARN	5509520000	607	3	46,404	.00
YRN N SWG THD SYN STP FIB MX MNLY/SLY W CT <=52NM.	YARN	5509530030	607	3	2,302,645	.01
YRN N SW TD SY ST FB N RT SL YR PL S F M C >52NM.	YARN	5509530060	607	3	5,903,703	.03
YRN N SW TD SY ST F N RTL SL OT YR POLY ST F NESOI.	YARN	5509590000	607	3	430,372	.00
YR N SWG TH SYN ST FB N RT SL O Y AC/MAC M W/FAH.	YARN	5509610000	607	3	769,652	.00
YR N SWG TH SYN ST FB N RT SL O Y AC/MAC MX COTTON.	YARN	5509620000	607	3	26,117	.00
YR N SW TH SY ST FB N RT SL O Y AC/MAC S F M AT SY.	YARN	5509692000	607	3	15,191	.00
YR N SW TH SY ST FB N RT SL O Y AC/MAC SF M AT MCY.	YARN	5509694000	607	3	108,602	.00
YRN NT SEWING THD OF SYN STPL FIB NT FOR RETL SALE.	YARN	5509696000	607	3	650,884	.00
YRN N SWG TH SYN STP FB N RTL SL OTH YRN MX WL/FAH.	YARN	5509910000	607	3	129,474	.00
YRN N SWG TH SYN STP FB N RTL SL OTH YRN MX COTTON.	YARN	5509920000	607	3	71,006	.00
YRN N SWG TH SY ST FB N RT SL OT Y OT M ART F S YN.	YARN	5509992000	607	3	0	.00
YRN OF SYN STP FIB NT FOR SALE MIXED W/ART FIB M/C.	YARN	5509994000	607	3	36,290	.00
YRN N SWG THD SYT ST FB N RTL SALE OTHER YRN NESOI.	YARN	5509996000	607	3	909,597	.01
YRN N SWG TH ART ST F N RT SL OT YR M/S WOOL OR FA.	YARN	5510200000	607	3	10,862	.00

INTEGRATION PHASE 2—Continued

1994 Product description	Group	HTS 1990	CAT	Phase	1990 U.S. imports (SME)	Percent of total
YRN N SWG THD ART STP FB N RT SL OT YRN M/S COTTON.	YARN	5510300000	607	3	65,332	.00
YRN N SWG TH ART ST FB N RT SL OT YR M SYN FB SN Y.	YARN	5510902000	607	3	16,595	.00
YRN N SWG TH ART ST FB N RT SL OT YR M SYN F M/C F.	YARN	5510904000	607	3	1,319,611	.01
YRN NT SWG THD ART STP FIB NT RT SL OTH YRN NESOI.	YARN	5510906000	607	3	17,342	.00
YRN SPUN FR SLK WSTE NT UP FOR RETAIL SALE NESOI.	YARN	5005000090	800	3	188,819	.00
SLK YRN & YRN SPN SLK WST RTL SL; SLKWRM GUT, OTHR.	YARN	5006000090	800	3	8,118	.00
SLK YRN & YRN SPN SLK WST RTL SL; SLKWRM GUT, OTHR.	YARN	5006009000	800	3	15,351	.00
FLAX YARN, SINGLE	YARN	5306100000	800	3	4,779,661	.03
FLAX YARN, MULTIPLE (FOLDED) OR CABLED	YARN	5306200000	800	3	230,937	.00
YARN OF OTH VEGETABLE TEXT FIBERS; TRUE HEMP YARN.	YARN	5308200000	800	3	3,358	.00
YARN OF OTHER VEGETABLE TEXTILE FIBERS; NESOI.	YARN	5308900000	800	3	989,893	.01
VISC RYN HGH TNCTY MONO/MULTIFLMNT UNT/TW <5 TRN/M.	YARN	5403103020	911	3	1,397,654	.01
VISC RAYON UNTWST/TWST <5 TURNS/M MONO/ MULTIFILMNT.	YARN	5403310020	911	3	1,824,055	.01

*Bold HTS: prorated breakout in >1 phase (see final page)

* Bolded HTS Numbers

There are 21 bolded 1990 HTS numbers. This denotes an HTS number which, since 1990, has been broken out (changed) to two or more new HTS numbers. In these cases, the new breakouts represent products which may appear in more than one phase in the integration. Thus, the 1990 trade for the original HTS number has been prorated using 1994 trade figures for the breakouts.

Note: Categories 911, 912, 913, 914 as listed in the integration phases are notional.

See 59 FR 51942, published on October 13, 1994; 59 FR 26212, published on May 19, 1994; 59 FR 29781, published on June 9, 1994; 59 FR 36428, published on July 18, 1994; and 59 FR 40874, published on August 10, 1994. The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553 (a)(1).

Dated: January 25, 1995.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–2248 Filed 1–27–95; 8:45 am]

BILLING CODE 3510–25–P

Request for Public Comments on Bilateral Textile Consultations with Hungary on Certain Cotton and Man-Made Fiber Textile Products

January 25, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on categories for which consultations have been requested, call (202) 482–3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

On December 30, 1994, under the terms of Article 3 of the Arrangement Regarding International Trade in Textiles, done at Geneva on December 20, 1973, as further extended on December 9, 1993, the Government of the United States requested consultations with the Government of the Republic of Hungary with respect to cotton and man-made fiber nightwear and pajamas in Categories 351/651, produced or manufactured in Hungary.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations with the Government of Hungary, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 351/651, produced or manufactured in Hungary.

A summary market statement concerning Categories 351/651 follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Categories 351/651, or to comment on domestic production or availability of products included in Categories 351/651, is invited to submit 10 copies of such comments or information to Rita D. Hayes, Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230; ATTN: Helen L. LeGrande. The comments received will be considered in the context of the consultations with the Government of Hungary.

Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Further comments may be invited regarding particular comments or information received from the public which the Committee for the

Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute ''a foreign affairs function of the United States.''

The United States remains committed to finding a solution concerning Categories 351/651. Should such a solution be reached in consultations with the Government of Hungary, further notice will be published in the **Federal Register**.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994).

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Market Statement—Hungary

Categories 351/651—Cotton and Man-Made Fiber Nightwear and Pajamas

December 1994

Import Situation and Conclusion

U.S. imports of cotton and manmade fiber pajamas and other nightwear, Category 351/651, from Hungary reached 148,570 dozen during the year ending September 1994, 63 percent above the 91,159 dozen imported during the year ending September 1993. In the first nine months of 1994, imports of Category 351/651 from Hungary reached 109,805 dozen, 41 percent above the 77,718 dozen shipped during January-September 1993, and 94 percent of their total calendar year 1993 imports.

The sharp and substantial increase of Category 351/651 imports from Hungary is causing disruption in the U.S. market for cotton and manmade fiber pajamas and other nightwear.

U.S. Production, Import Penetration and Market Share

U.S. production of cotton and manmade fiber pajamas and other nightwear fell from 11,639 thousand dozen in 1992 to 10,442 thousand dozen in 1993, a decline of 10 percent. Production continued to decline in 1994, falling to 10,114 thousand dozen in the year ending in June 1994, 7 percent below the year ending June 1993 level. In contrast, U.S. imports of Category 351/651 increased from 9,347 thousand dozen in 1992 to 10,832 thousand dozen in 1993, an increase of 16 percent. Category 351/651 imports continued to increase in 1994, reaching a record level 11,079 thousand dozen during the year ending September 1994, 5 percent above the 10,563 thousand dozen imported during the same period a year earlier.

The ratio of imports to domestic production increased from 80 percent in 1992 to 104 percent in 1993, and reached 109 percent for the year ending June 1994. The domestic manufacturers' share of the cotton and manmade fiber nightwear market declined from 55 percent in 1992 to 49 percent in 1993, and fell to 48 percent during the year ending June 1994.

Duty-Paid Value and U.S. Producers' Price

Nearly all of Category 351/651 imports from Hungary during the year ending in September 1993 entered the U.S. under HTSUSA 6108.31.0010—women's knit cotton nightdresses and pajamas. This nightwear entered the U.S. at landed duty-paid values below U.S. producers' prices for comparable nightwear.

[FR Doc. 95–2290 Filed 1–26–95; 11:19 am]

BILLING CODE 3510–DR–F

Request for Public Comments on Bilateral Textile Consultations with India on Certain Wool Textile Products

January 25, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on categories on which consultations have been requested, call (202) 482–3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

On December 30, 1994, under the terms of the Bilateral Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Agreement of February 6, 1987 as amended and extended between the Governments of the United States and India, the United States Government requested consultations with the Government of India with respect to wool textile products in Categories 434, 435, and 440.

If no solution is agreed upon in consultations between the two governments, CITA may later establish a specific limit for the entry and withdrawal from warehouse for consumption of textile products in Categories 434, 435 and 440, produced or manufactured in India.

Summary market statements concerning Categories 434, 435, and 440 follow this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Categories 434, 435, and 440, under the agreement with India, or to comment on domestic production or availability of products included in Categories 434, 435, and 440, is invited to submit 10 copies of such comments or information to Rita D. Hayes, Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230; ATTN: Helen L. LeGrande. The comments received will be considered in the context of the consultations with the Government of India.

Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Further comments may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute ''a foreign affairs function of the United States.''

The United States remains committed to finding a solution concerning Categories 434, 435, and 440. Should such a solution be reached in consultations with the Government of India, further notice will be published in the **Federal Register**.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see

Federal Register notice 59 FR 65531, published on December 20, 1994).

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Market Statement—India

Category 434—Men's and Boys' Wool Coats

December 1994

Import Situation and Conclusion

U.S. imports of men's and boys' wool coats other than suit type, Category 434, from India reached 36,139 dozen for the year ending September 1994, nearly double the 19,007 dozen imported a year earlier. During the first nine months of 1994, imports from India were 29,097 dozen, more than double the 14,357 dozen imported during January-September 1993 and 36 percent above the 21,399 dozen imported during calendar year 1993. India is the largest supplier of men's and boys' wool coats other than suit type, Category 434, to the U.S., accounting for 22 percent of total Category 434 imports during the year ending September 1994.

The sharp and substantial increase in Category 434 imports from India is causing a real risk of disruption in the U.S. market for men's and boys' wool coats other than suit type.

Import Penetration and Market Share

Between 45 and 55 percent of U.S. production of men's and boys' wool coats other than suit type, Category 434, are produced in the first half of the year. First half production in 1994 was 13 percent below the first half 1993 level. Production for the year ending in June 1994 was 8 percent below the year ending June 1993 level. In contrast, a very large portion, between 80 and 90 percent, of men's and boys' wool coat other than suit type imports, Category 434, enter the U.S. in the second half of the year. Category 434 imports during the first half of 1994 were 28 percent above the January-June 1993 level. Category 434 imports during January-September 1994 were 34 percent above the January-September 1993 level and imports during the year ending September 1994 were 26 percent above their previous year level.

The ratio of imports to domestic production increased from 81 percent in 1992 to 85 percent in 1993, and reached 97 percent during the year ending June 1994. The domestic manufacturers' share of the market for men's and boys' wool coats other than suit type, Category 434, declined from 55 percent in 1992 to 54 percent in 1993, and fell to 51 percent during the year ending June 1994.

Duty-Paid Value and U.S. Producers' Price

Approximately 74 percent of Category 434 from India during the year ending September 1994 entered under HTSUSA 6201.91.2011—Men's wool anoraks, windbreakers and similar articles. These coats entered the U.S. at landed duty-paid values substantially below U.S. producers' prices for comparable wool coats.

Market Statement—India

Category 435—Women's and Girls' Wool Coats

December 1994

Import Situation and Conclusion

U.S. imports of women's and girls' wool coats, Category 435, from India reached 30,695 dozen for the year ending September 1994, over three times the 9,318 dozen imported a year earlier. During the first nine months of 1994, imports from the India were 27,843 dozen, over six times the 4,554 dozen imported during January-September 1993 and almost four times the 7,406 dozen imported during calendar year 1993. India became the eleventh largest supplier of women's and girls' wool coats, Category 435, to the U.S. market, accounting for 2.8 percent of total Category 435 imports during January-September 1994. India was ranked twenty- ninth among the major suppliers in calendar year 1993, accounting for less than one percent of total Category 435 imports.

The sharp and substantial increase in Category 435 imports from India is causing a real risk of disruption in the U.S. market for women's and girls' wool coats.

Import Penetration and Market Share

U.S. production of women's and girls' wool coats, Category 435, declined from 981,000 dozen in 1992 to 922,000 dozen in 1993, a decline of 6 percent. U.S. production continued to decline in 1994, falling to 911,000 dozen produced in the year ending in June 1994, 1 percent below the 924,000 dozen produced in the same period a year earlier. In contrast, U.S. imports of Category 435 increased from 834,000 dozen in 1992 to 1,110,000 dozen in 1993, an increase of 33 percent. Category 435 imports continued to increase in 1994 reaching a record level 1,187,000 dozen during the year ending September 1994, 8 percent above the year ending September 1993 level.

The ratio of imports to domestic production increased from 85 percent in 1992 to 120 percent in 1993, and reached 126 percent during the year ending June 1994. The domestic manufacturers' share of the market for women's and girls' wool coats, Category 435, declined from 54 percent in 1992 to 45 percent in 1993, a decline of 9 percentage points, and fell to 44 percent during the year ending June 1994.

Duty-Paid Value and U.S. Producers' Price

Approximately 79 percent of Category 435 imports from India during the year ending September 1994 entered under HTSUSA 6202.91.2011—Women's wool anoraks, windbreakers and simmilar articles; and HTSUSA 6204.31.2010—Women's wool suit-type coats, other than silk blend coats of 30% or more silk. These coats entered the U.S. at landed duty-paid values substantially below U.S. producers' prices for comparable wool coats.

Market Statement—India

Category 440—Wool Shirts and Blouses

December 1994

Import Situation and Conclusion

U.S. imports of wool woven shirts and blouses, Category 440, from India reached 56,908 dozen for the year ending September 1994, eight times the 7,078 dozen imported a year earlier. During the first nine months of 1994, imports from India surged to 49,196 dozen, seven times the 7,075 dozen imported during January-September 1993 and over three times over the 14,787 dozen imported during calendar year 1993. India became the largest supplier of Category 440 imports to the U.S., accounting for 54 percent of total Category 440 imports during January-September 1994. A year earlier India was the third largest supplier accounting for 16 percent of total Category 440 imports.

India's year ending level, at 56,908 dozen, represents 35 percent of the U.S. wool woven shirt and blouse market for the year ending in June 1994; the U.S. producers' share of this market is 51 percent.

The sharp and substantial increase in Category 440 imports from India is causing a real risk of disruption in the U.S. market for wool woven shirts and blouses.

Import Penetration and Market Share

Between 45 and 55 percent of U.S. production of wool woven shirts and blouses are produced in the first half of the year. First half production during 1993 and 1994 remained relatively flat as did full year production in 1992 and 1993. Production for the year ending in June 1994 was six percent below the year-ending June 1993 level. In contrast, a very large portion, between 80 and 90 percent, of wool woven shirt and blouse imports, Category 440, enter in the second half of the year. Category 440 imports during the first half of 1994 were three times the January-June 1993 level; Calendar year 1993 imports were 63 percent above the 1992 level; and Category 440 imports during January-

September 1994 and during the year-ending September 1994 were twice their respective previous year levels.

The ratio of imports to domestic production increased from 55 percent in 1992 to 88 percent in 1993, and reached 95 percent during the year ending June 1994. The domestic manufacturers' share of the market for wool woven shirts and blouses, Category 440, declined from 65 percent in 1992 to 53 percent in 1993, and fell to 51 percent during the year ending June 1994.

Duty-Paid Value and U.S. Producers' Price

Approximately 79 percent of Category 440 from India during the year ending September 1994 entered under HTSUSA 6205.10.2010—Men's wool shirts, other than hand loomed and folklore shirts. These shirts entered the U.S. at landed duty-paid values substantially below U.S. producers' prices for comparable wool shirts.

[FR Doc. 95–2291 Filed 1–26–95; 11:19 am]

BILLING CODE 3510–DR–F

Request for Public Comments on Bilateral Textile Consultations with Indonesia on Certain Wool Textile Products

January 13, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit.

EFFECTIVE DATE: January 26, 1995.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6704. For information on embargoes and quota re-openings, call (202) 482–3715. For information on categories on which consultations have been requested, call (202) 482–3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

On December 29, 1994, under the terms of the Bilateral Cotton, Wool, Man-Made Fiber, and Silk Blend and Other Vegetable Fiber Textile Agreement of May 8, 1992, as amended and extended, between the Governments of the United States and Indonesia, the United States Government requested consultations with the Government of Indonesia with respect to wool textile products in Category 435.

The purpose of this notice is to advise the public that, pending agreement on a mutually satisfactory solution concerning Category 435, the Government of the United States will, pursuant to the bilateral agreement, control imports during the ninety-day period which began on December 29, 1994 and extends through March 28, 1995.

A summary market statement concerning Category 435 follows this notice.

If no solution is agreed upon in consultations between the two governments, CITA may later establish a specific limit for the entry and withdrawal from warehouse for consumption of textile products in Category 435, produced or manufactured in Indonesia.

Anyone wishing to comment or provide data or information regarding the treatment of Category 435, under the agreement with Indonesia, or to comment on domestic production or availability of products included in Category 435, is invited to submit 10 copies of such comments or information to Rita D. Hayes, Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230; ATTN: Helen L. LeGrande. The comments received will be considered in the context of the consultations with the Government of Indonesia.

Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Further comments may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute ''a foreign affairs function of the United States.''

The United States remains committed to finding a solution concerning Category 435. Should such a solution be reached in consultations with the Government of Indonesia, further notice will be published in the **Federal Register**.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994).

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Market Statement—Indonesia

Category 435—Women's and Girls' Wool Coats

December 1994

Import Situation and Conclusion

U.S. imports of women's and girls' wool coats, Category 435, from Indonesia reached 35,642 dozen for the year ending September 1994, nearly four times the 9,374 dozen imported a year earlier. During the first nine months of 1994, imports from Indonesia were 35,042 dozen, over five times the 6,933 dozen imported during January-September 1993 and more than four and a half times the 7,533 dozen imported during calendar year 1993. Indonesia became the eighth largest supplier of women's and girls' wool coats, Category 435, to the U.S. market, accounting for 3.5 percent of total Category 435 imports during January-September 1994. Indonesia was ranked twenty-eighth among the major suppliers in calendar year 1993, accounting for 0.7 percent of total Category 435 imports.

The sharp and substantial increase in Category 435 imports from Indonesia is causing a real risk of disruption in the U.S. market for women's and girls' wool coats.

U.S. Production, Import Penetration and Market Share

U.S. production of women's and girls' wool coats, Category 435, declined from 981,000 dozen in 1992 to 922,000 dozen in 1993, a decline of 6 percent. U.S. production continued to decline in 1994, falling to 911,000 dozen produced in the year ending in June 1994, 1 percent below the 924,000 dozen produced in the same period a year earlier. In contrast, U.S. imports of Category 435 increased from 834,000 dozen in 1992 to 1,110,000 dozen in 1993, an increase of 33 percent. Category 435 imports continued to increase in 1994 reaching a record level 1,187,552 dozen during the year ending September 1994, 8 percent above the year ending September 1993 level.

The ratio of imports to domestic production increased from 85 percent in 1992 to 120 percent in 1993, and reached 126 percent during the year

ending June 1994. The domestic manufacturers' share of the market for women's and girls' wool coats, Category 435, declined from 54 percent in 1992 to 45 percent in 1993, a decline of 9 percentage points, and fell to 44 percent during the year ending June 1994.

Duty-Paid Value and U.S. Producers' Price

Approximately 83 percent of Category 435 imports from Indonesia during the year ending September 1994 entered under HTSUSA 6202.11.0010—Women's wool overcoats, carcoats, capes and similar items; and HTSUSA 6204.31.2010—Women's wool suit-type coats, other than silk blend jackets of 30% or more silk. These coats entered the U.S. at landed duty-paid values substantially below U.S. producers' prices for comparable wool coats.

Committee for the Implementation of Textile Agreements

January 13, 1995.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on December 9, 1993; pursuant to the Bilateral Cotton, Wool, Man-Made Fiber, and Silk Blend and Other Vegetable Fiber Textile Agreement of May 8, 1992, as amended and extended, between the Governments of the United States and Indonesia; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 26, 1995, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in Category 435, produced or manufactured in Indonesia and exported during the period beginning on December 29, 1994 and extending through March 28, 1995, in excess of 12,475 dozen. [1]

Textile products in Category 435 which have been exported to the United States on and after July 1, 1994 shall remain subject to the levels for Group II and the Group II subgroup established in the directive dated November 3, 1994 for the period July 1, 1994 through December 31, 1994. Also, Category 435 shall remain subject to monitoring in Group II and the Group II subgroup for the January 1, 1995 through December 31, 1995 period (see directive dated December 13, 1994).

Textile products in Category 435 which have been exported to the United States prior to December 29, 1994 shall not be subject to the limit established in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

[1] The limit has not been adjusted to account for any imports exported after December 28, 1994.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–2292 Filed 1–26–95; 11:19 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Theater Missile Defense (TMD)

ACTION: Change in date of Advisory Committee meeting notice.

SUMMARY: The meeting of the Defense Science Board Task Force on Theater Missile Defense (TMD) scheduled for January 17–18, 1995 as published in the **Federal Register** (Vol. 60, No. 6, Page 2575, Tuesday, January 10, 1995, FR Doc. 95–477) will be held on February 1–2, 1995. In all other respects the original notice remains unchanged.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Dated: January 25, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–2195 Filed 1–27–95; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on Role of Federally Funded Research & Development Centers (FFRDC's) in DoD Mission

ACTION: Change in location of advisory committee open meeting notice.

SUMMARY: The meeting of the Defense Science Board Task Force on Role of Federally Funded Research & Development Centers (FFRDC's) in DoD Mission scheduled for February 7, 1995 as published in the **Federal Register** (Vol. 60, No. 13, Page 4150, Friday, January 20, 1995, FR Doc. 95–1370) will be held at the Institute for Defense Analyses, 2001 N. Beauregard Street, Alexandria, Virginia. In all other respects the original notice remains unchanged.

Dated: January 25, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–2196 Filed 1–27–95; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on Combat Identification

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on Combat Identification will meet in closed session on February 16–17, 1995 at The MITRE Corporation, Bedford, Massachusetts.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense (Acquisition and Technology) on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will evaluate the DoD long term strategy and plan for development and fielding of a comprehensive situational awareness (SA) and combat identification (CID) architecture.

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

Dated January 25, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–2197 Filed 1–27–95; 8:45 am]

BILLING CODE 5000–04–M

Manual for Courts-Martial

AGENCY: Joint Service Committee on Military Justice (JSC).

ACTION: Notice of proposed amendment.

SUMMARY: The Department of Defense is considering recommending changes to Military Rule of Evidence 412, as set forth in the Manual for Courts-Martial, United States, 1984, Executive Order No. 12473, as amended by Executive Order Nos. 12484, 12550, 12586, 12708, 12888, and 12936. The proposed revision resulted from changes made to Federal Rule of Evidence 412 by the Violent Crime Control and Law Enforcement Act of 1994, as necessitated by Military Rule of Evidence 1102.

The proposed changes have not been coordinated within the Department of Defense under DoD Directive 5500.1, ''Preparation and Processing of Legislation, Executive Orders, Proclamations, and Reports and Comments Thereon'', May 21, 1964, and do not constitute the official position of the Department of Defense, the Military Departments, or any other government agency.

This notice is provided in accordance with DoD Directive 5500.17, ''Review of the Manual for Courts-Martial'', January 23, 1985. This notice is intended only to improve the internal management of the Federal government. It is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

The proposed changes follow in their entirety:

RULE 412.—NONCONSENSUAL SEXUAL OFFENSES; RELEVANCE OF VICTIM'S BEHAVIOR OR SEXUAL PREDISPOSITION

(a) EVIDENCE GENERALLY INADMISSIBLE—The following evidence is not admissible in any proceeding involving alleged sexual misconduct except as provided in subdivisions (b) and (c):

(1) Evidence offered to prove that any alleged victim engaged in other sexual behavior.

(2) Evidence offered to prove any alleged victim's sexual predisposition.

(b) EXCEPTIONS—

(1) In a proceeding, the following evidence is admissible, if otherwise admissible under these rules:

(A) evidence of specific instances of sexual behavior by the alleged victim offered to prove that a person other than the accused was the source of semen, injury, or other physical evidence; or

(B) evidence of specific instances of sexual behavior by the alleged victim with respect to the person accused of the sexual misconduct offered by the accused to prove consent or by the prosecution; and

(C) evidence the exclusion of which would violate the constitutional rights of the accused.

(c) PROCEDURE TO DETERMINE ADMISSIBILITY—

(1) A person accused of committing a non-consensual sexual offense who intends to offer evidence under subdivision (b) must—

(A) file a written motion at least 5 days prior to trial specifically describing the evidence and stating the purpose for which it is offered unless the military judge, for good cause shown, requires a different time for filing or permits filing during trial; and

(B) serve the motion on the government and the military judge and notify the allowed victim or, when appropriate, the alleged victim's guardian or representative.

(2) Before admitting evidence under this rule, the military judge must conduct a hearing, which shall be closed. At this hearing the parties may call witnesses, including the alleged victim, and offer relevant evidence. The victim must be afforded a reasonable opportunity to attend and be heard. In a case before a court-martial composed of a military judge and members, the military judge shall conduct the hearing outside the presence of the members pursuant to Article 39(a). The motion, related papers, and the record of the hearing must be sealed and remain under seal unless the court orders otherwise.

(3) If the military judge determines on the basis of the hearing described in paragraph (2) that the evidence which the accused seeks to offer is relevant and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the military judge specifies evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined.

(d) For purposes of this rule, the term ''sexual behavior'' means sexual behavior other than the sexual behavior with respect to which a nonconsensual sexual offense is alleged. The term ''sexual predisposition'' refers to an alleged victim's mode of dress, speech, or lifestyle that does not directly refer to sexual activities or thoughts but that may have a sexual connotation for the factfinder.

(e) A ''nonconsensual sexual offense'' is a sexual offense in which consent by the victim is an affirmative defense or in which the lack of consent is an element of the offense. This term includes rape, forcible sodomy, assault with intent to commit rape or forcible sodomy, indecent assault, and attempt to commit such offenses.

The following information shall be added to the end of the Analysis Section for M.R.E. 412 (Appendix 22, M.R.E) as follows:

1995 Amendment: The revisions to Rule 412 reflect changes made to Federal Rule of Evidence 412 by the Violent Crime Control and Law Enforcement Act of 1994. The purpose of the amendments is to safeguard the alleged victim against the invasion of privacy and potential embarrassment that is associated with public disclosure of intimate sexual details and the infusion of sexual innuendo into the factfinding process.

The terminology ''alleged victim'' is used because there will frequently be a factual dispute as to whether the sexual misconduct occurred. Rule 412 does not, however, apply unless the person against whom the evidence is offered can reasonably be characterized as a ''victim of alleged sexual misconduct.''

The term ''sexual predisposition'' is added to Rule 412 to conform military practice to changes made to the federal rule. The purpose of this change is to exclude all other evidence relating to an alleged victim of sexual misconduct that is offered to prove a sexual predisposition. It is designed to exclude evidence that does not directly refer to sexual activities or thoughts but that the accused believes may have a sexual connotation for the factfinder. Admission of such evidence would contravene Rule 412's objectives of shielding the alleged victim from potential embarrassment and safeguarding the victim against stereotypical thinking. Consequently, unless the an exception under (b)(1) is satisfied, evidence such as that relating to the alleged victim's mode of dress, speech, or lifestyle is inadmissible.

In drafting Rule 412, references to civil proceedings were delegated, as these are irrelevant to court-martial practices. Otherwise, changes in procedure made to the federal rule were incorporated, but tailored to military practice. The military rule adopts a 5-day notice period, instead of the 14-day period specified in the federal rule. Additionally, the military judge, for good cause shown, may require a different time for such notice or permit notice during trial. The 5-day period preserves the intent of the federal rule that an alleged victim receive timely notice of any attempt to offer evidence protected by Rule 412. Given the relatively short time period between referral and trial, the 5-day period is more compatible with court-martial practice.

Similarly, a closed hearing was substituted for the *in camera* hearing required by the federal rule. Given the nature of the *in camera* procedure used in Rule 505(g)(4), and that an *in camera* hearing in the district courts more closely resembles a closed hearing conducted pursuant to Article 39(a), the letter was adopted as better suited to trial by courts-martial. Any alleged victim is afforded a reasonable opportunity to attend and be heard at the closed Article 39(a) hearing. The closed hearing, combined with the new

requirement to seal the motion, related papers, and the record of the hearing, fully protects an alleged victim against invasion of privacy and potential embarrassment.

These amendments would take effect upon approval by the President, subject to the following:

a. The amendments made to Military Rule of Evidence 412 would apply only to cases convened on or after (effective date).

ADDRESSES: Copies of the proposed changes may be examined at Office of the Judge Advocate General, Criminal Law Division, Building 111, Washington Navy Yard, Washington, D.C. 20374–1111. A copy of the proposed changes may be obtained by mail upon request from the foregoing address, ATTN: LT Kristen M. Henrichsen.

DATES: Comments on the proposed changes must be received no later than April 17, 1995 for consideration by the Joint Service Committee on Military Justice.

FOR FURTHER INFORMATION CONTACT: LT Kristen M. Henrichsen, JAGC, USN, Executive Secretary, Joint Service Committee on Military Justice, Office of the Judge Advocate General, Criminal Law Division, Building 111, Washington Navy Yard, Washington, D.C. 20374–1111; (202) 433–5895.

Dated: January 24, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–2121 Filed 1–27–95; 8:45 am]

BILLING CODE 5000–04–M

Department of the Air Force

Record of Decision (ROD) for the Disposal and Reuse of Castle Air Force Base (AFB) California

On January 3, 1995, the Air Force signed the Record of Decision (ROD) for Castle Air Force Base (AFB), California. The decisions included in this ROD have been made in consideration of the Castle AFB Disposal and Reuse Final Environmental Impact Statement (FEIS), which was filed with the Environmental Protection Agency and released to the public on November 25, 1994, and other relevant considerations.

Castle AFB is scheduled to close on September 30, 1995. The major methods which will be utilized to dispose of the approximate 2,777 acre base are: public airport conveyance (approximately 1,580 acres), Federal transfer to the Federal Bureau of Prisons (approximately 659 acres), public park conveyance (approximately 18 acres) public education conveyance (approximately 128 acres), and public or negotiated sale (approximately 350 acres).

The uses proposed for the property by prospective recipients of property under the ROD are consistent with the community's redevelopment plan for the base. The ROD announced that any potential environmental impacts would result directly from reuse and redevelopment by others. Likewise, most of the mitigation of environmental impacts would be the responsibility of future owners and developers. The Air Force has tried to take all practical measures to avoid or minimize environmental harm that may occur as a result of its disposal action.

Any Questions regarding this matter should be directed to Mr. John P. Carr, Program Manager, Northwest Region. Correspondence should be sent to AFBCA/NW, 1700 N. Moore Street, Suite 2300, Arlington, VA 22209–2809.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 95–2126 Filed 1–27–95; 8:45 am]

BILLING CODE 3910–01–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before March 1, 1995.

ADDRESSES: Written comments should be addressed to the Office of Information an Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, SW., room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202)708–9915. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday though Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.*, new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: January 25, 1995.

Gloria Parker,

Director, Information Resources Group.

Office of Postsecondary Education

Type of Review: Revision

Title: Fiscal Operations Report and Application to Participate in Federal Perkins Loan, Federal Supplemental Educational Opportunity Grant, and Federal Work-Study Programs

Frequency: Annually

Affected Public: Businesses or other for-profit; Not-for-profit institutions; State, Local or Tribal Government

Reporting Burden: Responses: 16

Burden Hours: 77,381

Recordkeeping Burden: Recordkeepers: 0

Burden Hours: 0

Abstract: This application data will be used to compute the amount of funds needed by each institution during the 1996–97 Award Year. The fiscal operations report data will be used to assess program effectiveness, account for funds expended during the 1994–95 Award Year, and as part of the institutional funding process. The Department will use the information for program management and evaluation, and to make grant awards.

Office of the Under Secretary

Type of Review: New
Title: Study of Follow Through in Schoolwide and Nonschoolwide Settings
Frequency: Annually
Affected Public: Not-for-profit institutions; Federal Government
Reporting Burden: Responses: 34
Burden Hours: 306
Recordkeeping Burden: Recordkeepers 0
Burden Hours: 0
Abstract: This study will be used to evaluate the effectiveness of Follow Through, with particular attention to the program's performance in schoolwide and non-schoolwide Chapter 1 settings. It will also respond to a congressional requirement to develop performance indicators for federal programs. The Department will use the information to report to Congress.

[FR Doc. 95–2212 Filed 1–27–95; 8:45 am]
BILLING CODE 4000–01–M

Office of Postsecondary Education; 1994–95 National Direct and Federal Perkins Student Loan Programs Directory of Designated Low-Income Schools

AGENCY: Department of Education

ACTION: Notice of availability of the 1994–95 National Direct and Federal Perkins Student Loan Programs Directory of Designated Low-Income Schools

SUMMARY: The Secretary announces that the 1994–95 National Direct and Federal Perkins Student Loan Programs Directory of Designated Low-Income Schools (Directory) is now available. Under the National Direct and Federal Perkins Student Loan programs, a borrower may have repayment of his or her loan deferred and a portion of his or her loan canceled if the borrower teaches full-time for a complete academic year in a selected elementary or secondary school having a high concentration of students from low-income families. In the 1994–95 Directory, the Secretary lists, on a State-by-State and Territory-by-Territory basis, the schools in which a borrower may teach during the 1994–95 school year to qualify for deferment and cancellation benefits.

DATES: The Directory is currently available.

ADDRESSES: Information concerning specific schools listed in the Directory may be obtained from Patricia Reese, Systems Administration Branch, Campus-Based Programs Systems Division, Office of Postsecondary Education, U.S. Department of Education, 600 Independence Avenue, S.W. (Regional Office Building 3, Room 4621), Washington, DC 20202–5447, Telephone (202) 708–6726. Information concerning deferment and cancellation of a National Direct or Federal Perkins Student Loan may be obtained from Susan M. Morgan, Section Chief, Campus-Based Loan Programs Section, Loans Branch, Policy Development Division, Office of Postsecondary Education, U.S. Department of Education, 600 Independence Avenue SW. (Regional Office Building 3, Room 4310), Washington, DC 20202–5447, Telephone (202) 708–8242. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Directories are available at (1) each institution of higher education participating in the Federal Perkins Student Loan Program; (2) each of the fifty-seven (57) State and Territory Departments of Education; (3) each of the major Federal Perkins Student Loan billing services, and (4) the U.S. Department of Education, including its regional offices.

SUPPLEMENTARY INFORMATION: The Secretary selects the schools that qualify the borrower for deferment and cancellation benefits under the procedures set forth in 34 CFR 674.53, 674.54 and 674.55 of the Federal Perkins Student Loan Program regulations.

The Secretary has determined that, for the 1994–95 academic year, full-time teaching in the schools set forth in the 1994–95 Directory qualifies a borrower for deferment and cancellation benefits.

The Secretary is providing the Directory to each institution participating in the Federal Perkins Loan Program. Borrowers and other interested parties may check with their lending institution, the appropriate State or Territory Department of Education, regional offices of the Department of Education, or the Office of Postsecondary Education of the Department of Education concerning the identity of qualifying schools for the 1994–95 academic year. The Office of Postsecondary Education retains, on a permanent basis, copies of past Directories.

(Catalog of Federal Domestic Assistance Number 84.037; National Direct and Federal Perkins Loan Cancellations)

Dated: January 23, 1995.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 95–2134 Filed 1–27–95; 8:45 am]
BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Conduct of Employees; Notice of Waiver Pursuant to Section 602(c) of the Department of Energy Organization Act (Pub. L. No. 95–91)

Section 602(a) of the Department of Energy (''DOE'') Organization Act (Pub. L. No. 95–91, hereinafter referred to as the ''Act'') prohibits a ''supervisory employee'' (defined in section 601(a) of the Act) of the Department from knowingly receiving compensation from, holding any official relation with, or having any pecuniary interest in any ''energy concern'' (defined in section 601(b) of the Act).

Section 602(c) of the Act authorizes the Secretary of Energy to waive the requirements of section 602(a) in cases where exceptional hardship would result, or where the interest is a pension, interest or other similarly vested interest.

Mr. Notra Trulock, III is on assignment to the Department of Energy from the University of California under the terms of the Intergovernmental Personnel Act. He is serving as Director, Office of Energy Intelligence. In addition to his employment with the University of California, Mr. Trulock has benefit interests in the University of California. I have determined that requiring Mr. Trulock to sever his employment with the University of California and to terminate his benefit interests would be an exceptional hardship. Therefore, I have granted Mr. Trulock a waiver of the divestiture requirement of section 602(a) of the Act with respect to his employment and benefit interests for the duration of his service as a supervisory employee with the Department.

In accordance with section 208, title 18, United States Code, Mr. Trulock has been directed not to participate personally and substantially, as a Government employee, in any particular matter the outcome of which could have a direct and predictable effect upon the University of California, unless his appointing official determines that his financial interest in the particular matter is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from Mr. Trulock.

Dated: January 24, 1995.

Hazel R. O'Leary,

Secretary of Energy.

[FR Doc. 95–2230 Filed 1–27–95; 8:45 am]

BILLING CODE 6450–01–P

Conduct of Employees; Notice of Waiver Pursuant to Section 602(c) of the Department of Energy Organization Act (Pub. L. No. 95–91)

Section 602(a) of the Department of Energy (''DOE'') Organization Act (Pub. L. No. 95–91, hereinafter referred to as the ''Act'') prohibits a ''supervisory employee'' (defined in section 601(a) of the Act) of the Department from knowingly receiving compensation from, holding any official relation with, or having any pecuniary interest in any ''energy concern'' (defined in section 601(b) of the Act).

Section 602(c) of the Act authorizes the Secretary of Energy to waive the requirements of section 602(a) in cases where the interest is a pension, insurance, or other similarly vested interest.

Ms. Nancy K. Weidenfeller has been appointed as Deputy Assistant Secretary for Quality Management. As a result of her previous employment with Northern States Power Company, Ms. Weidenfeller has a vested right to receive deferred compensation, within the meaning of section 602(c) of the Act, from Northern States Power Company. I have granted Ms. Weidenfeller a waiver of the divestiture requirement of section 602(a) of the Act with respect to this vested right until the deferred compensation has been paid, which will be in March 1997.

In accordance with section 208, title 18, United States Code, Ms. Weidenfeller has been directed not to participate personally and substantially, as a Government employee, in any particular matter the outcome of which could have a direct and predictable effect upon Northern States Power Company.

Dated: January 11, 1995.

William H. White,

Deputy Secretary of Energy.

[FR Doc. 95–2231 Filed 1–27–95; 8:45 am]

BILLING CODE 6450–01–P

Availability of Revised Implementation Plan for the Tritium Supply and Recycling Programmatic Environmental Impact Statement

AGENCY: Department of Energy.

ACTION: Notice of Availability.

SUMMARY: The Department of Energy (DOE) announces the availability of the revised Implementation Plan for the Tritium Supply and Recycling Programmatic Environmental Impact Statement (PEIS). The Implementation Plan provides guidance for the preparation of the PEIS, records the issues identified as a result of the public scoping process, and provides information regarding the alternatives and issues to be analyzed in the PEIS.

ADDRESSES AND FURTHER INFORMATION: A copy of the Implementation Plan or its Executive Summary may be obtained upon request to:

Office of Reconfiguration, DP–25, U.S. Department of Energy, P.O. Box 3417, Alexandria, Virginia 22302, Attn: Implementation Plan,(202) 586–1300

Requests for further information on the Tritium Supply and Recycling proposal may be directed to the same office.

SUPPLEMENTARY INFORMATION: On October 28, 1994, DOE published in the **Federal Register** an update notice on the proposed Reconfiguration program, announcing its intention to separate the Reconfiguration PEIS into two separate PEIS's: a Tritium Supply and Recycling PEIS, and a Stockpile Stewardship and Management PEIS [59 FR 54176]. A 30-day public comment period followed that notice. The Tritium Supply and Recycling Implementation Plan takes the comments received into account, along with the comments received during a prior public scoping period (July–October 1993).

The Implementation Plan describes the scope of the Tritium Supply and Recycling PEIS, including the siting and technology alternatives related to tritium supply and recycling. Four technologies for tritium supply will be assessed in the PEIS: Heavy Water Reactor, Modular High-Temperature Gas-Cooled Reactor (MHTGR), Advanced Light Water Reactor (ALWR), and Accelerator Production of Tritium. Five sites for new tritium supply facilities and tritium recycling facilities will also be assessed: Idaho National Engineering Laboratory (Idaho Falls, Idaho); Nevada Test Site (Las Vegas, Nevada); Pantex Plant (Amarillo, Texas); Savannah River Site (Aiken, South Carolina); and the Oak Ridge Reservation (Oak Ridge, Tennessee). Additionally, the PEIS will include an analysis of the environmental impacts of the MHTGR and ALWR technologies for tritium production together with plutonium disposition and steam/electricity production. The PEIS will also analyze an existing commercial light water reactor that would be purchased for tritium production and withdrawn from commercial electricity production.

The Draft Tritium Supply and Recycling PEIS, which will include the Department's preferred alternative, will be completed no later than March 1, 1995. Following the publication of the Draft Tritium Supply and Recycling PEIS, public hearings will be held, and a Final Tritium Supply and Recycling PEIS is expected to be completed by October 1995. Information on the public hearing locations, dates, and format will be published in the **Federal Register** at least 30 days prior to the first hearing.

Signed in Washington, DC, this 24th day of January, 1994.

Everet Beckner,

Acting Assistant Secretary for Defense Programs.

[FR Doc. 95–2232 Filed 1–27–95; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Project No. 11142]

Consolidated Hydro Maine, Inc.; Public Scoping Meeting

January 24, 1995.

The Federal Energy Regulatory Commission (has received an application for a new license for the existing project operated by the Consolidated Hydro Maine, Inc. (Consolidated) on the Mousam River in southeastern Maine near Sanford and Alfred. The project includes one development.

Upon review of the application, supplemental filings and intervenor submittals, the Commission staff concludes that, given the location and interaction of the project with other projects nearby, staff will prepare an Environmental Assessment (EA) that describes and evaluates the probable impacts of the applicant's proposals and alternatives for the project.

One element of the EA process is scoping. Scoping activities are initiated early to:

- Identify reasonable alternative operational procedures and environmental enhancement measures that should be evaluated in the EA;
- Identify significant environmental issues related to the operation of the existing project;
- Determine the depth of analysis for issues that will be discussed in the EA; and
- Identify resource issues that are of lesser importance and, consequently, do not require detailed analysis in the EA.

Scoping Meetings

Commission staff will conduct two public meetings for the Estes Lake Project. All interested individuals, organizations, and agencies are invited to attend either or both of the planned meetings and help staff identify the scope of environmental issues that should and should not be analyzed in the Estes Lake EA.

Two scoping meetings will be held on February 16, 1995, in the Sanford municipal offices. The offices are located at 267 Main Street in Sanford, Maine. The first meeting will be held from 1:00 PM to 3:00 PM and will be oriented toward resource agency concerns. The second meeting will be held in the evening from 7:00 pm to 11:00 pm and will be oriented toward public participation.

Procedures

The meetings will be recorded by a stenographer and the transcript will become part of the formal record of the Commission proceeding on the Estes Lake Project. Individuals presenting statements at the meetings will be asked to sign in before the meeting starts and to identify themselves for the record.

Concerned parties are encouraged to speak during the public meetings. Speaking time allowed for individuals will be determined before each meeting, based on the number of persons wishing to speak and the approximate amount of time available for the session. All speakers will be provided at least 5 minutes to present their views.

Objectives of the Scoping Meetings

At the scoping meetings, the staff will:

- Summarize the environmental issues tentatively identified for analysis in the EA;
- Identify resource issues that are of lesser importance and, therefore, do not require detailed analysis;
- Solicit from the meeting participants all available information, especially quantifiable data, concerning significant local resources; and
- Encourage statements from the experts and the public on issues that should be analyzed in the EA.

Information Requested

Federal and state resource agencies, local government officials, interested groups, area residents, and concerned individuals are requested to provide any information they believe will assist the Commission staff to analyze the environmental impacts associated with relicensing the project. The types of information sought include the following:

- Data, reports, and resource plans that characterize the baseline physical, biological, or social environments in the vicinity of the projects; and
- Information and data that helps staff identify or evaluate significant environmental issues.

Scoping information and associated comments should be submitted to the Commission no later than March 20, 1995. Written comments should be provided at the scoping meeting or mailed to the Commission, as follows: Lois Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

All filings sent to the Secretary of the Commission should contain an original and 8 copies. Failure to file an original and 8 copies may result in appropriate staff not receiving the benefit of your comments in a timely manner. See 18 CFR 4.34(h).

All correspondence should clearly show the following caption on the first page:

FERC Project No. 11142: Estes Lake

Intervenors and interceders (as defined in 18 CFR 385.2010) who file documents with the Commission are reminded of the Commission's Rules of Practice and Procedure requiring them to serve a copy of all documents filed with the Commission on each person whose name is listed on the official service list for this proceeding. See 18 CFR 4.34(b).

For further information, please contact Frankie Green at (202) 501–7704.

Lois D. Cashell,

Secretary.

[FR Doc. 95–2185 Filed 1–27–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. ST95–752–000 et al.]

Great Lakes Gas Transmission L.P.; Self-Implementing Transactions

January 24, 1995.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's regulations, Sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA) and Section 7 of the NGA and Section 5 of the Outer Continental Shelf Lands Act.[1]

The ''Recipient'' column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

[1] Notice of a transaction does not constitute a determination that the terms and conditions of the proposed service will be approved or that the noticed filing is in compliance with the Commission's regulations.

The ''Part 284 Subpart'' column in the following table indicates the type of transaction.

A ''B'' indicates transportation by an interstate pipeline on behalf of an intrastate pipeline or a local distribution company pursuant to § 284.102 of the Commission's regulations and Section 311(a)(1) of the NGPA.

A ''C'' indicates transportation by an intrastate pipeline on behalf of an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.122 of the Commission's regulations and Section 311(a)(2) of the NGPA.

A ''D'' indicates a sale by an intrastate pipeline to an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.142 of the Commission's Regulations and Section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's regulations.

An ''E'' indicates an assignment by an intrastate pipeline to any interstate pipeline or local distribution company pursuant to § 284.163 of the Commission's regulations and Section 312 of the NGPA.

A ''G'' indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.222 and a blanket certificate issued under § 284.221 of the Commission's regulations.

A ''G–I'' indicates transportation by an intrastate pipeline company pursuant to a blanket certificate issued under § 284.227 of the Commission's regulations.

A ''G–S'' indicates transportation by interstate pipelines on behalf of shippers other than interstate pipelines pursuant to § 284.223 and a blanket certificate issued under § 284.221 of the Commission's regulations.

A ''G–LT'' or ''G–LS'' indicates transportation, sales or assignments by a local distribution company on behalf of or to an interstate pipeline or local distribution company pursuant to a blanket certificate issued under § 284.224 of the Commission's regulations.

A ''G–HT'' or ''G–HS'' indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.224 of the Commission's regulations.

A ''K'' indicates transportation of natural gas on the Outer Continental Shelf by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.303 of the Commission's regulations.

A ''K–S'' indicates transportation of natural gas on the Outer Continental Shelf by an intrastate pipeline on behalf of shippers other than interstate pipelines pursuant to § 284.303 of the Commission's regulations.

Lois D. Cashell,

Secretary.

Docket No.*	Transporter/ seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST95–752	Great Lakes Gas Transmission L.P.	Northern States Power Co. (MN).	12–01–94	G–S	15,000	N	F	11–01–94	04–30–11
ST95–753	Great Lakes Gas Transmission L.P.	Sithe Independence Power Part. L.P.	12–01–94	G–S	118,203	N	F	11–01–94	03–31–15
ST95–754	Great Lakes Gas Transmission L.P.	Rochester Gas and Electric Corp.	12–01–94	G–S	55,500	N	F	11–01–94	10–31–08
ST95–755	Great Lakes Gas Transmission L.P.	Northern States Power Co (WI).	12–01–94	G–S	40,000	N	F	11–01–94	04–30–11
ST95–756	Great Lakes Gas Transmission L.P.	Western Gas Marketing, Inc.	12–01–94	G–S	6,013	A	F	11–01–94	10–31–02
ST95–757	Great Lakes Gas Transmission L.P.	Bearpaw Gathering Systems.	12–01–94	G–S	9,000	N	F	11–01–94	10–31–02
ST95–758	Great Lakes Gas Transmission L.P.	Northern States Power Co. (MN).	12–01–94	G–S	15,485	N	F	11–01–94	10–31–02
ST95–759	Great Lakes Gas Transmission L.P.	Wisconsin Gas Co.	12–01–94	G–S	1,901	N	F	11–01–94	10–31–02
ST95–760	Great Lakes Gas Transmission L.P.	Wisconsin Power & Light.	12–01–94	G–S	737	N	F	11–01–94	10–31–02
ST95–761	Great Lakes Gas Transmission L.P.	Utilicorp United Inc.	12–01–94	G–S	7,145	N	F	11–01–94	10–31–02
ST95–762	Great Lakes Gas Transmission L.P.	Northern Illinois Gas Co.	12–01–94	G–S	3,010	N	F	11–01–94	10–31–00
ST95–763	Great Lakes Gas Transmission L.P.	Iowa-Illinois Gas & Electric Co.	12–01–94	G–S	1,288	N	F	11–01–94	10–31–00
ST95–764	Great Lakes Gas Transmission L.P.	AIG Trading Corp.	12–01–94	G–S	75,000	N	F	10–23–94	07–31–95
ST95–765	Great Lakes Gas Transmission L.P.	Minnegasco ...	12–01–94	G–S	11,676	N	F	11–01–94	10–31–00
ST95–766	Great Lakes Gas Transmission L.P.	AIG Trading Corp.	12–01–94	G–S	200,000	N	F	11–10–94	09–30–95
ST95–767	Great Lakes Gas Transmission L.P.	Great Plains Natural Gas Co.	12–01–94	G–S	246	N	F	11–01–94	10–31–02
ST95–768	Great Lakes Gas Transmission L.P.	AIG Trading Corp.	12–01–94	G–S	10,000	N	F	11–01–94	03–31–95
ST95–769	Great Lakes Gas Transmission L.P.	ANR Pipeline Co.	12–01–94	B/G	100,000	Y	F	11–01–94	03–31–95
ST95–770	Tennessee Gas Pipeline Co.	Direct Gas Supply Corp.	12–01–94	G–S	21,500	N	F	11–21–94	Indef.
ST95–771	Tennessee Gas Pipeline Co.	Petro Source Gas Ventures.	12–01–94	G–S	19,470	N	I	11–09–94	Indef.

Docket No.*	Transporter/ seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST95–772	Panhandle Eastern Pipe Line Co.	General Motors Corp.	12–01–94	G–S	15,202	N	F	11–01–94	08–31–97
ST95–773	Panhandle Eastern Pipe Line Co.	Stand Energy	12–01–94	G–S	1,500	N	F	11–01–94	03–31–95
ST95–774	Panhandle Eastern Pipe Line Co.	Centana Gathering Co.	12–01–94	G–S	10,829	Y	F	11–01–94	07–31–95
ST95–775	Tennessee Gas Pipeline Co.	Chevron USA Inc.	12–01–94	G–S	200,000	N	I	11–01–94	Indef.
ST95–776	Transcontinental Gas P/L Corp.	North Attelboro Gas Co.	12–01–94	G–S	780	N	F	11–03–94	06–01–08
ST95–777	Iroquois Gas Trans. System, L.P.	CNG Energy Services Corp.	12–01–94	G–S	15,000	N	F	11–01–94	11–02–95
ST95–778	Iroquois Gas Trans. System, L.P.	Westvaco Corp.	12–01–94	G–S	3,348	N	F	11–01–94	03–01–95
ST95–779	Iroquosis Gas Trans. System, L.P.	Westvaco Corp.	12–01–94	G–S	1,915	N	F	11–01–94	04–01–95
ST95–780	Iroquois Gas Trans. System, L.P.	Catex Vitol Gas Inc.	12–01–94	G–S	10,000	N	F	11–01–94	04–01–95
ST95–781	Iroquois Gas Trans. System, L.P.	GAZ Metropolitain and Co., L.P.	12–01–94	G–S	3,000	N	F	11–01–94	03–01–95
ST95–782	Iroquois Gas Trans. System, L.P.	Selkirk Cogen Partners, L.P.	12–01–94	G–S	55,000	N	F	11–01–94	11–01–14
ST95–783	Iroquois Gas Trans. System, L.P.	Phibro Division of Salomon Inc.	12–01–94	G–S	15,000	N	F	11–01–94	12–01–94
ST95–784	Viking Gas Transmission Co.	Cenergy, Inc .	12–01–94	G–S	2,445	N	F	11–01–94	11–30–94
ST95–785	Viking Gas Transmission Co.	Coastal Gas Marketing.	12–01–94	G–S	7,113	N	F	11–01–94	11–30–94
ST95–786	Viking Gas Transmission Co.	City of Perham.	12–01–94	G–S	750	N	F	11–01–94	03–31–95
ST95–787	Viking Gas Transmission Co.	Utilicorp United Inc.	12–01–94	G–S	111,493	N	F	11–01–94	10–31–02
ST95–788	Northern Border Pipeline Co.	Numac Energy (U.S.) Inc..	12–01–94	G–S	20,000	Y	F	11–01–94	10–31–03
ST95–789	Northern Border Pipeline Co.	ANR Pipeline Co.	12–01–94	B/G	1,789	Y	F	11–01–94	09–19–03
ST95–790	Natural Gas P/L CO. of America.	Coastal Gas Marketing Co.	12–01–94	G–S	7,500	N	F	11–01–94	12–31–94
ST95–791	Llano, Inc	Fina Natural Gas Co.	12–01–94	C	20,000	N	F	11–01–94	Indef.
ST95–792	Texas Gas Transmission Corp.	Noram Energy Services, Inc.	12–01–94	G–S	260,000	N	I	05–13–94	Indef.
ST95–793	South Georgia Natural Gas Co.	Texas Ohio Gas Inc.	12–02–94	G–S	1,500	Y	I	11–10–94	Indef.

Docket No.*	Transporter/ seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST95–794	Great Lakes Gas Transmission L.P.	Mercury Exploration Co.	12–02–94	G–S	12,000	N	F	11–01–94	11–30–09
ST95–795	Noram Gas Transmission Co.	Delhi Gas Pipeline Corp.	12–02–94	B	17,488	N	F	11–01–94	Indef.
ST95–796	Northern Illinois Gas Co.	Natural Gas P/L Co. of Am. et al.	12–05–94	G–HT	6,500	N	I	11–03–94	11–08–94
ST95–797	Tejas Gas Pipeline Co.	Texas Eastern Transmission Co.	12–05–94	C	25,000	N	I	10–01–94	Indef.
ST95–798	Pacific Gas Transmission Co.	Enron Gas Marketing, Inc.	12–05–94	G–S	100,000	N	I	11–08–94	Indef.
ST95–799	Gasdel Pipeline System Inc.	Energy Development Corp.	12–05–94	G–S	5,296	N	I	12–01–94	Indef.
ST95–800	Alabama-Tennessee Natural Gas Co.	City of Huntsville Utilities Gas Sy.	12–05–94	B	4,284	N	F	11–12–94	04–01–98
ST95–801	Alabama-Tennessee Natural Gas Co.	City of Huntsville Utilities Gas Sy.	12–05–94	B	28,970	N	F	11–12–94	04–01–98
ST95–802	Florida Gas Transmission Co.	Petro Source Gas Ventures.	12–05–94	G–S	50,000	N	I	11–04–94	Indef.
ST95–803	Transcontinental Gas P/L Corp.	Public Service Co. of N.C., Inc.	12–05–94	G–S	5,859	N	F	11–05–94	11–04–14
ST95–804	Transcontinental Gas P/L Corp.	Municipal Gas Authority of Georgia.	12–05–94	G–S	352	N	F	11–05–94	11–04–14
ST95–805	Transcontinental Gas P/L Corp.	Municipal Gas Authority of Georgia.	12–05–94	G–S	176	N	F	11–05–94	11–04–14
ST95–806	Transcontinental Gas P/L Corp.	Municipal Gas Authority of Georgia.	12–05–94	G–S	59	N	F	11–05–94	11–04–14
ST95–807	Transcontinental Gas P/L Corp.	Municipal Gas Authority of Georgia.	12–05–94	G–S	117	N	F	11–06–94	11–04–14
ST95–808	Koch Gateway Pipeline Co.	Lear Gas Marketing Co.	12–06–94	G–S	N/A	N	I	11–21–94	Indef.
ST95–809	Koch Gateway Pipeline Co.	Town of Chatham.	12–06–94	G–S	422	N	F	11–20–94	04–01–97
ST95–810	Koch Gateway Pipeline Co.	City of Denham Springs.	12–06–94	G–S	3,480	N	F	11–20–94	04–01–97
ST95–811	Koch Gateway Pipeline Co.	National Gas Resources.	12–06–94	G–S	500	N	F	11–24–94	12–31–94
ST95–812	Koch Gateway Pipeline Co.	MG Natural Gas Corp.	12–06–94	G–S	5,000	N	F	11–10–94	03–31–95
ST95–813	Koch Gateway Pipeline Co.	Energy International Marketing Corp.	12–06–94	G–S	N/A	N	I	11–21–94	Indef.
ST95–814	Koch Gateway Pipeline Co.	Delhi Gas Marketing Corp.	12–06–94	G–S	N/A	N	I	11–21–94	Indef.
ST95–815	Koch Gateway Pipeline Co.	Village of Livingston.	12–06–94	G–S	360	N	F	11–20–94	04–01–97
ST95–816	Koch Gateway Pipeline Co.	Livingston BD of Comm-Gas Util. Dis.	12–06–94	G–S	675	N	F	11–20–94	04–01–97

Docket No.*	Transporter/ seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST95–817	Koch Gateway Pipeline Co.	Town of Westlake.	12–06–94	G–S	2,400	N	F	11–20–94	04–01–97
ST95–818	Koch Gateway Pipeline Co.	Village of Tangipahoa.	12–06–94	G–S	86	N	F	11–20–94	04–01–97
ST95–819	Koch Gateway Pipeline Co.	Town of Oberlin.	12–06–94	G–S	456	N	F	11–20–94	04–01–97
ST95–820	Koch Gateway Pipeline Co.	Perry Gas Cos., Inc.	12–06–94	G–S	N/A	N	I	11–21–94	Indef.
ST95–821	Koch Gateway Pipeline Co.	Aurora Natural Gas Co.	12–06–94	G–S	N/A	N	I	11–21–94	Indef.
ST95–822	Koch Gateway Pipeline Co.	Town of Walker.	12–06–94	G–S	1,560	N	F	11–20–94	04–01–97
ST95–823	Koch Gateway Pipeline Co.	Prior Intrastate Corp.	12–06–94	G–S	150	N	F	11–20–94	11–20–95
ST95–824	Koch Gateway Pipeline Co.	Village of Montpelier.	12–06–94	G–S	96	N	F	11–20–94	04–01–97
ST95–825	Texas Eastern Transmission Corp.	Hadson Gas System, Inc.	12–06–94	G–S	150,000	N	I	11–09–94	Indef
ST95–826	Texas Eastern Transmission Corp.	Eastex Hydrocarbons, Inc.	12–06–94	G–S	30,000	N	I	11–09–94	Indef
ST95–827	Texas Eastern Transmission Corp.	Pemex Gas Y Petroquimica Basica.	12–06–94	G–S	200,000	N	I	11–94	Indef.
ST95–828	Panhandle Eastern Pipe Line Co.	Dayton Power and Light Co.	12–06–94	B	10,000	N	I	11–16–94	11–10–96
ST95–829	Panhandle Eastern Pipe Line Co.	ONG Transmission Co.	12–06–94	B	15,000	N	I	11–23–94	11–22–96
ST95–830	Mississippi River Trans. Corp.	Highland Energy Co.	12–06–94	G–S	105,000	Y	I	11–07–94	Indef.
ST95–831	Williams Natural Gas Co.	Western Resources, Inc.	12–06–94	B	468	N	F	12–01–94	12–01–96
ST95–832	Williams Natural Gas Co.	Texaco Gas Marketing, Inc.	12–06–94	G–S	6,500	N	F	12–01–94	12–01–95
ST95–833	Williams Natural Gas Co.	Unimark L.L.C	12–06–94	G–S	1,500	N	I	12–01–94	12–01–95
ST95–834	Viking Gas Transmission Co.	Northern States Power Co.	12–06–94	G–S	10,000	N	F	11–01–94	10–31–04
ST95–835	K N Interstate Gas Trans Co.	Sonat Marketing Co.	12–06–94	G–S	50,000	N	I	10–27–94	Indef.
ST95–836	Transcontinental Gas P/L Corp.	Municipal Gas Authority of Georgia.	12–06–94	G–S	146	N	F	11–10–94	11–04–14
ST95–837	Transcontinental Gas P/L Corp.	Fort Hill Natural Gas Authority.	12–06–94	G–S	2,343	Y	F	11–07–94	11–04–14
ST95–838	Transcontinental Gas P/L Corp.	Municipal Gas Authority of Georgia.	12–06–94	G–S	1,172	N	F	11–11–94	11–04–14
ST95–839	Transcontinental Gas P/L Corp.	Piedmont Natural Gas Co.	12–06–94	G–S	20,504	Y	F	11–07–94	11–04–14
ST95–840	Texas Gas Transmission Corp.	Torch Gas LC	12–06–94	G–S	100,000	N	I	06–02–94	Indef.

Docket No.*	Transporter/ seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST95–841	Texas Gas Transmission Corp.	Torch Gas LC	12–06–94	G–S	100,000	N	I	06–02–94	Indef.
ST95–842	Texas Gas Transmission Corp.	Texaco Gas Marketing, Inc.	12–06–94	G–S	50,000	N	I	12–01–94	Indef.
ST95–843	Texas Gas Transmission Corp.	Enron Gas Marketing, Inc.	12–06–94	G–S	50,000	N	I	11–11–94	Indef.
ST95–844	Panhandle Eastern Pipe Line Co.	Energy Dynamics, Inc.	12–07–94	G–S	1,100	N	F	11–01–94	10–31–95
ST95–845	Delhi Gas Pipeline Corp.	ANR Pipeline Co., et al.	12–07–94	C	20,000	N	I	11–15–94	Indef.
ST95–846	Columbia Gas Transmission Corp..	PPG Industries.	12–07–94	G–S	312	N	F	12–01–94	03–31–95
ST95–847	Columbia Gas Transmission Corp.	Stand Energy Corp.	12–07–94	G–S	2,180	N	F	12–01–94	03–31–95
ST95–848	Columbia Gas Transmission Corp.	Stand Energy Corp.	12–07–94	G–S	523	N	F	12–01–94	03–31–95
ST95–849	Columbia Gas Transmission Corp.	Volunteer Energy Corp.	12–07–94	G–S	3,000	N	F	12–01–94	02–28–95
ST95–850	Columbia Gas Transmission Corp.	Minnesota Mining & Manufacturing.	12–07–94	G–S	1,030	N	F	12–01–94	Indef.
ST95–851	Columbia Gas Transmission Corp.	Arcadian Fertilizer, LP.	12–07–94	G–S	80,000	N	I	12–01–94	Indef.
ST95–852	Columbia Gas Transmission Corp.	PPG Industries.	12–07–94	G–S	276	N	F	12–01–94	03–31–95
ST95–853	Columbia Gas Transmission Corp.	Honda of America Manufacturing, Inc.	12–07–94	G–S	2,500	N	F	12–02–94	01–31–95
ST95–854	Columbia Gas Transmission Corp.	Boston Gas Co.	12–07–94	G–S	100,000	N	I	11–01–94	Indef.
ST95–855	Columbia Gas Transmission Corp.	Boston Gas Co.	12–07–94	G–S	N/A	N	I	11–01–94	Indef.
ST95–856	Koch Gateway Pipeline Co.	Town of Kinder.	12–08–94	G–S	720	N	F	11–20–94	04–01–97
ST95–857	Natural Gas P/L Co. of America.	Central Illinois Public Service Co.	12–08–94	B	1,000	N	I	11–21–94	Indef.
ST95–858	Natural Gas P/L Co. of America.	Westcoast Gas Services (U.S.A.) Inc.	12–08–94	G–S	5,000	N	F	12–01–94	12–31–94
ST95–859	Northern Natural Gas Co.	Hutchinson Utilities Commission.	12–08–94	G–S	9,000	N	F	11–01–94	Indef.

Docket No.*	Transporter/ seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST95–860	Northern Natural Gas Co.	Associated Natural Gas, Inc.	12–08–94	G–S	50,000	N	I	09–01–94	Indef.
ST95–861	Northern Natural Gas Co.	Interenergy Gas Services, Corp.	12–08–94	G–S	25,000	N	I	05–11–94	Indef.
ST95–862	Northern Natural Gas Co.	Heartland Corn Products.	12–08–94	G–S	300	N	F	11–13–94	10–31–04
ST95–863	Northern Natural Gas Co.	KCS Energy Marketing, Inc.	12–08–94	G–S	20,000	N	I	11–25–94	Indef.
ST95–864	Northern Natural Gas Co.	Osage Municipal Utilities.	12–08–94	G–S	1,000	N	I	10–08–94	Indef.
ST95–865	Northern Natural Gas Co.	Northern States Power Co. of Wisc.	12–08–94	G–S	2,200,000	N	F	11–20–94	05–31–99
ST95–866	Northern Natural Gas Co.	TEXPAR Energy Inc.	12–08–94	G–S	350	N	F	11–04–94	03–31–95
ST95–867	Northern Natural Gas Co.	Industrial Energy Applications.	12–08–94	G–S	10,000	N	F	11–01–94	03–30–95
ST95–868	Northern Natural Gas Co.	Lone Star Gas Co.	12–08–94	B	10,000	N	I	10–01–94	Indef.
ST95–869	Northern Natural Gas Co.	GPM Gas Corp.	12–08–94	G–S	20,000	N	F	11–01–94	10–30–95
ST95–870	Northern Natural Gas Co.	Cenergy Inc ..	12–08–94	G–S	5,000	N	F	11–02–94	12–01–94
ST95–871	Northern Natural Gas Co.	U.S. Gas Transportation, Inc.	12–08–94	G–S	11,000	N	I	11–04–94	Indef.
ST95–872	Northern Natural Gas Co.	AMGAS Inc ...	12–08–94	G–S	15,000	N	F	11–01–94	02–28–95
ST95–873	Sea Robin Pipeline Co.	Sonat Marketing Co.	12–09–94	G–S	6,326	A	F	12–01–94	12–31–94
ST95–874	Southern Natural Gas Co.	Murphy Exploration & Production Co.	12–09–94	G–S	50,000	N	I	11–25–94	Indef.
ST95–875	Southern Natural Gas Co.	CNG Producing Co.	12–09–94	G–S	200,000	N	I	12–03–94	Indef.
ST95–877	Southern Natural Gas Co.	City of Talbotton.	12–09–94	G–S	80	N	F	12–01–94	10–31–95
ST95–878	Southern Natural Gas Co.	City of Talbotton.	12–09–94	G–S	39	N	F	12–01–94	10–31–95
ST95–880	Southern Natural Gas Co.	Atlanta Gas Light Co.	12–09–94	G–S	6,764	N	F	11–19–94	10–31–95
ST95–881	Valero-Teco West Texas P/L Co.	Transwestern Pipe Line Co.	12–12–94	C	33,000	N	I	11–18–94	Indef.
ST95–882	Valero-Teco West Texas P/L Co.	El Paso Natural Gas Co.	12–12–94	C	33,000	N	I	11–17–94	Indef.
ST95–883	Natural Gas P/L Co. of America.	Valero Gas Marketing, L.P.	12–12–94	G–S	25,000	N	F	12–01–94	12–31–94
ST95–884	Natural Gas P/L Co. of America.	City of Pinckneyville.	12–12–94	G–S	250	N	F	12–01–94	11–30–95
ST95–885	Natural Gas P/L Co. of America.	City of Perryville.	12–12–94	G–S	750	N	F	12–01–94	11–30–95
ST95–886	Texas Eastern Transmission Corp.	Seitel Gas & Energy Corp.	12–12–94	G–S	25,000	N	I	12–01–94	Indef.
ST95–887	Texas Eastern Transmission Corp.	Cenergy, Inc .	12–12–94	G–S	50,000	N	I	12–01–94	Indef.

Docket No.*	Transporter/ seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST95–888	Texas Eastern Transmission Corp..	Western Gas Resources, Inc.	12–12–94	G–S	300,000	N	I	12–02–94	indef.
ST95–889	Texas Eastern Transmission Corp.	AIG Trading Corp.	12–12–94	G–S	100,000	N	I	12–01–94	Indef.
ST95–890	Texas Eastern Transmission Corp.	Stolle Corp	12–12–94	G–S	3,500	N	F	12–01–94	Indef.
ST95–891	Tennessee Gas Pipeline Co.	Direct Gas Supply Corp.	12–12–94	G–S	8,000	N	F	12–01–94	Indef.
ST95–892	Tennessee Gas Pipeline Co.	Enron Gas Marketing Inc.	12–12–94	G–S	15,000	N	F	12–01–94	Indef.
ST95–893	Tennessee Gas Pipeline Co.	Associated Natural Gas, Inc.	12–12–94	G–S	7,648	N	F	12–01–94	Indef.
ST95–894	Tennessee Gas Pipeline Co.	Shell Gas Trading Co.	12–12–94	G–S	3,500	N	F	12–01–94	Indef.
ST95–895	Delhi Gas Pipeline Corp.	Noram Gas Transmission Co.	12–13–94	C	30,000	N	I	11–18–94	Indef.
ST95–896	Delhi Gas Pipeline Corp.	Panhandle Eastern P/L Co., et al.	12–13–94	C	7,000	N	I	10–01–93	Indef.
ST95–897	Westar Transmission Co.	El Paso Natural Gas Co.	12–13–94	C	50,000	N	I	09–01–94	Indef.
ST95–898	Westar Transmission Co.	El Paso Natural Gas Co.	12–13–94	C	25,000	N	I	07–01–94	Indef.
ST95–899	Panhandle Eastern Pipe Line Co.	GPM Gas Corp.	12–13–94	G–S	2,558	N	F	12–01–94	03–31–95
ST95–900	Panhandle Eastern Pipe Line Co.	Texarkoma Transportation Co.	12–13–94	G–S	30,000	N	I	12–01–94	04–30–98
ST95–901	Panhandle Eastern Pipe Line Co.	Cenergy, Inc .	12–13–94	G–S	50,000	N	I	12–01–94	09–30–96
ST95–902	Panhandle Eastern Pipe Line Co.	Central Illinois Light Co.	12–13–94	G–S	9,000	N	F	12–01–94	11–30–95
ST95–903	Panhandle Eastern Pipe Line Co.	Certified Heat Treating Co.	12–13–94	G–S	60	N	F	12–01–94	11–30–95
ST95–905	Panhandle Eastern Pipe Line Co.	Teepak, Inc ...	12–13–94	G–S	4,000	N	F	12–01–94	03–31–98
ST95–906	Panhandle Eastern Pipe Line Co.	Stolle Corp	12–13–94	G–S	3,507	N	F	12–01–94	10–31–95
ST95–907	U–T Offshore System.	Coast Energy Group.	12–14–94	K–S	60,000	N	F	11–01–94	11–30–94
ST95–908	U–T Offshore System.	CNG Producing Co.	12–14–94	K–S	52,500	N	F	11–01–94	11–30–94
ST95–909	U–T Offshore System.	Mobil Natural Gas Inc.	12–14–94	K–S	10,000	N	F	11–01–94	01–31–95
ST95–910	U–T Offshore System.	Vastar Gas Marketing, Inc.	12–14–94	K–S	15,497	N	F	11–01–94	11–30–94

Docket No.*	Transporter/ seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST95–911	U–T Offshore System.	Transco Gas Marketing Co.	12–14–94	K–S	15,000	N	F	11–01–94	11–30–94
ST95–912	U–T Offshore System.	CNG Producing Co.	12–14–94	K–S	3,500	N	F	11–04–94	11–30–94
ST95–913	High Island Offshore System.	Associated Gas Services, Inc.	12–14–94	K–S	6,139	N	F	10–30–94	10–31–94
ST95–914	High Island Offshore System.	H&N Gas, Ltd	12–14–94	K–S	100,000	N	I	11–01–94	Indef.
ST95–915	High Island Offshore System.	Coastal Gas Marketing Co.	12–14–94	K–S	6,729	N	F	11–01–94	11–29–94
ST95–916	High Island Offshore System.	Coastal Gas Marketing Co.	12–14–94	K–S	6,729	N	F	11–30–94	11–30–94
ST95–917	Trunkline Gas Co.	Conoco, Inc ...	12–14–94	G–S	5,000	N	F	12–01–94	Indef.
ST95–918	Trunkline Gas Co.	Aig Trading Corp.	12–14–94	G–S	103,500	N	I	12–01–94	Indef.
ST95–919	Trunkline Gas Co.	Columbia Energy Services Corp.	12–14–94	G–S	20,000	N	I	12–01–94	Indef.
ST95–920	Panhandle Eastern Pipe Line Co.	Anadarko Trading Co.	12–14–94	G–S	255,000	N	F	12–01–94	11–30–95
ST95–921	Columbia Gas Transmission Corp.	Owens-Brockway Glass Container, Inc.	12–14–94	G–S	5,000	N	F	12–02–94	10–31–95
ST95–922	Tennessee Gas Pipeline Co.	Pennsylvania and Southern Gas Co.	12–14–94	G–S	2,000	N	I	04–29–94	Indef.
ST95–923	Tennessee Gas Pipeline Co.	Cranberry Pipeline Corp.	12–15–94	G–S	11,680	N	F	12–01–94	Indef.
ST95–924	Northern Natural Gas Co.	Industrial Energy Applications, Inc.	12–15–94	G–S	333,333	N	I	06–01–94	Indef.
ST95–925	Northern Natural Gas Co.	Industrial Energy Applications, Inc.	12–15–94	G–S	2,891	N	F	06–01–94	05–31–95
ST95–926	Northern Natural Gas Co.	Madison Gas & Electric Co.	12–15–94	G–S	1,500	N	F	11–01–94	10–31–04
ST95–927	Northern Natural Gas Co.	Utilicorp United, Inc.	12–15–94	B/G–S	100,723	N	F	11–01–94	03–31–95
ST95–928	Panhandle Eastern Pipe Line Co.	Anadarko Trading Co.	12–15–94	G–S	30,000	N	F	12–01–94	12–31–94
ST95–929	Panhandle Eastern Pipe Line Co.	1 Source Energy Services Co.	12–15–94	G–S	45,030	Y	F	11–01–94	03–31–95
ST95–930	Midwestern Gas Transmission Co.	Tenneco Gas Marketing Co.	12–16–94	G–S	11,730	A	F	12–01–94	Indef.
ST95–931	Sabine Pipe Line Co.	Associated Natural Gas, Inc.	12–16–94	G–S	3,548	N	F	12–01–94	12–31–94
ST95–932	Northern Border Pipeline Co.	Progas USA Inc.	12–16–94	G–S	1,646	Y	I	12–01–94	09–19–03
ST95–933	Transcontinental Gas P/L Corp.	Associated Gas Services, Inc.	12–16–94	G–S	6,280	N	F	12–01–94	Indef.

Docket No.*	Transporter/ seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST95–934	Transcontinental Gas P/L Corp.	Hydrocarbon Processing Partners, Ltd.	12–16–94	G–S	25,000	N	I	12–01–94	Indef.
ST95–935	Transcontinental Gas P/L Corp.	KN Gas Marketing, Inc.	12–16–94	G–S	20,000	N	I	12–01–94	Indef.
ST95–936	Transcontinental Gas P/L Corp.	City of Lexington.	12–16–94	G–S	586	N	F	11–29–94	11–04–14
ST95–937	Transcontinental Gas P/L Corp.	Perry Gas Companies, Inc.	12–16–94	G–S	5,000	N	I	11–23–94	Indef.
ST95–938	Transcontinental Gas P/L Corp.	Shell Gas Trading Co.	12–16–94	G–S	20,000	N	F	12–01–94	Indef.
ST95–939	Transcontinental Gas P/L Corp.	Mobil Natural Gas, Inc.	12–16–94	G–S	9,662	N	F	12–02–94	Indef.
ST95–940	Transcontinental Gas P/L Corp.	Texaco Gas Marketing, Inc.	12–16–94	G–S	9,662	N	F	12–01–94	02–28–95
ST95–941	Transcontinental Gas P/L Corp.	City of Fountain Inn.	12–16–94	G–S	463	Y	F	11–27–94	11–04–14
ST95–942	Transcontinental Gas P/L Corp.	Chevron U.S.A., Inc.	12–16–94	G–S	20,000	N	F	12–02–94	Indef.
ST95–943	Transcontinental Gas P/L Corp.	City of Greer .	12–16–94	G–S	879	N	F	12–01–94	11–04–14
ST95–944	Transcontinental Gas P/L Corp.	North Carolina Gas Service.	12–16–94	G–S	586	N	F	12–01–94	11–04–14
ST95–945	Transcontinental Gas P/L Corp.	Southwestern Virginia Gas Co.	12–16–94	G–S	586	N	F	12–01–94	11–04–14
ST95–946	Transcontinental Gas P/L Corp.	City of Shelby	12–16–94	G–S	1,172	N	F	12–01–94	11–04–14
ST95–947	Natural Gas P/L Co of America.	NGC Transportation, Inc.	12–16–94	G–S	20,000	N	F	12–01–94	11–30–95
ST95–948	Trunkline Gas Co.	Enron Capital and Trade Resources.	12–16–94	G–S	28,000	N	F	12–01–94	Indef.
ST95–949	Trunkline Gas Co.	Forcenergy Gas Exploration, Inc.	12–16–94	G–S	100	N	I	12–01–94	Indef.
ST95–950	Trunkline Gas Co.	Coenergy Trading Co.	12–16–94	G–S	12,000	N	F	12–01–94	Indef.
ST95–951	Southern Natural Gas Co.	Atlanta Gas Light Co.	12–16–94	G–S	259,812	N	F	11–01–94	04–30–07
ST95–952	Southern Natural Gas Co.	Mississippi Valley Gas Co.	12–16–94	G–S	20,000	N	F	11–01–94	09–30–96
ST95–953	Texas Gas Transmission Corp.	Indian Refining, LP.	12–16–94	G–S	20,000	N	I	12–02–94	Indef.

Docket No.*	Transporter/ seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST95–954	Transok Gas Transmission Co.	ANR Pipeline Co., et al.	12–19–94	C	12,000	N	I	11–24–94	Indef.
ST95–955	Transok Gas Transmission Co.	ANR Pipeline Co., et al..	12–19–94	C	5,000	N	F	08–01–94	07–31–95
ST95–956	Pacific Gas Transmission Co.	Texas-Ohio Gas, Inc.	12–19–94	G–S	50,000	N	I	12–02–94	Indef.
ST95–957	Pacific Gas Transmission Co.	Texas-Ohio Gas, Inc.	12–19–94	G–S	100,000	N	I	12–01–94	Indef.
ST95–958	Tennessee Gas Pipeline Co.	Interenergy Gas Services Corp.	12–19–94	G–S	1,500	N	F	11–27–94	Indef.
ST95–959	Tennessee Gas Pipeline Co.	Mg Natural Gas Corp.	12–19–94	G–S	1,662	N	F	12–01–94	indef.
ST95–960	Columbia Gulf Transmission Co.	H&N Gas, Ltd	12–19–94	G–S	10,000	N	F	12–01–94	Indef.
ST95–961	Columbia Gulf Transmission Co.	Peak Pipeline Co.	12–19–94	G–S	300	N	I	11–27–94	Indef.
ST95–962	Columbia Gulf Transmission Co.	ICI Americas Inc.	12–19–94	G–S	5,300	N	I	11–28–94	Indef.
ST95–963	Columbia Gulf Transmission Co.	Union Oil Co of California.	12–19–94	G–S	20,000	N	F	12–01–94	Indef.
ST95–964	Columbia Gulf Transmission Co.	Seagull Marketing Services, Inc.	12–19–94	G–S	18,500	N	F	12–01–94	Indef.
ST95–965	Columbia Gulf Transmission Co.	Oryx Gas Marketing L.P..	12–19–94	G–S	5,000	N	F	12–01–94	Indef.
ST95–966	Columbia Gas Transmission Corp..	Columbia Gas of Ohio, Inc.	12–19–94	G–S	12,600	Y	F	12–10–94	12–31–94
ST95–967	Columbia Gas Transmission Corp.	Marco Pipeline Enterprises LLC.	12–19–94	G–S	4,000	N	I	12–01–94	Indef.
ST95–968	Columbia Gas Transmission Corp.	Columbia Gas of Kentucky, Inc.	12–19–94	G–S	15,400	Y	F	12–01–94	12–31–94
ST95–969	Columbia Gas Transmission Corp.	BNG, Inc	12–19–94	G–S	100,000	N	I	12–01–94	Indef.
ST95–970	Columbia Gas Transmission Corp.	Wagner Gas Co.	12–19–94	B	10	N	I	12–05–94	Indef.
ST95–971	Columbia Gas Transmission Corp.	American Standard, Inc.	12–19–94	G–S	675	N	F	12–15–94	02–15–95
ST95–972	K N Interstate Gas Trans. Co.	K N Gas Marketing, Inc.	12–20–94	G–S	12,000	A	F	12–01–94	02–28–95
ST95–973	K N Interstate Gas Trans. Co..	Marsh Operating Co..	12–20–94	G–S	40,000	N	I	11–01–94	Indef.
ST95–974	K N Interstate Gas Trans. Co.	Oryx Gas Marketing L.P..	12–20–94	G–S	130,000	N	I	12–02–94	Indef.
ST95–975	K N Interstate Gas Trans. Co.	Plains Petroleum Operating Co.	12–20–94	G–S	20,000	N	I	12–02–94	Indef.

Docket No.*	Transporter/ seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST95–976	K N Interstate Gas Trans. Co.	Tenaska Marketing Ventures.	12–20–94	G–S	5,595	N	F	12–01–94	01–31–95
ST95–977	K N Interstate Gas Trans. Co.	Chevron USA, Inc.	12–20–94	G–S	40,000	N	I	11–01–94	Indef.
ST95–978	K N Interstate Gas Trans. Co.	Premier Gas Co.	12–20–94	G–S	40,000	N	I	11–01–94	Indef.
ST95–979	Columbia Gas Transmission Corp.	Kalida Natural Gas Co., Inc.	12–19–94	B	600	N	F	12–12–94	03–31–95
ST95–980	Midwestern Gas Transmission Co.	Mobil Natural Gas.	12–20–94	G–S	12,000	N	F	12–01–94	Indef.
ST95–981	Midwestern Gas Transmission Co.	Energy Dynamics Inc.	12–20–94	G–S	5,000	N	F	12–01–94	Indef.
ST95–982	Midwestern Gas Transmission Co.	Associated Natural Gas Inc.	12–20–94	G–S	18,000	N	F	12–02–94	Indef.
ST95–983	Tennessee Gas Pipeline Co.	Texas-Ohio Gas Inc.	12–20–94	G–S	5,000	N	F	12–01–94	Indef.
ST95–984	Tennessee Gas Pipeline Co.	Energy Dynamics Inc.	12–20–94	G–S	5,050	N	F	12–01–94	Indef.
ST95–985	Tennessee Gas Pipeline Co..	Atlas Gas Marketing Inc..	12–20–94	G–S	2,500	N	F	12–01–94	Indef.
ST95–986	Tennessee Gas Pipeline Co..	AGF Direct Gas Sales Inc..	12–21–94	G–S	1,000	N	F	12–01–94	Indef.
ST95–987	Cypress Gas Pipeline Co..	Natural Gas P/L Co. of Am., et al..	12–21–94	C	20,000	N	I	12–01–94	Indef.
ST95–988	Acadian Gas Pipeline System.	Natural Gas P/L Co. of Am., et al..	12–21–94	C	20,000	N	I	11–18–94	Indef.
ST95–989	Algonquin Gas Transmission Co..	Seitel Gas & Energy Corp..	12–21–94	G–S	25,000	N	F	12–01–94	Indef.
ST95–990	Algonquin Gas Transmission Co..	Yankee Gas Services Co..	12–21–94	B	15,000	N	I	11–21–94	Indef.
ST95–991	Algonquin Gas Transmission Co..	Providence Gas Co..	12–21–94	B	5,002	N	I	11–24–94	Indef.
ST95–992	Northern Natural Gas Co..	Midwest Gas .	12–21–94	B/G–S	30,000	N	F	12–01–94	02–28–95
ST95–993	Northern Natural Gas Co..	Utilicorp United, Inc..	12–21–94	G–S	26,825	N	F	11–10–94	05–31–97
ST95–994	Northern Natural Gas Co..	Corpus Christi Gas Marketing, L.P..	12–21–94	G–S	100,000	N	I	11–01–94	Indef.
ST95–995	Northern Natural Gas Co..	Anadarko Trading Co..	12–21–94	G–S	10,000	N	I	11–05–94	Indef.
ST95–996	Northern Natural Gas Co..	Northern States Power Co.-Wisconsin.	12–21–94	B/G–S	15,000	N	F	11–27–94	11–26–08
ST95–997	Northern Natural Gas Co..	Westcoast Gas Services (U.S.A.) Inc..	12–21–94	G–S	15,000	N	F	12–01–94	10–31–95
ST95–998	Northern Natural Gas Co..	Terra International, Inc..	12–21–94	G–S	3,000	N	F	12–03–94	Indef.

Docket No.*	Transporter/ seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST95–999	Northern Natural Gas Co..	Westar Transmission Co..	12–21–94	G–S	5,000	N	F	12–02–94	08–30–95
ST95–1000	Alabama-Tennessee Natural Gas Co..	City of Tuscumbia.	12–21–94	B	330	N	F	12–01–94	04–01–98
ST95–1001	Texas Gas Transmission Corp..	AIG Trading Corp..	12–21–94	G–S	100,000	N	I	12–14–94	INDEF.
ST95–1002	Northwest Pipeline Corp..	Tenaska Gas Co..	12–21–94	G–S	1,848	N	F	12–01–94	Indef.
ST95–1003	Noram Gas Transmission Co..	Amfuel	12–21–94	G–S	400	N	F	12–01–94	Indef.
ST95–1004	Noram Gas Transmission Co..	Darling Store Fixtures.	12–21–94	G–S	557	N	F	12–01–94	Indef.
ST95–1005	Noram Gas Transmission Co..	Remington Arms Co..	12–21–94	G–S	705	N	F	12–01–94	Indef.
ST95–1006	Noram Gas Transmission Co..	Tyson Foods, Inc..	12–21–94	G–S	900	N	F	12–01–94	Indef.
ST95–1007	Noram Gas Transmission Co..	Tyson Feed Mill.	12–21–94	G–S	160	N	F	12–01–94	INDEF.
ST95–1008	Noram Gas Transmission Co..	Stone Container Corp..	12–21–94	G–S	270	N	F	12–01–94	INDEF.
ST95–1009	Noram Gas Transmission Co..	St. Bernard's Regional Medical Cent..	12–21–94	G–S	400	N	F	12–01–94	Indef.
ST95–1010	Noram Gas Transmission Co..	Virco Manufacturing Corp..	12–21–94	G–S	900	N	F	12–01–94	INDEF.
ST95–1011	Noram Gas Transmission Co..	SMI Steel	12–21–94	G–S	1,160	N	F	12–01–94	Indef.
ST95–1012	Channel Industries Gas Co..	Tennessee Gas Pipeline Co., et al..	12–21–94	C	40,000	Y	I	02–25–94	Indef.
ST95–1013	East Ohio Gas Co..	CNG Energy Services.	12–22–94	C	35,000	N	F	12–01–94	12–31–94
ST95–1014	East Ohio Gas Co..	Natural Gas Clearinghouse.	12–22–94	C	40,000	N	F	12–01–94	12–31–94
ST95–1015	Trunkline Gas Co..	Cargill, Inc.	12–22–94	G–S	3,105	N	I	12–17–94	Indef.
ST95–1016	Natural Gas P/L Co. of America.	Joseph Energy, Inc..	12–22–94	G–S	500	N	I	12–02–94	Indef.
ST95–1017	Columbia Gas Transmission Corp..	Fuel Services Group.	12–22–94	B	1,426	N	F	12–01–94	Indef.
ST95–1018	Transwestern Pipeline Co..	Amarillo Natural Gas Co..	12–22–94	G–S	150	N	F	06–22–94	06–22–95
ST95–1019	Florida Gas Transmission Co..	Amoco Energy Trading Co..	12–22–94	G–S	200,000	N	I	11–22–94	Indef.
ST95–1020	Transwestern Pipeline Co..	Enron Gas Marketing, Inc..	12–22–94	G–S	40,000	A	F	08–24–94	08–31–94
ST95–1021	Transwestern Pipeline Co..	Richardson Products Co..	12–22–94	G–S	16,000	N	F	12–01–94	12–31–94

Docket No.*	Transporter/ seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST95–1022	Transwestern Pipeline Co..	Pacific Gas & Electric Co..	12–22–94	G–S	22,600	N	F	10–01–94	09–30–95
ST95–1023	Transwestern Pipeline Co..	GPM Gas Corp..	12–22–94	G–S	20,000	N	F	11–01–94	10–31–98
ST95–1024	Questar Pipeline Co..	Vesgas Co. ...	12–23–94	G–S	2,000	N	I	12–02–94	12–01–97
ST95–1025	Questar Pipeline Co..	River Gas of Utah, Inc..	12–23–94	G–S	15,000	N	F	12–01–94	Indef.
ST95–1026	Questar Pipeline Co..	Conoco, Inc. ..	12–23–94	G–S	3,700	N	F	12–01–94	12–31–94
ST95–1027	Questar Pipeline Co..	Bonneville Fuels Marketing Corp..	12–23–94	G–S	300	N	F	12–01–94	Indef.
ST95–1028	Northern Natural Gas Co..	Westcoast Gas Services (America).	12–27–94	G–S	15,000	N	F	12–02–94	10–31–95
ST95–1029	Northern Natural Gas Co..	Conagra Energy Services Co..	12–27–94	G–S	1,000	N	F	12–01–94	03–31–95
ST95–1030	Northern Natural Gas Co..	Iowa–Illinois Gas and Electric Co..	12–27–94	B/G–S	2,050	N	F	12–01–94	11–30–95
ST95–1031	Valero Transmission, L.P.	El Paso Natural Gas Co.	12–27–94	C	6,000	N	I	12–01–94	Indef.
ST95–1032	Kern River Gas Transmission Co.	NGC Transportation, Inc.	12–28–94	G–S	2,205	N	F	12–01–94	02–28–95
ST95–1033	Natural Gas P/L Co. of America.	Amoco Energy Trading Corp.	12–28–94	G–S	10,000	N	F	12–01–94	12–31–94
ST95–1034	Natural Gas P/L Co. of America.	Amoco Energy Trading Corp.	12–28–94	G–S	5,000	N	F	12–01–94	12–31–94
ST95–1035	Natural Gas P/L Co. of America.	Aig Trading Corp.	12–28–94	G–S	20,000	N	F	12–08–94	12–31–94
ST95–1036	Panhandle Eastern Pipe Line Co.	Vesta Energy Co.	12–28–94	G–S	4,000	N	F	12–01–94	03–31–95
ST95–1037	Iroquois Gas Trans. System, L.P.	Paragon Gas Marketing.	12–29–94	G–S	1,340	N	F	12–01–94	04–01–95
ST95–1038	Iroquois Gas Trans. System, L.P.	Niagara Mohawk Power Corp.	12–29–94	G–S	339,806	N	I	12–12–94	Indef.
ST95–1039	Iroquois Gas Trans. System, L.P.	Coenergy Trading Co.	12–29–94	G–S	30,000	N	F	12–01–94	12–02–95
ST95–1040	Colorado Interstate Gas Co.	Amoco Energy Trading Corp.	12–28–94	G–S	2,850	N	F	12–13–94	11–29–04
ST95–1041	Great Lakes Gas Transmission L.P.	ANR Pipeline Co.	12–28–94	G/B	300,000	Y	F	12–01–94	02–28–95
ST95–1042	El Paso Natural Gas Co.	Meridian Oil Trading Inc.	12–29–94	G–S	7,210	N	I	12–01–94	Indef.
ST95–1043	Panhandle Eastern Pipe Line Co.	Cenergy, Inc .	12–29–94	G–S	15,000	N	I	11–30–94	07–31–96
ST95–1044	Noram Gas Transmission Co.	Enron Gas Marketing, Inc.	12–29–94	G–S	1,739	N	F	12–01–94	Indef.
ST95–1045	Valero Transmission, L.P.	Florida Gas Transmission Co., et al.	12–29–94	C	25,000	N	I	12–01–94	Indef.
ST95–1046	Stingray Pipeline Co.	Natural Gas P/L Co. of America.	12–29–94	G/K	3,750	Y	F	12–01–94	12–31–94

Docket No.*	Transporter/ seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST95–1047	Stingray Pipeline Co.	Union Oil Co. of California.	12–29–94	G–S/K–S	50,500	N	F	12–01–94	11–23–03
ST95–1048	Stingray Pipeline Co.	Chevron U.S.A. Production Co.	12–29–94	G–S/K–S	50,500	N	F	12–01–94	11–30–03
ST95–1049	Natural Gas P/L Co. of America.	Northern Illinois Gas Co.	12–29–94	G–S	45,186	N	F	12–01–94	12–01–95
ST95–1050	Natural Gas P/L Co. of America.	Monsanto Co	12–29–94	G–S	1,200	N	F	12–01–94	11–30–95
ST95–1051	Natural Gas P/L Co. of America.	Arcadian Corp	12–29–94	G–S	22,000	N	F	12–01–94	12–31–97
ST95–1052	Natural Gas P/L Co. of America.	GPM Gas Corp.	12–29–94	G–S	5,000	N	F	12–09–94	12–31–94
ST95–1053	Colorado Interstate Gas Co.	Montana Power Co.	12–29–94	B	25,000	N	F	12–09–94	03–31–95
ST95–1054	Colorado Interstate Gas Co.	Snyder Oil Corp.	12–29–94	G–S	6,000	N	F	11–01–94	Indef.
ST95–1055	Colorado Interstate Gas Co.	K N Gas Marketing, Inc.	12–29–94	G–S	25,000	N	F	12–01–94	03–31–95
ST95–1056	Florida Gas Transmission Co.	Prior Intrastate Corp.	12–30–94	G–S	5,000	N	I	12–02–94	Indef.
ST95–1057	Tennessee Gas Pipeline Co.	Bay State Gas Co.	12–30–94	G–S	15,000	N	I	12–08–94	Indef.
ST95–1058	Tennessee Gas Pipeline Co.	Northern Utilities, Inc.	12–30–94	G–S	5,000	N	I	12–01–94	Indef.
ST95–1059	Colorado Interstate Gas Co.	Wasatch Oil and Gas Corp.	12–30–94	G–S	400	N	I	12–03–94	Indef.
ST95–1060	Colorado Interstate Gas Co.	Barrett Resources Corp.	12–30–94	G–S	20,000	N	F	12–01–94	12–01–04
ST95–1061	CNG Transmission Corp.	North Attleboro Gas Co.	12–30–94	G–S	77	N	F	12–01–94	03–31–03
ST95–1062	CNG Transmission Corp.	Pennzoil Products Co.	12–30–94	G–S	10,000	N	I	12–01–94	01–31–95
ST95–1063	CNG Transmission Corp.	CNG Energy Services Corp.	12–30–94	G–S	50,000	N	F	12–01–94	02–28–95
ST95–1064	CNG Transmission Corp.	ANR Pipeline Co.	12–30–94	G–S	10,000	N	I	12–01–94	01–31–95
ST95–1065	Williston Basin Inter. P/L Co.	Prairielands Energy Marketing, Inc.	12–30–94	G–S	65	A	F	12–01–94	03–31–95
ST95–1066	Williston Basin Inter. P/L Co.	Exxon Corp ...	12–30–94	G–S	100	A	F	12–01–94	02–28–95
ST95–1067	Williston Basin Inter. P/L Co.	Interenergy Resources Corp.	12–30–94	G–S	200	A	F	12–01–94	11–30–95
ST95–1068	Williston Basin Inter. P/L Co.	Rainbow Gas Co.	12–30–94	G–S	2,079	A	F	12–01–94	12–31–94
ST95–1069	Mississippi River Trans. Corp.	Transok Gas Co.	12–30–94	G–S	100,000	Y	I	12–01–94	Indef.
ST95–1070	Mississippi River Trans. Corp.	Texaco Exploration & Prod., Inc.	12–30–94	G–S	100,000	Y	I	12–01–94	Indef.

Docket No.*	Transporter/ seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date commenced	Projected termination date
ST95–1071	Mississippi River Trans. Corp.	Delhi Gas Pipeline Corp.	12–30–94	G–S	100,000	Y	I	12–10–94	Indef.
ST95–1072	Mississippi River Trans. Corp.	MRT Energy Marketing Co.	12–30–94	G–S	5,000	Y	F	12–01–94	02–28–95
ST95–1073	Mississippi River Trans. Corp.	MRT Energy Marketing Co.	12–30–94	G–S	3,000	Y	F	12–01–94	02–28–95
ST95–1074	Mississippi River Trans. Corp.	Associated Natural Gas Co.	12–30–94	G–S	340	N	F	12–01–94	Indef.
ST95–1075	Mississippi River Trans. Corp.	National Steel Corp.	12–30–94	G–S	100,000	Y	I	12–12–94	Indef.
ST95–1076	Mississippi River Trans. Corp.	Aptian Energy Services.	12–30–94	G–S	50,000	Y	I	12–09–94	Indef.
ST95–1077	Gulf States Pipeline Corp.	Southern Natural Gas Co., et al.	12–30–94	C	20,000	N	I	12–01–94	05–01–99
ST95–1078	Delhi Gas Pipeline Corp.	Noram Gas Transmission Co., et al.	12–30–94	C	55,000	N	I	12–01–94	Indef.
ST95–1079	Delhi Gas Pipeline Corp.	El Paso Natural Gas Co.	12–30–94	C	4,000	N	I	12–01–94	02–28–95
ST95–1080	Delhi Gas Pipeline Corp.	Natural Gas P/L Co. of Amer., et al.	12–30–94	C	10,000	N	I	12–01–94	Indef.

*Notice of transactions does not constitute a determination that filings comply with commission regulations in accordance with Order No. 436 (final rule and notice requesting supplemental comments, 50 FR 42,372, 10/10/85).

**Estimated maximum daily volumes includes volumes reported by the filing company in MMBTU, MCF and DT.

***Affiliation of reporting company to entities involved in the transaction. A ''Y'' indicates affiliation, an ''A'' indicates marketing affiliation, and a ''N'' indicates no affiliation.

[FR Doc. 95–2179 Filed 1–27–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP95–167–000]

Koch Gateway Pipeline Company; Request Under Blanket Authorization

January 24, 1995.

Take notice that on January 19, 1995, Koch Gateway Pipeline Company (Koch Gateway), Post Office Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP95–167–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to install a two-inch tap to enable Koch Gateway to transport natural gas to Prior Energy Corporation (Prior Energy) under Koch Gateway's ITS Rate Schedule. Koch Gateway makes such request, under its blanket certificate issued in Docket No. CP82–430–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Koch Gateway states that it currently provides interruptible transportation service to Prior Energy pursuant to Koch Gateway's blanket transportation certificate and the ITS agreement filed with the Commission in Docket No. ST94–6295. Specifically, Koch Gateway (as the shipper and agent for Bush Construction's Glendale Asphalt Plant (Bush Construction) is proposing to install a two-inch delivery tap and appurtenant meter and regulator station on Koch Gateway's transmission pipeline in Forrest County, Mississippi at an estimated cost of $29,500, to provide service to Bush Construction, on behalf of Prior Energy. It is averred that Bush Construction will construct approximately .25 mile of two-inch pipeline to connect the meter station to its plant. Koch Gateway further states that the volumes proposed to be delivered to Prior Energy, 250 MMBtu average daily volume and 400 MMBtu peak day) will be within Prior Energy's currently effective entitlements.

It is stated that the estimated project cost of $29,500 will be reimbursed by Prior Energy.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 95–2180 Filed 1–27–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–278–002]

NorAm Gas Transmission Co.; Filing

January 24, 1995.

Take notice that on January 20, 1995, NorAm Gas Transmission Company (NGT), tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Original Sheet No. 5.11, to be effective September 15, 1994.

NGT states that this tariff sheet is being filed to set forth the refund amounts made by NGT to amortize the remaining PGA balance in its Account 191.

NGT requests the necessary waiver of the Commission regulation to permit this tariff sheet to become effective September 15, 1994, date such refunds were made to its customers.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (19 CFR 385.211). All such protests should be filed on or before January 31, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–2187 Filed 1–27–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–6–000]

Northwest Pipeline Corp.; Further Conference

January 24, 1995.

Pursuant to the Commission's notice issued on December 16, 1994, a conference was convened on Tuesday, January 10, 1995, to resolve the issues raised in the above-captioned proceeding. At the conference, the parties agreed to a further conference.

Accordingly, a conference has been scheduled for Thursday, February 16, 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, DC 20426.

All interested persons and staff are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 95–2188 Filed 1–27–95; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP92–229–005]

Northwest Pipeline Corporation; Proposed Change in FERC Gas Tariff

January 24, 1995.

Take notice that on January 19, 1995, Northwest Pipeline Corporation (Northwest), tendered for filing as part of its FERC Gas Tariff the following tariff sheets with a proposed effective date of February 19, 1995:

Third Revised Volume No. 1

Substitute First Revised Sheet No. 13
Substitute First Revised Sheet No. 244
Substitute First Revised Sheet No. 245
Fourth Revised Sheet No. 246
Substitute First Revised Sheet No. 247
Substitute First Revised Sheet No. 248
Substitute First Revised Sheet No. 249
Substitute First Revised Sheet No. 250

Northwest states that the purpose of this filing is to comply with the Federal Energy Regulatory Commission's (''Commission'') directives in the Order on Rehearing, dated December 20, 1994, in Docket No. RP92–229–003 to change the allocation among Northwest's affected customers of the fixed component of supplier settlement payments (SSP) previously paid to Northwest by certain of its customers. Northwest states that Substitute First Revised Sheet No. 13 shows by customer the incremental principal amounts, with interest computed through January 31, 1995, that will be billed or refunded to the affected customers pursuant to further order of the Commission. The other sheets being tendered revise Section 19 of Northwest's General Terms and Conditions in its FERC Gas Tariff, Third Revised Volume No. 1, so that the SSP provisions comply with the directives of the Commission.

Northwest states that a copy of this filing has been served upon all intervenors in Docket No. RP92–229, upon Northwest's affected customers, and upon relevant state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § 385.211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before January 31, 1995. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protests parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–2186 Filed 1–27–95; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 1988]

Pacific Gas & Electric Company; Public Scoping Meeting

January 24, 1995.

The Federal Energy Regulatory Commission (Commission), has received an application for a new license (relicense) for the existing project operated by the Pacific Gas & Electronic Company (PG&E), on the North Fork Kings River in east central California in or near Fresno. The project includes two developments: Haas and Kings River.

Upon review of the application, supplemental filings and intervenor submittals, the Commission staff concludes that, given the location and interaction of the project with other projects nearby, staff will prepare an Environmental Assessment (EA) that describes and evaluates the probable impacts of the applicant's proposals and alternatives for the project.

One element of the EA process is scoping. Scoping activities are initiated early to:

- Identify reasonable alternative operational procedures and environmental enhancement measures that should be evaluated in the EA;
- Identify significant environmental issues related to the operation of the existing project;
- Determine the depth of analysis for issues that will be discussed in the EA; and
- Identify resource issues that are of lesser importance and, consequently, do not require detailed analysis in the EA.

Site Visit

A site visit by Commission staff is planned for February 28, 1995, weather permitting, to familiarize staff with project facilities, other projects in the area, and the environmental setting. The visit will begin at 9:00 AM at the Kings River powerhouse. Anyone wishing to accompany Commission staff is invited to attend.

Scoping Meetings

Commission staff will conduct two public meetings for the Haas-Kings River Project. All interested individuals, organizations, and agencies are invited

to attend either or both of the planned meetings and help staff identify the scope of environmental issues that should and should not be analyzed in the Haas-Kings River EA.

Two scoping meetings will be held on March 1, 1995, in the Clovis City Council Chambers. The Chambers are located at 1033 Fifth Street, Clovis, California. The first meeting will be held from 9:00 AM to 12:00 PM and will be oriented toward resource agency concerns. The second meeting will be held in the evening from 7:00 PM to 11:00 PM and will be oriented toward public participation.

Procedures

The meetings, which will be recorded by a stenographer, will become part of the formal record of the Commission's proceeding on the Haas-Kings River Project. Individuals presenting statements at the meetings will be asked to sign in before the meeting starts and to identify themselves for the record.

Concerned parties are encouraged to speak during the public meeting. Speaking time allowed for individuals will be determined before each meeting, based on the number of persons wishing to speak and the approximate amount of time available for the session. All speakers will be provided at least 5 minutes to present their views.

Objectives of the Scoping Meetings

At the scoping meetings, the staff will:

- Summarize the environmental issues tentatively identified for analysis in the EA;
- Identify resource issues that are of lesser importance and, therefore, do not require detailed analysis;
- Solicit from the meeting participants all available information, especially quantifiable data, concerning significant local resources; and
- Encourage statements from experts and the public on issues that should be analyzed in the EA.

Information Requested

Federal and state resource agencies, local government officials, interested groups, area residents, and concerned individuals are requested to provide any information they believe will assist the Commission staff to analyze the environmental impacts associated with relicensing the project. The types of information sought include the following:

- Data, reports, and resource plans that characterize the baseline physical, biological, or social environments in the vicinity of the projects; and
- Information and data that helps staff identify or evaluate significant environmental issues.

Scoping information and associated comments should be submitted to the Commission no later than March 31, 1995. Written comments should be provided at the scoping meeting or mailed to the Commission, as follows: Lois Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

All findings sent to the Secretary of the Commission should contain an original and 8 copies. Failure to file an original and 8 copies may result in appropriate staff not receiving the benefit of your comments in a timely manner. See 18 CFR 4.34(h).

All correspondence should clearly show the following caption on the first page:

FERC Project No. 1988: Haas-Kings River

Intervenors and interceders (as defined in 18 CFR 385.2010) who file documents with the Commission are reminded of the Commission's Rules of Practice and Procedure requiring them to serve a copy of all documents filed with the Commission on each person whose name is listed on the official service list for this proceeding. See 18 CFR 4.34(b).

For further information, please contact Frankie Green at (202) 501–7704.

Lois D. Cashell,

Secretary.

[FR Doc. 95–2184 Filed 1–27–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–172–000]

Texas Gas Transmission Corporation; Request Under Blanket Authorization

January 24, 1995.

Take notice that on January 20, 1995, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky, 42301 filed in Docket No. CP95–172–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to add an interconnect with Egan Gas Storage Company, Inc. (Egan Gas), in Acadia Parish, Louisiana, under Texas Gas' blanket certificate issued in Docket No. CP82–407–000, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Texas Gas states that the new interconnect, to be known as the Tejas Power-Egan Meter Station, will be located on Texas Gas' Eunice-Eastwood 20″ pipeline and will be used as both a receipt and delivery point interconnecting the facilities of Texas Gas and an underground salt cavern gas storage facility owned and operated by Egan Gas. Texas Gas further states that the proposed interconnect will consist of a bi-directional measurement facility which will include two 12-inch meter runs, flow control and related facilities installed and owned by Egan Gas, but operated by Texas Gas; and 8″ side valve to be installed, owned and operated by Texas Gas. Texas Gas advises that Egan Gas will reimburse Texas Gas in full for the cost of the facilities to be installed by Texas Gas.

Texas Gas also states that the maximum quantity of gas to be delivered and/or received through this proposed interconnect is 225,000 MMBtu per day and this delivery/receipt point will be available to all existing and potential shippers receiving service under Texas Gas' transportation rate schedules. Texas Gas asserts that this proposal will have no significant impact on its peak day and annual deliveries.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 95–2181 Filed 1–27–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER95–203–000 and Docket No. ER95–216–000]

UtiliCorp United, Inc. and Aquila Power Corporation; Issuance of Order

January 24, 1995.

On November 18, 1994, UtiliCorp United, Inc. (UtiliCorp) submitted for filing proposed transmission tariffs in

Docket No. ER95–203–000. In a separate filing on November 18, 1994, Aquila Power Corporation (Aquila), a power marketing subsidiary of UtiliCorp, filed an application requesting Commission approval to sell electricity at market-based rates.

Aquila's application also contained a request for certain blanket approvals consistent with the Commission's treatment of other power marketers. In particular, Aquila requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by Aquila. On January 13, 1995, the Commission issued an Order Accepting For Filing, Suspending And Setting For Hearing Proposed Transmission Tariffs, Accepting For Filing And Suspending Market-Based Rate Schedule, and Granting And Denying Requests For Waivers And Authorizations (Order), in the above-docketed proceedings.

The Commission's January 13, 1995 Order granted the request for blanket approval under Part 34, subject to the following conditions found in Ordering Paragraphs (J), (K), and (M):

''(J) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Aquila should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(K) Absent a request to be heard within the period set forth in ordering paragraph (J) above, Aquila is hereby authorized, pursuant to section 204 of the Federal Power Act, to issue securities and assume obligations or liabilities as guarantor, endorser, security, or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Aquila, compatible with the public interest, and reasonably necessary or appropriate for such purposes.''

''(M) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of Aquila's issuances of securities or assumptions of liabilities * * *.''

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is February 13, 1995.

Copies of the full text of the order are available from the Commission's Public Reference Branch, Room 3308, 941 North Capitol Street, N.E. Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 95–2183 Filed 1–27–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–2–43–001]

Williams Natural Gas Co.; Compliance Filing

January 24, 1995.

Take notice that on January 17, 1995, Williams Natural Gas Company (WNG), pursuant to the Commission's order issued December 30, 1994 [1] filed information regarding Alden storage fuel and loss, and Rate Schedule X–24 storage capacity, fuel and loss.

WNG states that Attachment A to the filing shows the actual fuel usage each month, actual calculated storage loss for 1993 and 1994, and the estimate of 1994 fuel and loss used to calculate the 3.96% fuel reimbursement factor which WNG supplied on November 2, 1994 in Docket Nos. RP94–172 and RP94–205.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E. Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before January 31, 1995. Protests will be considered by the commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–2189 Filed 1–27–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–173–000]

Wyoming Interstate Company; Application

January 24, 1995.

Take notice that on January 23, 1995, Wyoming Interstate Company, (WIC), Post Office Box 1087, Colorado Springs, Colorado 80944, filed an application pursuant to Section 7(b) of the Natural Gas Act for an order granting permission and approval to abandon a transportation service provided by WIC for Columbia Gas Transmission Corporation (Columbia) accompanied by Columbia's payment of an exit fee to WIC, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that WIC and Columbia entered into a Service Agreement dated August 15, 1983 (Service Agreement), covered by Rate Schedule T of WIC's FERC Gas Tariff, First Revised Volume No. 1, which provides for the transportation of up to 83,000 Mcf per day from the interconnection between Overthrust Pipeline Company and WIC at the westernmost point of WIC's system to the interconnect between WIC and Trailblazer Pipeline Company at the easternmost point of WIC's system. WIC states that the Service Agreement has a termination date of January 1, 2004. However, pursuant to an Exist Fee Agreement (Exit Agreement) between WIC and Columbia, the parties have agreed among other things, to terminate Columbia's contractual obligation under the Service Agreement through the payment of a negotiated exit fee by Columbia to WIC in consideration for WIC's agreement to early termination and abandonment of the Service Agreement. WIC requests that the abandonment be effective upon the approval date as defined in the Exit Agreement (included as Exhibit U to the application). WIC also requests authority to charge an exit fee as provided in the Exit Agreement.

WIC states that Columbia has informed it that Columbia has restructured its services pursuant to Order No. 636, and no longer can use the firm transportation service provided under the Service Agreement. It is stated that Columbia has sought to assign some or all of its capacity on WIC to its customers consistent with Order No. 636, and has posted the availability of said capacity on its electronic bulletin board as well as on WIC's electronic bulletin board, and has been unsuccessful in finding any party or parties desirous of taking over Columbia's entitlement.

WIC states that the abandonment authorization requested herein by WIC would terminate the transportation service for Columbia, which Columbia no longer requires. Therefore, WIC believes that the information and data set forth herein show that the abandonment of the transportation service sought by WIC for Columbia and the imposition of an exit fee by WIC for early termination and abandonment

[1] 69 FERC § 61.426.

would serve the public convenience and necessity.

WIC states that it has not proposed to reallocate Columbia's responsibility for the system costs to other shippers. Accordingly, WIC intends to retain the exit fee payment from Columbia. WIC proposes to continue to market the capacity freedup by Columbia's exit, but based upon the presently-available markets for such capacity on a firm basis, WIC contends that it may well be years before WIC can find parties to replace Columbia. Should other shippers be found, WIC states that any ultimate reconciliation of exist-fee payment, payments by new shippers and the loss of Columbia's responsibility for system costs must take account of the fact that Columbia is paying only a fraction of the net present value of its contract.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 3, 1995, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the National Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the Protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

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

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

Lois D. Cashell,

Secretary.

[FR Doc. 95–2182 Filed 1–27–95; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5141–6]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 1, 1995.

FOR FURTHER INFORMATION CONTACT: For further information, or to obtain a copy of this ICR, contact Sandy Farmer at 202–260–2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: New Source Performance Standard (NSPS) (40 CFR part 60, subpart E) for Municipal Incinerators-Reporting and Record Keeping Requirements. (EPA ICR No. 1058.05.; OMB No. 2060–0040). This is a request for renewal of a currently approved information collection.

Abstract: This ICR is for an extension of an existing information collection in support of the NSPS for Particulate Matter (PM) as established by the Clean Air Act. In accordance with the general requirements under 40 CFR 60.7–60.8, and the specific requirements for PM emissions by municipal incinerators under 40 CFR 60.5–60.54, subject facilities must comply with certain reporting, monitoring and recordkeeping requirements.

Owners and operators of new sources subject to this NSPS must submit to EPA: (1) Notification of the date of construction or reconstruction; (2) notification of the anticipated and actual dates of start-up; and (3) initial performance test results. The program is currently updating municipal incinerator performance standards and anticipates no expansion of the reporting universe before the new regulations are released; the program expects no reporting burden for this ICR. Owners and operators of any existing facility must notify EPA of (1) any physical or operational change to their facility which may result in an increase in the regulated pollutant emission rate. All sources must also maintain records on the incinerator operation that include: (1) The occurrence and duration of any start-up, shutdowns and malfunctions; (2) initial performance test results; and (3) daily charging rates and operating hours. The information collected will be used by the EPA for compliance monitoring, inspection and enforcement efforts directed at ensuring facility compliance with this NSPS.

Presently, there are an estimated 93 facilities subject to the regulation. All subject facilities must maintain records related to compliance for two years.

Burden Statement: The public reporting burden for this collection of information is 0 hours and the recordkeeping burden for this collection of information is estimated to average 89 hours per facility annually. This estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information.

Estimated No. of Recordkeepers: 93.

Estimated Total Annual Burden on Recordkeepers: 8,277 hours.

Frequency of Collection: Daily for recordkeeping.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to:

Ms. Sandy Farmer,U.S. Environmental Protection Agency,Information Policy Branch (2136), 401 M Street, SW., Washington, DC 20460.

and

Mr. Chris Wolz, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503.

Dated: January 20, 1995.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 95–2133 Filed 1–27–95; 8:45 am]

BILLING CODE 6560–50–F

[FRL–5146–9]

RIN 2060–AE61

Federal Radiation Protection Guidance for Exposure of the General Public

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public hearings on proposed recommendations.

SUMMARY: The Office of Radiation and Indoor Air, Criteria and Standards Division will hold public hearings on the proposed recommendations for the new guidance to Federal agencies in their formulation of regulations and conduct of programs for the protection of the general public from exposure to ionizing radiation.

DATES: The hearings will be held on Wednesday, February 22, from 9:30 am to 5:00 pm and Thursday, February 23, from 9:30 am to 1:00 pm, 1995.

ADDRESSES: The hearings will take place at the EPA Auditorium at the Waterside Mall (enter on the Eye Street side next to the Washington Federal Savings and Loan), 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Allan C.B. Richardson, Deputy Director for Federal Guidance, Criteria and Standards Division, Office of Radiation and Indoor Air (6602J), U.S. EPA, Washington, DC 20460, telephone (202) 233–9213; FAX (202) 233–9629 concerning the hearings.

SUPPLEMENTARY INFORMATION: This meeting is open to any member of the public. As noted in the notice proposing these recommendations published in the **Federal Register** on December 23, 1994 (59 FR 66414, No. 246), requests to participate in the public hearing should be submitted to Allan C.B. Richardson, at the above address, by January 23, 1995. Requests to participate in the public hearing should also include an outline of the topics to be addressed, the amount of time requested, and the names of the participants. EPA may also allow testimony to be given at the hearing without prior notice, subject to time constraints and at the discretion of the hearing officer. Five (5) copies of testimony should be submitted at the time of appearance at the hearings.

Dated: January 23, 1995.

Richard D. Wilson,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 95–2132 Filed 1–27–95; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5147–2]

Committee Meetings of the Grand Canyon Visibility Transport Commission

AGENCY: Environmental Protection Agency.

ACTION: Notice of meetings.

SUMMARY: The United States Environmental Protection Agency (U.S.EPA) is announcing meetings of the Aerosol and Visibility, and Meteorology Subcommittees of the Grand Canyon Visibility Transport Commission (Commission).

The Aerosol and Visibility Subcommittee will meet from 8:30 am to 4:30 pm on Friday, February 10, 1995 in the Southern Nevada Science Center Conference Room, Desert Research Institute, 755 East Flamingo Road, Las Vegas, NV. The meeting will focus on the development of a methodology for estimating extinction from model output.

The Meteorology Subcommittee will meet from 8:30 am on Monday, February 13 to 4:30 pm on Tuesday, February 14, 1995 in the Southern Nevada Science Center Conference Room, Desert Research Institute, 755 East Flamingo Road, Las Vegas, NV. The Subcommittee will, among other items, evaluate wind field models, review the Commission's Clean Air Corridor Report, and define a typical meteorological year.

The Commission was established by the EPA on November 13, 1991 (see 56 FR 57522, November 12, 1991). All meetings are open to the public. These meetings are not subject to provisions of the Federal Advisory Committee Act, Public Law 92–463, as amended.

FOR FURTHER INFORMATION CONTACT: Mr. John T. Leary, Project Manager for the Grand Canyon Visibility Transport Commission, Western Governors' Association, 600 17th Street, Suite 1705, South Tower, Denver, Colorado 80202; telephone number (303) 623–9378; facsimile machine number (303) 534–7309.

Dated: January 20, 1995.

John Wise,

Acting Regional Administrator.

[FR Doc. 95–2163 Filed 1–27–95; 8:45 am]

BILLING CODE 6560–50–P

[Docket No. 659; FRL–5146–8]

Notice of Intent To Cancel Registrations of Certain Products Containing the Active Ingredient Metam Sodium

On September 21, 1994, EPA published in the **Federal Register** (59 FR 48430) notice of intent to cancel, pursuant to section 6(b) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. 136d(b)), registrations of certain products containing the active ingredient metam sodium, specifically, Vaporooter A Foaming Fumigant (EPA Reg. No. 9903–1), Foam Coat Vaporooter (EPA Reg. No. 9993–2), and Sanafoam Vaporooter II (EPA Reg. No. 9993–3). In accordance with 40 CFR 164.8, notice is given that objections to the notice of intent to cancel and a request for hearing on said objections have been filed by Airrigation Engineering Co., Inc. A hearing on these objections will be conducted in accordance with the Rules of Practice Governing Hearings Under Section 6 of the Act (40 CFR part 164) and notice of the hearing date will be published when a hearing is scheduled. For further particulars, interested persons are invited to examine the file (FIFRA Docket No. 659) which is available in the Office of the Hearing Clerk, Room 3708, 401 M. Street, SW, Washington, DC, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Dated this 20th day of January 1995.

Spencer T. Nissen,

Administrative Law Judge.

[FR Doc. 95–2131 Filed 1–27–95; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1044–DR]

California; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of California, (FEMA–1044–DR), dated January 10, 1995, and related determinations.

EFFECTIVE DATE: January 19, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of California dated January 10, 1995, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 10, 1995:

Amador, Kern, Marin, Modoc, Nevada, and San Bernardino Counties for Public Assistance. (Already designated for Individual Assistance.)

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Richard W. Krimm,

Associate Director, Response and Recovery Directorate.

[FR Doc. 95–2203 Filed 1–27–95; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–1041–DR]

Texas; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Texas, (FEMA–1041–DR), dated October 18, 1994, and related determinations.

EFFECTIVE DATE: January 18, 1995.

FOR FURTHER INFORMATION CONTACT:

Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Texas dated October 18, 1994, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 18, 1994:

Washington County for Public Assistance (already designated for Individual Assistance.)

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Richard W. Krimm,

Associate Director, Response and Recovery Directorate.

[FR Doc. 95–2204 Filed 2–27–95; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL RESERVE SYSTEM

Agency Forms under Review

Background

Notice is hereby given of the submission of proposed information collection to the Office of Management and Budget (OMB) for its review and approval under the Paperwork Reduction Act (Title 44 U.S.C. Chapter 35) and under OMB regulations on Controlling Paperwork Burdens on the Public (5 CFR Part 1320). A copy of the proposed information collection(s) and supporting documents is available from the agency clearance officer listed in the notice. Any comments on the proposal should be sent to the agency clearance officer and to the OMB desk officer listed in the notice.

DATES: Comments are welcome and should be submitted on or before February 27, 1995.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Mary M. McLaughlin—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3829); for the hearing impaired*only*, telecommunications device for the deaf (TTD) (202-452-3544), Dorothea Thompson, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

OMB Desk Officer—Milo Sunderhauf—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202-395-7340).

Request for OMB approval to extend, without revision, the following report(s):

1. Report title: Annual Report of Trust Assets.
Agency form number: FFIEC 001.
OMB Docket number: 7100-0031.
Frequency: Annual.
Reporters: State member banks with trust powers, and trust company subsidiaries of bank holding companies not otherwise supervised by a federal banking agency.
Annual reporting hours: 2,115.
Estimated average hours per response: 4.5.
Number of respondents: 470.
Small businesses are affected.

General description of report: This information collection is mandatory to obtain or retain a benefit [12 U.S.C. 248(a) and 1844(a)] and is not given confidential treatment.

SUMMARY: This interagency report is the only report on fiduciary asset totals and activities. It is used to monitor changes in the volume and character of discretionary trust activity, the volume of nondiscretionary trust activity, and the resource needs for supervisory purposes. The data are also used for statistical and analytical purposes.

2. Report title: Annual Report of International Fiduciary Activities.
Agency form number: FFIEC 006.
OMB Docket number: 7100-0031.
Frequency: Annual.
Reporters: State member banks and foreign banking affiliates.
Annual reporting hours: 224.
Estimated average hours per response: 4.
Number of respondents: 56.
Small businesses are not affected.

General description of report: This information collection is mandatory to obtain or retain a benefit [12 U.S.C. 248(a)(1), 325, 334, 602, 625, and 1844] and is given confidential treatment [5 U.S.C. 552(b)(8)].

SUMMARY: This report provides the only available known source of the volume of trust or fiduciary activities of foreign banking affiliates of U.S. banking organizations. The information reported is used for supervisory purposes.

Board of Governors of the Federal Reserve System, January 24, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–2169 Filed 1–27–95; 8:45am]

Billing Code 6210–01–F

Barnett Banks, Inc.; 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 10, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Barnett Banks, Inc., and Barnett Mortgage Company, both of Jacksonville, Florida; to acquire BancPLUS Financial Corporation, San Antonio, Texas, and thereby engage in (1) acquiring and servicing mortgage loans; (2) acting as principal, agent or broker for insurance that is directly related to an extension of credit and limited to ensuring repayment of the outstanding balance due on the extension of credit; and (3) supervising on behalf of insurance underwriters the activities of retail insurance agents who sell fidelity insurance and property and casualty insurance on the real and personal property used in the operations of the bank holding company or its subsidiaries, and group insurance that protects the employees of the bank holding company or its subsidiaries, pursuant to §§ 225.25(b)(1)(iii); 225.25(b)(8)(i); and 225.25(b)(8)(v) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 24, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–2170 Filed 1–27–95; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Announcement Number 514]

RIN 0905–ZA85

Sexually Transmitted Diseases/Human Immunodeficiency Virus Prevention Training Centers

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1995 funds for cooperative agreements to continue the Sexually Transmitted Diseases/Human Immunodeficiency Virus (STD/HIV) Prevention Training Centers (PTCs) program. The objective of these awards is to support innovative professional training programs in integrated STD and HIV client management within a national network of STD/HIV PTCs to achieve a comprehensive prevention strategy, including clinical, health behavioral, and partner counseling interventions.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of ''Healthy People 2000,'' a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority areas of STDs and HIV infection. (For ordering a copy of ''Healthy People 2000,'' see the section ''Where to Obtain Additional Information.'')

Authority

This program is authorized under the Public Health Service Act section 318 (42 U.S.C. 247c), section 301 (42 U.S.C. 241), section 311 (42 U.S.C. 243), and section 317 (42 U.S.C. 247b), as amended. Regulations governing Grants for STD Research Demonstrations and Public and Professional Education are codified in Part 51b, Subparts A and F of Title 42, Code of Federal Regulations.

Smoke-Free Workplace

The Public Health Service strongly encourages all grant recipients to provide a smoke-free workplace and to promote the non-use of all tobacco products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Elibigle Applicants

Eligible applicants are the official public health agencies of State and local governments or their bona fide agents. This includes the District of Columbia, American Samoa, the Commonwealth of Puerto Rico, the Virgin Islands, the Federated States of Micronesia, Guam, the Northern Mariana Islands, the Republic of the Marshall Islands, the Republic of Palau, and federally recognized Indian tribal governments. Applicants from local public health agencies must document the concurrence of the State or territorial health agency.

Availability of Funds

Approximately $5.6 million is available in FY 1995 to fund approximately ten awards for a 12-month budget period within a 5-year project period. All applicants must compete for Part I (Clinical Services Training). Part II (Health Behavior Training) and Part III (Partner Counseling Training) are elective. Up to $4 million will be available to fund 10 awards in Part I. It is expected that the average award for Part I will be $375,000, ranging from $300,000 to $450,000. For Part II, up to $1 million will be available to fund up to 4 awards with an anticipated average award of $250,000. For Part III, up to $600,000 will be available to fund up to 4 awards with an anticipated average award of $150,000. Funding estimates may vary and are subject to change.

Part I establishes the funding for this cooperative agreement; Parts II and III build upon Part I. Only applicants funded under Part I can receive awards under Part II or Part III. Separate funding will be established for awards made under Part I, Part II and Part III for each recipient. Awards are expected to be made on or about April 1, 1995.

Continuation awards within the project period will depend on satisfactory progress and the availability of funds. Progress will be determined by site visits by CDC representatives, progress reports, and the quality of future program plans.

Use of Funds

Cooperative agreement funds may be used to support personnel, equipment, and supplies necessary for professional training, including distance learning activities. Funds may not be used to lease space; maintain central registries; provide diagnostic and treatment facilities and services; develop literature for the general public; provide disease intervention services or HIV counseling and testing: or to pay other expenses

normally supported by the applicant. Unless specifically approved, funds may not be used for substantial renovation of facilities. Federal funds may not be used to replace training support.

In-kind contributions, such as space and reduced service fees, may be considered in the total program costs.

Program income in the form of participant registration fees may be collected to offset the costs of conducting training as specified in this announcement. Program income may support the costs of designing and delivering additional courses directly related to the objectives of PTCs and as determined by the assessment of training needs. Registration fees should be reasonable, i.e., they should not prohibit the participation of the training audience.

Any materials developed in whole or in part with PHS funds shall be subject to a nonexclusive, irrevocable, royalty-free license to the government to reproduce, translate, publish, or otherwise use and authorize others to use for government purposes.

Purpose

The purpose of this training cooperative agreement is to: (1) Explore and provide innovative educational methods for health professionals in public, private, and community sectors, (2) augment the capacity to reach minority populations in need of services and improve health benefits for women, infants, and adolescents, (3) facilitate integrated prevention efforts by building upon the interrelationships between HIV and other STDs at biologic, behavioral, and epidemiologic levels, (4) support a comprehensive disease prevention strategy through clinic-based and community-based activities, (5) anticipate the emerging health care reform demands to maintain a knowledgeable, skilled, sensitive, responsive, and productive national work force, and (6) prepare, through experiential activities, persons who are studying to be health practitioners.

Training will be accomplished by: (1) Establishing regional training centers coordinated with CDC to participate in a national network of quality training instruction in the procedures and guidelines for integrated STD and HIV client management such as: (a) the principles and techniques of diagnosis and treatment, (b) behavioral intervention strategies to prevent or reduce behaviors that place persons at risk, and (c) partner counseling including referral and notification; (2) offering clinic-based and community-based training experiences with clients in a public health setting; (3) developing capacity in communities by enlisting graduate school faculty and experts from the community to work in interdisciplinary partnerships with health departments in the planning, production, delivery, and evaluation of training; (4) using advances in communications technology in innovative distance learning methodologies; and (5) designing analytic methods for educationally relevant and cost-effective training.

Program Requirements

The recipient will be responsible for conducting activities under A., and the CDC will be responsible for conducting activities under B., below:

A. Recipient Activities

1. Administration: (a) Select a person with management and educational experience and credentials and give that person primary responsibility and authority to manage and coordinate all training activities; (b) organize a PTC steering committee to facilitate clinic-based, community-based, and regional training; and (c) ensure that PTC staff are qualified and work collaboratively without duplication of administrative expense.

2. STD/HIV program-related issues: Maintain liaison with regional, State, local, and community-based STD and HIV prevention programs and initiatives (e.g., Prevention of Infertility, HIV Prevention Community Planning) and other health professional training programs in the PHS region to determine training needs, to assess educational resources, and to design, deliver, and evaluate training.

3. Professional Training: (a) Contract with the experts in the community and graduate schools for faculty, subject experts, behavioral scientists with field experience, and education and evaluation consultants for assistance in designing or writing training needs assessments, educational objectives, curriculum content, instructional design, state-of-the-art delivery methods, and course evaluation. Graduate schools include a local school of medicine and other schools (in the PHS region) offering academic disciplines such as nursing, social work, psychology, sociology, anthropology, education, and public health. (b) Establish innovative arrangements with universities such as graduate assistantships for student academic involvement in PTC activities.

4. Model Clinic and Community-based Services: Provide a setting with (a) a public health STD clinic which follows CDC guidelines for integrated STD and HIV client medical management, clinic operation, client-centered counseling, and partner counseling, including elicitation, referral, and notification; (b) community-based interventions based on behavior change theory, and (c) clinic-based and community-based training with clients.

5. Distance Learning: Explore, develop, and deliver distance learning products and accompanying documentation. The products should be regional or national in scope and usable by other PTCs and training agencies. Distance learning includes off-site conferences, satellite broadcasts, remote video instruction, self-study modules, computer-based training, interactive computer disks, train-the-trainer, and Internet transmission.

6. Accreditation: (a) Acquire and award continuing medical education (CME) credit and continuing education units (CEU) that meet the needs of most course participants, (b) maintain a regional course registration database, including required CME and CEU documentation, and (c) coordinate participant data collection with CDC.

7. Evaluation: (a) Determine and measure successful process indicators, immediate training benefits (impact), and long-range benefits in STD/HIV prevention (especially for women, infants, adolescents, and minority populations); and (b) Analyze training costs including the cost- effectiveness of distance learning.

8. National Prevention Training Network Participation: Individually and through meetings, participate with all STD/HIV Prevention Training Centers and CDC in sharing materials and evaluating training.

9. Collaboration: In collaboration with CDC: (a) meet with technical experts on subject matter and educational theory in the development of courses (including needs assessment, curriculum design, and evaluation), and (b) Public Health Training Network (PHTN) and distance learning coordinators (DLC) in the marketing of distance learning courses using CDC Wonder.

10. Technical assistance: Collaborate with CDC in course preparation and delivery by PTC professionals to train staff in health departments or nongovernmental organizations in support of national STD/HIV prevention activities.

B. CDC Activities

1. Technical Assistance: (a) Provide STD/HIV subject matter, educational, and technical experts to assist and advise in the development of the curriculum; advise on course objectives, instructional design, and delivery; and

ensure that evaluation is consistent with desired training outcomes, and (b) be available to the recipient upon request to co-teach selected courses on clinical, behavioral, and partner counseling.

2. Distance Learning Assistance: Assist in: (a) providing information on the PHTN, DLCs, and resources; (b) scheduling regional and national training through CDC Wonder; and (c) establishing an electronic communication network among the PTCs, the Division of STD/HIV Prevention grantees, CDC, and graduate school partners.

3. Program Reviews: Conduct site visits: (a) for new recipients, to review clinical and community-based capabilities; (b) to advise on instructional design; (c) to provide technical assistance in defining and resolving problems; and (d) to monitor program implementation, project management, and analysis.

4. Ensure Training Network Integrity: Provide guidelines, curriculum, training aids, and software developed by CDC, the PTCs, or other agencies that provide direction for professional intervention approaches that preserve client dignity and confidentiality.

5. National Prevention Training Network: Through yearly (or more frequent) PTC conferences and training meetings, augment the network capacity of PTC network partners by sharing new curricula and distance learning strategies.

6. Communication: Through publications, correspondence, narrative reports, and electronic communication, keep CDC and PTC staff informed of national issues that affect training and program management.

7. Evaluation: Coordinate and support a national course registration database, provide adequate staff database training, and analyze and publish cumulative data on the training effectiveness of the national network of PTCs.

Evaluation Criteria

Applications requesting funds to support administrative functions only will be considered nonresponsive. Only information in the application will be considered. Applications will be evaluated separately for each part according to the following criteria (maximum 100 points).

1. Quality of Plan

a. *Administration:* The quality of the plan for committing to regional or national training, providing leadership and direction, describing duties of personnel, continuing or expeditiously beginning training according to a schedule, committing a person to act as medical school liaison for prescribed duties, obtaining high quality behavioral science expertise, recruiting faculty who are skilled and experienced in interactive instruction, and making cost-efficient and quality arrangements for faculty from graduate schools. (10 points)

b. *Training Needs Assessment:* The quality of the description of contacts with STD and HIV prevention programs and initiatives in the training area, the training partners, and the specific health professional audiences identified for training. (10 points)

c. *Objectives:* The extent to which training objectives are specific, measurable, time-phased, and realistic. (10 points)

d. *Clinical and Community-based Capability:* The ability to support training opportunities with clients reflecting regional disease trends yet providing diverse clinical experiences (e.g., census, disease, sex, age, and race or ethnicity) as evidenced by descriptions of the local STD/HIV morbidity, laboratory tests, clinic hours, patient flow, staffing, significant records, profiles of clients, and prevention programs. (10 points)

e. *Training Capability:* The quality of the applicant's ability to perform training as evidenced by descriptions of training locations, equipment, storage and security, computer capabilities, distance learning capabilities, the plan to involve graduate students, the plan for updating staff, the plan for printing training materials, and the design of library. (10 points)

f. *Training Courses:* The quality of the plan to deliver training as evidenced by a schedule of proposed training courses (including 200 hours of clinical, Part 1; 100 hours of behavioral intervention, Part II; 500 hours of partner counseling, Part III), assurance of training experience with clients, distance learning plans, outlines and objectives for courses, assurance of distribution of training products, and an intent to collaborate with CDC. (10 points)

2. Innovation

The degree to which the applicant proposes innovative, feasible approaches such as: (a) using existing resources to avoid duplication and minimize costs, (b) determining the needs of potential participants that complement HIV/STD prevention programs, (c) designing distance-learning strategies appropriate to needs and audiences, (d) maximizing the impact of training experiences, (e) using a variety of effective training techniques, (f) making arrangements for graduate students to be academically involved in PTC activities, and (g) working with new partners. (20 points)

3. Strength of Training Evaluation

The quality of the applicant's plans to (a) acquire and commit the expertise to perform quality evaluation (e.g., contracts with a local graduate school), (b) maintain records electronically, (c) coordinate data collection and system maintenance consistent with a national PTC course registration database, (d) determine whether course offerings match needs assessment, (e) assess student gains in knowledge and skills, (f) assess the application of skills and abilities after participants return to their workplaces, (g) determine training benefits for STD/HIV prevention, and (h) develop training cost-benefit models. (20 points)

4. Budget

Consideration also will be given to the reasonableness of the budget request, the amount of program income toward total project costs, amount and nature of in-kind contributions, the proposed use of project funds, and the need for financial support. The level of support will depend on the availability of funds. (not scored)

Funding Priorities

Consideration will be given in Part I to applicants who have established training and clinical capabilities and to funding one PTC in each of the 10 Public Health Service (PHS) Regions; in Part II to applicants with demonstrated experience in community-based interventions and experience in working with behavioral scientists; and in Part III to applicants with experience in current partner counseling techniques and with a wide geographic distribution of the applicants.

Interested person are invited to comment on the proposed funding priority. All comments received on or before February 24, 1995, will be considered before the funding priority is established. If the funding priority should change as a result of any comments received, a revised Announcement will be published in the **Federal Register** prior to the final selection of awards.

Written comments should be addressed to: Elizabeth M. Taylor, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E–16, Atlanta, Georgia 30305.

Executive Order 12372 Review

Applications are subject to Intergovernmental Review of Federal Programs as governed by Executive Order (E.O.) 12372. E.O. 12372 sets up a system for State and local government review of proposed Federal assistance applications. Applicants (other than federally recognized Indian tribal governments) should contact their State Single Point of Contact (SPOC) as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC for each affected State. A current list of SPOCs is included in the application kit. If SPOCs have any State process recommendations on applications submitted to CDC, they should send them to Elizabeth M. Taylor, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E–16, Atlanta, GA 30305, not later than 60 days after due date for receipt of applications. The Program Announcement Number and Program Title should be referenced on the document. CDC does not guarantee to ''accommodate or explain'' State process recommendations it receives after that date. Indian tribes are strongly encouraged to request tribal government review of the proposed application. If tribal governments have any tribal process recommendations on applications submitted to CDC, they should forward them to Elizabeth M. Taylor, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E–16, Atlanta, GA 30305. This should be done no later than 60 days after the application deadline date. The granting agency does not guarantee to ''accommodate or explain'' for tribal process recommendations it receives after that date.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 93.978, Sexually Transmitted Disease Research, Demonstrations, and Public Information and Education Grants, and 93.941, HIV Demonstration, Research, Public and Professional Education Projects.

Other Requirements

Paperwork Reduction Act

Projects that involve the collection of information from 10 or more individuals and funded by the cooperative agreement will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Confidentiality

Applicants must have in place systems to ensure the confidentiality of patient records.

HIV/AIDS Requirements

Recipients must comply with the document entitled, Content of AIDS-Related Written Materials, Pictorials, Audiovisuals, Questionnaires, Survey Instruments, and Educational Sessions (June 1992)(a copy is in the application kit). To meet the requirements for a program review panel, recipients are encouraged to use an existing program review panel, such as the one created by the State health department's HIV/AIDS Prevention Program. If the recipient forms its own program review panel, at least one member must also be an employee (or a designated representative) of a State or local health department. The names of the review panel members must be listed on the Assurance of Compliance form CDC 0.1113, which is also included in the application kit. The recipient must submit the program review panel's report that indicates all materials have been reviewed and approved.

Before funds can be used to develop HIV/AIDS-related materials, determine whether suitable materials are already available at the CDC National AIDS Clearinghouse.

Application Submission and Deadline

The application for Part I (excluding legally required assurance pages and forms, and budget justification) including the programmatic narrative content, illustrations, and examples should not exceed 40 ($8\frac{1}{2}'' \times 11''$) pages, single spaced, single sided and with 1-inch margins, 12 cpi font, and numbered on each page. Applications for Parts II and III should not exceed 20 pages each. The programmatic narrative content should also be submitted in electronic format on a 3.5″ double sided, high-density diskette, in WordPerfect 5.1 or ASCII. On or before February 24, 1995, submit the original and two copies of the application (Form PHS 5161–1—OMB Number 0937–0189) and one electronic copy on disk to Elizabeth M. Taylor, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Center for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E–16, Atlanta, GA 30305.

1. *Deadline:* Applications shall be considered as meeting the deadline if they are:

A. Received on or before the deadline or

B. Sent on or before the deadline date and received in time for submission to the independent review committee. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks will not be acceptable proof of timely mailing.)

2. *Late Applications:* Applications that do not meet the criteria in 1.A. or 1.B. are considered late applications and will not be considered in the current competition and will be returned to the applicant.

Where To Obtain Additional Information

A complete program description, information on application procedures, an application package, and business management technical assistance may be obtained from Manuel Lambrinos, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Atlanta, GA 30305, telephone (404) 842–6777, FAX (404) 842–6513. Programmatic technical assistance may be obtained from Robert B. Emerson, Clinical Services Training Coordinator, Training and Education Branch, Division of STD/HIV Prevention, National Center for Prevention Services (NCPS), Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., MS E–02, Atlanta, GA 30333, telephone (404) 639–8357, FAX (404) 639–8609, (Bitnet or Internet RBE1@CPSSTD1.EM.CDC.GOV).

Please refer to Announcement 514 ''STD/HIV Prevention Training Centers'' when requesting information or submitting an application.

Potential applicants may obtain a copy of ''Healthy People 2000'' (Full Report: Stock No. 017–001–00474–0) or ''Healthy People 2000'' (Summary Report: Stock No. 017–001–00473–1) referenced in the ''Introduction'' through the Superintendent of Documents, Government Printing

Office, Washington, DC 20402–9325, telephone (202) 783–3238.

Dated: January 24, 1995.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–2171 Filed 1–27–95; 8:45 am]

BILLING CODE 4163–18–P

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Meeting

Notice is hereby given that the National Institute on Deafness and Other Communication Disorders will hold a workshop to discuss emerging auditory system research knowledge which could be used to advance the field of tinnitus research. The meeting will be held March 22, 1995, from 8:30 am to 3 pm in Conference Room 7, Building 31, at the National Institutes of Health, 9000 Rockville Pike, Bethesda, MD.

The meeting is open to the public. Attendance will limited by seating availability. For an agenda, list of participants, or a meeting summary, please contact Dr. Kenneth A. Gruber, Program Administrator, NIDCD/DHC, Executive Plaza South, Room 400C, Bethesda, MD 20892, 301–402–3458.

Individuals who plan to attend the meeting and need special assistance such as sign language interpretation or other special accommodations should contact Dr. Gruber in advance of the meeting.

Dated: January 24, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–2142 Filed 2–27–95; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Deafness and Other Communication Disorders; Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

Name of Committee: Communication Disorders Review Committee.

Date: February 21–22, 1995.

Time: February 21—8:30 am to 5:00 pm, February 22—8:30 am to adjournment.

Place: Holiday Inn—Crowne Plaza, 1750 Rockville Pike, Rockville, Maryland.

Contact Person: Craig A. Jordan, Ph.D., Scientific Review Administrator, NIDCD/DEA/SRB, Executive Plaza South, Room 400C, Bethesda, Maryland 20892, 301–496–8683.

Purpose/Agenda: To review and evaluate grant applications.

The meeting will be closed in accordance with the provisions set forth in secs. 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 No. 93.173 Biological Research Related to Deafness and Communication Disorders).

Dated: January 23, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–2143 Filed 1–27–95; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Diabetes and Digestive and Kidney Diseases; Meeting, National Task Force on Prevention and Treatment of Obesity Ad Hoc Work Group

Notice is hereby given that the National Task Force on Prevention and Treatment of Obesity Ad Hoc Work Group of the National Diabetes and Digestive and Kidney Diseases Advisory Council will hold a meeting on February 3, 1995, 8:30 a.m. to 5 p.m., at the Hyatt Regency Bethesda, 1 Bethesda Metro Center, Bethesda, Maryland 20814.

The meeting, which will be open to the public, will include discussion on topics related to prevention and treatment of obesity and updates on the Shape-up America Program, the President's Council on Physical Fitness and Sports, the Weight-Control Information Network and other related activities. Public participation will be limited to space available.

For any further information, and for individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, please contact Joanne Gallivan, Project Director, 7910 Woodmont Avenue, Suite 305, Bethesda, Maryland 20814, (301) 951–1120. In addition, upon request, Ms. Gallivan's office will provide an agenda, a roster of the members, and summaries of the meeting.

Dated: January 24, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–2141 Filed 1–27–95; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Nursing Research; Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

Name of Committee: Nursing Science Review Committee.

Date: February 16–17, 1995.

Time: 8:00 a.m. until adjournment.

Place: National Institutes of Health, Building 45, Conference Room B, 9000 Rockville Pike, Bethesda, Maryland 20892.

Contact Person: Dr. Mary Stephens-Frazier, 9000 Rockville Pike, Building 45, Room 3AN.12, Bethesda, Maryland 20892, (301) 594–5971.

Purpose: To review and evaluate grant applications.

The meeting 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 No. 93.361, Nursing Research, National Institutes of Health.)

Dated: January 23, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–2144 Filed 1–27–95; 8:45 am]

BILLING CODE 4140–01–M

Recombinant DNA Advisory Committee; Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Recombinant DNA Advisory Committee on March 6–7, 1995. The meeting will be held at the National Institutes of Health, Building 31C, 6th Floor, Conference Room 6, 9000 Rockville Pike, Bethesda, Maryland 20892, starting on March 6, 1995, at approximately 9 a.m., and will recess at approximately 6 p.m. The meeting will reconvene on March 7, 1995, at approximately 8:30 a.m. and will adjourn at approximately 5 p.m. The meeting will be open to the public to discuss Proposed Actions under the NIH Guidelines for Research Involving Recombinant DNA Molecules (59 FR 34496) and other matters to be considered by the Committee. The Proposed Actions to be discussed will follow this notice of meeting. Attendance by the public will be limited to space available. Members of the public wishing to speak at this meeting

may be given such opportunity at the discretion of the Chair.

Dr. Nelson A. Wivel, Director, Office of Recombinant DNA Activities, Suite 323, National Institutes of Health, 6006 Executive Boulevard, MSC 7052, Bethesda, Maryland 20892–7052, Phone (301) 496–9838, FAX (301) 496–9839, will provide materials to be discussed at this meeting, roster of committee members, and substantive program information. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Dr. Wivel in advance of the meeting. A summary of the meeting will be available at a later date.

OMB's ''Mandatory Information Requirements for Federal Assistance Program Announcements'' (45 FR 39592, June 11, 1980) requires a statement concerning the official government programs contained in the Catalog of Federal Domestic Assistance. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every Federal research program in which DNA recombinant molecule techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance area affected.

Dated: January 23, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–2146 Filed 1–27–95; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Chemistry and Related Sciences.

Date: February 14, 1995.

Time: 3:00 p.m.

Place: NIH, Westwood Building, Room 328, Telephone Conference.

Contact Person: Dr. Paul Strudler, Scientific Review Administrator, 5333 Westbard Ave., Room 328, Bethesda, MD 20892, (301) 594–7152.

Name of SEP: Chemistry and Related Sciences.

Date: February 15, 1995.

Time: 2:00 p.m.

Place: NIH, Westwood Building, Room 328, Telephone Conference.

Contact Person: Dr. Paul Strudler, Scientific Review Administrator, 5333 Westbard Ave., Room 328, Bethesda, MD 20892, (301) 594–7152.

Name of SEP: Clinical Sciences.

Date: February 15–16, 1995.

Time: 2:00 p.m.

Place: ANA Westin Hotel, Washington, D.C.

Contact Person: Dr. Larry Pinkus, Scientific Review Administrator, 5333 Westbard Ave., Room 1A04, Bethesda, MD 20892, (301) 594–7315.

Name of SEP: Clinical Sciences.

Date: February 24, 1995.

Time: 9:15 a.m.

Place: American Inn of Bethesda, Bethesda, MD.

Contact Person: Dr. Joseph Kaiser, Scientific Review Administrator, 5333 Westbard Ave., Room 206B, Bethesda, MD 20892, (301) 594–7241.

Name of SEP: Behavioral and Neurosciences.

Date: March 1, 1995.

Time: 1:00 p.m.

Place: NIH, Westwood Building, Room 307, Telephone Conference.

Contact Person: Dr. Bob Weller, Scientific Review Administrator, 5333 Westbard Ave., Room 307, Bethesda, MD 20892, (301) 594–7340.

Name of SEP: Biological and Physiological Sciences.

Date: March 1–3, 1995.

Time: 6:30 p.m.

Place: American Inn, Bethesda, MD.

Contact Person: Dr. Nicholas Mazzeralla, Scientific Review Admin., 5333 Westbard Ave., Room 222B, Bethesda, MD 20892, (301) 594–7098.

Name of SEP: Behavioral and Neurosciences.

Date: March 8, 1995.

Time: 1:00 p.m.

Place: NIH, Westwood Building, Room 307, Telephone Conference.

Contact Person: Dr. Bob Weller, Scientific Review Administrator, 5333 Westbard Ave., Room 307, Bethesda, MD 20892, (301) 594–7340.

Purpose/Agenda: To review Small Business Innovation Research Program grant applications.

Name of SEP: Behavioral and Neurosciences.

Date: April 4–5, 1995.

Time: 8:30 a.m.

Place: Hyatt Regency, San Francisco, CA.

Contact Person: Dr. Bob Weller, Scientific Review Administrator, 5333 Westbard Ave., Room 307, Bethesda, MD 20892, (301) 594–7340.

The meetings will be closed in accordance with the provisions set forth in sec. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS).

Dated: January 23, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–2145 Filed 1–27–95; 8:45 am]

BILLING CODE 4140–01–M

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 1995 Funding Opportunities for Grants and Cooperative Agreements From the Center for Substance Abuse Treatment

AGENCY: Center for Substance Abuse Treatment, Substance Abuse and Mental Health Services Administration (SAMHSA), HHS.

ACTION: Notice of Funding Availability.

SUMMARY: The Center for Substance Abuse Treatment (CSAT), SAMHSA, announces that FY 1995 funds are available for cooperative agreements for the following activity. This activity is discussed in more detail under Section 4 of this notice.

Activity	Application deadline	Estimated funds available (thousands)	Estimated No. of awards	Project Period
Criminal Justice Treatment Networks	05–10–95	$9,290	8–10	up to 5 yrs.
Refer to FEDERAL REGISTER, Vol. 60, No.2, January 4, 1995 for the following other FY 1995 CSAT funding opportunities.				
Substance Abuse Conference Grants	01–10–95 05–10–95 09–10–95	$400	8	1 year.
Comprehensive HIV/AIDS Outreach Services	04–27–95	7,500	20–25	2–3 years.
Residential Women and Children	03–21–95	10,000	10–14	up to 5 years
Pregnant/Post Partum Women	03–21–95	4,000	5–6	up to 5 years

The actual amount available for awards and their allocation may vary, depending on unanticipated program requirements and the volume and quality of applications. FY 1995 funds for substance abuse treatment services and demonstration programs are appropriated by the Congress under Public Law 103–333. SAMHSA's policies and procedures for peer review and Advisory Council review of grant and cooperative agreement applications were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

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. The Center's treatment improvement services and demonstration activities address issues related to Healthy People 2000 objectives: promoting the physical, social, psychological and economic well-being of individuals recovering from alcohol and other drug dependencies; promoting outreach to drug abusers, IV drug users using uncontaminated paraphernalia, testing for HIV infection; increasing access to treatment programs; promoting the collaboration of primary care, mental health and substance abuse treatment and fostering closer coordination between the criminal justice and public health systems to collaboratively address issues related to alcohol and other drug-related crime and violence; managing health care for community-based offender populations and designing cost-effective programming that is responsive to today's health care issues. Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No. 017–001–00474–0) or Summary Report: Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone: 202–783–3238).

GENERAL INSTRUCTIONS: Applicants for grants must use application form PHS 5161–1 (Rev. 7/92). The Application Kit contains the PHS 5161–1, Standard Form 424 (Face Page) and *complete instructions* for preparing and submitting applications. The Kit may be obtained from: National Clearinghouse for Alcohol and Drug Information, P.O. Box 2345, Rockville, MD 20847–2345, 1–800–729–6686.

When requesting an Application Kit, the applicant must specify the particular activity(ies) for which detailed information is desired. This is to ensure receipt of all necessary forms and information, including any specific program review and award criteria.

APPLICATION SUBMISSION: Applications must be submitted to: Center for Substance Abuse Treatment Programs, Division of Research Grants, NIH, Westwood Building, Room 240, 5333 Westbard Avenue, Bethesda, Maryland 20892* _____

(*If an overnight carrier or express mail is used, the Zip Code is 20816.)

APPLICATION DEADLINES: The deadlines for receipt of applications are listed in the table above. Please note that the deadlines differ for the individual categories of grants/cooperative agreements.

Competing applications must be received by the indicated receipt dates to be accepted for review. An application received after the deadline may be acceptable if it carries a legible proof-of-mailing date assigned by the carrier and that date is not later than one week prior to the deadline date. Private metered postmarks are not acceptable as proof of timely mailing. If the receipt date falls on a weekend, it will be extended to Monday; if the date falls on a national holiday, it will be extended to the following work day.

Applications received after the receipt date(s) or those sent to an address other than the address specified *above* will be returned to the applicant without review.

FOR FURTHER INFORMATION CONTACT: Requests for activity-specific technical information should be directed to the contact person identified for each activity covered by this notice (see Section 4).

Requests for information concerning grants management issues should be directed to: Ms. Mabel Lam, Grants Management Office, Center for Substance Abuse Treatment, Rockwall II Building, 6th Floor, 5600 Fishers Lane, Rockville, Maryland 20857, 1–301–443–9665.

SUPPLEMENTARY INFORMATION: This notice is organized according to the following Table of Contents:

Table of Contents

1. Program Background

SAMHSA's CSAT has been given a statutory mandate to expand the availability of effective treatment and recovery services for alcohol and other drug problems in the United States. CSAT utilizes a variety of grant, cooperative agreement, training, and technical assistance efforts to accomplish this mission through

expanding human resources, improving the capabilities of the State and sub-State management infrastructure, and developing and promoting cost-effective approaches for treatment and recovery services. The Center supports demonstration programs to generate new knowledge that can be applied to the substance abuse treatment field.

CSAT seeks to expand the availability and improve the quality of services aimed at addressing the special needs of populations that are especially vulnerable to addictive disorders, as well as to expand the volume of effective treatment and recovery services in targeted geographic areas where the demand for services far exceeds the existing capacity. The Center also works to upgrade the quality and effectiveness of treatment and recovery services through improved coordination among treatment providers, recovery programs, primary health care entities, mental health care providers, human service agencies, housing authorities, educational and vocational services, the criminal justice system, and a variety of related services. Further, CSAT seeks to upgrade the financial and physical condition of publicly funded addiction treatment and recovery programs.

2. Special Concerns

SAMHSA's CSAT will address a number of special concerns in FY 1995. Particular emphasis will be placed on comprehensive approaches to treatment, and coordination with other Federal and non-Federal programs. Special emphasis will be given to providing assistance for racial and ethnic minority populations; adolescents; residents of public housing and the homeless; women, their infants and children; rural populations; migrant workers; substance abusers involved in the criminal justice system; the disabled; those at risk for HIV/AIDS, tuberculosis (TB), sexually transmitted diseases (STDs), and other infectious diseases; and those with co-occurring mental disorders.

3. Criteria for Review and Funding

Competing applications requesting funding under the specific project activity in Section 4 will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures.

Applications that are accepted for review will be assigned to an Initial Review Group (IRG) composed primarily of non-Federal experts. Applications will be recommended for approval or disapproval on the basis of technical merit. Applications recommended for approval will be assigned scores according to level of merit.

Notification of the IRG's recommendation will be sent to the applicant upon completion of the initial review. In addition, the IRG recommendations on technical merit of applications over $50,000 will undergo a second level of review by the CSAT National Advisory Council, whose review may be based on policy considerations, as well as technical merit.

3.1 General Review Criteria

As published in the **Federal Register** on July 2, 1993 (Vol. 58, No. 126), SAMHSA's ''Peer Review and Advisory Council Review of Grant and Cooperative Agreement Applications and Contract Proposals,'' peer review groups will take into account, among other factors as may be specified in the application guidance materials, the following general criteria:

- Potential significance of the proposed project;
- Appropriateness of the applicant's proposed objectives to the goals of the specific program;
- Adequacy and appropriateness of the proposed approach and activities;
- Adequacy of available resources, such as facilities and equipment;
- Qualifications and experience of the applicant organization, the project director, and other key personnel; and
- Reasonableness of the proposed budget.

3.2 Funding Criteria for Approved Applications

Applications recommended for approval by the peer review group and the CSAT National Advisory Council will be considered for funding on the basis of their overall technical merit as determined through the review process.

Other funding criteria will include:

- Availability of funds, and
- Geographic distribution.

Additional funding criteria specific to the programmatic activity may be included in the application guidance materials.

4. Special FY 1995 Substance Abuse Treatment Activity

4.1 Cooperative Agreements

A major CSAT cooperative agreement activity is discussed below. Substantive Federal programmatic involvement is required in cooperative agreement programs. Federal involvement will include planning, guidance, coordination, and participating in programmatic activities (e.g., participation in publication of findings) and on steering committees. Periodic meetings, conferences and/or communications with the award recipients may be held to review mutually agreed upon goals and objectives and to assess progress. Additional details on the degree of Federal programmatic involvement will be included in the application guidance materials.

4.1.1 Demonstration Cooperative Agreements for the Development and Implementation of Criminal Justice-Treatment Networks

—Adult Female Offenders
—Juvenile Justice Populations
—Adult Male Offenders

- Application Deadline: May 10, 1995
- Purpose: To assist States and local jurisdictions in the development and implementation of Criminal Justice-Treatment Networks. Such Networks link together a range of justice agencies—courts, juvenile justice, corrections, probation/parole—in partnership with community substance abuse treatment, public health, mental health, education, social services and employment agencies. This program will explore whether such a criminal justice treatment consortium makes measurable improvements in systems and client outcomes, as compared to client outcomes for those receiving episodic treatment not connected to a continuum of care.
- Priorities: Focus on the following three specific offender population categories:

—Adult Female Offenders
—Juvenile Justice Populations
—Adult Male Offenders

- Eligible Applicants: Local partnerships of public and private non-profit treatment providers and State/local criminal justice agencies, headed by a Lead Agency representing the courts or community supervision agency responsible for non-incarcerated offenders (i.e., probation/parole/juvenile supervision) must submit applications through the Single State Agency for Alcohol and Drug Abuse. In most cases, the proposed local network would be a court-based consortium, or corrections (non-incarcerated)-based consortium, or a combination of the two. In keeping with the intent of Congress in authorizing Center grants for substance abuse treatment in State and local criminal justice systems, this program is restricted to public and nonprofit entities.

Funding is restricted to metropolitan areas with populations between 200,000 to one (1) million.

- Cooperative Agreement Amounts: 8–10 Demonstration Projects, with

individual awards ranging from $800,000-$1 million.

• Catalog of Federal Domestic Assistance Number: 93.229

• Program Contact: Nicholas L. Demos, J.D., Chief, Criminal Justice Systems Branch, Division of National Treatment Demonstrations, Center for Substance Abuse Treatment, Rockwall II Building, 6th Floor, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–6533.

5. Public Health System Reporting Requirements

The Public Health System Impact Statement (PHSIS) is intended to keep State and local health officials apprised of proposed health services grant and cooperative agreement applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected not later than the pertinent receipt date for applications. The PHSIS consists of the following information:

a. A copy of the face page of the application (Standard form 424).

b. A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State or local health agencies.

State and local governments are not subject to the Public Health System Reporting Requirements.

Application guidance materials will specify if the particular FY 1995 activity described above is not subject to the Public Health System Reporting Requirements.

6. PHS Non-use of Tobacco Policy Statement

The PHS strongly encourages all grant and cooperative agreement 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.

Specific application guidance materials may include more detailed guidance as to how the Center will implement SAMHSA's policy on promoting the non-use of tobacco.

7. Executive Order 12372

Applications submitted in response to the FY 1995 activity listed above are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR Part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application guidance materials. The SPOC should send any State review process recommendations directly to: Office of Review, Substance Abuse and Mental Health Services Administration, Rockwall II Building, Suite 630, 5600 Fishers Lane, Rockville, MD 20857.

The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. The CSAT does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: January 25, 1995.

Richard Kopanda,

Acting Executive Officer, SAMHSA.

[FR Doc. 95–2332 Filed 1–27–95; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–95–3766; FR–3723–N–02]

Announcement of Funding Awards for the HUD-Administered Small Cities Community Development Block Grant Program Fiscal Year 1994

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department under the HUD-Administered Small Cities Community Development Block Grant (CDBG) Program for Fiscal Year 1994. The announcement contains the names and addresses of the award winners and the amount of the awards.

FOR FURTHER INFORMATION CONTACT: Stephen Rhodeside, State and Small Cities Division, Office of Community Planning and Development, Department of Housing and Urban Development, Room 7184, 451 Seventh Street, SW., Washington, DC 20410, Telephone (202) 708–1322 (voice) or (202) 708–2565 (TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Title I of the Housing and Community Development Act of 1974, as amended (the HCD Act), authorizes the Community Development Block Grant (CDBG) Program. Section 106 provides that HUD will administer the CDBG Program for nonentitled units of local government within a State which does not elect to assume the administrative responsibility for the program. As such HUD, continues to operate the nonentitlement CDBG Program in Hawaii and New York in accordance with 24 CFR part 570, subpart F. In Hawaii, HUD distributes funds in Hawaii on a formula basis since there are only three nonentitlement entities. In New York State, HUD conducts an annual competition in which nonentitled units of general local government may apply for nonentitled CDBG funds allocated to New York State.

The Fiscal Year 1994 competition in New York State was announced in a notice of funding availability (NOFA) published in the **Federal Register** on May 27, 1994 (59 FR 27940). The NOFA announced the availability of allocation of $50,616,000 for nonentitled communities in New York State. The NOFA also announced the allocation of this funding amount between the New York Office and the Buffalo Office.

In accordance with section 102 (a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, the Department is publishing the names and addresses of the grantees, and the amount of the award made to each grantee. This information is provided in Appendix A to this document.

Dated: January 19, 1995.

Mark D. Fabiani,

Deputy Assistant Secretary for Operations/ Selecting Official.

APPENDIX A

Grantee	Grant No.	Amount
New York Office:		
Village of Bloomingburg, Honorable Ronald R. Scott, Mayor, Village of Bloomingburg, P.O. Box 96, Bloomingburg, New York 12721	B–94–DH–36–0120	$120,000
Town of Delaware, Honorable Eric J. Nystrom, Supervisor, Town of Delaware, P.O. Box 61, Hortonville, New York 12745	B–94–DH–36–0117	300,000
Village of Ellenville, Honorable Elliott Auerbach, Mayor, Village of Ellenville, 81 North Main Street, Ellenville, New York 12428	B–94–DH–36–0108	598,822
Village of Highland Falls, Honorable Joseph E. D'Onofrio, Mayor, Village of Highland Falls, 180 Main Street, Highland Falls, New York 10928	B–94–DH–36–0106	400,000
City of Kingston, Honorable T. R. Gallo, Mayor, City of Kingston, City Hall, 1 Garraghan Drive, Kingston, New York 12401	B–94–DH–36–0102	750,000
Village of Kiryas Joel, Honorable Leopold Lewkowitz, Mayor, Village of Kiryas Joel, Municipal Building, 500 Forest Road, P.O. Box 566, Monroe, New York 10950	B–94–DH–36–0100	400,000
Village of Liberty, Honorable Ronald Gozza, Mayor, Village of Liberty, 167 North Main Street, Liberty, New York 12754	B–94–DH–36–0118	290,000
Town of Monticello, Honorable Robert Friedland, Mayor, Village of Monticello, P.O. Box 1260, Monticello, New York 12701	B–94–DH–36–0116	400,000
City of Port Jervis, Honorable R. Michael Worden, Mayor, City of Port Jervis, Municipal Building, 20 Hammond Street, Port Jervis, New York 12771	B–94–DH–36–0104	600,000
County of Putnam, Honorable Robert J. Bondi, Putnam County Executive, 40 Gleneida Avenue, Carmel, New York 10512	B–94–DH–36–0115	600,000
Town of Shawangunk, Honorable Kevin V. Hunt, Supervisor, Town of Shawangunk, P.O. Box 247, Wallkill, New York 12589	B–94–DH–36–0101	400,000
Sullivan County, Honorable Andrew Boyar, Chairman, Board of Supervisors, County of Sullivan, County Government Center, Monticello, New York 12701	B–94–DH–36–0119	550,000
Town of Thompson, Honorable Anthony P. Cellini, Supervisor, Town of Thompson, Town Hall—Jefferson Street, Monticello, New York 12701	B–94–DH–36–0110	165,000
Village of Walden, Honorable Andrew Uszenski, Mayor, Village of Walden, 8 Scofield Street, Walden, New York 12586	B–94–DH–36–0105	400,000
Buffalo Office:		
Town of Cohocton, 15 South Main Street, Cohocton, NY 14826	B–94–DH–36–0001	119,100
Town of New Hudson, Town Hall, Black Creek, NY 14714	B–94–DH–36–0005	400,000
Town of Friendship , 4 East Main Street, Friendship, NY 14739	B–94–DH–36–0006	385,000
City of Watertown	B–94–DH–36–0007	400,000
Watertown Municipal Blg, 245 Washington Street, Watertown, NY 13601	.....	.....
Town of Lincoln, P.O. Box 40, Clockville, NY 13043	B–94–DH–36–0009	400,000
Town of Bombay, Town Hall, Bombay, NY 12914	B–94–DH–36–0010	400,000
Town of Constable, P.O. Box 142, Constable, NY 12926	B–94–DH–36–0011	400,000
Town of Bellmont, Star Route, Merrill, NY 12955	B–94–DH–36–0012	400,000
City of Gloversville, City Hall, Frontage Road, Gloversville, NY 12078	B–94–DH–36–0015	400,000
County of Allegany, County Office Building, Belmont, NY 14813	B–94–DH–36–0016	110,000
Town of Pinckney, RR 1—Box 136A, Copenhagen, NY 13626	B–94–DH–36–0017	400,000
City of Lockport, Lockport Municipal Bldg, One Locks Plaza, Lockport, NY 14094	B–94–DH–36–0019	400,000
Village of Nunda, 1 Mill Street, P.O. Box 537, Nunda, NY 14517	B–94–DH–36–0023	400,000
Village of Silver Creek, 172 Central Avenue, Silver Creek, NY 14136	B–94–DH–36–0024	400,000
Town of Gaines, 14087 Ridge Road, Albion, NY 14411	B–94–DH–36–0025	400,000
Town of Barre, 14317 West Barre Road, Albion, NY 14411	B–94–DH–36–0026	400,000
Town of Carlton, 14341 Waterport-Carlton Road, Albion, NY 14411	B–94–DH–36–0027	400,000
Town of Otto, Otto East Otto Road, Otto, NY 14766	B–94–DH–36–0029	398,914
City of Oswego, City Hall, Oswego, NY 13126	B–94–DH–36–0030	900,000
City of Plattsburgh, 41 City Hall Place, Plattsburgh, NY 12901	B–94–DH–36–0035	900,000
City of Ithaca, City Hall, 108 East Green Street, Ithaca, NY 14850	B–94–DH–36–0036	900,000
City of Fulton, 125 West Broadway, Fulton, NY 13069	B–94–DH–36–0038	400,000
Village of Ellisburg, Village Office, Ellisburg, NY 13636	B–94–DH–36–0039	330,000
County of Jefferson, 175 Arsenal Street, Watertown, NY 13601	B–94–DH–36–0040	400,000
Village of Montour Falls, 408 West Main Street, Montour Falls, NY 14865	B–94–DH–36–0043	400,000
Town of Schodack, 1777 Columbia Turnpike, Town Hall, Castleton, NY 12033	B–94–DH–36–0044	121,745
Town of Yates, 8 South Main Street, P.O. Box 197, Lyndonville, NY 14098	B–94–DH–36–0048	400,000
Village of Saranac Lake, Power & Light Building, 2 Main Street—3rd Floor, Saranac Lake, NY 12983	B–94–DH–36–0049	400,000
County of Madison, P.O. Box 606, Madison County Office Bldg, Wampsville, NY 13163	B–94–DH–36–0050	600,000
Town of Russia, Box 126, Poland, NY 13431	B–94–DH–36–0051	400,000
County of Tompkins, Tompkins County Courthouse, 320 North Tioga Street, Ithaca, NY 14850	B–94–DH–36–0052	600,000
County of Wayne, Wayne County Courthouse, 26 Church Street, Lyons, NY 14489	B–94–DH–36–0053	385,000
Town of Lansing, P.O. Box 186, Lansing, NY 14882	B–94–DH–36–0055	400,000
Town of Stratford, Town Hall, Stratford, NY 13470	B–94–DH–36–0056	400,000,
Village of Millport, 5446 Main Street, Millport, NY 14867	B–94–DH–36–0057	400,000,
City of Little Falls, City Hall, 659 Main Street, Little Falls, NY 13365	B–94–DH–36–0058	200,000
City of Hornell, City Hall, 108 Broadway, Hornell, NY 14843	B–94–DH–36–0060	390,000
Town of Enfield, 168 Enfield Main Road, Ithaca, NY 14850	B–94–DH–36–0062	400,000
County of Cayuga, County Office Building, 160 Genesee Street, Auburn, NY 13021	B–94–DH–36–0063	300,000
Town of Groton, 101 Conger Boulevard, Groton, NY 13073	B–94–DH–36–0064	400,000

APPENDIX A—Continued

Grantee	Grant No.	Amount
Town of Cuyler, Town Hall, Main Street, Cuyler, NY 13050	B–94–DH–36–0066	400,000
City of Geneva, P.O. Box 273, Geneva, NY 14456	B–94–DH–36–0070	900,000
Village of Fultonville, Municipal Building, Erie Street—P.O. Box 337, Fultonville, NY 12072	B–94–DH–36–0075	334,600
Town of Cambridge, 111 West Main Street, Cambridge, NY 12816	B–94–DH–36–0076	400,000
County of Albany, 112 State Street, Albany, NY 12207	B–94–DH–36–0077	600,000
Town of Chateaugay, Town Hall, 43 East Main Street, Chateaugay, NY 12920	B–94–DH–36–0078	400,000
Town of Dickinson, P.O. Box 101, Dickinson Center, NY 12930	B–94–DH–36–0079	230,553
Town of Brookfield, Town Hall, Main Street, Brookfield, NY 13314	B–94–DH–36–0081	400,000
Town of Edinburg, Town Hall, 47 Military Road, Edinburg, NY 12134	B–94–DH–36–0082	400,000
City of Rensselaer, City Hall, 505 Broadway, Rensselaer, NY 12144	B–94–DH–36–0083	900,000
Town of Harrietstown, Town Hall, 30 Main Street, Saranac Lake, NY 12983	B–94–DH–36–0085	400,000
Town of Willet, Town Hall, P.O. Box 37, Willet, NY 13863	B–94–DH–36–0086	400,000
City of Ogdensburg, City Hall, 330 Ford Street, Ogdensburg, NY 13669	B–94–DH–36–0087	900,000
Town of Verona, Town Hall—Germany Road, RD #1, Box 249, Durhamville, NY 13054	B–94–DH–36–0089	400,000
Village of Catskill, 422 Main Street, Catskill, NY 12414	B–94–DH–36–0092	400,000
Town of Forestport, P.O. Box 137, Forestport, NY 13338	B–94–DH–36–0093	400,000
Village of Tupper Lake, 53 Park Street, Tupper Lake, NY 12986	B–94–DH–36–0094	890,500
County of Montgomery, Park Street—P.O. Box 1500, County Annex Building, Fonda, NY 12068	B–94–DH–36–0095	600,000
Town of Cincinnatus, Town Hall, Main Street, Cincinnatus, NY 13040	B–94–DH–36–0096	310,000
Town of Waverly, Town Offices, P.O. Box 289—Main Street, St. Regis Falls, NY 12980	B–94–DH–36–0098	400,000
Town of Brighton, P.O. Box 97 Gabriels, NY 12939	B–94–DH–36–0099	400,000
County of Chenango, 5 Court Street, County Office Building, Norwich, NY 13815	B–94–DH–36–0200	400,000
Village of Philmont, Main Street, Philmont, NY 12565	B–94–DH–36–0201	400,000
Town of Plattsburgh, 152 Banker Road, Plattsburgh, NY 12901	B–94–DH–36–0202	400,000
Village of Gouverneur, 33 Clinton Street, Gouverneur, NY 13642	B–94–DH–36–0204	400,000
Village of Hudson Falls, 220 Main Street, Hudson Falls, NY 12839	B–94–DH–36–0206	400,000
Village of Fair Haven, P.O. Drawer N, Fair Haven, NY 13064	B–94–DH–36–0209	400,000
Village of Schaghticoke, Municipal Building, Box 187, Schaghticoke, NY 12154	B–94–DH–36–0210	400,000
Town of Portlan, Fay & West Main Streets, Brocton, NY 14716	B–94–DH–36–0211	400,000
Village of Sherman, Village Hall, 11 Park Street, Sherman, NY 14781	B–94–DH–36–0212	398,100
Town of Brandon, RD 1—Box 135, North Bangor, NY 12966	B–94–DH–36–0213	400,000
Town of Wilmington, Town Hall, Wilmington, NY 12297	B–94–DH–36–0214	392,380
Town of Ticonderoga, 324 Champlain Avenue, Ticonderoga, NY 12883	B–94–DH–36–0215	273,000
County of Washington, County Office Building, Upper Broadway, Fort Edward, NY 12828	B–94–DH–36–0219	350,000
Village of Northville, Village Offices, North Third Street, Northville, NY 12134	B–94–DH–36–0221	400,000
County of Rensselaer, Ned Pattison Govment Ctr, 1600 7th Avenue, Troy, NY 12180	B–94–DH–36–0225	400,000
Village of Hermon, Village Offices, Hermon, NY 13652	B–94–DH–36–0226	898,005
County of Columbia, 401 State St. Office Bldg, Hudson, NY 12534	B–94–DH–36–0227	600,000
City of Oneida, City Hall—109 N. Main St, P.O. Box 550, Oneida, NY 13421	B–94–DH–36–0228	400,000
Village of Fort Edward, 118 Broadway, Fort Edward, NY 12828	B–94–DH–36–0229	400,000
Town of Newcomb, Town Hall, Newcomb, NY 12852	B–94–DH–36–0231	236,000
Town of Moriah, Town Offices, Park Street, Port Henry, NY 12974	B–94–DH–36–0232	400,000
Town of Lincklaen, Star Route, South Otselic, NY 13155	B–94–DH–36–0234	400,000
County of St. Lawrence, County Courthouse, 48 Court Street, Canton, NY 13617	B–94–DH–36–0235	600,000
Village of Hoosick Falls, P.O. Box 247, 24 Main Street, Hoosick Falls, NY 12090	B–94–DH–36–0236	400,000
Village of Castile, 15 North Main Street, P.O. Box 515, Castile, NY 14427	B–94–DH–36–0237	400,000
Town of Gouverneur, RD #5, Box 10, Gouverneur, NY 13642	B–94–DH–36–0238	400,000
Town of New Berlin, 20 South Main Street, P.O. Box 308, New Berlin, NY 13411	B–94–DH–36–0239	400,000
Village of Fort Plain, Village Hall, 168 Canal Street, Fort Plain, NY 13339	B–94–DH–36–0241	400,000
Village of Harrisville, State Street, P.O. Box 249, Harrisville, NY 13648	B–94–DH–36–0242	822,600
Village of Groton, P.O. Box 146, 108 East Cortland Street, Groton, NY 13073	B–94–DH–36–0245	400,000
County of Saratoga, Municipal Center, 40 McMasters, Ballston Spa, NY 12020	B–94–DH–36–0248	600,000
City of Cohoes, City Hall, 97 Mohawk Street, Cohoes, NY 12047	B–94–DH–36–0249	874,000
Town of Tompkins, Town Hall, Trout Creek, NY 13847	B–94–DH–36–0250	400,000
Town of DeKalb, Town Office, P.O. Box 133, DeKalb Junction, NY 13630	B–94–DH–36–0251	400,000
County of Seneca, County Office Building, Waterloo, NY 13165	B–94–DH–36–0253	400,000
Town of Ellenburg, Town Hall, Ellenburg, NY 12934	B–94–DH–36–0256	400,000
Town of Grafton, P.O. Box G, Grafton, NY 12082	B–94–DH–36–0259	400,000
Village of Elmira Heights, Village Hall, 215 Elmwood Avenue, Elmira Heights, NY 14903	B–94–DH–36–0260	400,000
County of Greene, HCR 3, P.O. Box 909, Cairo, NY 12413	B–94–DH–36–0263	292,681
Town of Mayfield, Town Hall, 75 N. Main St.—P.O. Box 00, Mayfield, NY 12117	B–94–DH–36–0264	400,000

[FR Doc. 95–2151 Filed 1–27–95; 8:45 am]
BILLING CODE 4210–29–P

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N–95–3719; FR–3473–N–07]

Announcement of Funding Awards for Intermediaries to Administer Preservation Technical Assistance Grants for FY 1994

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

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the Funding Availability for Intermediaries to Administer Preservation Technical Assistance Grants. The announcement contains the names and addresses of the award winners and the amount of the awards.

FOR FURTHER INFORMATION CONTACT: Mr. Kerry Mulholland, Acting Chief, Office of Multifamily Housing Preservation and Property Disposition, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 708–0614, Extension 2649. The TDD number for the hearing impaired is (202) 1–800–877–8339. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The Preservation Technical Assistance Grants program is authorized by section 312 of the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992) in order to provide assistance to resident groups and Community-Based Nonprofit Housing Developers involved in projects proceeding under the provisions of the Emergency Low-Income Housing Preservation Act of 1987 (Pub. L. 100–242, section 201 of the Housing and Community Development Act of 1987, approved February 5, 1988) or the Low Income Housing Preservation and Resident Homeownership Act of 1990 (Pub. L. 101–625, section 601 of the National Affordable Housing Act approved November 28, 1990).

The purpose of the competition was to promote the ability of residents of eligible low-income housing to participate meaningfully in the preservation process established by the Emergency Low Income Housing Preservation Act of 1987 and Low Income Housing Preservation and Resident Homeownership Act of 1990.

The awards announced in this Notice were selected for funding in a competition announced in a **Federal Register** Notice published on November 8, 1994 (59 FR 55800). Applications were scored and selected for funding on the basis of selection criteria contained in that Notice.

A total of $17 million was awarded to six Intermediary Technical Assistance Grant applicants that are located throughout the country. In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989), the Department is publishing the names, addresses, and amounts of those awards as follows:

	Number of estimated projects	Dollar allocations
1. Mr. Cort Gross, 605 Market Street, Suite 200, Low Income Housing Fund, San Francisco, CA 94105, Phone: (415) 777–9804		
Texas	131	$3,253,800
Florida	115	2,480,800
Georgia	74	911,300
Delaware	6	67,800
Total	326	6,713,700
2. Ms. Shelly Hance, Amador Toulunme Comm. Action Agency, 1001 Broadway, Suite 101, Jackson, CA 94105, Phone: (209) 223–1485		
Alaska	6	$67,800
Arizona	24	524,800
Colorado	42	725,900
Hawaii	5	396,850
Idaho	5	652,800
Montana	7	164,400
Nevada	4	214,050
Utah	5	310,675
Wyoming	9	185,300
Total	107	3,242,575
3. Mr. Ben Hecht, National Center for Tenant Ownership, 777 N. Capitol St., N.E., Suite 405, Washington, DC 20002–4239, Phone: (202) 371–9200		
S. Carolina	81	$1,156,800
Arkansas	33	793,800
Louisiana	39	778,100
Missouri E.	14	156,600
W. Virginia	12	113,100
Mississippi	20	224,500
Maine	14	156,600
Iowa	15	509,150
Caribbean	5	396,850
Virgin Islands	3	33,850
Total	236	4,319,350
4. Mr. Bob Yandell, 506 West Duke Street, Little Dixie Community Action Agency, Hugo, OK 74743, Phone: (405) 326–6441		
Oklahoma	38	$422,950
N. Dakota	3	289,800
S. Dakota	46	1,104,550
Nebraska	4	300,200
Total	91	2,117,500
5. Mr. Scott Brannon, Community Action Council Lexington, Fayette, Bourbon, Harrison and Nicholas Counties, Inc., P.O. Box 11610, Lexington, KY 40576, Phone: (606) 244–2221		
Kentucky	56	$1,135,900
6. Ms. Amy Facey, New Hampshire Housing Finance Authority, P.O. Box 5087, Manchester, NH 03108, Phone: (603) 472–8623		
F4703		

Dated: January 24, 1995.

Nicolas P. Retsinas,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 95–2150 Filed 1–27–95; 8:45 am]
BILLING CODE 4210–27–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–055–1150–00, 5–0151–LM]

Caliente Management Framework Plan Desert Tortoise Amendment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent and scoping period.

SUMMARY: The Bureau of Land Management (BLM) intends to amend the Caliente Management Framework Plan to implement the Desert Tortoise (Mojave Population) Recovery Plan, issued June 1994. The purpose of the plan amendment is to outline the specific objectives and planned actions needed for desert tortoise recovery and for eventual removal of the desert tortoise from the federal list of threatened and endangered animals. The amendment will delineate Desert Wildlife Management Areas in desert tortoise habitat in accordance with provisions in the recovery plan and prescribe management actions inside and outside these areas. These areas will

be evaluated for potential designation as Areas of Critical Environmental Concern. These Desert Wildlife Management Areas include lands in Coyote Springs, Mormon Mesa and Beaver Dam Slope areas, and would encompass approximately 281,500 acres in the southern portion of the BLM's Caliente Resource Area, Lincoln County, Nevada. Final determination of boundaries for these Desert Wildlife Management Areas will be a focus of this plan amendment.

Consistent with the Desert Tortoise Recovery Plan, certain activities have been determined to be incompatible with desert tortoise recovery. Planned actions called for in the recovery plan for implementation inside Desert Wildlife Management Areas include restrictions or elimination of the following activities: (1) Vehicle activity off of designated roads and all competitive and organized events; (2) habitat-destructive military maneuvers, clearing for agriculture, landfills, and other surface disturbance that diminishes the capacity of the land to support desert tortoises, other wildlife, and native vegetation; (3) domestic livestock grazing; (4) grazing by wild horses and burros; (5) vegetation harvest, except by permit; (6) collection of biological specimens, except by permit; (7) dumping and littering; (8) deposition of captive or displaced desert tortoises, except under authorized translocation research projects; (9) uncontrolled dogs out of vehicles; (10) discharge of firearms, except for hunting of big game or upland game birds from September through February.

The following decisions contained in the Caliente Management Framework Plan may change by restricting or eliminating existing land uses as a result of the desert tortoise amendment: Issue 1—vehicle uses under Recreation decision 3.1; Issue 2—surface disturbing activities under Lands Objective 5.0—decisions 1.1 and 5.4; Issue 3—livestock grazing under decisions 1.1 and 1.2; Issue 4—wild horse and burro grazing under decision 1.1; Issue 5—vegetation harvest under Forestry decisions 2.1 and 2.2; and Issue 10—discharge of firearms under Wildlife Objective 2.0.

An environmental assessment will be prepared for this plan amendment.

DATES: There will be a 30-day scoping period to solicit for public comment on the desert tortoise amendment. Written comments must be submitted and postmarked no later than Friday, February 17, 1995.

Two public meetings will be held to exchange information about the process and purpose of the project, identify pertinent information and data available, identify issues relevant to the scope of the project, and develop boundary alternatives for meeting the Desert Wildlife Management Areas requirements of the recovery plan. These public meetings will be held in Caliente, Nevada on February 21, 1995, from 7 p.m. to 10 p.m. and in North Las Vegas on February 22, 1995 from 7 p.m. to 10 p.m.

ADDRESSES: Written comments should be addressed to: Curtis G. Tucker, Area Manager, Caliente Resource Area, P.O. Box 237, Caliente, Nevada 89126.

The public meeting on February 21, 1995 will be held at: Caliente Youth Center, Highway 93, Caliente, Nevada.

The public meeting on February 22, 1995 will be held at: North Las Vegas Air Terminal, 2772 North Rancho Drive, North Las Vegas, Nevada.

FOR FURTHER INFORMATION CONTACT: Kyle Teel, Wildlife Biologist, at the above Caliente Resource Area Office address or telephone (702) 726–8100.

SUPPLEMENTARY INFORMATION: The Desert Wildlife Management Areas outlined in the recovery plan that fall within the Caliente Resource Area are described below. The boundaries of these areas may be modified based on public comments. The Mormon Mesa area extends into the Stateline Resource Area to the south and is discussed in the Supplement to the Draft Stateline Resource Management Plan and Draft Environmental Impact Statement.

Coyote Spring Desert Wildlife Management Area

Mount Diablo Meridian

T. 9 S., R. 62 E.,
Secs. 13 and 14, all,
Sec. 15, E½,
Sec. 22, E½,
Secs. 23–26, inclusive,
Sec. 27, E½,
Sec. 34, E½,
Secs. 35 and 36, all.
T. 9 S., R. 63 E.,
Secs. 18, 19, 30 and 31, all.
T. 10, S., R. 62 E.,
Secs. 1 and 2, all,
Secs. 11–13, inclusive,
Sec. 14, E½, NE¼NW¼,
Sec. 23, NE¼, E½SE¼
Secs 24 and 25, all,
Sec. 36, E½, E½W½.
T. 10 S., R. 63 E.,
Secs. 6 and 7, all,
Secs. 13–15, inclusive,
Secs. 18–20, inclusive and,
Secs. 22–36, inclusive.
T. 10 S., R. 64 E.,
Secs. 13–24, inclusive and,
Secs. 26–34, inclusive.
T. 10 S., R. 65 E.,
Secs. 18 and 19, all.
T. 11 S., R. 62 E.,
Sec. 1, E½, E½W½
T. 11 S., R. 63 E.,
Secs. 1–12, inclusive,
Secs. 13, N½,
Secs. 14–18, inclusive,
Secs. 30 and 31, west of the Highway 93 right-of-way,
Sec. 36, E½.
T.11 S., R. 64 E.,
Secs, 4–9, inclusive,
Secs. 17–20, inclusive,
Secs. 30 and 31, all.
T. 12 S., R. 63 E.,
Sec, 1, E½,
Secs. 6 and 7, west of the Highway 93 right-of-way,
Sec. 12, E½, E½W½,
Sec. 13, E½,
Secs. 18 and 19, west of the Highway 93 right-of-way,
Sec. 24, E½,
Sec. 29–32, west of the Highway 93 right-of-way.
T. 12 S., R. 64 E.,
Secs. 6 and 7, all.

Mormon Mesa Desert Wildlife Management Area

Mount Diablo Meridian

T. 10 S., R. 66 E.,
Secs. 24–26, east of the railroad right-of-way,
Secs. 34 and 35, east of the railroad right-of-way,
Sec. 36, all.
T. 10 S., R. 67 E.,
Secs. 1 and 2, all,
Sec. 3, east of the railroad right-of-way,
Sec. 9, east of the railroad right-of-way,
Secs. 10–15, inclusive,
Secs. 16–19, east of the railroad right-of-way,
Secs. 20–24, inclusive,
Secs. 27–33, inclusive.
T. 10½ S., R. 66 E.,
Secs. 33 and 34, east of the railroad right-of-way,
Secs. 35 and 36, all.
T. 10½ S., R. 67 E.,
Secs. 31 and 32, all.
T. 11 S., R. 65 E.,
Sec. 36, east of the railroad right-of-way.
T. 11 S., R. 66 E.,
Secs. 1–3, inclusive,
Secs. 4 and 5, east of the railroad right-of-way,
Sec. 8 east of the railroad right-of-way,
Secs. 9–11, inclusive,
Secs. 14–16, inclusive,
Sec. 17, east of the railroad right-of-way,
Secs. 19 and 20, east of the railroad right-of-way,
Secs. 21–23, inclusive,
Secs. 26–29, inclusive,
Secs. 30 and 31, east of the railroad right-of-way,
Secs. 32–36, inclusive.
T. 11 S., R. 67 E.,
Sec. 6, all.
T. 11 S., R. 69 E.,
Sec. 17, south of South Fork Wash,
Secs. 20–27, south of South Fork Wash,
Secs. 28 and 29, all,
Secs. 32–36, inclusive.
T. 11 S., R. 70 E.,

Secs. 30 and 31, west of Toquop Wash.
T. 11½ S., R. 65 E.,
Sec. 36, east side of the railroad right-of-way.
T. 12 S., R. 64 E.,
Secs. 25–30, inclusive,
Sec. 31, E½, NW¼, E½SW¼,
Secs. 32–36, inclusive.
T. 12 S., R. 65 E.,
Sec. 1, east of the railroad right-of-way,
Secs. 12 and 13, east of the railroad right-of-way,
Sec. 24, east of the railroad right-of-way,
Secs. 25–36, inclusive.
T. 12 S., R. 66 E.
Secs. 1–36, inclusive.
T. 12 S., R. 67 E.,
Secs. 6–8, inclusive.
Secs. 16–22, inclusive,
Secs. 27–33, inclusive.
T. 12 S., R. 68 E.,
Secs. 23–29, inclusive,
Secs. 31–36, inclusive.
T. 12 S., R. 69 E.,
Secs. 1–5, inclusive,
Secs. 8–36, inclusive.
T. 12 S., R. 70 E.,
Secs. 6 and 7, west of Toquop Wash,
Secs. 17 and 18, west of Toquop Wash,
Sec. 19, all,
Sec. 20, west of Toquop Wash,
Sec. 29, west of Toquop Wash,
Secs. 30 and 31, all,
Sec. 32, west of Toquop Wash.

Beaver Dam Slope Desert Wildlife Management Area

Mount Diablo Meridian

T. 9 S., R. 71 E.,
Sec. 15, W½W½,
Secs. 16 and 17, all,
Secs. 20 and 21, all,
Sec. 22, W½W½,
Sec. 27 W½W½,
Secs. 28 and 29, all,
Secs. 32 and 33, all,
Sec. 34, W½W½.
T. 10 S., R. 70 E.,
Secs. 19–36, inclusive.
T. 10 S., R. 71 E.,
Sec. 3, W½W½,
Secs. 4 and 5, all,
Secs. 7–9, inclusive,
Sec. 10, W½W½,
Sec. 15, W½W½,
Secs. 16–21, inclusive,
Sec. 22, W½W½,
Sec. 27, W½W½,
Secs. 28–33, inclusive,
Sec. 34, W½W½,
T. 11 S., R. 70 E.,
Secs. 1–29, inclusive,
Sec. 30 and 31, east of Toquop Wash,
Secs. 32–36, inclusive.
T. 11 S., R. 71 E.,
Sec. 3, W½W½,
Secs. 4–9, inclusive,
Sec. 10, W½W½,
Sec. 15, W½W½,
Secs. 16–21, inclusive,
Sec. 22, W½W½,
Sec. 27, W½W½,
Secs. 28–33, inclusive,
Sec. 34, W½W½.
T. 12 S., R. 70 E.,
Secs. 1–5, inclusive,
Secs. 6 and 7, east of Toquop Wash,
Secs. 8–12, inclusive,
Secs. 14–16, inclusive,
Secs. 17 and 18, east of Toquop Wash,
Sec. 20, east of Toquop Wash,
Secs. 21–23, inclusive,
Sec. 28, all,
Sec. 29, east of Toquop Wash,
Sec. 32, east of Toquop Wash,
Sec. 33, all.
T. 12 S., R. 71 E.,
Sec. 3, W½W½,
Secs. 4–9, inclusive,
Sec. 10, W½W½.

Federal, state and local agencies, and other individuals or organizations who are interested in/or affected by aspects of amending the Caliente Management Framework Plan to implement the desert tortoise recovery plan, are invited to participate in this planning process. Comments and recommendations will be accepted only on those subjects being addressed by this amendment.

Dated: January 18, 1995.

Ann J. Morgan,

State Director, Nevada.

[FR Doc. 95–2172 Filed 1–27–95; 8:45 am]

BILLING CODE 4310–HC–M

[UT–942–1430–01; U–010084 et. al.; 4–00152]

Proposed Continuation of Withdrawals; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Forest Service proposes that several withdrawals covering about 25,500 acres be continued. Two of the withdrawals proposed to be continued are for the Salt Lake City Watershed, which were created by Acts of Congress. These lands are closed to surface entry, mining and mineral leasing. The remaining lands are closed to surface entry and mining. There are no changes proposed in the segregative effect of any of the withdrawals.

DATES: Comments should be received by May 1, 1995.

ADDRESSES: Comments should be sent to the State Director, Utah State Office, P.O. Box 45155, Salt Lake City, Utah 84145–0155.

FOR FURTHER INFORMATION CONTACT: Randy Massey, Utah State Office, (801) 539–4119.

SUPPLEMENTARY INFORMATION: The Forest Service proposes that the existing land withdrawals identified below, be continued for thirty years, pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988). The land is described as follows:

Salt Lake Meridian, Utah

Wasatch/Cache National Forest

U–42876 and U–42877, Public Laws 199 and 259, dated September 14, 1914, and May 26, 1934, which withdrew lands for protection of the Salt Lake City water supply. All of the public lands within the sections or subdivision of sections as delineated below:

T. 1 S., R. 1 E.,
Sec(s) 1, 12, 13, 24;
T. 1 S., R. 2 E.,
Sec(s) 4–8, 12–15, 17–24;
Sec. 25, N½;
T. 1 S., R. 3 E.,
Sec(s) 6, 8, 18–20, 29, 30–33;
T. 1 N, R. 1 E.,
Sec. 10, lots 9–12;
Sec. 11, MS 42;
Sec(s) 12, 14, 20, 22, 24, 26, 28;
Sec. 34, NE¼NE¼;
Sec. 35, Tract F;
T. 1 N., R. 2 E.,
Sec(s) 4, 6, 8, 10, 12, 14, 18, 20, 22, 24, 26, 28, 30, 32, 34;
T. 1 N., R. 3 E.,
Sec(s) 18 and 30;
T. 2 N., R. 2 E.,
Sec. 34, lots 13–16;
T. 2 S., R. 2 E.,
Sec(s) 13 and 14;
T. 2 S., R. 3 E.,
Sec(s) 7, 17, 18.

Containing approximately 24,520 acres.

Dixie National Forest

U–010084, Public Land Order 1775, dated January 13, 1959.

Bear Valley Administrative Site

T. 36 S., R. 7 W.,
Sec. 13, SW¼SW¼SW¼SW¼.

Containing 2.5 acres.

Panguitch Lake Recreation Area and Administrative Site

T. 36 S., R. 7 W.,
Sec. 5, SE¼SE¼SE¼SW¼, S½SW¼SE¼, S½N½SW¼SE¼, NE¼NE¼SW¼SE¼;
Sec. 8, N½NW¼NE¼; N½S½NW¼NE¼, NE¼NE¼NW¼, N½SE¼NE¼NW¼.

Containing 80 acres.

Cedar Canyon Recreation Area

T. 37 S., R. 9 W.,
Sec. 17, S½NW¼NW¼SW¼, S½N½SW¼;
Sec. 18, SE¼NE¼NE¼SE¼.

Containing 47.5 acres.

Navajo Lake Recreation Area

T. 38 S., R. 8 W.,
Sec. 5, lots 6, 7, and 8 (except the southerly 660 feet), NE¼SE¼SE¼;
Sec. 8, lot 6, NW¼SW¼SW¼;
T. 38 S., R. 9 W.,
Sec. 2 W½E½SE¼, S½NW¼SE¼, N½SW¼SE¼;
Sec. 11, NE¼NE¼, N½SE¼NE¼;
Sec. 12, lots 5, 6, 7 and 8, N½NW¼NE¼SW¼.

Containing 376.85 acres.

Pine Valley Recreation Area

T. 39 S., R. 14 W., (metes and bounds description within the following subdivisions)
Sec. 19, S½S½;
Sec. 29 NW¼;
Sec. 30, N½
T. 39 S., R 15 W.,
Sec. 24, SE¼SW¼NW¼, NE¼SE¼, NE¼NW¼SE¼.

Containing 420 acres.

Vermillion Castle Recreation Area

T. 35, S., R. 8 W.,
Sec. 6, lots 3 and 4 (except that portion lying north of the centerline of Forest Road 049).

Containing 31.88 acres.

Uinta National Forest

U–015233, Public Land Order 1579, dated January 30, 1958.

South Fork Administrative Site

T. 3 S., R. 2 E.,
Sec. 24, E½NW¼NW¼SE¼SE¼, NE¼NW¼SE¼SE¼, E½SE¼NW¼SE¼SE¼, NW¼SE¼NW¼SE¼SE¼, SW¼NE¼SE¼SE¼, S½NW¼NE¼SE¼SE¼, NW¼NW¼NE¼SE¼SE¼/

Containing 10 acres.

Timpooneke Administrative Site

T. 4 S., R. 3 E.,
Sec. 32 NW¼SE¼NW¼NW¼, N½SW¼SE¼NW¼NW¼, W½NE¼SE¼NW¼NW¼, NW¼SE¼SE¼NW¼NW¼.

Containing 5.625 acres.

Manti-LaSal National Forest

U–42941, Public Land Order 643, dated May 9, 1950. (This withdrawal would be continued for 20 years.)

Price Warehouse Administrative Site

T. 14 S., R. 10 E.,
Sec. 9, E2SESESESE;
Sec. 10, S2SWSWSW.

Containing 6.25 acres.

The purpose of these withdrawals is to protect Forest Service administrative sites, recreation areas, and the watershed of the City of Salt Lake. The administrative sites and recreation areas were closed to surface entry and mining, while the watershed lands were closed to surface entry, mining and mineral leasing. No change is proposed in the purpose or segregative effect of the withdrawals.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuations may present their views in writing to the Chief, Branch of Lands and Minerals Operations, in the Utah State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawals will be continued, and, if so, for how long. The final determination on the continuation of the withdrawals will be published in the **Federal Register**. The two withdrawals for the City of Salt Lake can only be modified by an Act of Congress, so no action will take place with them until Congress acts. The existing withdrawals will continue until such final determination is made.

Terry Catlin,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 95–2127 Filed 1–27–95; 8:45 am]

BILLING CODE 4310–DQ–M

National Park Service

Notice of Availability of Draft Environmental Impact Statement for Foothills Parkway, Section 8D, Great Smoky Mountains National Park, Tennessee

SUMMARY: This notice announces the availability of a Draft Environmental Impact Statement (DEIS) for construction of Section 8D of the Foothills Parkway. Section 8D lies between Wear Valley and the Pigeon Forge/Gatlinburg Spur in Tennessee. This notice also announces public meetings for the purpose of receiving public comments on the DEIS.

DATES: The DEIS will be on public review until March 17, 1995. Any review comments must be postmarked no later than March 17, 1995, and addressed to the Superintendent, Great Smoky Mountains National Park, at the following address. The dates of the public meetings for the DEIS are February 6, 1995, from 6:30 p.m. to 8:30 p.m. at Gatlinburg American Legion Post 202, Highway 321 North, Gatlinburg, Tennessee, and February 7, 1995, from 5 p.m. to 7 p.m. at Wearwood School Cafeteria, 3150 Wearwood Drive, Sevierville, Tennessee.

FOR FURTHER INFORMATION CONTACT: Superintendent, Great Smoky Mountains National Park, 107 Park Headquarters Road, Gatlinburg, Tennessee 37738, Telephone: (615) 436–1200.

SUPPLEMENTARY INFORMATION: This DEIS assesses the impacts of the proposed construction of this 10-mile section of the Foothills Parkway. The alternative of not constructing Section 8D is also assessed. Copies of the DEIS are available for review at the Regional Office in Atlanta and also at the park. A limited number of copies are available on request from the Superintendent at the above address.

Dated: January 17, 1995.

W. Thomas Brown,

Associate Regional Director, Planning and External Affairs, Southeast Region.

[FR Doc. 95–2123 Filed 1–27–95; 8:45 am]

BILLING CODE 4310–70–M

Notice of Temporary Closure for Direct Reduction of the Population of Nutria, a Non-Native Species, Jean Lafitte National Historical Park and Preserve, Louisiana

SUMMARY: Jean Lafitte National Historical Park and Preserve proposed to directly remove concentrations of nutria from the Barataria Preserve Unit between February 1 and March 15, 1995. The authority for this action is Public Law 95–625, which established Jean Lafitte National Historical Park and Preserve, and specifically authorized hunting and trapping in the Barataria Preserve Unit. Nutria are large rodents that were introduced into Louisiana from South America during the 1930's. Nutria multiply rapidly and cause extensive long-term damage to the coastal marsh environment. The depletion of vegetative cover and soil erosion caused by nutria can be irreversible. If conditions warrant, trained National Park Service rangers will shoot nutria in areas of the greatest concern for marsh damage. Specific areas where reduction operations are carried out will be temporarily closed to the public for reasons of safety. Information as to the specific areas and dates of closure will be available at the Barataria Preserve Visitor Center, 7400 Highway 45, and areas of closure will be posed and patrolled pursuant to 36 CFR 1.7. Direct reduction actions such as this are included as an option in the approved 1990 Trapping Management Plan for the Park's Barataria Preserve Unit. An Environmental Assessment for this plan was released on August 15, 1990, for 30-day public review. Analysis of public and agency comments resulted in a Finding of No Significant Impact. Traditional and contract trapping, which are also approved actions in the plan, have been conducted by Special Use Permit during the past three years. Additional control by direct reduction is now necessary to assure control of nutria in specific areas where nutria damage threatens to undermine the

long-term stability of the marsh substrate. Direct reduction will supplement the take of nutria in these critical areas without increasing the take on non-target species.

For further information or a copy of the Trapping Management Plan, contact: Jean Lafitte National Historical Park and Preserve, 365 Canal Street, Suite 3080, New Orleans, Louisiana 70130–1142.

Dated: January 4, 1995.

John D. Linahan,

Acting Regional Director, Southwest Region.

[FR Doc. 95–2124 Filed 1–27–95; 8:45 am]

BILLING CODE 4310–70–M

National Park Service

Subsistence Resource Commission Meeting

SUMMARY: The Superintendent of Denali National Park and the Chairperson of the Subsistence Resource Commission for Denali National Park announce a forthcoming meeting of the Denali National Park Subsistence Resource Commission.

The following agenda items will be discussed:

(1) Call to order by Chair.

(2) Roll call and confirmation of quorum.

(3) Superintendent's welcome and introductions.

(4) Additions and corrections to agenda.

(5) Minutes of June 8, 1994, meeting: corrections, approval.

(6) Election of Officers.

(7) Old business:

a. Review of SRC function and purpose.

b. Hunting Plan Proposal #7, implementation.

c. McGarth Road proposal by Alaska Department of Transportation.

d. Customary and traditional determination issues related to the Parks Highway.

e. Update on park planning.

f. Agency reports.

(8) Federal Subsistence Management Program update:

a. Federal Subsistence Board actions.

b. Federal Regional Advisory Councils actions.

(9) New business:

a. 1995–96 Federal Regulation Proposals, Subpart D.

b. Denali Task Force report.

c. Kantishna subsistence moose hunts.

(10) Public and other agency comments.

(11) Set time and place of next SRC meeting.

(12) Adjournment.

DATES: The meeting will be held Friday, February 17, 1995. The meeting will begin at 8:30 a.m. and conclude around 5 p.m.

LOCATION: The meeting will be held at the McKinley Village Community Center, Denali Park, Alaska.

FOR FURTHER INFORMATION CONTACT: Steven Martin, Acting Superintendent, P.O. Box 9, Denali Park, Alaska 99755. Phone (907) 683–2294.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commissions are authorized under Title VIII, Section 808, of the Alaska National Interest Lands Conservation Act, Pub. L. 96–487, and operate in accordance with the provisions of the Federal Advisory Committees Act.

Ralph Tingey,

Acting Regional Director.

[FR Doc. 95–2122 Filed 1–27–95; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–290 (Sub-No. 157X)]

Norfolk Southern Railway Company—Abandonment Exemption—Between Alston and Prosperity, SC

Norfolk Southern Railway Company (NS) has filed a notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon its 11.0-mile line of railroad between milepost V–25.0 at Alston and milepost V–36.0 at Prosperity in New Berry County and the Town of Peak, SC.

NS has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (service of environmental report on agencies), 49 CFR 1105.8 (service of historic report on State Historic Preservation Officer), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (service of verified notice on governmental agencies) have been met.

As a condition to use of this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on March 1, 1995, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29[3] must be filed by February 9, 1995. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by February 21, 1995, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any pleading filed with the Commission should be sent to applicant's representative: James R. Paschall, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510–2191.

If the notice of exemption contains false or misleading information, the exemption is void *ab initio.*

Applicant has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by February 3, 1995. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: January 24, 1995.

[1] A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Environmental Analysis in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental concerns is encouraged to file its request as soon as possible in order to permit the Commission to review and act on the request before the effective date of this exemption.

[2] See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–2228 Filed 1–27–95; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 94–60]

Diane E. Shafer, M.D.; Revocation of Registration Denial of Application

On June 27, 1994 the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Diane E. Shafer, M.D. (Respondent). The Order to Show Cause proposed to revoke Dr. Shafer's DEA Certificate of Registration, AS7495624, issued to her in the Commonwealth of Kentucky, and deny her July 29, 1993, application for registration as a practitioner in the State of West Virginia.

The Order to Show Cause alleged that: In November 1987, the Commonwealth of Kentucky, Board of Medical Licensure (Kentucky Board) filed a complaint against Respondent charging her with giving false testimony in a deposition, falsely billing insurance carriers, and excessively and improperly prescribing controlled substances, and although in 1990 the presiding officer recommended that the charges against Respondent be dismissed, Respondent failed to disclose to the Kentucky Board the fact that she married the presiding hearing officer ten days prior to his recommendation; in May 1990, the Kentucky Board brought a second complaint against the Respondent, alleging that she gave false testimony in a sworn deposition, and as a result, Respondent's Kentucky medical license was placed on probation for five years, and she was fined $2,500; on July 16, 1992, the Kentucky Board reinstated the 1987 charges against Respondent based in part on her improper billing of the West Virginia workers' compensation fund, ordered Respondent's medical license be placed on probation for five years, fined her $2,500, and filed a complaint against Respondent for unprofessional and unethical conduct based upon her failure to disclose her relationship with the Kentucky Board's hearing officer and providing him with money; on July 14, 1993, Respondent was convicted of bribery in the Jefferson Circuit Court, sentenced to five years imprisonment, and is currently appealing the conviction; on June 17, 1993, the Kentucky Board ordered the temporary suspension of Respondent's medical license, and on April 23, 1994, the Kentucky Board revoked her license to practice medicine; Respondent continued to prescribe controlled substances to patients several months after her Kentucky license was suspended; on June 12, 1993, Respondent untimely filed an application for renewal of her DEA Certificate of Registration that had expired on February 28, 1993, falsified her address, and provided false information regarding her practice at a West Virginia Hospital; and effective November 12, 1993, the West Virginia Board of Medicine suspended Respondent's license to practice medicine.

Respondent, through counsel, requested a hearing on the issues raised by the Order to Show Cause, and the matter was placed on the docket of Administrative Law Judge Mary Ellen Bittner. On August 9, 1994, the Government filed a motion for summary disposition, alleging that Respondent was not authorized to handle controlled substances in Kentucky or West Virginia. On September 6, 1994, Respondent responded to the Government's motion, and filed her motion for summary disposition.

On September 16, 1994, in her opinion and recommended decision, the administrative law judge granted the Government's motion for summary disposition and recommended that Respondent's DEA Certificate of Registration, AS7495624, issued to her in the Commonwealth of Kentucky, be revoked and that her pending application for registration in West Virginia be denied. On September 26, 1994, Respondent filed exceptions to the opinion and recommended decision of the administrative law judge. On October 18, 1994, the administrative law judge transmitted the record to the Deputy Administrator. The Deputy Administrator has carefully considered the entire record in this matter and, pursuant to 21 CFR 1316.67, hereby issues his final order in this matter based upon findings of fact and conclusions of law as hereinafter set forth.

The administrative law judge found that the Government's motion for summary disposition alleged that Respondent is not authorized to handle controlled substances in Kentucky or West Virginia. The Government's motion was based on the April 23, 1994 revocation of Respondent's medical license in Kentucky and the November 12, 1993 suspension of her medical license in West Virginia. The administrative law judge also found that Respondent's response to the Government's motion did not deny that she was without authority to handle controlled substances in either Kentucky or West Virginia, but simply alleged that Respondent's West Virginia medical license was temporarily suspended, and that she was licensed to practice medicine in Pennsylvania. The administrative law judge concurred with the Government's motion regarding Respondent's lack of state authorization to handle controlled substances in Kentucky and West Virginia.

The Drug Enforcement Administration cannot register or maintain the registration of a practitioner who is not duly authorized to handle controlled substances in the state in which he conducts his business. 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. See James H. Nickens, M.D., 57 FR 59847 (1992); Elliott Monroe, M.D., 57 FR 23246 (1992); Bobby Watts, M.D., 53 FR 11919 (1988).

The administrative law judge properly granted the Government's motion for summary disposition. It is well-settled that when no question of fact is involved, or when the facts are agreed upon, a plenary, adversary administrative proceeding involving evidence and cross-examination of witnesses is not obligatory. The rationale is that Congress does not intend administrative agencies to perform meaningless tasks. Philip E. Kirk, M.D., 48 FR 32887 (1983), aff'd sub nom Kirk v. Mullen, 749 F.2d 297 (6th Cir. 1984); Alfred Tennyson Smurthwaite, N.D., 43 FR 11873 (1978); see also, NLRB v. International Association of Bridge, Structural and Ornamental Ironworkers, AFL–CIO, 549 F.2d 634 (9th Cir. 1977); United States v. Consolidated Mines and Smelting Co., Ltd., 455 F.d 432, 453 (9th Cir. 1971).

Consequently, the administrative law judge recommended that Respondent's DEA Certificate of Registration, AS7495624, issued to her in the Commonwealth of Kentucky, be revoked and that her pending application for registration in West Virginia be denied. In her exceptions to the opinion and recommended decision of the administrative law judge, the Respondent argued, inter alia, that matters alleged in the Government's Order to Show Cause, and restated in the administrative law judge's recommended decision were in error or on appeal. Respondent urged that the grounds alleged in her exceptions be given consideration, and that she be

allowed to present evidence in this regard.

The Respondent acknowledged in her exceptions that she is without authority to handle controlled substances in Kentucky and West Virginia, thus supporting the Government's contention. State authorization to handle controlled substances where Respondent is registered with DEA or seeks registration with DEA is the only relevant issue in this proceeding. As outlined above, DEA cannot register the Respondent to handle controlled substances without such authority. Therefore, the Deputy Administrator has not considered Respondent's other arguments as set forth in her exceptions. The Deputy Administrator hereby adopts the opinion and recommended decision of the administrative law judge in its entirety.

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, AS7495624, previously issued to Diane E. Shafer, M.D., be, and it hereby is, revoked, and that her pending application for registration in West Virginia be denied. This order is effective March 1, 1995.

Dated: January 24, 1995.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 95–2190 Filed 1–27–95; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Office of the Secretary

Glass Ceiling Commission; Postponement of Commission Meetings

Summary: Due to the scheduling difficulties of participants, the Glass Ceiling Commission meetings have been postponed. The meetings had been announced previously in the **Federal Register** of January 19, 1995, 60 FR 3881. The Commission Meetings were to take place on Monday, January 31, 1995, 4:00 p.m.–7:00 p.m. and Tuedsay, February 1, 1995, 1:00 p.m. to 4:00 p.m. at the Department of Labor. The Commission meeting will be rescheduled at a later date.

For Further Information Contact: Ms. René A. Redwood, Executive Director, Glass Ceiling Commission, U.S. Department of Labor, 200 Constitution Avenue, NW, Room C–2313, Washington, DC 20210, (202) 219–7342.

Signed at Washington, DC this 25th day of January, 1995.

René A. Redwood,

Executive Director.

[FR Doc. 95–2198 Filed 1–27–95; 8:45 am]

BILLING CODE 4510–23–M

Pension and Welfare Benefits Administration

[Application No. D–09469, et al.]

Proposed Exemptions; Financial Institutions Retirement Fund, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restriction of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and request for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue NW., Washington, D.C. 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Financial Institutions Retirement Fund (the Fund) and Financial Institutions Thrift Plan (the Thrift Plan) Located in White Plains, New York

[Application No. D–09469]

Proposed Exemption

Section I. Covered Transactions

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted the restrictions of sections 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the provision of certain services, and the receipt of compensation for such services, by Pentegra Services, Inc. (Pentegra), a wholly-owned, for-profit subsidiary corporation of the Fund, to employee benefit plans (the Plans) and to their sponsoring employers (the Employers) that participate in the Fund and the Thrift Plan; provided that the following conditions are met:

(a) A qualified, independent fiduciary of the Fund determines that the services provided by Pentegra are in the best interests of the Fund and are protective of the rights of the participants and beneficiaries of the Fund;

(b) At the time the transactions are entered into, the terms of the transactions are not less favorable to Pentegra than the terms generally available in comparable arm's-length transactions between unrelated parties;

(c) Pentegra receives reasonable compensation for the provision of its services, as determined by the independent fiduciary;

(d) Prior to the offering of services, the independent fiduciary will initially review the services to be provided by Pentegra and will determine that such services are reasonable and appropriate for Pentegra, taking into account such factors as: whether Pentegra has the capability to perform such services, whether the fees to be charged reflect arm's length terms, whether Pentegra personnel have the qualifications to provide such services, and whether such arrangements are reasonable based upon a comparison with similarly qualified firms in the same or similar locales in which Pentegra proposes to operate;

(e) No services will be provided by Pentegra without the prior review and approval of the independent fiduciary;

(f) Not less frequently than quarterly, the independent fiduciary will perform periodic reviews to ensure that the services offered by Pentegra remain appropriate for Pentegra and that the fees charged by Pentegra represent reasonable compensation for such services;

(g) Not less frequently than annually, Pentegra will provide a written report to the board of directors of the Fund describing in detail the services it provided to employee benefit plans and/or their sponsoring employers that participated in the Fund and the Thrift Plan, a detailed accounting of the fees received for such services, and an estimate of the fees Pentegra anticipates it will receive during the following year from such plans and their sponsoring employers;

(h) Not less frequently than annually, the independent fiduciary will conduct a detailed review of approximately 10 percent of all completed transactions, which will include a reasonable cross-section of all services performed; such transactions will be reviewed for compliance with the terms and conditions of this exemption;

(i) Pentegra's financial statements will be audited each year by an independent certified public accountant, and such audited statements will be reviewed by the independent fiduciary;

(j) The independent fiduciary shall have the authority to prohibit Pentegra from performing services that such fiduciary deems inappropriate and not in the best interests of Pentegra and the Fund; and

(k) Each Pentegra contract with a Fund or Thrift Plan employer, or a plan of such employer, will be subject to termination without penalty by Pentegra for any reason upon not more than 90 days written notice to such employer or plan.

Section II. Recordkeeping

(1). The independent fiduciary and the Fund will maintain, or cause to be maintained, for a period of 6 years, the records necessary to enable the persons described in paragraph (2) of this Section II to determine whether the conditions of this exemption have been met, except that (a) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of the independent fiduciary and the Fund or their agents, the records are lost or destroyed before the end of the six year period, and (b) no party in interest other than the independent fiduciary and the Board of Directors of the Fund shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (2) below.

(2)(a). Except as provided in section (b) of this paragraph and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (1) of this Section II shall be unconditionally available at their customary location during normal business hours by:

(1) Any duly authorized employee or representative of the Department or the Internal Revenue Service;

(2) Any employer participating in the Fund or any duly authorized employee or representative of such employer; and

(3) Any participant or beneficiary of the Fund or any duly authorized representative of such participant or beneficiary.

(b) None of the persons described above in subparagraphs (a)(2) and (a)(3) of this paragraph (2) shall be authorized to examine trade secrets of the independent fiduciary, the Fund, or their affiliates, or commercial or financial information which is privileged or confidential.

(3) For purposes of this Section II, references to the Fund shall also include Pentegra.

Summary of Facts and Representations

1. The Fund is a multiple employer, defined benefit pension plan which is intended to meet the requirements for qualification under section 401(a) of the Code and as an employee pension benefit plan within the meaning of section 3(2) of the Act. The applicant further represents that because all of the assets of the Fund are available to pay all benefits accrued under its retirement program, the Fund is considered to be a single plan under the Code and regulations thereunder.

The Fund was established in 1943 to provide a means by which the Federal Home Loan Banks and various financial institutions could cooperate in providing retirement benefits for their employees. The applicant represents that the Fund is currently the largest provider of pension benefits in the thrift industry with 12 Federal Home Loan Banks, hundreds of individual thrift institutions, and various other companies which directly service the thrift industry that have chosen to participate in the Fund. As of March 31, 1994, the Fund had total assets of approximately $1.36 billion, 355 participating employers, and 36,714 individual plan participants. As of July 1, 1993, the applicant represents that the fair market value of the assets of the Fund exceed its liabilities for projected accrued benefits by approximately $420 million.

The named fiduciaries of the Fund and the Thrift Plan are their respective boards of directors. The President of both the Fund and Thrift Plan is also, for both the Fund and Thrift Plan, the chief administrative officer, a member ex officio of the board of directors, and pursuant to the Act, the ''plan administrator''. The Fund has another 13 individuals that are members of its board of directors, most of whom are presidents of various employers that participate in the Fund, and one individual who is the Regional Director for the Northeast Region of the Office of Thrift Supervision.

The Thrift Plan is a multiple employer, defined contribution plan that was established in 1970. As of March 31, 1994, the Thrift Plan had total assets of $315,845,510, 196 participating employers, and 16,897 individual plan participants. It was created to encourage employers participating in the Fund to continue their participation by providing them with the convenience of a defined contribution plan which is administered

by the same personnel at the same facilities as the Fund. The Thrift Plan has a board of directors which, in addition to the President of the Thrift Plan, consists of 6 individuals who are presidents of various employers that participate in the Thrift Plan.

2. The Fund proposes to create a wholly-owned, for-profit subsidiary corporation designated as Pentegra Services, Inc. (Pentegra), a Delaware corporation, in order to externalize the services the Fund performs for employee benefit plans (the Plans) and their sponsoring employers (the Employers) in a way that will enhance the value of the assets of the Fund. The applicant represents that research indicates that, if the Fund does not expand its employee benefit services to gain new clients, it is facing the problem of increased costs of plan administration on a per participant basis because of the consolidation and contraction of many companies which occurred in recent years in the thrift industry. The intention of the Fund is to have Pentegra, on a cost effective basis, expand its current services and activities by providing various ministerial or fiduciary services to Plans and their Employers, which may or may not participate in the Fund or in the Thrift Plan. The applicant represents that the creation of Pentegra will enable the Fund to develop new products and services for employers outside of the banking industry that not only will enhance revenues but will increase significantly the experience and resources of the Fund and enable the Fund to attract and retain a highly qualified staff of employees.

The applicant represents that Pentegra will report not less frequently than annually to the board of directors of the Fund, a detailed description of the services it provided to employee benefit plans and/or to their sponsoring employers that participate in the Fund and the Thrift Plan. Also, the report by Pentegra will give a detailed account of the fees received for such services and will estimate the amount of fees it anticipates receiving in the following year from the plans and/or their sponsoring employers. Further, Pentegra's financial statements will be audited annually by an independent certified public accountant and such audited statements will be reviewed by Pentegra's independent fiduciary (see below).

The services that Pentegra is proposing to provide to tax-qualified defined benefit and defined contribution plans and to their sponsoring employers include:

(a) Preparation of plan documents and summary plan descriptions.

(b) Procurement of favorable determination letters with respect to the tax qualification of the plans from the Internal Revenue Service.

(c) Maintenance of books of account for plans and each participant, disclosing, among other things, accrued benefits and account balances.

(d) Performance of plan administration functions involving preparation of employee statements, calculation and payment of benefits, preparation of investment performance data, top-heavy testing, and administration of plan participant loans and hardship withdrawals.

(e) Performance of functions necessary for maintaining compliance with applicable provisions of the Code; such as, the special nondiscrimination testing, testing for compliance with the annual limitations on contributions and benefits, and testing for compliance with minimum coverage and participation requirements.

(f) Assist in the preparation of annual reports and participant benefit statements as required by the Act and Code.

(g) Provide consulting services to its clients, including employers participating in the Fund or Thrift Plan, with respect to tax-qualified retirement plans.

Pentegra is represented by the applicant to have intentions of offering similar services with regard to nonqualified compensation plans or arrangements as will be offered with regard to tax-qualified retirement plans. The nonqualified plans will be excess benefit plans, supplemental executive retirement plans, salary continuation plans, elective deferred compensation plans, and various types of equity-based compensation arrangements, such as stock options, stock appreciation rights, and phantom stock.

Accordingly, with respect to such nonqualified plans and arrangements, Pentegra intends to perform for its clients, including employers participating in the Fund or the Thrift Plan, the following enumerated services:

(a) Preparation of appropriate plan documents and, as applicable, summary plan descriptions.

(b) Assist employers in obtaining various rulings from governmental authorities; e.g., IRS private letter rulings.

(c) Maintenance of books of account for plans and for each participant in the plan.

(d) Performance of various administration functions, such as benefit calculations, testing for compliance with tax withholding requirements, and making determinations of eligibility for benefits and payment options.

(e) Assist in preparation of annual reports of plans and participant benefit statements.

(f) Provide consulting services to clients, including Fund and Thrift Plan sponsoring employers, with respect to nonqualified plans.

3. The Fund is contracting with Ernst & Young, a New York partnership, to employ its division of Actuarial, Benefits, and Compensation Consulting Services (ABC) to be the independent fiduciary with respect to the services Pentegra will render to Employers that participate in the Fund or the Thrift Plan and to the Plans sponsored by the Employers.

Ernst & Young represents that it is an international professional services firm performing as independent auditors and business advisers to a broad range of companies engaged in various business activities, including companies engaged in regulated industries, such as banking, insurance, and utilities. Its clientele includes companies required to comply with the Act. In addition, Ernst & Young states that as auditors, it has numerous policies, practices, and systems in place to ensure that it remains independent from its clients.[1] Ernst & Young has 600 locations worldwide with 20,000 employees that generated domestic revenues for fiscal 1993 of $2.3 billion and global revenues that exceeded $5 billion. They further represent that including its undertaking as independent fiduciary for the Fund, it will not receive revenues from the Fund and the Thrift Plan that exceed one percent of its gross receipts from all sources for any fiscal year.

The practice of ABC provides a variety of services related to qualified and nonqualified retirement programs, including defined benefit and defined contribution arrangements, and welfare benefit and executive compensation programs. It also deals with benefits, tax, and regulatory issues, actuarial matters, and employee communications. ABC has more than 350 professionals located nationwide, comprised of attorneys, accountants, actuaries, plan administrators, and consultants. ABC is familiar with the types of services that Pentegra proposes to provide to both qualified and nonqualified plans because of its having performed all of those services for its own clients. ABC

[1] Since Ernst & Young is serving as independent fiduciary for Pentegra, Ernst & Young will not be engaged as Pentegra's independent certified public accountant.

has also performed surveys that are regularly used to advise employers and their employee benefit plans on implementing and improving their recordkeeping procedures, benefit valuations, and compliance systems. Ernst & Young concludes that the past experience of ABC will enable it to discern which services that may be performed by Pentegra are appropriate and in the best interests of the Fund and whether or not the fees for the services constitute reasonable compensation.

Following the initial review of the services to be provided by Pentegra, ABC will perform periodic reviews (at fixed intervals, at least quarterly as well as spot checks) to ensure that the services offered remain appropriate for the Fund. ABC not only will determine whether the services are beneficial for the Fund, but will also determine whether the fees charged by Pentegra represent reasonable compensation. ABC will use its own service and pricing structure experience as well as comparisons to similarly qualified firms in similar locales to determine if fees charged by Pentegra are those that would be charged in arm's-length transactions. Pentegra will establish written schedules for fees for different services it will provide that will be subject to review and approval or disapproval by ABC. An annual detailed review of approximately 10 percent of all completed service transactions undertaken by Pentegra will be made by ABC, selecting a reasonable cross-section of all the different services performed.

Ernst & Young represents that ABC will take an active role in determining whether the services performed by Pentegra are economically pragmatic for the Fund and whether the services are in the best interests of the Fund and its participants and beneficiaries. ABC also will determine whether the services performed by Pentegra will enhance the services and product availability as well as afford economies of scale for the Fund and its respective programs.

An initial review by ABC of the services to be performed by Pentegra and the fees to be charged will involve an in-depth analysis of each service proposed by Pentegra and the fees to be charged to determine whether such services are reasonable and appropriate for Pentegra to perform and whether the fees represent reasonable compensation. ABC will review the qualifications of the personnel who will perform the services, interview selected individuals, review documentation and processes to assess administrative practices, systems, and controls employed by Pentegra as well as evaluate the overall capabilities of Pentegra to deliver the proposed services. ABC will also assess the proposed pricing structure of Pentegra for reasonableness in relation to the market. No services will be rendered by Pentegra without prior review and approval by ABC.

As part of the initial review, ABC will explore with Pentegra the standardization of certain services by Pentegra to determine whether the services could have uniform pricing and marketing. If such standardization of services and fees by Pentegra are reasonable and competitive, then ABC would not need to approve every transaction involving such previously approved standardized service.

ABC will maintain for a period of 6 years records that document its determinations as to the services to be rendered and fees charged by Pentegra, and records of the process and rationale used by ABC to make its determinations. Such records will include the initial determinations as well as ABC's periodic and annual reviews and decisions for approving and disapproving the services and fees of Pentegra.

Ernst & Young further represents that ABC will take action to prohibit Pentegra from performing services that ABC deems inappropriate and not in the best interests of the Fund and its participants and beneficiaries. When ABC undertakes to prohibit Pentegra from offering a service, it will inform the President and Senior Vice President—Legal & Secretary of the Fund by facsimile and overnight mail to cease providing the service. Should such service continue, overnight letters containing ABC's findings and orders will be sent to each member of Pentegra's and the Fund's board of directors.

4. The applicant represents that the proposed transactions will permit Pentegra to operate in a for-profit environment and to develop new products and services which will inevitably inure to the benefit of Fund and its Employers by way of enhanced services and the attainment of greater expertise by the staff. Also, the applicant foresees that the proposed provision of services by Pentegra will expand the economic value of the Fund's plan administration services and create significant increased returns for such services. The applicant further represents that the potential returns to be derived from the use of the administration services provided by Pentegra will serve to maintain the present positive economies of scale available under the Fund, and thus facilitate both significant Employer participation in the Fund and its continuing viability as a retirement benefit program, and thereby provide substantial benefits to individual participants and their beneficiaries.

Under the proposed transactions, the applicant represents that the rights of the participants and beneficiaries of the Fund will be protected. The staff of the Fund, in conjunction with a market research firm, has made a study of the current and projected market in which the Fund operates, and the staff performed an analysis of its services and the feasibility of offering its services to third-party employers. A special committee of the board of directors of the Fund reviewed in detail the findings of the staff of the Fund and an independent financial advisor (the Deloitte & Touche Valuation Group) provided an opinion as to the fairness of the proposed transactions from a financial perspective.

With respect to the setting of compensation for Fund and Pentegra employees, the applicant represents that on an annual basis the President and the human resources officer of the Fund draft a proposed salary budget for the Fund (including Pentegra), taking into account input from various management levels, and also, making an analysis of each described position, determining the relative worth and fair market value of each position, and reviewing the performance of each employee.

The proposed annual salary budget is then presented by the President of the Fund to the personnel committee of the board of directors of the Fund, which reports directly to the board of directors of the Fund on major personnel policies, including compensation matters. The personnel committee typically enters into executive session (without the President of the Fund in attendance) when it deliberates over the proposed salary budget and presents its recommendations to the board of directors of the Fund. The board of directors then makes the final decision regarding salary levels.

The personnel committee consists of 5 presidents of different financial institutions that participate in the Fund. No employees or officers of the Fund, Pentegra, or the Thrift Plan are members of the personnel committee. The applicant represents that, as a result of the make-up of the committee and the board of directors, there is assurance that compensation levels are appropriate and in accordance with the board of directors duty as fiduciaries of the Fund to act in the best interests of the participants and beneficiaries of the Fund.

In addition, the applicant represents that if an employer participating in the Fund and/or the Thrift Plan is considering retaining Pentegra to provide services and an officer of such employer is also a member of either the board of directors of the Fund, the Thrift Plan, or Pentegra, such individual shall refrain from any discussions or considerations by such board of directors with respect to the provision of services by Pentegra.

The applicant represents that in the event a situation arises which could lead to a conclusion that there may be a conflict of interest or the appearance of a conflict of interest in the context described above involving a person who is a member of the Board of the Fund, the Thrift Plan, or Pentegra, the following procedures will be followed:

(a) The person shall disclose the facts of the situation to the Chairperson of the Board of which the person is a member;

(b) The person shall not participate in any formal or informal discussion of, or participate in any decision, or vote on the specific contract, relationship, person, or organization with respect to which the conflict or appearance of conflict may arise. However, such person may be counted to establish a quorum for meetings;

(c) The person will leave the meeting to allow the remaining members to engage in a free and frank discussion regarding the contract, relationship, individual, or organization with respect to which the conflict or appearance of conflict may arise and not return to the meeting until called by the Chairperson of the Board; and

(d) The minutes of the affected Board shall record the absence of the person from the discussions, deliberations, and decisions of the Board with respect to the contract, relationship, individual, or organization in question. If a vote is taken, the person affected will not vote, and the minutes of the meeting will record that fact.

The applicant represents that the terms of any transactions between Pentegra and employers who participate in the Fund or Thrift Plan will be at least as favorable to Pentegra as the terms available in arm's-length transactions between Pentegra and employers who do not participate in the Fund or the Thrift Plan. It is represented by the applicant that all arrangements between Pentegra and a Fund or Thrift Plan employer, or its plan, for the provision of services, will be in writing and will be terminable by Pentegra without penalty to Pentegra upon not more than 90 days written notice to such an employer or its plan. Further, such plans and employers may terminate their contracts with Pentegra without penalty upon not more than 90 days written notice to Pentegra.

The applicant represents that Pentegra will report not less than annually to the board of directors of the Fund a detailed description of the services it provided to employee benefit plans and/or to their sponsoring employers that participate in the Fund and the Thrift Plan. Also, the report by Pentegra will give a detailed account of the fees received for such services and will estimate the amount of fees it anticipates receiving in the following year from the such plans and/or their sponsoring employers.

5. In summary, the applicant represent that the proposed transactions will satisfy the criteria of section 408(a) of the Act and section 4975(c)(2) of the Code because (a) the terms for the proposed services between Pentegra and employers that participate in the Fund or the Thrift Plan will be as favorable to Pentegra as are the terms available in arm's-length transactions between Pentegra and employers which do not participate in the Fund or the Thrift Plan; (b) Pentegra will be able to terminate without penalty its services to plans sponsored by employers which participate in the Fund or the Thrift Plan on reasonably short notice under the particular circumstances; (c) an independent fiduciary will determine that Pentegra receives reasonable compensation for the provision of its services; and (d) the independent fiduciary has the authority to prohibit Pentegra from performing services that such fiduciary deems inappropriate and not in the best interests of the Fund.

FOR FURTHER INFORMATION CONTACT: Mr. C. E. Beaver of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Mellon Bank, N.A., Located in Pittsburgh, Pennsylvania

[Application No. D–09523]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, August 10, 1990).

Section I—Exemption for In-Kind Transfer of CIF Assets

If the exemption is granted, the restrictions of sections 406(a) and 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (F) of the Code, shall not apply, as of November 5, 1993, to the in-kind transfer of assets of plans for which Mellon Bank, N.A. or any of its affiliates (Mellon) acts as a fiduciary (the Client Plans), other than plans established or maintained by Mellon, that are held in certain collective investment funds maintained by Mellon (CIFs), in exchange for shares of the Laurel Funds [a/k/a Dreyfus or Premier Funds] (the Funds),[2] open-end investment companies registered under the Investment Company Act of 1940 (the 1940 Act), in situations where Mellon acts as investment advisor for the Fund as well as custodian, dividend disbursing agent, shareholder servicing agent, transfer agent, and/or Fund accountant, or provides some other ''secondary service'' to the Funds as defined in Section V(h), in connection with the termination or partial termination of such CIFs, provided that the following conditions and the general conditions of Section IV are met:

(a) No sales commissions or other fees are paid by the Client Plans in connection with the purchase of Fund shares through the in-kind transfer of CIF assets and no redemption fees are paid in connection with the sale of such shares by the Client Plans to the Funds.

(b) Each Client Plan receives shares of a Fund which have a total net asset value that is equal to the value of the Client Plan's pro rata share of the assets of the CIF on the date of the in-kind transfer, based on the current market value of the CIF's assets as determined in a single valuation performed in the same manner at the close of the same business day using independent sources in accordance with Rule 17a–7 of the Securities and Exchange Commission under the 1940 Act (see 17 CFR 270.17a–7) and the procedures established by the Funds pursuant to Rule 17a–7 for the valuation of such assets. Such procedures must require that all securities for which a current market price cannot be obtained by reference to the last sale price for transactions reported on a recognized securities exchange or NASDAQ be valued based on an average of the highest current independent bid and lowest current independent offer, as of the close of business on the Friday preceding the weekend of the CIF transfers (or, in the case of any weekday CIF transfers, the day of the transfer), determined on the basis of reasonable inquiry from at least three sources that are broker-dealers or pricing services independent of Mellon.

[2] The applicant represents that effective October 1994, the Laurel Funds changed their name to either ''Dreyfus'' or ''Premier'' as a result of Mellon's acquisition of the Dreyfus Corporation, the sponsor of the Dreyfus Funds.

(c) All or a pro rata portion of the assets of a Client Plan held in a CIF are transferred in-kind to the Funds in exchange for shares of such Funds.

(d) A second fiduciary which is independent of and unrelated to Mellon (the Second Fiduciary) receives advance written notice of the in-kind transfer of assets of the CIFs and full written disclosure of information concerning the Funds (including a current prospectus for each of the Funds and a statement describing the fee structure) and, on the basis of such information, authorizes in writing the in-kind transfer of the Client Plan's assets to a corresponding Fund in exchange for shares of the Fund.

(e) For all transfers of CIF assets to a Fund following the publication of this proposed exemption in the **Federal Register**, Mellon sends by regular mail to each affected Client Plan the following information:

(1) Within 30 days after completion of the transaction, a written confirmation containing:

(i) The identity of each security that was valued for purposes of the transaction in accordance with Rule 17a–7(b)(4);

(ii) The price of each such security involved in the transaction;

(iii) The identity of each pricing service or market maker consulted in determining the value of such securities; and

(2) Within 90 days after completion of each transfer, a written confirmation that contains:

(i) The number of CIF units held by the Client Plan immediately before the transfer, the related per unit value, and the total dollar amount of such CIF units; and

(ii) The number of shares in the Funds that are held by the Client Plan immediately following the transfer, the related per share net asset value, and the total dollar amount of such shares.

(f) The conditions set forth in paragraphs (e), (f) and (n) of Section II below are satisfied.

Section II—Exemption for Receipt of Fees

If the exemption is granted, the restrictions of section 406(a) and 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (F) of the Code, shall not apply, as of November 5, 1993, to the receipt of fees by Mellon from the Funds for acting as an investment advisor for the Funds as well as for providing other services to the Funds which are ''secondary services'' as defined in Section V(h), in connection with the investment by the Client Plans in shares of the Funds, provided that the following conditions and the general conditions of Section IV are met:

(a) Each Client Plan receives a cash credit of such Plan's proportionate share of all fees charged to the Funds by Mellon for investment advisory services and ''secondary services'', including any investment advisory fees paid by Mellon to third party sub-advisers, no later than the same day as the receipt of such fees by Mellon. The crediting of all such fees to the Client Plans by Mellon is audited by an independent accounting firm on at least an annual basis to verify the proper crediting of the fees to each Client Plan.

(b) The price paid or received by a Client Plan for shares in a Fund is the net asset value per share at the time of the transaction, as defined in Section V(e), and is the same price which would have been paid or received for the shares by any other investor at that time.

(c) Neither Mellon nor an affiliate, including any officer or director of Mellon, purchases or sells shares of the Funds from or to any Client Plan.

(d) No sales commissions are paid by the Client Plans in connection with the purchase or sale of shares of the Funds and no redemption fees are paid in connection with the sale of shares by the Client Plans to the Funds.

(e) The combined total of all fees received by Mellon for the provision of services to a Client Plan, and in connection with the provision of services to the Funds in which the Client Plan may invest, are not in excess of ''reasonable compensation'' within the meaning of section 408(b)(2) of the Act.

(f) Mellon does not receive any fees payable pursuant to Rule 12b–1 under the 1940 Act in connection with the transactions.

(g) The Client Plans are not employee benefit plans sponsored or maintained by Mellon.

(h) The Second Fiduciary receives full and detailed written disclosure of information concerning the Funds (including a current prospectus for each of the Funds and a statement describing the fee structure) in advance of any investment by the Client Plan in a Fund.

(i) On the basis of the information described above in paragraph (h), the Second Fiduciary authorizes in writing the investment of assets of the Client Plan in each particular Fund and the fees to be paid by such Funds to Mellon.

(j) All authorizations made by a Second Fiduciary regarding investments in a Fund and the fees paid to Mellon are subject to an annual reauthorization wherein any such prior authorization referred to in paragraph (i) shall be terminable at will by the Client Plan, without penalty to the Client Plan, upon receipt by Mellon of written notice of termination. A form expressly providing an election to terminate the authorization described in paragraph (i) above (the Termination Form) with instructions on the use of the form must be supplied to the Second Fiduciary no less than annually. The instructions for the Termination Form must include the following information:

(1) The authorization is terminable at will by the Client Plan, without penalty to the Client Plan, upon receipt by Mellon of written notice from the Second Fiduciary; and

(2) Failure to return the Termination Form will result in continued authorization of Mellon to engage in the transactions described in paragraph (i) on behalf of the Client Plan.

(k) The Second Fiduciary of each Client Plan invested in a particular Fund receives full written disclosure in a Fund prospectus or otherwise of any increases in the rates of fees charged by Mellon to the Funds for investment advisory services or other services (i.e. ''secondary services'') even though such fees will be credited to the Client Plan as required by paragraph (a) above.

(l) On an annual basis, Mellon provides the Second Fiduciary of a Client Plan investing in the Funds with:

(1) A copy of the current prospectus for the Funds and, upon such fiduciary's request, a copy of the Statement of Additional Information for such Funds which contains a description of all fees paid by the Funds to Mellon;

(2) A copy of the annual financial disclosure report prepared by Mellon which includes information about the Fund portfolios as well as audit findings of an independent auditor within 60 days of the preparation of the report; and

(3) Oral or written responses to inquiries of the Second Fiduciary as they arise.

(m) With respect to each of the Funds in which a Client Plan invests, in the event such Fund places brokerage transactions with Mellon or an affiliate, Mellon will provide the Second Fiduciary of such Client Plan at least annually with a statement specifying:

(1) The total, expressed in dollars, brokerage commissions of each Fund's portfolio that are paid to Mellon or an affiliate by such Fund;

(2) The total, expressed in dollars, of brokerage commissions of each Fund's portfolio that are paid by such Fund to brokerage firms unrelated to Mellon;

(3) The average brokerage commissions per share, expressed as cents per share, paid to Mellon or an affiliate by each Fund portfolio; and

(4) The average brokerage commissions per share, expressed as cents per share, paid by each Fund portfolio to brokerage firms unrelated to Mellon.

(n) All dealings between the Client Plans and the Funds are on a basis no less favorable to the Client Plans than dealings with other shareholders of the Funds.

Section III—Exemption for Transfers of Client Plan Securities from Individual Portfolios

The restrictions of sections 406(a) and 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (F) of the Code, shall not apply to an exchange (the Exchange) by a Client Plan of securities for shares of the Funds (other than an exchange covered by Section I above), and to the receipt of fees by Mellon from the Funds for acting as investment adviser for the Funds as well as providing other services to the Funds which are ''secondary services'' as defined in Section V(h), in connection with such an investment by a Client Plan in the Funds, provided that the following conditions and the general conditions in Section IV are met:

(a) The terms of the transaction are at least as favorable to the Client Plan as those obtainable in an arm's-length transaction between unrelated parties.

(b) Each Exchange is a one-time transaction between a Client Plan and the Fund.

(c) All or a pro rata portion of the assets of a Client Plan held by Mellon in an investment account or portfolio that is selected by the Second Fiduciary of such Client Plan for an Exchange are transferred in-kind to the Funds in exchange for shares of such Funds.

(d) No sales commission or dealer mark-up is paid by the Client Plan in connection with the transaction.

(e) The Exchange meets the requirements of the particular Fund for an in-kind purchase of shares of the Fund.

(f) One of the following conditions is met:

(1) The Client Plan receives a cash credit of such Plan's proportionate share of *all* fees (including all investment advisory fees and all secondary service fees) charged to the Funds by Mellon, less any fees paid by Mellon to parties unrelated to Mellon for services other than investment advisory services provided to the Funds, no later than the same day as the receipt of such fees by Mellon;

(2) The assets of the Client Plan invested in the Funds are excluded from the assets on which the investment management fees paid by the Client Plan to Mellon are determined; or

(3) The Client Plan pays an investment management fee to Mellon based on total Plan assets from which a credit is subtracted representing only the Client Plan's pro rata share of the investment advisory fees paid by the Funds to Mellon.

(g) For purposes of the Exchange, the price of securities is established as of the close of business on the date for the Exchange specified in the written authorization by the Second Fiduciary, as follows:

(1) If the security is described in subparagraphs (b) (1) through (3) of Rule 17a–7 under the 1940 Act (see 17 CFR 270. 17a–7(b) (1)–(3)), in accordance with the valuation procedures described in those paragraphs; or

(2) If the security is not described in paragraph (g)(1) above, by the recognized, independent pricing service or services disclosed to the Second Fiduciary described in paragraph (j) below prior to its written authorization of the Exchange. If no price is available from a recognized, independent pricing service for such date, or from a sufficient number of pricing services if more than one is to be used, Mellon will determine the price by averaging the mean of the closing bid and asked quotation for each of two or more recognized, independent market markers and/or pricing services for such securities on that date.

(h) For purposes of the Exchange, the price paid or received by a Client Plan for Fund shares is the net asset value per share at the time of the transaction, as defined in Section V(e), and Mellon determines the value of the securities exchanged and the net asset value of the Funds as of the close of business on the same day.

(i) Within 30 days after the authorization of the Exchange, the Second Fiduciary receives a written confirmation that reflects the price of each of the securities involved in the Exchange. For those securities described in paragraph (g)(2) above, the confirmation will include a written disclosure of the identity of the pricing service or market markers consulted in determining the value of the securities.

(j) The Second Fiduciary acting for the Client Plan—

(1) Receives advance written disclosure of information concerning the Funds (including current prospectuses for the Funds and a statement describing the fee structure to be used to comply with paragraph (f) above) and, prior to the Exchange, receives in writing (A) the reasons why Mellon may consider such Exchanges to be appropriate for the Client Plan and a list of the securities held by the Client Plan that would be accepted by one or more Funds with respect to the Exchange, (B) the date the Exchange is to occur, and (C) an explanation of the procedures that would be followed for valuing the securities for purposes of the Exchange, including the identity of the recognized, independent pricing service or services that will value any of the securities described in paragraph (g)(2) above; and

(2) On the basis of such information, authorizes in writing the investment of assets of the Client Plan in the Funds through the Exchange and the fees to be paid by the Funds to Mellon.

(k) The authorization referred to in paragraph (j) is terminable at will by the Client Plan, without penalty to the Client Plan, upon receipt by Mellon of written notice of termination. A Termination Form expressly providing an election to terminate the authorization described in paragraph (j) with instructions on the use of the form must be supplied to the Second Fiduciary no less than annually. The instructions for the Termination Form must include the following information:

(1) The authorization is terminable at will by the Client Plan, without penalty to the Client Plan, upon receipt by Mellon of written notice from the Second Fiduciary; and

(2) Failure to return the form will result in continued authorization of the investment by the Client Plan in the Funds and the payment of fees by the Funds to Mellon.

(l) If the fee structure described in paragraph (f)(2) or (f)(3) above is followed, the Second Fiduciary is notified of any change in any of the rates of the fees payable to Mellon for investment advisory services or secondary services, that had been disclosed to the Second Fiduciary as described in paragraph (j) above, at least 30 days prior to the effective date of such change, and approves in writing the continued holding of any Fund shares acquired by the Client Plan prior to such change which are still held by the Plan. Such approval may be limited solely to the investment advisory and other fees paid by the Funds in relation to the fees paid by the Client Plan and need not relate to any other aspect of such investment.

(m) The conditions set forth in paragraphs (c), (e), (f), (g), (l), (m), and (n) of Section II above are satisfied.

Section IV—General Conditions

(a) Mellon maintains for a period of six years the records necessary to enable the persons described below in paragraph (b) to determine whether the conditions of this exemption have been met, except that (1) A prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of Mellon, the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest other than Mellon shall be subject to the civil penalty that may be assessed under section 502(i) of the Act or to the taxes imposed by section 4975 (a) and (b) of the Code if the records are not maintained or are not available for examination as required by paragraph (b) below.

(b) (1) Except as provided below in paragraph (b)(2) and notwithstanding any provisions of section 504(a)(2) of the Act, the records referred to in paragraph (a) are unconditionally available at their customary location for examination during normal business hours by—

(i) Any duly authorized employee or representative of the Department or the Internal Revenue Service,

(ii) Any fiduciary of the Client Plans who has authority to acquire or dispose of shares of the Funds owned by the Client Plans, or any duly authorized employee or representative of such fiduciary, and

(iii) Any participant or beneficiary of the Client Plans or duly authorized employee or representative of such participant or beneficiary;

(2) None of the persons described in paragraph (b)(1) (ii) and (iii) shall be authorized to examine trade secrets of Mellon, or commercial or financial information which is privileged or confidential.

Section V—Definitions

For purposes of this proposed exemption:

(a) The term ''Mellon'' means the Mellon Bank, N.A. and any affiliate thereof as defined below in paragraph (b) of this section.

(b) An ''affiliate'' of a person includes:

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) Any officer, director, employee, relative, or partner in any such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

(c) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) The term ''Fund'' or ''Funds'' shall include the Laurel Funds, Inc. [a/k/a the Dreyfus Funds or the Premier Funds], or any other diversified open-end investment company or companies registered under the 1940 Act for which Mellon serves as an investment adviser and may also serve as a custodian, dividend disbursing agent, shareholder servicing agent, transfer agent, Fund accountant, or provide some other ''secondary service'' (as defined below in paragraph (h) of this Section) which has been approved by such Funds.

(e) The term ''net asset value'' means the amount for purposes of pricing all purchases and sales calculated by dividing the value of all securities, determined by a method as set forth in the Fund's prospectus and statement of additional information, and other assets belonging to the Fund or portfolio of the Fund, less the liabilities charged to each such portfolio or Fund, by the number of outstanding shares.

(f) The term ''relative'' means a ''relative'' as that term is defined in section 3(15) of the Act (or a ''member of the family'' as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or a sister.

(g) The term ''Second Fiduciary'' means a fiduciary of a Client Plan who is independent of and unrelated to Mellon. For purposes of this exemption, the Second Fiduciary will not be deemed to be independent of and unrelated to Mellon if:

(1) Such fiduciary directly or indirectly controls, is controlled by, or is under common control with Mellon;

(2) Such fiduciary, or any officer, director, partner, employee, or relative of the fiduciary is an officer, director, partner or employee of Mellon (or is a relative of such persons);

(3) Such fiduciary directly or indirectly receives any compensation or other consideration for his or her own personal account in connection with any transaction described in this exemption.

If an officer, director, partner or employee of Mellon (or relative of such persons), is a director of such Second Fiduciary, and if her or she abstains from participation in (i) the choice of the Client Plan's investment adviser, (ii) the approval of any such purchase or sale between the Client Plan and the Funds, and (iii) the approval of any change in fees charged to or paid by the Client Plan in connection with any of the transactions described in Sections I and II above, then paragraph (g)(2) of this section shall not apply.

(h) The term ''secondary service'' means a service other than an investment management, investment advisory, or similar service, which is provided by Mellon to the Funds. However, for purposes of this exemption, the term ''secondary service'' will not include any brokerage services provided to the Funds by Mellon for the execution of securities transactions engaged in by the Funds.

(i) The term ''Termination Form'' means the form supplied to the Second Fiduciary which expressly provides an election to the Second Fiduciary to terminate on behalf of a Client Plan the authorization described in paragraph (j) of Section II. Such Termination Form may be used at will by the Second Fiduciary to terminate an authorization without penalty to the Client Plan and to notify Mellon in writing to effect a termination by selling the shares of the Funds held by the Client Plan requesting such termination within one business day following receipt by Mellon of the form; provided that if, due to circumstances beyond the control of Mellon, the sale cannot be executed within one business day, Mellon shall have one additional business day to complete such sale.

EFFECTIVE DATE: If the proposed exemption is granted, the exemption will be effective November 5, 1993, for those transactions described in Sections I and II above.

Summary of Facts and Representations

1. Mellon Bank, N.A. (Mellon Bank) is a national banking association with its principal offices located in Pittsburgh, Pennsylvania, and is a subsidiary of Mellon Bank Corporation (referred to herein together with its affiliates as ''Mellon''). As of December 31, 1992, Mellon Bank provided trust services for approximately 3,642 employee benefit plans, and had total assets under management of approximately $41 billion. As of that same date, Mellon Bank had, in combination with other subsidiaries of Mellon Bank Corporation, total assets of approximately $31.6 billion.

Mellon acts as a trustee, directed trustee, investment manager, and/or custodian for the Client Plans. The Client Plans include various pension, profit sharing, and stock bonus plans as well as voluntary employees' beneficiary associations, supplemental unemployment benefit plans, simplified employee benefit plans, retirement plans for self-employed individuals (i.e. Keogh Plans) and individual retirement accounts (IRAs). Mellon's status as a

fiduciary with investment discretion for a Client Plan arises out of its relationship as a trustee or investment manager, but not from the rendering of any investment advice to a third party that has investment discretion under the Plan. Mellon, in its capacity as a fiduciary of the Client Plans, may exercise investment discretion for all or a portion of the assets of such Client Plans. As a custodian or directed trustee of a Client Plan, Mellon has custody of Plan assets, collects all income, performs bookkeeping and accounting services, generates periodic statements of account activity and other reports, and makes payments or distributions from the account as directed. However, Mellon has no duty as a custodian or directed trustee to review investments or make recommendations, acting only as directed by an authorized Second Fiduciary.

2. Mellon is in the process of making a series of mutual fund portfolios within the Laurel Funds, Inc. [a/k/a Dreyfus Funds or Premier Funds] (i.e. the Funds) available to some of the Client Plans as alternatives to or in place of some of its collective funds (i.e. the CIFs). Mellon requests an exemption for investments in a Fund which occur through an in-kind transfer of a Client Plan's pro rata share of assets from either a terminating or partially terminating CIF to a corresponding Fund in exchange for shares of such Fund. Mellon also requests an exemption for the receipt of fees from the Funds in connection with the investment of assets of a Client Plan (including any assets of a Client Plan which were held in a terminating or partially terminating CIF) for which it acts as a trustee, directed trustee, investment manager, or custodian, in shares of the Funds in instances where Mellon is an investment adviser for the Funds as well as a custodian, dividend disbursing agent, shareholder servicing agent, transfer agent, and/or Fund accountant, or provides some other secondary service to the Funds. Finally, Mellon seeks exemptive relief to be able to transfer securities in-kind, rather than in cash, from a Client Plan's individual investment portfolio (which is not a CIF) to a Fund in exchange for shares of the Fund to avoid the additional transaction costs involved in disposing of and re-acquiring the securities on the open market.

To avoid charging existing Client Plans any additional fees in connection with investments in the Funds, primarily as a result of the in-kind transfers of CIF assets, Mellon has implemented a fee structure under which the Client Plans do not bear any part of the fees charged by Mellon to the Funds (as discussed further below). Under this arrangement, Mellon charges its negotiated fees to the Client Plans and also charges the Funds for investment advisory services as well as secondary services. Mellon then credits as cash to each Client Plan its proportionate share of all fees paid by the Funds to Mellon, no later than the same day as the payment of the fees to Mellon. Therefore, Mellon retains only the Plan-level fees for services to the Client Plans. However, as noted in Paragraph 11 below, a Client Plan may have an alternative fee structure for investments made into a Fund through an in-kind transfer of securities from an individual portfolio. Under these arrangements, Mellon would retain fees received from the Fund for secondary services and would either credit to each Client Plan the fees received from the Funds for investment advisory services or would not charge the Client Plan a Plan-level investment management fee for those assets invested in the Fund. In such instances, the Second Fiduciary's choice of whether to obtain either a full or partial credit of Fund fees paid by the Funds to Mellon shall be made in writing prior to any in-kind transfer of securities into a Fund following full disclosure of all relevant information concerning the various fee structures.

3. The Funds are a Maryland corporation organized as open-end investment companies registered under the 1940 Act. The Funds consist of a series of investment portfolios (each a ''Fund'') representing distinct investment vehicles, which have their own prospectuses or joint prospectuses with one or more other Funds. The shares of each Fund represent a proportionate interest in the assets of that Fund.

The Funds involved in the initial transfer transactions were: (i) The Laurel Intermediate Income Portfolio; (ii) The Laurel Stock Portfolio; (iii) The Laurel Prime Money Market I Portfolio; and (iv) The Laurel Short-Term Bond Portfolio. Additional Funds that were available for investment in connection with the transactions described herein following the initial transfer transactions included: (i) The Laurel Midcap Stock Portfolio; (ii) The Laurel Bond Market Index Portfolio; and (iii) The Laurel S&P 500 Index Portfolio.

The applicant states that Mellon subsequently acquired The Dreyfus Corporation (Dreyfus), the sponsor of the Dreyfus family of mutual funds, in August 1994. Thus, Dreyfus is now an affiliate of Mellon. As a result of this acquisition, changes have been made to the names of the Laurel Funds and the parties providing services to the Funds. Effective October 1994, the Laurel Funds have changed their names to include ''Dreyfus'' or ''Premier'' (another name used by Dreyfus). Some of the Funds retain ''Laurel'' as part of their names so as not to confuse them with existing Dreyfus Funds.

Shares of all Funds are offered to trust account customers of Mellon, including the Client Plans, as a means of acquiring an interest in a diversified portfolio of investments. Mellon states that each series of Fund shares are offered to the Client Plans under terms and conditions which are at least as favorable to the Plans as the terms and conditions available to other shareholders of the Fund. Mellon states further that additional Funds may be created in the future that will receive assets from CIFs or otherwise be used for investment by Client Plans.

4. Mellon served as the investment adviser to each Fund until the acquisition of Dreyfus. Dreyfus, as Mellon's affiliate, is now the investment adviser to the Funds and receives investment advisory fees from each Fund that may vary between 0.20% and 1.50% of the Fund's average net assets on an annual basis, depending on the particular Fund. As noted above, Mellon also previously served as the custodian, dividend disbursing agent, shareholder servicing agent, transfer agent, and fund accountant, for which it was entitled to receive fees from the Funds.[3] Mellon continues to provide such ''secondary services'' to the Funds. However, since the acquisition of Dreyfus, the new transfer agent is The Shareholder Services Group, Inc., an independent party.

Until Mellon's acquisition of Dreyfus, the Funds' administrator and distributor were Frank Russell Investment Management Company and Russell Fund Distributors, Inc. (collectively, the Russell Companies). The applicant states that the Russell Companies were independent of and unaffiliated with Mellon. The new administrator and distributor is Premier Mutual Fund Services, Inc. (Premier Services). Mellon represents that Premier Services is also independent of Mellon and its affiliates.

[3] The Funds may use broker-dealers that are affiliates of Mellon to provide brokerage services to the Funds. The applicant states that such brokerage services would be provided in accordance with section 17(e) of the 1940 Act, as amended, and Rule 17e-1 thereunder. Rule 17e-1 requires, among other things, that the commissions, fees or other remuneration for any brokerage services provided by an affiliate of an investment company's investment advisor must be reasonable and fair compared to what other brokers receive for comparable transactions involving similar securities.

The Fund administrator receives annual fees of $500,000 plus an asset-based component, which is 0.01% of the aggregate assets of the Funds up to $10 billion and 0.005% of assets over $10 billion. The asset-based fee is payable monthly, charged pro rata to each Fund on its average daily net assets for the month. The administrator is also entitled to receive reimbursement from the Funds for the start-up costs of certain new Funds. Under the current arrangement, the Fund distributor is reimbursed for certain of its Fund distribution fees and expenses by Mellon. The Client Plans are not charged sales commissions, redemption fees, or distribution expenses on their transactions or investments in Fund shares.[4]

In-Kind Transfers of CIF Assets

5. Mellon is offering the Funds as alternatives or replacements for a number of the CIFs currently used by Client Plans. In connection with making these Funds available to a Client Plan, Mellon is transferring in-kind the Plan's assets currently invested in a particular CIF to a corresponding Fund with substantially similar investment objectives, if a Second Fiduciary for the Client Plan provides prior written authorization for the transfer following receipt of full and detailed written disclosures regarding the particular Fund and related fees.

Mellon represents that a principal reason for offering Client Plans the opportunity to transfer their CIF investments to the Funds is that in many cases the interests of such Plans would be better served by the use of mutual funds and Mellon's customers have expressed an interest in having mutual funds available as investment vehicles. In this regard, mutual funds are valued on a daily basis, whereas most of the CIFs are valued weekly or monthly. The daily valuation permits (i) immediate investment of Plan contributions in varied types of investments; (ii) greater flexibility in transferring assets from one type of investment to another; and (iii) daily redemption of investments for purposes of making distributions. In addition, information concerning the investment performance of mutual funds will be available on a daily basis in newspapers of general circulation, which will allow Client Plan sponsors and participants to monitor the performance of their investments on a daily basis. Furthermore, unlike CIF units, mutual fund shares can be given to participants in plan distributions, thus avoiding the expense and delay of liquidating plan investments and facilitating roll-overs into IRAs.

6. Prior to investing any Client Plan's assets in a Fund, Mellon obtains written approval from the Second Fiduciary for the Client Plan, who generally is either the Client Plan's named fiduciary, trustee (if other than Mellon), or the sponsoring employer. Mellon provides the Second Fiduciary with a current prospectus for that Fund and a written statement giving full disclosure of the structure under which Mellon's investment advisory and other fees will be credited back to the Client Plan. The disclosure statement describes why Mellon believes the investment of assets of the Client Plan in the Funds may be appropriate. The disclosure statement also describes any limitations on Mellon regarding which plan assets may be invested in shares of the Funds and the nature of such limitations.

On the basis of such information, the Second Fiduciary authorizes Mellon to invest the Client Plan's assets in the Fund(s) and to receive fees from the Fund(s). In connection with the asset transfers from the CIFs, if the Second Fiduciary has not provided Mellon with its approval of investment in a corresponding Fund by the deadline established for approvals of transfers from a CIF, the Client Plan continues to be invested in that CIF. However, if the CIF is terminated, the Client Plan receives a distribution from the CIF which is then invested in an appropriate investment vehicle other than the Funds, in accordance with the terms of the Client Plan.

Any authorization for investment by a Client Plan in shares of a Fund and the fees paid to Mellon is terminable at will by the Second Fiduciary, without penalty to the Client Plan, upon receipt by Mellon of written notice of termination. A Termination Form expressly providing an election to terminate the authorization with instructions on the use of the form is supplied to the Second Fiduciary no less than annually. The Termination Form instructs the Second Fiduciary that the authorization is terminable at will by the Client Plan, without penalty to the Client Plan, upon receipt by Mellon of written notice from the Second Fiduciary (through the return of such form), and that failure to return the Termination Form results in continued authorization of Mellon to engage in the subject transactions on behalf of the Client Plan.

Mellon states that the Termination Form may be used to notify Mellon in writing to effect a termination by selling the shares of the Funds held by the Client Plan requesting such termination within one business day following receipt by Mellon of the form; provided that if, due to circumstances beyond the control of Mellon, the sale cannot be executed within one business day, Mellon shall have one additional business day to complete such sale.

The Second Fiduciary will receive notice of any increases in the rates of fees charged by Mellon to the Funds for investment advisory services as well as for secondary services, through an updated prospectus or otherwise. However, such notice will not be accompanied by an additional Termination Form since all increases in investment advisory fees and secondary fees will be credited by Mellon to the Client Plans and will be subject to an annual reauthorization as described above.

Mellon states that the Second Fiduciary receives an updated prospectus for each Fund at least annually and either annual or semi-annual reports for each Fund. Mellon also provides monthly or quarterly reports to the Second Fiduciary of all transactions engaged in by the Client Plans, including purchases and sales of the Fund shares.

The Funds may use broker-dealers that are affiliates of Mellon to provide brokerage services to the Funds. As noted in Footnote 2 above, such brokerage services would be provided in accordance with section 17(e) of the 1940 Act and Rule 17e-1 thereunder. Mellon represents that it will provide at least annually to the Second Fiduciary of any Client Plan that invests in the Funds written disclosures indicating the following: (i) The total, expressed in dollars, brokerage commissions of each Fund's portfolio that are paid to Mellon or an affiliate by such Fund; (ii) the total, expressed in dollars, of brokerage commissions of each Fund's portfolio that are paid by such Fund to brokerage firms unrelated to Mellon; (iii) the average brokerage commissions per share, expressed as cents per share, paid to Mellon or an affiliate by each Fund portfolio; and (iv) the average brokerage commissions per share, expressed as cents per share, paid by each Fund

[4] Mellon represents that all Funds have adopted a Distribution and Service Plan pursuant to Rule 12b-1 under the 1940 Act. Prior to July 28, 1992, the Funds paid the fees and expenses payable to the distributor under such plan. However, since that date, the distributor has waived its rights to these fees and expenses in exchange for Mellon paying them, as described in the prospectus for each Fund. Mellon states that these fees may be charged to the Funds again in the future, but will not be charged to a class of Fund shares in which the Client Plans have invested. In addition, Mellon does not and will not receive fees payable pursuant to Rule 12b-1 in connection with transactions involving any shares of the Funds.

portfolio to brokerage firms unrelated to Mellon.

7. Prior to November 5, 1993, Mellon generally invested assets of Client Plans for which it acted as a trustee with investment discretion in a series of CIFs. In addition, certain Client Plans where investment decisions were directed by a Second Fiduciary generally used a CIF as an investment option for individual accounts in the Client Plans. However, on Friday, November 5, 1993, Mellon terminated several of its CIFs (as noted below) and transferred in-kind the assets that were in these CIFs to various corresponding Funds. Mellon represents that the initial acquisition of shares in the Funds by Client Plans invested in the CIFs was accomplished by distributing the CIF assets to the Client Plans, and then transferring these assets from the Client Plans to the corresponding Funds.

Mellon anticipates that there will be additional in-kind transfers of CIF assets to the Funds in the future. Such transfers will normally take place over a weekend. The steps involved in transferring the assets of a CIF attributable to a Client Plan's investment to a corresponding Fund are as follows:

(a) Prior to the transfer, the assets of the CIF are reviewed to determine whether they are appropriate investments for the corresponding Fund, consistent with the Fund's investment objectives and policies as well as the applicable requirements under the 1940 Act and the Code. Mellon determines whether the assets are capable of being divided between the CIF and the Fund (or among the Client Plans receiving distributions, if the CIF is terminating). Assets that are not appropriate investments for the corresponding Fund or are not capable of being divided are liquidated prior to the transfer date.[5]

(b) For purposes of the transfer, the values of the CIF assets are determined based on market value as of the close of business on the Friday preceding the transfer. Values are determined in a single valuation in accordance with the valuation procedures described in Rule 17a–7(b) under the 1940 Act, 17 CFR 270.17a–7(b).[6] As noted below in paragraph (e), the valuation of the securities is performed in the same manner for both the CIF's assets and the corresponding Fund's assets at the close of the same business day using independent market sources.

(c) Having established the value of the CIF assets, the CIF accounting unit determines the value of each Client Plan's investment in the CIF. If the Client Plan is transferring its investment, or if the CIF is terminating, the Plan's pro rata share of each investment is distributed to the Client Plan, either in kind if all the CIF assets are securities, or partly in kind and partly in cash if part of the CIF assets consist of cash. Thus, each Client Plan receives a pro rata share of each security and any cash. The CIF, if not terminating, retains the securities and cash representing the pro rata shares of the Client Plans that are not transferring their investments to the Funds.[7]

(d) If the Second Fiduciary provides written approval of the transfer of its CIF investments to the Fund by the deadline set for such approval, the assets and cash received by the Client Plan from the CIF are contributed to the corresponding Fund to purchase shares of that Fund through an exchange of securities or investment of cash. Exchanges are conducted in accordance with the procedures described in the Fund prospectus, which provide that the securities being exchanged need to meet the receiving Fund's investment objectives, policies and limitations, have a readily ascertainable market value, be liquid, and not be subject to resale restrictions.

(e) The securities received by the Fund are valued by the Fund for purposes of the in-kind transfer transaction in the same manner as of the same business day as the assets were valued by the corresponding CIF and the per-share value of the Fund shares issued are based on the Fund's then-current net asset value as of such date. Therefore, the value of a Client Plan's investment in a Fund as of the start of business the following Monday, based on the Client Plan's pro rata share of the underlying market value of the securities transferred to the Funds, is the same as the value of its investment in the corresponding CIF as of the close of business the previous Friday.

The CIFs involved in the initial series of transfers and their corresponding Funds are as follows:

Mellon CIF	Laurel fund
Portfolio[8]	
EB Intermediate Bond	Intermediate Income
EB Stock	Stock
EB Special Stock	Midcap Stock
EB Composite Bond Index.	Bond Market Index
EB Composite Bond	Bond Market Index
EB Stock Index	S&P 500 Stock Index
EB Equity Market	S&P 500 Stock Index
EB Savings	Prime Money Market I
EB Enhanced Temporary Investment.	Short-Term Bond

[8] As of October 1994, these Funds were renamed as follows: (i) Premier Limited Term Income; (ii) Dreyfus Disciplined Stock; (iii) Dreyfus Disciplined Midcap Stock; (iv) Dreyfus Bond Market Index; (v) Dreyfus S&P 500 Stock Index; (vi) Dreyfus/Laurel Prime Money Market; and (vii) Dreyfus/Laurel Short-Term Bond.

Mellon states that because of the relatively small number of Client Plans approving the transfer of assets from the EB Intermediate Bond Fund, the EB Composite Bond Index Fund and the EB Composite Bond Fund, and because of the nature of the assets in these CIFs, the transfers from these CIFs were made totally in cash rather than in kind. The Client Plans investing in these CIFs that had approved the transfer received a distribution of the cash value of their CIF units, and that cash was then used to acquire shares of the corresponding Funds. Therefore, no exemptive relief is requested for the in-kind transfer of assets from these three CIFs.

Each Client Plan that approved the CIF asset transfers to the Funds received account statements describing the asset transfers either in mid-December 1993, if such Plans were on a monthly account statement schedule, or mid-January 1994, if such Plans were on a quarterly account statement schedule. The statements showed the disposition of the CIF units from the Client Plan account and the acquisition by the account of Fund shares, both posted as of Monday, November 23, 1992.[9] This

[5] Mellon states that such assets are sold in the open market and are not sold through any brokerage firm affiliated with Mellon.

[6] Rule 17a–7 permits transactions between investment funds that use the same investment adviser, subject to certain conditions. Rule 17a–7 requires, among other things, that such transactions be effected at the ''independent current market price'' for each security, involve only securities for which market quotations are readily available, involve no brokerage commissions or other remuneration, and comply with valuation procedures adopted by the board of directors of the investment company to ensure that all requirements of the Rule are satisfied.

[7] Such distributions are made in compliance with 12 CFR 9.18(b)(6), which requires that distributions in kind from CIFs must be made ''ratably''. The Client Plans withdrawing from the CIF and the Client Plans remaining invested in the CIF each receive their pro rata portions of each CIF asset and the CIF cash, so that both groups of Plans retain the same asset quality and liquidity following the transfers.

[9] The following example illustrates the contents of such a statement: Assume a Client Plan held 12,506 units of the Mellon Employee Benefit Stock Fund prior to the asset transfers. The account statement showed a disposition of 12,506 units of Mellon Employee Benefit Stock Fund, at a value of $72.08 per unit, on November 23, 1992, with total proceeds of $901,432.18. The statement also showed a purchase on that same date of 90,143.218 shares of the Laurel Stock Fund, the Fund corresponding to the Mellon Employee Benefit Stock Fund, at $10 per share, at a total cost of $901,432.18, the same amount as the proceeds of

information provided the affected Client Plans with written confirmation of the number of CIF units held by the Client Plan immediately before the transfer, the related per unit value and the total dollar amount of such CIF units as well as the number of shares of the Funds held by the Client Plan following the transfer, the related per share net asset value, and the total dollar amount of such shares.

For all subsequent in-kind transfers of CIF assets to a Fund following publication of this proposed exemption in the **Federal Register**, Mellon will send by regular mail to each affected Client Plan a written confirmation, not later than 30 days after completion of the transaction, containing the following information:

(1) The identity of each security that was valued for purposes of the transaction in accordance with Rule 17a–7(b)(4);

(2) The price of each such security involved in the transaction; and

(3) The identity of each pricing service or market maker consulted in determining the value of such securities. Securities which are valued in accordance with Rule 17a–7(b)(4) are securities for which the current market price cannot be obtained by reference to the last sale price for transactions reported on a recognized securities exchange or the NASDAQ system. Mellon states that such securities are valued based on an average of the highest current independent bid and lowest current independent offer, as of the close of business on the Friday preceding the weekend of the CIF transfers, determined on the basis of reasonable inquiry from at least three sources that are broker-dealers or pricing services independent of Mellon.

In addition, for all in-kind transfers of CIF assets to a Fund that occur after the date this proposed exemption is published in the **Federal Register**, Mellon will send by regular mail to the Second Fiduciary no later than 90 days after completion of each transfer a written confirmation that contains the following information:

(1) The number of CIF units held by the Client Plan immediately before the transfer, the related per unit value, and the total dollar amount of such CIF units; and

(2) The number of shares in the Funds that are held by the Client Plan immediately following the transfer, the related per share net asset value, and the total dollar amount of such shares.

Mellon anticipates that additional CIFs will be converted or ''partially converted'' to the Funds so that the Client Plan investors in those CIFs will be given the opportunity to transfer their investments in-kind from the CIFs to corresponding Funds, or alternatively to continue investing in the CIFs until such CIFs are terminated. Mellon states that such transfers will follow the same procedures as the initial transfers, including valuations in accordance with Rule 17a-7(b), and will comply with the conditions of this proposed exemption. In the case of partial CIF terminations, the transfers will involve a smaller amount of assets and may occur on a weekday rather than a weekend. In all cases, such transfers will use the closing market prices for that particular day in valuing the Client Plan assets to be transferred and the net asset value of the Fund.

8. Mellon or an affiliate (i.e. Dreyfus) charges investment advisory fees to the Funds in accordance with the investment advisory agreements between Mellon and the Funds. These agreements have been approved by the independent members of the Board of Directors of the Funds (the Directors), in accordance with the applicable provisions of the 1940 Act. Any future changes in the fees paid to Mellon must be approved by the Directors. These fees are payable monthly by the Funds.

Mellon uses a fee structure that is designed to preserve the negotiated fee rates of the Client Plans that transfer investments from the CIFs to the Funds, so as to minimize the impact of the change to the Funds on a Client Plan's fees. At the beginning of each month, and in no event later than the same day as the payment of the investment advisory and other fees by the Funds to Mellon for the previous month, Mellon credits to each Client Plan in cash its proportionate share of all investment advisory fees charged by Mellon to the Funds for the previous month.

To assure that Client Plans pay no additional fees as a result of investing in the Funds rather than the CIFs, and to otherwise preserve the negotiated fee rates of the Client Plans, Mellon also credits to the Client Plans participating in the transfers their pro rata shares of any fees paid by the Funds to Mellon for services other than investment advisory services. However, Mellon does retain amounts necessary to account for its direct expenses in providing such secondary services. These credits are made at the same time and in the same manner as the advisory fee credits.

In addition, Mellon has credited to the Client Plans participating in the transfers from the CIFs to the Funds their pro rata shares of fees paid by the Funds or Mellon to Fund service providers other than Mellon, so that the Client Plans effectively receive a credit of all charges assessed upon their investments in the Funds. Mellon retains the flexibility to cease crediting these third-party fees and, in such instances, provides further disclosure to and obtains express approval from any Client Plan before terminating the credit of the third-party fees for the Client Plan. However, Mellon states that all investment advisory fees charged to the Funds by third party sub-advisers, or paid by Mellon to such third party sub-advisers, will continue to be credited to the Client Plans.

9. Mellon maintains a system of internal accounting controls for the crediting of all fees to the Client Plans. In addition, Mellon retains the services of KPMG Peat Marwick (the Auditor), an independent accounting firm, to audit annually the crediting of fees to the Client Plans under this program. Such audits provide independent verification of the proper crediting to the Client Plans.

In its annual audit of the credit program, the Auditor will: (i) Review and test compliance with the specific operational controls and procedures established by Mellon for making the credits; (ii) verify on a test basis the monthly credit factors transmitted to Mellon by the Funds; (iii) verify on a test basis the proper assignment of identification fields to the Client Plans; (iv) verify on a test basis the credits paid in total to the sum of all credits paid to each Client Plan; (v) recompute, on a test basis, the amount of the credit determined for selected Client Plans and verify that the credit was made to the proper Client Plan account.

In the event either the internal audit by Mellon or the independent audit by the Auditor identifies an error made in the crediting of fees to the Client Plans, Mellon will correct the error. With respect to any shortfall in credited fees to a Client Plan, Mellon will make a cash payment to the Client Plan equal to the amount of the error plus interest paid at money market rates offered by Mellon for the period involved. Any excess credits made to a Client Plan will be corrected by an appropriate deduction from the Client Plan account or reallocation of cash during the next payment period after discovery of the error to reflect accurately the amount of total credits due to the Client Plan for the period involved.

10. Mellon also uses the credit procedure described above (referred to hereafter as ''the Alternative Credit Method'') for investments by Client

---

the disposition from the Mellon Employee Benefit Stock Fund.

Plans other than through the asset transfer transactions. In addition, Mellon may use a fee offset method that complies with Prohibited Transaction Exemption (PTE) 77–4 (42 FR 18732, April 8, 1977).[10] Mellon states that Client Plans that use the Alternative Credit Method have the option to change to an offset method that complies with PTE 77–4.

However, Mellon represents that the Alternative Credit Method offers several advantages to a Client Plan. These advantages include the following:

(a) *Plan Sponsor Paying Fees:* With many Client Plans, the Plan sponsor pays the Plan-level fees. In such instances, if the offset method described in PTE 77–4 is used, the Client Plan pays all Fund-level fees in connection with the investments in the Funds. By contrast, under the Alternative Credit Method, the sponsor pays the entire Plan-level fee and the Client Plan does not pay any Fund-level fees. Thus, where the Plan sponsor pays the Client Plan's fees, the Client Plan's rate of return on its investments in the Funds is higher under the Alternative Credit Method.

(b) *Timing of Credit:* Plan-level trustee fees will generally be paid to Mellon quarterly, whereas Fund-level investment advisory fees are paid monthly. Consequently, the crediting may not occur for up to three months under PTE 77–4 credit method, so that Mellon receives the use of the amounts to be credited for the time period between the payment dates. In contrast, there is no such time delay under the Alternative Credit Method.

(c) *Excess Credits:* The amount of a Client Plan's pro rata share of Fund advisory fees may exceed the amount of its Plan-level fees, depending on the relative fee rates. Under the PTE 77–4 credit method, it is not clear how an investment adviser should handle the amount of a credit that exceeds the Plan-level fee. The problem of excess credits does not arise under the Alternative Credit Method since the credit is made directly to the Client Plan, rather than as an offset against the Plan-level fees.

Mellon states that the Alternative Credit Method allows it to maintain without modification its fiduciary fee schedules for its services to the Client Plans, which is more efficient and less costly than a system which employs credits against such fiduciary fees. In addition, use of the Alternative Credit Method permits Mellon's existing Client Plans to retain their negotiated fiduciary fee structures despite the change to a new investment vehicle.

Mellon states further that where Client Plans are withdrawing assets from the CIFs and investing in the corresponding Funds, the CIFs and Funds would be forced to incur large transaction costs if the CIF assets could not be transferred via the Client Plan accounts to the Funds. The asset transfer transactions permit the CIFs and the Funds to avoid incurring any such transaction costs in connection with liquidating CIF investments and making investments for the Funds, enhancing the investment return of the Client Plans.

In-Kind Transfers of Securities From Individual Portfolios

11. Mellon represents that certain Client Plans may desire in the future to transfer securities from their individual portfolios to the Funds in exchange for shares of the Funds (i.e. an Exchange), as discussed in Section III above. The Exchange would involve assets as to which Mellon is a fiduciary which are not distributed from a CIF. All or a pro rata portion of the assets of a Client Plan held by Mellon in an investment account or portfolio that is selected by the Second Fiduciary of such Client Plan for an Exchange would be transferred in-kind to the Funds in exchange for shares of such Funds. Such Exchanges may occur when a Second Fiduciary of a Client Plan trusteed by Mellon selects Mellon to manage the Client Plan's assets on a collective rather than individual portfolio basis in order to achieve certain economies of scale and diversification. Mellon states that in such cases it may be less expensive for the Client Plan to exchange its existing investments in securities directly for Fund shares rather than liquidating the securities and investing the proceeds in the shares. The Exchange would avoid transaction costs, such as commissions and dealer mark-ups, as well as any adverse market impact from a sale of the securities at the time of the transaction.

The Exchange would have to comply with the requirements for an ''in-kind'' exchange of securities as stated in the Fund prospectus. Specifically, the securities to be exchanged must meet the investment objectives, policies and limitations of the particular Fund portfolio, must have a readily ascertainable market value, must be liquid and must not be subject to resale restrictions. Securities accepted by a Fund would be valued in the same manner as the Fund values its assets, and the number of Fund shares issued would depend on the relative net asset value of the shares purchased and securities exchanged.[11] The Fund's procedures will protect any existing Fund shareholders while assuring that fair value is given to the Client Plan exchanging the securities. The Second Fiduciary would receive disclosures regarding the relevant Funds and their fees, including each Fund's prospectus and additional information regarding the fee structures which may be used to avoid duplicative investment advisory fees being paid to Mellon (see Section III(f) above). In such instances, Mellon represents that one of the following fee structures will be used: (i) The Client Plan will receive a cash credit of such Plan's proportionate share of all fees (including all investment advisory fees and all secondary service fees) charged to the Funds by Mellon, less any fees paid by Mellon to parties unrelated to Mellon for services other than investment advisory services provided to the Funds, no later than the same day as the receipt of such fees by Mellon; (ii) the assets of the Client Plan invested in the Funds will be excluded from the assets on which the investment management fees paid by the Client Plan to Mellon are determined; or (iii) the Client Plan will pay an investment management fee to Mellon based on total Plan assets from which a credit is subtracted representing only the Client Plan's pro rata share of the investment advisory fees paid by the Funds to Mellon.

Prior to the Exchange, the Second Fiduciary would receive in writing (i) the reasons why Mellon may consider the Exchange to be appropriate for the Client Plan and a list of the securities held by the Client Plan that would be accepted by one or more Funds in the Exchange, (ii) the date the Exchange is

[10] PTE 77–4, in pertinent part, permits the purchase and sale by an employee benefit plan of shares of a registered, open-end investment company when a fiduciary with respect to the plan is also the investment adviser for the investment company, provided that, among other things, the plan does not pay an investment management, investment advisory or similar fee with respect to the plan assets invested in such shares for the entire period of such investment. Section II(c) of PTE 77–4 states that this condition does not preclude the payment of investment advisory fees by the investment company under the terms of an investment advisory agreement adopted in accordance with section 15 of the Investment Company Act of 1940. Section II(c) states further that this condition does not preclude payment of an investment advisory fee by the plan based on total plan assets from which a credit has been subtracted representing the plan's pro rata share of investment advisory fees paid by the investment company.

[11] In this regard, the Department assumes that the securities which are transferred to a Fund will have the same value at the time the securities become part of the Fund's portfolio as the value that was determined for the securities in the individual Client Plan portfolios, in accordance with procedures described in Rule 17a-7 under the 1940 Act, for purposes of the Exchange.

to occur, and (iii) an explanation of the procedures that would be followed for valuing the securities for purposes of the Exchange, including the identity of the independent pricing service or services that would be used to value the securities. In addition, within 30 days after the Exchange, the Second Fiduciary would receive written confirmation that reflects the price of each security involved in the Exchange and, for securities which are valued in accordance with Rule 17a-7(b)(4), a written disclosure of the identity of the pricing services or broker-dealers consulted in determining the value of the securities.

12. In summary, the subject transactions satisfy the statutory criteria of section 408(a) of the Act and section 4975(c)(2) of the Code for the following reasons:

(a) The Funds provide many of the Client Plans with a more effective investment vehicle than the CIFs currently maintained by Mellon, without any increase in fees paid by the Client Plans to Mellon;

(b) Mellon requires annual audits by an independent accounting firm to verify that the Client Plans receive proper credits for the fees paid to Mellon by the Funds;

(c) Client Plan fiduciaries and participants have access to more frequent reports of Fund performance than are available for plan assets invested in the CIFs, which enables such fiduciaries or participants to make more informed decisions regarding their investments;

(d) Client Plan investments in the Funds and the payment of any fees by the Funds to Mellon in connection with such investments require an advance authorization in writing by an independent fiduciary (i.e. the Second Fiduciary) after full written disclosure, including current prospectuses for the Funds and a statement describing the Alternative Credit Method;

(e) Any authorization made by the Second Fiduciary is terminable at will by that fiduciary, without penalty, upon receipt by Mellon of written notice of termination from the Second Fiduciary on a form expressly providing an election to terminate the authorization (i.e. the Termination Form), which is supplied to the Second Fiduciary no less than annually;

(f) No sales commissions or other fees are paid by the Client Plans in connection with any acquisition of Fund shares (either by an in-kind transfer of CIF assets, a cash purchase, or an in-kind transfer of securities from a Client Plan's individual investment portfolio) and no redemption fees are paid in connection with the sale of Fund shares;

(g) All dealings among the Client Plans, the Funds, and Mellon are on a basis no less favorable to the Client Plans than such dealings with the other shareholders of the Funds;

(h) The in-kind transfers of CIF assets into the Funds are done with the prior written approval of independent fiduciaries (i.e. the Second Fiduciary) following full and detailed written disclosure concerning the Funds;

(i) Each Client Plan receives shares of a Fund which have a total net asset value that is equal to the value of the Client Plan's pro rata share of the assets of the CIF on the date of the in-kind transfer, based on the current market value of the CIF's assets as determined in a single valuation performed in the same manner at the close of the same business day in accordance with independent sources and the procedures established by the Funds for the valuation of such assets; and

(j) With respect to any transfer of securities from an individual portfolio of a Client Plan in exchange for Fund shares (i.e. an Exchange), the Second Fiduciary receives written disclosures regarding the relevant Funds and their fees (including the Fund prospectus, additional information regarding the fee structure to be used to avoid duplicative advisory fees, and the valuation procedures to be used for the securities involved in the Exchange) as well as written confirmations that reflect the price of each security involved in the Exchange and, for securities valued in accordance with Rule 17a–7(b)(4), the identity of the pricing service or broker-dealers consulted in the valuation of such securities.

Notice to Interested Persons

Notice of the proposed exemption shall be given to all Second Fiduciaries of Client Plans described herein that had investments in a terminating CIF and from whom approval was sought, or will be sought prior to the granting of this proposed exemption, for a transfer of a Client Plan's CIF assets to a Fund. In addition, interested persons shall include the Second Fiduciaries of all Client Plans that are currently invested in the Funds, as of the date the notice of the proposed exemption is published in the **Federal Register**, where Mellon provides services to the Funds and receives fees which would be covered by the exemption, if granted. Notice to interested persons shall be provided by first class mail within fifteen (15) days following the publication of the proposed exemption in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and a supplemental statement (see 29 CFR 2570.43(b)(2)) which informs all interested persons of their right to comment on and/or request a hearing with respect to the proposed exemption. Comments and requests for a public hearing are due within forty-five (45) days following the publication of the proposed exemption in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Mr. E.F. Williams of the Department, telephone (202) 219–8194. (This is not a toll-free number.)

Bank South, N.A. (the Bank) Located in Atlanta, Georgia

[Application No. D–09626]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990).

Section I—Exemption for In-Kind Transfer of Assets

If the exemption is granted, the restrictions of sections 406(a) and 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (F) of the Code, shall not apply as of February 11, 1994, to the in-kind transfer of assets of plans for which the Bank serves as a fiduciary (the Client Plans), other than plans established and maintained by the Bank, that are held in certain collective investment funds maintained by the Bank (the CIFs), in exchange for shares of the Peachtree Funds (the Funds), an open-end investment company registered under the Investment Company Act of 1940 (the 1940 Act) for which the Bank acts as investment adviser, in connection with the termination of such CIFs, provided that the following conditions and the general conditions of Section III below are met:

(a) No sales commissions or other fees are paid by the Client Plans in connection with the purchase of Fund shares through the in-kind transfer of CIF assets and no redemption fees are paid in connection with the sale of such shares by the Client Plans to the Funds.

(b) Each Client Plan receives shares of a Fund which have a total net asset value that is equal to the value of the Client Plan's pro rata share of the assets of the CIF on the date of the transfer, based on the current market value of the CIF's assets, as determined in a single

valuation performed in the same manner at the close of the same business day using independent sources in accordance with Rule 17a-7(b) of the Securities and Exchange Commission under the 1940 Act and the procedures established by the Funds pursuant to Rule 17a-7 for the valuation of such assets. Such procedures must require that all securities for which a current market price cannot be obtained by reference to the last sale price for transactions reported on a recognized securities exchange or NASDAQ be valued based on an average of the highest current independent bid and lowest current independent offer, as of the close of business on the Friday preceding the weekend of the CIF transfers, determined on the basis of reasonable inquiry from at least three sources that are broker-dealers or pricing services independent of the Bank.

(c) A second fiduciary who is independent of and unrelated to the Bank (the Independent Fiduciary) receives advance written notice of the in-kind transfer of assets of the CIFs and full written disclosure of information concerning the Funds (including a current prospectus for each of the Funds and a statement describing the fee structure) and, on the basis of such information, authorizes in writing the in-kind transfer of the Client Plan's CIF assets to a corresponding Fund in exchange for shares of the Fund.

(d) For all transfers of CIF assets to a Fund following the publication of this proposed exemption in the **Federal Register**, the Bank sends by regular mail to each affected Client Plan the following information:

(1) Within 30 days after completion of the transaction, a written confirmation containing:

(i) The identity of each security that was valued for purposes of the transaction in accordance with Rule 17a-7(b)(4);

(ii) The price of each such security involved in the transaction;

(iii) The identity of each pricing service or market maker consulted in determining the value of such securities; and

(2) Within 90 days after completion of each transfer, a written confirmation that contains:

(i) The number of CIF units held by the Client Plan immediately before the transfer, the related per unit value, and the total dollar amount of such CIF units; and

(ii) The number of shares in the Funds that are held by the Client Plan following the transfer, the related per share net asset value, and the total dollar amount of such shares.

(e) The conditions set forth in paragraphs (e), (f) and (m) of Section II below are satisfied.

Section II—Exemption for Receipt of Fees

If the exemption is granted, the restrictions of sections 406(a) and 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (F) of the Code, shall not apply as of February 11, 1994, to the receipt of fees by the Bank from the Funds for acting as investment adviser to the Funds in connection with the investment in the Funds by Client Plans for which the Bank acts as a fiduciary, including any Client Plan invested in a CIF which transfers its assets to a Fund, provided that the following conditions and the general conditions of Section III are met:

(a) No sales commissions, loads, charges or similar fees are paid by the Client Plans for the purchase or sale of shares of the Funds and no redemption fees are paid for the sale of shares by the Client Plans to the Funds.

(b) The price paid or received by a Client Plan for shares in a Fund is the net asset value per share at the time of the transaction, as defined in Section IV(e), and is the same price which would have been paid or received for the shares by any other investor at that time.

(c) Neither the Bank nor an affiliate, including any officer or director of the Bank, purchases or sells shares of the Funds from or to any Client Plan.

(d) The Client Plans do not pay any plan-level investment management fees, investment advisory fees, or similar fees to the Bank with respect to any of the assets of such Client Plans which are invested in shares of any of the Funds. This condition does not preclude the payment of investment advisory fees or similar fees by the Funds to the Bank under the terms of an investment advisory agreement adopted in accordance with section 15 of the 1940 Act or any other agreement between the Bank and the Funds which is in compliance with the 1940 Act.

(e) The combined total of all fees received by the Bank for the provision of services to a Client Plan, and in connection with the provision of services to the Funds in which the Client Plan may invest, are not in excess of ''reasonable compensation'' within the meaning of section 408(b)(2) of the Act.

(f) The Bank does not receive any fees payable pursuant to Rule 12b–1 under the 1940 Act in connection with the transactions.

(g) The Client Plans are not employee benefit plans sponsored or maintained by the Bank.

(h) The Independent Fiduciary receives, in advance of any investment by the Client Plan in a Fund, full and detailed written disclosure of information concerning the Funds, including, but not limited to:

(1) A current prospectus for each Fund in which a Client Plan is considering investing;

(2) A statement describing the fees for investment advisory or similar services, as well as all other fees to be charged to or paid by the Client Plan and by the Funds, including the nature and extent of any differential between the rates of such fees;

(3) The reasons why the Bank may consider such investment to be appropriate for the Client Plan;

(4) A statement describing whether there are any limitations applicable to the Bank with respect to which assets of a Client Plan may be invested in the Funds, and if so, the nature of such limitations; and

(5) Upon request of the Independent Fiduciary, a copy of the proposed exemption and/or a copy of the final exemption, if granted, once such documents become available.

(i) On the basis of the information described above in paragraph (h) of this Section II, the Independent Fiduciary authorizes in writing the investment of assets of the Client Plan in each Fund, and the fees to be paid by such Funds to the Bank.

(j) All authorizations made by an Independent Fiduciary regarding investments in a Fund and the fees paid to the Bank are subject to an annual reauthorization wherein any such prior authorization referred to in paragraph (i) of Section II shall be terminable at will by the Client Plan, without penalty to the Client Plan, upon receipt by the Bank of written notice of termination. A form expressly providing an election to terminate the authorization described in paragraph (i) of Section II above (the Termination Form) with instructions on the use of the form must be supplied to the Independent Fiduciary no less than annually. The instructions for the Termination Form must include the following information:

(1) The authorization is terminable at will by the Client Plan, without penalty to the Plan, upon receipt by the Bank of written notice from the Independent Fiduciary; and

(2) Failure to return the Termination Form will constitute continued authorization of the Bank to engage in

the transactions described in paragraph (i) of Section II on behalf of the Client Plan.

(k) In the event of an increase in the rate of any fees paid by the Funds to the Bank regarding any investment management services, investment advisory services, or fees for similar services that the Bank provides to the Funds over an existing rate for such services that had been authorized by an Independent Fiduciary, in accordance with paragraph (i) of this Section II, the Bank will, at least thirty (30) days in advance of the implementation of such increase, provide a written notice (which may take the form of a proxy statement, letter, or similar communication that is separate from the prospectus of the Fund and which explains the nature and amount of the increase in fees) to the Independent Fiduciary of each of the Client Plans invested in a Fund which is increasing such fees. Such notice shall be accompanied by a Termination Form. However, if the Termination Form has been provided to the Independent Fiduciary pursuant to this paragraph, then the Termination Form need not be provided again for an annual reauthorization pursuant to paragraph (j) above unless at least six months has elapsed since the form was provided in connection with the fee increase.

(l) On an annual basis, the Bank provides the Independent Fiduciary of a Client Plan investing in the Funds with:

(1) A copy of the current prospectus for the Funds and, upon such fiduciary's request, a copy of the Statement of Additional Information for such Funds which contains a description of all fees paid by the Funds to the Bank; and

(2) Upon the request of such Independent Fiduciary, a report or statement (which may take the form of the most recent financial report, the current Statement of Additional Information for the Fund, or some other written statement) that contains a description of all fees paid by the Fund to the Bank.

(m) All dealings between the Client Plans and the Funds are on a basis no less favorable to the Client Plans than dealings with other shareholders of the Funds.

Section III—General Conditions

(a) The Bank maintains for a period of six years the records necessary to enable the persons described below in paragraph (b) of Section III to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of the Bank, the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest other than the Bank shall be subject to the civil penalty that may be assessed under section 502(i) of the Act or to the taxes imposed by section 4975 (a) and (b) of the Code if the records are not maintained or are not available for examination as required by paragraph (b) below.

(b)(1) Except as provided in paragraph (b)(2) and notwithstanding any provisions of section 504 (a)(2) and (b) of the Act, the records referred to in paragraph (a) of Section III are unconditionally available at their customary location for examination during normal business hours by—

(i) Any duly authorized employee or representative of the Department or the Internal Revenue Service,

(ii) Any fiduciary of the Client Plans who has authority to acquire or dispose of shares of the Funds owned by the Client Plans, or any duly authorized employee or representative of such fiduciary, and

(iii) Any participant or beneficiary of the Client Plans or duly authorized employee or representative of such participant or beneficiary;

(2) None of the persons described in paragraph (b)(1) (ii) and (iii) shall be authorized to examine trade secrets of the Bank, or commercial or financial information which is privileged or confidential.

Section IV—Definitions

For purposes of this proposed exemption:

(a) The term ''Bank'' means the Bank South, N.A. and any affiliate thereof as defined below in paragraph (b) of this Section IV.

(b) An ''affiliate'' of a person includes:

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) Any officer, director, employee, relative, or partner in any such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

(c) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) The term ''Fund'' or ''Funds'' shall include the Peachtree Funds, Inc., or any other diversified open-end investment company registered under the 1940 Act for which the Bank serves as an investment adviser.

(e) The term ''net asset value'' means the amount for purposes of pricing all purchases and sales calculated by dividing the value of all securities, determined by a method as set forth in the Fund's prospectus and statement of additional information, and other assets belonging to the Fund or portfolio of the Fund, less the liabilities charged to each such portfolio or Fund, by the number of outstanding shares.

(f) The term ''relative'' means a ''relative'' as that term is defined in section 3(15) of the Act (or a ''member of the family'' as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or a sister.

(g) The term ''Independent Fiduciary'' means a fiduciary of a Client Plan who is independent of and unrelated to the Bank. For purposes of this exemption, the Independent Fiduciary will not be deemed to be independent of and unrelated to the Bank if:

(1) Such fiduciary directly or indirectly controls, is controlled by, or is under common control with the Bank;

(2) Such fiduciary, or any officer, director, partner, employee, or relative of the fiduciary is an officer, director, partner, employee or affiliate of the Bank (or is a relative of such persons);

(3) Such fiduciary directly or indirectly receives any compensation or other consideration for his or her own personal account in connection with any transaction described in this exemption.

If an officer, director, partner, affiliate or employee of the Bank (or relative of such persons), is a director of such Independent Fiduciary, and if he or she abstains from participation in (i) the choice of the Client Plan's investment adviser, (ii) the approval of any such purchase or sale between the Client Plan and the Funds, and (iii) the approval of any change in fees charged to or paid by the Client Plan in connection with any of the transactions described in Sections I and II above, then paragraph (g)(2) of this Section IV shall not apply.

(h) The term ''Termination Form'' means the form supplied to the Independent Fiduciary which expressly provides an election to the Independent Fiduciary to terminate on behalf of a Client Plan the authorization described in paragraph (j) of Section II. The Termination Form shall be used at will by the Independent Fiduciary to terminate an authorization without penalty to the Client Plan and to notify the Bank in writing to effect a termination by selling the shares of the Funds held by the Client Plan requesting such termination within one business day following receipt by the

Bank of the form; provided that if, due to circumstances beyond the control of the Bank, the sale cannot be executed within one business day, the Bank shall have one additional business day to complete such sale.

Effective Date: If the proposed exemption is granted, the exemption will be effective February 11, 1994.

Summary of Facts and Representations

1. The Bank is a Georgia corporation with its principal offices located at 55 Marietta Street, N.W., Atlanta, Georgia, and is a wholly-owned subsidiary of Bank South Corporation, a bank holding company. The Bank provides trust services to approximately 128 employee benefit plans with total assets of approximately $132 million, as of November 1, 1993. The Bank has total assets under management of approximately $1 billion.

The Bank serves as a discretionary trustee, investment manager, directed trustee, or custodian for the Client Plans. The Client Plans include various pension, profit sharing, and stock bonus plans as well as voluntary employees' beneficiary associations, supplemental unemployment benefit plans, simplified employee benefit plans, retirement plans for self-employed individuals (i.e. Keogh plans), and individual retirement accounts (IRAs).

The Bank represents that its status as a fiduciary with investment discretion for a Client Plan arises out of its relationship as a trustee or investment manager for such Plan. The Bank may exercise investment discretion for all or a portion of the assets of a Client Plan. As a custodian or directed trustee of a Client Plan, the Bank has custody of Plan assets, collects all income, performs bookkeeping and accounting services, generates periodic statements of account activity and other reports, and makes payments or distributions from the account as directed. However, the Bank has no duty as a custodian or directed trustee to review investments or make recommendations, acting only as directed by an authorized Independent Fiduciary.

2. The Bank requests an exemption for investments in a Fund which occur through an in-kind transfer of a Client Plan's pro rata share of assets of a terminating CIF to a corresponding Fund in exchange for shares of such Fund.[12] The Bank also requests an exemption for the receipt of fees from the Funds in connection with the investment of assets of a Client Plan (including any Client Plan invested in a CIF which transfers its assets to a Fund), for which it acts as a trustee, directed trustee, investment manager, or custodian in shares of the Funds in situations where the Bank acts as an investment adviser to the Funds. The exemption for the receipt of fees would include Client Plans for which the Bank exercises investment discretion as well as Client Plans where investment decisions are directed by an Independent Fiduciary.[13]

3. The Funds are a Massachusetts business trust organized as an open-end investment company registered under the 1940 Act. The Funds currently consist of five Funds or ''portfolios'', each having a separate prospectus and representing a distinct investment vehicle. The shares of each Fund represent a proportionate interest in the assets of that Fund. The existing Funds include the Peachtree Government Money Market Fund, the Peachtree Prime Money Market Fund, the Peachtree Bond Fund, the Peachtree Equity Fund, and the Peachtree Georgia Tax-Free Fund.[14] The Bank states that additional Funds may be established in the future. Shares of the Funds are offered and sold to eligible investors, including the Client Plans and other trust clients of the Bank, as a means of acquiring an interest in a diversified portfolio of investments. The Bank states that the Fund shares are offered to the Bank's trust customers, including the Client Plans, under terms and conditions which are at least as favorable to such customers as the terms and conditions offered to any other customers of the Bank.

Investments of Client Plan assets in the Funds occur either through a transfer of assets from a terminating CIF, the direct purchase of shares of the Funds for a Client Plan by the Bank, the transfer by the Bank of Client Plan assets from one Fund to another Fund, or a daily automated sweep of uninvested cash of a Client Plan by the Bank into one or more Funds previously designated by the Client Plan for sweeping such cash. All such investments for the Client Plans are made pursuant to the Independent Fiduciary's prior written authorization and annual reauthorization to the Bank.

4. Federated Securities Corporation (FSC) is the principal distributor for all shares of the Funds including shares which are sold to the Client Plans. There are no fees for distribution expenses, pursuant to Rule 12b–1 under the 1940 Act, paid by the Client Plans or other trust clients of the Bank to FSC for any shares of the Funds. In addition, the Bank does not and will not receive fees payable pursuant to Rule 12b–1 in connection with transactions involving any shares of the Funds. However, such shareholders are charged for certain administrative expenses of the Funds. FSC is a subsidiary of Federated Investors (Federated) which, through other subsidiaries, acts as the transfer and dividend disbursing agent for the Funds and provides certain personnel and administrative services for the Funds. Federated and its subsidiaries are unrelated to the Bank. The Bank of New York is the custodian for the securities and cash of the Funds.

5. The Bank serves as the investment adviser for the Funds pursuant to investment advisory agreements with the Funds (the Agreements) which allow the Bank to receive monthly investment advisory fees based on a certain percentage (i.e., between .33%

[12] The Bank is not requesting an exemption for any investment in the Funds by employee benefit plans sponsored and maintained by the Bank (the Bank Plans). The Bank represents that the Bank Plans may acquire or sell shares of the Funds pursuant to Prohibited Transaction Exemption 77–3 (PTE 77–3, 42 FR 18734, April 8, 1977). PTE 77–3 permits the acquisition or sale of shares of a registered, open-end investment company by an employee benefit plan covering only employees of such investment company, employees of the investment adviser or principal underwriter for such investment company, or employees of any affiliated person (as defined therein) of such investment adviser or principal underwriter, provided certain conditions are met. The Department is expressing no opinion in this proposed exemption regarding whether any transactions with the Funds by the Bank Plans would be covered by PTE 77–3.

[13] The transactions with the Funds involving Client Plans for which the Bank acts as a nondiscretionary trustee may be covered by Prohibited Transaction Exemption 84–24 (PTE 84–24, 49 FR 13206, April 3, 1984). PTE 84–24 provides, among other things, an exemption for the purchase by a plan of securities issued by an investment company from, or the sale of such securities to, an investment company or an investment company principal underwriter, when the investment company, principal underwriter, or investment company investment adviser is a fiduciary or service provider to the plan solely by reason of the sponsorship of a master or prototype plan or the provision of nondiscretionary trust services to the plan, or both, if the conditions discussed therein are met (see Section III(f) and Section IV of PTE 84–24). However, the applicant states that it is unclear whether PTE 84–24 would cover either: (i) The ''conversion'' transaction, pursuant to which Plan interests in the CIFs are exchanged for equivalent interests in the Funds; (ii) the ''fee offset'' mechanism, pursuant to which the Bank ensures that Plans are not charged investment advisory fees at both the Plan-level and the Fund-level; and (iii) the ''negative consent'' mechanism, pursuant to which future Fund-level fee modifications are deemed approved unless the Plan submits an ''investment termination form'' after receiving notice of the fee modification, as discussed herein. The Department expresses no opinion in this proposed exemption regarding whether such transactions would be covered by PTE 84–24.

[14] The Bank does not anticipate that the Client Plans will invest in the Peachtree Georgia Tax-Free Fund, since the Plans are not subject generally to Federal or State income taxes and would not need to seek tax-free income.

and .75%) of the average daily net assets of each of the Funds.[15] The Bank is currently the sole investment adviser to the Funds' existing portfolios and presently contemplates no change for such portfolios. However, the Bank states that it may utilize third party sub-advisers in the future to enhance the investment alternatives and the investment advisory services available to the Funds for certain new portfolios. The Agreements and the fees received by the Bank are approved by the Board of Directors of the Funds (the Funds' Directors), in accordance with the applicable provisions of the 1940 Act. Any changes in the fees or services for the Funds are approved by the Funds' Directors, a majority of whom must be independent of the Bank.

6. Prior to February 11, 1994, the Bank generally invested assets of Client Plans for which it acted as a trustee with investment discretion in a series of CIFs. In addition, certain Client Plans where investment decisions are directed by an Independent Fiduciary generally used a Bank CIF as an investment option for the Client Plans. However, on Friday, February 11, 1994, the Bank terminated two of its CIFs—the BankSouth Fixed Income CIF and the BankSouth Equity CIF. The assets in these CIFs were transferred to the Peachtree Bond Fund and the Peachtree Equity Fund, respectively. Each CIF transferred its assets to the corresponding Fund in exchange for shares of that Fund at the then current market value of the CIF assets, in accordance with Rule 17a–7 under the 1940 Act (as discussed below).[16] The CIFs were then liquidated and the Fund shares were distributed to the Client Plans, subject to the prior written consent of the Independent Fiduciary for the Client Plan. Any Client Plan that had not provided prior written approval for the transfer of its CIF assets to the Funds by the deadline set for such approvals received a cash distribution of its pro rata share of the CIF assets no later than Friday, February 11, 1994, preceding the transfers.

The assets of the CIFs were reviewed by the Bank as investment adviser to the Funds, in coordination with Federated Administrative Services (FAS), the Funds' third party administrator, to determine that the assets were appropriate investments for the corresponding Funds. FAS created a portfolio accounting system to track the securities to be acquired by the Funds. Prior to the transfer of CIF assets to the Funds, the Funds did not hold any securities or other assets.

The transfer transactions occurred using market values as of the close of business on Friday, February 11, 1994. The securities transferred from the CIFs were the same as the securities received by the Funds. The applicant states that the value of the securities was determined in a single valuation by the Bank as investment adviser for the Funds, in accordance with the requirement of Rule 17a–7(b) that transactions be effected at the ''independent current market price'' of the securities. The valuation of the securities was performed in the same manner for both the CIF and the corresponding Fund at the close of the same business day. Specifically, as required by the Rule, securities listed on exchanges were valued at their closing prices on Friday, February 11, and unlisted securities were valued based on the average of bid and ask quotations at the close of the market on Friday, February 11, obtained from three brokers independent of the Bank. Any fees charged by the independent brokers for the bid and ask prices were paid by the Bank.

Each Client Plan that approved the CIF asset transfers to the Funds received account statements describing the asset transfers on or before March 31, 1994. The statements showed the disposition of the CIF units from the Client Plan account and the acquisition by the account of Fund shares, both posted as of Monday, February 14, 1994.[17] This information provided the affected Client Plans with written confirmation of the number of CIF units held by the Client Plan immediately before the transfer, the related per unit value and the total dollar amount of such CIF units as well as the number of shares of the Funds held by the Client Plan following the transfer, the related per share net asset value, and the total dollar amount of such shares.

Thus, the applicant represents that as of February 14, 1994, Client Plans that were formerly invested in the terminated CIFs held shares of the corresponding Funds which were of the same value, based on the Client Plans' pro rata share of the underlying market value of the securities transferred to the Funds, as their assets in the CIF as of the close of business on Friday, February 11, 1994. The Bank represents that the other CIFs may be terminated in the future and that all such terminations and subsequent transfers of CIF assets for shares of the Funds will comply with Rule 17a–7 as described above and the conditions of this proposed exemption.

For all transfers of CIF assets to a Fund following publication of this proposed exemption in the **Federal Register**, the Bank sends by regular mail to each affected Client Plan a written confirmation, not later than 30 days after completion of the transaction, containing the following information:

(1) The identity of each security that was valued for purposes of the transaction in accordance with Rule 17a–7(b)(4);

(2) The price of each such security involved in the transaction; and

(3) The identity of each pricing service or market maker consulted in determining the value of such securities. Securities which are valued in accordance with Rule 17a–7(b)(4) are securities for which the current market price cannot be obtained by reference to the last sale price for transactions reported on a recognized securities exchange or the NASDAQ system. The Bank states that such securities are valued based on an average of the highest current independent bid and lowest current independent offer, as of the close of business on the Friday preceding the weekend of the CIF transfers, determined on the basis of reasonable inquiry from at least three sources that are broker-dealers or pricing services independent of the Bank.

In addition, for all in-kind transfers of CIF assets to a Fund that occur after the date this proposed exemption is published in the **Federal Register**, the Bank will send by regular mail to the Independent Fiduciary no later than 90

[15] The Bank states that it will not perform any services for the Funds other than investment advisory services. Thus, the Bank will not act as the custodian, transfer agent, or shareholder servicing agent for a Fund or provide any other secondary services to the Funds. The Bank also will not provide portfolio execution services for the Funds. Therefore, all securities transactions for a Fund's portfolio will be executed by broker-dealers unrelated to the Bank and will not generate commissions or other fees to the Bank.

[16] Rule 17a–7 permits transactions between investment funds that use the same investment adviser, subject to certain conditions. Rule 17a–7 requires, among other things, that such transactions be effected at the ''independent current market price'' for each security, involve only securities for which market quotations are readily available, involve no brokerage commissions or other remuneration, and comply with valuation procedures adopted by the board of directors of the investment company to ensure that all requirements of the Rule are satisfied.

[17] The following example illustrates the information provided by the statements: Assume a Client Plan held 12,506 units of the BankSouth Equity CIF prior to the asset transfers. The account statement showed a disposition of 12,506 units of the BankSouth Equity CIF, at a value of $72.08 per unit, on February 14, 1994 with total proceeds of $901,432.18. The statement also showed a purchase on that same date of 90,143.218 shares of the Peachtree Equity Fund, the Fund corresponding to the BankSouth Equity CIF, at $10 per share, at a total cost of $901,432.18, the same amount as the proceeds of the disposition from the BankSouth Equity CIF.

days after completion of each transfer a written confirmation that contains the following information:

(1) The number of CIF units held by the Client Plan immediately before the transfer, the related per unit value, and the total dollar amount of such CIF units; and

(2) The number of shares in the Funds that are held by the Client Plan following the transfer, the related per share net asset value, and the total dollar amount of such shares.

The Bank believes that the interests of the Client Plans are better served by the collective investment of assets of the Client Plans in the Funds rather than in the CIFs. The Funds are valued on a daily basis, whereas the majority of the CIFs are valued monthly. The daily valuation permits (i) immediate investment of Client Plan contributions in various types of investments; (ii) greater flexibility in transferring assets from one type of investment to another; and (iii) daily redemption of investments for purposes of making distributions. In addition, information concerning the investment performance of the Funds will be available on a daily basis in newspapers of general circulation which will allow Client Plan fiduciaries to monitor the performance of investments on a daily basis and make more informed investment decisions.

7. For investments in the Funds on behalf of Client Plans, the Bank currently offsets its investment management or advisory fees for assets invested in the Funds in accordance with one of the methods for offsetting double investment advisory fees described in Prohibited Transaction Exemption 77–4 (PTE 77–4, 42 FR 18732, April 8, 1977).[18] Consequently, the Bank represents that the fee structure for these investments complies with the fee structure under PTE 77–4, and that the other conditions of PTE 77–4 are met.[19]

The Bank charges its standard fees to all the Client Plans for serving as a trustee or investment manager for the Client Plans.[20] All fees are billed on a quarterly basis. The annual charges for a Client Plan account are based on fee schedules negotiated with the Bank. The Bank provides services to the Client Plans for which it has investment discretion, including sweep services for uninvested cash balances in such Plans, under a single fee arrangement which is calculated as a percentage of the market value of the Plan assets under management. There are no separate charges for the provision of sweep services to the Client Plans for which the Bank has investment discretion. However, for Client Plans where investment decisions are directed by an Independent Fiduciary, a separate charge is assessed for sweep services where the Independent Fiduciary specifically agrees to have the Bank provide such services to the Client Plan.[21] The Bank states that in many cases fees charged by the Bank to a Client Plan are paid by the Client Plan sponsor rather than by the Client Plan.

The Bank charges the Funds for its services to the Funds as investment adviser, in accordance with the Agreements between the Bank and the Funds. Under the Agreements, the Bank charges fees at a different rate for each Fund, computed based on the average daily net assets for the respective Fund. The fee differentials among the Funds result from the particular level of services rendered by the Bank to the Funds.

The investment advisory fees paid by each of the existing Funds are accrued on a daily basis and billed by the Bank to the Funds at the beginning of the month following the month in which the fees accrued. The Bank states that any additional Funds will follow the same monthly billing arrangement.

Under the fee structure which would be covered by the proposed exemption, the Bank states that the Client Plans will not pay any plan-level investment management fees, investment advisory fees, or similar fees to the Bank with respect to any of the assets of such Client Plans which are invested in shares of any of the Funds. However, this fee structure does not preclude the payment of investment advisory fees or similar fees by the Funds to the Bank under the terms of the Agreements, provided that such Agreements are adopted in accordance with section 15 of the 1940 Act.

The Bank states that the combined total of all fees received by the Bank for the provision of services to a Client Plan, and in connection with the provision of services to the Funds in which the Client Plan may invest, are not in excess of ''reasonable compensation'' within the meaning of section 408(b)(2) of the Act.

The Bank represents that the fee structure ensures that the Bank does not receive any additional investment management, advisory or similar fees from the Funds as a result of investments in the Funds by the Client Plans. Thus, the Bank represents that the fee structure is at least as advantageous to the Client Plans as an arrangement pursuant to the conditions of PTE 77–4 whereby investment advisory fees paid by the Funds to the Bank would be offset or credited against investment management fees charged directly by the Bank to the Client Plans. In this regard, the Bank states that the fee structure essentially has the same effect in offsetting the Bank's investment advisory fees as an arrangement under PTE 77–4, section II(c).

8. With respect to any transfer of a Client Plan's CIF assets to a Fund, the Bank states that an Independent Fiduciary for the Client Plan receives advance written notice of the in-kind transfer of assets of the CIFs and full written disclosure of information concerning the Fund. On the basis of such information, the Independent Fiduciary authorizes in writing the in-kind transfer of the Client Plan's CIF assets to a Fund in exchange for shares of the Fund. With respect to the receipt of fees by the Bank from a Fund in connection with any Client Plan's investment in the Fund, the Bank states that an Independent Fiduciary receives full and detailed written disclosure of information concerning the Fund in

[18] PTE 77–4, in pertinent part, permits the purchase and sale by an employee benefit plan of shares of a registered, open-end investment company when a fiduciary with respect to the plan is also the investment adviser for the investment company, provided that, among other things, the plan does not pay an investment management, investment advisory or similar fee with respect to the plan assets invested in such shares for the entire period of such investment. Section II(c) of PTE 77–4 states that this condition does not preclude the payment of investment advisory fees by the investment company under the terms of an investment advisory agreement adopted in accordance with section 15 of the 1940 Act. Section II(c) states further that this condition does not preclude payment of an investment advisory fee by the plan based on total plan assets from which a credit has been subtracted representing the plan's pro rata share of investment advisory fees paid by the investment company.

[19] The Department is expressing no opinion in this proposed exemption regarding whether any transactions with the Funds under the circumstances described herein would be covered by PTE 77–4.

[20] The applicant represents that all fees paid by Client Plans directly to the Bank for services performed by the Bank are exempt from the prohibited transaction provisions of the Act by reason of section 408(b)(2) of the Act and the regulations thereunder (see 29 CFR 2550.408b–2). The Department notes that to the extent there are prohibited transactions under the Act as a result of services provided by the Bank directly to the Client Plans which are not covered by section 408(b)(2), no relief is being proposed herein for such transactions.

[21] See DOL Letter dated August 1, 1986 to Robert S. Plotkin, Assistant Director, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, stating the Department's views regarding the application of the prohibited transaction provisions of the Act to sweep services provided to plans by fiduciary banks and the potential applicability of certain statutory exemptions as described therein.

advance of any investment by the Client Plan in the Fund. On the basis of such information, the Independent Fiduciary authorizes in writing the investment of assets of the Client Plan in the Fund and the fees to be paid by the Fund to the Bank. In addition, the Bank represents that the Independent Fiduciary of each Client Plan invested in a particular Fund will receive full written disclosure, in a statement separate from the Fund prospectus, of any proposed increases in the rates of fees charged by the Bank to the Funds for investment advisory services which is above the rate reflected in the prospectus for the Fund, at least 30 days prior to the effective date of such increase.[22]

Any authorizations by the Independent Fiduciary regarding the investment of a Client Plan's assets in a Fund and the fees to be paid to the Bank, including any future increases in rates of such fees, are or will be terminable at will by the Independent Fiduciary, without penalty to the Client Plan, upon receipt by the Bank of written notice of termination. A Termination Form expressly providing an election to terminate the authorization with instructions on the use of the form is supplied to the Independent Fiduciary no less than annually. The instructions for the Termination Form include the following information:

(a) The authorization is terminable at will by the Client Plan, without penalty to the Client Plan, upon receipt by the Bank of written notice from the Independent Fiduciary; and

(b) Failure to return the Termination Form will result in continued authorization of the Bank to engage in the subject transactions on behalf of the Client Plan.

The Bank states that the Termination Form may be used to notify the Bank in writing to effect a termination by selling the shares of the Funds held by the Client Plan requesting such termination within one business day following receipt by the Bank of the form. The Bank states further that if, due to circumstances beyond the control of the Bank, the sale cannot be executed within one business day, the Bank will complete the sale within the next business day.

Any disclosure of information regarding a proposed increase in the rate of fees for investment advisory services will be accompanied by a Termination Form. However, if the Termination Form has been provided to the Independent Fiduciary for the authorization of a fee increase, then a Termination Form for an annual reauthorization will not be provided by the Bank for that year unless at least six months has elapsed since the Termination Form was provided for the fee increase.

Each Independent Fiduciary receives from the Bank a current prospectus for the Funds and a written statement giving full disclosure of the Fee Structure prior to any investment by the Client Plan in shares of the Fund. The disclosure statement explains why the Bank believes that the investment of assets of the Client Plan in the Funds is appropriate. The disclosure statement also describes whether there are any limitations on the Bank with respect to which Client Plan assets may be invested in shares of the Funds and, if so, the nature of such limitations.[23] The Bank states that Client Plan fiduciaries will also receive from Federated, the Funds' distributor, an updated prospectus and periodic reports for each Fund. In addition to information provided to Fund shareholders by Federated, the Bank will provide each Independent Fiduciary with a quarterly performance review for the Peachtree Equity and Bond Funds. This report will include updated information regarding the particular Fund's investment strategy, performance, and diversification of assets as well as a description of the securities held by the Fund. The Bank states further that Fund shareholders may also request a copy of the Statement of Additional Information for any Fund free of charge, obtain other information, or make inquiries about a Fund by writing or calling the Bank.

9. No sales commissions are paid by the Client Plans in connection with the purchase or sale of shares of the Funds. In addition, no redemption fees are paid in connection with the sale of shares by the Client Plans to the Funds. The applicant states that all other dealings between the Client Plans, the Funds, and the Bank or any affiliate, are on a basis no less favorable to the Client Plans than such dealings are with the other shareholders of the Funds.

10. In summary, the Bank represents that the transactions described herein satisfy the statutory criteria of section 408(a) of the Act because: (a) The Funds provide the Client Plans with a more effective investment vehicle than the CIFs maintained by the Bank without any increase in investment management, advisory or similar fees paid to the Bank; (b) with respect to the transfer of a Client Plan's CIF assets into a Fund in exchange for Fund shares, an Independent Fiduciary authorizes in writing such transfer prior to the transaction only after full written disclosure of information concerning the Fund; (c) each Client Plan receives shares of a Fund in connection with the transfer of assets of a terminating CIF which have a net asset value that is equal to the value of the Client Plan's pro rata share of the CIF assets on the date of the transfer, based on the current market value of such assets as determined in a single valuation at the close of the same business day using independent sources in accordance with procedures established by the Fund which comply with Rule 17a-7 of the 1940 Act; (d) with respect to any investments in a Fund by the Client Plans and the payment of any fees by the Fund to the Bank, an Independent Fiduciary receives full written disclosure of information concerning the Fund, including a current prospectus and a statement describing the fee structure, and authorizes in writing the investment of the Client Plan's assets in the particular Fund and the fees paid by such Fund to the Bank; (e) any authorizations made by a Client Plan regarding investments in a Fund and fees paid to the Bank, or any increases in the rates of fees for such services, are or will be terminable at will by the Client Plan, without penalty to the Client Plan, upon receipt by the Bank of written notice of termination from the Independent Fiduciary; (f) no commissions or redemption fees are paid by the Client Plan in connection with either the acquisition of Fund shares, through either a direct purchase of the shares or a transfer of CIF assets in exchange for the shares, or the sale of Fund shares; and (g) all dealings between the Client Plans, the Funds and

[22] The Department notes that an increase in the amount of a fee for an existing investment advisory service (other than through an increase in the value of the underlying assets in the Funds) or the imposition of a fee for a newly-established investment advisory service shall be considered an increase in the rate of such investment advisory fee. However, in the event an investment advisory fee has already been described in writing to the Independent Fiduciary and the Independent Fiduciary has provided authorization for the investment advisory fee, and such fee is waived, no further action by the Bank would be required in order for the Bank to receive such fee at a later time. Thus, for example, no further disclosure would be necessary if the Bank had received authorization for a fee for investment advisory services from Client Plan investors and subsequently determined to waive the fee for a period of time in order to attract new investors but later charged the fee.

[23] See section II(d) of PTE 77–4 which requires, in pertinent part, that an independent plan fiduciary receive a current prospectus issued by the investment company and a full and detailed written disclosure of the investment advisory and other fees charged to or paid by the plan and the investment company, including a discussion of whether there are any limitations on the fiduciary/investment adviser with respect to which plan assets may be invested in shares of the investment company and, if so, the nature of such limitations.

the Bank, are on a basis which is at least as favorable to the Client Plans as such dealings are with other shareholders of the Funds.

Notice to Interested Persons

Notice of the proposed exemption shall be given to all Independent Fiduciaries of Client Plans described herein that had investments in a terminating CIF and from whom approval was sought, or will be sought prior to the granting of this proposed exemption, for a transfer of a Client Plan's CIF assets to a Fund. In addition, interested persons shall include the Independent Fiduciaries of all Client Plans that are currently invested in the Funds, as of the date the notice of the proposed exemption is published in the **Federal Register**, where the Bank provides services to the Funds and receives fees which would be covered by the exemption, if granted. Notice to interested persons shall be provided by first class mail within fifteen (15) days following the publication of the proposed exemption in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and a supplemental statement (see 29 CFR 2570.43(b)(2)) which informs all interested persons of their right to comment on and/or request a hearing with respect to the proposed exemption. Comments and requests for a public hearing are due within forty-five (45) days following the publication of the proposed exemption in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Mr. E.F. Williams of the Department, telephone (202) 219–8194. (This is not a toll-free number.)

Dillon, Read & Co. Inc. (Dillon) Located in New York, New York

[Application No. D–09741]

Proposed Exemption

I. Transactions

A. The restrictions of sections 406(a) and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to the following transactions involving trusts and certificates evidencing interests therein:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and an employee benefit plan when the sponsor, servicer, trustee or insurer of a trust, the underwriter of the certificates representing an interest in the trust, or an obligor is a party in interest with respect to such plan;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates; and

(3) The continued holding of certificates acquired by a plan pursuant to subsection I.A. (1) or (2).

Notwithstanding the foregoing, section I.A. does not provide an exemption from the restrictions of sections 406(a)(1)(E), 406(a)(2) and 407 for the acquisition or holding of a certificate on behalf of an Excluded Plan by any person who has discretionary authority or renders investment advice with respect to the assets of that Excluded Plan.[24]

B. The restrictions of sections 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(E) of the Code shall not apply to:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and a plan when the person who has discretionary authority or renders investment advice with respect to the investment of plan assets in the certificates is (a) an obligor with respect to 5 percent or less of the fair market value of obligations or assets contained in the trust, or (b) an affiliate of a person described in (a); if:

(i) The plan is not an Excluded Plan;

(ii) Solely in the case of an acquisition of certificates in connection with the initial issuance of the certificates, at least 50 percent of each class of certificates in which plans have invested is acquired by persons independent of the members of the Restricted Group and at least 50 percent of the aggregate interest in the trust is acquired by persons independent of the Restricted Group;

(iii) A plan's investment in each class of certificates does not exceed 25 percent of all of the certificates of that class outstanding at the time of the acquisition; and

(iv) Immediately after the acquisition of the certificates, no more than 25 percent of the assets of a plan with respect to which the person has discretionary authority or renders investment advice are invested in certificates representing an interest in a trust containing assets sold or serviced by the same entity.[25] For purposes of this paragraph B.(1)(iv) only, an entity will not be considered to service assets contained in a trust if it is merely a subservicer of that trust;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates, provided that the conditions set forth in paragraphs B.(1) (i), (iii), and (iv) are met; and

(3) The continued holding of certificates acquired by a plan pursuant to subsection I.B.(1) or (2).

C. The restrictions of sections 406(a), 406(b) and 407(a) of the Act, and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c) of the Code, shall not apply to transactions in connection with the servicing, management and operation of a trust; provided:

(1) Such transactions are carried out in accordance with the terms of a binding pooling and servicing arrangement; and

(2) The pooling and servicing agreement is provided to, or described in all material respects in the prospectus or private placement memorandum provided to, investing plans before they purchase certificates issued by the trust.[26]

Notwithstanding the foregoing, section I.C. does not provide an exemption from the restrictions of section 406(b) of the Act or from the taxes imposed by reason of section 4975(c) of the Code for the receipt of a fee by a servicer of the trust from a person other than the trustee or sponsor, unless such fee constitutes a ''qualified administrative fee'' as defined in section III.S.

D. The restrictions of sections 406(a) and 407(a) of the Act, and the taxes imposed by sections 4975 (a) and (b) of the Code by reason of sections 4975(c)(1) (A) through (D) of the Code, shall not apply to any transactions to which those restrictions or taxes would otherwise apply merely because a

[24] Section I.A. provides no relief from sections 406(a)(1)(E), 406(a)(2) and 407 for any person rendering investment advice to an Excluded Plan within the meaning of section 3(21)(A)(ii) and regulation 29 CFR 2510.3–21(c).

[25] For purposes of this exemption, each plan participating in a commingled fund (such as a bank collective trust fund or insurance company pooled separate account) shall be considered to own the same proportionate undivided interest in each asset of the commingled fund as its proportionate interest in the total assets of the commingled fund as calculated on the most recent preceding valuation date of the fund.

[26] In the case of a private placement memorandum, such memorandum must contain substantially the same information that would be disclosed in a prospectus if the offering of the certificates were made in a registered public offering under the Securities Act of 1933. In the Department's view, the private placement memorandum must contain sufficient information to permit plan fiduciaries to make informed investment decisions.

person is deemed to be a party in interest or disqualified person (including a fiduciary) with respect to a plan by virtue of providing services to the plan (or by virtue of having a relationship to such service provider described in section 3(14) (F), (G), (H) or (I) of the Act or section 4975(e)(2) (F), (G), (H) or (I) of the Code), solely because of the plan's ownership of certificates.

II. General Conditions

A. The relief provided under Part I is available only if the following conditions are met:

(1) The acquisition of certificates by a plan is on terms (including the certificate price) that are at least as favorable to the plan as they would be in an arm's length transaction with an unrelated party;

(2) The rights and interests evidenced by the certificates are not subordinated to the rights and interests evidenced by other certificates of the same trust;

(3) The certificates acquired by the plan have received a rating at the time of such acquisition that is in one of the three highest generic rating categories from either Standard & Poor's Corporation (S&P's), Moody's Investors Service, Inc. (Moody's), Duff & Phelps Inc. (D&P) or Fitch Investors Service, Inc. (Fitch);

(4) The trustee is not an affiliate of any member of the Restricted Group. However, the trustee shall not be considered to be an affiliate of a servicer solely because the trustee has succeeded to the rights and responsibilities of the servicer pursuant to the terms of a pooling and servicing agreement providing for such succession upon the occurrence of one or more events of default by the servicer;

(5) The sum of all payments made to and retained by the underwriters in connection with the distribution or placement of certificates represents not more than reasonable compensation for underwriting or placing the certificates; the sum of all payments made to and retained by the sponsor pursuant to the assignment of obligations (or interests therein) to the trust represents not more than the fair market value of such obligations (or interests); and the sum of all payments made to and retained by the servicer represents not more than reasonable compensation for the servicer's services under the pooling and servicing agreement and reimbursement of the servicer's reasonable expenses in connection therewith; and

(6) The plan investing in such certificates is an ''accredited investor'' as defined in Rule 501(a)(1) of Regulation D of the Securities and Exchange Commission under the Securities Act of 1933.

B. Neither any underwriter, sponsor, trustee, servicer, insurer, or any obligor, unless it or any of its affiliates has discretionary authority or renders investment advice with respect to the plan assets used by a plan to acquire certificates, shall be denied the relief provided under Part I, if the provision of subsection II.A.(6) above is not satisfied with respect to acquisition or holding by a plan of such certificates, provided that (1) such condition is disclosed in the prospectus or private placement memorandum; and (2) in the case of a private placement of certificates, the trustee obtains a representation from each initial purchaser which is a plan that it is in compliance with such condition, and obtains a covenant from each initial purchaser to the effect that, so long as such initial purchaser (or any transferee of such initial purchaser's certificates) is required to obtain from its transferee a representation regarding compliance with the Securities Act of 1933, any such transferees will be required to make a written representation regarding compliance with the condition set forth in subsection II.A.(6) above.

III. Definitions

For purposes of this exemption:

A. ''Certificate'' means:

(1) A certificate—

(a) That represents a beneficial ownership interest in the assets of a trust; and

(b) That entitles the holder to pass-through payments of principal, interest, and/or other payments made with respect to the assets of such trust; or

(2) A certificate denominated as a debt instrument—

(a) That represents an interest in a Real Estate Mortgage Investment Conduit (REMIC) within the meaning of section 860D(a) of the Internal Revenue Code of 1986; and

(b) That is issued by and is an obligation of a trust; with respect to certificates defined in (1) and (2) for which Dillon or any of its affiliates is either (i) the sole underwriter or the manager or co-manager of the underwriting syndicate, or (ii) a selling or placement agent.

For purposes of this exemption, references to ''certificates representing an interest in a trust'' include certificates denominated as debt which are issued by a trust.

B. ''Trust'' means an investment pool, the corpus of which is held in trust and consists solely of:

(1) Either—

(a) Secured consumer receivables that bear interest or are purchased at a discount (including, but not limited to, home equity loans and obligations secured by shares issued by a cooperative housing association);

(b) Secured credit instruments that bear interest or are purchased at a discount in transactions by or between business entities (including, but not limited to, qualified equipment notes secured by leases, as defined in section III.T);

(c) Obligations that bear interest or are purchased at a discount and which are secured by single-family residential, multi-family residential and commercial real property, (including obligations secured by leasehold interests on commercial real property);

(d) Obligations that bear interest or are purchased at a discount and which are secured by motor vehicles or equipment, or qualified motor vehicle leases (as defined in section III.U);

(e) ''Guaranteed governmental mortgage pool certificates,'' as defined in 29 CFR section 2510.3–101(i)(2);

(f) Fractional undivided interests in any of the obligations described in clauses (a)–(e) of this section B.(1);[27]

(2) Property which had secured any of the obligations described in subsection B.(1);

(3) Undistributed cash or temporary investments made therewith maturing no later than the next date on which distributions are to made to certificateholders; and

(4) Rights of the trustee under the pooling and servicing agreement, and rights under any insurance policies, third-party guarantees, contracts of suretyship and other credit support arrangements with respect to any obligations described in subsection B.(1).

Notwithstanding the foregoing, the term ''trust'' does not include any investment pool unless: (i) The investment pool consists only of assets of the type which have been included in other investment pools, (ii) certificates evidencing interests in such other investment pools have been rated in one of the three highest generic rating

[27] The Department wishes to take the opportunity to clarify its view that the definition of Trust contained in III.B.(1)(a) through (e) includes a two-tier trust structure under which certificates issued by the first trust, which contains a pool of receivables described above, are transferred to a second trust which issues certificates that are sold to plans. However, the Department is of the further view that, since the exemption provides relief for the direct or *indirect* acquisition or disposition of certificates that are not subordinated, no relief would be available if the certificates held by the second trust were subordinated to the rights and interests evidenced by other certificates issued by the first trust.

categories by S&P's, Moody's, D&P, or Fitch for at least one year prior to the plan's acquisition of certificates pursuant to this exemption, and (iii) certificates evidencing interests in such other investment pools have been purchased by investors other than plans for at least one year prior to the plan's acquisition of certificates pursuant to this exemption.

C. ''Underwriter'' means:

(1) Dillon;

(2) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with Dillon; or

(3) Any member of an underwriting syndicate or selling group of which Dillon or a person described in (2) is a manager or co-manager with respect to the certificates.

D. ''Sponsor'' means the entity that organizes a trust by depositing obligations therein in exchange for certificates.

E. ''Master Servicer'' means the entity that is a party to the pooling and servicing agreement relating to trust assets and is fully responsible for servicing, directly or through subservicers, the assets of the trust.

F. ''Subservicer'' means an entity which, under the supervision of and on behalf of the master servicer, services assets contained in the trust, but is not a party to the pooling and servicing agreement.

G. ''Servicer'' means any entity which services assets contained in the trust, including the master servicer and any subservicer.

H. ''Trustee'' means the trustee of the trust, and in the case of certificates which are denominated as debt instruments, also means the trustee of the indenture trust.

I. ''Insurer'' means the insurer or guarantor of, or provider of other credit support for, a trust.

Notwithstanding the foregoing, a person is not an insurer solely because it holds securities representing an interest in a trust which are of a class subordinated to certificates representing an interest in the same trust.

J. ''Obligor'' means any person, other than the insurer, that is obligated to make payments with respect to any obligation or receivable included in the trust. Where a trust contains qualified motor vehicle leases or qualified equipment notes secured by leases, ''obligor'' shall also include any owner of property subject to any lease included in the trust, or subject to any lease securing an obligation included in the trust.

K. ''Excluded Plan'' means any plan with respect to which any member of the Restricted Group is a ''plan sponsor'' within the meaning of section 3(16)(B) of the Act.

L. ''Restricted Group'' with respect to a class of certificates means:

(1) Each underwriter;

(2) Each insurer;

(3) The sponsor;

(4) The trustee;

(5) Each servicer;

(6) Any obligor with respect to obligations or receivables included in the trust constituting more than 5 percent of the aggregate unamortized principal balance of the assets in the trust, determined on the date of the initial issuance of certificates by the trust; or

(7) Any affiliate of a person described in (1)–(6) above.

M. ''Affiliate'' of another person includes:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person;

(2) Any officer, director, partner, employee, relative (as defined in section 3(15) of the Act), a brother, a sister, or a spouse of a brother or sister of such other person; and

(3) Any corporation or partnership of which such other person is an officer, director or partner.

N. ''Control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

O. A person will be ''independent'' of another person only if:

(1) Such person is not an affiliate of that other person; and

(2) The other person, or an affiliate thereof, is not a fiduciary who has investment management authority or renders investment advice with respect to any assets of such person.

P. ''Sale'' includes the entrance into a forward delivery commitment (as defined in section Q below), provided:

(1) The terms of the forward delivery commitment (including any fee paid to the investing plan) are no less favorable to the plan than they would be in an arm's length transaction with an unrelated party;

(2) The prospectus or private placement memorandum is provided to an investing plan prior to the time the plan enters into the forward delivery commitment; and

(3) At the time of the delivery, all conditions of this exemption applicable to sales are met.

Q. ''Forward delivery commitment'' means a contract for the purchase or sale of one or more certificates to be delivered at an agreed future settlement date. The term includes both mandatory contracts (which contemplate obligatory delivery and acceptance of the certificates) and optional contracts (which give one party the right but not the obligation to deliver certificates to, or demand delivery of certificates from, the other party).

R. ''Reasonable compensation'' has the same meaning as that term is defined in 29 CFR section 2550.408c–2.

S. ''Qualified Administrative Fee'' means a fee which meets the following criteria:

(1) The fee is triggered by an act or failure to act by the obligor other than the normal timely payment of amounts owing in respect of the obligations;

(2) The servicer may not charge the fee absent the act or failure to act referred to in (1);

(3) The ability to charge the fee, the circumstances in which the fee may be charged, and an explanation of how the fee is calculated are set forth in the pooling and servicing agreement; and

(4) The amount paid to investors in the trust will not be reduced by the amount of any such fee waived by the servicer.

T. ''Qualified Equipment Note Secured By A Lease'' means an equipment note:

(a) Which is secured by equipment which is leased;

(b) Which is secured by the obligation of the lessee to pay rent under the equipment lease; and

(c) With respect to which the trust's security interest in the equipment is at least as protective of the rights of the trust as the trust would have if the equipment note were secured only by the equipment and not the lease.

U. ''Qualified Motor Vehicle Lease'' means a lease of a motor vehicle where:

(a) The trust holds a security interest in the lease;

(b) The trust holds a security interest in the leased motor vehicle; and

(c) The trust's security interest in the leased motor vehicle is at least as protective of the trust's rights as the trust would receive under a motor vehicle installment loan contract.

V. ''Pooling and Servicing Agreement'' means the agreement or agreements among a sponsor, a servicer and the trustee establishing a trust. In the case of certificates which are denominated as debt instruments, ''Pooling and Servicing Agreement'' also includes the indenture entered into by the trustee of the trust issuing such certificates and the indenture trustee.

Summary of Facts and Representations

1. Dillon, Read & Co. Inc. is an international investment banking firm

which has its headquarters in New York, New York. The firm has numerous offices in the United States as well as London, Paris and Tokyo. Dillon and its affiliates [28] engage in a variety of activities that facilitate the flow of capital from investors in the United States and abroad to corporations, governments and international agencies. Dillon provides a broad range of merger and acquisition services, engages in securities transactions as both principal and agent and provides underwriting, research and financial services to domestic and foreign financial institutions. The firm is actively involved in the issuance and trading of equity securities, high-yield corporate debt, investment grade fixed income securities, U.S. Government securities and municipal securities.

2. Dillon seeks exemptive relief to permit plans to invest in pass-through certificates representing undivided interests in the following categories of trusts: (1) Single and multi-family residential or commercial mortgage investment trusts; [29] (2) motor vehicle receivables pool investment trusts; (3) consumer or commercial receivables investment trusts; and (4) guaranteed governmental mortgage pool certificate investment trusts.[30]

3. Residential and commercial mortgage investment trusts may include mortgages on ground leases of real property. Commercial mortgages are frequently secured by ground leases on the underlying property rather than by fee simple interests. The separation of the fee simple interest and the ground lease interest is generally done for tax reasons. Properly structured, the pledge of the ground lease to secure a mortgage provides a lender with the same level of security as would be provided by a pledge of the related fee simple interest. The terms of the ground lease pledged to secure leasehold mortgages will in all cases be at least ten years longer than the term of such mortgage.[31]

Trust Structure

4. Each trust is established under a pooling and servicing agreement or equivalent agreement between a sponsor, a servicer and a trustee. The sponsor or servicer of a trust selects assets to be included in the trust. These assets are receivables or certificates which may have been originated, in the ordinary course of business, by a sponsor or servicer of the trust, an affiliate of the sponsor or servicer, or by an unrelated lender and subsequently acquired by the trust sponsor or servicer.

On or prior to the closing date, the sponsor acquires legal title to all assets selected for the trust, establishes the trust and designates an independent entity as trustee. On the closing date, the sponsor conveys to the trust legal title to the assets, and the trustee issues certificates representing fractional undivided interests in the trust assets. Dillon, or one or more broker-dealers (which may include Dillon), acts as underwriter or placement agent with respect to the sale of the certificates. All of the public offerings of certificates presently contemplated have been or are to be underwritten by Dillon on a firm commitment basis. In addition, Dillon anticipates privately placing certificates on both a firm commitment and an agency basis. Dillon may also act as the lead underwriter for a syndicate of securities underwriters.

Certificateholders will be entitled to receive periodic installments of principal and/or interest, or other payments due on the trust assets.

5. Some of the certificates will be multi-class certificates. Dillon requests exemptive relief for two types of multi-class certificates: ''strip'' certificates and ''fast-pay/slow-pay'' certificates. Strip certificates are a type of security in which the stream of interest payments on receivables is split from the flow of principal payments and separate classes of certificates are established, each representing rights to disproportionate payments of principal and interest.[32]

''Fast-pay/slow-pay'' certificates involve the issuance of classes of certificates having different stated maturities or the same maturities with different payment schedules. Interest and/or principal payments received on the underlying trust assets are distributed first to the class of certificates having the earliest stated maturity of principal and/or earlier payment schedule, and only when that class of certificates has been paid in full (or has received a specified amount) will distributions be made with respect to the second class of certificates. Distributions on certificates having later stated maturities will proceed in like manner until all the certificateholders have been paid in full. The only difference between this multi-class pass-through arrangement and a single-class pass-through arrangement is the order in which distributions are made to certificateholders. In each case, certificateholders will have a beneficial ownership interest in the underlying trust assets. In neither case will the rights of a plan purchasing certificates be subordinated to the rights of another certificateholder in the event of default on any of the underlying obligations. In particular, if the amount available for distribution to certificateholders is less than the amount required to be so distributed, all senior certificateholders will share in the amount distributed on a pro rata basis.[33]

6. For tax reasons, the trust must be maintained as an essentially passive entity. Therefore, both the sponsor's discretion and the servicer's discretion with respect to assets included in a trust are severely limited. Pooling and servicing agreements provide for the substitution of trust assets by the sponsor only in the event of defects in documentation discovered within a short time after the issuance of trust certificates (within 120 days, except in the case of obligations having an

[28] As described herein, the term ''Dillon'' refers to Dillon, Read and Co. Inc. and its affiliates unless the context otherwise requires.

[29] The Department notes that Prohibited Transaction Exemption (PTE) 83–1 (48 FR 895, January 7, 1983) a class exemption for mortgage pool investment trusts, would generally apply to trusts containing single-family residential mortgages, provided that the applicable conditions of PTE 83-l are met. Dillon requests relief for single-family residential mortgages in this exemption because it would prefer one exemption for all trusts of similar structure. However, Dillon has stated that it may still avail itself of the exemptive relief provided by PTE 83–1.

[30] Guaranteed governmental mortgage pool certificates are mortgage-backed securities with respect to which interest and principal payable is guaranteed by the Government National Mortgage Association (GNMA), the Federal Home Loan Mortgage Corporation (FHLMC), or the Federal National Mortgage Association (FNMA). The Department's regulation relating to the definition of plan assets (29 CFR 2510.3–101(i)) provides that where a plan acquires a guaranteed governmental mortgage pool certificate, the plan's assets include the certificate and all of its rights with respect to such certificate under applicable law, but do not, solely by reason of the plan's holding of such certificate, include any of the mortgages underlying such certificate. The applicant is requesting exemptive relief for trusts containing guaranteed governmental mortgage pool certificates because the certificates in the trusts may be plan assets.

[31] Trust assets may also include obligations that are secured by leasehold interests on residential real property. See PTE 90–32 involving Prudential-Bache Securities, Inc. (55 FR 23147, June 6, 1990) at 23150.

[32] It is the Department's understanding that where a plan invests in REMIC ''residual'' interest certificates to which this exemption applies, some of the income received by the plan as a result of such investment may be considered unrelated business taxable income to the plan, which is subject to income tax under the Code. The Department emphasizes that the prudence requirement of section 404(a)(l)(B) of the Act would require plan fiduciaries to carefully consider this and other tax consequences prior to causing plan assets to be invested in certificates pursuant to this exemption.

[33] If a trust issues subordinate certificates, holders of such subordinate certificates may not share in the amount distributed on a pro rata basis. The Department notes that the exemption does not provide relief for plan investment in such subordinated certificates.

original term of 30 years, in which case the period will not exceed two years). Any receivable so substituted is required to have characteristics substantially similar to the replaced receivable and will be at least as creditworthy as the replaced receivable.

In some cases, the affected receivable would be repurchased, with the purchase price applied as a payment on the affected receivable and passed through to certificateholders.

Parties to Transactions

7. The *originator* of a receivable is the entity that initially lends money to a borrower (obligor), such as a homeowner or automobile purchaser, or leases property to a lessee. The originator may either retain a receivable in its portfolio or sell it to a purchaser, such as a trust sponsor.

Originators of receivables included in the trusts will be entities that originate receivables in the ordinary course of their business, including finance companies, financial institutions, and any kind of manufacturer, merchant, or service enterprise for whom such origination is an incidental part of its operations. Each trust may contain assets of one or more originators. The originator of the receivables may also function as the trust sponsor or servicer.

8. The *sponsor* of a trust will be one of three entities: (i) a special-purpose corporation unaffiliated with the servicer, (ii) a special-purpose or other corporation affiliated with the servicer, or (iii) the servicer itself. Where the sponsor is not also the servicer, the sponsor's role will generally be limited to acquiring the assets to be included in the trust, establishing the trust, designating the trustee, and assigning the assets to the trust.

9. The *trustee* of a trust is the legal owner of the obligations in the trust. The trustee is also a party to or beneficiary of all the documents and instruments deposited in the trust, and as such is responsible for enforcing all the rights created thereby in favor of certificateholders.

The trustee will be an independent entity, and therefore will be unrelated to Dillon, the trust sponsor or the servicer. Dillon represents that the trustee will be a substantial financial institution or trust company experienced in trust activities. The trustee receives a fee for its services, which will be paid from the assets of the trust by the sponsor or servicer. The method of compensating the trustee will be specified in the pooling and servicing agreement and disclosed in the prospectus or private placement memorandum relating to the offering of the certificates.

10. The *servicer* of a trust administers the trust assets on behalf of the certificateholders. The servicer's functions typically involve, among other things, notifying borrowers of amounts due on receivables, maintaining records of payments received on receivables and instituting foreclosure or similar proceedings in the event of default. In cases where a pool of receivables has been purchased from a number of different originators and deposited in a trust, it is common for the receivables to be ''subserviced'' by their respective originators and for a single entity to ''master service'' the pool of receivables on behalf of the owners of the related series of certificates. Where this arrangement is adopted, a receivable continues to be serviced from the perspective of the borrower by the local subservicer, while the investor's perspective is that the entire pool of receivables is serviced by a single, central master servicer who collects payments from the local subservicers and passes them through to certificateholders.

Receivables of the type suitable for inclusion in a trust invariably are serviced with the assistance of a computer. After the sale, the servicer keeps the sold receivables on the computer system in order to continue monitoring the accounts. Although the records relating to sold receivables are kept in the same master file as receivables retained by the originator, the sold receivables are flagged as having been sold. To protect the investors' interest, the servicer ordinarily convenants that this ''sold flag'' will be included in all records relating to the sold receivables, including the master file, archives, tape extracts, and printouts.

The sold flags are invisible to the obligor, and do not affect the manner in which the servicer performs the billing, posting and collection procedures relating to the sold receivables. However, the servicer uses the sold flag to identify the receivables for the purpose of reporting all activity on those receivables after their sale to the trust.

Depending on the type of receivable and the details of the servicer's computer system, in some cases the servicer's internal reports can be adapted for investor reporting with little or no modification. In other cases, the servicer may have to perform special calculations to fulfill the investor reporting responsiblities. These calculations can be performed on the servicer's main computer, or on a small computer with data supplied by the main system. In all cases, the numbers produced for the investors are reconciled to the servicer's books and reviewed by public accountants.

The *underwriter* will be a registered broker-dealer that acts as underwriter or placement agent with respect to the sale of the certificates. Public offerings of certificates are generally made on a firm commitment basis. Private placements of certificates may be made on a firm commitment or agency basis.

It is anticipated that the lead or co-managing underwriter will make a market in certificates offered to the public.

In some cases, the originator and servicer of assets to be included in a trust and the sponsor of the trust (though they themselves may be related) will be unrelated to Dillon. However, affiliates of Dillon may originate or service assets included in a trust, or may sponsor a trust.

Certificate Price, Pass-Through Rate and Fees

11. In some cases, the sponsor will obtain the assets from various originators pursuant to existing contracts with such originators under which the sponsor continually buys receivables. In other cases, the sponsor will purchase the receivables at fair market value from the originator or a finance company pursuant to a purchase and sale agreement related to the specific offering of certificates. In other cases, the sponsor will originate the receivables itself.

As compensation for the assets transferred to the trust, the sponsor receives cash, or certificates representing the entire beneficial interest in the trust. The sponsor sells some or all of these certificates for cash to investors or securities underwriters.

12. The price of the certificates, both in the initial offering and in the secondary market, is affected by market forces including investor demand, the pass-through interest rate on the certificates in relation to the rate payable on investments of similar types and quality, expectations as to the effect on yield resulting from prepayment of underlying receivables, and expectations as to the likelihood of timely payment.

The pass-through rate for certificates is equal to the interest rate on assets included in the trust minus a specified servicing fee.[34] This rate is generally

[34] The pass-through rate on certificates representing interests in trusts holding leases is determined by breaking down lease payments into ''principal'' and ''interest'' components based on an implicit interest rate.

determined by the same market forces that determine the price of a certificate.

The price of a certificate and its pass-through, or coupon rate, together determine the yield to investors. If an investor purchases a certificate at less than par, that discount augments the stated pass-through rate; conversely, a certificate purchased at a premium yields less than the stated coupon.

13. As compensation for performing its servicing duties, the servicer (who may also be the sponsor or an affiliate thereof, and receive fees for acting as sponsor) will retain the difference between payments received on the assets in the trust and payments payable to certificateholders, except that in some cases a portion of the payments on assets in the trust may be paid to a third party, such as a fee paid to a provider of credit support. The servicer may receive additional compensation by having the use of the amounts paid on the assets between the time they are received by the servicer and the time they are due to the trust (which time is set forth in the pooling and servicing agreement). The servicer, typically, will be required to pay the administrative expenses of servicing the trust, including in some cases the trustee's fee, out of its servicing compensation.

The servicer is also compensated to the extent it may provide credit enhancement to the trust or otherwise arrange to obtain credit support from another party. This ''credit support fee'' may be aggregated with other servicing fees, and is either paid in a lump sum at the time the trust is established, or out of the payments received on the assets in the trust.

14. The servicer may be entitled to retain certain administrative fees paid by a third party, usually the obligor. These administrative fees fall into three categories:

(a) Prepayment fees; (b) late payment and payment extension fees; and (c) expenses, fees and charges associated with foreclosure or repossession of assets in the trust, or other conversion of a secured position into cash proceeds, upon default of an obligation.

Compensation payable to the servicer will be set forth or referred to in the pooling and servicing agreement and described in reasonable detail in the prospectus or private placement memorandum relating to the certificates.

15. Payments on assets in the trust may be made by obligors to the servicer at various times during the period preceding any date on which pass-through payments to the trust are due. In some cases, the pooling and servicing agreement may permit the servicer to place these payments in non-interest bearing accounts in itself or to commingle such payments with its own funds prior to the distribution dates. In these cases, the servicer would be entitled to the benefit derived from the use of the funds between the date of payment on an asset and the certificate payment. Commingled payments may not be protected from the creditors of the servicer in the event of the servicer's bankruptcy or receivership. In those instances when payments on trust assets are held in non-interest bearing accounts or are commingled with the servicer's own funds, the servicer is required to deposit these payments by a date specified in the pooling and servicing agreement into an account from which the trustee makes payments to certificateholders.

16. The underwriter will receive a fee in connection with the securities underwriting or private placement of certificates. In a firm commitment underwriting, this fee would consist of the difference between what the underwriter receives for the certificates that it distributes and what it pays the sponsor for those certificates. In a private placement, the fee normally takes the form of an agency commission paid by the sponsor. In a best efforts underwriting in which the underwriter would sell certificates in a public offering on an agency basis, the underwriter would receive an agency commission rather than a fee based on the difference between the price at which the certificates are sold to the public and what it pays the sponsor. In some private placements, the underwriter may buy certificates as principal, in which case its compensation would be the difference between what the underwriter receives for the certificates and what it pays the sponsor for these certificates.

Purchase of Receivables by the Servicer

17. The applicant represents that as the principal amount of the assets in a trust is reduced by payment, the cost of administering the trust generally increases in proportion to the unpaid balance of the assets in the trust, making the servicing of the trust prohibitively expensive at some point.

Consequently, the pooling and servicing agreement generally provides that the servicer may purchase the receivables included in the trust when the aggregate unpaid balance payable on the receivables is reduced to a specified percentage (usually between 5 and 10 percent) of the initial balance.

The repurchase price for such an option is set at a level such that the certificateholders will receive the full amount on all of the receivables held by the trust plus the accrued interest at the pass-through rate plus the full amount of property, if any, that has been acquired by the trust through collections on or liquidations of the receivables.

Certificate Ratings

18. The certificates will have received one of the three highest ratings available from either S&P's, Moody's, D&P or Fitch. Insurance or other credit support (such as overcollateralization, surety bonds, letters of credit or guarantees) will be obtained by the trust sponsor to the extent necessary for the certificates to attain the desired rating. The amount of this credit support is set by the rating agencies at a level that is a multiple of the worst historical net credit loss experience for the type of obligations included in the issuing trust.

Provision of Credit Support

19. In some cases, the servicer, or an affiliate of the servicer, may provide credit support to the trust (i.e., act as an insurer). In these cases, the servicer will first advance funds to the full extent that it determines that such advances will be recoverable (a) out of late payments by the obligors, (b) from the credit support provider (which may be itself) or, (c) in the case of a trust that issues subordinated certificates, from amounts otherwise distributable to holders of subordinated certificates. In some transactions, the servicer may not be obligated to advance funds, but instead would be called upon to provide funds to cover defaulted payments to the full extent of its obligations as insurer. Moreover, a servicer typically can recover advances either from the provider of credit support or from the future payment stream. When the servicer is the provider of the credit support and provides its own funds to cover defaulted payments, it will do so either on the initiative of the trustee, or on its own initiative on behalf of the trustee, but in either event it will provide such funds to cover payments to the full extent of its obligations under the credit support mechanism.

If the servicer fails to advance funds, fails to call upon the credit support mechanism to provide funds to cover defaulted payments, or otherwise fails in its duties, the trustee would be required and would be able to enforce the certificateholders' rights pursuant to the pooling and servicing agreement.

Therefore, the trustee, who is independent of the servicer, will have the ultimate right to enforce the credit support arrangement.

When a servicer advances funds, the amount so advanced is recoverable by the servicer out of future payments on

assets held by the trust to the extent not covered by credit support. However, where the servicer provides credit support to the trust, there are protections, including those described below, in place to guard against a delay in calling upon the credit support to take advantage of the fact that the credit support declines proportionally with the decrease in the principal amount of the obligations in the trust as payments on assets are passed through to investors. These protective safeguards include:

(a) There is often a disincentive to postponing credit losses because the sooner repossession or foreclosure activities are commenced, the more value that can be realized on the security for the obligation;

(b) The servicer has servicing guidelines which include a general policy as to the allowable delinquency period after which an obligation ordinarily will be deemed uncollectible. The pooling and servicing agreement will require the servicer to follow its normal servicing guidelines and will set forth the servicer's general policy as to the period of time after which delinquent obligations ordinarily will be considered uncollectible;

(c) As frequently as payments are due on the assets included in the trust (monthly, quarterly, or semi-annually as set forth in the pooling and servicing agreement), the servicer is required to report to the independent trustee the amount of all past-due payments and the amount of all servicer advances, along with other current information as to collections on the assets and draws upon the credit support. Further, the servicer is required to deliver to the trustee annually a certificate of an executive officer of the servicer stating that a review of the servicing activities has been made under such officer's supervision, and either stating that the servicer has fulfilled all of its obligations under the pooling and servicing agreement or, if the servicer has defaulted under any of its obligations, specifying any such default. The servicer's reports are reviewed at least annually by independent accountants to ensure that the servicer is following its normal servicing standards and that the master servicer's reports conform to the servicer's internal accounting records. The results of the independent accountants' review are delivered to the trustee;

(d) The credit support has a ''floor'' dollar amount that protects investors against the possibility that a large number of credit losses might occur towards the end of the life of the trust, whether due to servicer advances or any other cause. Once the floor amount has been reached, the servicer lacks an incentive to postpone the recognition of credit losses because the credit support amount becomes a fixed dollar amount, subject to reduction only for actual draws. From the time that the floor amount is effective until the end of the life of the trust, there are no proportionate reductions in the credit support amount caused by reductions in the pool principal balance. Indeed, since the floor is a fixed dollar amount, the amount of credit support ordinarily increases as a percentage of the pool principal balance during the period that the floor is in effect. The protection provided by a floor dollar amount to the credit support applies particularly where the servicer and the insurer are affiliated or are the same entity. (An entity should not be considered an insurer solely because it holds subordinated certificates.)

Disclosure

20. In connection with the original issuance of certificates, the prospectus or private placement memorandum will be furnished to investing plans. The prospectus or private placement memorandum will contain information material to a fiduciary's decision to invest in the certificates, including:

(a) Information concerning the payment terms of the certificates, the rating of the certificates, and any material risk factors with respect to the certificates;

(b) A description of the trust as a legal entity and a description of how the trust was formed by the seller/servicer or other sponsor of the transaction;

(c) Identification of the independent trustee for the trust;

(d) A description of the assets contained in the trust, including the types of assets, the diversification of the assets, their principal terms and their material legal aspects;

(e) A description of the sponsor and servicer;

(f) A description of the pooling and servicing agreement, including a description of the seller's principal representations and warranties as to the trust assets and the trustee's remedy for any breach thereof; a description of the procedures for collection of payments on receivables and for making distributions to investors, and a description of the accounts into which such payments are deposited and from which such distributions are made; identification of the servicing compensation and any fees for credit enhancement that are deducted from payments on receivables before distributions are made to investors; a description of periodic statements provided to the trustee, and provided to or made available to investors by the trustee; and a description of the events that constitute events of default under the pooling and servicing contract and a description of the trustee's and the investors' remedies incident thereto;

(g) A description of the credit support;

(h) A general discussion of the principal federal income tax consequences of the purchase, ownership and disposition of the pass-through securities by a typical investor;

(i) A description of the underwriters' plan for distributing the pass-through certificates to investors; and

(j) Information about the scope and nature of the secondary market, if any, for the certificates.

21. Reports indicating the amount of payments of principal and interest are provided to certificateholders at least as frequently as distributions are made to certificateholders. Certificateholders will also be provided with periodic information statements setting forth material information concerning the underlying assets, including, where applicable, information as to the amount and number of delinquent and defaulted assets.

22. In the case of a trust that offers and sells certificates in a registered public offering, the trustee, the servicer or the sponsor will file such periodic reports as may be required to be filed under the Securities Exchange Act of 1934. Although some trusts that offer certificates in a public offering will file quarterly reports on Form 10–Q and Annual Reports on Form 10–K, many trusts obtain, by application to the Securities and Exchange Commission, a complete exemption from the requirement to file quarterly reports on Form 10–Q and a modification of the disclosure requirements for annual reports on Form 10–K. If such an exemption is obtained, these trusts normally would continue to have the obligation to file current reports on Form 8–K to report material developments concerning the trust and the certificates. While the Securities and Exchange Commission's interpretation of the periodic reporting requirements is subject to change, periodic reports concerning a trust will be filed to the extent required under the Securities Exchange Act of 1934.

23. At or about the time distributions are made to certificateholders, a report will be delivered to the trustee as to the status of the trust and its assets, including underlying obligations. Such report will typically contain information regarding the trust's assets, payments received or collected by the servicer, the

amount of prepayments, delinquencies, servicer advances, defaults and foreclosures, the amount of any payments made pursuant to any credit support, and the amount of compensation payable to the servicer. Such report also will be delivered to or made available to the rating agency or agencies that have rated the trust's certificates.

In addition, promptly after each distribution date, certificateholders will receive a statement prepared by the trustee summarizing information regarding the trust and its assets. Such statement will typically contain information regarding payments and prepayments, delinquencies, the remaining amount of the guaranty or other credit support and a breakdown of payments between principal and interest.

Forward Delivery Commitments

24. Dillon represents that, to date, it has not entered into any forward delivery commitments in connection with the offering of pass-through certificates. However, Dillon, represents that it may contemplate entering into such commitments. Dillon notes that the utility of forward delivery commitments has been recognized with respect to the offering of similar certificates backed by pools of residential mortgages. As such, Dillon states that it may find it desirable in the future to enter into such commitments for the purchase of certificates.

Secondary Market Transactions

25. It is Dillon's normal policy to attempt to make a market for securities for which it is lead or co-managing underwriter. Dillon anticipates that it will make a market in certificates.

Summary

26. In summary, the applicant represents that the transactions for which exemptive relief is requested satisfy the statutory criteria of section 408(a) of the Act due to the following:

(a) The trusts contain ''fixed pools'' of assets. There is little discretion on the part of the trust sponsor to substitute assets contained in the trust once the trust has been formed;

(b) Certificates in which plans invest will have been rated in one of the three highest rating categories by S&P's, Moody's, D&P or Fitch. Credit support will be obtained to the extent necessary to attain the desired rating;

(c) All transactions for which Dillon seeks exemptive relief will be governed by the pooling and servicing agreement, which is made available to plan fiduciaries for their review prior to the plan's investment in certificates;

(d) Exemptive relief from sections 406(b) and 407 for sales to plans is substantially limited; and

(e) Dillon anticipates that it will make a secondary market in certificates.

Discussion of Proposed Exemption

I. Differences between Proposed Exemption and Class Exemption PTE 83–1

The exemptive relief proposed herein is similar to that provided in PTE 81–7 (46 FR 7520, January 23, 1981), Class Exemption for Certain Transactions Involving Mortgage Pool Investment Trusts, amended and restated as PTE 83–1 (48 FR 895, January 7, 1983).

PTE 83–1 applies to mortgage pool investment trusts consisting of interest-bearing obligations secured by first or second mortgages or deeds of trust on single-family residential property. The exemption provides relief from sections 406(a) and 407 for the sale, exchange or transfer in the initial issuance of mortgage pool certificates between the trust sponsor and a plan, when the sponsor, trustee or insurer of the trust is a party-in-interest with respect to the plan, and the continued holding of such certificates, provided that the conditions set forth in the exemption are met. PTE 83–1 also provides exemptive relief from section 406(b)(1) and (b)(2) of the Act for the above-described transactions when the sponsor, trustee or insurer of the trust is a fiduciary with respect to the plan assets invested in such certificates, provided that additional conditions set forth in the exemption are met. In particular, section 406(b) relief is conditioned upon the approval of the transaction by an independent fiduciary. Moreover, the total value of certificates purchased by a plan must not exceed 25 percent of the amount of the issue, and at least 50 percent of the aggregate amount of the issue must be acquired by persons independent of the trust sponsor, trustee or insurer. Finally, PTE 83-1 provides conditional exemptive relief from section 406(a) and (b) of the Act for transactions in connection with the servicing and operation of the mortgage trust.

Under PTE 83–1, exemptive relief for the above transactions is conditioned upon the sponsor and the trustee of the mortgage trust maintaining a system for insuring or otherwise protecting the pooled mortgage loans and the property securing such loans, and for indemnifying certificateholders against reductions in pass-through payments due to defaults in loan payments or property damage. This system must provide such protection and indemnification up to an amount not less than the greater of one percent of the aggregate principal balance of all trust mortgages or the principal balance of the largest mortgage.

The exemptive relief proposed herein differs from that provided by PTE 83–1 in the following major respects: (1) The proposed exemption provides individual exemptive relief rather than class relief; (2) The proposed exemption covers transactions involving trusts containing a broader range of assets than single-family residential mortgages; (3) Instead of requiring a system for insuring the pooled assets, the proposed exemption conditions relief upon the certificates having received one of the three highest ratings available from S&P's, Moody's, D&P or Fitch (insurance or other credit support would be obtained only to the extent necessary for the certificates to attain the desired rating); and (4) The proposed exemption provides more limited section 406(b) and section 407 relief for sales transactions.

II. Ratings of Certificates

After consideration of the representations of the applicant and information provided by S&P's, Moody's, D&P and Fitch, the Department has decided to condition exemptive relief upon the certificates having attained a rating in one of the three highest generic rating categories from S&P's, Moody's, D&P or Fitch. The Department believes that the rating condition will permit the applicant flexibility in structuring trusts containing a variety of mortgages and other receivables while ensuring that the interests of plans investing in certificates are protected. The Department also believes that the ratings are indicative of the relative safety of investments in trusts containing secured receivables. The Department is conditioning the proposed exemptive relief upon each particular type of asset-backed security having been rated in one of the three highest rating categories for at least one year and having been sold to investors other than plans for at least one year.[35]

[35] In referring to different ''types'' of asset-backed securities, the Department means certificates representing interests in trusts containing different ''types'' of receivables, such as single family residential mortgages, multi-family residential mortgages, commercial mortgages, home equity loans, auto loan receivables, installment obligations for consumer durables secured by purchase money security interests, etc. The Department intends this condition to require that certificates in which a plan invests are of the type that have been rated (in one of the three highest generic rating categories by

Continued

III. Limited Section 406(b) and Section 407(a) Relief for Sales

Dillon represents that in some cases a trust sponsor, trustee, servicer, insurer, and obligor with respect to assets contained in a trust, or an underwriter of certificates may be a pre-existing party in interest with respect to an investing plan.[36] In these cases, a direct or indirect sale or certificates by that party in interest to the plan would be a prohibited sale or exchange of property under section 406(a)(1)(A) of the Act.[37] Likewise, issues are raised under section 406(a)(1)(D) of the Act where a plan fiduciary causes a plan to purchase certificates where trust funds will be used to benefit a party in interest.

Additionally, Dillon represents that a trust sponsor, servicer, trustee, insurer, and obligor with respect to assets contained in a trust, or an underwriter of certificates representing an interest in a trust may be a fiduciary with respect to an investing plan. Dillon represents that the exercise of fiduciary authority by any of these parties to cause the plan to invest in certificates representing an interest in the trust would violate section 406(b)(1), and in some cases section 406(b)(2), of the Act.

Moreover, Dillon represents that to the extent there is a plan asset ''look through'' to the underlying assets of a trust, the investment in certificates by a plan covering employees of an obligor under receivables contained in a trust may be prohibited by sections 406(a) and 407(a) of the Act.

For Further Information Contact: Virginia J. Miller of the Department, telephone (202) 219–8971. (This is not a toll-free number.)

S&P's, D&P, Fitch or Moody's) and purchased by investors other than plans for at least one year prior to the plan's investment pursuant to the proposed exemption. In this regard, the Department does not intend to require that the particular assets contained in a trust must have been ''seasoned'' (e.g., originated at least one year prior to the plan's investment in the trust).

[36] In this regard, we note that the exemptive relief proposed herein is limited to certificates with respect to which Dillon or any of its affiliates is either (a) the sole underwriter or manager or comanager of the underwriting syndicate, or (b) a selling or placement agent.

[37] The applicant represents that where a trust sponsor is an affiliate of Dillon, sales to plans by the sponsor may be exempt under PTE 75–1, Part II (relating to purchases and sales of securities by broker-dealers and their affiliates), if Dillon is not a fiduciary with respect to plan assets to be invested in certificates.

Treasure Valley Transplants, Inc. Money Purchase Pension Plan (the Plan) Located in Boise, Idaho

[Application No. D–09874]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed cash sale (the Sale) of certain real property (the Property) by the Plan to Dr. George Holzer, D.V.M. (Dr. Holzer), a disqualified person with respect to the Plan; provided that (1) the Sale is a one-time transaction for cash; (2) the Plan does not incur any expenses in connection with the proposed transaction; and (3) the consideration paid for the Property is no less than the fair market value of the Property as determined by an independent appraiser.

Summary of Facts and Representations

1. The Plan is a money purchase pension plan whose sole participant is Dr. Holzer. The Plan, which was adopted by Treasure Valley Transplants, Inc (the Employer) effective as of September 1, 1992, is a successor plan to the George L. Holzer Rollover IRA (the IRA). As of October 1, 1994, the Plan had assets of approximately $780,000.00.

The Employer is an Idaho corporation which specializes in bovine embryo transfers. Dr. Holzer is the sole shareholder of the Employer.[38] Dr. Holzer and Kathleen J. Holzer serve as the Plan's co-trustees.

2. The Property is designated as Lot 16, Block 2, Warm Springs Village 2nd Addition in Ketchum, Idaho, together with the improvements thereon. The Property was appraised in September, 1994 by Monge Appraisal & Investments (Monge), an independent appraisal firm located in Sun Valley, Idaho. The appraisal was performed by Kyle T. Kunz and Thomas R. Monge, MAI. The Property is described as a contemporary-style dwelling completed in 1993, having 4,144 square feet of living space, with 4 baths and a total of 10 rooms, including 4 bedrooms. The Property is also described as being within walking distance of Warm Spring Village and Sun Valley ski lift operations. The size of the lot is 64 acres and is described as having good mountain views. Monge determined, as of September 26, 1994, that the Property had a fair market value of $775,000.00. The applicant represents that the Property has never been used or occupied.

3. On September 3, 1991, the IRA loaned $230,000.00 to David and Paula Barovetto to enable them to build a dwelling on the property. The applicant represents that the Barovettos are not related to the Plan or the IRA. The Barovettos defaulted on the loan on August 29, 1992, prior to completion of the dwelling. The IRA subsequently commenced foreclosure proceedings to acquire title to the Property. As a result of those proceedings, on November 13, 1992, the IRA purchased the deed on the Property for $265,756.00. The applicant represents that the assets from the IRA were rolled into the Plan during the month of November, 1992.[39] In addition, the applicant represents that, in order to protect its investment, the IRA and the Plan authorized work on the partially completed dwelling and borrowed over $300,000 to continue that work. It is represented that the Plan's total investment in the Property as of October 26, 1994, including interest costs and property taxes, was $830,717.30.

4. The Plan proposes to sell the Property to Dr. Holzer for the fair market value of the Property as determined by a qualified, independent appraiser. The applicant represents that the Plan will receive cash and will not incur any expenses in connection with the proposed transaction. In addition, the applicant represents that the Sale will provide the Plan with the opportunity to divest itself of a non-income producing asset which has substantial carrying costs and to replace it with liquid assets that can be placed in more diversified investments. The applicant further represents that attempts to sell the Property have been unsuccessful.

5. In summary, the applicant represents that the proposed transaction will satisfy the statutory criteria for an exemption under section 408(a) of the Act because (1) the proposed Sale will be a one-time transaction for cash; (2) the Plan will receive not less than the fair market value of the Property as

[38] Since Dr. Holzer is the sole shareholder of the Employer, and the only participant in the Plan, there is no jurisdiction under Title I of the Act, pursuant to 29 CFR 2510.3–3(c)(1). There is, however, jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

[39] The applicant represents that one of the reasons the Plan was created was to allow the Property to be rolled into a vehicle to which Dr. Holzer could make sufficient contributions to pay for the costs of carrying the Property.

determined by an independent appraiser; (3) the Plan will not incur any expenses in connection with the proposed transaction; and (4) the proposed transaction will enable the Plan to diversify its assets in more liquid investments.

Notice to Interested Persons

Since Dr. Holzer is the only person affected by the proposed transaction, there is no need to distribute notice to interested persons. Comments are due 30 days after publication of this notice in the **Federal Register**.

For Further Information Contact: Virginia J. Miller of the Department, telephone (202) 219–8971. (This is not a toll-free number.)

Terry Segal, P.C. Retirement Plans (the Plans) Located in Boston, MA

[Application No. D–09891]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) shall not apply to the proposed purchase by Terry and Harriet Segal (the Segals) of an interest (the Interest) in a limited partnership (the Limited Partnership) from Mr. Segal's individually-directed account (the Account) in the Terry Segal, P.C. Pension Plan (the Pension Plan), provided: (1) The purchase is a one-time transaction for cash; (2) the Pension Plan Account is not required to pay any fees or commissions in connection therewith; (3) the Interest is appraised by a qualified, independent appraiser; and (4) the Pension Plan Account receives an amount which reflects the fair market value of the Interest.

Summary of Facts and Representations

1. The Plans, which are defined contribution plans, consist of the Pension Plan and the Terry Segal, P.C. Profit Sharing Plan (the Profit Sharing Plan). At present, the Plans have two participants. They are Terry Segal, a trial attorney who maintains his offices at 210 Commercial Street, Boston, Massachusetts, and his associate, Scott Lopez. As of August 31, 1993, the Plans had total assets of $262,919. Of this amount, the Pension Plan had assets of $169,858 and the Profit Sharing Plan had assets of $93,061.

The Plans provide for participant-directed investments. Mr. Segal, who serves as the trustee, had Account balances in the Pension Plan and the Profit Sharing Plan of $167,504 and $90,744, respectively, as of August 31, 1993.

2. Among the assets in Mr. Segal's Account in the Pension Plan is a residual profits (and freely transferable) interest in a limited partnership called ''Turbo Dynamix'' whose underlying assets consist of machines for making frozen yogurt.[40] The Interest was purchased by Mr. Segal's Accounts in the Plans in April 1992 for the total cash consideration of $50,000. The seller of the Interest was Turbo Dynamix Corporation of Cambridge, Massachusetts. This entity is general partner of the Limited Partnership and an unrelated party with respect to the Accounts. Following acquisition, the Interest was allocated 65 percent to Mr. Segal's Pension Plan Account and 35 percent to Mr. Segal's Profit Sharing Plan Account. This allocation arrangement continued until August 1, 1994. At that time, the allocable portion of the Interest held by Mr. Segal's Account in the Profit Sharing Plan was transferred to his Pension Plan Account. Thus, the Pension Plan Account currently holds 100 percent of the Interest.[41] Aside from the Interest, Mr. Segal does not invest in the Limited Partnership on an individual basis.

3. When initially purchased, the Pension Plan Account and the Profit Sharing Plan Account collectively owned a 1.8249 percent profits interest in the Limited Partnership. However, because additional Limited Partnership interests were subsequently sold, by August 31, 1994 the Pension Plan Account's share of profits had decreased to 1.2452 percent. The Accounts never received any investment income for the Interest nor did they ever incur any expenses other than the $50,000 capital contribution.

4. Because the Interest has not generated any investment income and due to the start-up nature of the Limited Partnership, Mr. and Mrs. Segal request an administrative exemption from the Department in order to purchase the Interest from the Pension Plan Account. The Segals propose to pay the Pension Plan Account the fair market value of the Interest on the date of the sale. The Pension Plan Account will not be required to pay any fees or commissions in connection therewith.

6. The Interest has been appraised by Paul Kateman. Mr. Kateman is the President of Turbo Dynamix Corporation, which is the general partner of the Limited Partnership. Mr. Kateman is not an owner, director, officer or director of the sponsor of the Plans nor is he a participant or beneficiary of the Plans.

By letter dated September 6, 1994, Mr. Kateman represents that the actual value of the Interest is speculative due to the start-up nature of the Limited Partnership. In an addendum to his letter dated December 19, 1994, Mr. Kateman notes that the Limited Partnership has had no earning capacity, no products currently in the market place and has funded research and development and other business expenses by raising capital. He explains that although the Limited Partnership has been successful in raising capital since 1992 and has sold three interests for $50,000, there is no ready market for buying and selling of such interests. He represents that the book value of the Interest was $45,541 as of December 19, 1994. Thus, the Segals propose to pay $45,541 for such Interest.

7. In summary, it is represented that the proposed transaction will satisfy the statutory criteria for an exemption under section 408(a) of the Act because: (a) The purchase of the Interest will be a one-time transaction for cash; (b) the Pension Plan Account will not be required to pay any fees or commissions in connection therewith; (c) the Interest has been appraised by Mr. Kateman who serves as president of the general partner of the Limited Partnership; and (d) the Pension Plan Account will receive an amount which reflects the fair market value of the Interest.

Notice to Interested Persons

Because Mr. Segal is the only participant in the Pension Plan whose Account therein will be affected by the proposed transaction, it has been determined that there is no need to distribute the notice of pendency to interested persons. Therefore, comments and requests for a public hearing are due 30 days from the publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

[40] For purposes of the exemptive relief requested herein, the Accounts in the Plans that are held by Mr. Lopez will not be affected by the proposed transaction.

[41] The Department is not proposing, nor is the applicant requesting, exemptive relief with respect to the transfer of the allocable portion of the Interest held by Mr. Segal's Account in the Profit Sharing Plan to his Account in the Pension Plan.

Employee Benefit Capital Preservation Fund of Central Fidelity National Bank (the Fund) Located in Richmond, Virginia

[Application No. D–09905]

Proposed Exemption

The Department of Labor is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 C.F.R. Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the past sale by the Fund of three Guaranteed Income Contracts (the GICs) of Confederation Life Insurance Company (CL) to Central Fidelity Bank, Inc. (CFB), a party in interest with respect to the Fund, provided the following conditions are satisfied: (1) The sale was a one-time transaction for cash; (2) the Fund received no less than the fair market value of the GICs at the time of the transaction; (3) the purchase price was not less than the GICs' accumulated book values (defined as total deposits plus interest accrued but unpaid at the GICs' stated rates of interest through the date of sale, less withdrawals) as of the date of the sale.

Effective Date: If this proposed exemption is granted, it will be effective on December 29, 1994.

Summary of Facts and Representations

1. The Fund is a group trust created on August 1, 1988, established and maintained exclusively by Central Fidelity National Bank (the Bank) for the collective investment of various participating trusts for the assets of retirement, pension, profit sharing, stock bonus or other plans exempt from taxation under the Code. Each participating trust is deemed to have a proportionate undivided interest in the Fund, and each shares ratably with the others in the income, profits, or losses thereof. As of September 30, 1994, there were 266 participating trusts in the Fund, and the Fund had assets with a total value of approximately $48 million. All of the assets of the Fund are held by the Bank as fiduciary. The Bank is a wholly-owned subsidiary of CFB, which is a bank holding company located in Richmond, Virginia.

2. Among the Fund's investments are the three GICs, which can be described as follows:

(a) GIC Contract Number 62340 is a single deposit contract acquired from CL on November 16, 1990. Its maturity date is November 15, 1995. The guaranteed rate of interest payable on the GIC is 8.9%, and the deposit amount was $1 million.

(b) GIC Contract Number 62379 is also a single deposit contract acquired from CL on January 11, 1991. Its maturity date is January 10, 1996. The guaranteed rate of interest payable on this GIC is 8.55%, and the deposit amount was also $1 million.

(c) GIC Contract Number 62424 is also a single deposit contract acquired from CL on March 8, 1991. Its maturity date is March 7, 1996. The guaranteed rate of interest payable on this GIC is 8.6%, and the deposit amount was also $1 million.

3. On August 11, 1994, Canadian regulatory authorities seized CL due to serious liquidity problems facing CL, caused by failed real estate investments. As a result, the assets of CL were frozen, including the subject GICs. The Bank determined that, as a consequence of CL's current financial condition, the likelihood that CL will timely satisfy its obligations under the GICs is seriously compromised.

4. Due to the uncertainty of payments under the GICs, the Bank sought to eliminate the financial risk to the Fund's participating trusts and to protect the benefits of the participants and beneficiaries in the participating trusts. The applicant represents that this was accomplished by the cash sale of the GICs to CFB, the Bank's parent company. The purchase price for each of the GICs was its accumulated book value (defined as deposits plus accrued interest at the guaranteed rate, less withdrawals). The total purchase price for the three GICs amounted to $3,253,109.59. The Fund had received scheduled interest payments from CL prior to August 12, 1994. Thus, the purchase price for the GICs included interest at the guaranteed rates for the periods from the last interest payments made by CL for the respective contracts through the date of sale.

5. In summary, the applicant represents that the subject transaction satisfied the criteria contained in section 408(a) of the Act because: (a) The sale was a one time transaction for cash; (b) the Fund received the accumulated book value (defined as deposits plus unpaid interest to the date of the sale at the guaranteed rate, minus withdrawals) of the GICs, which the applicant represents to be equal to or in excess of the fair market value of the GICs; (c) the transaction has enabled the Fund to avoid any risk associated with continued holding of the GICs and to redirect assets to safer investments; and (d) the Plan did not incur any expenses related to the transaction.

For further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 24th day of January 1995.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 95–2081 Filed 1–27–95; 8:45 am]

BILLING CODE 4510–29–P

[Prohibited Transaction Exemption 95–04; Exemption Application No. D–09721, et al.]

Grant of Individual Exemptions; Mid-Hudson Medical Group, P.C. Money Purchase Pension Trust, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Mid-Hudson Medical Group, P.C. Money Purchase Pension Trust (the Plan) Located in Fishkill, New York

[Prohibited Transaction Exemption 95–04; Exemption Application No. D–09721]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to: 1) the acquisition by the Plan of certain improved real property (the Property) from unrelated parties for a sales price of $562,500; and 2) the leasing (the Lease) of the Property by the Plan to Mid-Hudson Medical Group, P.C. (the Employer), a party in interest with respect to the Plan, provided the following conditions are satisfied: (a) The Plan pays no more than the fair market value of the Property; (b) the Property represents no more than 25% of the value of the Plan's assets; (c) the terms of the Lease are, and will remain, at least as favorable to the Plan as those obtainable in an arm's-length transaction with an unrelated party; (d) the fair market rental value has been, and will continue to be determined on an annual basis by a qualified, independent appraiser; (e) the Plan's independent fiduciary has determined that the transaction is appropriate for the Plan and in the best interests of the Plan's participants and beneficiaries; and (f) the Plan's independent fiduciary will continue to monitor the transaction and the conditions of the exemption and take whatever action is necessary to enforce the Plan's rights under the Lease.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on December 5, 1994 at 59 FR 62420.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

John R. Lyman Company 401(k) Profit Sharing Plan (the Plan) Located in Chicopee, Massachusetts

[Prohibited Transaction Exemption 95–05; Exemption Application No. D–09759]

Exemption

The restrictions of sections 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale (the Sale) by the Plan of Guaranteed Investment Contract CGO 1303A3A and Guaranteed Investment Contract CGO 1344A3A (collectively, the GICs) issued by Executive Life Insurance Company (Executive Life), a California corporation, to John R. Lyman Company, a Massachusetts corporation (the Employer), the sponsoring employer and a party in interest with respect to the Plan; provided (1) the Sales is a one-time transaction for cash; (2) the Plan experiences no loss nor incurs any expense from the Sale; (3) the Plan receives as consideration from the Sale the greater of either the fair market value of the GICs as determined on the date of the Sale, or an amount that is equal to the total amount expended by the Plan for the GICs at the time of acquisition, less withdrawals, plus the amount the GICs would have earned by the date of the Sale if Executive Life had not been placed under conservatorship; and (4) any funds from the GICs in excess of the Sale price that are received by the Employer, or its successors, from Executive Life, or its successors, after the date of the Sale are paid to the Plan.

For a more complete statement of the facts and representations representing the Department's decision to grant this exemption refer to the notice of proposed exemption published on November 28, 1994, at 59 FR 60847.

For Further Information Contact: Mr. C. E. Beaver of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Regency Marketing Corporation Restated Employees Profit Sharing Plan and Trust (the Plan) Located in West Bloomfield, Michigan

[Prohibited Transaction Exemption 95–06; Application No. D–9763]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed loan (the Loan) of $84,667 by the Plan to Frankenmuth

Brewing Company, a disqualified person with respect to the Plan.[1]

This exemption is conditioned upon the following requirements: (a) The terms of the Loan are at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party; (b) the Loan does not exceed twenty-five percent of the assets of the Plan at any time during the duration of the Loan; (c) the Loan is secured by a first deed of trust on certain real property (the Property) which has been appraised by an independent, qualified appraiser to ensure that the fair market value of the Property is at least 150 percent of the amount of the Loan; (d) the fair market value of the Property remains at least equal to 150 percent of the outstanding balance of the Loan throughout the duration of the Loan; (e) the Plan trustees determine on behalf of the Plan that the Loan is in the best interests of the Plan and protective of the Plan's participants and beneficiaries; and (f) the Plan trustees monitor compliance with the terms and conditions of the Loan throughout the duration of the transaction, taking any action necessary to safeguard the Plan's interest, including foreclosure on the Property in the event of default.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on December 19, 1994, at 59 FR 65395.

For Further Information Contact: Kathryn Parr of the Department, telephone (202) 219–8971. (This is not a toll-free number).

Lucky Electric Supply Inc. Employees Pension Plan (the Plan) Located in Memphis, Tennessee

[Prohibited Transaction Exemption 95–07; Exemption Application No. D–09792]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) of through (E) of the Code, shall not apply to the cash sale by the Plan to Lucky Electric Supply, Inc., the sponsor of the Plan, of a group annuity contract (the GAC) issued by Mutual Benefit Life Insurance Company of New Jersey (Mutual Benefit); provided that the following conditions are satisfied:

(A) The sale is a one-time transaction for cash;

(B) The Plan does not suffer any loss or incur any expenses in the transaction;

(3) The Plan receives a purchase price of no less than the fair market value of the GAC at the time of the transaction; and

(4) The proceeds of the sale are used solely to discharge the Plan's obligations to participants and beneficiaries in connection with the termination of the Plan.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on November 28, 1994 at 59 FR 60842.

For Further Information Contact: Ronald Willett of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Stratus Computer, Inc. Employees' Capital Accumulation Plan (the Plan) Located in Marlboro, Massachusetts

[Prohibited Transaction Exemption 95–08; Exemption Application No. D–09823]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to (1) the extension of credit by Stratus Computer, Inc. (Stratus) to the Plan in the form of a loan (the Loan) with respect to Guaranteed Investment Contract, Number 62456 (the GIC) issued by Confederated Life Insurance Company of Canada (CL); and (2) the Plan's potential repayment of the Loan (the Repayments), provided: (a) All terms of such transactions are no less favorable to the Plan than those which the Plan could obtain in arm's-length transactions with an unrelated party; (b) no interest and/or expenses are paid by the Plan; (c) the amount of the Loan is no less than the accumulated book value of the GIC as of August 12, 1994; (d) the Repayments are restricted to the amounts, if any, paid to the Plan after August 12, 1994, by CL or other responsible third parties with respect to the GIC (the GIC Proceeds); (e) the Repayments do not exceed the total amount of the Loan; and (f) the Repayments are waived to the extent the Loan exceeds the GIC Proceeds.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on December 5, 1994 at 59 FR 62419.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 24th day of January, 1995.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 95–2082 Filed 1–27–95; 8:45 am]

BILLING CODE 4510–29–P

[1] Since Randall Heine and his wife, Paula Heine, are the only participants in the Plan, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3–3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 95–010]

Intent To Grant an Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Intent to Grant a Patent License.

SUMMARY: NASA hereby gives notice of intent to grant CYTEC Engineered Materials, Inc., 1300 Revolution Street, Havre de Grave, Maryland 21078, an exclusive license to practice the invention protected by the U.S. Patent Application Number, 08/209/512 entitled ''PHENYLETHYNYL TERMINATED IMIDE OLIGOMERS,'' which was filed on March 3, 1994, by the United States of America as represented by the Administrator of the National Aeronautics and Space Administration.

NASA hereby gives notice of intent to grant CYTEC Engineered Materials, Inc., 1300 Revolution Street, Havre de Grace, Maryland, 21078, a partially exclusive license to practice the invention protected by the U.S. Patent Application Number, 08/330,773 entitled ''IMIDE OLIGOMERS ENDCAPPED WITH PHENYLETHYNYL PHTHALIC ANHYDRIDES AND POLYMERS THEREFROM,'' which was filed on October 28, 1994, by the United States of America as represented by the Administrator of the National Aeronautics and Space Administration.

The exclusive license will contain appropriate terms and conditions to be negotiated in accordance with NASA Patent Licensing Regulations (14 CFR part 1245). NASA will negotiate the final terms and conditions and grant the license unless, within 60 days of the date of this notice, the Director of Patent Licensing receives written objections to the grant, together with supporting documentation. The Director of Licensing will review all written responses to the notice and then recommend to the Associate General Counsel (Intellectual Property) whether to grant the license.

DATES: Comments to the Notice must be received by March 31, 1995.

ADDRESSES: National Aeronautics and Space Administration, Code GP, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Harry Lupuloff, NASA, Director of Patent Licensing, (202) 358–2041.

Dated: January 20, 1995.

Edward A. Frankle,

General Counsel.

[FR Doc. 95–2223 Filed 1–27–95; 8:45 am]

BILLING CODE 7510–01–M

[Notice 95–012]

Intent To Grant an Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Intent to Grant a Patent License.

SUMMARY: NASA hereby gives notice of intent to grant Imitec, Inc., of Schenectady, New York, 12301, a partially exclusive license to practice the invention protected by the U.S. Patent Application Number, 08/299,172 entitled, ''COPOLYIMIDES PREPARED FROM ODPA, BTDA AND 3,4′–ODA,'' which was filed on August 31, 1994, by the United States of America as represented by the Administrator of the National Aeronautics and Space Administration

NASA hereby gives notice of intent to grant Imitec, Inc., of Schenectady, New York, 12301, a partially exclusive license to practice the invention protected by the U.S. Patent Application Number, 08/299,384, entitled ''SOLVENT RESISTANT COPOLYIMIDE,'' which was filed on September 1, 1994, by the United States of America as represented by the Administrator of the National Aeronautics and Space Administration.

NASA hereby gives notice of intent to grant Imitec, Inc., of Schenectady, New York, 12301, a partially exclusive license to practice the invention protected by the U.S. Patent Application Number, 08/299,385, entitled ''DIRECT PROCESS FOR PREPARING SEMICRYSTALLINE POLYIMIDES,'' which was filed on September 1, 1994, by the United States of America as represented by the Administrator of the National Aeronautics and Space Administration.

The partially exclusive license will contain appropriate terms and conditions to be negotiated in accordance with NASA Patent Licensing Regulations (14 CFR part 1245). NASA will negotiate the final terms and conditions and grant the license unless, within 60 days of the date of this notice, the Director of Patent Licensing receives written objections to the grant, together with supporting documentation. The Director of Patent Licensing will review all written responses to the notice and then recommend to the Associate General Counsel (Intellectual Property) whether to grant the license.

DATES: Comments to the notice must be received by March 31, 1995.

ADDRESSES: National Aeronautics and Space Administration, Code GP, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT:

Mr. Harry Lupuloff, NASA, Director of Patent Licensing, (202) 358–2041.

Dated: January 20, 1995.

Edward A. Frankle,

General Counsel.

[FR Doc. 95–2221 Filed 1–27–95; 8:45 am]

BILLING CODE 7510–01–M

[Notice 95–011]

Intent To Grant an Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Intent to Grant a Patent License.

SUMMARY: NASA hereby gives notice of intent to grant On Line, Inc., of Waxhaw, North Carolina, 28173, an exclusive license to practice the invention protected by U.S. Patent Application No. 08/316,708, entitled ''MASS DENSITY MEASUREMENT OF A TEXTILE YARN,'' which was filed on September 29, 1994, by the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The exclusive license will contain appropriate terms and conditions to be negotiated in accordance with NASA Patent Licensing Regulations (14 CFR part 1245). NASA will negotiate the final terms and conditions and grant the license unless, within 60 days of the date of this notice, the Director of Patent Licensing receives written objections to the grant, together with supporting documentation. The Director of Patent Licensing will review all written responses to this notice and then recommend to the Associate General Counsel (Intellectual Property) whether to grant the license.

DATES: Comments to the Notice must be received by March 31, 1995.

ADDRESSES: National Aeronautics and Space Administration, Code GP, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT:

Mr. Harry Lupuloff, NASA, Director of Patent Licensing, (202) 358–2041.

Dated: January 20, 1995.

Edward A. Frankle,

General Counsel.

[FR Doc. 95–2222 Filed 1–27–95; 8:45 am]

BILLING CODE 7510–01–M

[Notice 95–009]

Intent To Grant a Partially Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Intent to Grant a Patent License.

SUMMARY: NASA hereby gives notice of intent to grant Veatronics Corporation of Charlotte, North Carolina, 28205, a partially exclusive license to practice the invention protected by U.S. Patent Application No. 08/323,943 entitled, PASSIVE FETAL HEART RATE MONITORING APPARATUS AND METHOD WITH ENHANCED FETAL HEART BEAT DISCRIMINATION'' which was filed on October 13, 1994, by the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The partially exclusive license will contain appropriate terms and conditions to be negotiated in accordance with NASA Patent Licensing Regulations (14 CFR part 1245). NASA will negotiate the final terms and conditions and grant the license unless, within 60 days of the date of this notice, the Director of Patent Licensing receives written objections to the grant, together with supporting documentation. The Director of Patent Licensing will review all written responses to this notice and then recommend to the Associate General Counsel (Intellectual Property) whether to grant the license.

DATES: Comments to the notice must be received by March 31, 1995.

ADDRESSES: National Aeronautics and Space Administration, Code GP, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Harry Lupuloff, NASA, Director of Patent Licensing, (202) 358–2041.

Dated: January 20, 1995.

Edward A. Frankle,

General Counsel.

[FR Doc. 95–2224 Filed 1–27–95; 8:45 am]

BILLING CODE 7510–01–M

NUCLEAR REGULATORY COMMISSION

Proposed Generic Communication Supplement 5 to Generic Letter 88–20, ''Individual Plant Examination of External Events (IPEEE) for Severe Accident Vulnerabilities''

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of opportunity for public comment.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to issue Supplement 5 to Generic Letter 88–20, ''Individual Plant Examination of External Events (IPEEE) for Severe Accident Vulnerabilities.'' This draft generic letter supplement (1) notifies addressees about proposed modifications in the seismic IPEEE scope for the focused-scope and full-scope plants and (2) provides guidance to licensees who wish to voluntarily modify their previously committed seismic IPEEE programs. NRC is seeking comment from interested parties regarding both the technical and regulatory aspects of this proposed generic letter supplement, which is presented under the Supplementary Information heading. This proposed generic letter supplement and supporting documentation were discussed in meeting number 267 of the Committee to Review Generic Requirements (CRGR) on December 13, 1994. The relevant information that was sent to CRGR to support their review of the proposed generic letter is available in the Public Document Rooms under accession number 9412290183. NRC will consider comments received from interested parties in the final evaluation of the proposed generic letter supplement. The final evaluation by NRC will include a review of the technical position and, when appropriate, an analysis of the value/impact on licensees. Should this generic letter supplement be issued by NRC, it will become available for public inspection in the Public Document Rooms.

DATES: Comment period expires March 1, 1995. Comments submitted after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except for comments received on or before this date.

ADDRESSES: Submit written comments to Chief, Rules Review and Directives Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Written comments may also be delivered to 11545 Rockville Pike, Rockville, Maryland, from 7:30 am to 4:15 pm, Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: John T. Chen, (301) 415–6549.

SUPPLEMENTARY INFORMATION:

NRC Generic Letter 88–20, Supplement 5: Individual Plant Examination of External Events for Severe Accident Vulnerabilities

Addressees

All holders of operating licenses or construction permits for nuclear power reactors.

Purpose

The U.S. Nuclear Regulatory Commission (NRC) is issuing this generic letter to (1) notify addressees about proposed modifications in the recommended scope of seismic reviews which are performed as part of an individual plant examination of external events (IPEEEs) for the focused-scope and full-scope plants and (2) give guidance to licensees who wish to voluntarily modify their previously committed seismic IPEEE programs.

Background

On June 28, 1991, NRC issued Generic Letter 88–20, Supplement 4, ''Individual Plant Examination of External Events (IPEEE) for Severe Accident Vulnerabilities,'' (Reference 1), and NUREG–1407F, ''Procedural and Submittal Guidance for the Individual Plant Examination of External Events (IPEEE) for Severe Accident Vulnerabilities: Final Report,'' (Reference 2). The generic letter requested all licensees to perform an IPEEE to find plant-specific vulnerabilities to severe accidents caused by external events and report the results to NRC. Section 4.1 of Reference 1 and Chapter 3 of Reference 2 address the seismic portion of the IPEEE. The lists of review level earthquakes (RLEs) and review scope defined by the staff for all U.S. sites are presented in Appendix 3 of Reference 1. Plants in the central and eastern U.S. have been assigned to appropriate review categories (plant bins) primarily according to comparison of available seismic hazard results. The hazard results used in the binning process included those published in 1989 by Lawrence Livermore National Laboratory (LLNL) (Reference 3) and the Electric Power Research Institute (EPRI) (Reference 4). NRC established relative groups because of the large inherent uncertainties in the probabilistic estimation of seismic hazard (Appendix A to Reference 2). Using this approach, the staff compared the relative seismic hazard of the 69 central and eastern U.S. plant sites, and assigned each plant into one of four categories for the seismic margins method (Reduced-Scope, 0.3g Focused-Scope, 0.3g Full-Scope, and 0.5g bin). Two plants in the 0.5g bin

have committed to perform a seismic probabilistic risk assessment and have performed that assessment.

Description of Circumstances

In 1994, based on a re-elicitation of LLNL ground-motion and seismicity experts, the staff published revised seismic hazard results in NUREG–1488 (Reference 5). The new LLNL mean hazard estimates are lower than the 1989 LLNL results but higher than the EPRI estimates. The Nuclear Energy Institute (NEI), based on these revised hazard estimates, advocated that most focused-scope plants should instead perform reduced-scope studies as part of the seismic IPEEE (Reference 6). NEI also stated that each licensee is responsible for proposing the most cost-effective program to satisfy the seismic IPEEE request consistent with the level of seismic hazard at the specific site. Seven licensees have already informed NRC of their intent to revise their IPEEE commitments.

These developments prompted NRC to revisit systematically the seismic IPEEE program rather than dealing with each licensee individually. The staff stated its intent, to review LLNL's revised seismic hazard estimates and to determine if it is appropriate to revise the seismic IPEEE scope, in Information Notice 94–32, ''Revised Seismic Hazard Estimate,'' (Reference 7). The staff also stated in Reference 7 that licensees who have not completed the seismic portion of the IPEEE may continue with their program and submit their completed IPEEE based on References 1 and 2.

NRC contracted Energy Research, Inc. (ERI) to do the seismic revisit study to determine whether consideration of the new LLNL seismic hazard estimates (1) would significantly change the original binning results, and (2) warranted adjusting the seismic scope and guidelines of the seismic IPEEE review. The latter effort would also require a determination of how the scope should be modified and the technical justification for such modifications. ERI completed the study and submitted two reports in September 1994 (References 8 and 9). The staff held a public workshop on October 21 to discuss these reports, present a peer review group's comments, determine issues to be addressed, and solicit public input for developing the staff position on the seismic scope modification. The transcript of the workshop is available in Reference 10.

Discussion

The staff evaluated the ERI re-assessment reports, the peer review group's comments, the NEI white paper (Reference 6), and comments received at and after the workshop. The staff concludes that the scope of the seismic IPEEE can be modified for all focused-scope and full-scope plants, by eliminating the need to calculate the capacity of certain generally rugged components or certain site effects that would not be significant sources or contributors to seismic severe-accident risk or would not result in cost-beneficial improvements. The justification for this reduction in the seismic review scope is that the perceived seismic hazard estimates and associated risks have decreased. However, the examination process for the modified seismic IPEEE remains the same process described in Supplement 4 to Generic Letter 88–20 and NUREG–1407. The most significant comments and concerns with respect to reducing the scope of the IPEEE seismic review which were raised at and after the workshop and the associated resolutions are summarized in Attachment 1.

However, certain utilities represented at the public workshop expressed concern that GL 88–20, Supplement 4, and guidance in NUREG–1407 could be interpreted as precluding the use of the expert judgement or the use of the most efficient approach to do the seismic portion of IPEEE. For instance, certain utilities interpreted NUREG–1407 to require a minimum number of margin capacity calculations (i.e., high confidence of low probability of failure). The NRC staff wants to reemphasize that the guidance in the generic letter or NUREG–1407 does not preclude the use of well-based expert judgement and efficient approaches to minimize the effort to do an IPEEE. In GL 88–20, the staff stated:

> ''The application of the above approaches involves considerable judgment with regards to the requested scope and depth of the study, level of analytical sophistication, and level of effort to be expended.''

The detailed guidelines presented in NUREG–1407 do not preclude use of this type of judgment. The use of judgment is further recognized in NUREG–1407 in connection with the importance of the peer review. Discussions at the workshop indicated that some utilities did use such judgment, within the framework of the current guidance as discussed, to reduce the cost of an IPEEE.

Modified Scope of Seismic Examination

The methods originally described and guidelines described in NUREG–1407 fulfill Supplement 4 to GL 88–20. However, the results of the revised LLNL seismic estimates, indicate that the perceived seismic risk has been reduced for most plant sites in the central and eastern U.S. Accordingly, NRC proposed reducing the scope of the seismic IPEEE programs for licensees of the focused-scope and full-scope plants. The proposed scope change follows.

(1) Focused-Scope Plants

The seismic capacities for reactor internals and soil-related failures need not be evaluated for the seismic IPEEE (Attachment 1). Modifying the seismic IPEEE for focused-scope plants in this manner will make these evaluations equivalent to those for the reduced-scope plants, with additional evaluations of a few known weaker, but critical, components or items.

(2) Full-Scope Plants

The seismic IPEEE need not include an evaluation of seismic capacities for reactor internals. Soil-related failures should still be evaluated, but only for safety-related supporting systems and equipment that are founded on soil such that their function might be affected by liquefaction or general instability of the soil. The licensee may also need to evaluate the potential for such postulated soil failures or the consequences resulting from them. Reference 11 contains guidance for such evaluations; a review of appropriate design and construction records is adequate.

The staff is aware of recent observations of cracks associated with reactor internals at some plants. The issue is not yet resolved and is being evaluated separately both as an operating issue (i.e., within design basis) (Ref. 12) and with respect to severe accident implications (i.e., beyond design basis) (Ref. 13), therefore, eliminating this item will not detract from the IPEEE. The remaining scope is the same as that outlined in Supplement 4 to GL 88–20 and NUREG–1407. The staff reviewed discussions at the workshop and other information and has taken the position that using appropriate judgment as allowed in the generic letter and NUREG–1407 and eliminating detailed evaluations for soil-related failures and reactor internals that may not lead to cost beneficial improvements will maintain the integrity of the IPEEE process while reducing cost. However, a careful and thorough seismic walkdown remains the key element to examining seismic vulnerability regardless of the category assigned the plant.

Requested Information

Licensees of focused-scope and full-scope plants who voluntarily choose to

do seismic IPEEEs using the modified procedures described above must inform NRC in writing of their intent to do so. If the revised submittal schedule differs from previously committed schedules, then the new proposed schedule must be included in the response. NRC will schedule meetings with the licensee, if requested, during the examinations to discuss subjects raised by licensees and to give necessary clarifications.

Licensees who do not modify their seismic IPEEEs are not expected to submit any response to this generic letter.

Required Response

Within 60 days from the date of this generic letter, all addressees who voluntarily choose to perform seismic IPEEEs using the modified procedures described above are required to submit a response containing the information requested above.

Address the required written reports to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555, under oath or affirmation under the provisions of Section 182a, Atomic Energy Act of 1954, as amended, and Section 50.54(f) of Title 10 of the Code of Federal Regulations (10 CFR 50.54(f)).

Backfit Discussion

This generic letter only requests information under the provisions of 10 CFR 50.54(f) from addressees who voluntarily choose to do seismic IPEEEs using the modified procedures described above. Therefore, the staff has not performed a backfit analysis. The information requested is needed to evaluate voluntary changes to the seismic portions of IPEEE in response to the information in this generic letter.

The evaluation required by 10 CFR 50.54(f) to justify this information request is included in the preceding discussion.

Attachments:

1. Comments and Resolution
2. References

Attachment 1—Comments and Resolution

All significant comments and concerns raised at and after the workshop, together with staff's response, are summarized below.

(1) *Candidates plant sites for seismic scope reduction:* The industry suggested that candidate sites should not be limited to focused-scope plants.

Response: In addition to modifying the scope for focused-scope plants, the staff also reduced the scope of review for full-scope plants by eliminating the evaluation of reactor internals.

(2) *Use of absolute hazard or risk criteria for rebinning or sub-binning candidate sites:* The comments indicated that the absolute risk criterion should play a significant role in the seismic rebinning.

Response: The staff considered absolute seismic hazard and risk criteria when it reconsidered seismic rebinning. However, the inherent uncertainty in the absolute number would affect decision making, in that small variations in the CDF threshold or in the approximately calculated CDFs of candidate plants would significantly affect the binning for many plants. No consensus was reached on the specific risk criterion that should be selected for the rebinning process. Therefore, the staff did not recommend using an absolute risk criterion when determining whether to reduce the seismic scope. However, licensees may use numerical values in determining which plant-specific improvements should be implemented.

(3) *Overall reduction of seismic scope for all candidate sites:* The suggested reduction as presented in the ERI report, with the exception of reactor internals, would not reduce the scope of seismic review.

Response: Past experience demonstrated that certain weaker components need to be retained in the IPEEE. Attachment 1 describes the rationale for retaining the evaluations of those critical components and items.

(4) *Role of the licensee's seismic review team (SRT):* Certain utilities expressed concern that the role of the licensee's SRT in decision making is not clear.

Response: Although the guidance in NUREG–1407 allows for the use of judgment and latitude in implementing the IPEEE program, certain utilities may not have used the most cost-efficient and expedient approach. The staff wants to emphasize that the SRT has an important role in determining how to implement the IPEEE program. The importance and flexibility of the SRT have been stated clearly in the IPEEE guidance.

(5) *Evaluation of the effects of soil-related failures:* No simple or cost-effective improvements may be available for plants.

Response: Although simple or cost-effective improvements may not be available for low seismic hazard sites to deal with the effects of soil-related failures, soil-related failures are still considered to be important for relatively high seismic hazard sites in the seismic IPEEE. Therefore, the staff concludes that the licensees of focused-scope plants may eliminate the evaluation of soil-related failures from their seismic IPEEE programs. However, the full-scope plants should continue evaluating the effects of soil-related failure, to gain insights from those evaluations. However, the evaluation effort should be focused only on safety-related supporting systems and equipment that are founded on soil such that their function might be affected by soil-related failures.

(6) *Cost savings:* The potential cost savings associated with eliminating certain evaluations described in the NEI white paper (Reference 6) are high.

Response: The experience gained at certain plants indicated that the potential cost savings are likely to be substantially lower than those presented in the NEI paper. Some of the savings cited by the utility personnel can be achieved without changing scope, since NUREG–1407 offers flexibility such as in eliminating detailed evaluation of reactor internals and using an alternate approach to bad actor [1] relay assessment.

(7) *Seismic capacity evaluation of reactor internals:* Should the evaluation of reactor internals be eliminated?

Response: The results of a few seismic PRAs indicated that un-cracked reactor internals are inherently rugged (having seismic capacities well beyond the requested earthquake review level of 0.3g) and do not contribute significantly to the core damage frequency. However, a significant effort is involved in calculating the fragility or capacity of the reactor internal components. On the basis of earlier study results (assuming un-cracked reactor internals) and the perceived reduction of seismic hazard estimates and associated seismic risk, the staff concluded that the cost of the evaluation outweighs the risk of the failure of reactor internal components and proposes to eliminate them from the examination. However, the staff is aware of recent observations of cracks associated with reactor internals at some plants. The issue is not yet resolved and is being evaluated separately both as an operating issue (i.e., within design basis) and with respect to severe accident implications (i.e., beyond design basis), therefore, eliminating this item will not detract from the IPEEE.

(8) *Generic seismic fragilities used in seismic rebinning:* The seismic rebinning on the basis of generic seismic fragilities, as was done in the ERI's

[1] ''Bad actor'' relays, as described in NUREG–1407, are those low-seismic-ruggedness relays identified by USI A–46 implementation.

study, would result in anomalous results.

Response: The staff concurs that seismic rebinning solely on the basis of generic seismic fragilities could result in anomalous results, since such items as the plant design basis and vintage of the plant might not be appropriately included. For instance, plants located at the same site were put in different bins (Salem and Hope Creek), and the plants in the New Madrid area were placed in the modified-scope bin. These observations contributed to the staff's decision to eliminate the use of an absolute risk criterion in the seismic scope modifications.

(9) *Information exchange through a workshop on lessons learned from IPEEE:* An information exchange workshop on IPEEE lessons learned to discuss the experience gained from practical or more efficient ways of carrying out the seismic IPEEEs (i.e., relay chatter issue) would benefit both industry and staff.

Response: The staff will consider such a workshop in the future.

(10) *Components and items needing evaluation and bases:* Certain evaluations of a few known weaker and critical components and items need to be retained in the seismic IPEEE program.

Response: Those components and items identified as needing evaluation and the bases for the retention are briefly described below:

(a) Relay Chatter Issue

While preparing the original guidance in NUREG–1407, the NRC staff developed its position on relay chatter issue after thoroughly discussing the issue with industry and evaluating the results of previous studies. The staff drastically reduced the scope of relay chatter evaluation, retaining only the identification of *bad actor* relays. Since these relays are of low capacity, their identification is considered minimum scope for the IPEEE review. The guidance does not preclude any efficient and expeditious means of identifying these relays.

(b) Masonry and Block Walls

Probabilistic risk assessments and margin studies have demonstrated that failure of masonry or block walls might be a significant safety concern in existing nuclear power plants. The earthquake experience database and analytical evaluations of seismic fragility demonstrate that masonry and block walls without proper reinforcements are vulnerable to earthquake motion. Although this type of construction would not be appropriate for use in the current design of nuclear power plants, it has been used in several plants. In evaluating these walls, more lenient criteria were used; thus, the available margins beyond the safe shutdown earthquake may not be comparable to those of other components of the plant. Therefore, in doing the seismic IPEEE review, the licensee needs to identify and evaluate masonry and block walls where they may affect safety components required for safe plant operation. The licensee would need to correct, if warranted, any situation that may present a significant threat to plant safety.

(c) Flat-Bottom Tanks

Earthquake experience data and analytical fragility evaluations have demonstrated that flat-bottom tanks with poor anchorage are vulnerable to earthquake ground motion. The typical failure mode of concern is the buckling at the base of the tank, which could cause the liquid contents to escape or cause the tank to collapse. If a flat-bottom tank fails, it could flood surrounding areas in the plant, in addition to the consequences of loss of function of the tanks. Past seismic studies of nuclear power plants have designated flat-bottom tanks as low-capacity components. Such components include the refueling water storage tank and the condensate storage tank, whose failures would often significantly affect plant safety. The identification and evaluation of flat-bottom tanks should, therefore, be included as a fundamental element of the seismic IPEEE review to correct, if warranted, any situation that may threaten plant safety.

(d) Other Items

The licensee would also need to consider several other items that pertain to inadequate anchorage and bracing, adverse physical interactions, building impact, or pounding. These items include the weaker components of the diesel generators or pumps. However, the licensee's seismic review team should determine whether seismic capacities of those components need to be evaluated in the seismic review.

Attachment 2—References

[1] U.S. Nuclear Regulatory Commission, Generic Letter 88–20, Supplement No. 4, ''Individual Plant Examination of External Events (IPEEE) for Severe Accident Vulnerabilities—10 CFR 50.54(f),'' June 1991.

[2] NRC, NUREG–1407, ''Procedural and Submittal Guidance for the Individual Plant Examination of External Events (IPEEE) for Severe Accident Vulnerabilities,'' Final Report, June 1991.

[3] NRC, NUREG/CR–5250, ''Seismic Hazard Characterization of 69 Nuclear Power Plant Sites East of the Rocky Mountains,'' January 1989.

[4] Electric Power Research Institute (EPRI), NP–6395–D, ''Probabilistic Seismic Hazard Evaluation at Nuclear Plant Sites in the Central and Eastern United States: Resolution of the Charleston Issue,'' April 1989.

[5] NRC, NUREG–1488, ''Revised Livermore Seismic Hazard Estimates for 69 Nuclear Power Plant Sites East of the Rocky Mountains,'' April 1994.

[6] Letter from W. Rasin (NEI) to A. Thadani (NRC), ''NEI White Paper, 'Justification for Reduction in IPEEE Program Based on Revised LLNL Seismic Hazard Results,' '' April 5, 1994.

[7] NRC IN 94–32, ''Revised Seismic Hazard Estimate,'' April 29, 1994.

[8] Energy Research, Inc. (ERI) Report (ERI/NRC 94–502), ''A Proposed Approach to Seismic Scope Re-assessment for Individual Plant Examination of External Events (IPEEE),'' Final Draft, September 1994

[9] ERI/NRC 94–504, ''Approaches for Proposed Modifications of Seismic IPEEE Guidelines for Focused-Scope Plants'', Final Draft, September 1994.

[10] NRC Transcript, ''Workshop in Seismic IPEEE Revisit,'' October 21, 1994.

[11] EPRI NP–6041, ''A Methodology for Assessment of Nuclear Power Plant Seismic Margin,'' October 1988.

[12] NRC Generic Letter 94–03, ''Intergranular stress Corrosion Cracking of Core Shrouds in BWR Reactors,'' July 25, 1994.

[13] NRC memorandum from W. Russell to E. Beckjord, ''NRR User Need Request for Support of Resolving Problem of Stress Corrosion of Reactor Vessel Internal Components,'' December 2, 1994.

Dated at Rockville, Maryland, this 20th day of January 1995.

For the Nuclear Regulatory Commission.

Brian K. Grimes,

Director, Division of Project Support, Office of Nuclear Reactor Regulation.

[FR Doc. 95–2168 Filed 1–27–95; 8:45 am]

BILLING CODE 7590–01–P

Nominations for Medical Visiting Fellow Program

AGENCY: Nuclear Regulatory Commission.

ACTION: Call for nominations.

SUMMARY: The Nuclear Regulatory Commission is re-opening the invitation period for nominations of physicians, having expert qualifications in the medical specialty field of Radiation Oncology (Therapy), to apply for positions as Medical Visiting Fellows (Fellows). Others having expert qualifications in related fields such as Therapeutic Radiological Physics are also invited to apply. NRC noticed an

invitation for nominations in the **Federal Register** on November 7, 1994, for submittal by January 15, 1995 (59 FR 55497). This notice re-opens the submittal date to April 15, 1995.

SUPPLEMENTARY INFORMATION:

Objectives

NRC is seeking to expand its knowledge of the medical specialty of radiation oncology. Specifically, the therapeutic uses of radioisotopes in brachytherapy patient procedures. Recently, significant misadministrations have occurred involving errors in the delivery of the prescribed radiation dose to the patient during either manual or remote afterloading brachytherapy procedures. As a result of evaluating the circumstances surrounding these events, NRC has identified the need to reevaluate certain aspects of its regulatory program to determine whether modifications are indicated.

NRC intends to keep abreast of this technology and future developments in the therapeutic uses of radioisotopes and believes that such a Fellow, with expertise in these uses, can assist NRC staff in meeting this goal. The program is open to physicians interested in seeking an appointment for individual sabbatical pursuits. Other radiation specialists on sabbatical, or those who wish to engage in post-doctoral research, will also be considered. Individuals participating as Fellows would join NRC for approximately one year, to undertake activities consistent with the interests and needs of NRC and with the individual's training and experience; and that will result in a clearly defined assignment useful to NRC's regulatory program. Ideally, each Fellow would be available to NRC on a full-time basis; however, NRC will consider nominees who are available only on a part-time basis. Additionally, the number of appointments made will depend on the range of skills embodied in the nomination, individuals' interests and needs of NRC.

In addition to a specific assignment, or research project, it is anticipated that the Fellow would attend meetings of NRC's Advisory Committee on the Medical Uses of Isostopes (ACMUI); Federal, State, and local agencies; professional organizations; and groups, to participate in discussions on issues related to medical affairs and the use of radiation in medicine. Therefore, NRC is primarily soliciting nominations of physicians involved with the medical use of radioisotopes, but will be pleased to receive nominations of other radiation health professionals and medical radiation specialists to serve as Fellows. The selectee may also participate in public meetings and seminars sponsored by NRC for exchanging information and discussing issues, of mutual interest, that will benefit the regulation of medical practice. A collateral goal is to create a cadre of individuals with experience in the regulation of medical use of isotopes; therefore, it is likely that former Fellows may be asked to participate, from time to time, in NRC-sponsored meetings and seminars after their appointment ends, to provide advice and consultation about the regulated program.

Appointment Method

Appointments will be made by means of Intergovernmental Personnel Act assignment, reimbursable detail, or professional term appointment, depending on the selectee's situation.

Term of Appointment

The term of appointment will be approximately one year. Appointments may be lengthened, depending on the depth and scope of the Fellow's project, availability and the needs of the NRC, to approximately two years.

Compensation

Fellows will receive compensation commensurate with their experience, salary history, and Federal pay guidelines while serving their appointment. Fellows will be reimbursed for official travel and relocation expenses.

Duty Location

Fellows may be assigned to any Office in NRC, including the Office of the Commissioners, consistent with the interests and needs of NRC and the individual's training and experience. The duty location is at NRC Headquarters, Rockville, Maryland. It is anticipated that there will be some travel associated with this position.

Eligibility Requirements

NRC is an equal opportunity employer. Nominees must be U.S. citizens. Nominees must also satisfy applicable, NRC security, conflict of interest, and drug-free work place standards. Eligibility is open to physicians specializing in Radiation Oncology (Radiation Therapy), or medical physicists specializing in Therapeutic Radiological Physics. Other nominees will also be considered based on the needs of NRC and the individual's interest.

How to Nominate

Candidates may be nominated by professional groups, medical societies, government agencies, or may be self-nominated. Nominations must provide the nominee's current address and telephone number and include a resume describing the educational and professional qualifications of the nominee. A brief statement of the individual's professional objectives should also be included.

Where to Submit Nominations

Submit nominations to: Secretary of the Commission. ATTN: Medical Visiting Fellows Program Manager, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Date Nominations Are Due

Nominations are due to the Secretary of the Commission by April 15, 1995.

FOR FURTHER INFORMATION CONTACT: Janet Schlueter, Medical, Academic, and Commercial Use Safety Branch, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards, Mail Stop: T8 F 5, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–7894, facsimile (301) 415–5369.

Dated at Rockville, Maryland, this 23rd day of January 1995.

For the Nuclear Regulatory Commission.

Larry W. Camper,

Acting Chief, Medical, Academic, and Commercial Use Safety Branch, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 95–2165 Filed 1–27–95; 8:45 am]

BILLING CODE 7590–01–M

NUREG: Issuance, Availability

The Nuclear Regulatory Commission has issued NUREG–1435, Supplement 4, Status of Safety Issues at Licensed Power Plants, TMI Action Plan (TMI) Requirements, Unresolved Safety Issues (USIs), Generic Safety Issues (GSIs) and Other Multiplant Actions, (MPAs). The document covers the status of implementation and verification of these issues at licensed operating plants.

This NUREG has been prepared to provide a comprehensive description of the implementation and verification status of all TMI, USI, GSI and other MPAs at licensed operating plants and to make this information available to other interested parties, including the public.

Copies of the Report have been placed in the NRC's Public Document Room, 2120 L Street, NW, Lower Level, Washington, D.C. 20555. Copies of the Report may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Post Office

Box 37082, Washington, D.C. 20013–7082. GPO deposit account holders may charge their order by calling 202/275–2060. Copies are also available from the National Technical Information Service, Springfield, Virginia 22161.

Dated at Rockville, Maryland, this 23rd day of January 1995.

For the Nuclear Regulatory Commission.

Frank P. Gillepsie,

Director, Inspection and Support Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 95–2167 Filed 1–27–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–498 and 50–499]

Houston Lighting and Power Company, et al.; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF–76 and NPR–80, issued to Houston Lighting & Power Company, et al., (the licensee) for operation of the South Texas Project, located in Matagorda County, Texas. The original application dated November 7, 1994, was previously published in the **Federal Register** on December 7, 1994 (59 FR 63122). That application was supplemented by letters dated December 20, 1994, and January 23, 1995.

The proposed amendment would change the number of diesel generators (emergency power supply) required to be operable during Mode 6 with greater than or equal to 23 feet of water above the reactor vessel flange, from two to one. The amendment would also allow limited substitution of an alternate onsite emergency power source for one of the two required diesel generators, in Mode 5 and in Mode 6 with less than 23 feet of water. In addition, changes to certain system specifications that are affected by the changes for the emergency power supply were also proposed.

In the initial application, dated November 7, 1994, the licensee stated that approval of these changes is required by February 2, 1995, to support the scheduled refueling outage beginning on March 5, 1995. They also stated that they would need this lead time to cover planning and implementation periods. The licensee has been very prompt and attentive to addressing all of the staff's questions and concerns, and had provided two supplements (and revised proposed technical specifications) to address them. These staff questions and concerns were not of a nature that could have reasonably been anticipated by the licensee. Approval of this change will allow the licensee to complete the refueling outage (and commence startup) significantly earlier than without the change.

Before issuance of the proposed license amendment, the Commission will have made finding required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee as provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of accidents previously evaluated.

The equipment which is affected by the technical specification changes proposed here are not precursors to any accident postulated to occur in Modes 5 and 6. Therefore, the probability of an accident is not increased. A design review has demonstrated the ability of the required systems to perform their accident mitigation functions for the postulated accidents during mode 5 and 6 operation. Therefore, it is concluded that an increase in the consequences of the postulated accidents will not result from the proposed Technical Specifications.

2. The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

The system design, function, and performance is not affected by these specifications. No new equipment interactions are created. Calculations and Failure Modes and Effects Analyses (FMEA) have been conducted for selected mechanical systems and show there are no failures which would cause situations where applicable accidents would not be mitigated or which would cause new accidents. On this basis, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in the margin of safety.

The electrical power system specifications support the equipment required to be operable, commensurate with the current level of safety, including the equipment requiring a diesel backed power source. The design review results demonstrate that operation in Modes 5 and 6, in accordance with the proposed Technical Specification changes, is acceptable from an accident mitigation standpoint. The basic Modes 5 and 6 plant system functions are not changed. On this basis, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 15 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 15-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 15-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the

Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By February 14, 1995, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Wharton County Junior College, J.M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to William D. Beckner, Director, Project Directorate IV–1: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Jack R. Newman, Esq., Newman & Holtzinger, P.C., 1615 L Street, NW., Washington, DC 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated November 7, 1994, as supplemented by letters dated December 20, 1994, and January 23, 1995, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room, located at the Wharton County Junior College, J.M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488.

Dated at Rockville, Maryland, this 24th day of January 1995.

For the Nuclear Regulatory Commission.

Thomas W. Alexion,

Project Manager, Project Directorate IV–1, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–2166 Filed 1–27–95; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Small Disadvantaged and Women-Owned Businesses

AGENCY: Executive Office of the President, Office of Management and Budget, (OMB) Office of Federal Procurement Policy (OFPP).

ACTION: OFPP is correcting the date by which comments must be received under a previous notice and a date in the notice when its final report is due to Congress.

BACKGROUND: On January 4, 1995, OFPP published in the **Federal Register** at page 456, a notice requesting comments on its plans to comply with the review requirements of small disadvantaged and women-owned businesses in accordance with the Federal Acquisition Streamlining Act of 1994. Although the notice correctly advised that comments would be received for 60 days after its publication, it mistakenly included the date of February 20, 1995, as the date by which comments were due. This notice is to correct that date by providing the correct date of March 6, 1995. In addition, the notice mistakenly stated in the section labeled Background that the report to Congress mandated by the Act was due may 1, 1966. The correct date is May 1, 1996.

ACTION: The date by which comments must be received in response to the notice of January 4, 1995, is changed to March 6, 1995.

ADDRESSES: Comments should be submitted to the OFPP, New Executive Office Building, Room 9001, 725 17th Street NW., Washington, DC 20503, Attention: Ms. Linda Meros.

FOR FURTHER INFORMATION CONTACT:

Ms. Linda Mesaros at 202–395–4821.

Steven Kelman,

Administrator.

[FR Doc. 95–2148 Filed 1–27–95; 8:45 am]

BILLING CODE 3110–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–35263; File No. SR–CBOE–94–51]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval to Proposed Rule Change by Chicago Board Options Exchange, Incorporated Relating to Arbitration Rules

January 23, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 2, 1994,[1] the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the CBOE. 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 Exchange proposes to amend various rules in Chapter XVIII, ''Arbitration,'' in order to conform Exchange rules to the Uniform Code of Arbitration (''Uniform Code'') developed by the Securities Industry Conference on Arbitration (''SICA'').

The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange 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 Exchange has prepared summaries, set forth in Sections (A), (B) and (C) below, of the most significant aspects of such statements.

[1] The CBOE amended the proposed rule change subsequent to its initial filing. The substance of this amendment is included in this notice. Amendment No. 1, filed January 17, 1995, was a minor technical amendment.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to amend various Exchange arbitration rules in order to conform them to the Uniform Code. In general, the substantive amendments, which mirror the Uniform Code, relate to:

- The ineligibility of class actions for arbitration.
- Discovery procedures in simplified proceedings.
- Classification of persons registered under the Commodities Exchange Act as securities industry arbitrators.
- Time limitations for exercising a peremptory challenge.
- Arbitral authority to proceed with a hearing or any continuation thereof at which a party fails to appear.
- Authority of the Director of Arbitration to waive an adjournment fee.
- Enforcement of rulings by the arbitrators.

Content of and interest on arbitral awards.

The Exchange is also proposing miscellaneous editorial and non-substantive clarifications to its rules governing arbitration. The proposed amendments are discussed in detail below.

Rule 18.3(c), Referral of Claims

The Exchange proposes to adopt new paragraph (c) to Rule 18.3 to allow the Director of Arbitration, with a claimant's consent, to refer a claim arising out of a readily identifiable market to the arbitration forum for that market. SICA adopted this amendment to the Uniform Code in order to provide for a more efficient allocation of claims among the various self-regulatory organizations (''SROs''). CBOE is proposing this amendment to its Rules in order to conform its Rules to the Uniform Code.

Rule 18.3A and 18.35(e), Class Action Claims

Consistent with the Uniform Code, proposed new Rule 18.3A will provide that class action claims are not eligible for submission to arbitration at the Exchange. Thus, claimants will be allowed to pursue such claims in court regardless of the existence of a predispute arbitration agreement. The Rule also will exclude claims filed by participants in a putative or certified class action in another forum, if the claim filed at the Exchange is encompassed by such class action. Disputes over whether a claim is

encompassed by a class action will be referred to an arbitrator(s) pursuant to Exchange Rule 18.4 or Exchange Rule 18.10 or, at the election of a party, to the court with jurisdiction over the class action.

Notwithstanding the above, a party may proceed in arbitration if certification is denied to the class, if the class is decertified, if the individual is excluded from the class by the court, or if the individual elects not to participate in the class. Concomitantly, the provision prohibits members and persons associated with members from moving to compel arbitration, pursuant to a predispute arbitration agreement, against a customer who is a participant in a class unless or until the above list of criteria for proceeding in arbitration are met. Proposed paragraph (e) to Rule 18.35, ''Requirements when Using Pre-Dispute Arbitration Agreements with Customers,'' will require members to include a statement setting forth the ineligibility of class actions in arbitration in any new predispute arbitration agreement with customers.

Rule 18.4, Simplified Arbitration

The Exchange proposes to amend paragraph (a) of Rule 18.4 to codify the existing practice of applying simplified arbitration procedures to claims not exceeding $10,000 (''small claims''), without the demand or written request of the customer. This amendment also is consistent with the Uniform Code. Pursuant to paragraph 18.4(f), a customer continues to have the right to demand or consent to a hearing before the arbitrator. The Exchange proposes to delete as unnecessary language in paragraph (b) that requires that a Statement of Claim filed under the simplified procedures indicate when a hearing is not demanded. Paragraph 18.4(b) continues to specify that if a hearing is demanded, such demand must be set forth in the Statement of Claim.

Clarifying and non-substantive amendments are proposed to existing paragraphs (c) through (f). For example, obsolete language in Rule 18.4(c) relating to forum fees is proposed to be deleted and reference inserted to the schedule of fees contained in Rule 18.33. In addition, paragraph (c) is divided and subsequent paragraphs are redesignated accordingly.

The Exchange proposes to amend redesignated paragraph 18.4(d) to require that if a respondent raises a third-party claim, the respondent must serve the third-party with an executed Submission Agreement, a copy of Respondent's Answer containing the third-party claim and a copy of the original claim filed by the Claimant. Currently, the Rule requires service of only the third-party claim and the original claim.

As adopted by SICA, the Exchange proposes to amend existing paragraph (g), renumbered (h), to provide a mechanism for discovery in simplified proceedings. For cases in which an oral hearing is requested, the parties are referred to the general provisions governing pre-hearing procedures, herein renumbered Rule 18.22. For cases that will be decided on the written submissions, new subparagraph (h)(iii) provides procedures for resolving disputes over the production of documents within shortened time periods. In simplified cases where no hearing is demanded, paragraph (h)(iii) will require that all requests for documents be served by the parties and filed with the Director of Arbitration within ten business days of notification of the appointment of an arbitrator. Any response or objection to a request will be required to be served on all parties and filed with the Director within five business days of receipt of the production request. Finally, paragraph (h)(iii) will provide that the selected arbitrator will resolve any document production issues on the papers submitted. Such abbreviated procedures are consistent with Exchange policy to expedite small claims.

Rule 18.10, Designation of the Number of Arbitrators

Consistent with the Uniform Code, the Exchange proposes to adopt new paragraph 18.10(a)(2)(v) in order to classify individuals registered under the Commodities Exchange Act or associated with the commodities industry as securities industry arbitrators. This provision parallels other exclusions in Rule 18.10 which preclude individuals with close ties to the securities industry from serving as public arbitrators.

Rule 18.12, Challenges

The Exchange proposes to amend Rule 18.12 to clarify that all parties to an arbitration are entitled to one peremptory challenge to an appointed arbitrator and to clarify the timing for exercising such challenge. As amended, Rule 18.12 will codify existing procedures that require a peremptory challenge to be raised within five days of notification of an arbitrator named under either the general selection procedures set forth in Rule 18.10 or the pre-hearing procedures of Rule 18.22 (formerly Rule 18.15(e)), whichever comes first. If a party has not objected to an arbitrator selected to handle a pre-hearing conference or discovery dispute, that party may not later raise a peremptory challenge to the same arbitrator when notified of the names of the entire panel. The above-mentioned revisions conform the rule to the Uniform Code.

Because the Rule governs both ''for cause'' and peremptory challenges, the title of Rule 18.12 is proposed to be changed from ''Peremptory Challenges'' to ''Challenges'' and the rule is divided into two paragraphs.

Rule 18.15, Initiation of Proceedings

The Exchange is proposing various minor editorial, non-substantive amendments to Rule 18.15. In the interest of clarity, paragraph 18.15(e), ''General Provision Governing Prehearing Proceeding,'' is proposed to be amended and moved to Rule 18.22. The proposed amendments to Rule 18.22 are discussed below.

Rule 18.19, Failure to Appear

The Exchange proposes to amend Rule 18.19 to clarify the authority of the arbitrator(s) to proceed with and decide a case when a party fails to appear not only at the initial hearing, but also at any continuation thereof. Currently, the rule grants arbitrators the authority to proceed if ''any of the parties, after due notice, fails to appear at a hearing, or any adjourned hearing session.'' Following the Uniform Code, the reference to any adjourned hearings is proposed to be replaced with ''any continuation of a hearing.''

Rule 18.20, Adjournments

Consistent with the Uniform Code, the Exchange proposes to amend Rule 18.20(b) to provide that an adjournment fee shall be deposited with a request for adjournment. Currently, the fee is required upon the arbitrators' granting of the request. In addition, as amended, Rule 18.20(b) will allow the Director of Arbitration to waive the adjournment fee in appropriate cases. If an adjournment is not granted by the arbitrators, the amended rule will provide that the deposited fee will be refunded. If the adjournment is granted, the arbitrators may direct a return of the adjournment fee.

Rule 18.22, General Provision Governing Pre-Hearing Proceeding

In the interest of clarity and conformity with the Uniform Code, the Exchange proposes to move paragraph 18.15(e), ''General Provision Governing Prehearing Proceeding,'' to new Rule 18.22. Subparagraphs within the Rule will be renumbered accordingly. Only conforming, non-substantive, editorial

changes are proposed to the renumbered rule.

Rule 18.25, Interpretation of the Code and Enforcement of Arbitrator Rulings

Consistent with the Uniform Code, the Exchange proposes to amend Rule 18.25 in order to clarify and codify the arbitrators' existing authority to enforce the rulings in the event of non-compliance by a party. Appropriate arbitral action under this provision could include the assessment of fees or costs, preclusion of documents or witnesses, or initiation of a disciplinary referral. Currently, such sanctions for non-compliance with the arbitrator's rulings are infrequently ordered or requested because the arbitrators and parties may be unaware of an arbitrator's power. It is expected that the arbitrators will exercise such power primarily in the area of failure to comply with discovery requests. As amended, Rule 18.25 will specify that such arbitral rulings, as well as interpretations of the Uniform Code, will be final and binding upon the parties.

Rule 18.29, Amendments

Currently, Rule 18.29 requires the Director of Arbitration to serve amended pleadings. Consistent with the Uniform Code and existing policy and procedures under Rules 18.4 and 18.15 that require the parties to serve pleadings after the initial service of the Statement of Claim by the Director of Arbitration, the Exchange proposes to amend this Rule to require that parties directly serve all other parties with any new or amended pleading. Concurrently, the Rule will require filing of the new or amended pleading with the Director of Arbitration, along with sufficient copies for the panel of arbitrators. Similarly, the Rule will require that parties directly serve any responsive pleadings on all other parties and the Director of Arbitration. As amended, the Rule will conserve arbitral administrative time and expenses.

Rule 18.31, Awards

Consistent with the Uniform Code, the Exchange is proposing to amend paragraph (e) to Rule 18.31 and adopt new paragraph (h). Exchange Rule 18.31(e) currently requires that an arbitration award include the name of the parties, a summary of the issues, the relief awarded, the names of the arbitrators, the date the claim was filed and the award rendered, the number and dates of hearing sessions, the location of the hearing and the signatures of the arbitrators concurring in the award. In order to conform this Rule with the Uniform Code, the Exchange proposes to amend Rule 18.31(e) to require that an award also include: the names of counsel representing the parties, the type of product or security involved, the damages and/or other relief requested, and a statement of any other issues resolved.

New paragraph 18.31(h) will specify when interest is payable on an award. Currently, arbitrators may award interest as they deem appropriate. As amended, the Rule will provide that all awards shall bear interest from the date of the award: (i) If the award is not paid within 30 days of receipt, (ii) if the award is the subject of a motion to vacate that is denied, or (iii) as specified by the arbitrator(s). Paragraph 18.31(h) will also specify that the arbitrator(s) may set the interest rate. If not specified by the arbitrator(s), the rate will be the legal rate, if any, then prevailing in the state where the award was rendered.

The proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(5), in particular, in that it is designed to promote just and equitable principles of trade and the protection of investors and the public interest by improving the administration of an impartial arbitration forum for the resolution of disputes between members, persons associated with members and public investors.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

CBOE has requested that the proposed rule change be given accelerated effectiveness pursuant to Section 19(b)(2) of the Act. In that regard, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5) thereof. Specifically, the Commission concludes that accelerated effectiveness of the proposal is appropriate because all of the substantive amendments proposed therein were previously proposed by other SROs and have been approved by the Commission. Because the proposal is designed to protect investors and the public interest by providing for uniformity in the rules governing the administration of arbitration facilities offered by the SROs, the Commission finds good cause for approving the foregoing rule change on an accelerated basis prior to the thirtieth day after the date of publication thereof in the **Federal Register**.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to the file number in the caption above and should be submitted by February 21, 1995.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[2] that the proposed rule change SR-CBOE–94–51, amending various Exchange rules in Chapter XVIII, ''Arbitration,'' in order to conform these rules to the Uniform Code, is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–2138 Filed 1–27–95; 8:45 am]

BILLING CODE 8010–01–M

[2] 15 U.S.C. 78s(b)(2).

[Release No. 34–35266; File No. SR–NASD–94–61]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc., Relating to the Filing Requirements Under Article III, Section 44 of the NASD Rules Regarding Modified Guaranteed Annuity Contracts and Modified Guaranteed Life Insurance Contracts

January 23, 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 January 12, 1995 the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD.[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 NASD is proposing to amend Subsection 44(b)(8) to Article III of the NASD Rules of Fair Practice (''Corporate Financing Rule'') to exempt modified guaranteed annuity contracts and modified guaranteed life insurance contracts from the filing requirements under Subsection 44(b).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Corporate Financing Rule requires members to file with the NASD documents and information relating to a public offering of securities for review of the fairness of underwriting compensation and arrangements. The filing requirements in the Corporate Financing Rule also apply to Schedule E of the NASD By-Laws and Article III, Section 34 of the NASD Rules of Fair Practice. The Corporate Financing Rule filing requirements apply to public offerings of debt, equity and public limited partnership securities, and provide that certain offerings of securities shall be exempt from the filing requirement under Subsection (b)(8) of the Rule. The exemptions in Subsection (b)(8) include, among others, open-end investment company securities registered under the Investment Company Act of 1940 (except closed-end investment company securities) and variable contracts. In addition, the exemptions include securities defined as ''exempt securities'' under Section 3(a)(12) of the Act and securities exempt from registration with the SEC pursuant to Sections 4(1), 4(2) and 4(6) of the Securities Act of 1933 (''1933 Act'') and Rules 504 (unless considered a public offering), 505 and 506 adopted under the 1933 Act.

The NASD recently considered the status of ''Modified Guaranteed Annuity Contracts'' and ''Modified Guaranteed Life Insurance Policies'' (collectively, ''Contracts'') under the filing requirements of the Corporate Financing Rule. The Contracts are similar to variable annuity contracts in that they are issued by an insurance company, offered on a continuous basis, subject to the registration requirements and regulatory scheme of state insurance law, and, shift investment risk to the contract owner by offering variable, non-guaranteed rates of return under certain circumstances. That is, the Contracts are subject to a market value adjustment upon a Contract surrender or partial withdrawal prior to the end of a guarantee period. However, unlike variable annuities, the individual account values of the Contracts do not reflect the investment experience of one or more separate accounts registered under the Investment Company Act of 1940. Instead, like traditional fixed annuities, the Contracts are backed by the general account assets of the insurance issuer and are registered only as insurance contracts under state insurance law.

The Contracts are priced individually and issued on a continuous, open-ended basis directly by the issuer, and are sold by state-licensed insurance agents that are also registered with a member to sell such securities based on the Series 6 examination—the Limited Representative for Investment Company and Variable Contract Products. Thus, the sale of the Contracts does not resemble the traditional types of underwritings of debt, equity, closed-end investment company and public limited partnership securities with which the Corporate Financing Rule is concerned.

The Contracts do not fall within any of the current exemptions contained within the Corporate Financing Rule Filing Requirements. As a result, the Contracts are subject to the filing requirements of the Corporate Financing Rule unless the NASD amends its rules to adopt a specific exemption for such instruments. The review of the fairness and reasonableness of underwriting terms and arrangements is the central requirement of the Corporate Financing Rule. The issuance and sale of the Contracts on an open-ended basis does not raise the kinds of underwriting issues with which the Corporate Financing Rule is primarily and traditionally concerned. The structure of the instrument is that of an insurance product which has traditionally been regulated under state insurance law and the terms of the Corporate Financing Rule were not developed to address such products. The NASD is, therefore, proposing to amend the Corporate Financing Rule by adopting as new Subsection (b)(8)(E) an exemption from the filing and other requirements of the Corporate Financing Rule for ''Modified Guaranteed Annuity Contracts'' and ''Modified Guaranteed Life Insurance Policies'' and to reletter the remaining sections accordingly. The proposed rule would thus exempt such Contracts from the filing and review requirements of the Corporate Financing Rule.[2]

The NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[3] which requires that the rules of the Association promote just and equitable principles of trade and protect investors and the public interest in that the proposed rule change amends the filing requirements of Article III, Section 44 to the NASD Rules of Fair Practice to exempt Modified Guaranteed Annuity Contracts and Modified Guaranteed Life

[1] The NASD originally submitted the proposed rule change on November 21, 1994. On December 1, 1994 and January 12, 1995, the NASD filed letter amendments to its filing correcting errors in its November 21, 1994 submission. This notice reflects those amendments.

[2] In addition, Article III, Sections 26 and 29 of the NASD Rules of Fair Practice are not applicable, since the Contracts are not within the definition of ''variable contract'' and do not include a separate account registered under the Investment Company Act of 1940. However, as securities, sales of the Contracts are subject to other applicable Rules of Fair Practice when sold by associated persons of a member and the rules and regulations of the Commission, particularly the antifraud provisions thereof.

[3] 15 U.S.C. 78*o*–3.

Insurance Policies from NASD review, since the issuance and sale of the Contracts on an open-ended basis does not raise the kinds of underwriting issues with which the Corporate Financing Rule is primarily and traditionally concerned; the structure of the instrument is that of an insurance product which has traditionally been regulated under state insurance law; and the terms of the Corporate Financing Rule were not developed to address such products.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, 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 in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by February 21, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–2205 Filed 1–27–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35261; International Series Release No. 777 File No. SR–Phlx–95–03]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to Customized Foreign Currency Options Transaction Size

January 23, 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 January 17, 1995, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Phlx. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to amend Exchange Rule 1069(a) to revise the minimum transaction size for customized foreign currency options (''Customized FCOs'') from 300 to 200 contracts. The text of the proposed rule change is available at the Office of the Secretary, the Phlx, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of and basis for the proposed rule change the discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in 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 the Statutory Basis for, the Proposed Rule Change

On November 1, 1994, the Commission approved the Exchange's proposal to trade customized foreign currency options.[1] Customized FCOs provide users of the Exchange's FCO markets with the ability to customize the strike price and quotation method and to choose any underlying and base currency combination out of all Exchange-listed currencies, including the U.S. dollar, for their FCO transactions. The Phlx represents that Customized FCOs were introduced to attract institutional customers who enjoy the flexibility and variety offered in the over-the-counter foreign currency market but who prefer the benefits attributed to an exchange auction market for hedging their exchange rate risks.

The Exchange imposed a 300 contract minimum opening transaction size pursuant to Rule 1069(a)(6) for a number of reasons. Because the Customized FCOs are not continuously quoted and, therefore, only reported to the Options Price Reporting Authority (''OPRA'') when a request for quote or responsive quote is voiced and when a trade occurs,[2] there is somewhat less transparency in the Customized FCO market than in the market for regular FCOs. Further, the Exchange represents that Customized FCOs are extremely labor intensive to quote, therefore making it impractical to offer the ability to request quotes for small opening transactions.

The Exchange represents that a number of mid-sized corporations and institutions have told the Exchange that the current minimum contract value is too large for their purposes. They believe that Customized FCOs would fill a market need for them but that the opening transaction size is prohibitive. The Exchange's analysis (*see* chart below) shows that the average value of a 300 contract trade at prevailing exchange rates is approximately $15 million. The Exchange believes that an important corporate market segment is being priced out of the market by this excessively large opening transaction size. Therefore, the Exchange proposes to reduce the minimum opening transaction size for Customized FCO

[4] 17 CFR 200.30–3(a)(12).

[1] See Securities Exchange Act Release No. 34925 (November 1, 1994), 59 FR 55720 (November 8, 1994).

[2] See Phlx Rule 1069(h).

transactions to 200 contracts, which, the Exchange represents, would still result in an average minimum transaction value of approximately $10 million. This, in the Exchange's opinion, would be consistent with Flexible Exchange Options (''FLEX Options'') traded on the Chicago Board Options Exchange and the American Stock Exchange which also have a $10 million minimum opening transaction requirement.[3]

Underlying currency	Rate[4]	Contract size	Value of 300 contracts	Value of 200 contracts
Australian dollar	0.776300	50,000	$11,644,500	$7,763,000
Canadian dollar	0.721400	50,000	10,821,000	7,214,000
Swiss franc	0.752600	62,500	14,111,250	9,407,500
German mark	0.636900	62,500	11,941,875	7,961,250
French franc	0.184800	250,000	13,860,000	9,240,000
British pound	1,561500	31,500	14,639,063	9,759,375
Japanese yen	0.009965	6,250,000	18,684,375	12,456,250
ECU	1,212700	62,500	22,738,125	15,158,750
Averages	.....	.....	14,805,023	9,870,016

[4] As of December 15, 1994, assuming that the U.S. dollar is the base currency.

The Exchange believes that the foregoing rule change proposal is consistent with Section 6 of the Act, in general, and with Section 6(b)(5), in particular, in that it is designed to promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, and processing information, and facilitate transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest by opening up the Customized FCC market to smaller corporate FCC users while keeping the market geared primarily towards institutional investors.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, 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 in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing with also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–95–03 and should be submitted by February 21, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–2139 Filed 1–27–95; 8:45 am]

BILLING CODE 8010–01–M

[3] See CBOE Rule 24A.4(e)(ii) and Amex Rule 903G(d)(ii).

[5] 17 CFR 200.30–3(a)(12) (1994).

[Rel. No. IC–20850; File No. 812–9310]

C.M. Life Insurance Company, *et al.*

January 23, 1995.

AGENCY: Securities and Exchange Commission (''SEC'' or the ''Commission'').

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the ''1940 Act'').

APPLICANTS: C.M. Life Insurance Company (''C.M. Life''), C.M. Multi-Account A (the ''Account''), certain separate accounts that may be established by C.M. Life in the future to support certain variable annuity contracts issued by C.M. Life (the ''Other Accounts'', collectively, with the Account, the ''Accounts'') and SEI Financial Services Company (''SEI'').

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) of the 1940 Act for exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order permitting C.M. Life to deduct from the assets of the Accounts the mortality and expense risk charge imposed under certain variable annuity contracts issued by C.M. Life (the ''Existing Contracts'') and under any other variable annuity contracts issued by C.M. Life which are materially similar to the Existing Contracts and are offered through any Account on a basis that is similar in all material respects to the basis on which the Existing Contracts are offered (the ''Other

Contracts'', together, with the Existing Contracts, the ''Contracts'').[1]

FILING DATE: The application was filed on October 28, 1994. Applicants represent that an amendment to the application will be filed during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing on this application by writing to the Secretary of the SEC and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on February 16, 1995 and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, by certificate of service. Hearing requests should state the nature of the interest, the reason for the request and the issues contested. Persons may request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants: Michael A. Chong, Counsel, C.M. Life Insurance Company, 140 Garden Street, Hartford, Connecticut 06154.

FOR FURTHER INFORMATION CONTACT: Barbara J. Whisler, Senior Attorney at (202) 942–0670, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application, the complete application is available for a fee from the Public Reference Branch of the SEC.

Applicants' Representations

1. C.M. LIfe, a stock life insurance company chartered under Connecticut law, is a wholly owned subsidiary of Connecticut Mutual Life Insurance Company. The Account, established August 3, 1994 under Connecticut law, is registered with the Commission as a unit investment trust. The Account will fund the Existing Contracts issued by C.M. Life. Applicants incorporate the registration statement on Form N–4 for the Existing Contracts (File No. 33–82752) into the application by reference.

2. SEI, a wholly owned subsidiary of SEI Corporation, is a broker dealer registered under the Securities Exchange Act of 1934 and a member of the National Association of Securities Dealers, Inc. SEI will serve as the distributor of the Contracts. SEI is an affiliate of SEI Financial Management Company, the investment advisor for the Insurance Investment Products Trust (the ''Trust''). The Trust is registered with the Commission as an open-end management investment company. Each subaccount of the Account will invest in a corresponding portfolio of the Trust.

3. The Existing Contracts are individual variable annuity deferred contracts. The Existing Contracts will be made available in connection with retirement plans which may qualify for favorite tax treatment under the Internal Revenue Code. The minimum initial premium is $10,000 and the minimum for subsequent premiums is $250. If the owner of the Contract has elected the automatic premium option, a minimum payment of $100 will be accepted.

4. Applicants state that C.M. Life intends to advance premium taxes that may be due upon the payment of premiums. C.M. Life would then deduct these taxes from the value of the Contract upon annuitization or withdrawal. The application states that C.M. Life may, however, deduct any premium tax related to the Contracts when the tax is incurred. The application states that premium taxes generally range from 0% to 4%.

5. The Existing Contracts provide for certain guaranteed death benefits during the accumulation phase. C.M. Life presented permits unlimited transfers during the accumulation phase and six transfers during annuitization. The owner of an Existing Contract may transfer all or part of the interest in a subaccount to another subaccount; or, during annuitization, from a subaccount to the general account of C.M. Life. These transfers are permitted without charge so long as the designated number of transfers has not been exceeded. If transfers are made in excess of the free number of transfers, C.M. Life will deduct a transfer fee from the amount transferred equal to the lesser of $20 or 2% of the amount transferred.

6. C.M. Life imposes an annual Contract fee of $30 on Contracts having a Contract value of less than $100,000. Applicants state that the annual Contract fee may be increased but represent that this fee will never exceed $60 per Contract year. The application states that the fee, together with the annual administrative charge, will reimburse C.M. Life for expenses incurred in establishing and maintaining the Contracts and the Account. During annuitization, the annual Contract fee will be deducted pro rata from annuity payments regardless of Contract value and will, therefore, reduce each annuity payment. Applicants represent that the annual Contract fee, together with the administrative charge, will not result in a profit to C.M. Life.

7. C.M. Life deducts an annual administrative charge equal to .15% of the average daily net asset value of the Account. Applicants represent that C.M. Life does not intend to profit from this charge and that C.M. Life will monitor the charge to ensure that it does not exceed expenses. Applicants state that they will rely upon Rule 26a–1 under the 1940 Act in deducting both the annual Contract fee and the annual administrative charge.

8. The application states that no front-end sales charge is deducted from premiums, nor is a contingent deferred sales charge deducted upon surrender. For certain of the Other Contracts, however, applicants state that there may be a contingent deferred sales charge (the ''Sales Charge'') of up to 7% imposed upon surrender or withdrawal within the first seven years of the Contract. The Sales Charge is a percentage of the amount of each purchase payment that is withdrawn. The percentage declines depending upon how many years have passed since the withdrawn purchase payment was originally made by the Contract owner.

9. C.M. Life will imposes a daily charge equal to an annual effective rate of .53% of the value of the net assets of the Account to compensate C.M. Life for assuming certain mortality and expense risks in connection with the Contracts. Applicants state that approximately .40% of the .53% charge is attributable to mortality risk while approximately .13% is attributable to expense risk. The application states that C.M. Life reserves the right to increase the charge to a maximum of 1.25%. If the mortality and expense risk charge is insufficient to cover actual costs of the risks undertaken, C.M. Life will bear the loss. Conversely, if the charge exceeds costs, this excess will be profit to C.M. Life and will be available for any corporate purpose, including payment of expenses relating to the distribution of the Contracts. The application states that C.M. Life expects a profit from the mortality and expense risk charge.

10. Applicants state that the mortality risk borne by C.M. Life consists of: (a) The risk of guaranteeing to make monthly annuity payments in accordance with the annuity option selected by the Contract owner regardless of how long the annuitant may live; (b) the risk of guaranteeing the annuity purchase rates, for either a fixed or a variable annuity, for the annuity options under the Contracts; and (c) the risk of guaranteeing a death benefit.

[1] Applicants represent that the application will be amended during the notice period to reflect this description of the Other Contracts.

11. Applicants state that C.M. Life assumes an expense risk under the Contracts. According to Applicants, this is the risk that the charges for administrative services under the Contracts will be insufficient to cover actual administrative expenses.

Applicants' Legal Analysis and Conditions

1. Applicants request that the Commission, pursuant to Section 6(c) of the 1940 Act, grant the exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act in connection with Applicants' assessment of the daily for the mortality and expense risks under the Contracts. Applicants state that the requested extension of relief to the Other Accounts and the Other Contracts is appropriate in the public interest. Applicants opine that the relief would promote competitiveness in the variable annuity market by eliminating the need to file redundant exemptive applications and would, therefore, reduce administrative expenses and maximize efficient use of resources. Applicants assert that the delay and expense involved in having to repeatedly seek exemptive relief would impair the ability of C.M. Life to take advantage effectively of business opportunities as those opportunities arise. Applicants posit that the requested relief is consistent with the purposes of the 1940 Act and the protection of investors for the same reasons. Applicants finally state that were C.M. Life required to seek repeated exemptive relief with respect to the issues addressed in the application, no additional benefit or protection would be provided to investors through the redundant filings.

2. Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act, in pertinent part, prohibit a registered unit investment trust and any depositor thereof or underwriter therefor from selling periodic payment plan certificates unless the proceeds of all payments (other than sales load) are deposited with a qualified bank as trustee or custodian and held under arrangements which prohibit any payment to the depositor or principal underwriter except a fee, not exceeding such reasonable amount as the Commission may prescribe, for performing bookkeeping and other administrative services of a character normally performed by the bank itself.

3. Applicants assert that the charge for mortality and expense risks is reasonable compensation for the risks assumed.

4. Applicants represent that the proposed charge of .53% and the maximum charge of 1.25% for the mortality and expense risks assumed by C.M. Life is within the range of industry practice with respect to comparable annuity products. Applicants state that this representation is based upon C.M. Life's analysis of publicly available information regarding mortality risks, taking into consideration such factors as: The guaranteed annuity purchase rates; the expense risks, the estimated costs for product features; and the industry practice with respect to comparable contracts. Applicants represent that C.M. Life will maintain at its principal office, available to the Commission, a memorandum setting forth in detail the products analyzed and the methodology and results of the analysis by C.M. Life.

5. Applicants acknowledge that the Sales Charge may be insufficient to cover all costs relating to the distribution of the Contracts. To the extent distribution costs are not covered by the Sales Charge, C.M. Life will recover its distribution costs from the assets of the general account. These assets may include that portion of the mortality and expense risk charge which is profit to C.M. Life. Applicants represent that C.M. Life has concluded that there is a reasonable likelihood that the proposed distribution financing arrangement will benefit the Account and the owners of the Contracts. The basis for this conclusion is set forth in a memorandum which will be maintained by C.M. Life at its principal office and will be made available to the Commission.

6. C.M. Life also represents that the Accounts will invest only in management investment companies which undertake, in the event such company adopts a plan under Rule 12b-1 of the 1940 Act to finance distribution expenses, to have such plan formulated and approved by either the company's board of directors or the board of trustees, as applicable, a majority of whom are not interested persons of such company within the meaning of the 1940 Act.[2]

Conclusion

Applicants assert that for the reasons and upon the facts set forth above, the requested exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

[2] Applicants represent that the application will be amended during the notice period to include this representation for all of the Accounts.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–2137 Filed 1–27–95; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 20849; File No. 811–5806]

The Global Settlement Fund, Inc.; Application for Deregistration

January 23, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: The Global Settlement Fund, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATES: The application on Form N–8F was filed on January 4, 1995, and amended on January 20, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 21, 1995, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 61 Broadway, New York, New York 10006.

FOR FURTHER INFORMATION CONTACT: James J. Dwyer, Staff Attorney, at (202) 942–0581, or C. David Messman, Branch Chief, at (202) 942–0564 (Office of Investment Company Regulations, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a Maryland corporation and a diversified open-end

management investment company. On May 2, 1989, applicant registered under section 8(a) of the Act on Form N–8A, and filed a registration statement on Form N–1A under section 8(b) of the Act and under the Securities Act of 1933 to register an indefinite number of shares. The registration statement was declared effective on March 13, 1992, and the initial public offering of applicant's shares commenced on or about that date.

2. At a meeting held on May 17, 1994, applicant's board of directors determined that it was desirable to dissolve applicant and voted to discontinue sales of applicant's shares and to take steps to terminate applicant's operations and wind up its affairs. Prior to that date, applicant had four shareholders. In addition, applicant's investment adviser, Bankers Trust Company, owned shares representing its investment in seed capital in applicant.

3. As of May 18, 1994, applicant had outstanding 14,140,924.96 shares of common stock, with a net asset value of $1.00 per share. Following the board of directors' meeting of May 17, 1994, all of applicant's shareholders voluntarily redeemed their shares. In the ten day period ended May 27, 1994, all of the assets of applicant were distributed to its shareholders at net asset value. All of the shareholders received their redemption proceeds in cash except for those shareholders who requested payment in-kind.

4. The only expenses expected to be incurred in connection with the liquidation and dissolution of applicant are professional fees and expenses, special directors' meeting expenses, and certain other minor expenses. Applicant's principal underwriter, Forum Financial Services, Inc., and applicant's investment adviser have agreed to bear all expenses incurred by applicant in connection its dissolution.

5. At the time of the application, applicant had no securityholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not presently engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs.

6. Applicant intends to file Articles of Dissolution pursuant to Maryland law after receiving an order of the SEC declaring that applicant has ceased to be an investment company.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–2136 Filed 1–27–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–20855; 811–7594]

Intermediate Term Tax Free Fund of Vermont, Inc.; Notice of Application

January 24, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Intermediate Term Tax Free Fund of Vermont, Inc.

RELEVANT ACT SECTIONS: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATES: The application was filed on November 25, 1994, and amended on January 3, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 21, 1995, and should be accompanied by proof of service on applicant in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, Town Road ×22, P.O. Box 366, Warren, Vermont 05674.

FOR FURTHER INFORMATION CONTACT: James M. Curtis, Senior Counsel, at (202) 942–0563, or Robert A. Robertson, Branch Chief, (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is registered as an open-end management investment company that was organized as a corporation under the laws of Vermont. On March 26, 1993, applicant filed a notice of registration on Form N–8A pursuant to section 8(a) of the Act. On March 22, 1993, applicant filed a registration statement under section 8(b) of the Act and under the Securities Act of 1933 on Form N–1A to issue an indefinite number of shares. Applicant's registration statement was declared effective on October 25, 1993, and applicant commenced its initial public offering on that date. Mark C. Bennett, PhD, Inc. (''Adviser'') is applicant's investment adviser.

2. As of November 7, 1994, applicant had total net assets of $309,185.11 comprising 16,333.075 shares outstanding at a net asset value of $18.93 per share. As of November 7, 1994, applicant distributed $309,185.11 to its shareholders. Each shareholder received his or her proportionate interest based on the net asset value of the shares. Organizational expenses totaling $55,000 were paid when incurred by Adviser. Therefore, no unamortized organizational expenses were charged to applicant.

3. Liquidation expenses of less than $50.00 for copying and postage were paid by Adviser.

4. Applicant has no securityholders, assets, debts, or other liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not engaged and does not propose to engage in any business activity other than those necessary for the winding up of its affairs.

5. On November 3, 1994, the directors of applicant authorized the dissolution of applicant. Applicant filed a statement of intent to dissolve with the secretary of state of Vermont on November 23, 1994.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–2206 Filed 1–27–95; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 20857; 811–2967]

M I Fund, Inc.; Notice of Application

January 24, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: M I Fund, Inc.

RELEVANT ACT SECTION: Order requested under Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring it has ceased to be an investment company.

FILING DATE: The Application was filed on October 19, 1994, and was amended on December 27, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 21, 1995, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, 1384 Broadway, New York, New York, 10018.

FOR FURTHER INFORMATION CONTACT: Sarah A. Wagman, Staff Attorney, at (202) 942–0654, or Barry D. Miller, Senior Special Counsel, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is registered as a closed-end management investment company organized as a New York corporation. Applicant was formerly Marlene Industries Corporation (''Marlene''), an operating company which, in 1962, registered its securities under the Securities Act of 1933. In 1979. Marlene sold substantially all of its assets to White Department Stores, Inc., a wholly-owned subsidiary of Unishops, Inc. (''Unishops''). At the same time, applicant changed its corporate purpose, and changed its name to M I Fund, Inc. On November 2, 1979, applicant registered under section 8(b) of the Act.

2. On January 20, 1994, applicant's board of directors approved an agreement and plan of reorganization providing for the transfer of substantially all of the assets of applicant to Oppenheimer Tax Free bond Fund (''Oppenheimer''), in exchange for Class A shares of Oppenheimer.

3. Oppenheimer filed with the SEC a registration statement on Form N–14 on December 30, 1993, and the proxy statement/prospectus contained therein was furnished to applicant's shareholders. At a special meeting on March 18, 1994, shareholder of a majority of the outstanding voting shares of applicant approved the agreement and plan of reorganization.

4. On March 30, 1994, applicant had 1,626,594 shares outstanding, with a net asset value per share of $18.39. On or about march 31, 1994, the closing date of the reorganization, applicant made a distribution to its shareholders in complete liquidation of their interests in applicant. The basis of the price received by applicant's shareholders was the net asset value of the Oppenheimer Class A shares as of the close of business on March 30, 1994 and net asset value of applicant's shares as of the close of business on March 30, 1994.

5. The expenses attributable to the acquisition of applicant by Oppenheimer, including a filing fee for an Internal Revenue service letter ruling and legal expenses, amounted to $84,044. Oppenheimer Management Corp. reimbursed applicant for $35,000 of these expenses as part of the negotiations between the parties which resulted in the agreement and plan of reorganization.

6. As of September 30, 1994 applicant had assets of $90,037 in cash as a reserve for future winding-up expenses consisting of insurance premiums, legal and accounting fees, and office expenses. Applicant will not invest these assets in any securities. Applicant states that there will be no remaining assets after it has paid the dissolution expenses. As of September 30, 1994, applicant had liabilities of $675 taxes payable and $89,362 expenses payable.

7. On March 2, 1991, an insurance carrier, as subrogee against one of Marlene's former employees, impleaded Marlene, its officers, and employees as third-party defendants in a lawsuit involving the diversion of inventory. The third-party action is pending before the New York Supreme Court. The third-party complaint demands $1,351,770. Applicant, due to its former identity with Marlene, may be a primary defendant in the litigation.[1] In the opinion of applicant's counsel, applicant has no potential liability in the litigation.[2]

8. Applicant is not now engaged, nor does it propose to engage in any business activities other than those necessary for the winding-up of its affairs.

9. Applicant intends to file a certificate of dissolution in accordance with New York law.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–2207 Filed 1–27–95; 8:45 am]

BILLING CODE 8010–01–M

[1] Applicant's liabilities were assumed by Unishops under the terms of the contract of purchase, discussed above.

[2] The third party complaint is no longer active, and only a technicality has prevented the dismissal of the action against applicant.

Issuer Delisting; Notice of Application to Withdraw from Listing and Registration; (The Olsten Corporation, Common Stock, $.10 Par Value, 4⅞% Convertible Subordinated Debentures due 2003, Warrants to Purchases Class B Common Stock) File No. 1–8279

January 24, 1995.

The Olsten Corporation (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified securities (''Securities'') from listing and registration on the American Stock Exchange, Inc. (''Amex'').

The reasons alleged in the application for withdrawing these Securities from listing and registration include the following:

According to the Company, in addition to being listed on the Amex, the Securities are listed on the New York Stock Exchange, Inc. (''NYSE''). The Securities commenced trading on the NYSE at the opening of business on December 15, 1994 and concurrently therewith the Securities were suspended from trading on the Amex.

In making the decision to withdraw these Securities from listing on the Amex, the Company considered the direct and indirect costs and expenses attendant in maintaining the dual listing of the Securities on the NYSE and the Amex. The Company does not see any particular advantage in the dual trading of the Securities and believes that dual listing would fragment the market for the Securities.

Any interested person may, on or before February 14, 1995, submit by letter to the Secretary of the Securities

and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–2208 Filed 1–27–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–20858; File No. 812–9290]

Quest for Value Accumulation Trust, et al.

January 24, 1995.

AGENCY: Securities and Exchange Commission (the ''SEC'' or the ''Commission'').

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the ''1940 Act'').

APPLICANTS: The Quest for Value Accumulation Trust (the ''Trust''), Quest for Value Advisors (''Quest Advisors'') and certain life insurance companies and their separate accounts investing now or in the future in the Trust.

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) of the 1940 Act from the Provisions of Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder.

SUMMARY OF APPLICATION: Applicants seek an order to the extent necessary to permit shares of the Trust and shares of any other investment company that is designed to fund insurance products and for which Quest Advisors, or any of its affiliates, may serve an investment advisor, administrator, manager, principal underwriter or sponsor (collectively, with the Trust, the ''Funds'') to be sold to and held by: (a) Variable annuity and variable life insurance separate accounts of both affiliated and unaffiliated life insurance companies (the ''Participating Insurance Companies''); and (b) qualified pension and retirement plans outside of the separate account context (the ''Plans'').

FILING DATE: The application was filed on October 18, 1994, and amended on December 23, 1994. Applicants represent that the application will be further amended during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing on this application by writing to the Secretary of the SEC and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on February 21, 1995 and accompanied by proof of service on the Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the interest, the reason for the request and the issues contested. Persons may request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, Quest for Value Accumulation Trust, One World Financial Center, New York, New York 10281.

FOR FURTHER INFORMATION CONTACT: Barbara J. Whisler, Senior Attorney, or Wendy F. Friedlander, Deputy Chief, both at (202) 942–0670, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the Public Reference Branch of the SEC.

Applicants' Representations

1. The Trust, an open-end, management investment company organized as a Massachusetts business trust on May 12, 1994, commenced operations on September 15, 1994. Currently, the Trust consists of seven separate series of shares: the Equity Series; the Small Cap Series; the Managed Series; the Bond Series; the Global Equity Series; the U.S. Government Income Series and the Money Market Series. Applicants incorporate by reference into the application the registration statement (File No. 33–78944) on Form N–1A of the Trust.

2. Quest Advisors serves as the investment advisor for each of the Trust's series. Quest Advisors is a subsidiary of Oppenheimer Capital, a general partnership registered as an investment advisor under the Investment Advisers Act of 1940. A 33% interest in Oppenheimer Capital is held by Oppenheimer Financial Corp. while the remaining 67% interest is held by Oppenheimer Capital, L.P., a Delaware limited partnership whose units are traded on the New York Stock Exchange. Oppenheimer Capital, L.P. has as its sole general partner Oppenheimer Financial Corp.

3. The Trust currently offers its shares to and its shares are held by separate accounts, registered with the Commission under the 1940 Act as unit investment trusts, of life insurance company affiliates of the Mutual Life Insurance Company of New York, Provident Mutual Life Insurance Company and National Home Life Assurance Company. The Trust serves as the investment vehicle for variable annuity contracts issued by these insurance companies. Shares of the Trust are also held by a separate account of CIGNA, which is not registered as an investment company under the 1940 Act pursuant to Section 3(c)(1) of the 1940 Act.

4. Applicants state that, upon the granting of the order requested in this application, the Trust intends to offer shares of its existing and future portfolios to separate accounts, registered as investment companies under the 1940 Act, of the above-referenced insurance companies and of other unaffiliated insurance companies (collectively, the ''Accounts''), to serve as an investment vehicle for various types of insurance products. These products may include variable annuity contracts, single premium variable life insurance contracts, scheduled premium variable life insurance contracts and flexible premium variable life insurance contracts (collectively, the ''Contracts''). The Trust may also offer shares of its portfolios directly to the Plans outside of the separate account context.

5. In connection with any Contract issued by a Participating Insurance Company, the application states that each such company will have the legal obligation of satisfying all applicable requirements under both state and federal law. Applicants further state that the role of the Funds under this arrangement, insofar as the federal securities laws are applicable, will consist of offering shares to the Accounts and fulfilling any conditions that the Commission may impose upon granting the order requested in the application.

6. Applicants state that, due to the applicable tax law, the Funds wish to avail themselves of the opportunity to increase their asset base through the sale of shares of the Funds to the Plans. The Plans may choose any of the Funds as the sole investment option under the Plan or as one of several investment

options. Participants may be given an investment choice depending upon the Plan. Shares of any of the Funds sold to Plans will be held by the trustees of the Plans as mandated by Section 403(a) of the Employee Retirement Income Security Act (''ERISA''). Quest Advisors will not act as investment advisor to any of the Plans that will purchase shares of the Funds. Applicants note that, pursuant to ERISA, pass-through voting is not required to be provided to participants in the Plans.

Applicants' Legal Analysis

1. In connection with the funding of scheduled premium variable life insurance contracts issued through a separate account registered under the 1940 Act as a unit investment trust (''UIT''), Rule 6e–2(b)(15) provides partial exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act. The relief provided by Rule 6e–2 is available to a separate account's investment advisor, principal underwriter, and sponsor or depositor. The exemptions granted by Rule 6e–2(b)(15) are available only where the management investment company underlying the UIT offers its shares ''exclusively to variable life insurance separate accounts of the life insurer, or of any affiliated life insurance company.'' The use of a common management investment company as the underlying investment medium for both variable annuity and variable life insurance separate accounts of a single insurance company (or of two or more affiliated insurance companies) is referred to as ''mixed funding.'' The use of a common management investment company as the underlying investment medium for variable annuity and variable life insurance separate accounts of unaffiliated insurance companies is referred to as ''shared funding.'' ''Mixed and shared funding'' denotes the use of a common management investment company to fund the variable annuity and variable life insurance separate accounts of affiliated and unaffiliated insurance companies. The relief granted by Rule 6e–2(b)(15) is not available with respect to a scheduled premium variable life insurance separate account that owns shares of an underlying fund that offers its shares to a variable annuity separate account of the same company or of any other affiliated or unaffiliated life insurance company. Therefore, Rule 6e–2(b)(15) precludes mixed funding as well as shared funding.

2. Applicants state that because the relief under Rule 6e–2(b)(15) is available only where shares are offered exclusively to separate accounts of insurance companies, additional exemptive relief is necessary if shares of the Funds are also to be sold to Plans.

3. In connection with flexible premium variable life insurance contracts issued through a separate account registered under the 1940 Act as a UIT, Rule 6e–3(T)(b)(15) provides partial exemptions from Sections 9(a), 13(a), 15(a), and 15(b) of the 1940 Act. The exemptions granted to a separate account by Rule 6e–3(T)(b)(15) are available only where all of the assets of the separate account consist of the shares of one or more registered management investment companies which offer their shares ''exclusively to separate accounts of the life insurer, or of any affiliated life insurance company, offering either scheduled or flexible contracts, or both; or which also offer their shares to variable annuity separate accounts of the life insurer or of an affiliated life insurance company.'' Thus, Rule 6e–3(T) permits mixed funding, but does not permit shared funding.

4. Applicants state that because the relief under Rule 6e–3(T) is available only where shares are offered exclusively to separate accounts, additional exemptive relief is necessary if shares of the Funds are also to be sold to Plans.

5. Applicants state that changes in the tax law have created the opportunity for the Funds to increase their asset base through the sale of Fund shares to the Plans. Applicants state that Section 817(h) of the Internal Revenue Code of 1986, as amended (the ''Code''), imposes certain diversification standards on the underlying assets of the Contracts held in the Funds. The Code provides that such Contracts shall not be treated as an annuity contract or life insurance contract for any period in which the underlying assets are not, in accordance with regulations prescribed by the Treasury Department, adequately diversified. On March 2, 1989, the Treasury Department issued regulations which established diversification requirements for the investment portfolios underlying variable contracts. Treas. Reg. § 1.817–5 (1989). The regulations provide that, to meet the diversification requirements, all of the beneficial interests in the investment company must be held by the segregated asset accounts of one or more insurance companies. The regulations do, however, contain certain exceptions to this requirement, one of which allows shares in an investment company to be held by the trustee of a qualified pension or retirement plan without adversely affecting the ability of shares in the same investment company to also be held by the separate accounts of insurance companies in connection with their variable contracts. Treas. Reg. § 1.817–5(f)(3)(iii).

6. Applicants state that the promulgation of Rules 6e–2 and 6e–3(T) under the 1940 Act preceded the issuance of these Treasury regulations. Applicants assert that, given the then current tax law, the sale of shares of the same investment company to both separate accounts and Plans could not have been envisioned at the time of the adoption of Rules 6e–2(b)(15) and 6e–3(T)(b)(15)

7. Applicants therefore request relief from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act, and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder to the extent necessary to permit shares of the Funds to be offered and sold in connection with both mixed and shared funding.

8. Section 9(a) of the 1940 Act provides that it is unlawful for any company to serve as investment advisor to or principal underwriter for any registered open-end investment company if an affiliated person of that company is subject to a disqualification enumerated in Section 9(a) (1) or (2). Rules 6e–2(b) and 6e–3(T)(b)(15) provide exemptions from Section 9(a) under certain circumstances, subject to the limitations on mixed and shared funding. The relief provided by Rules 6e–2(b)(15)(i) and 6e–3(T)(b)(15)(i) permits a person disqualified under Section 9(a) to serve as an officer, director, or employee of the life insurer, or any of its affiliates, so long as that person does not participate directly in the management or administration of the underlying fund. The relief provided by Rules 6e–2(b)(15)(ii) and 6e–3(T)(b)(15)(ii) permits the life insurer to serve as the underlying fund's investment advisor or principal underwriter, provided that none of the insurer's personnel who are ineligible pursuant to Section 9(a) participate in the management or administration of the fund.

9. Applicants state that the partial relief from Section 9(a) found in Rules 6e–2(b)(15) and 6e–3(T)(b)(15), in effect, limits the amount of monitoring necessary to ensure compliance with Section 9 to that which is appropriate in light of the policy and purposes of the Section. Applicants state that those 1940 Act rules recognize that it is not necessary for the protection of investors or the purposes fairly intended by the policy and provisions of the 1940 Act to apply the provisions of Section 9(a) to the many individuals in a large insurance company complex, most of whom will have no involvement in matters pertaining to investment

companies within that organization. Applicants note that the Participating Insurance Companies are not expected to play any role in the management or administration of the Funds. Therefore, Applicants assert, applying the restrictions of Section 9(a) serves no regulatory purpose. The application states that the relief requested should not be affected by the proposed sale of shares of the Funds to the Plans because the Plans are not investment companies and are not, therefore, subject to Section 9(a).

10. Rules 6e–2(b)(15)(iii) and 6e–3(T)(b)(15)(iii) under the 1940 Act assume the existence of a pass-through voting requirement with respect to management investment company shares held by a separate account. The application states that the Participating Insurance Companies will provide pass-through voting privileges to all Contract owners so long as the Commission interprets the 1940 Act to require such privileges.

11. Rules 6e–2(b)(15)(iii) and 6e–3(T)(b)(15)(iii) under the 1940 Act provide exemptions from the pass-through voting requirement with respect to several significant matters, assuming observance of the limitations on mixed and shared funding imposed by the 1940 Act and the rules thereunder.

Rules 6e–2(b)(15)(iii)(A) and 6e–3(T)(b)(15)(iii)(A) provide that the insurance company may disregard voting instructions of its contract owners with respect to the investments of an underlying fund, or any contract between a fund and its investment advisor, when required to do so by an insurance regulatory authority.

Rules 6e–2(b)(15)(iii)(B) and 6e–3(T)(b)(15)(iii)(B) provide that the insurance company may disregard voting instructions of its contract owners if the contract owners initiate any change in the company's policies, principal underwriter, or any investment advisor, provided that disregarding such voting instructions is reasonable and subject to the other provisions of paragraphs (b)(15)(ii) and (b)(7)(ii) (B) and (C) of each rule.

12. Applicants further represent that the Funds' sale of shares to the Plans does not impact the relief requested in this regard. As noted previously by Applicants, shares of the Funds sold to Plans would be held by the trustees of such Plans as required by Section 403(a) of ERISA. Section 403(a) also provides that the trustee(s) must have exclusive authority and discretion to manage and control the Plan with two exceptions: (a) When the Plan expressly provides that the trustee(s) is (are) subject to the direction of a named fiduciary who is not a trustee, in which case the trustee(s) is (are) subject to proper directions made in accordance with the terms of the Plan and not contrary to ERISA; and (b) when the authority to manage, acquire or dispose of assets of the Plan is delegated to one or more investment managers pursuant to Section 402(c)(3) of ERISA. Unless one of the two exceptions stated in Section 403(a) applies, Plan trustees have the exclusive authority and responsibility for voting proxies. Where a named fiduciary appoints an investment manager, the investment manager has the responsibility to vote the shares held unless the right to vote such shares is reserved to the trustees or to the named fiduciary. In any event, there is no pass-through voting to the participants in such Plans. Accordingly, Applicants note that, unlike the case with insurance company separate accounts, the issue of the resolution of material irreconcilable conflicts with respect to voting is not present with Plans.

13. Applicants state that no increased conflicts of interest would be present by the granting of the requested relief. Applicants assert that shared funding does not present any issues that do not already exist where a single insurance company is licensed to do business in several, or all, states. Applicants note that where insurers are domiciled in different states, it is possible that the state insurance regulatory body in a state in which one insurance company is domiciled could require action that is inconsistent with the requirements of insurance regulators in one or more other states in which other insurance companies are domiciled. Applicants submit that this possibility is no different and no greater than exists where a single insurer and its affiliates offer their insurance products in several states.

14. Applicants further submit that affiliation does not reduce the potential, if any exists, for differences among state regulatory requirements. In any event, the conditions (adapted from the conditions included in Rule 6e–3(T)(b)(15)) discussed below are designed to safeguard against any adverse effect that these differences may produce. If a particular state insurance regulator's decision conflicts with the majority of other state regulators, the affected insurer may be required to withdraw its separate account's investment in the relevant Fund.

15. Applicants also argue that affiliation does not eliminate the potential, if any exists, for divergent judgments as to the advisability or legality of a change in investment policies, principal underwriter, or investment advisor initiated by owners of the Contracts. Potential disagreement is limited by the requirement that the Participating Insurance Company's disregard of voting instructions be both reasonable and based on specified good faith determinations. However, if a Participating Insurance Company's decision to disregard Contract owner instructions represents a minority position or would preclude a majority vote approving a particular change, such Participating Insurance Company may be required, at the election of the relevant Fund, to withdraw its investment in that Fund. No change or penalty will be imposed as a result of such withdrawal.

16. Applicants state that there is no reason why the investment policies of a Fund with mixed funding would or should be materially different from what those policies would or should be if such investment company or series thereof under only variable annuity or variable life insurance contracts. Applicants therefore argue that there is no reason to believe that conflicts of interest would result from mixed funding. Moreover, Applicants represent that the Fund will not be managed to favor or disfavor any particular insurance company or type of Contract.

17. Section 817(h) imposes certain diversification standards on the underlying assets of variable annuity contracts and variable life insurance contracts held in the portfolios of management investment companies. Treasury Regulation 1.817–5(f)(3)(iii), which established diversification requirements for such portfolios, specifically permits ''qualified pension or retirement plans'' and separate accounts to share the same underlying management investment company. Therefore, Applicants have concluded that neither the Code, nor the Treasury regulations nor the revenue rulings thereunder present any inherent conflicts of interest if Plans, variable annuity separate accounts and variable life insurance separate accounts all invest in the same management investment company.

18. Applicants note that while there are differences in the manner in which distributions are taxed for variable annuity contracts, variable life insurance contracts and Plans, Applicants state that these tax consequences do not raise any conflicts of interest. When distributions are to be made, and the separate account or the Plan is unable to net purchase payments to make the distributions, the separate account or the Plan will redeem shares of the Funds at their respective net asset

value. The Plan will then make distributions in accordance with the terms of the Plan. A Participating Insurance Company will surrender values from the separate account into the general account make distributions in accordance with the terms of the variable contract.

19. With respect to voting rights, Applicants state that it is possible to provide an equitable means of giving such voting rights to Contract owners and to Plans. Applicants represent that the Funds will inform each shareholder, including each Account and Plan, of its respective share of ownership in the respective Funds. Each Participating Insurance Company will then solicit voting instructions in accordance with the ''pass-through'' voting requirement.

20. Applicants argue that the ability of the Funds to sell their respective shares directly to Plans does not create a ''senior security'', as such term is defined under Section 18(g) of the 1940 Act, with respect to any Contract owner as opposed to a participant under a Plan. Regardless of the rights and benefits of participants and Contract owners under the respective Plans and Contracts, the Plans and the Accounts have rights only with respect to their shares of the Funds. Such shares may be redeemed only to net asset value. No shareholder of any of the Funds has any preference over any other shareholder with respect to distribution of assets or payment of dividends.

21. Finally, Applicants state that there are no conflicts between Contract owners and participants under the Plans with respect to the state insurance commissioners' veto powers (direct with respect to variable life insurance and indirect with respect to variable annuities) over investment objectives. The basic premise of corporate democracy and shareholder voting is that not all shareholders may agree with a particular proposal. The state insurance commissioners have been given the veto power in recognition of the fact that insurance companies usually are unable to simply redeem their separate accounts out of one fund and invest those monies in another fund. Generally, to accomplish such redemptions and transfers, complex and time consuming transactions must be undertaken. Conversely, trustees of Plans or the participants in participant-directed Plans can make the decision quickly and implement redemption of shares from a Fund and reinvest the monies in another funding vehicle without the same regulatory impediments or, as is the case with most Plans, even hold cash pending suitable investment. Based on the foregoing, Applicants represent that even should there arise issues where the interests of Contract owners and the interests of Plans conflict, the issues can be almost immediately resolved in that trustees of the Plans can, independently, redeem shares out of the Funds.

22. Applicants stat that they do not see any greater potential for material irreconcilable conflicts arising between the interests of participants under the Plans and owners of the Contracts issued by the Accounts from possible future changes in the federal tax laws than that which already exists between variable annuity contract owners and variable life insurance contract owners.

23. Applicants state that various factors have kept certain insurance companies from offering variable annuity and variable life insurance contracts. According to Applicants, these factors include: the cost of organizing and operating an investment funding medium; the lack of expertise with respect to invest management (particularly with respect to stock and money market investments); and the lack of name recognition by the public of certain insurers as investment professionals. Applicants argue that use of the Funds as common investment media for the Contracts would ease these concerns. Participating Insurance Companies would benefit not only from the investment and administrative expertise of the Funds' investment advisor, but also from the cost efficiencies and investment flexibility afforded by a large pool of funds. Applicants state that making the Funds available for mixed and shared funding may encourage more insurance companies to offer variable contracts such as the Contracts which may then increase competition with respect to both the design and the pricing of variable contracts. Applicants submit that this can be expected to result in greater product variation and lower charges. Thus, Applicants argue that Contract owners would benefit because mixed and shared funding will eliminate a significant portion of the costs of establishing and administering separate funds. Moreover, Applicants assert that sales of shares of the Funds to Plans should increase the amount of assets available for investment by the Funds. This should, in turn, promote economies of scale, permit increased safety of investments through greater diversification, and make the addition of new portfolios more feasible.

24. Applicants believe that there is no significant legal impediment to permitting mixed and shared funding. Additionally, Applicants note the previous issuance of orders permitting mixed and shared funding where shares of a fund were sold directly to qualified plans such as the Plans.

Applicants' Conditions

Applicants have consented to the following conditions if the order requested in the application is granted:

1. A majority of the Board of Trustees or Board of Directors of each Fund (each, a ''Board'') shall consist of persons who are not ''interested persons'' of the Funds, as defined by Section 2(a)(19) of the 1940 Act and the rules thereunder and as modified by any applicable orders of the Commission, except that, if this condition is not met by reason of the death, disqualification, or bona fide resignation of any trustee or director, then the operator of this condition shall be suspended: (a) For a period of 45 days if the vacancy or vacancies may be filled by the Board; (b) for a period of 60 days if a vote of shareholders is required to fill the vacancy or vacancies; or (c) for such longer period as the Commission may prescribe by order upon application.

2. Each Board will monitor its respective Fund for the existence of any material irreconcilable conflict among the interests of the Contract owners of all of the Accounts investing in the respective Funds. A material irreconcilable conflict may arise for a variety of reasons, including: (a) An action by any state insurance regulatory authority; (b) a change in applicable federal or state insurance, tax, or securities laws or regulations, or a public ruling, private letter ruling, no-action or interpretative letter, or any similar action by insurance, tax, or securities regulatory authorities, (c) an administrative or judicial decision in any relevant proceeding; (d) the manner in which the investments of the Funds are managed; (e) a difference in voting instructions given by owners of variable annuity contracts and owners of variable life insurance contracts; or (f) a decision by a Participating Insurance Company to disregard the voting instructions of Contract owners.

3. The Participating Insurance Companies, Quest Advisors (or any other investment advisor of the Funds), and any Plan that executes a fund participation agreement upon becoming an owner of 10% or more of the assets of a Fund (the ''Participants'') will report any potential or existing conflicts to the Board. Participants will be responsible for assisting the appropriate Board in carrying out its responsibilities under these conditions by providing the Board with all information reasonably necessary for the Board to consider any issues raised. This responsibility

includes, but is not limited to, an obligation by each Participant to inform the Board whenever voting instructions of Contract owners are disregarded. The responsibility to report such information and conflicts and to assist the Board will be a contractual obligation of all Participants investing in the Funds under their agreements governing participation in the Funds and such agreements shall provide that these responsibilities will be carried out with a view only to the interests of Contract owners.

4. If it is determined by a majority of the Board, or by a majority of its disinterested trustees or directors, that an irreconcilable material conflict exists, the relevant Participant shall, at its expense and to the extent reasonably practicable (as determined by a majority of the disinterested trustees or directors), take any steps necessary to remedy or eliminate the irreconcilable material conflict, including:

(a) Withdrawing the assets allocable to some or all of the Accounts from the Funds and reinvesting such assets in a different investment medium including another portfolio of the relevant Fund or another Fund, or submitting the question as to whether such segregation should be implemented to a vote of all affected contract owners; and, as appropriate, segregating the assets of any appropriate group (i.e., variable annuity contract owners, variable life insurance contract owners, or variable contract owners of one or more Participant) that votes in favor of such segregation, or offering to the affected variable contract owners the option of making such a change; and (b) establishing a new registered management investment company or managed separate account. If a material irreconcilable conflict arises because of a Participant's decision to disregard voting instruction of the owners of the Contracts, and that decision represents a minority position or would preclude a majority vote, the Participant may be required, at the election of the relevant Fund, to withdraw its Account's investment in the Fund, and no charge or penalty will be imposed as a result of such withdrawal.

The responsibility to take remedial action in the event of a Board determination of a material irreconcilable conflict and to bear the cost of such remedial action shall be a contractual obligation of all Participants under the agreements governing their participation in the Funds. The responsibility to take such remedial action shall be carried out with a view only to the interests of Contract owners. For purposes of this Condition Four, a majority of the disinterested members of the applicable Board shall determine whether any proposed action adequately remedies any material irreconcilable conflict, but, in no event will the relevant Fund or Quest Advisors (or any other investment advisor of the Funds) be required to establish a new funding medium for any Contract. Further, no Participant shall be required by this Condition Four to establish a new funding medium for any Contract if any offer to do so has been declined by a vote of a majority of the Contract owners materially affected by the material irreconcilable conflict.

5. The Board's determination of the existence of an irreconcilable material conflict and its implications shall be made known promptly and in writing to all Participants.

6. Participants will provide pass-through voting privileges to all Contract owners so long as the Commission continues to interpret the 1940 Act as requiring pass-through voting privileges for Contract owners. Accordingly, the Participants, where applicable, will vote shares of the Fund held in their Accounts in a manner consistent with voting instructions timely received from Contract owners. Participants will be responsible for assuring that each of their Accounts that participates in the Funds calculates voting privileges in a manner consistent with other Participants. The obligation to calculate voting privileges in a manner consistent with all other Accounts will be a contractual obligation of all Participants under the agreements governing their participation in the Funds. Each Participant will vote shares for which it has not received timely voting instructions as well as shares it owns in the same proportion as it votes those shares for which it has received voting instructions.

7. All reports received by the Board or potential or existing conflicts, and all Board action with regard to: (a) Determining the existence of a conflict; (b) notifying Participants of a conflict; and (c) determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the appropriate Board of other appropriate records. Such minutes or other records shall be made available to the Commission upon request.

8. Each Fund will notify all Participants that separate account prospectus disclosure regarding potential risks of mixed and shared funding may be appropriate. Each Fund shall disclose in its prospectus that: (a) Shares of the Fund may be offered to insurance company separate accounts of both annuity and life insurance variable contracts, and to qualified plans; (b) due to differences of tax treatment and other considerations, the interests of various contract owners participating in the Funds and the interests of Plans investing in the Funds may conflict; and (c) the Board will monitor the Funds for any materials conflicts and determine what action, if any, should be taken.

9. Each Fund will comply with all provisions of the 1940 Act requiring voting by shareholders (which, for these purposes, shall be the persons having a voting interest in the shares of the Funds), and, in particular, each Fund will either provide for annual meetings (except to the extent that the Commission may interpret Section 16 of the 1940 Act not to require such meetings) or comply with Section 16(c) of the 1940 Act, (although the Funds are not one of the trusts described in Section 16(c) of the 1940 Act) as well as with Section 16(a), and, if applicable, Section 16(b) of the 1940 Act. Further, each Fund will act in accordance with the Commission's interpretation of the requirements of Section 16(a) with respect to periodic elections of directors (or trustees) and with whatever rules the Commission may promulgate with respect thereto.

10. If and to the extent that Rules 6e–2 and 6e–3(T) are amended (or if Rule 6e–3 under the 1940 Act is adopted) to provide exemptive relief from any provision of the 1940 Act or the rules thereunder with respect to mixed and shared funding on terms and conditions materially different from any exemptions granted in the order requested by Applicants, then the Funds and/or the Participants, as appropriate, shall take such steps as may be necessary to comply with Rules 6e–2 and 6e–3(T), as amended, and Rule 6e–3, as adopted, to the extent such rules are applicable.

11. No less than annually, the Participants shall submit to the Boards such reports, materials, or data as the Boards may reasonably request so that the Boards may carry out fully the obligations imposed upon them by the conditions contained in the application. Such reports, materials, and data shall be submitted more frequently if deemed appropriate by the Boards. The obligations of the Participants to provide these reports, materials, and data to the Boards, when the appropriate Board so reasonably requests, shall be a contractual obligation of all Participants under the agreements governing their participation in the Funds.

12. If a Plan becomes an owner of 10% or more of the assets of a Fund, such Plan will execute a fund

participation agreement with the applicable Fund. A Plan will execute an application containing an acknowledgment of this condition upon such Plan's initial purchase of the shares of any Fund.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–2209 Filed 1–27–95; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 20853; 811–8474]

Third Avenue Value Fund II, Inc.; Notice of Application

January 24, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Third Avenue Value Fund II, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring it has ceased to be an investment company.

FILING DATE: The application was filed on January 6, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 21, 1995, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 767 Third Avenue, New York, New York 10017–2023.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, at (202) 942–0584, or Barry D. Miller, Senior Special Counsel, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end, non-diversified investment company, organized as a corporation under the laws of Maryland. On April 12, 1994, Applicant registered under the Act and filed a registration statement under the Securities Act of 1933. Applicant's registration statement became effective on May 2, 1994.

2. On May 9, 1994, Applicant decided not to proceed with the offering of its Common Stock. There has been no initial public offering of Applicant's Common Stock.

3. Applicant has no shareholders, liabilities or assets. Applicant is not a party to any litigation or administrative proceeding.

4. Applicant is not now engaged, nor does it propose to engage in any business activities other than those necessary to wind up its affairs. After the Commission issues an order declaring that Applicant has ceased to be an investment company, Applicant intends to file articles of dissolution with the Maryland Department of Assessments and Taxation in Baltimore, Maryland.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–2210 Filed 1–27–95; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice 2152]

State Department Overseas Security Advisory Council; Closed Meeting

The Department of State announces a meeting of the U.S. State Department—Overseas Security Advisory Council on Tuesday and Wednesday, February 14–15, 1995, at the Westin Hotel in Dallas, Texas. Pursuant to Section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b(c) (1) and (4), it has been determined the meeting will be closed to the public. Matters relative to classified national security information as well as privileged commercial information will be discussed. The agenda calls for the discussion of classified and corporate proprietary/security information as well as private sector physical and procedural security policies and protective programs at sensitive U.S. Government and private sector locations overseas.

For more information contact Patricia Richards, Overseas Security Advisory Council, Department of State, Washington, D.C. 20522–1003, phone: 202–663–0533.

Dated: January 19, 1995.

Mark Mulvey,

Director of the Diplomatic Security Service.

[FR Doc. 95–1730 Filed 1–27–95; 8:45 am]

BILLING CODE 4710–24–M

[Public Notice 2153]

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea Working Group on Fire Protection; Meeting

The U.S. Safety of Life at Sea (SOLAS) Working Group on Fire Protection will conduct an open meeting on March 22, 1995, at 9:30 a.m. in Room 2415 at U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593. The purpose of the meeting will be to prepare for discussion anticipated to take place at the Fortieth Session of the International Maritime Organization's Subcommittee on Fire Protection, scheduled for July 17, 1995.

The meeting will focus on proposed amendments to SOLAS for the fire safety of commercial vessels. Specific discussion areas include: Smoke and toxicity, closing mechanisms of fire doors, heat radiation through windows and glass partitions, sprinkler systems and fixed water spraying systems, emergency escape breathing devices, high speed craft, criteria for maximum fire loads, fire safety measures for deep fat cooking equipment, foam concentrates, phasing out of halons, interpretations to SOLAS 74, role of the human element in maritime casualties, safety of passenger submersible craft, smoke control and ventilation, fire safety aspects of composite materials used on board ships, and matters relating to tanker safety.

Additionally, the need for research and development in the area of fire protection will be discussed in an effort to promote new technology that will positively impact both safety and market competitiveness. Comments will be directly solicited on what research areas are viewed by industry as most critical to their safety and business goals and how best to accomplish the necessary work. A partnership initiative between the Coast Guard, industry, and other third party organizations will be proposed.

Interested members of the public are encouraged to attend. For further information regarding the meeting of the SOLAS Working Group on Fire

Protection contact Mr. Jack Booth at (202) 267–2997.

Dated: January 13, 1995.

Marie Murray,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 95–2128 Filed 1–27–95; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Availability of Solicitation for Explosive Detection System (EDS) Demonstration Project Cooperative Agreement

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability of solicitation.

SUMMARY: The FAA is authorized under section 107 of the Aviation Security Improvement Act of 1990 (Pub. L. 101–604) to award grants and to enter into cooperative agreements to fund research to improve aviation security. A cooperative agreement is used instead of a research grant when substantial involvement by the FAA in the research activity is anticipated. The FAA is soliciting proposals from eligible applicants to enter into one or more cooperative agreements for an Explosive Detection System (EDS) Demonstration Project to be temporarily installed at a qualified airport.

DATES: Requests for the solicitation must be received before February 14, 1995. The solicitation will open February 14, 1995 and will close March 16, 1995. All applications responsive to the solicitation must be received on or before March 16, 1995.

ADDRESSES: Inquiries regarding this matter should be detected to: EDS Proposals, Federal Aviation Administration Technical Center, Office of Research and Technology Applications, Grants Officer, ACL–1, Building 270, Room B115, Atlantic City International Airport, NJ 08405.

FOR FURTHER INFORMATION CONTACT: Questions of a technical nature may be addressed to Mr. Tom Guarini at (609) 485–7098. Questions related to grants and cooperative agreements may be addressed to Ms. Kathleen Fazen at (609) 485–4431.

SUPPLEMENTARY INFORMATION:

I. Background

Section 107 of Pub. L. 101–604, The Aviation Security Improvement Act of 1990, provides for grants to colleges, universities, and other appropriate research institutions and facilities with demonstrated ability to conduct research in technologies and procedures to counteract terrorist acts against civil aviation (49 U.S.C. 44912). The purpose of the EDS Demonstration Project is to evaluate the feasibility, effectiveness, and suitability of an advanced, FAA certified EDS being considered for full deployment to protect civil aviation from terrorist and other criminal action. This effort will involve using an FAA certified EDS as the key element in a Baggage Inspection System (BIS). The grantee shall design and install the BIS within 12 months of award, deploy it for up to 12 months at a Category X Airport to inspect all checked baggage traveling to extraordinary security locations, and collect data. The BIS includes all materials, equipment, facilities, baggage control system interfaces, procedures, training, personnel, special coordinating agreements, logistics support, threat containment and disposal provisions, security, safety and technical data necessary to install, operate, and remove the system. The BIS shall provide a capability to load, automatically inspect, and unload baggage. It also shall include a capability to track all bags and resolve alarms.

Additional requirements are identified in the solicitation: FAA Cooperative Agreement for Explosives Detection System (EDS) Demonstration Project Solicitation 95.2.

II. Eligibility

The applicant must be a US Flagged Air Carrier handling approximately 10 to 15 daily flights from its proposed site at a Category X Airport to extraordinary security locations.

Specific selection criteria is set out in the solicitation.

Clyde A. Miller,

Manager, ATM Automation Division, ARD–100.

[FR Doc. 95–2243 Filed 1–27–95; 8:45 am]

BILLING CODE 4910–13–M

RTCA, Inc., Special Committee 193, Fifth Meeting; Standards for Airport Security Access Control Systems

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix I), notice is hereby given for Special Committee 183 meeting to be held February 22–23, 1995. The meeting will be held at the RTCA conference room, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036.

Time:

First Day 1330–1630, Plenary

Second Day 0900–1200, Plenary

Note: Working Groups will meet on second day 1200–1630* (as required).

Agenda will be as follows: (1) Administrative remarks; (2) General introductions; (3) Approval of agenda; (4) Approval of the minutes of the fourth meeting held January 18–19, 1995; (5) SC–183 Meeting schedule March–September, 1995; (6) Revised product structure outline—MASPS Format; (7) Working group progress reports; (8) Other business; (9) Date and place of next meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833–9339. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on January 23, 1995.

David W. Ford,

Designated Officer.

[FR Doc. 95–2238 Filed 1–27–95; 8:45 am]

BILLING CODE 4910–13–M

Flight Service Station at Spokane, WA; Closing

Notice is hereby given that on or about March 1, 1995, the flight service station at Spokane, Washington, will be closed. Services to the aviation public formerly provided by this facility will be provided by the automated flight service station in Seattle, Washington. This information will be reflected in the FAA Organization Statement the next time it is issued. Sec. 313(a) of Federal Aviation Act of 1958, as amended, 72 Stat. 752; 49 U.S.C. App. 1354(a).

Issued in Seattle, Washington, on January 26, 1995.

Frederick M. Isaac,

Regional Administrator, Northwest Mountain Region.

[FR Doc. 95–2236 Filed 1–27–95; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent to Rule on Application to Use a Passenger Facility Charge (PFC) at Lewiston-Nez Perce County Airport, Submitted by the City of Lewiston and Nez Perce County, Lewiston, Id

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use PFC revenue at Lewiston-Nez Perce County Airport under the provisions of the 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before March 1, 1995.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: J. Wade Bryant, Manager; Seattle Airports District Office, SEA–ADO; Federal Aviation Administration; 1601 Lind Avenue SW, Suite 250; Renton, WA 98055–4056.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Robin L. Turner, Airport Manager, at the following address: Lewiston-Nez Perce County Airport, 1134 F Street, Lewiston, Idaho 83501.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to Lewiston-Nez Perce County Airport, under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra Simmons, (206) 227–2656; Seattle Airports District Office, SEA–ADO; Federal Aviation Administration; 1601 Lind Avenue, Suite 250; Renton, Washington 98055–4056. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use PFC revenue at Lewiston-Nez Perce County Airport, under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158). The City of Lewiston and County of Nez Perce has also requested that their previous application be amended. This amendment request will be addressed under Federal Aviation Regulation part 158.37(b)(1). On February 3, 1994, the FAA issued a Record of Decision approving the applicant's application for an Impose Only PFC in the amount of $229,610, with an effective date of May 1, 1994. Collection of the PFC charge commenced July 1, 1994. The increased amount identified in the current application reflects action, by the City of Lewiston and County of Nez Perce, to identify a more accurate estimate of costs and necessary scope. This was accomplished through the development of a feasibility study.

On January 24, 1995, the FAA determined that the application to use revenue from a PFC submitted by the Lewiston-Nez Perce County Airport was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than May 12, 1995.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: July 1, 1994.

Proposed charge expiration date: July 1, 2003.

Total estimated PFC revenues: $835,458.00.

Brief description of proposed project: Terminal building expansion and remodel.

Class or classes of air carriers which the public agency has requested not be required to collect PFC's: Charter carriers or air taxis which comprise less than 1% of total enplanements. More specifically, those operations by Air Taxi/Commercial Operators when enplaning revenue passengers in limited, irregular, special service air taxi/commercial operations such as air ambulance services, non-stop sightseeing flights that begin and end at the airport and are concluded with a 25 mile radius of the airport, and other limited, irregular, special service operations by such air taxi/commercial operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue S.W., Suite 540, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Lewiston-Nez Perce County Airport.

Issued in Renton, Washington on January 24, 1995.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 95–2246 Filed 1–27–95; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Senior Executive Service; Departmental Performance Review Board

AGENCY: Treasury Department.

ACTION: Notice of members of the departmental Performance Review Board (PRB).

SUMMARY: Pursuant to 5 U.S.C. 4314(c)(4), this notice announces the appointment of members of the Departmental PRB. The purpose of this PRB is to review and make recommendations concerning proposed performance appraisals, ratings, bonuses and other appropriate personnel actions for incumbents of SES positions for which the Secretary or Deputy Secretary is the appointing authority. These positions include SES bureau heads, deputy bureau heads and certain other positions. The Board will perform PRB functions for other key bureau positions if requested.

COMPOSITION OF DEPARTMENTAL PRB: The Board shall consist of at least three members. In the case of an appraisal of a career appointee, more than half the members shall consist of career appointees. The names and titles of the PRB members are as follows:

George Muñoz, Assistant Secretary (Management)—Chairperson
William E. Barreda, Deputy Assistant Secretary (Trade and Investment Policy)
Carlton L. Brainard, Assistant Commissioner (Management), U.S. Customs Service
Robert P. Cesca, Deputy Inspector General
Peter H. Daly, Director, Bureau of Engraving and Printing
Michael P. Dolan, Deputy Commissioner, Internal Revenue Service
Dennis I. Foreman, Deputy General Counsel
William H. Gillers, Director, Office of Assets Forfeiture Financial Management
W. Scott Gould, Deputy Assistant Secretary, Departmental Finance and Management
Richard L. Gregg, Commissioner, Bureau of Public Debt
Michael H. Lane, Deputy Commissioner, U.S. Customs Service
David C. Lee, Assistant Director (Protective Research), U.S. Secret Service
John W. Magaw, Director, Bureau of Alcohol, Tobacco and Firearms
Russell D. Morris, Commissioner, Financial Management Service
Gerald Murphy, Fiscal Assistant Secretary
Marcus W. Page, Deputy Fiscal Assistant Secretary
Alex Rodriguez, Deputy Assistant Secretary, Administration
Kenneth R. Schmalzbach, Assistant General Counsel (General Law and Ethics)

Charles Schotta, Deputy Assistant Secretary (Middle East and Energy Policy)

John P. Simpson, Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement)

Edwin A. Verburg, Deputy Chief Financial Officer

George J. Weise, Commissioner, U.S. Customs Service

DATES: Membership is effective January 30, 1995.

FOR FURTHER INFORMATION CONTACT: Robert J. Breivis, Department of the Treasury, Acting Director, Office of Personnel Policy, Annex Building, Room 4150, Pennsylvania Avenue at Madison Place, NW., Washington, DC 20220, Telephone: (202) 622–1890 or 622–1091 TDD.

This notice does not meet the Department's criteria for significant regulations.

W. Scott Gould,

Deputy Assistant for Financial Management.

[FR Doc. 95–2225 Filed 1–27–95; 8:45 am]

BILLING CODE 4810–25–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, ''Treasures of the Sultans: ''Treasures of the Sultan: Masterpieces from the Topkapi Palace Museum, Istanbul, Turkey'' (See list [1]), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at The Museum of Fine Arts, Houston from on or about April 19, 1995 through June 11, 1995 is in the national interest. Public Notice of this determination is ordered to be published in the **Federal Register.**

Dated: January 25, 1995.

Les Jin,

General Counsel.

[FR Doc. 95–2227 Filed 1–27–95; 8:45 am]

BILLING CODE 8230–01–M

[1] A copy of this list may be obtained by contacting Mrs. Carol B. Epstein, Assistant General Counsel, at 619–6981, and the address is Room 700, U.S. Information Agency, 301 Fourth Street, SW., Washington, DC. 20547.

Sunshine Act Meetings

Federal Register

Vol. 60, No. 19

Monday, January 30, 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).

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: February 14, 1995, 2:00 P.M. (Eastern Time).

PLACE: Conference Room on the Ninth Floor of the EEOC Office Building, 1801 ''L'' Street, N.W., Washington, D.C. 20507.

STATUS: Part of the Meeting will be open to the public and part of the Meeting will be closed.

MATTERS TO BE CONSIDERED:

OPEN SESSION:

1. Announcement of Notation Votes.
2. Report on Commission Operations—Office of Federal Operations.
3. Report on Information Resource Management Initiative—Information Resource Management Services—Office of Management.

CLOSED SESSION:

Litigation Authorization: General Counsel/Legal Counsel Recommendations.

Note: Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions.) Please telephone (202) 663–7100 (voice) and (202) 663–4077 (TTD) at any time for information on these meetings.

CONTACT PERSON FOR MORE INFORMATION: Frances M. Hart, Executive Officer on (202) 663–4070.

Dated: January 26, 1995.

Frances M. Hart

Executive Officer, Executive Secretariat.

[FR Doc. 95–2368 Filed 1–26–95; 2:46 pm]

BILLING CODE 6750–06–M

FEDERAL ENERGY REGULATORY COMMISSION

''FEDERAL REGISTER'' CITATION OF PREVIOUS ANNOUNCEMENT: January 23, 1995, 60 FR 4475.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: January 25, 1995, 10:00 a.m.

CHANGE IN THE MEETING: The following Docket Number has been added on the Agenda scheduled for January 25, 1995:

Item No., Docket No. and Company

CAG–46—RP95–94–002, NorAm Gas Transmission Company

Lois D. Cashell,

Secretary.

[FR Doc. 95–2390 Filed 1–26–95; 3:54 pm]

BILLING CODE 6717–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Thursday, February 2, 1995.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda:

Because of their routine nature, no discussion of the following items is anticipated. These matters will be voted on without discussion unless a member of the Board requests that the items be moved to the discussion agenda.

1. Proposed amendment to the Board's risk-based capital guidelines to implement section 350 of the Riegle Community Development and Regulatory Improvement Act of 1994 regarding low-level recourse transactions. (Proposed earlier for public comment; Docket No. R–0835)
2. (a) Proposed rulemaking to implement section 132 of the Federal Deposit Insurance Act of 1991 regarding safety and soundness standards (proposed earlier for public comment; Docket No. R–0766); and (b) publication for comment of proposed asset quality and earnings standards to implement section 318(a) of the Riegle Community Development and Regulatory Improvement Act of 1994.
3. Any items carried forward from a previously announced meeting.

Discussion Agenda:

Please note that no discussion items are scheduled for this meeting.

Note: If the items are moved from the Summary Agenda to the Discussion Agenda, discussion of the items will be recorded. Cassettes will then be available for listening in the Board's Freedom of Information Office, and copies can be ordered for $5 per cassette by calling (202) 452–3684 or by writing to:

Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: January 26, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–2293 Filed 1–26–95; 11:09 am]

BILLING CODE 6210–01–P

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 10:30 a.m., Thursday, February 2, 1995, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: January 26, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–2294 Filed 1–26–95; 11:09 am]

BILLING CODE 6210–01–P

U.S. RAILROAD RETIREMENT BOARD

Notice of Public Meeting

Notice is hereby given that the Railroad Retirement Board will hold a meeting on January 27, 1995, 10:00 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois, 60611. The agenda for this meeting follows:

(1) Posting and Filling of Vacant Positions.
(2) Termination of Survivor Benefits.
(3) Field Office Vacancies.
(4) Fiscal Year 1995 Budget Allocations.
(5) Railroad Retirement Board Handbook (Blue Book).
(6) Labor Counsel.
(7) Management Representation to the RRB Partnership Council.

(8) Legislative Package for the Fiscal Year 1996 Budget Submission.

(9) OMB Memorandum M–95–02 (Formation of Expert Team to Improve Coordination of Individual Benefits Systems and Programs).

The entire meeting will be open to the public. The person to contact for more information is Beatrice Ezerski, Secretary to the Board, Phone No. 312–751–4920.

Dated: January 24, 1995.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 95–2272 Filed 1–26–95; 9:17 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of January 30, 1995.

A closed meeting will be held on Thursday, February 2, 1995, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Roberts, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Thursday, February 2, 1995, at 10:00 a.m., will be:

Institution of injunctive actions.

Institution of administrative proceedings of an enforcement nature.

Settlement of injunctive actions.

Settlement of administrative proceedings of an enforcement nature.

Opinion.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary (202) 942–7070.

Dated: January 26, 1995.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–2389 Filed 1–26–95; 3:54 pm]

BILLING CODE 8010–01–M

Corrections

Federal Register

Vol. 60, No. 19

Monday, January 30, 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 AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 317 and 381

[Docket No. 94-029F]

Nutrition Labeling of Meat and Poultry Products; Codification

Correction

In rule document 94–32105 beginning on page 174 in the issue of Tuesday, January 3, 1995 make the following correction:

§381.461 [Corrected]

On page 213, in §381.461, in the third column the following paragraphs were omitted and should appear before paragraph (5).

(3) The terms defined in paragraph (b)(2) of this section may be used on the label or in labeling of a meal-type product as defined in §381.413(l), provided that:

(i) The product contains 35 mg or less of sodium per 100 g of product; and

(ii) If the product meets this condition without the benefit of special processing, alteration, formulation, or reformulation to lower the sodium content, it is labeled to clearly refer to all products of its type and not merely to the particular brand to which the label attaches.

(4) The terms ''low sodium,'' ''low in sodium,'' ''little sodium,'' ''contains a small amount of sodium,'' or ''low source of sodium'' may be used on the label and in labeling of products, except meal-type products as defined in §381.413(l), provided that:

(i)(A) The product has a reference amount customarily consumed greater than 30 g or greater than 2 tbsp and contains 140 mg or less sodium per reference amount customarily consumed; or

(B) The product has a reference amount customarily consumed of 30 g or less or 2 tbsp or less and contains 140 mg or less sodium per reference amount customarily consumed and per 50 g (for dehydrated products that must be reconstituted before typical consumption with water or a diluent containing an insignificant amount, as defined in §381.409(f)(1), of all nutrients per reference amount customarily consumed, the per-50-g criterion refers to the ''as prepared'' form); and

(ii) If the product meets these conditions without the benefit of special processing, alteration, formulation, or reformulation to lower the sodium content, it is labeled to clearly refer to all products of its type and not merely to the particular brand to which the label attaches.

BILLING CODE 1505–01–D

DEPARTMENT OF COMMERCE

National Oceanic and Atmoshperic Adminstration

50 CFR Parts 611, 675, and 676

[Docket No. 941241-4341; I.D. 112394B]

Foreign Fishing; Groundfish Fishery of the Bering Sea and Aleutian Islands; Limited Access Management of Federal Fisheries In and Off of Alaska

Correction

In rule document 94–30726 beginning on page 64346 in the issue of Wednesday, December 14, 1994 make the following correction:

On page 64348, Table 2 was published incorrectly and should appear as set forth below:

TABLE 2.—PROPOSED SEASONAL ALLOWANCES OF THE INSHORE AND OFFSHORE COMPONENT ALLOCATIONS OF POLLOCK TACS.[1, 2]

Subarea	TAC	ITAC[3]	Roe season[4]		Non-roe season[5]	
			45%	40%	55%	60%
Bering Sea:						
Inshore		395,675	178,054	158,270	217,621	237,405
Offshore		734,825	330,671	293,930	404,154	440,895
Total	1,330,000	1,130,500	508,725	452,200	621,775	678,300
Aleutian Islands:						
Inshore		16,838	16,838		remainder.	
Offshore		31,272	31,272		remainder.	
Total	56,600	48,110	48,110		remainder.	
Bogoslof:						
Inshore		298	298		remainder.	
Offshore		552	552		remainder.	
Total	1,000	850	850		remainder.	

[1] TAC = total allowable catch.
[2] Based on an offshore component allocation of 0.65 (TAC) and an inshore component allocation of 0.35 (TAC).
[3] ITAC = initial TAC = 0.85 of TAC.
[4] January 1 through April 15—based on a 45/55 or 40/60 split (roe = 45 percent or 40 percent).
[5] August 15 through December 31—based on a 45/55 or 40/60 split (non-roe = 55 percent or 60 percent).

BILLING CODE 1505–01–D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611, 675 and 676

[Docket No. 941242-4342; I.D. 111494A]

Foreign Fishing; Groundfish Fishery of the Bering Sea and Aleutian Islands; Limited Access Management of Federal Fisheries In and Off of Alaska

Correction

In proposed rule document 94–30727 beginning on page 64383 in the issue of Wednesday, December 14, 1994 make the following correction:

On page 64387, in Table 2, under the Non-roe season heading, in the 60% column, in the Offshore and Total entries for the Aleutian Islands and in all entries for Bogoslof ''Do.'' should read ''Remainder''.

BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM-060-05-2050-00]

Collection of Entrance Fees for Specific Caves in Areas Listed as ''Special Areas'' and Special Recreation Management Areas (SRMA) Within the Bureau of Land Management Roswell District, New Mexico

Correction

In notice document 95–1226 beginning on page 3869 in the issue of Thursday, January 19, 1995, make the following corrections:

On page 3870:

1. In the first column, under **DATES**, in the second line ''for April 19, 1995'' should read ''until April 19, 1995''.

2. In the second column, beginning in the sixth line, ''derived for money'' should be removed.

3. In the same column, under paragraph 2, in the eighth line from the bottom, ''careers'' should read ''cavers''.

BILLING CODE 1505–01–D

federal register

Monday
January 30, 1995

Part II

Environmental Protection Agency

40 CFR Part 194

Criteria for the Certification and Determination of the Waste Isolation Pilot Plant's Compliance With Environmental Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 194

[FRL–5142–4]

RIN 2060–AE30

Criteria for the Certification and Determination of the Waste Isolation Pilot Plant's Compliance With Environmental Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing criteria for certifying and determining whether the Department of Energy's Waste Isolation Pilot Plant (WIPP) complies with disposal standards set forth in 40 CFR part 191 (Environmental Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes). EPA is required to promulgate these criteria under the 1992 Waste Isolation Pilot Plant Land Withdrawal Act (WIPP LWA). These criteria will be used by the Agency in ascertaining whether the WIPP disposal system complies with the disposal standards.

DATES: Comments on today's proposal must be received by May 1, 1995. Public hearings on today's proposal will be held in New Mexico. A separate annoucement will be published in the **Federal Register** to provide public hearing information.

ADDRESSES: Comments should be submitted, in duplicate, to: Docket No. A–92–56, Air Docket, room M–1500 (LE–131), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. See additional docket information in the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Mary Kruger or Martin Offutt; telephone number (202) 233–9310; address: Criteria and Standards Division, Mail Code 6602J, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. An addendum to the supplementary information provided in today's notice is located in Docket No. A–92–56. For copies of this addendum and the Background Information Document and Economic Impact Analysis prepared for this proposed rule, contact Mary Kruger at the above phone number and address.

SUPPLEMENTARY INFORMATION: As discussed below, the scope of today's proposal is limited to proposed criteria for certifying and determining whether the Waste Isolation Pilot Plant (WIPP) in New Mexico complies with the disposal standards set forth in 40 CFR part 191. Accordingly, comments should be similarly limited in scope; e.g., comments should not address the Agency's recently promulgated radioactive waste disposal standards—40 CFR part 191 (58 FR 66398, December 20, 1993)—or whether WIPP should be used as a disposal facility.

The U.S. Department of Energy (DOE) is developing the Waste Isolation Pilot Plant (WIPP) near Carlsbad in southeastern New Mexico as a potential deep geologic repository for the disposal of defense transuranic (TRU) radioactive waste currently being stored on Federal reservations in Washington, Ohio, Idaho, New Mexico, Tennessee, South Carolina, Nevada and Colorado. TRU waste consists of materials containing one or more elements having atomic numbers greater than 92, in concentrations greater than 100 nanocuries of alpha-emitting TRU isotopes per gram of waste, with half-lives greater than 20 years. Most TRU waste consists of items that have become contaminated as a result of activities associated with the production of nuclear weapons, e.g., rags, equipment, tools, and organic and inorganic sludges. TRU waste is often mixed with hazardous chemical constituents.

Before beginning disposal of radioactive waste at the WIPP, DOE must demonstrate that the WIPP complies with the Environmental Protection Agency's (EPA) radioactive waste standards at 40 CFR part 191 (Environmental Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes).

On October 30, 1992, the Waste Isolation Pilot Plant Land Withdrawal Act (WIPP LWA) was enacted (Pub. L. 102–579). The WIPP LWA contains numerous provisions pertaining to EPA's role in overseeing DOE's activities at the WIPP, including requirements for the development and implementation of the 40 CFR part 191 disposal standards as they are applied to the WIPP. Specifically, section 8(a) of the WIPP LWA reinstated all of the remanded disposal standards except those aspects of the individual and ground-water protection requirements which the court found problematic in *NRDC* v. *U.S. EPA*. The WIPP LWA requires EPA to certify and determine whether or not the WIPP will comply with the Agency's final radioactive waste disposal standards.

''Certification'' refers to any initial certification of compliance of DOE's application for the WIPP with subparts B and C of 40 CFR part 191 (see section 8(d) of the WIPP LWA). ''Determination'' refers to any subsequent decisions by the Agency (required every 5 years by the WIPP LWA) of whether the WIPP continues to be in compliance with subparts B and C of 40 CFR part 191 (see section 8(f) of the WIPP LWA). In order to certify or determine compliance, the Agency will be issuing criteria for assessing compliance with the final disposal standards, as required by section 8(c) of the WIPP LWA. On February 11, 1993, as a first step in the development of compliance criteria, EPA issued an Advance Notice of Proposed Rulemaking (ANPR) soliciting comments on issues associated with the development of compliance criteria. (58 FR 8029.) The next step in the evolution of these criteria is occurring today with the issuance of proposed compliance criteria.

Objective and Implementation of Today's Proposed Criteria

Under authority of the WIPP LWA, the Agency is proposing criteria for certifying and determining whether the Department of Energy's (DOE) Waste Isolation Pilot Plant (WIPP) will comply with the Agency's radioactive waste disposal standards set forth in 40 CFR part 191. The WIPP LWA specifies that underground emplacement of transuranic wastes for disposal at the WIPP may not commence unless and until EPA certifies that the WIPP facility will comply with 40 CFR part 191, subparts B and C. If the Agency certifies compliance, the WIPP LWA requires EPA to subsequently conduct periodic determinations of continued compliance throughout waste disposal operations at the WIPP. Criteria contained in today's notice address any initial certification of compliance as well as any subsequent determinations of continued compliance. When final compliance criteria are promulgated as Agency regulations, EPA will be responsible for assuring that the requirements are properly implemented.

Importantly, today's proposal is limited to consideration of the WIPP's compliance with the disposal regulations found in subparts B and C of 40 CFR part 191 (which include containment requirements, assurance requirements, individual protection requirements, and ground-water protection requirements). These compliance criteria do not address compliance with the management and storage regulations found in subpart A

of 40 CFR part 191. The Agency plans to issue guidance addressing implementation of subpart A at a later date.

The Agency also wishes to make clear that today's proposal does not address compliance with all of the requirements of the WIPP LWA. Rather, today's proposal is limited to those requirements of the WIPP LWA which pertain to the WIPP's compliance with the disposal standards in 40 CFR part 191. For example, today's proposal does not address the WIPP's compliance with EPA regulations developed pursuant to the Resource Conservation and Recovery Act (RCRA) or any other environmental laws or regulations. EPA intends to address compliance with the balance of these additional laws and regulations through compliance plans being developed by EPA's Region VI. For more information regarding the Region's activities, please write to EPA Region VI, 1445 Ross Avenue, Dallas, Texas 75202–2733; Attn: Chuck Byrum.

EPA has prepared a document entitled ''Implementation Strategy for the Waste Isolation Pilot Plant Land Withdrawal Act of 1992'' (EPA 402–R–93–002, March 1993) which explains in more detail the Agency's roles and responsibilities under the WIPP LWA. For more information concerning the Implementation Strategy Document, please write to the Policy and Public Information Section, Office of Radiation and Indoor Air, U.S. EPA, Mail Code 6602J, 401 M St., S.W., Washington, D.C. 20460 or call the EPA WIPP Information Line at 1–800–331–WIPP.

Additional Docket Information

The Agency is currently maintaining the following public information dockets: (1) Docket No. A–92–56, located in room 1500 (first floor in Waterside Mall near the Washington Information Center), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 (open from 8:00 a.m. to 4:00 p.m. on weekdays); (2) EPA's docket in the Government Publications Department of the Zimmerman Library of the University of New Mexico located in Albuquerque, New Mexico (open from 8:00 a.m. to 9:00 p.m. on Monday through Thursday, 8:00 a.m. to 5:00 p.m. on Friday, 9:00 a.m. to 5:00 p.m. on Saturday, and 1:00 p.m. to 9:00 p.m. on Sunday); (3) EPA's docket in the Fogelson Library of the College of Santa Fe in Santa Fe, New Mexico located at 1600 St. Michaels Drive (open from 8:00 a.m. to 12:00 midnight on Monday through Thursday, 8:00 a.m. to 5:00 p.m. on Friday, 9:00 a.m. to 5:00 p.m. on Saturday, 1:00 p.m. to 9:00 p.m. on Sunday); and (4) EPA's docket in the Municipal Library of Carlsbad, New Mexico located at 101 S. Halegueno (open from 10:00 a.m. to 9:00 p.m. on Monday through Thursday, 10:00 a.m. to 6:00 p.m. on Friday and Saturday, and 1:00 p.m. to 5:00 p.m. on Sunday). As provided in 40 CFR part 2, a reasonable fee may be charged for photocopying docket materials.

Description of Proposed Criteria

The proposed criteria consist of four subparts. Each of these subparts is discussed in more detail below.

Subpart A—General Provisions

Subpart A is chiefly concerned with identifying the purpose, scope and applicability of the criteria, defining terms, setting forth requirements regarding communications, addressing conditions of compliance certification and determinations, incorporating publications by reference, and providing for alternative provisions if future information indicates a need to modify the criteria. The specific provisions of Subpart A are discussed below.

Purpose, Scope, and Applicability

Under Section 7(b) of the WIPP LWA, the DOE cannot dispose of transuranic waste at the WIPP until the EPA certifies that the WIPP is in compliance with the Agency's radioactive waste disposal standards set forth in 40 CFR part 191. In addition, under Section 8(f) of the WIPP LWA, not later than five years after initial receipt of waste for disposal at the WIPP, and every five years thereafter until the end of the decommissioning phase (as defined in section 2 of the WIPP LWA), DOE is required to submit to the Administrator documentation of continued compliance with the Agency's disposal standards. EPA is proposing to specify that these criteria will apply to any certification of compliance or determination of continued compliance under these sections of the WIPP LWA. The Administrator will review any compliance applications (hereinafter, the term ''compliance applications'' refers to applications for certification of compliance under section 8(d) of the WIPP LWA as well as applications for determinations of continued compliance under section 8(f) of the WIPP LWA) and will utilize these criteria to ascertain whether such applications demonstrate compliance with subparts B and C of 40 CFR part 191. The Administrator's certification or determination of compliance for the WIPP facility will depend on satisfying the specific requirements of each section of these criteria.

Definitions

In an effort to be consistent with the disposal standards set forth in 40 CFR part 191, the Agency is proposing that, unless otherwise indicated, all terms in the criteria have the same meaning as terms found in the disposal regulations.

Communications

The Agency is proposing to specify that any compliance applications shall be addressed to the Administrator and shall be signed by the Secretary. Any other communications concerning compliance applications for the WIPP shall, likewise, be addressed to the Administrator and shall be signed by the Secretary or the Secretary's authorized representative.

Conditions of Compliance Certification and Determination

EPA is proposing that any certification or determination issued by the Agency pursuant to the WIPP LWA may include any conditions that the Administrator finds necessary to support a compliance certification or determination. In addition, EPA is proposing that any certification or determination of compliance be potentially subject to modification, suspension, or revocation for cause. The Agency believes that such conditions are necessary in order to guard against the possibility that the disposal system does not perform as expected (i.e., according to predictions contained in compliance applications).

Any certification or determination of the WIPP's compliance will be based upon the information contained in any compliance application submitted to the Administrator and upon other available information relevant to the application. So long as the contents of the application remain valid, the current certification or determination will remain valid. However, if the information contained in the application becomes invalid due to unanticipated developments, then the basis for the certification or determination may no longer be valid, and modification, suspension, or revocation of the certification or determination may be in order. Any modification, suspension, or revocation of a compliance certification will be subject to Agency rulemaking.

EPA is proposing to include these conditions because the Agency believes it is important to have a mechanism which enables a certification or determination to be modified, suspended, or revoked if new information comes to light which suggests that the WIPP is no longer

performing or may no longer perform as predicted. It would not be prudent to wait until submission of documentation of continued compliance (potentially up to five years later) before taking steps to mitigate against potential malfunctioning of the disposal system. Delay would allow a situation which could result in a violation continuing to exist or, perhaps, worsen. Hence, EPA is proposing these conditions in order to be able to take action quickly to address serious issues raised as to whether the WIPP is in compliance with the disposal regulations.

The Agency is not specifying, in today's proposal, the particular actions which may be required to be undertaken if modification or suspension were invoked. EPA has not done so because the Agency believes that it is inappropriate to specify particular actions prior to knowing the precise circumstances in which the actions would be undertaken. Since all of the scenarios in which the conditions might be invoked would be difficult to predict, specification of the actions necessary to mitigate against the consequences of all such scenarios becomes even more difficult. EPA, therefore, is proposing that decisions about the appropriate actions shall be based upon the nature and gravity of the given scenario at the time it occurs. In some cases this might entail instituting remedial actions or even removal of waste, while in other cases it might simply involve temporarily halting waste emplacement. Thus, actions will be evaluated on a case by case basis. The Agency solicits comment on this approach.

While the Agency is not specifying the particular actions which may be required in the event of a modification or suspension, the Agency is proposing that, in the event of a revocation (where presumably all attempts at remedial action have failed), the Department shall retrieve, to the extent practicable, any waste emplaced in the disposal system. The Agency solicits comment on this proposal.

The Agency is proposing that upon written request of the Administrator (after any certification or determination of compliance has been issued), the Department shall submit information to enable the Administrator to determine whether cause exists to modify, revoke, or suspend any certification or determination. Moreover, the EPA is proposing that the Department shall provide the requested information to the Administrator within 30 days of receipt of the Administrator's request. By requiring such a quick response time, the Agency can be assured that if circumstances arise which warrant suspension, modification, or revocation, the potential consequences of such circumstances can be mitigated early and safety can, therefore, be increased. As an additional measure to ensure that the Administrator is kept apprised of any developments at the WIPP which might warrant modification, suspension, or revocation of any certification or determination of compliance, the Agency is proposing that the Department report, within ten days of discovery, any significant changes in conditions pertaining to the disposal system that depart from the application and which formed the basis of any certification or determination. Moreover, the Agency is requiring that a written report of all changes in conditions and/or activities pertaining to the disposal system that depart from the application and which formed the basis of any certification or determination be submitted to the Agency at least once every six months. If the Department plans to intentionally make any significant changes in conditions or activities pertaining to the disposal system, all such changes must be approved by the Administrator prior to being made. The Administrator will consider whether the planned change will invalidate the terms of the certification or determination in assessing whether approval should be given.

EPA is proposing to require the reporting of changes in WIPP conditions or activities once every six months to assure that the Agency is kept apprised of such changes but in a manner which is not overly burdensome to the Department in submitting the information or to the Agency in reviewing it.

EPA is also proposing to require that if the Department determines that a release of waste from the disposal system in excess of what is permitted under the disposal regulations has occurred or is likely to occur, the Department shall immediately suspend emplacement of waste in the disposal system and notify the Administrator within 24 hours of discovery of such a release. Following such notification, the Administrator may request additional information and will determine whether to modify, suspend, or revoke any previously issued certification or determination of compliance. The EPA is proposing this requirement to ensure that the Administrator is quickly apprised of any changes in the disposal system's performance from the projections included in any compliance applications.

Publications Incorporated by Reference

EPA is proposing that the following four documents be incorporated by reference: (1) The Nuclear Regulatory Commission's NUREG 1297 ''Peer Review for High-Level Nuclear Waste Repositories''; (2) The American Society of Mechanical Engineers' (ASME) NQA–1–1989 edition ''Quality Assurance Program Requirements for Nuclear Facilities''; (3) ASME NQA–2a–1990 addenda (part 2.7) to ASME NQA–2–1989 edition ''Quality Assurance Requirements of Computer Software for Nuclear Facility Applications''; and (4) ASME NQA–3–1989 edition ''Quality Assurance Program Requirements for the Collection of Scientific and Technical Information for Site Characterization of High-Level Nuclear Waste Repositories.'' The Agency is proposing to incorporate all of these documents because EPA believes that each is appropriate for use at the WIPP. More detailed information about the contents of each document is provided below in the sections dedicated to the particular topic covered by the various documents. Documents incorporated by reference are also available for inspection in the Office of the Federal Register.

Alternative Provisions

Although the Agency believes that the criteria being proposed today are appropriate based upon current knowledge and information, the possibility that future information may indicate necessary modifications to the criteria can not be ruled out.

In recognition of this possibility, today's proposed criteria set forth procedures under which the Administrator may develop modifications to this part, should the need arise. Any such modifications would proceed through the notice-and-comment rulemaking process under the Administrative Procedure Act (5 U.S.C. 553). The proposed criteria stipulate that such a rulemaking would require a public comment period of at least 120 days, including public hearings in New Mexico.

Subpart B—Compliance Certification and Determination Applications

Subpart B of the proposed compliance criteria addresses: (1) The completeness and accuracy of compliance applications; (2) the filing and distribution requirements for such applications and any associated reference materials; (3) the contents of a complete application; and (4) the criteria for updating certification

applications. Each of these sections is discussed below.

Completeness and Accuracy of Compliance Applications

The Agency proposes to require that any applications submitted to the Administrator for a certification or determination of compliance be complete and accurate. Since the statutory review period for applications is only one year for certification and six months for determinations, it is essential that all of that time be devoted to substantive evaluation of the information contained in the applications. Therefore, the Agency is proposing that the statutory review periods not begin until the Administrator has determined that the application is complete, accurate, and in accordance with the compliance criteria. The Administrator will notify the Secretary in writing once this determination is made.

Submission of Compliance Applications

In order to meet EPA's needs for reviewing and docketing any compliance applications, the Agency proposes to require that 30 paper copies of applications be filed with the Administrator (one original and 29 printed copies), unless otherwise specified by the Administrator. This number of copies is necessary because the Agency plans to place copies of compliance applications in various public dockets and the complexity of the application material will require multiple reviewers. The phrase ''unless otherwise specified by the Administrator'' is meant to allow for the possibility of alternative requirements for submission of compliance applications in the event that new submission methods are developed; e.g., electronic submission requirements.

Submission of Reference Materials

The Agency recognizes that compliance applications will likely include references to other sources of information. Accordingly, today's proposal requires submission to the Administrator of ten paper copies of any referenced material unless otherwise specified by the Administrator. This is necessary due to the limited time period for review and due to the needs of multiple reviewers, including the public. Again, the phrase ''unless otherwise specified by the Administrator'' signals that the Administrator may require an alternative method for submission of reference materials if a more appropriate system (e.g., an electronic submission system) is developed. Regardless of what system is ultimately used, submissions need not include referenced material from standard textbooks (e.g., physics or chemical handbooks).

Content of Compliance Certification Applications

The Agency is proposing to specify information which must be included in any compliance certification application. The proposed criteria require descriptions of the WIPP disposal system and surrounding environment, and the components and results of long-term compliance assessments. The items listed, however, are not intended to be an exhaustive identification of the necessary elements of a complete application. Rather, the proposed criteria identify what the Agency considers to be major elements of a complete compliance application. Note that other major submission requirements are discussed elsewhere in the criteria and are too numerous to list here (such as documentation requirements for use of expert judgment and for waste characterization).

In the future, the Agency will be issuing a detailed guide as a supplement to the 40 CFR part 194 compliance criteria. This guide will provide additional detailed information on the expected format and content of a complete compliance application. The Agency is not including such a detailed itemization in today's proposal because EPA needs more information about factors important to the disposal system's ability to contain waste before such detailed submission requirements can be identified.

As an example of the type of information which may be necessary for inclusion in a complete application, but which EPA is not specifying in today's proposal due to the fact that there is currently an incomplete understanding of its effect on the disposal system, is an analysis and identification of higher permeability marker beds in the host rock. (Marker beds are stratified units with distinctive characteristics making them an easily recognized geologic horizon.) At present, there is some information about the existence of these marker beds in the host rock, but little knowledge about how they may affect the transport of radionuclides and the flow of ground water. As further study is done of these marker beds, it is possible that they may be discovered to have a great impact on the WIPP's ability to comply with the disposal standards of 40 CFR part 191. It is also possible that they will be discovered to have little or no impact. Depending on the results of further study, then, EPA will decide whether information about the higher permeability beds needs to be included in compliance applications and if so, how much information. EPA solicits comment on this approach.

Content of Compliance Determination Application(s)

As required by section 8(f) of the WIPP Land Withdrawal Act, DOE must submit documentation of continued compliance every five years after any initial certification is granted for the WIPP until the end of the decommissioning phase, when all shafts and rooms at the WIPP are backfilled and sealed. To avoid duplication of information already submitted to the Administrator as part of any previous compliance applications, EPA proposes to require that only relevant new information be submitted as documentation of continued compliance. This documentation must update the information contained in previous applications and apprise the Agency of new developments regarding the WIPP disposal system and its performance. Information included in previous applications may be summarized and referenced.

Subpart C—Compliance Certification and Determination

Subpart C sets forth general and specific requirements for certifying and determining compliance with the provisions of the disposal regulations found in subparts B and C of 40 CFR part 191. The provisions of Subpart C are discussed in detail below.

General Requirements

Inspections

Today's proposal provides for EPA inspections to help ensure that WIPP-related activities and pertinent records described in any compliance applications are implemented as described. Inspections, including, random, unannounced inspections of WIPP-related activities and records, will assist EPA in assuring the validity of information used to support compliance applications. In conducting such inspections, EPA will comply with applicable access control measures for security, radiological protection and personal safety, but shall otherwise have unfettered access to WIPP-related activities and records.

To facilitate EPA's ability to inspect as warranted, EPA is proposing that, upon request, the Department provide the Administrator's inspectors with rent-free office space convenient to the WIPP disposal system. Additionally, records shall be made immediately

available to Agency inspectors where possible, and in no circumstances shall the furnishing of records be extended beyond 30 days from the initial request.

As an additional matter, the Agency believes that on occasion, EPA personnel may need to conduct sampling and analysis or monitoring of the disposal system. Such sampling may include split sampling, in which portions of samples taken by the DOE shall be furnished to EPA for analysis. Through split sampling, EPA can independently verify the results of DOE analyses. Moreover, by taking such samples, EPA will be better equipped to evaluate the quality of data being produced, as well as gain a better understanding of the disposal system.

EPA proposes that its inspection privileges be broad enough to allow the Agency to inspect activities that may provide information used to support compliance application(s) and are deemed by the Administrator or the Administrator's authorized representative to be relevant to a compliance certification or determination. This may include, but is not necessarily limited to, examination of quality assurance procedures, waste characterization activities, experimental programs, computer operations, and data collection activities, insofar as all of these items may affect the WIPP's ability to comply with the 40 CFR part 191 disposal regulations. Significantly, under today's proposal, EPA inspections would be limited to locations to which the Department has rights of access but would not be limited to activities which occur at the WIPP facility. As discussed above, if an activity can potentially affect the WIPP's ability to comply with the Agency's disposal regulations, it shall be subject to potential inspection by EPA personnel. For instance, EPA may inspect WIPP-destined waste generation and storage sites because waste characterization activities often occur at these sites.

Quality Assurance

To help assure that calculations of compliance with 40 CFR part 191, subparts B and C, are based upon sound data and information, the Agency proposes to include compliance criteria addressing quality assurance (QA). EPA is proposing that the Department implement a QA program that meets the requirements of the American Society of Mechanical Engineer's (ASME) ''Quality Assurance Program Requirements for Nuclear Facilities'' (NQA–1–1989 Edition), ASME's ''Quality Assurance Requirements of Computer Software for Nuclear Facility Applications'' (NQA–2a-1990 addenda, part 2.7 to ASME NQA–2–1989 edition), and ASME's ''Quality Assurance Program Requirements for the Collection of Scientific and Technical Information on Site Characterization of High-Level Nuclear Waste Repositories'' (NQA–3–1989 edition—excluding Section 2.1 (b) and (c)). EPA is proposing to use the ASME standards referenced above because it appears they offer the most comprehensive and specific set of QA requirements for all compliance-related elements of the disposal system. EPA solicits comment on whether these standards are the most appropriate to use for this purpose.

With respect to data collected prior to the implementation of the ASME standards, EPA is proposing that such data be acceptable for the purpose of supporting any applications for compliance certification if it can be demonstrated to have been collected: (1) Under a QA program that is equivalent in scope and implementation to the NQA series, or (2) through a method otherwise approved by the Administrator for use at the WIPP. Today's proposal does not include any specific criteria identifying how such equivalence should be demonstrated, nor is there any specification about what the Agency will consider in approving QA plans. The Agency intends to issue guidance on this topic in the future.

The Agency is proposing to allow a flexible approach on quality assurance for data collected prior to implementation of the ASME NQA series because the Agency recognizes that unless a method exists for qualifying such ''old data,'' the efforts in collecting such ''old data'' will be wasted. It is likely that a large portion of the data submitted in support of an application for certification of compliance will be ''old data.'' To prohibit the inclusion of such data if the data can be demonstrated to be of equivalent quality to ''new data,'' or is sufficiently reliable for approval by the Administrator, would be unreasonable because data that are sufficiently reliable should be included in the analysis. The Agency solicits comment on this approach.

The ASME NQA–1–1989 edition sets forth requirements for the ''establishment and execution of quality assurance programs for the siting, design, construction, operation, and decommissioning of nuclear facilities.''

The NQA–2(a)–1990 addenda (part 2.7) to ASME NQA–2–1989 edition standard is directed toward establishing requirements for ''the development, procurement, maintenance, and use of computer software, as applied to the design, construction, operation, modification, repair, and maintenance of nuclear facilities.'' More specifically, it applies to computer software ''used to produce or manipulate data which is used directly in the design, analysis, and operation of structures, systems, and components.''

The NQA–3–1989 edition standard sets forth quality assurance requirements for ''the collection of scientific and technical information for site characterization of high-level nuclear waste repositories.'' The requirements apply to ''activities which could affect the quality of scientific and technical information collected as part of the site characterization phase of high-level nuclear waste repositories * * * [which include] as a minimum: (a) Readiness reviews; (b) peer reviews; (c) data and sample management; (d) data collection and analysis; (e) coring; (f) sampling; (g) *in situ* testing; and (h) scientific investigations.''

EPA is proposing criteria which require submission of information which demonstrates that QA programs have been established and executed for aspects of the WIPP disposal system important to the containment of waste in the disposal system. QA programs must address elements such as models used to support applications for certification of compliance, waste characterization, monitoring, field measurements, design of the disposal system (and actions taken to ensure compliance with design specification), use of expert judgment, and other factors important to the containment of radionuclides in the disposal system. EPA solicits comment on the appropriateness of the items listed above and on any other items which should be specifically included in such a list. The Agency also is proposing that applications for certification of compliance address how quality indicators such as data accuracy, precision, representativeness, completeness, comparability, and reproducibility have been or will be achieved in the collection of compliance data and information.

As a final matter, the Agency is proposing to conduct its own examination of DOE QA programs and plans through select inspections, management system reviews, and audits. This is to help assure that QA plans are implemented appropriately.

Models and Computer Codes

Computer models are needed to assess whether the WIPP disposal system will comply with the 40 CFR part 191 disposal regulations. In order for these computer models to perform their

functions with acceptable accuracy, they must be based upon appropriate conceptual, mathematical, and numerical models.

In order to ensure that the conceptual, mathematical, numerical, and computer models used to support compliance applications are appropriate for use in certifying whether the WIPP complies with the disposal regulations, EPA proposes to require that detailed information about these models be submitted to the Agency as part of any compliance certification applications. EPA proposes to assess the appropriateness of the models and any computer codes used to represent them based on the following factors: Whether conceptual models reasonably represent the disposal system; whether mathematical models incorporate equations and boundary conditions which reasonably represent mathematical formulations of the conceptual models; whether numerical models provide numerical schemes which enable mathematical models to obtain stable solutions; whether computer models accurately implement the numerical models (i.e., are free of coding errors and produce stable and accurate solutions); and whether the models, data, and computer codes have been properly peer reviewed. EPA solicits comment on these factors and whether other factors should be included. For instance, should EPA require information which demonstrates that there is agreement between the model results and any measured and observed data? Or, if it can be demonstrated that models and computer codes are sufficiently conservative, is such demonstration unnecessary?

In addition, EPA is proposing to require that the American Society of Mechanical Engineer's NQA–2a–1990 addenda (part 2.7 to ASME NQA–2–1989 edition) be used to help ensure that models and codes are fully and clearly documented.

In order to determine whether the conceptual models used to support a compliance certification application offer the best representation of the disposal system, EPA is proposing to require a complete listing and description of conceptual models considered but not used to support such application. In addition, EPA is proposing to require a complete listing of conceptual model(s) considered but not used to support compliance certification applications, a description of such model(s), and an explanation of the reason(s) why such model(s) was/were not used. An examination of conceptual models requires an assessment as to whether the theories represented in conceptual models are appropriate and whether other theories may be more or equally appropriate. For this reason, EPA is proposing that the DOE identify and describe all conceptual models that the Department considered and provide justification why some were selected and others were not. The Agency solicits comments on this approach and on whether any particular theories should be represented in conceptual models used to support compliance certification applications.

EPA is proposing to require that documentation include such items as: Descriptions of the theoretical backgrounds of each model, the method of analysis and assessment, scenario construction, data collection procedures, and code structures and source codes. In addition, the Agency is proposing that user's manuals be submitted that include the following information: discussions of the limits of applicability of each model; detailed instructions for running the codes including hardware and software requirements; input and output formats with detailed explanations of each input and output variable and parameter; listings of input and output files with a sample computer run; reports on code verification, benchmarking, validation and quality assurance procedures. The Agency is also proposing to require the submission of programmer's manuals and any necessary licenses. Programmer's manuals typically include such things as the mathematical formulations included in the model, computational algorithms and modeling structures.

In addition, because the WIPP disposal system is very complex, it is likely that some of its characteristics correlate to one another. If this correlation is not reflected in modeling efforts, then the models may fail to portray the realities of the system and significant errors in performance assessment results can occur. Covariance, a measurement of the tendency of random variables to vary together, is used to evaluate this possibility. Therefore, EPA is proposing that information be provided which indicates whether and how models and codes handle covariance of model input parameters. If models do not consider covariance, EPA would expect to be provided with an explanation of why covariance was not considered and the potential impact of instead treating variables independently. EPA solicits comments on this approach and on the alternatives of (1) requiring covariance to be included in models and codes and, (2) requiring covariance to be included unless justification can be provided that the independent treatment of variables would cause models to predict greater releases than if covariance is taken into account.

Finally, EPA proposes that copies of the models and software, data files, source codes, licenses, or other materials necessary to run the models on EPA's own computers (or on DOE computers if EPA computers are unable to run the models) be provided to the Agency within 30 days of a request by the Administrator or the Administrator's authorized representative. Additional requirements for models are covered in the quality assurance and peer review sections of today's proposal.

Waste Characterization

In order to make meaningful predictions about the performance of the WIPP over long periods of time, it is necessary to have a good understanding of the characteristics of the waste proposed to be emplaced in the disposal system. The potential for releasing radionuclides from the disposal system can be directly affected by the chemical, radiological, and physical composition of the waste. These factors, therefore, can affect the ability of the WIPP to comply with the 40 CFR part 191 disposal standards and, consequently, must be examined as part of any certification or determination of compliance.

Currently, the waste inventory to be potentially disposed of at the WIPP consists of: (1) A large volume of stored (''existing'') waste with varying degrees of adequacy of accompanying documentation regarding its composition and properties; and (2) an estimated larger volume of ''to-be-generated'' waste about which there is uncertain knowledge of its expected composition and properties.

For the purpose of gaining a complete understanding of the waste proposed for disposal at the WIPP, EPA is proposing to require submittal of a detailed description of the waste's chemical, physical, and radiological contents including a description of the activity in curies of each radionuclide contained in such waste. Such description shall be used in assessing compliance with subparts B and C of 40 CFR part 191.

To identify waste characteristics important to the containment of waste in the disposal system, EPA is proposing that DOE undertake a study to determine the effect of various characteristics on the performance of the disposal system. The characteristics studied shall include, but need not be limited to: (1) waste form; (2) free liquid content and liquid saturation; (3)

pyrophoric and explosive material content, and (4) characteristics affecting the solubilization and mobilization of radionuclides, formation of colloidal suspensions containing radionuclides, production of gas from the waste, nuclear criticality, and generation of heat in the disposal system. The impact of non-radioactive hazardous components of the waste should also be assessed as such components have the capacity to influence radionuclide transport. The results of this study shall be provided to EPA along with documentation of the methodology and information describing the importance of particular characteristics of the waste. These results shall dictate the breadth of characterization to be performed.

Once the waste characteristics that are important to the disposal system's ability to isolate radionuclides have been identified, the waste shall be categorized based on those characteristics that would be expected to make all waste within a particular category behave similarly in the disposal system. For example, if the curie content of a given radionuclide in the waste is determined to be important to the disposal system's ability to contain radionuclides, it might be used as part of a system of categorization. Waste having a high curie content of that nuclide could comprise one category, while waste having a low curie content of that nuclide could comprise another category. Similarly, if a given waste form is found to be important, categories could be made for various waste forms such as sludges and solids. EPA proposes that a detailed description shall be provided which identifies the characteristics of each category of waste established.

A variety of methods for characterizing waste exists including sampling and analysis, radioassay, and examination of waste generation documentation and associated records (often referred to as ''process knowledge''). Today's proposal does not specify any particular method for characterizing the waste. Nevertheless, regardless of which method or combination of methods is selected for waste characterization activities, the Agency is proposing to require that each method be identified and described. Moreover, the uncertainty associated with each method shall be identified, and if information about the processes and materials that generated the waste is used as a basis for waste characterization, the DOE shall be required to substantiate such characterization.

The manner in which the Agency proposes that waste characterization shall be accomplished is explained below. The DOE will examine each important characteristic of the waste and determine a value or range of values for that characteristic. Since DOE must demonstrate that the WIPP complies with the containment, individual, and ground-water protection requirements of 40 CFR part 191 for the whole range of values for each waste characteristic, the larger the range, the greater the uncertainty associated with a claim that WIPP complies. DOE can reduce the range of values for each characteristic through enhanced information gathering until the range is small enough such that DOE is reasonably confident that the resulting probability for compliance will meet the containment, individual, and ground-water protection requirements of 40 CFR part 191. Thus, DOE has a great deal of flexibility in the amount of characterization required. However, whatever value or range of values DOE selects for each characteristic must be considered in compliance assessments of the WIPP. In assessing compliance, DOE shall consider all combinations of waste characteristics and the resulting impact on the disposal system's behavior.

EPA is proposing that waste not be emplaced in the repository unless its characteristics fall within the ranges of values for those characteristics used in compliance assessments. To assure that only waste whose characteristics fall within the given range of values is emplaced, the Agency is proposing that a system of controls be established, including measurements, sampling, and recordkeeping for the waste, such that the actual characteristics of waste will be identified before the waste is emplaced in the WIPP. Compliance applications shall provide an identification and description of these controls along with an analysis of the uncertainty associated with them.

As a final measure to assure proper waste characterization, the Agency is proposing that EPA audits and inspections will be used to verify the waste characterization requirements of this part.

Future State Assumptions

Demonstrating compliance with 40 CFR part 191, subparts B and C, involves the use of computer models based on conceptual models which project, over an extended period of time, the transport of radionuclides from the disposal system to the accessible environment and resulting radiation doses to individual members of the public. Because of the long-term nature of these evaluations, uncertainty of values for many parameters important to the analysis may be very large. Environmental conditions and living habits of future populations and individuals may change in significant and unforeseeable ways over the lengthy timeframes that will be analyzed for compliance.

In light of the difficulty of assigning appropriate values with confidence, the Agency is proposing to specify certain assumptions about the future for use in long-term modeling. The Agency is proposing that, unless otherwise specified, any certification of compliance shall assume that characteristics of the future remain what they are today. EPA believes such an approach will enable compliance assessment to focus on more predictable and more significant features of disposal system performance. For instance, EPA is proposing that such an approach not be used to characterize the long-term geologic, hydrologic, or climatologic conditions of the system and its vicinity.

With regard to consideration of climatic conditions, the Agency is proposing to require predictions about climate, but within a specified framework. Specifically, EPA is proposing to limit the consideration of climate effects to the effects of increased and decreased precipitation on the disposal system. This would include predictions of temperature, which affects evapotranspiration, and other factors.

With respect to human technology and behavior, EPA has tentatively concluded that it would be fruitless to attempt any predictions about the future that would be useful over 10,000 years. The one constant in human history is change—in social organization, economic activity, and technology. Thus, at first glance it seems highly anomalous to assume that future states will be like the present. However, as noted, EPA believes that there is no reasonable way to predict in any definitive way what changes will take place in the future. In effect, then, EPA is proposing to employ present conditions as default values for future states because it has no better choices, and because this approach at least has the advantage of providing readily ascertainable and verifiable values.

The Agency solicits comment on its approach to future states assumptions and the Agency's treatment of geology, hydrology, and climate considerations. Suggestions of alternatives to the proposed approach are also solicited.

Expert Judgment

EPA recognizes that expert judgment may be used to support disposal system

compliance analyses. EPA is proposing that use of expert judgment be limited to those situations where data is not reasonably attainable through data collection or experimentation.

To assure that the Agency is aware of all cases in which expert judgment is used, EPA is proposing that any compliance certification application clearly identify all instances in which such judgment is used and the names and professional affiliations of experts involved. Moreover, documentation shall be included which describes the process for expert judgment elicitation, the results of expert elicitation, and the reasoning behind those results. Documentation shall also be provided of interviews used to elicit judgments from experts, deliberations and formal interactions among experts, background information provided to experts, and the questions or issues presented for elicitation of expert judgment. Access to this information will help the Agency assess the quality and appropriateness of expert judgment as well as DOE's interpretation and use of that judgment.

Although EPA has not specified any particular methods for expert judgment elicitation in today's proposal, the Agency does believe that some restrictions and guidelines for the selection of individuals for expert judgment are appropriate. The restrictions which EPA is proposing today include prohibitions on: selecting individuals who are members of the team of investigators requesting the judgment or the team of investigators who will use the judgment; selecting individuals who maintain a supervisory role or who are supervised by (directly or indirectly) those who will utilize the judgment; and selecting a membership of which no more than one-third consists of individuals who are employed directly by the Department or its contractors (unless it can be shown that this is impracticable because of a lack or unavailability of qualified independent experts, in which case at least one-half of the membership must be non-DOE personnel). University professors with grants from the Department not related to work on the WIPP and the New Mexico Environmental Evaluation Group are not considered employees or contractors of the Department for purposes of this part. Additionally, compliance applications shall provide information which demonstrates that the expertise of any individuals involved in expert judgment is consistent with the level of knowledge required by the question or issue presented to that individual.

Furthermore, the Agency is requiring that at least five individuals be used in any expert elicitation process, unless a lack or unavailability of experts can be demonstrated. Also, any compliance certification application shall include a discussion explaining the relationship between the information presented, the questions asked, the judgment of any expert panel or individual, and the purpose for which the expert judgment is being used. The Agency is proposing all of the above requirements to assure that expert judgment is elicited in a manner that is as objective and informed as possible.

As a final means of helping to assure the appropriateness of expert judgment, EPA is proposing that the elicitation process afford an opportunity for presentation to the experts of the scientific and technical views of outside groups and individuals. This provision is being proposed in today's notice because the Agency believes it will help to provide experts involved in elicitations with a fuller range of information and view points upon which to base their judgments.

The Agency considered several different approaches to the use of expert elicitation and concluded that though each was appropriate for a specific type of situation, none were appropriate for all types of situations. For example, one approach identified would require that the average of all values elicited by an expert panel be used as the final judgment. This may be appropriate if the issue presented to an expert panel lends itself to meaningful averaging of values. For instance, if an expert panel is asked to determine the rate of rainfall in the Delaware Basin over 10,000 years, the range of answers that would be obtained from the various experts would be expressed in numbers that could be meaningfully averaged. However, if an expert panel is asked to determine whether the possibility of a meteor hitting the WIPP site is likely, the answers would be expressed in terms of yes or no, which cannot be meaningfully averaged. Hence, depending on the situation, this approach may not be appropriate.

Given the above, EPA believes that it may not be useful to specify a particular method. However, the Agency solicits comments on alternative approaches to incorporating the results of expert judgment elicitations into compliance assessment.

Peer Review

Peer review is widely used as a means of validating technical data, processes and assumptions. Peer review involves a group of experts who are convened to review work conducted by their peers to determine whether the work was performed appropriately and in keeping with the purpose intended.

Since a large part of compliance applications will consist of data and descriptions of methods for producing data, EPA believes that peer review can be helpful as a means of validating the information contained in such applications. Therefore, the Agency proposes that peer review be used to support compliance applications. Specifically, EPA proposes to require peer review of any information contained in any compliance certification application regarding the evaluation of engineered barriers, consideration of processes and events that may affect the disposal system's performance, quality assurance programs and plans, models and computer codes and including data used to support them, and waste characterization activities. Peer review can build additional confidence in the soundness of these important aspects of a compliance certification.

EPA proposes that peer review be conducted in a manner which is compatible with the Nuclear Regulatory Commission's NUREG–1297 ''Peer Review for High-Level Nuclear Waste Repositories,'' which is incorporated by reference in today's proposal. This document provides guidance on the definition of peer review, the acceptability of peers, and the conduct and documentation of peer review.

Containment Requirements

The Agency's disposal regulations found in 40 CFR part 191 include requirements for containment of radionuclides. These containment requirements specify numerical requirements limiting the cumulative release of radionuclides over 10,000 years. The specific release limits are found in Appendix A of the disposal regulations. The containment requirements specify that there be less than one chance in ten of cumulative releases exceeding the limits specified in Appendix A and less than one chance in 1,000 of cumulative releases exceeding ten times those limits.

Application of Release Limits

The containment requirements of 40 CFR part 191 specify that releases from a disposal system to the accessible environment can not exceed release limits set forth in Appendix A, Table 1. Information about the curie content will be needed for calculation of the release limits. However, because the curie content of the waste inventory will vary over time due to natural ingrowth and decay of radionuclides, a question arises concerning when the curie content of

the waste should be fixed for purposes of calculating the release limits.

The EPA is proposing that the expected curie activity 100 years after disposal of the waste in the WIPP be used in calculating applicable release limits. The Agency is proposing this approach because EPA believes that 100 years represents a long enough period of time for most of the radioactive material with short half-lives to decay to low levels. The remaining activity after the 100-year period will largely be the result of radioactivity from waste with long half-lives. Such waste may pose the most danger to human health and the environment and, therefore, should be the focus of attention.

The Agency solicits comment on the appropriateness of the above-mentioned approach and on alternative time frames for fixing the curie content.

Scope of Performance Assessments

In today's notice, the Agency is proposing criteria which indicate that performance assessments shall consider both natural and human-initiated processes and events that may affect the disposal system. However, EPA is also proposing that performance assessments need not consider processes, events, or sequences of processes and events (sometimes referred to as ''scenarios'') that have less than one chance in 10,000 of occurring over 10,000 years.

EPA is proposing the above requirements because section 13 of 40 CFR part 191 requires the implementing agencies to evaluate compliance through performance assessments. One method of displaying results of performance assessments required under section 13 of 40 CFR part 191 is to assemble ''complementary cumulative distribution functions'' (CCDF). CCDFs are assembled by first calculating the probability of each release scenario and associating a consequence (e.g., release of radionuclides) with each probability. Once the paired probability and consequence estimates are made, they are combined into the CCDF by ranking them in the order of decreasing consequences. The first point on the curve would represent the large consequence of a low probability scenario. The second point on the curve would represent the probability of the first scenario added to the probability of a second scenario. Since the probability of scenarios occurring is cumulative, scenarios with probabilities lower than one chance in 1,000 must be incorporated into probability distributions assembled under section 13 of 40 CFR part 191 to see if the results are significant with regard to compliance assessment.

Importantly, not all scenarios considered by the Department will necessarily be included in calculations of compliance with the 40 CFR part 191 disposal standards. Some scenarios may be eliminated from incorporation into performance assessments because assumptions will be made about such scenarios which indicate that the probability or consequences of such scenarios are outside of the scope of the requirements of 40 CFR part 191. In an effort to understand which scenarios were considered in performance assessments, EPA is proposing that information be provided which identifies all potential processes, events, or sequences of processes and events that may occur during the regulatory time frame and that may affect the disposal system, as well as information which identifies those processes, events, or sequences of processes and events actually included in performance assessment results.

Consideration of Human-Initiated Processes and Events

Compliance with the containment requirements of 40 CFR part 191 requires consideration of the effects of human-initiated processes and events on the disposal system. The Agency believes that the most productive consideration of inadvertent human-initiated processes and events concerns those realistic possibilities that may be usefully mitigated by disposal system design, site selection, or use of passive institutional controls. Therefore, the Agency is proposing that inadvertent and intermittent drilling for resources (other than those resources provided by the waste in the disposal system or any engineered barriers designed to isolate such waste) be the most severe scenario for human-initiated processes and events.

Further, the Agency is limiting the consideration of human-initiated processes and events to drilling events because mining events were not included in EPA's analyses that supported the final rule of 40 CFR part 191 as promulgated in 1985.

The Agency has chosen to divide human-initiated processes and events into two distinct categories, ''human intrusion'' and ''human activity,'' and is proposing a separate process to establish the drilling rate for each. ''Human intrusion'' includes those drilling events that reach the level of the waste in the disposal system or below. Such events would include, but would not be limited to, exploration for and development of oil and natural gas resources. The second category of human-initiated processes and events, ''human activity,'' includes all drilling events that may affect the disposal system, but do not reach the level of the waste in the disposal system. Such drilling events may include, but would not be limited to, exploration for potash, withdrawal of water—whether for purposes of drinking, irrigating or controlling dust—and drilling for other resources. Note that a given resource may exist at levels above and below the level of the waste in the disposal system and may therefore be included in establishing the rates for both human intrusion and human activity.

EPA is proposing that consideration be given to the record of human-initiated processes and events in the Delaware Basin over the past 50 years. The Agency believes that the 50-year time frame is appropriate because it represents a period during which information regarding human-initiated processes and events in the Delaware Basin can be reasonably obtained.

Importantly, by making assumptions about the frequency of human-initiated processes and events in the vicinity of the WIPP and holding them constant throughout the future, scenarios in which such events cease because, for instance, resources eventually become depleted would no longer be considered. However, the Agency recognizes that as one resource becomes depleted, the decrease in exploratory or production operations may be compensated for by the increase in drilling operations for another. Rather than engage in speculation about which resources will become more valuable in the future, and which will become depleted, EPA believes it is preferable to assume that current rates of drilling for each individual resource will remain constant. The Agency solicits comment on this approach.

As stated above, the Delaware Basin is being proposed as the area for examination of the record of human-initiated processes and events. The Delaware Basin is an elongated depression that extends from just north of Carlsbad, New Mexico, southward into Texas. The Agency solicits comment on how, precisely, the Delaware Basin should be defined. The Agency believes that the Delaware Basin is an appropriate region because the WIPP is situated within it and, as a region, it represents the largest contiguous area which shares similar geologic and hydrologic conditions with the WIPP site. However, EPA solicits comments on whether a different area should be used (such as a subset of the Delaware Basin).

It is important to note that the Agency is proposing to require a separate

examination of each type of human-initiated process and event. The reason for this requirement is to account for the fact that each type of drilling has a distinct rate and unique properties, resulting in a different effect on the disposal system for each type of drilling. For example, oil drilling is conducted at a different depth, rate and with a different drilling technique than water drilling and is, therefore, more likely to penetrate the repository than water drilling. Accordingly, the analyses for each resource must be conducted individually.

In assessing the consequences of human-initiated processes and events, the Agency is proposing that such processes and events be assumed to occur at random intervals in time and space throughout the regulatory time frame. The consequences of each human-initiated process and event shall be calculated in terms of the projected impact on the WIPP disposal system. If more than one human-initiated process or event is predicted to occur, the consequences of any processes and events which occur subsequent to initial ones shall take into account any impacts on the disposal system from such previous disruptions. This is done to take into account the fact that every drilling event introduces potential changes to the disposal system. For example, a disposal system with man-made pathways interconnecting aquifers underlying the disposal system with ground water above the disposal system may react differently than a disposal system that has never been disturbed. In other words, the cumulative consequences of all human-initiated processes and events shall be taken into account in performance assessment results.

For the purpose of performance assessments, the Agency is proposing different criteria for establishing the frequency of ''human intrusion'' and the frequency of ''human activity''. While both are based on the historical record of resource exploration over the past 50 years in the Delaware Basin, an upper and lower limit is placed on the rate of human intrusion. The rate of human activity, however, is not limited to a set range.

Specifically, the rate of human intrusion is determined by first identifying and examining past occurrences of human intrusion in the Delaware Basin over the past 50 years for all resources.

The sum of the individual rates of human intrusion for each resource then becomes the rate of human intrusion to be used in performance assessments, provided that the sum is not less than 25 and not greater than 62.5 boreholes per square kilometer per 10,000 years. In the event that the calculated total rate is less than 25, then the rate of human intrusion to be used in performance assessments should be adjusted upward proportionally to yield a total rate of 25 boreholes per square kilometer per 10,000 years. Thus, if the oil drilling rate is 8 and the natural gas drilling rate is 2, both values are adjusted upward by a factor of 2.5 to yield a rate of 20 for oil and 5 for natural gas. Likewise, if the calculated total rate exceeds 62.5, then the rate of each type of human intrusion should be adjusted downward proportionally to yield a maximum rate of 62.5 boreholes per square kilometer per 10,000 years to be used in performance assessments.

By placing an upper and lower limit on the rate of human intrusion, the Agency is adhering to the assumptions that the Agency made in developing the technical basis used for formulating the containment requirements of the final disposal regulations as promulgated in 1985. As part of the development of the disposal regulations, the Agency estimated the range of future human intrusion and human activity for the general case of a repository in bedded salt, the geologic setting of the WIPP. Assumptions were made about the presence near a repository of different types of resources—including oil, gas, minerals and water—though it was assumed that the most significant resources present would be oil and gas. Using drilling data from the contiguous 48 states as a rough guide, the Agency estimated that a region of bedded salt would experience 25 to 62.5 boreholes per square kilometer per 10,000 years. Because the depths at which oil and gas, the only significant resources assumed to be present, are located typically exceed 10,000 feet the estimated range applies only to the rate of human intrusion. Thus, by proposing a human intrusion range of 25 to 62.5 boreholes per square kilometer per 10,000 years, the Agency is grounding the criteria on the same basis as 40 CFR part 191. Discussion of the assumptions as developed for the 1985 final rule of 40 CFR part 191 can be found in ''Technical Support of Standards for High-Level Radioactive Waste Management, Volume D'' (EPA 520/4–79–007D) and ''Addendum to Volumes C and D'' (EPA 520/4–79–007E).

The Agency is proposing that, should the Department wish to forego the process of analyzing the historical rates of human intrusion events in the Delaware Basin, the Department shall assume the maximum rate of 62.5 boreholes per square kilometer per 10,000 years. The Agency is further proposing that the rate of human intrusion may be reduced in accordance with the criteria found in § 194.41, active institutional controls, and § 194.43(c), passive institutional controls. A complete discussion of reduction of the human intrusion rate can be found in the discussion of those two portions of the criteria.

For consideration of ''human activity'' in performance assessments, the Agency is proposing that the historical record of drilling be examined, but without placing pre-set limits on the rates. Specifically, the rate of human activity is determined by first identifying and examining past occurrences of human activity in the Delaware Basin over the past 50 years for all resources. The sum of the individual rates for each resource then becomes the rate of human activity to be used in performance assessment.

The Agency is placing no limits on the rate of human activity, in contrast to the treatment of the rate of human intrusion. This divergent treatment is consistent with the final rule of 40 CFR part 191, which was based on an estimate of 25 to 62.5 boreholes per square kilometer per 10,000 years for the general case of a repository in bedded salt in the vicinity of few resources other than oil and natural gas. Because the depths at which oil and natural gas reserves are located typically exceed 10,000 feet, the estimated range of 25 to 62.5 boreholes per square kilometer per 10,000 years applies to the case of human intrusion only. Hence, no limit, upper or lower, is placed on the rate of human activity.

The Agency recognizes that for some resources such as water, the use of that resource may depend upon the quality of the specific reservoir of that resource that is being exploited. A given reservoir of water, for example, may not be of potable quality but may still be usefully withdrawn for controlling dust. Therefore it may be possible to show that certain resources found within the controlled area differ in quality from the same resource as found in rest of the Delaware Basin. For such resources, it could potentially be demonstrated that the resource would normally be exploited for different purposes at a different rate within the controlled area, and further that there is reason to believe that such practices would continue. The Agency is proposing that if such a case can be made in compliance applications, then when examining the historical record of human activity associated with that resource, only that human activity that has been associated with resources of quality similar to that found within the

controlled area need be considered. Consider a hypothetical example in which the water resources in the controlled area were found not to be of potable quality, and this were demonstrated and documented in the application for certification of compliance. Then, when examining the history of drilling for water in the Delaware Basin, the Department would need only consider boreholes created for water uses other than drinking, e.g., irrigation and control of dust.

The Agency is further proposing that the rate of human activity may be reduced in accordance with the criteria found in § 194.41, active institutional controls, and in § 194.43(c), passive institutional controls. A complete discussion of reduction of the human activity rate can be found under the discussion of those two portions of the criteria.

In assessing the consequences of human-initiated processes and events, the Agency is proposing that assumptions pertaining to characteristics of such processes and events be based on characteristics associated with current practice in the Delaware Basin. This approach is consistent with the approach the Agency is proposing for future state assumptions. For example, assumptions related to the type and amount of any drilling fluids, borehole depths, diameters, and seals should be assumed to remain consistent with the current practice in the Delaware Basin. For the specific case of borehole seals, EPA is further proposing that boreholes shall be assumed to be sealed at the rate boreholes have been sealed over the past 50 years in the Delaware Basin and that natural processes will degrade or otherwise affect the permeability of boreholes over the regulatory time frame.

The Agency has chosen in today's proposal to differ from the Appendix C ''Guidance for Implementation'' which accompanied 40 CFR part 191 because EPA believes that the approach outlined above for assessing the likelihood and consequences of human-initiated processes and events is more appropriate for the WIPP than the method discussed in the guidance. Today's proposal is specific to the WIPP; the guidance, on the other hand, is generic. Moreover, the guidance only took into account drilling frequencies for oil and gas. The Agency believes that other human activities, such as drilling for potash and drilling for water, are equally important for consideration at the WIPP, as they too have the potential to affect the disposal system. Therefore, today's proposal requires consideration of all human actions that could affect a waste disposal system. However, the Agency solicits comment on its proposed approach and the appropriateness of differing from the Appendix C guidance.

Results of Performance Assessments

The Agency proposes to establish criteria for assessing the results of performance assessments required under the containment requirements of 40 CFR part 191. The Agency is proposing to require that the results of performance assessments be displayed as complementary cumulative distribution functions or ''CCDFs.'' These CCDFs would display the releases of radionuclides over 10,000 years after disposal—summed and normalized according to Table 1, Note 6 of 40 CFR part 191—on the horizontal axis and the probability of releases occurring on the vertical axis.

In conducting performance assessments, there will be many parameter values that can affect the results of such assessments. For instance, gas generation by the waste, radionuclide solubilities, permeability of the host rock, and the porosity and transmissivity of surrounding aquifers entail parameter values that can affect the results of such performance assessments. These values may be difficult to quantify particularly over a 10,000-year period. Therefore, the Agency is proposing to require the development of probability distributions for parameter values in order to represent the probability of different values of the parameter occurring.

The Agency is further proposing to require that, in generating CCDFs, computational techniques be developed that sample randomly across the full range of probability distributions developed for uncertain disposal system parameter values used in performance assessments. In so doing, it is possible to convey the influence of parameter uncertainty upon the resulting CCDFs. Random sampling techniques can select a predetermined number of values from a parameter's probability distribution, the collection of which will represent the range of the distribution in successive stages of calculation.

The Agency is proposing to require that the entire range or ''family'' of CCDFs generated as a result of these sampling techniques be included in compliance applications. By requiring that all CCDFs be submitted, the Agency can evaluate whether given the conditions that exist at the disposal system, the disposal system could fail to comply with section 13 of 40 CFR part 191 in some of the CCDFs. By noting the number of total CCDFs generated that fail to comply, the Agency will gain insight into the performance of the disposal system over the 10,000-year time frame.

The Agency is proposing to place statistical criteria on the number of CCDFs generated. The Agency is proposing to require that the number of CCDFs generated be large enough such that the maximum CCDF generated exceeds the 99th percentile of the population of CCDFs with at least a 0.95 probability. A 95% confidence level is commonly recognized as being a good indicator of statistical acceptability. The Agency believes that the effect of this approach will be that the number of CCDFs generated will be large enough to ensure that a full range of realizations have been generated. EPA estimates that this will require several hundred realizations, although the number submitted in compliance with this requirement may ultimately be larger or smaller.

The Agency is proposing to require that the mean CCDF of the population of CCDFs meets the requirements of section 13(a) of 40 CFR part 191 with at least a 95 percent level of statistical confidence. The mean CCDF is calculated from a ''family'' of CCDFs whose parameters have an associated uncertainty to them, as discussed above. As a result, the mean will have its own associated uncertainty. This uncertainty around the location of the mean reduces the level of assurance with which we can state that the mean CCDF is in compliance with section 13 of 40 CFR part 191. One way of attaining statistical confidence in the mean is to determine how reproducible the mean is if recalculated. For example, first generate an ensemble of a certain number of CCDFs and calculate the mean. Next, generate an entirely new ensemble of the same number of CCDFs and compare the mean calculated for this new set to that of the first set. If the number of CCDFs generated is a statistically representative portion of the infinite population of CCDFs, then the two calculated means will likely agree. By placing a statistical confidence requirement on the mean of the CCDFs, the Agency hopes to ensure that a mean that is in compliance would upon recalculation from a new ensemble of CCDFs, still be in compliance. The Agency is proposing to require a 95 percent level of statistical confidence that the mean meets the requirements but solicits comment on other levels of confidence which may be more appropriate.

Before selecting the mean as the compliance indicator, the Agency

examined three options. The first option, the mean CCDF or expected value, was selected because of its ability to convey a sense of the whole ensemble of CCDFs generated. In calculating the mean, all CCDFs—those representing best case results, those representing worst case results, and everything in between—are included. Since it cannot be known which CCDF represents actual performance over the 10,000 year regulatory period, it is deemed wise to include the influence of all generated CCDFs.

The Agency also examined the median CCDF. The median CCDF would be indicative of the central tendency of the majority of the CCDFs and would not exhibit the influence of high or low consequence CCDFs as strongly as the mean CCDF. Specifically, the influence of high consequence CCDFs that do not meet the requirements of section 13(a) of 40 CFR part 191 would be discounted by the median. In the Agency's view, this makes the median CCDF less suitable as a compliance indicator.

The Agency also examined the possibility of using a percentile value as a compliance indicator. The Agency has considered and rejected percentile values at or below 50 on grounds that such values would not provide adequate confidence of achieving the desired protection of public health. As for higher values, the Agency believes that it would be extremely difficult to justify any specific higher value.

The Agency solicits comment on the appropriateness of the mean or some other CCDF as a basis for compliance. The Agency solicits comments on using some possible combination of CCDFs as a basis for compliance; e.g., requiring that the mean and the median meet the requirements of section 13(a) of 40 CFR part 191.

Another issue upon which the Agency solicits comment is on the alternative of basing compliance on one single realization, rather than on a multitude of them as discussed above and then using that realization to determine compliance with the containment requirements. Instead of sampling from a given range of variables for each parameter and generating a new realization curve each time this is done, it has been suggested that all possible values for each parameter should be selected in creating a single curve. In this way, all the information is folded into one realization which either complies or does not. The advantage in this technique is that the issue of the appropriateness of the mean, median, or other percentile is obviated. The disadvantage is that it is difficult to see exactly which parameters caused the curve to behave in a particular way.

Regardless of the method ultimately used to determine compliance with the numerical requirements of section 13 of 40 CFR part 191, a ''reasonable expectation of compliance'' with the containment requirements cannot be achieved until a demonstration has been made that the qualitative requirements set forth in sections 21 through 27 of today's proposal have also been met. A ''reasonable expectation of compliance'' with the containment requirements shall not be based solely upon a statistical estimate of radionuclide releases to the accessible environment. Instead, the Agency will consider the full record of information submitted in compliance applications and will examine the methods and assumptions which were used to support the development of radionuclide release estimates. For example, the EPA will consider such factors as the reasonableness of the processes and events incorporated into performance assessments, the appropriateness of any expert elicitation used to provide input to models, the adequacy of peer review, and the quality of other data inputs. Only after a demonstration has been made that all of the requirements set forth in sections 21 through 27 of today's proposal have been met and that the numerical requirements of section 13 of 40 CFR part 191 have been satisfied, will a ''reasonable expectation'' of compliance with the containment requirements be achieved.

Assurance Requirements

In addition to the numerical requirements set forth in the Agency's radioactive waste disposal standards, section 14 of the standards contains a set of qualitative requirements to help assure that the desired level of protection is achieved. These assurance requirements address: (1) Active institutional controls; (2) monitoring; (3) passive institutional controls; (4) engineered barriers; (5) consideration of the presence of resources; and (6) removal of waste.

Active Institutional Controls

According to the disposal standards:

Active institutional controls over disposal sites should be maintained for as long a period of time as is practicable after disposal; however, performance assessments that assess the isolation of the wastes from the accessible environment shall not consider any contributions from active institutional controls for more than 100 years after disposal.

As defined in 40 CFR part 191, ''active institutional control'' means: ''(1) Controlling access to a disposal site by any means other than passive institutional controls; (2) performing maintenance operations or remedial actions at a site; (3) controlling or cleaning up releases from a site; or (4) monitoring parameters related to disposal system performance.''

With the above requirements in mind, today's proposal requires that any application for certification of compliance contain detailed descriptions of proposed active institutional controls, their location and the period of time they are proposed to remain active. Any credit assumed for reduced human activity in the vicinity of the WIPP or reduced releases of radionuclides must be supported by such descriptions but, as indicated in the disposal standards, in no case shall it be assumed that active institutional controls will be effective in preventing or reducing releases beyond 100 years after disposal.

Monitoring

Since the predictions associated with long-term compliance with the disposal standards of 40 CFR part 191 are inherently uncertain, final disposal standards issued in 1985 included a provision requiring monitoring of disposal systems to help assure that they are performing as predicted. The proposed disposal standards issued in 1982 had not included such a requirement. However, several commenters (including most of the States) urged addition of a requirement for long-term monitoring of a repository after disposal to guard against unexpected failures. Accordingly, further information was sought on this idea. The Agency surveyed the capabilities and expectations of long-term monitoring approaches. As explained in the preamble to the 1985 disposal standards (50 FR 38081, September 19, 1985):

Evaluating this information led the Agency to several conclusions:

(1) Perhaps most importantly, the techniques used for monitoring after disposal must not jeopardize the long-term isolation capabilities of the disposal system. Furthermore, plans to conduct monitoring after disposal should never become an excuse to relax the care with which systems to isolate these wastes must be selected, designed, constructed, and operated.

(2) Monitoring for radionuclide releases to the accessible environment is not likely to be productive. Even a poorly performing geologic repository is very unlikely to allow measurable releases to the accessible environment for several hundreds of years or more, particularly in view of the engineered controls needed to comply with 10 CFR Part 60. A monitoring system based only on

detecting radionuclide releases—a system which would almost certainly not be detecting anything for several times the history of the United States—is not likely to be maintained for long enough to be of much use.

(3) Within the above constraints, however, there are likely to be monitoring approaches which may, in a relatively short time, significantly improve confidence that a repository is performing as intended. Two examples are of particular interest. One involves the concept of monitoring ground-water sources at a variety of distances for benign tracers intentionally released to the ground water in the repository; this approach can evaluate the delay involved in ground-water movement from the repository to the environment and can serve to validate expectations of the performance expected from the system's natural barriers. Another concept involves monitoring the small uplift of the land surface over the repository in order to validate predictions of the system's thermal behavior. Both of these approaches can be carried out without enhancing pathways for the wastes to escape from the repository.

Based on these conclusions and the public comments on this question, the Agency included a provision (in the assurance requirements of the final disposal standards) for long-term monitoring after disposal: ''Disposal systems shall be monitored after disposal to detect substantial and detrimental deviations from expected performance. This monitoring shall be done with techniques that do not jeopardize the isolation of the wastes and shall be conducted until there are no significant concerns to be addressed by further monitoring.''

Accordingly, EPA is proposing criteria for complying with the monitoring requirements in the disposal standards. EPA is proposing that monitoring programs be designed to detect the movement of radionuclides toward the accessible environment at the earliest practicable time. Such monitoring programs shall be consistent with monitoring required under applicable federal hazardous waste regulations and shall be done with techniques that do not jeopardize the containment of waste in the disposal system. Due to the long-term nature of the potential hazard associated with disposal of transuranic radioactive waste, any unpredicted detection of movement of radionuclides away from the disposal system and toward the accessible environment would be cause for concern that an exceedance of what is permitted under the disposal regulations is likely to occur. If releases are detected early enough, remedial action can be implemented before radionuclides reach the accessible environment.

EPA is proposing in today's criteria that any compliance certification application include a detailed plan for monitoring the performance of the WIPP after disposal. At a minimum, this plan shall: Identify parameters that will be monitored and how baseline states will be determined; indicate how each parameter will be used to evaluate the performance of the disposal system; and discuss the length of time over which each parameter will be monitored to detect deviations from expected performance. Radionuclide monitoring programs should be consistent with applicable federal hazardous waste monitoring programs in order to minimize duplication of monitoring efforts. The Agency solicits comments on this approach.

In addition to monitoring after closure of the disposal system (i.e., when all of the shafts to the repository are backfilled and sealed), EPA proposes that, to the extent practicable, pre-closure monitoring of parameters which may affect the long-term performance of the disposal system after closure shall also be conducted. The Agency believes that such monitoring can provide important information about the disposal system and that such information can contribute to a better understanding of how the disposal system is likely to perform after closure. Furthermore, such information can be used to verify assumptions (about the disposal system) which form the basis of a compliance assessment.

The Agency is proposing to require that, as a part of the pre-closure monitoring plan for the WIPP, monitoring of parameters which can affect the containment of waste in the disposal system shall be conducted to the extent practicable. The Agency believes that the following parameters can affect the containment capability of the WIPP: Brine quantity, flux, composition, and spatial distribution; gas quantity and composition; and temperature distribution. Since there may be additional disposal system parameters important to the containment of waste, EPA is proposing that DOE undertake a study to determine the effect of various disposal system parameters on the performance of the disposal system. Such study shall consider whether a disposal system parameter should be monitored because the parameter either provides information regarding the disposal system's ability to contain waste or regarding the ability to predict the future performance of the disposal system. The parameters studied shall include, but need not be limited to: Backfilled mechanical state including porosity, permeability, and degree of compaction and reconsolidation; extent of deformation of the surrounding roof, walls, and floor of the disposal room; and initiation or displacement of major brittle deformation features in the roof or surrounding rock. The results of the study shall be provided to EPA along with documentation of the methodology and information describing the importance of each disposal system parameter studied. The results of such study shall dictate the breadth of monitoring of disposal system parameters.

The parameters specifically mentioned above and in the proposed criteria were identified as important to the containment capability of the WIPP by the Agency in its comments to the Department (dated October 19, 1989) regarding the Test Phase Plan for the WIPP. In those comments, EPA recommended that the Department implement monitoring systems in disposal rooms that would be ''indicative of waste system performance'' (Recommendation 7). In response to EPA's comments, the DOE agreed to conduct a feasibility study on underground monitoring of the WIPP.

EPA solicits comment on whether monitoring should be required for the specific parameters listed above, on whether additional or other parameters should be specified, and on the feasibility of continuing such monitoring after disposal (i.e., after the repository has been backfilled and sealed). Additionally, the Agency solicits comment on whether EPA should require the use of specific monitoring methods.

Passive Institutional Controls

The assurance requirements of 40 CFR part 191 require that ''disposal systems shall be designated by the most permanent markers, records, and other passive institutional controls practicable to indicate the dangers of the wastes and their location.'' Section 14(c) of 40 CFR part 191. The standards define ''passive institutional controls'' as ''(1) permanent markers placed at a disposal site, (2) public records and archives, (3) government ownership and regulations regarding land or resource use, and (4) other methods of preserving knowledge about the location, design and contents of a disposal system.''

In light of the requirement for use of passive institutional controls set forth in 40 CFR part 191, the Agency is proposing that any application for certification of compliance include detailed descriptions of the measures that will be employed to preserve knowledge about the location, design,

and contents of the disposal system. At a minimum, it is proposed that such measures will include: (1) Identification of the controlled area by markers that have been designed, fabricated and emplaced to be as permanent as practicable; and (2) placement of records in the archives and land record systems of local, state, and Federal Government agencies, and international archives, that would be likely to be consulted by individuals in search of unexploited resources.

The Agency proposes that the type of information contained in records shall include: The location of the controlled area and the disposal system; the design of the disposal system; the nature and hazard of the waste; geologic, geochemical, hydrologic, other site data pertinent to the containment of waste in the disposal system, and the results of tests, experiments, and other analyses relating to backfill of excavated areas, shaft sealing, waste interaction with the disposal system, and any other tests, experiments, or analyses pertinent to the containment of waste in the disposal system. EPA solicits comments on the appropriateness of this list and on whether additional or other items should be specified. Any application for certification of compliance shall include detailed descriptions of the proposed controls as well as information regarding the period of time those controls are expected to endure and be understood.

A question arises with regard to the extent to which the Agency should allow performance assessments to consider contributions from passive institutional controls in reducing the likelihood of human-initiated processes and events that may affect the disposal system. While the disposal regulations address contributions from active institutional controls (see above discussion of active institutional controls), they do not specifically address contributions from passive institutional controls. The Agency may be willing to consider such contributions if a persuasive case can be made that the passive institutional controls can be expected to endure and act as a deterrent to potential intruders. In no instance, however, will passive institutional controls be assumed to eliminate the likelihood of human-initiated processes and events entirely. Furthermore, contributions from passive institutional controls may vary over time. For example, the effectiveness of passive institutional controls may decrease over the regulatory time frame. The Agency solicits comment on the extent—if any—to which contributions from passive institutional controls should be considered in performance assessments.

Because of the uncertainty concerning the effectiveness of passive institutional controls in terms of influencing human activity, EPA must carefully scrutinize information about such controls. The Agency has considered the fact that markers exist in the world today that are thousands of years old. This would tend to support the view that passive institutional controls can survive for very long periods of time. Nevertheless, it is possible that markers have been created in the past and were destroyed or disintegrated. The actual percentage of surviving markers is thus unknown. It could be very small, meaning that an unrealistically large number of markers would have to be placed at the WIPP in order to assure survival. Further uncertainty in the effectiveness of markers derives from the possibility that even if markers survive, it does not mean they will necessarily be understood by future generations.

Institutional controls have been known to fail. The New Mexico Environmental Evaluation Group (EEG) has documented instances in the recent past where institutional controls have failed at the WIPP. According to EEG, both the DOE and the Department of the Interior's Bureau of Land Management ''failed to implement the procedures described by the DOE as crucial to protecting the site from inadvertent human intrusion in twenty-two of the twenty-five applications to drill oil and gas wells filed while a Memorandum of Understanding was legally binding and the WIPP facility was in a state of full readiness to receive waste.'' (EEG letter to EPA dated February 23, 1994). This indicates that even today, and even with governmental entities responsible for implementation of controls, such controls are not, necessarily, reliable. The unknown nature of future societies and governmental institutions compounds the uncertainty.

Engineered Barriers

The assurance requirements of 40 CFR part 191 require that disposal systems ''use different types of barriers to isolate the wastes from the accessible environment.'' Additionally, the disposal standards mandate that ''Both engineered and natural barriers shall be used.'' 40 CFR part 191 defines the term ''barrier'' as ''any material or structure that prevents or substantially delays movement of water or radionuclides toward the accessible environment. For example, a barrier may be a geologic structure, a canister, a waste form with physical and chemical characteristics that significantly decrease the mobility of radionuclides, or a material placed over and around waste, provided that the material or structure substantially delays movement of water or radionuclides.''

If selected and designed properly, engineered barriers can significantly reduce the potential for waste migration away from the disposal system. They can be an effective mechanism for improving the performance of the WIPP and for reducing the uncertainty inherent in long-term projections about the ability of the disposal system to comply with the quantitative requirements of 40 CFR part 191.

While the disposal standards require use of engineered barriers, they do not specify how many or what kinds of engineered barriers must be used. The Agency is, therefore, proposing criteria for selecting engineered barriers.

In today's notice, EPA is proposing that DOE complete a study of engineered barrier alternatives and their benefits and costs. The results of such study shall be used to justify both the selection and rejection of engineered barriers at the WIPP. Moreover, the study shall be peer reviewed. For example, EPA believes that the National Academy of Sciences may be able to provide an appropriate forum for peer review of the study envisioned in today's proposed criteria. The Agency believes that the credibility of the study of engineered barrier alternatives and resulting selection of engineered barriers for the WIPP disposal system is critically important.

The specific engineered barriers proposed to be evaluated include, but are not limited to: Cementation, shredding, supercompaction, incineration, vitrification, improved waste canisters, grout and bentonite backfill, melting of metals, alternative configurations of waste placements in the disposal system, and alternative disposal system dimensions. These specific engineered barriers were selected by the Agency because they have already begun to be considered by DOE's Engineered Alternatives Task Force (EATF) (see July, 1991 EATF Report on Engineered Alternatives for the WIPP, DOE/WIPP 91–007) and appear to represent potentially promising alternatives. EPA solicits comment on the appropriateness of specifying the above-mentioned engineered barriers as the subject of the study and on whether alternative barriers should be specified.

The Agency is proposing that the following factors be considered in benefit/cost analysis of the above-mentioned engineered barriers: the ability of the engineered barrier to

prevent or substantially delay the movement of water or radionuclides toward the accessible environment; the impact on worker exposures to radiation (at the WIPP and off-site) both during and after incorporation of engineered barriers; the increased ease or difficulty in removing the waste from the disposal system; the increased or reduced risk of transporting the waste to the disposal system; the increased or reduced uncertainty in compliance assessment; the increased or reduced public confidence in the performance of the disposal system; the increased or reduced total system costs; the impact, if any, on other waste disposal programs from the incorporation of engineered barriers; and the effect on mitigating the consequences of human-initiated processes and events.

It would be inappropriate to limit the study only to the impact of engineered barriers on the performance of the WIPP. If this were done, the possibility would exist that an engineered barrier may be selected, for example, which marginally improves the disposal system's performance, yet results in much higher environmental risks at treatment sites. This increase in risk would contravene the Agency's objective of protecting human health and the environment. EPA solicits comment on this approach to selecting engineered barriers and on whether an alternative list of factors should be specified for consideration.

The Agency proposes that the benefit/cost study described above include separate analyses for different categories of waste potentially destined for disposal at the WIPP. The Agency believes that benefits and costs of engineered barriers can differ depending on whether they are applied to existing waste that is already packaged, existing waste that is not yet packaged or is in need of repackaging, or to-be-generated waste. Therefore, the Agency is proposing that these different categories of waste be analyzed separately.

Finally, EPA is proposing that engineered barrier alternatives be considered both alone and in combination. In this way, assurance can be had that the full range of alternative applications of engineered barrier systems has been considered.

Importantly, today's proposal requires the results of the benefit/cost study to be included in any compliance application and for the results to be used to justify the selection or rejection of any engineered barrier. This will help the Agency understand why particular barriers were selected while others were not, as well as help the Agency to evaluate the appropriateness of such selections.

The Agency solicits comments on other potential approaches to the treatment of engineered barriers in the WIPP compliance criteria. In particular, the Agency is interested in receiving comment on the option of specifying a performance standard for engineered barriers similar to that specified by the Nuclear Regulatory Commission in 10 CFR part 60 regulations for disposal of high-level radioactive waste. Under this approach, a maximum radionuclide release rate would be established for the engineered barrier system. Engineered barriers selected for the disposal system would have to contain radionuclide releases within the established rate.

Consideration of the Presence of Resources

Section 14 of 40 CFR part 191 includes the following requirement: ''Places where there has been mining for resources, or where there is a reasonable expectation of exploration for scarce or easily accessible resources, or where there is a significant concentration of any material that is not widely available from other sources, should be avoided in selecting disposal sites. Resources to be considered shall include minerals, petroleum or natural gas, valuable geologic formations, and ground waters that are either irreplaceable because there is no alternative source of drinking water available for substantial populations or that are vital to the preservation of unique and sensitive ecosystems. Such places shall not be used for disposal of the wastes covered by this part unless the favorable characteristics of such places compensate for their greater likelihood of being disturbed in the future.''

EPA is proposing that any application for certification of compliance shall include information which demonstrates that the favorable characteristics of the WIPP compensate for the presence of resources and the likelihood of human-initiated processes and events as a result of the presence of those resources. If, after full consideration of the potential effects of resource recovery activities the WIPP is still predicted to meet the requirements of 40 CFR part 191, then the Agency will assume that the requirements of this part and section 14(e) of 40 CFR part 191 have been fulfilled. The Agency solicits comment on this approach.

Removal of Waste

Another assurance requirement included in the 40 CFR part 191 disposal standards involves the removal of waste from the disposal system. Specifically, 40 CFR part 191 mandates that: ''Disposal systems shall be selected so that removal of most of the wastes is not precluded for a reasonable period of time after disposal.'' In order to address this requirement, EPA is proposing criteria to require a plan for removing waste from the disposal system using the best technology available at the time of application.

Individual and Ground-Water Protection Requirements

The Agency incorporated requirements in 40 CFR part 191 for the protection of individuals and ground-water. The individual protection requirements of 40 CFR part 191 limit annual committed effective doses of radiation to members of the public to no more than 15 millirem. The ground-water protection requirements limit releases to ground water to no more than the limits set by the maximum contaminant level for radionuclides (MCL) established in 40 CFR part 141 under section 1412 of the Safe Drinking Water Act (SDWA), 42 U.S.C. 300g–1. Both of these requirements are concerned with human exposure to radionuclides from disposal systems and, like the containment requirements of 40 CFR part 191, both limit such exposure for 10,000 years.

The proposed criteria address the following issues: the definition of a protected individual, the consideration of exposure pathways, the consideration of underground sources of drinking water, the scope of compliance assessments, and the basis for a determination of compliance with these requirements (results of compliance assessments).

With regard to identifying protected individuals, the Agency is proposing to require that assessments regarding individual exposures to radiation from the disposal system be based upon the assumption that individuals reside at the point on the surface of the accessible environment where they would be expected to receive the highest exposure from radionuclide releases from the disposal system. This helps ensure that the individual most likely to receive the highest exposure from the disposal system is accounted for and protected.

In assessing individual doses, the Agency proposes to require consideration of all potential pathways (associated with undisturbed performance) for radionuclide transport. The pathways which need to be considered include land-surface pathways (including direct radiation exposure), surface or ground-water pathways, and air pathways, as well as

combinations of the above. Furthermore, consistent with the Agency's approach under the Safe Drinking Water Act (42 U.S.C.A. sections 300(f) to 300j–26), it should be assumed that individuals consume two liters of water per day from any underground source of drinking water in the accessible environment.

EPA is proposing today that any underground sources of drinking water in the accessible environment which are likely to be affected by the disposal system over 10,000 years be considered in WIPP compliance applications. Such consideration should include an analysis of the interconnection and commingling of bodies of ground water with underground sources of drinking water, as well as ground-water flow rates and direction.

According to 40 CFR part 191, calculations of compliance with the individual and ground-water protection requirements must consider the undisturbed performance of the disposal system. 40 CFR part 191 defines ''undisturbed performance'' as: ''the predicted behavior of a disposal system, including consideration of the uncertainties in predicted behavior, if the disposal system is not disrupted by human-intrusion or the occurrence of unlikely natural events.'' The Agency solicits comment on whether there is a need for further clarification of the analysis of undisturbed performance, e.g.; is there a need to identify what constitutes an ''unlikely'' natural event or what probability of occurrence renders an event ''likely'' or ''unlikely?''.

EPA is proposing that any application for certification of compliance shall include information which identifies the processes, events, or sequences of processes and events considered in compliance analyses. Moreover, EPA is proposing that documentation be provided which justifies the inclusion/non-inclusion of particular processes, events, or sequences of processes and events in compliance assessment results.

Once the processes, events, or sequences of processes and events have been identified, they shall be incorporated into compliance assessments of the disposal system. The disposal standards require compliance assessments to include consideration of the uncertainties associated with the undisturbed performance of the disposal system. To do this, it is necessary to identify all disposal system parameters that can affect the performance of the WIPP, as well as to identify the uncertainty associated with each parameter.

When the disposal system parameters and their accompanying uncertainty have been identified, EPA is proposing that probability distributions be developed for each such parameter. A probability distribution is a function which assigns a probability of occurrence to each value for a given parameter.

The Agency is proposing that, in compiling compliance assessment results, computational techniques be used which draw random samples from across the full range of probability distributions for parameter values used in compliance assessments. This will help assure that all possible values of a parameter have been considered in compiling compliance assessment results.

EPA is proposing that the range of estimated radiation doses to individuals (as generated through use of the computational techniques referred to above), and the range of estimated radionuclide concentrations in ground water must be large enough such that the maximum estimate generated exceeds the 99th percentile of the population of estimates with at least a 95% probability. The ''population of estimates'' refers to the set of all possible estimates that can be generated from all disposal system parameter values used in compliance assessments. A single estimate, in effect, samples this population. This is similar to the requirement for the number of CCDFs which must be generated for purposes of compliance with the containment requirements. The Agency is proposing to include this provision for the purpose of ensuring that there is a 95% probability that 99% of all possible values have been exceeded by the maximum estimate generated.

In order to assure that all pertinent information is provided to the Agency, EPA is proposing to require that compliance applications display the full range of estimated radiation doses and the full range of estimated radionuclide concentrations.

Finally, the Agency is proposing to require that any compliance certification application provide information which demonstrates that there is at least a 95% level of statistical confidence that the mean and the median of the full range of estimated radiation doses and of the full range of estimated radionuclide concentrations meet the requirements set forth in sections 15 and 16 of 40 CFR part 191. The mean estimate provides a measure of compliance that expresses the average impacts of the disposal system on individuals and ground water as well as the probabilities of uncertain disposal system parameter values. The median estimate provides a measure of compliance that expresses the central tendency of a population of estimates. Specifically, the median represents the point that a calculated estimate would be equally likely to fall above or below. Insofar as both statistics contain useful information, the Agency is proposing an approach that assures that both meet the limits of the individual and ground-water protection requirements.

The Agency solicits comments on the above approach for evaluating the results of compliance assessment.

Subpart D—Public Participation

The Agency intends to involve the public throughout the Agency's regulatory oversight at the WIPP. Accordingly, today's proposal contains a set of criteria for public participation in any compliance certification or determination.

In today's proposal, the Agency is proposing to continue to maintain the four public information dockets listed in the Supplementary Information section of this part. All materials relevant to any compliance certification or determination or to any decision regarding modifications, suspensions, or revocations of such compliance certifications and determinations will be placed in the proposed dockets.

The Agency believes that maintaining dockets is useful because they can greatly increase communication between EPA and all interested parties. The Agency intends to maintain all dockets in conformance with EPA's ''Uniform Rulemaking Docket Guidance'' to the extent practicable. This guidance is widely used within the Agency and helps to ensure that public participation in Agency rulemakings is optimized.

The Agency also proposes to hold public hearings on proposed compliance criteria within the State of New Mexico. These hearings will provide an opportunity for members of the public, beyond submission of written comments, to express their views to EPA in the rulemaking process.

With respect to applications for compliance certification, the Agency is proposing that, upon receipt of an application for certification of compliance, it will publish a notice in the **Federal Register** announcing that an application for certification of compliance has been received and soliciting comment on that application. This notice in the **Federal Register** will be an Advance Notice of Proposed Rulemaking (ANPR), as it will also announce the Agency's intent to conduct a rulemaking to certify whether

the WIPP will comply with the disposal regulations. The Agency is proposing this approach in order to afford the public an opportunity for early input into EPA's certification decision. The alternative might have been simply putting the application in the docket and receiving comments from the public through a more informal means. However, the Agency believes that this approach would not necessarily lead to as much public input relevant to its decision. Hence, the more formal approach is proposed.

Upon completion of a review of the application for certification of compliance, the Agency also proposes to publish in the **Federal Register** a Notice of Proposed Rulemaking announcing the Administrator's proposed decision on whether the WIPP facility will comply with the disposal regulations and soliciting comment on such proposal. The notice will provide a comment period of at least 120 days and will announce the opportunity for public hearings in New Mexico (including times and procedures for registering to testify).

The Agency will publish a Notice of Final Rule in the **Federal Register** announcing the Administrator's decision on certifying whether the WIPP facility will comply with the disposal regulations. Additionally, a document summarizing major comments and issues arising from comments received on the Notice of Proposed Rulemaking, as well as the Administrator's response to such comments and issues, will be prepared and made available for inspection in Agency dockets.

Similar to the process outlined above for applications for compliance certification (and for the same reasons), when EPA receives documentation of continued compliance as required under 8(f) of the WIPP LWA, the Agency will publish a notice in the **Federal Register** announcing the Administrator's intent to determine whether the WIPP facility continues to be in compliance with the disposal regulations. Copies of any documentation received will be made available for inspection in Agency dockets and comments will be solicited for at least 30 days after receipt. Once the Agency has considered all comments received, the Administrator will make a determination regarding WIPP's continued compliance and publish that decision in the **Federal Register**.

Questions for Comment

The Agency is requesting comment on today's proposed criteria for the certification and determination of the WIPP's compliance with the 40 CFR part 191 disposal standards and on the proposed approaches taken. EPA generally invites comment on whether today's proposal addresses all issues related to any EPA certification or determination of WIPP's compliance with the disposal regulations in 40 CFR part 191.

Effective Date

The effective date of these compliance criteria, once finalized, will be 30 calendar days after date of publication of the final rule in the **Federal Register**.

Regulatory Analyses

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 OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is a ''significant regulatory action'' because it raises novel policy issues arising out of legal mandates. As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) requires each Federal agency to consider the effects of their regulations on small entities and to examine alternatives that may reduce these effects. The nature of this action is to propose criteria for the certification of compliance of the WIPP with the Agency's radioactive waste disposal standards set forth in 40 CFR Part 191. Since the preparation of applications for compliance will only be conducted by DOE, and since any ensuing disposal and information gathering activities will only be carried out by DOE, the Agency certifies that this regulation will not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

The EPA has determined that this proposed rule contains no information requirements as defined by the Paperwork Reduction Act (42 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 194

Environmental protection, Administrative practice and procedure, Nuclear materials, Plutonium, Radiation protection, Radionuclides, Uranium, Transuranics, Waste treatment and disposal.

Dated: January 11, 1995.

Carol M. Browner,

Administrator.

A new part 194 is hereby proposed to be added to title 40, Code of Federal Regulations, as follows:

PART 194—CRITERIA FOR THE CERTIFICATION AND DETERMINATION OF THE WASTE ISOLATION PILOT PLANT'S COMPLIANCE WITH ENVIRONMENTAL STANDARDS FOR THE MANAGEMENT AND DISPOSAL OF SPENT NUCLEAR FUEL, HIGH-LEVEL AND TRANSURANIC RADIOACTIVE WASTES

Subpart A—General Provisions

Sec.

Subpart B—Compliance Certification and Determination Applications

Subpart C—Compliance Certification and Determination

General Requirements

Authority: The Waste Isolation Pilot Plant Land Withdrawal Act of 1992, Pub.L. 102–579, 106 Stat. 4777; 5 U.S.C.app.1; 42 U.S.C. 2011–2296; 42 U.S.C. 10101–10270.

Subpart A—General Provisions

§ 194.1 Purpose, scope and applicability.

This part specifies criteria for any certification or determination of compliance, under section 8(d) and section 8(f) of the Waste Isolation Pilot Plant Land Withdrawal Act of 1992 (WIPP LWA), with the disposal regulations at 40 CFR part 191. Any compliance application submitted under section 8(d) of the WIPP LWA and any compliance application submitted under section 8(f) of the WIPP LWA must comply with the requirements of this part.

§ 194.2 Definitions.

Unless otherwise indicated in this part, all terms have the same meaning as in 40 CFR part 191.

Certification means any action taken by the Administrator under section 8(d) of the WIPP LWA.

Compliance application(s) means any application submitted to the Administrator under section 8(d) of the WIPP LWA or any application(s) submitted to the Administrator under section 8(f) of the WIPP LWA.

Compliance assessment(s) means the analysis conducted to determine compliance with section 15 and subpart C of 40 CFR part 191.

Determination means any action taken by the Administrator pursuant to 8(f) of the WIPP LWA.

Disposal regulations means subparts B and C of 40 CFR part 191.

Human activity means those drilling events that may affect the disposal system, but do not necessarily reach the level of the waste in the disposal system.

Human intrusion means those drilling events that reach the level of the waste in the disposal system.

Management systems review means the qualitative assessment of a data collection operation or organization(s) to establish whether the prevailing quality management structure, policies, practices, and procedures are adequate for ensuring that the type and quality of data needed are obtained.

Modification means action(s) taken by the Administrator that has the effect of altering the terms or conditions of certification under section 8(d) of the WIPP LWA or that has the effect of altering the terms or conditions of a determination under section 8(f) of the WIPP LWA.

Population of CCDFs means all possible CCDFs that can be generated from all disposal system parameter values used in performance assessments.

Population of estimates means all possible estimates that can be generated from all disposal system parameter values used in compliance assessments.

Quality assurance means all those planned and systematic actions necessary to provide adequate confidence that the disposal system will perform satisfactorily in service. Quality assurance includes quality control, which comprises those quality assurance actions related to the physical characteristics of a material, structure, component, or system which provide a means to control the quality of the material, structure, component, or system to predetermined requirements.

Regulatory time frame means the time period beginning at disposal and ending 10,000 years after disposal.

Revocation means any action taken by the Administrator to terminate or withdraw the effectiveness of a certification under section 8(d) of the WIPP LWA or to terminate or withdraw the effectiveness of a determination under section 8(f) of the WIPP LWA.

Secretary means the Secretary of the Department of Energy.

Suspension means any action taken by the Administrator to withdraw, for a limited period of time, the effectiveness of certification under section 8(d) of the WIPP LWA or to withdraw, for a limited period of time, the effectiveness of a determination under section 8(f) of the WIPP LWA.

Waste means the radioactive waste and radioactive material subject to the requirements of 40 CFR part 191.

WIPP means the Waste Isolation Pilot Plant project authorized under section 213 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980 (Pub. L. 96–164; 93 Stat. 1259, 1265).

WIPP LWA means the Waste Isolation Pilot Plant Land Withdrawal Act (Pub. L. 102–579, 106 Stat. 4777).

§ 194.3 Communications.

(a) Compliance application(s) shall be:

(1) Addressed to the Administrator; and

(2) Signed by the Secretary.

(b) Communications and reports concerning the criteria in this part shall be:

(1) Addressed to the Administrator or, where indicated, the Administrator's authorized representative; and

(2) Signed by the Secretary or the Secretary's authorized representative.

§ 194.4 Conditions of compliance certification and determination.

(a) Any certification or determination issued pursuant to the WIPP LWA may include such conditions as the Administrator finds to be necessary to support such certification or determination(s).

(b) Whether stated therein or not, the following shall be conditions in any certification or determination:

(1) The certification or determination shall be subject to modification, suspension, or revocation, by the Administrator. Any modification, suspension, or revocation of the certification shall be done by rule. If the Administrator revokes the certification, the Department shall retrieve, to the extent practicable, any waste emplaced in the disposal system.

(2) Upon written request of the Administrator any time after the Administrator has issued a certification or determination of compliance, the Department shall submit information to enable the Administrator to determine whether the certification or determination should be modified, suspended, or revoked. Unless otherwise specified by the Administrator, the Department shall submit such information to the Administrator within 30 calendar days of receipt of the Administrator's request.

(3) Not later than six months after the Administrator has issued any

certification or determination of compliance, and at least every six months thereafter, the Department shall report to the Administrator, in writing, any changes in conditions or activities pertaining to the disposal system that depart from the application and that formed the basis of such certification or determination of compliance.

(4) Any time after the Administrator has issued a certification or determination of compliance, the Department shall report any changes in activities pertaining to the disposal system that depart significantly from the application and that formed the basis of such certification or determination of compliance. The Department shall inform the Administrator, in writing, prior to making a planned change. The Administrator will determine whether the planned change invalidates the terms of the certification or determination. Any significant change must be approved by the Administrator prior to being made and the Administrator will determine whether the change requires further action. Further action may include modification, suspension, or revocation of the compliance certification or determination.

(5) If the Department discovers that a condition pertaining to the disposal system differs significantly from that indicated in the application that formed the basis of a certification or determination of compliance, the difference must be reported, in writing, to the Administrator within 10 calendar days of its discovery. The Administrator will determine whether the report requires further action. Further action may include modification, suspension, or revocation of the compliance certification or determination.

(6) If the Department determines that a release of waste from the disposal system to the accessible environment in excess of what is permitted under the disposal regulations has occurred or is likely to occur, the Department shall:

(i) Immediately suspend emplacement of waste in the disposal system, and

(ii) Notify the Administrator, in writing, within 24 hours of the determination that such a release has occurred or is likely to occur. Such notification shall include, but need not be limited to, the following information to the extent possible:

(A) Identification of the location and environmental media of the release or the expected release;

(B) Identification of the type and quantity of waste (in activity in curies of each radionuclide) released or expected to be released;

(C) Time and date of the release or the approximate time of the expected release;

(D) Assessment of the hazard posed by the release or the expected release; and

(E) Additional information requested by the Administrator or the Administrator's authorized representative and deemed by the Administrator or the Administrator's authorized representative to be relevant to a modification, suspension or revocation of a certification or determination of compliance.

(iii) Following receipt of the notification, the Administrator:

(A) May request additional information; and

(B) Will determine whether emplacement of waste in the disposal system may continue and whether to modify, suspend, or revoke any previously issued certification or determination of compliance.

§ 194.5 Publications incorporated by reference.

(a) The following publications are incorporated in this part by reference:

(1) NUREG 1297 ''Peer Review for High-Level Nuclear Waste Repositories.''

(2) ASME NQA–1–1989 edition ''Quality Assurance Program Requirements for Nuclear Facilities.''

(3) ASME NQA–2a–1990 addenda (part 2.7) to ASME NQA–2–1989 edition ''Quality Assurance Requirements of Computer Software for Nuclear Facility Applications.''

(4) ASME NQA–3–1989 edition ''Quality Assurance Program Requirements for the Collection of Scientific and Technical Information for Site Characterization of High-Level Nuclear Waste Repositories.''

(b) The publications listed in paragraph (a) of this section were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be inspected or obtained from the Air Docket, Docket No. A–92–56, room M1500 (LE131), U. S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 or copies may be inspected at the Office of the Federal Register, 800 N. Capitol Street NW., 7th floor, suite 700, Washington, DC.

§ 194.6 Alternative provisions.

The Administrator may, by rule, substitute for any of the provisions of this part alternative provisions chosen after:

(a) The alternative provisions have been proposed for public comment in the **Federal Register** together with information describing how the alternative provisions comport with the disposal regulations, the reasons why compliance with the existing provisions of this part appears inappropriate, the costs, risks and benefits of compliance in accordance with the alternative provisions;

(b) A public comment period of at least 120 days has been completed, during which an opportunity for public hearings in New Mexico has been provided; and

(c) The public comments received have been fully considered in developing the final version of alternative provisions.

Subpart B—Compliance Certification and Determination Applications

§ 194.11 Completeness and accuracy of compliance applications.

Information provided to the Administrator in support of any compliance application(s) shall be complete and accurate. The Administrator's evaluation for certification under section 8(d)(1)(B) of the WIPP LWA and evaluation for determination under section 8(f)(2) of the WIPP LWA shall not begin until the Administrator has notified the Secretary, in writing, that a complete application in accordance with this Part has been received.

§ 194.12 Submission of compliance applications.

Unless otherwise specified by the Administrator, 30 copies of any compliance application(s), any accompanying materials, and any amendments thereto shall be submitted in a printed form to the Administrator.

§ 194.13 Submission of reference materials.

Information may be referenced in compliance application(s): Provided, That the references are clear and specific and that 10 copies of the referenced information are submitted to the Administrator. Referenced materials which are widely available in standard textbooks need not be submitted.

§ 194.14 Content of compliance certification application.

Any application for certification of compliance with the disposal regulations shall include:

(a) A description of the disposal system and those features that may affect disposal system performance. The description of the disposal system shall include the following information:

(1) The location of the disposal system and the controlled area;

(2) A description of the geology, geophysics, hydrogeology, hydrology, and geochemistry of the disposal system and its vicinity and how these conditions are expected to change and interact over the regulatory time frame;

(3) The presence and characteristics of potential pathways for transport of waste from the disposal system to the accessible environment including, but not necessarily limited to, solution features, breccia pipes, and other potentially permeable features including but not necessarily limited to interbeds; and

(4) The projected geophysical, hydrologic and geochemical conditions of the disposal system due to the presence of waste including, but not limited to, the effects of production of heat or gases from the waste.

(b) A description of the design of the disposal system including:

(1) Information relative to materials of construction (including, but not necessarily limited to, geologic media, structural materials, engineered barriers, general arrangement, and approximate dimensions); and

(2) Codes and standards that have been applied to the design and construction of the disposal system.

(c) Results of assessments conducted pursuant to the disposal regulations.

(d) A description of input parameters associated with assessments conducted pursuant to the disposal regulations and the basis for selecting those input parameters.

(e) Evidence that disposal of waste in the disposal system meets the requirements of § 191.14.

(f) A description of any waste acceptance criteria and actions taken to assure adherence to such criteria.

(g) A description of background radiation in air, soil, and water in the vicinity of the disposal system and the procedures employed to determine such.

(h) One or more topographic map(s) of the vicinity of the disposal system. Contours must be shown on the map. The contour interval must be sufficient to clearly show the pattern of surface water flow in the vicinity of the disposal system. The map(s) shall clearly show the following:

(1) Scale and date;

(2) Floodplain area;

(3) Surface waters including intermittent streams;

(4) Surrounding land uses, i.e., residential, commercial, industrial, agricultural, recreational;

(5) A wind rose, i.e., wind speeds and directions;

(6) Orientation of the map, i.e., north arrow;

(7) Boundaries of the controlled area;

(8) Location of proposed active and passive institutional controls;

(9) Location of any active, inactive, and abandoned injection and withdrawal wells in the controlled area and in the vicinity of the disposal system; and

(10) Location of proposed monitoring stations or wells.

(i) A description of past and current climatologic and meteorologic conditions in the vicinity of the disposal system and how these conditions are expected to change and interact over the regulatory time frame.

(j) Any additional information required elsewhere in this part or determined by the Administrator or the Administrator's authorized representative to be necessary for a decision whether to certify or determine compliance.

§ 194.15 Content of compliance determination application(s).

(a) In submitting documentation of continued compliance pursuant to section 8(f) of the WIPP LWA, the most recent previous application(s) for compliance certification or determination shall be updated so as to provide sufficient information for the Administrator to determine whether or not the WIPP continues to be in compliance with the disposal regulations. Updated documentation shall include:

(1) Additional geologic, geophysical, geochemical, hydrologic, and meteorologic information.

(2) Monitoring results.

(3) An evaluation of the conformance of the disposal system components with design.

(4) A description of any waste emplaced in the disposal system since the most recent previous compliance certification or determination application. Such description shall consist of a description of the waste characteristics identified in § 194.24(a)(ii).

(5) Any additional information that the Administrator or the Administrator's authorized representative identifies as necessary to determine whether or not the disposal system continues to be in compliance with the disposal regulations.

(b) To the extent that information required for a determination of compliance remains valid and has been submitted in previous certification or determination application(s), such information need not be duplicated in subsequent applications; such information may be summarized and referenced.

Subpart C—Compliance Certification and Determination

General Requirements

§ 194.21 Inspections.

(a)(1) The Administrator or the Administrator's authorized representative(s) shall be afforded unfettered and unannounced access to inspect any area of the WIPP and locations performing activities that may provide information used to support any compliance application(s) to which the Department has rights of access.

(2) The Administrator or the Administrator's authorized representative(s) shall be afforded access, pursuant to paragraph (a)(1) of this section, equivalent to access afforded Department employees upon presentation of credentials and other documents as may be required by law.

(b) Records kept by the Department pertaining to aspects of the disposal system that could affect the containment of waste in the disposal system shall be made available to the Administrator or the Administrator's authorized representative(s) upon request. If requested records are not immediately available, they shall be made available to the Administrator or the Administrator's authorized representative(s) within 30 calendar days of a request from the Administrator or the Administrator's authorized representative(s).

(c) The Department shall, upon request by the Administrator or the Administrator's authorized representative(s), provide private, rent-free office space for the exclusive use of the Administrator or the Administrator's authorized representative(s). The office space shall be convenient and have full access to the disposal system.

(d) The Administrator or the Administrator's authorized representative(s) shall be allowed to obtain samples, including split samples and to monitor and measure aspects of the disposal system and the waste proposed for disposal in the disposal system and deemed by the Administrator or the Administrator's authorized representative to be relevant to a compliance certification or determination.

(e) In conducting activities pursuant to this section, the Administrator or the Administrator's authorized representative(s) will comply with applicable access control measures for security, radiological protection and personal safety.

§ 194.22 Quality assurance.

(a)(1) The Department shall implement a quality assurance program

that meets the requirements of ASME NQA–1–1989 edition, ASME NQA–2a–1990 addenda (part 2.7) to ASME NQA–2–1989 edition, and ASME NQA–3–1989 edition (excluding Section 2.1 (b) and (c)).

(2) Any application for certification of compliance shall include information which demonstrates that the quality assurance program implemented under paragraph (a)(1) of this section has been established and executed for:

(i) Waste characterization activities and assumptions;

(ii) Environmental monitoring, monitoring the performance of the disposal system, sampling, and analysis activities;

(iii) Field measurements of geological factors, ground water, meteorology, and topography;

(iv) Computations, codes, models and methods used to demonstrate compliance with the disposal regulations;

(v) Expert judgment elicitation used to support applications for certification or determination of compliance;

(vi) Design of the disposal system and actions taken to ensure compliance with design specifications;

(vii) The collection of data and information used to support compliance application(s); and

(viii) Other systems, structures, components, and activities important to the containment of waste in the disposal system.

(b) Any application for certification of compliance shall include information which demonstrates that data and information collected prior to implementation of the quality assurance program under paragraph (a) of this section has been qualified in accordance with:

(1) A quality assurance program equivalent in scope and implementation to ASME NQA–1–1989 edition, ASME NQA–2a–1990 addenda (part 2.7) to ASME NQA–2–1989 edition, and ASME NQA 3–1989 edition (excluding Section 2.1 (b) and (c)); or

(2) An alternative method approved by the Administrator for use at the WIPP.

(c) Any application for certification of compliance shall provide information which addresses how the following quality indicators for the collection of data and information used to support a compliance application have been and will continue to be achieved:

(1) Data accuracy, i.e., the degree to which data agree with an accepted reference or true value;

(2) Data precision, i.e., a measure of the mutual agreement between comparable data gathered or developed under similar conditions expressed in terms of a standard deviation;

(3) Data representativeness, i.e., the degree to which data accurately and precisely represent a characteristic of a population, a parameter, variations at a sampling point, or environmental conditions;

(4) Data completeness, i.e., a measure of the amount of valid data obtained compared to the amount that was expected;

(5) Data comparability, i.e., a measure of the confidence with which one data set can be compared to another;

(6) Data reproducibility, i.e., a measure of the variability among measurements of the same sample at different laboratories;

(7) Data validation, i.e., a systematic process for reviewing a body of data against a set of criteria to provide assurance that the data are adequate for their intended use; and

(8) Data verification, i.e., a systematic process for reviewing a body of data generated by one source against a body of data generated by another source.

(d) The Administrator will verify appropriate execution of quality assurance programs through inspections which include surveillances, audits, and management systems reviews.

§ 194.23 Models and computer codes.

(a) Any application for certification of compliance shall include:

(1) A complete listing and description of the models used to support such application. The description shall be sufficiently complete to permit technical review of the purpose of modeling, the modeling approach, method of analysis and the assumptions underlying such analyses.

(2) A complete listing of conceptual model(s) considered but not used to support such application, a description of such model(s), and an explanation of the reason(s) why such model(s) was/were not used to support such application.

(3) Information which demonstrates that:

(i) Conceptual models reasonably represent the disposal system;

(ii) Mathematical models incorporate equations and boundary conditions which reasonably represent the mathematical formulation of the conceptual models;

(iii) Numerical models provide numerical schemes which enable the mathematical models to obtain stable solutions;

(iv) Computer models accurately implement the numerical models; i.e., computer codes are free of coding errors and produce stable and accurate solutions; and

(v) Models, computer codes, and observed and measured data used to confirm models and computer codes have undergone peer review according to § 194.27.

(b) Models and computer codes used to support any application for certification of compliance shall be fully and clearly documented in a manner that complies with the requirements of ASME NQA–2a–1990 addenda (part 2.7) to ASME NQA–2–1989 edition.

(c) Documentation for models and computer codes shall include:

(1) A description of the theoretical backgrounds of each model, the method of analysis or assessment, scenario construction, and data collection procedures;

(2) Detailed descriptions of the structure of computer codes and complete listings of the source codes;

(3) Users' manuals that include general descriptions of the models, discussions of the limits of applicability of each model, detailed instructions for running the computer codes including hardware and software requirements, input and output formats with detailed explanations of each input and output variable and parameter, listings of input and output files from a sample computer run, and reports on code verification, benchmarking, validation and quality assurance procedures;

(4) Programmers' manuals;

(5) Any necessary licenses; and

(6) An explanation of how models and computer codes handle covariance.

(d) The Administrator or the Administrator's authorized representative may verify the results of computer simulations used to support any application for certification of compliance by performing independent simulations. Data files, source codes, executable versions of computer software for each model, other material or information needed to permit the Administrator or the Administrator's authorized representative to perform independent simulations, and access to necessary hardware to perform such simulations, shall be provided within 30 calendar days of a request by the Administrator or the Administrator's authorized representative.

§ 194.24 Waste characterization.

(a)(1) Any application for certification of compliance shall identify, in detail, the chemical, radiological and physical characteristics of all waste proposed for disposal in the disposal system. Such identification shall provide information about waste characteristics as they exist or, in the case of to-be-generated waste, as they are expected to exist upon emplacement in the disposal system.

(2) Information about the following characteristics of waste proposed for disposal in the disposal system shall be provided:

(i) Activity in curies of each radionuclide; and

(ii) Any other characteristic(s) important to the containment of waste in the disposal system as identified by the study conducted under paragraph (a)(3) of this section.

(3) The Department shall conduct a study of the effects of waste characteristics on the containment of waste in the disposal system and shall include the results of such study in any application for certification of compliance. The characteristics studied shall include, but need not be limited to:

(i) Waste form;

(ii) Free liquid content and liquid saturation;

(iii) Pyrophoric and explosive materials; and

(iv) Characteristics affecting the solubilization and mobilization of radionuclides, formation of colloidal suspensions containing radionuclides, production of gas from the waste, nuclear criticality, and generation of heat in the disposal system.

(4) For all waste characteristics studied pursuant to paragraph (a)(3) of this section, any application for certification of compliance shall document and substantiate any decision not to provide information on a particular waste characteristic because that characteristic is considered to be unimportant to the containment of waste in the disposal system.

(5) Categories of waste shall be established, by the Department, based on characteristics of the waste that would be expected to behave similarly in the disposal system.

(b) The information provided under paragraph (a) of this section:

(1) Shall consist of a value or range of values for characteristics listed under paragraph (a)(2) of this section; and

(2) Shall consist of a value or range of values for characteristics identified as important to the containment of waste in the disposal system by the study required under paragraph (a)(3) of this section; and

(3) Shall describe in detail the characteristics of each category of waste established under paragraph (a)(5) of this section; and

(4) May specify the maximum amount of each category of waste that will be placed in any waste container or location in the disposal system.

(c)(1) Any application for certification of compliance shall identify and describe the method(s) used to determine waste characteristics and the uncertainty associated with such method(s).

(2) Any application for certification of compliance shall provide information which substantiates any determination of waste characteristics based on knowledge of the processes and materials that generated the waste.

(d) Any application for certification of compliance shall provide information which demonstrates that the disposal system complies with the disposal regulations for all combinations of waste whose contents fall within the range of characteristics provided pursuant to paragraph (b) of this section.

(e)(1) Waste may only be emplaced in the disposal system if the characteristics of such waste fall within the range of values provided under paragraph (b) of this section and if the amount of each category of waste placed in any waste container or location in the disposal system does not exceed any maximum specified under paragraph (b)(4) of this section.

(2) Any application for certification of compliance shall provide information which demonstrates that a system of controls which includes but is not necessarily limited to measurements, sampling, chain of custody records and other record-keeping is and will continue to be implemented to assure that only waste containers whose contents fall within the range of characteristics provided under paragraph (b) of this section are emplaced in the disposal system. Any application for certification of compliance shall identify and describe such controls and the uncertainty associated with them.

(f) The Administrator will use audits and inspections to verify the waste characterization requirements of this part.

§ 194.25 Future state assumptions.

(a) Unless otherwise specified in this part or in the disposal regulations, certifications or determinations of compliance with the disposal regulations shall assume that characteristics of the future remain what they are today: Provided, That such characteristics are not related to geologic, hydrologic, or climatic conditions.

(b) In considering the effects of climatic conditions on the disposal system, certifications and determinations of compliance with the disposal regulations shall consider the effects of increased and decreased precipitation and evaporation on the disposal system over the regulatory time frame.

§ 194.26 Expert judgment.

(a) Expert judgment, by an individual expert or panel of experts, may be used to support any application for certification of compliance: Provided, That expert judgment does not substitute for information that could reasonably be obtained through data collection or experimentation.

(b) Any application for certification of compliance shall identify any expert judgments used to support the application and shall identify experts (by name and by professional affiliation) involved in any expert judgment elicitation processes used to support the application.

(c) Any application for certification of compliance shall describe the process of eliciting expert judgment, and shall document the results of expert judgment elicitation processes and the reasoning behind those results. Documentation of interviews used to elicit judgments from experts, the questions or issues presented for elicitation of expert judgment, background information provided to experts, and deliberations and formal interactions among experts shall be provided.

(d) Any application for certification of compliance shall provide information which demonstrates that the following restrictions and guidelines have been applied to any selection of individuals used to elicit expert judgments:

(1) Individuals who are members of the team of investigators requesting the judgment or the team of investigators who will use the judgment shall not be selected; and

(2) Individuals who maintain, at any organizational level, a supervisory role or who are supervised by those who will utilize the judgment shall not be selected.

(e) Any application for certification of compliance shall provide information which demonstrates that the expertise of any individual involved in expert judgment elicitation comports with the level of knowledge required by the questions or issues presented to that individual.

(f) Any application for certification of compliance shall include an explanation of the relationship between the information presented, the questions or issues presented, the judgment of any expert panel or individual, and the purpose for which the expert judgment is being used.

(g) Any application for certification of compliance shall provide information which demonstrates that the following restrictions and guidelines have been applied in eliciting expert judgment:

(1) At least five individuals shall be used in any expert elicitation process:

Unless, there is a lack or unavailability of experts and a documented rationale is provided which explains why fewer than five individuals were selected.

(2) At least two-thirds of the experts involved in an elicitation shall consist of individuals who are not employed directly by the Department or by the Department's contractors: Unless, The Department can demonstrate and document that there is a lack or unavailability of qualified independent experts; however, in no case shall more than one-half of the experts involved in an elicitation consist of individuals employed directly by the Department or by the Department's contractors.

(h) Groups and individuals (including those not directly employed by the Department or by the Department's contractors) shall be afforded an opportunity to present their scientific and technical views as input to any expert elicitation process.

§ 194.27 Peer review.

(a) Any application for certification of compliance shall include information which demonstrates that peer review has been conducted to evaluate the adequacy of:

(1) The evaluation, required under this part, of engineered barriers for the disposal system;

(2) Consideration of processes and events that may affect the disposal system;

(3) Quality assurance programs and plans;

(4) Models and computer codes;

(5) Data used to support models and computer codes; and

(6) Waste characterization.

(b) Peer review processes used in certifying or determining compliance with the disposal regulations shall be conducted in a manner which is compatible with NUREG–1297 ''Peer Review for High-Level Nuclear Waste Repositories.''

Containment Requirements

§ 194.31 Application of release limits.

The expected curie activity 100 years after disposal of the waste proposed for disposal in the disposal system shall be used in calculating applicable release limits under Appendix A of 40 CFR part 191, Table 1, Note 1(e).

§ 194.32 Scope of performance assessments.

(a) Performance assessments shall consider both natural and human-initiated processes and events that may affect the disposal system.

(b) Performance assessments need not consider processes, events, or sequences of processes and events that have less than one chance in 10,000 of occurring over 10,000 years.

(c) Any application for certification of compliance shall include information which:

(1) Identifies potential processes, events or sequences of processes and events that may occur during the regulatory timeframe and may affect the disposal system;

(2) Identifies the processes, events or sequences of processes and events included in performance assessment results provided in any application for certification of compliance; and

(3) Documents why any processes, events or sequences of processes and events identified under paragraph (c)(1) of this section were not included in performance assessment results provided in any application for certification of compliance.

§ 194.33 Consideration of human-initiated processes and events.

(a) A separate examination of each type of human-initiated process and event shall be conducted. Analyses shall be limited to those types of human-initiated processes and events that may potentially affect the disposal system.

(b) The following process shall be used in assessing the likelihood and consequences of human-initiated processes and events and the results of such process shall be documented in any application for certification of compliance:

(1) Inadvertent and intermittent drilling for resources (other than those resources provided by the waste in the disposal system or any engineered barriers designed to isolate such waste) is the most severe scenario for human-initiated processes and events.

(2) Human-initiated processes and events occur at random intervals in time and space throughout the regulatory time frame.

(3) Two categories of human-initiated processes and events shall be considered:

(i) Human intrusion, which shall include those drilling events that reach the level of the waste in the disposal system, and

(ii) Human activity, which shall include those drilling events that may affect the disposal system, but do not necessarily reach the level of the waste in the disposal system.

(4) The frequency of human intrusion shall be calculated in the following manner:

(i) Identify each type of human intrusion in the Delaware Basin over the past 50 years.

(ii) The total rate of human intrusion shall be the sum of the rates of each type of human intrusion. However, in no event shall the total rate of human intrusion be less than 25/km^2/10,000 yrs or more than 62.5/km^2/10,000 yrs.

(iii) In lieu of conducting the analysis in paragraphs (b)(4)(i) and (b)(4)(ii) of historical rates, a rate of 62.5 may be assumed.

(iv) The rate may then be reduced in accordance with § 194.41 and § 194.43(c).

(5) The frequency of human activity shall be calculated in the following manner:

(i) Identify each type of human activity in the Delaware Basin over the past 50 years.

(ii) The total rate of human activity shall be the sum of the rates of each type of human activity.

(iii) In considering the historical rate of all human activity, the Department may, if justified, consider only the historical rate of human activity for resources of similar type and quality of resources in the controlled area.

(iv) The rate may then be reduced in accordance with § 194.41 and § 194.43(c).

(6) In assessing the consequences of human-initiated processes and events, performance assessments shall assume that the future characteristics of those processes and events including, but not limited to, the types and amounts of drilling fluids, and borehole depths, diameters, and seals will remain consistent with current practice in the Delaware Basin.

(b) In assessing the consequences of human-initiated processes and events, performance assessments shall assume that:

(1) Boreholes will be sealed at the rate boreholes have been sealed over the past 50 years in the Delaware Basin; and

(2) Natural processes will degrade or otherwise affect the permeability of boreholes over the regulatory time frame.

§ 194.34 Results of performance assessments.

(a)(1) The results of performance assessments shall be assembled into ''complementary cumulative distribution functions'' (CCDFs) that represent the probability of exceeding various levels of cumulative release caused by all significant processes and events.

(2) Probability distributions for uncertain disposal system parameter values used in performance assessments shall be developed.

(3) Computational techniques which draw random samples from across all of the probability distributions developed under paragraph (a)(2) of this section shall be used in generating CCDFs.

(b) The number of CCDFs generated must be large enough such that the maximum CCDF generated exceeds the 99th percentile of the population of CCDFs with at least a 0.95 probability.

(c) Any application for certification of compliance shall display the full range of CCDFs generated.

(d) Any application for certification of compliance shall provide information which demonstrates that there is at least a 95% level of statistical confidence that the mean of the population of CCDFs meets the requirements of section 13(a) of 40 CFR part 191.

Assurance Requirements

§ 194.41 Active institutional controls.

(a) Any application for certification of compliance shall include detailed descriptions of proposed active institutional controls, the controls' location, and the period of time the controls are proposed to remain active. Assumptions pertaining to active institutional controls and their effectiveness in terms of preventing or reducing radionuclide releases shall be supported by such descriptions.

(b) Assessments to determine compliance with the disposal regulations shall not consider any contributions from active institutional controls for more than 100 years after disposal.

§ 194.42 Monitoring.

(a)(1) Disposal systems shall be monitored after disposal to detect substantial and detrimental deviations from expected performance at the earliest practicable time and shall be consistent with monitoring required under applicable federal hazardous waste regulations at 40 CFR parts 264, 265, 268, and 270. These monitoring programs shall be done with techniques that do not jeopardize the containment of waste in the disposal system.

(2) Any application for certification of compliance shall include a detailed plan for monitoring the performance of the disposal system. At a minimum, such plan shall:

(i) Identify parameters that will be monitored and how baseline states will be determined;

(ii) Indicate how each parameter will be used to evaluate the performance of the disposal system; and

(iii) Discuss the length of time over which each parameter will be monitored to detect deviations from expected performance.

(b)(1) To the extent practicable, pre-closure monitoring of the following disposal system parameters shall be conducted:

(i) Brine quantity, flux, composition, and spatial distribution;

(ii) Gas quantity and composition;

(iii) Temperature distribution; and

(iv) Any other disposal system parameter(s) important to the containment of waste in the disposal system as identified by the study conducted under paragraph (b)(2) of this section. A disposal system parameter shall be considered important if it affects the system's ability to contain waste or the ability to verify predictions about the future performance of the disposal system. Such monitoring shall begin as soon as practicable after the Administrator's certification of compliance; however, in no case shall waste be emplaced in the disposal system prior to the implementation of such monitoring. Monitoring shall end when the last container of waste is emplaced in the disposal system but before shafts of the disposal system are backfilled and sealed.

(2) The Department shall conduct a study of the effects of disposal system parameters on the containment of waste in the disposal system and shall include the results of such study in any application for certification of compliance. The disposal system parameters studied shall include, but need not be limited to:

(i) Backfilled mechanical state including porosity, permeability, and degree of compaction and reconsolidation;

(ii) Extent of deformation of the surrounding roof, walls, and floor of the waste disposal room;

(iii) Initiation or displacement of major brittle deformation features in the roof or surrounding rock; and

(iv) Subsidence and other effects of human activity in the vicinity of the disposal system.

(3) For all disposal system parameters studied pursuant to paragraph (b)(2) of this section, any application for certification of compliance shall document and substantiate the decision not to monitor a particular disposal system parameter because that parameter is considered to be unimportant to the containment of waste in the disposal system and to the verification of predictions about the future performance of the disposal system.

§ 194.43 Passive institutional controls.

(a) Any application for certification of compliance shall include detailed descriptions of the measures that will be employed to preserve knowledge about the location, design, and contents of the disposal system. At a minimum, such measures shall include:

(1) Identification of the controlled area by markers that have been designed, fabricated, and emplaced to be as permanent as practicable;

(2) Placement of records in the archives and land record systems of local, State, and Federal governments, and international archives, that would likely be consulted by individuals in search of unexploited resources. Such records shall identify:

(i) The location of the controlled area and the disposal system;

(ii) The design of the disposal system;

(iii) The nature and hazard of the waste;

(iv) Geologic, geochemical, hydrologic, and other site data pertinent to the containment of waste in the disposal system; and

(v) The results of tests, experiments, and other analyses relating to backfill of excavated areas, shaft sealing, waste interaction with the disposal system, and other tests, experiments, or analyses pertinent to the containment of waste in the disposal system.

(b) Any application for certification of compliance shall include detailed descriptions of the proposed passive institutional controls and the period of time those controls are expected to endure and be understood.

(c) Any application for certification of compliance may include a proposed credit (which may vary over the regulatory time frame) for reducing the rate of human-initiated processes and events calculated using the procedures enumerated in § 194.33. The Administrator shall allow such credit, or a smaller credit, to be taken if the Department demonstrates that such credit is justified because the passive institutional controls can be expected to endure, be understood, and act as a deterrent to potential intruders throughout the regulatory time frame. In no case, however, shall passive institutional controls be assumed to eliminate the likelihood of human-initiated processes and events entirely.

§ 194.44 Engineered barriers.

(a) Disposal systems shall incorporate engineered barriers designed to prevent or substantially delay the movement of water or radionuclides toward the accessible environment.

(b) In selecting engineered barriers for the disposal system, the Department shall evaluate the benefit and detriment of engineered barrier alternatives including but not limited to such engineered barriers as cementation, shredding, supercompaction, incineration, vitrification, improved waste canisters, grout and bentonite backfill, melting of metals, alternative

configurations of waste placements in the disposal system, and alternative disposal system dimensions. The results of this evaluation shall be included in any application for certification of compliance and shall be used to justify the selection and rejection of each engineered barrier evaluated.

(c) (1) In conducting the evaluation of engineered barrier alternatives, the following shall be considered:

(i) The ability of the engineered barrier to prevent or substantially delay the movement of water or waste toward the accessible environment;

(ii) The impact on worker exposure to radiation both during and after incorporation of engineered barriers;

(iii) The increased ease or difficulty of removing the waste from the disposal system;

(iv) The increased or reduced risk of transporting the waste to the disposal system;

(v) The increased or reduced uncertainty in compliance assessment;

(vi) The increased or reduced public confidence in the performance of the disposal system;

(vii) The increased or reduced total system costs;

(viii) The impact, if any, on other waste disposal programs from the incorporation of engineered barriers (e.g., the extent to which the incorporation of engineered barriers affects the volume of waste);

(ix) The effects on mitigating the consequences of human-initiated processes and events.

(2) If, after consideration of one or more of the factors in paragraph (c)(1) of this section, the Department concludes that an engineered barrier should be rejected without evaluating the remaining factors in paragraph (c)(1) of this section, then any application for certification of compliance shall provide a justification for this rejection explaining why the evaluation of the remaining factors would not alter the conclusion.

(d) In considering the benefit and detriment of incorporation of engineered barriers, the benefit and detriment of engineered barriers for existing waste already packaged, existing waste not yet packaged, existing waste in need of re-packaging, and to-be-generated waste shall be considered separately and described.

(e) The evaluation shall consider engineered barriers alone and in combination.

§ 194.45 Consideration of the presence of resources.

Any application for certification of compliance shall include information that demonstrates that the favorable characteristics of the disposal system compensate for the presence of resources in the vicinity of the disposal system and the likelihood of future human-initiated processes and events as a result of the presence of those resources.

§ 194.46 Removal of waste.

Any application for certification of compliance shall include a plan for removal of waste from the disposal system. The plan shall incorporate the best technology available, at the time of application, for removing such waste.

Individual and Ground-Water Protection Requirements

§ 194.51 Consideration of protected individual.

Certifications or determinations of compliance with section 15 and subpart C of 40 CFR part 191 shall assume that an individual resides at the location in the accessible environment where that individual would be expected to receive the highest exposure from radionuclide releases from the disposal system.

§ 194.52 Consideration of exposure pathways.

In certifying or determining compliance with section 15 and subpart C of 40 CFR part 191, all potential exposure pathways, associated with undisturbed performance, from the disposal system to individuals shall be considered. Certifications or determinations of compliance with section 15 and subpart C of 40 CFR part 191 shall assume that individuals consume 2 liters per day of drinking water from any underground source of drinking water in the accessible environment.

§ 194.53 Consideration of underground sources of drinking water.

In certifying or determining compliance with subpart C of 40 CFR part 191, all underground sources of drinking water in the accessible environment likely to be affected by the disposal system over the regulatory time frame shall be considered. In determining whether underground sources of drinking water are likely to be affected by the disposal system, interconnections between bodies of surface water, ground water, and underground sources of drinking water shall be considered.

§ 194.54 Scope of compliance assessments.

Any application for certification of compliance shall include information which:

(a) Identifies potential processes, events or sequences of processes and events that may occur over the regulatory time frame;

(b) Identifies the processes, events or sequences of processes and events included in compliance assessment results provided in any application for certification of compliance; and

(c) Documents why any processes, events or sequences of processes and events identified under paragraph (a) of this section were not included in compliance assessment results provided in any application for certification of compliance.

§ 194.55 Results of compliance assessments.

(a)(1) Compliance assessments shall consider uncertainty in the undisturbed performance of a disposal system.

(2) Probability distributions for uncertain disposal system parameter values used in compliance assessments shall be developed.

(3) Computational techniques which draw random samples from across all of the probability distributions developed under paragraph (a)(2) of this section shall be used to generate a range of:

(i) Estimated radiation doses; and

(ii) Estimated radionuclide concentrations.

(b) Each of the ranges generated under paragraph (a)(3) of this section must be large enough such that the maximum estimate generated exceeds the 99th percentile of the population of estimates with at least a 0.95 probability.

(c) Any application for certification of compliance shall display:

(1) The full range of estimated radiation doses; and

(2) The full range of estimated radionuclide concentrations.

(d) Any application for certification of compliance shall provide information which demonstrates that there is at least a 95% level of statistical confidence that the mean and the median of the range of estimated radiation doses and the range of estimated radionuclide concentrations meet the requirements of sections 15 and 16 of 40 CFR part 191.

Subpart D—Public Participation

§ 194.61 Advance notice of proposed rulemaking.

(a) Upon receipt of an application for certification of compliance, the Agency will publish in the **Federal Register** an Advance Notice of Proposed Rulemaking announcing that an application for certification of compliance has been received, soliciting comment on such application, and announcing the Agency's intent to

conduct a rulemaking to certify whether the WIPP facility will comply with the disposal regulations.

(b) A copy of the application for certification of compliance will be made available for inspection in Agency dockets.

(c) The notice will provide a public comment period of at least 120 days.

(d) A public hearing concerning the notice will be held if a written request for a hearing is received within 30 calendar days of the date of publication under paragraph (a) of this section. Written requests shall be directed to the Administrator and the Administrator's authorized representative.

(e) Any comments received on the notice will be made available for inspection in the dockets established under section 65 of this part.

(f) Any comments received on the notice will be provided to the Department and the Department may submit written responses to the comments within 120 days of receipt.

§ 194.62 Notice of proposed rulemaking.

(a) Upon completion of review of the application for certification of compliance, the Administrator will publish a Notice of Proposed Rulemaking in the **Federal Register** announcing the Administrator's proposed decision on whether the WIPP facility will comply with the disposal regulations and soliciting comment on the proposal.

(b) The notice will provide a public comment period of at least 120 days.

(c) The notice will announce the opportunity for public hearings in New Mexico and provide information on the timing and location of such hearings and procedures for registering to testify.

(d) Any comments received on the notice will be made available for inspection in the dockets established under section 65 of this part.

§ 194.63 Final rule.

(a) The Administrator will publish a Final Rule in the **Federal Register** announcing the Administrator's decision on certifying whether the WIPP facility will comply with the disposal regulations.

(b) A document summarizing major comments and issues arising from comments received on the Notice of Proposed Rulemaking as well as the Administrator's response to such comments and issues will be prepared and will be made available for inspection in the dockets established under section 65 of this part.

§ 194.64 Documentation of continued compliance.

(a) Upon receipt of documentation of continued compliance with the disposal regulations pursuant to section 8(f) of the WIPP LWA, the Administrator will publish a notice in the **Federal Register** announcing that such documentation has been received, soliciting comment on such documentation, and announcing the Administrator's intent to determine whether or not the WIPP facility continues to be in compliance with the disposal regulations.

(b) Copies of documentation of continued compliance received by the Administrator will be made available for inspection in the dockets established under section 65 of this part.

(c) The notice will provide a public comment period of at least 30 days after publication under paragraph (a) of this section.

(d) Any comments received on such notice will be made available for public inspection in the dockets established under § 194.65.

(e) Upon completion of a review of documentation of continued compliance with the disposal regulations, the Administrator will publish a notice in the **Federal Register** announcing the Administrator's decision determining whether or not the WIPP facility continues to be in compliance with the disposal regulations.

§ 194.65 Dockets.

The Agency will establish and maintain dockets in the State of New Mexico and Washington, DC. The dockets will consist of all relevant information received from outside parties and all information considered by the Administrator in certifying whether the WIPP facility will comply with the disposal regulations, in determining whether or not the WIPP facility continues to be in compliance with the disposal regulations, and in determining whether compliance certification or determination(s) should be modified, suspended, or revoked.

[FR Doc. 95–1657 Filed 1–27–95; 8:45 am]

BILLING CODE 6560–50–P

Federal Register

Monday
January 30, 1995

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Parts 25 and 121

Revised Access to Type III Exits; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 25 and 121

[Docket No. 28061, Notice No. 95–1]

RIN 2120–AF01

Revised Access to Type III Exits

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes amendments to the Federal Aviation Regulations (FAR) that would adjust recently adopted requirements for access to Type III emergency exits (typically smaller over-wing exits) in transport category airplanes with 60 or more passenger seats. These adjustments reflect additional data derived from a series of tests conducted at the FAA's Civil Aeromedical Institute (CAMI) subsequent to the adoption of these requirements and are intended to relieve an unnecessary economic burden. The proposed amendments would affect air carriers and commercial operators of transport category airplanes, as well as the manufacturers of such airplanes.

DATES: Comments must be received on or before May 1, 1995.

ADDRESSES: Comments on this proposal may be mailed in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC–200), Docket No. 28061, 800 Independence Avenue SW., Washington, DC 20591, or delivered in triplicate to: Room 915G, 800 Independence Avenue SW., Washington, DC. Comments delivered must be marked Docket No. 28061. Comments may be inspected in room 915G weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. In addition, the FAA is maintaining an information docket of comments in the Office of the Assistant Chief Counsel (ANM–7), FAA, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, WA 98055–4056. Comments in the information docket may be inspected in the Office of the Assistant Chief Counsel weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Gary L. Killion, Manager, FAA Regulations Branch (ANM–114), Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2114.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impact that might result from adopting the proposals contained in this notice are invited. Substantive comments should be accompanied by cost estimates. Commenters should identify the regulatory docket or notice number and submit comments, in triplicate, to the Rules Docket address specified above. All comments received on or before the closing date for comments will be considered by the Administrator before taking action on this proposed rulemaking. The proposals contained in this notice may be changed in light of comments received. All comments will be available in the Rules Docket, before and after the closing date for comments, for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the Docket. Commenters wishing the FAA to acknowledge receipt of their comments must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 28061.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–230, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on the mailing list for future rulemaking documents should also request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedures.

Background

Part 25 of the FAR defines a number of different types of passenger emergency exits for use in transport category airplanes. As defined in § 25.807(a)(3), a Type III exit must have an opening not less than 20 inches wide by 36 inches high. It need not be rectangular in shape, provided a rectangle of those dimensions can be inscribed within the opening. The corner radii must not exceed one-third the width of the exit. The step-up distance inside the cabin must not exceed 20 inches. Type III exits are typically located over the wing; when so located, the step-down to the wing must not exceed 27 inches. Type III exits are typically removable hatches, but they may be hinged or tracked doors. They are sometimes referred to as ''window exits.''

Prior to the adoption of Amendment 25–76 (57 FR 19220, May 4, 1992), part 25 contained no specific standards for access to Type III exits; however, seat backs were not allowed to interfere with opening the exits, and that resulted inherently in an unobstructed passageway of about six to eight inches. Section 25.813 was amended by Amendment 25–76 to specifically require one of two optional access configurations for airplanes with 60 or more passengers:

1. An unobstructed passageway at least 10 inches wide for interior arrangements in which the adjacent seat rows on the exit side of the aisle contain no more than two seats, or 20 inches wide for interior arrangements in which those rows contain three seats. The width of the passageway is measured with adjacent seats adjusted to their most adverse position. (For the typical airline seating arrangement, ''most adverse position'' would be with the seatbacks of the row immediately ahead of the passageway in their most aft position. If the seats of the row immediately behind had any features that could be adjusted forward, such as retractable footrests, those features would have to be in their forwardmost position.) The centerline of the required passageway width must not be displaced more than 5 inches horizontally from that of the exit. (The term ''required passageway'' indicates that only a 10- or 20-inch portion of the passageway is considered in establishing the center line offset even if the passageway is wider than the required 10 or 20 inches.) These configurations are sometimes referred to informally as Configuration C with three-seat rows and Configuration G with two-seat rows (see Figure 1).

BILLING CODE 4910–13–M

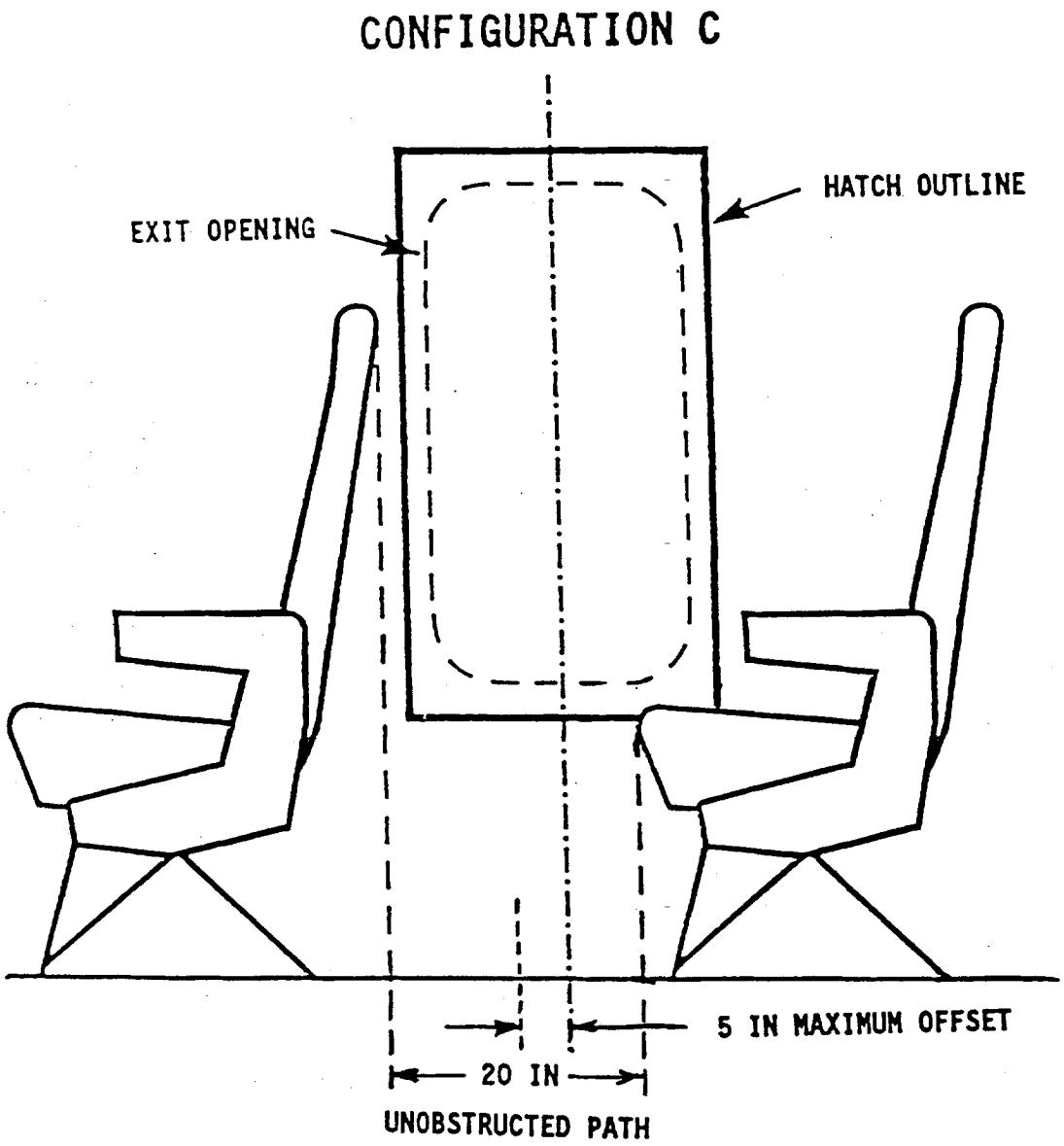


Figure 1

BILLING CODE 4910–13–C

2. Two passageways, between seat rows only, at least 6 inches wide leading to an unobstructed space adjacent to each exit. (Adjacent exits must not share a common passageway.) The width of the passageways is measured with adjacent seats adjusted to their most adverse position. The unobstructed space adjacent to the exit extends vertically from the floor to the ceiling (or bottom of sidewall stowage bins), inboard from the exit for a distance not less than the width of the narrowest passenger seat installed on the airplane, and from the forward edge of the forward passageway to the aft edge of the aft passageway. The exit opening must be totally within the fore and aft bounds of the unobstructed space. This configuration is sometimes referred to informally as Configuration D (see Figure 2).

BILLING CODE 4910–13–M

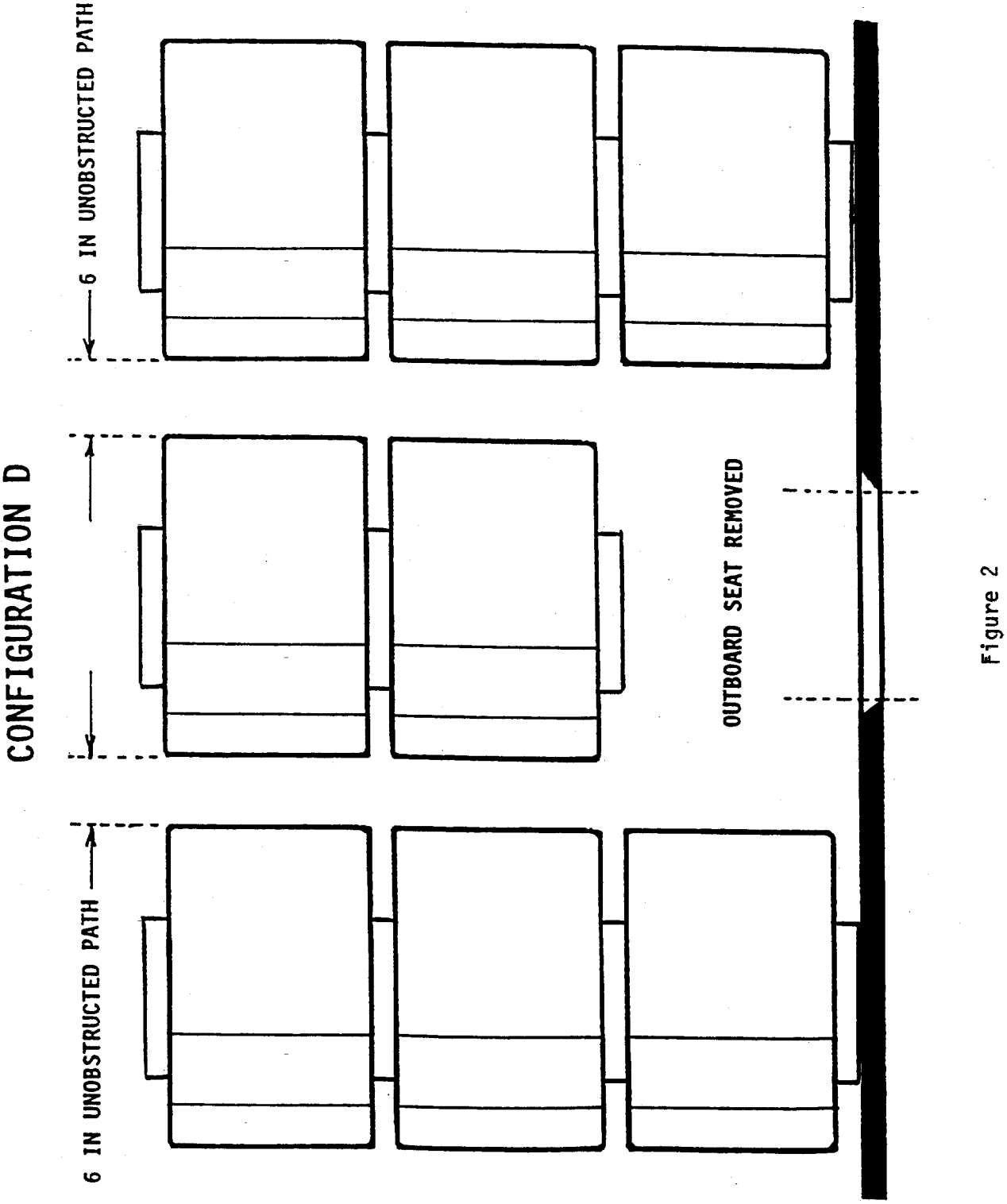


Figure 2

BILLING CODE 4910–13–C

In addition to the new standard for access to Type III exits, § 25.813 also requires placards stating or illustrating the proper method of opening the exit. In the case of removable hatches, the placards must also state the weight of the hatch and indicate an appropriate location to place the hatch after removal. Unlike the requirements for access, the placarding requirements apply regardless of the passenger capacity of the airplane in which the exits are installed.

As discussed in the preamble to Amendment 25–76, these new standards were based on testing conducted at the FAA Civil Aeromedical Institute (CAMI) and were adopted to improve the ability of occupants to evacuate the airplane under emergency conditions.

Amendment 25–76 applies primarily to transport category airplanes for which the application for type certificate is made on or after the effective date, June 3, 1992. Since that amendment would not apply directly to airplanes in air carrier service for at least several years, Amendments 121–228 and 135–43 were also adopted at the same time to require other airplanes operated under the provisions of parts 121 and 135 to meet these standards. (Because the access requirements pertain only to airplanes with 60 or more passengers, part 135 operators are only required to comply with the placarding requirement.)

It was recognized that special circumstances may make full compliance of existing airplanes with the new standards for access to Type III exits impractical. Section 121.310(f)(3)(iv) was, therefore, adopted to permit the FAA to authorize deviation from these standards when such special circumstances do exist. These include, but are not limited to, the following conditions when they preclude achieving compliance without a reduction in the total number of passenger seats: emergency exits located in close proximity to each other; fixed installations such as lavatories, galley, etc.; permanently mounted bulkheads; an insufficient number of seat rows ahead of or behind the exit to enable compliance without a reduction in the seat row pitch of more than one inch; or an insufficient number of such rows to enable compliance without a reduction in the seat row pitch to less than 30 inches. The operator must, of course, bear the burden of providing credible reasons as to why literal compliance is impractical and a description of the steps taken to achieve a level of safety as close to that intended by the new standards as practical.

Section 121.310(f)(iii) requires compliance with the new standards after December 3, 1992; however, the FAA recognized that there may be unusual circumstances in which an operator could not achieve 100% compliance of its fleet by that date. Section 121.310(f)(3)(v) was, therefore, adopted to provide relief when such unusual circumstances do exist. When supported by credible reasons showing that compliance can not be achieved by that date, relief may be granted in the form of a deviation allowing fleet compliance in incremental stages.

Note that the provisions of § 121.310(f)(3) (iv) and (v) for relief apply only to the new standards for access to the exits; no provision has been made for relief from the new placarding requirements.

Discussion

During the public comment period preceding the adoption of Amendment 25–76, one commenter stated that there were too few tests on which to base the proposed rulemaking. In the preamble to the Amendment, the FAA concurred that additional testing would improve the accuracy of the tests results; however, it was noted that there was a practical limit to the number of tests that could be conducted considering financial resources, time and the availability of test subjects. In view of the safety benefit that could be realized, the FAA decided not to delay the final rule to obtain a larger test data base. Subsequent to the adoption of Amendment 25–76, time and resources for additional testing did become available. Accordingly, CAMI conducted another, more comprehensive, series of evacuation tests during the weeks of September 7 and 14, 1992 (referred to herein as the ''recent CAMI testing''). Various configurations with three-seat rows were tested to obtain a more comprehensive understanding of effects of passageway widths and offsets from the exit opening. The test fixture utilized for this test series was the same as that used by CAMI for the tests conducted prior to the adoption of Amendment 25–76. It consisted of the fuselage of a Douglas C–124 airplane with seats and other equipment installed to represent an airline airplane in all aspects relevant to the tests. In addition to measuring the elapsed time from the start of the test until the last subject was clear, observers monitored the tests from a qualitative standpoint. Video cameras were also placed at various locations inside and outside the test fixture, thereby supplementing the quantitative test results with a qualitative analysis of the subjects' use of the passageway.

It should be noted that the configurations used in the recent CAMI testing are defined in terms of seat-row encroachment rather than centerline offset. An encroachment of 10 inches, for example, means the forwardmost edge of the seat row is placed 10 inches forward of the aft edge of the exit. (This refers to the forwardmost edge of the seat bottom, which is below the exit; no portion of the adjacent seat may interfere with the exit opening.) Assuming the exit is 20 inches wide (the minimum for a Type III exit), a 10 inch encroachment places the forward edge of the seat row at the centerline of the exit. A 10 inch encroachment, therefore, translates to an offset of 10 inches with a 20 inch passageway, 7½ inches with a 15 inch passageway, 6½ inches with a 13 inch passageway, etc.

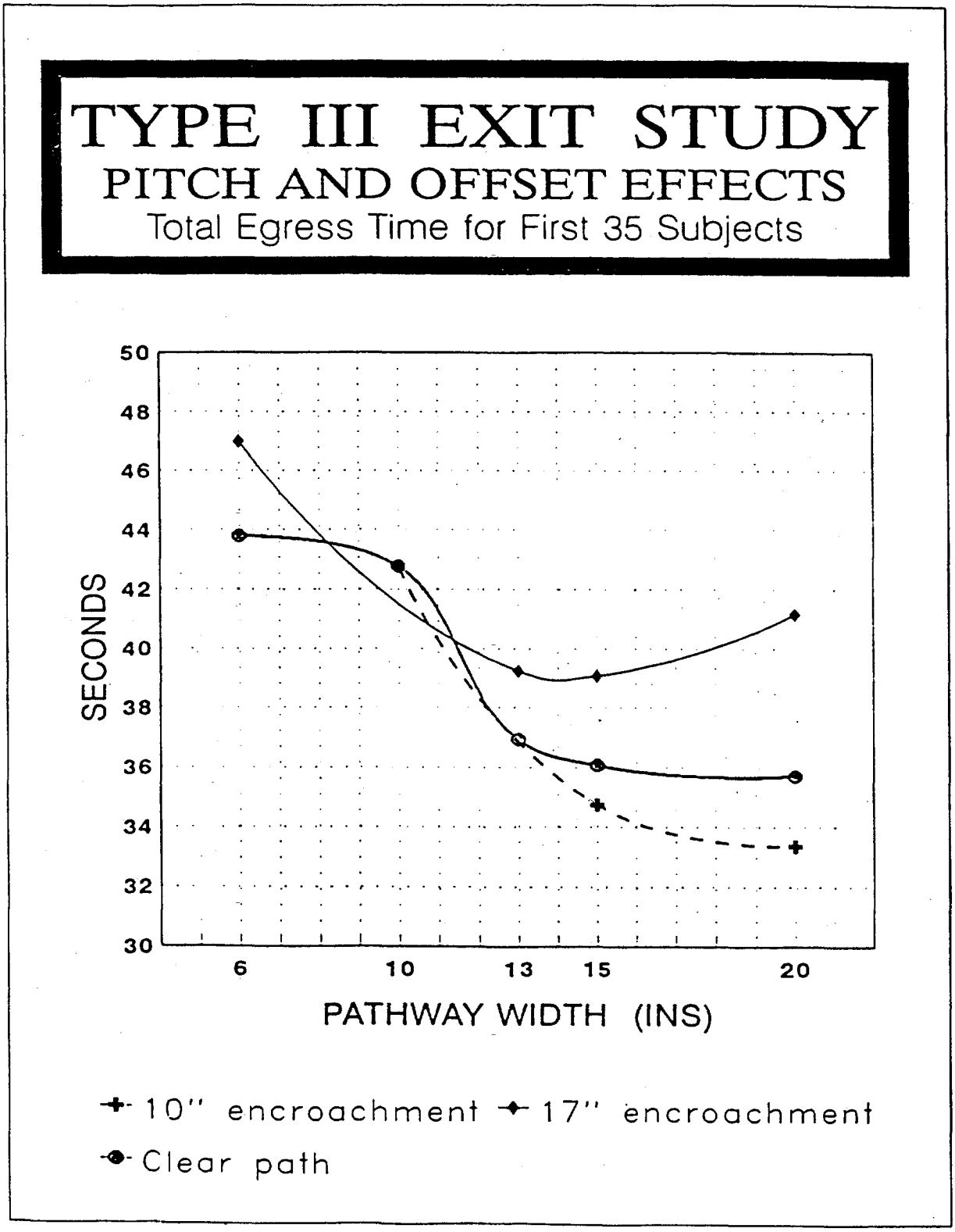
The sole purpose of this test series, insofar as this notice is concerned, was to evaluate, on a comparative basis, the effects of seat pitch and centerline offset on total time for egress through Type III exits. The first set of tests was conducted with a group of 35 test subjects consisting of approximately 45% males and 55% females ranging from 20 to 40 years in age. (Their mean age was 27 years.) The research protocol was based on a repeated measures design, where all subjects completed egress trials in every condition. A flight attendant was positioned just forward of the exit to generate a consistent, high level of subject motivation.

From this first set of tests, it was found that the total egress times with 13-, 15-, and 20-inch passageways were nearly identical. In contrast, the total egress times for the narrower 10- and 6-inch passageways, were much greater.

With passageway widths between 13 and 20 inches, an encroachment of 10 inches was shown to provide a possible improvement in egress capability compared to no encroachment. With these same passageway widths, an encroachment of 17 inches was shown to result in a significant degradation of egress capability. As noted above, an encroachment of 10 inches translates to a centerline offset of 6½ inches with passageways 13 inches wide; a 17-inch encroachment translates to a centerline offset of 13½ inches with such passageways.

The results of these tests are shown in Figure 3.

BILLING CODE 4910–13–M



BILLING CODE 4910–13–C

A second set of tests was conducted with a group of older subjects. Although the results of those tests may prove useful for other purposes, they did not prove valid and relevant to this notice from a quantitative standpoint. During one of the test runs, some of the subjects stepped on the seat cushions rather than fully utilizing the passageway. In subsequent runs, this practice became widespread, making the results of those runs invalid for quantitative comparative purposes. Nevertheless, the second series of tests did not suggest any inaccuracies in the conclusions reached from the results of the first tests. Although the egress times were generally slower, the qualitative evaluation showed that the relative merits of the various passageway widths and offsets would be similar with older test subjects. This is to be expected with 13 or 20 inch passageways because, generally speaking, the constraining factor is the rate at which the subjects pass through the exit, rather than the rate at which they progress through the passageway to the exit.

The preamble to Amendment 25–76 also described a series of evacuation tests conducted in the United Kingdom and generally referred to as the ''competitive tests.'' Although providing more space adjacent to an exit would intuitively seem to improve the evacuation flow rate, the competitive tests showed that providing more space does not always improve the flow rate and may, in some instances, actually prove to be counterproductive. This is primarily because evacuees sometimes form multiple files when additional space is available and compete for access to the exit rather than pass through it in one orderly file. The recent CAMI tests are consistent with the competitive tests in that a 13-inch passageway was shown to provide an egress capability as good as that provided by a 20-inch passageway.

In view of the results of the recent CAMI tests, the FAA determined that an unobstructed passageway 13 inches wide, with its centerline offset no more than 6½ inches from the centerline of the exit, provides a level of safety equal to that provided by the 20-inch passageway specified in § 25.813(c)(1)(i). Had data from those tests been available prior to the adoption of Amendment 25–76, the FAA would have specified 13 inches minimum width and 6½ inches maximum offset at that time. Nevertheless, a 13-inch passageway with its centerline offset no more than 6½ inches from that of the exit is presently acceptable under the equivalent level of safety provisions of § 21.21(b)(1) in lieu of a 20-inch passageway. In order to obviate the need to make separate findings of equivalent safety for each applicant, § 25.813(c)(1)(i) would be amended to specify 13 inches minimum width and a maximum centerline offset of 6½ inches for rows with three seats.

None of the recent CAMI testing involved interior configurations with two-seat rows on the exit side of the aisle; therefore, no change to the requirement for an unobstructed 10 inch wide passageway for those configurations is proposed. It may be noted, however, that the maximum centerline offset of 5 inches, as presently specified in § 25.813(c)(1)(i) for two-seat rows does correspond to 10 inches encroachment. As described above, an encroachment of 10 inches was found satisfactory in the recent CAMI tests with three-seat rows.

By letter dated October 5, 1992, Joseph D. Vreeman, Vice-President, Engineering, Maintenance and Material, Air Transport Association of America (ATA), petitioned for rulemaking to amend §§ 25.813 and 121.310. The ATA petitioned on behalf of its member airlines and similarly situated part 121 operators.

A summary of the petition was published for public comment in the **Federal Register** (57 FR 54346, November 18, 1992). Of the three commenters that responded, two support the action proposed by the petitioner. The third commenter generally supports the proposed action, but takes issue with certain portions of the proposal.

Like the change proposed in this notice, the ATA proposes to change § 25.813(c)(1)(i) to specify a minimum passageway width of 13 inches for three-seat rows. The ATA proposal does, however, differ in that it would permit a maximum centerline offset of 10 inches rather than 6½ inches as specified in this notice. One of the three commenters does not concur with the maximum centerline offset proposed by the petitioner.

It appears that the ATA may have intended to refer to 10 inches of encroachment instead of 10 inches of centerline offset, since it cites the same CAMI test series as the basis for its proposal. As noted above, a centerline offset of 6½ inches corresponds to an encroachment of 10 inches for a passageway 13 inches wide. As also noted above, the tests were only conducted with centerline offsets of 6½ and 13½ inches. Since the testing with a centerline offset of 13½ inches resulted in a significant degradation of egress capability and there was no other testing with an offset greater than 6½ inches, none of the CAMI tests support a maximum centerline offset of 10 inches as proposed by the ATA.

The ATA also proposes to amend § 25.813(c)(iii) to state that the placard must show the hatch weight, as specified by the original equipment manufacturer. The ATA believes that, by not specifying who must determine the weight of the hatch, current § 25.813(c)(iii) could result in different hatch weights being displayed on the same model airplanes. The ATA further believes that differing weight placards will ultimately cause confusion for the traveling public and create standardization problems for inspectors and flight attendants.

The FAA does not concur that there is any need to specify that only the original manufacturer's hatch weight data may be used. It is highly unlikely that any passenger will remember the exact hatch weight specified in the placard in one airplane and compare it with the weight specified in the placard of another airplane, let alone be confused by any differences. The purpose of the placard is not to advise the exact weight of the hatch per se, but to simply alert adjacent passengers to the fact that the hatch is likely to be much heavier than the passengers would otherwise expect. Operators are therefore permitted to use any reasonable means, including use of manufacturers' data, to determine the weight of the hatches.

The ATA proposes to amend § 121.310(f)(3)(iii) to replace the present compliance date of December 3, 1992, with a phased schedule of 50% fleet compliance by December 3, 1993, and 100% by December 3, 1994. Present § 121.310(f)(3)(v) already enables the FAA to grant relief to an individual operator from the December 3, 1992, compliance date if the FAA determines that special circumstances make compliance by that date impractical for that operator. In light of this existing provision, the ATA proposal would, in effect, simply relieve an operator from the burden of showing credible reasons why compliance could not be achieved earlier. One of the three commenters does not concur with the compliance schedule proposed by the petitioner. The FAA does not consider the proposed change to be appropriate because it would result, in some instances, in unjustified delays in achieving compliance.

As described earlier, § 121.310(f)(3)(iv) permits the FAA to authorize deviation from full compliance when special circumstances exist. These include, but are not limited

to, the following conditions when they preclude achieving compliance without a reduction in the total number of passenger seats: Emergency exits located in close proximity to each other, fixed installations such as lavatories, galleys, etc; permanently mounted bulkheads; an insufficient number of seat rows ahead of or behind the exit to enable compliance without a reduction in the seat row pitch of more than one inch; or an insufficient number of such rows to enable compliance without a reduction in the seat row pitch to less than 30 inches. The ATA proposes to change the latter condition to specify an insufficient number of rows to enable compliance without a reduction in the seat row pitch to less than 31 inches. In addition, ATA proposes to amend § 121.310(f)(3)(iv) to include the following additional conditions: ''Last row recline should be limited to a maximum reduction of one inch,'' and ''first class seat pitch should not be reduced if it increases offset greater than the present offset distance without modifying first class.''

The FAA does not consider any of the proposed changes to § 121.310(f)(3)(iv) to be warranted. No justification has been given to support any need for a minimum seat row pitch of 31 inches; and, indeed, many ATA members operate airplanes with some, if not all, of the seat rows already set at 30 inch pitch. The FAA has adopted policy under the existing rule that the last-row seat recline need not be reduced by more than one inch; therefore, no change is needed in that regard. Finally, the FAA does not consider the class of service relevant. The comfort of persons seated in a specific section cannot be permitted to take precedence over the safety of those served by a Type III emergency exit in an emergency. In many interior arrangements, reducing the seat pitch ahead of the exit is not a viable means of achieving compliance because any increase in passageway width would be accompanied by a counterproductive increase in the offset of the passageway and exit centerlines. Nevertheless, if reducing seat row pitch in the first class section is a viable means (and the only means) to achieve compliance, it must be reduced accordingly.

One of the three commenters not only disagrees with the petitioner's proposed changes to § 121.310(f)(3)(iv), but believes that the section should be amended to require all airplanes with Type III exits to comply without consideration of the interior layout. A change of that nature would be impractical for the reasons cited in the preamble to Amendments 25–76 and 121–228.

For the reasons discussed above, the FAA has not included in this notice any of the additional changes proposed by the ATA. It must be noted that, for the most part, the changes proposed in this notice mitigate the concerns of the ATA.

Subsequent to the adoption of Amendment 121–228, it was brought to the attention of the FAA that although amended § 121.310(f)(iii) incorporates by reference the newly adopted provisions of § 25.813(c) concerning access to Type III exits, the provisions of newly adopted § 25.813(a)(2) concerning cross-aisles for airplanes with two or more main aisles and Type III exits were inadvertently omitted. In order to correct this inadvertence and preclude confusion, § 121.310(f)(3)(iii) would be amended to incorporate § 25.813(a)(2) by reference as well. This would not be a substantive change and would not place any burden on any person because airplanes with two main aisles and Type III exits are already required to provide such cross-aisles as a condition of type certification.

Also subsequent to the adoption of Amendment 121–228, it was brought to the attention of the FAA that this same incorporation by reference would inadvertently require operators of airplanes with older type certification bases to comply with the standard of current part 25 concerning interference of seat cushions with opening exits. Prior to the adoption of Amendment 121–228, airplanes for which the application for type certificate was filed before May 1, 1972, were only required to meet the access standard in effect on April 30, 1972. That standard was simply that the access to the exits, ''must not be obstructed by seats, berths or other obstructions which would reduce the effectiveness of the exit.'' Current § 25.813(c)(1), on the other hand, states, ''* * * the projected opening of the exit provided may not be obstructed and there must be no interference in opening the exit by seats, berths, or other protrusions * * *.''

Many of the airplanes currently flown in part 121 service were type certificated under the older standard and have seat cushions that interfere with opening the exit. Such seats are acceptable under the older standard because the cushions can be crushed enough that the effectiveness of the exit is not reduced. If taken literally, the incorporation of § 25.813(c) by reference in § 121.310(f)(iii) would require the operators of those older airplanes to replace seat cushions, or perhaps the entire seat in some instances. This was not intended, and § 121.310(f)(iii) would be corrected by replacing the reference to § 25.813(c) in its entirety with a reference to only §§ 25.813(c)(1) and 25.813(c)(3).

Regulatory Evaluation Summary

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Finally, the Office of Management and Budget directs agencies to assess the effects of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this rule: (1) would generate benefits that would justify its costs and is not a ''significant regulatory action'' as defined in the Executive Order; (2) is significant as defined in the Department of Transportation's Regulatory Policies and Procedures; (3) would not have a significant impact on a substantial number of small entities; and (4) would not have a negative impact on international trade. These analyses, available in the docket, are summarized below.

Cost-Benefit Analysis

Costs

The proposed change to part 25 would allow airplane manufacturers and operators to provide passageways that are only 13 inches wide rather than 20 inches wide as currently required by § 25.813(c)(1)(i). Since providing narrower passageways is less stringent than the current requirement, there would be no compliance costs with the proposed change.

In addition, there would be no costs associated with a reduction in safety because the proposed rule would provide a level of safety equivalent to that of the current rule.

Current § 121.31(f)(3)(iii) inadvertently omits reference to the provisions of § 25.813(a)(2) concerning cross-aisles for airplanes with two or more main aisles and Type III exists. The proposed rule would correct this omission. There would be no cost burden associated with the proposed change to part 121, because it would involve a requirement that is already imposed on all airplanes with two aisles

an Type III exists as a condition of type certification.

Benefits

The proposed change to part 25 allows manufacturers and operators of transport category airplanes with three-seat rows to provide passageways that are only 13 inches wide rather than 20 inches wide as currently required by § 25.813(c)(1)(i), a benefit that would vary somewhat from one airplane interior arrangement to another. Manufacturers of newly designed airplanes would have more space available for other cabin interior components. In some instances, manufacturers might be able to install more revenue passenger seats. Most operators of other affected airplanes would have to decrease the pitch of fewer seat rows in order to provide a 13-inch wide passageway instead of the presently required 20-inch wide passageway. Fewer seat rows would have to be moved, reducing both the cost of moving seats and moving or replacing related equipment, such as passenger oxygen systems. In some instances, the existing passageway may be wide enough to meet the proposed requirement without any change, while complying with the current requirement would necessitate considerable relocation of cabin interior components. The FAA has not quantified the value of these benefits.

Reducing the pitch of fewer or no seat rows would also result in passenger comfort levels being degraded in fewer or no seat rows. The U.S. airline industry considers that any reduction in seat pitch would severely impact passenger acceptance and result in revenue losses. Several major U.S. airlines have stated that they would choose to remove seats rather than reduce seat-row pitch to comply with the current requirement. They believe that the loss of revenue resulting from seat removal would be less than that resulting from reduced seat-row pitch. The proposed rule would reduce, and possibly eliminate, any loss in passenger comfort resulting from compliance with the more stringent current rule.

Finally, there would be no quantifiable benefit associated with the proposed change to part 121, because it involves a requirement that is already imposed on all airplanes with two aisles and Type III exits as a condition of type certification.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) requires Federal agencies to review rules that may have ''significant economic impact on a substantial number of small entities.'' FAA Order 2100.14A, Regulatory Flexibility Criteria and Guidance, establishes small entity size and cost level thresholds for complying with the RFA in rulemaking actions.

The entities that would be potentially affected by this rule are the manufacturers and owners of transport category airplanes that have Type III exits.

The size threshold for a small manufacturer of aircraft is one that employs 75 or fewer people. A substantial number of small entities is a number that is 11 or more and that is more than one-third of the small entitles subject to a proposed rule. None of the manufacturers of transport category airplanes qualify as small entities under this definition.

A small operator is defined as one that owns, but does not necessarily operate, 9 or fewer airplanes for hire. The threshold constituting a significant economic impact for a small scheduled operator that would be affected by this proposed rule is $113,700 per year (1992 dollars) for an operator whose entire fleet has a seating capacity of more than 60 and $63,500 per year for other scheduled operators. The threshold cost for a small nonscheduled operator is $4,500 per year. The FAA order does not set a size or cost threshold for airplane rental and leasing companies; however, the Small Business Administration defines small airplane rental and leasing companies as those having annual revenues less than $3.5 million (1989 dollars).

The FAA has determined that approximately 47 owners of airplanes affected by this rule could be considered small entities. The proposed rule would not result in additional compliance costs for these entities, and there could be cost savings resulting from a reduction in the time and components needed to reconfigure affected airplanes. The proposed rule would, therefore, have neither a significant negative nor a positive impact on a substantial number of small entities.

International Trade Impact Assessment

The proposed rule would have no impact on international trade. Because the proposed rule would not increase the costs of producing transport category airplanes, whether of current or future type certification, it would result in neither a trade advantage or disadvantage to U.S. aircraft manufacturers. Similarly, U.S. air carriers would experience no change in competitive position because the proposed rule would not result in significant cost relief. Finally, the airplanes used predominantly in international air commerce are widebody airplanes with no Type III exits. Operators of those airplanes would not be affected by the proposed rule.

Federalism Implications

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

Conclusion

Because the regulations proposed herein would not result in any additional costs and should, in fact, result in the elimination of an unnecessary cost burden, the FAA has determined this proposed rulemaking is not significant as defined in Executive Order 12866. However, because this proposed rulemaking does concern a matter on which there is considerable public interest, the FAA has determined that this action is significant as defined in Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). The FAA has carefully considered the impact on the proposed rulemaking on small entities and has concluded that there would be no significant negative impact on a substantial number of small entities. A copy of the full regulatory evaluation prepared for this proposed rulemaking has been placed in the docket.

List of Subjects

14 CFR Part 25

Aircraft, Aviation safety, Federal Aviation Administration, Reporting and recordkeeping requirements.

14 CFR Part 121

Air Carriers, Aircraft, Aviation safety, Federal Aviation Administration, Reporting and recordkeeping requirements, Safety, Transportation.

The Proposed Amendment

Accordingly, the FAA proposes to amend parts 25 and 121 of the Federal Aviation Regulations (FAR), 14 CFR parts 25 and 121, as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

1. The authority citation for part 25 continues to read as follows:

Authority: 49 U.S.C. app. 1344, 1354(a), 1355, 1421, 1423, 1424, 1425, 1428, 1429, 1430; 49 U.S.C. 106(g); and 49 CFR 1.47(a).

By amending § 25.813 by revising paragraph (c)(1)(i) to read as follows:

§ 25.813 Emergency exit access.

* * * * *

(c) * * *

(1) * * *

(i) Except as provided in paragraph (c)(1)(ii) of this section, the access must be provided by an unobstructed passageway that is at least 10 inches in width for interior arrangements in which the adjacent seat rows on the exit side of the aisle contain no more than two seats, or 13 inches in width for interior arrangements in which those rows contain three seats. The width of the passageway must be measured with adjacent seats adjusted to their most adverse position. The centerline of the required passageway width must not be displaced horizontally from that of the exit more than 5 inches in the case of passageways required to be 10 inches in width, or not more than 6½ inches in the case of passageways required to be 13 inches in width.

* * * * *

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

3. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. app. 1354(a), 1355, 1357, 1401, 1421 through 1430, 1472, 1485 and 1502; 49 U.S.C. 106(g); and 49 CFR 1.47(a).

4. By amending § 121.310 by revising paragraph (f)(3)(iii) to read as follows:

§ 121.310 Additional emergency equipment.

* * * * *

(f) * * *

(3) * * *

(iii) After December 3, 1992, the access for an airplane type certificated after January 1, 1958, must meet the requirements of § 25.813(a)(2) of this chapter, insofar as Type III exits are concerned, and § 25.813(c) (1) and (3) of this chapter, effective June 3, 1992.

* * * * *

Issued in Washington, DC on January 20, 1995.

Elizabeth Yoest,

Acting Director, Aircraft Certification Service.

[FR Doc. 95–2118 Filed 1–27–95; 8:45 am]

BILLING CODE 4910–13–M

Federal Register

Monday
January 30, 1995

Part IV

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

Notice of Funding Availability (NOFA) for Fiscal Year 1995, Section 8 Community Investment Demonstration Program; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner [Docket No. N–95–3863; FR–3829–N–01]

Notice of Funding Availability (NOFA) for Fiscal Year 1995, Section 8 Community Investment Demonstration Program

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

ACTION: Notice of funding availability (NOFA) for Fiscal Year (FY) 1995.

SUMMARY: This NOFA announces the availability of up to $251,168,250 of FY 1995 section 8 budget authority for a national competition to be administered by the Department of Housing and Urban Development pursuant to section 6 of the HUD Demonstration Act of 1993. That section directs the Secretary to carry out ''a demonstration program to attract pension fund investment in affordable housing through the use of project-based rental assistance under section 8 of the United States Housing Act of 1937.'' This NOFA invites pension funds (public or private) or their affiliates, as defined in Section I(c) of this NOFA, to submit applications to participate in this new demonstration program.

Under the Section 8 Community Investment Demonstration Program, selected pension funds will provide permanent financing for the newly constructed or substantially rehabilitated affordable multifamily rental housing to be occupied by low income families. Each selected pension fund will receive a set-aside of Section 8 budget authority to be used as rental assistance payments. This project-based rental assistance will supplement rents paid by the low income occupants of the dwelling units in the project. No more than 50 percent of the units in any project (except properties owned by HUD or properties with mortgages held by HUD) may be assisted; however, HUD may provide exceptions to this rule for limited special circumstances such as meeting the needs of the homeless, disabled or displaced. In the case of HUD-owned properties, the number of units required to be assisted will be determined in the disposition plan in accordance with statutory requirements. The pension fund will provide assistance from its set-aside for one-half the number of units to be assisted as determined in the disposition plan; HUD will provide the other one-half from its property disposition set-aside.

Participating pension funds will select properties they wish to permanently finance and will submit project-specific proposals to HUD for approval. If the project-specific proposal is approved by HUD, a portion of the pension fund's Section 8 set-aside will be reserved for the project. After completion of construction or rehabilitation, pursuant to an agreement between HUD and the project owner, a Housing Assistance Payments Contract (Contract) will be executed between the owner and HUD. Under this Contract, the owner will be responsible for all management and operation of the project, including determining eligibility of and leasing to low-income families.

This NOFA contains information for applicants regarding the allocation of section 8 budget authority; the application process, including the application requirements and the deadline for filing applications; pension fund selection criteria; and the criteria for selecting specific projects to be financed and assisted.

Detailed instructions and guidelines for implementing this demonstration are contained in HUD Notice 95–2. Prospective applicants should request a copy of this Notice from the HUD program office referred to below before submitting an application to participate in the demonstration.

DATES: Applications must be received no later than 5:00 pm EST on March 16, 1995. The above-stated application deadline is firm as to date, hour and place, unless HUD extends the deadline by an appropriate notice in the **Federal Register**. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

ADDRESSES: The HUD headquarters is the official place of receipt of all applications. The address is Department of Housing and Urban Development, Office of Insured Multifamily Housing Development, Room 6134, 451 Seventh Street, SW, Washington, DC 20410–8000. Each submission should be clearly identified on the exterior as a ''Section 8 Community Investment Demonstration Program Application.''

FOR FURTHER INFORMATION CONTACT: Joseph E. Malloy, Office of Insured Multifamily Housing Development, Room 6134, telephone (202) 708–3000, or Richard L. Schmitz, Policies and Procedures Division, Room 6138, telephone (202) 708–1113, at the address indicated above. The telecommunications device for the deaf (TDD) telephone number is (202) 708–4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this NOFA have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. OMB has approved the section 8 information collection requirements under the assigned control number 2577–0169.

(I) Purpose and Substantive Description

(A) Background

Section 6 of the HUD Demonstration Act of 1993 (Pub. L. 103–120, 107 Stat. 1144, approved October 27, 1993) directs the Secretary of HUD to carry out a demonstration program to attract pension fund investment in affordable housing through the use of project-based rental assistance under section 8 of the United States Housing Act of 1937. In carrying out this demonstration program the Secretary must ensure that not less than 50 percent of the funds appropriated for each year are used in conjunction with the disposition of either: (1) Multifamily properties owned by the Department; or (2) multifamily properties securing mortgages held by the Department.

In FY 1994, an appropriation of $100 million was authorized and provided to carry out this demonstration program. On April 26, 1994 (59 FR 21826), HUD announced the availability of $100 million in FY 1994 section 8 budget authority for a national competition to be administered by the Department of Housing and Urban Development pursuant to Section 6 of the HUD Demonstration Act of 1993 (the Act). Six pension funds were selected to participate in this demonstration in response to the April 1994 NOFA. The full $100 million in budget authority was set aside for use in connection with the new construction or substantial rehabilitation of affordable multifamily rental housing to be developed under this demonstration.

Approximately $334,891,000 has been authorized and provided for FY 1995. This NOFA announces the availability of up to $251,168,250 of FY 1995 budget authority. A separate NOFA, announcing the availability of the remaining budget authority, will be

published in the **Federal Register** at a later date.

Project-based Section 8 assistance under the program will be provided pursuant to a contract entered into by the Secretary and the owner of the eligible housing that: (1) Provides assistance for a term which, taking into account the financing and other factors relating to the specific project proposal, is not less than 60 and not greater than 180 months; and (2) provides for contract rents to be determined by the Secretary.

The Section 8 Fair Market Rent Schedule for this demonstration is 120 percent of the Existing Housing Fair Market Rent Schedule most recently published in the **Federal Register**. Initial gross rents (contract rents plus allowance for tenant paid utilities) for any new construction project, and any substantial rehabilitation project with per unit rehabilitation costs of $5000 or more, may not exceed the Fair Market Rents applicable to this demonstration. Initial gross rents for any substantial rehabilitation project with per unit rehabilitation costs of less than $5000 may not exceed 100 percent of the published Existing Housing Fair Market Rent Schedule.

Contract rents also must be reasonable on the basis of comparison with rents for unsubsidized units of similar age, design and location which include comparable amenities and services.

HUD's single and multifamily mortgage insurance programs, the risk sharing programs under Section 542 of the Housing and Community Development Act of 1992, and Veterans Administration and Farmers Home Administration loan and loan guarantee programs are not available for housing developed or assisted under this demonstration program. A pension fund must provide permanent financing for projects for which project-specific proposals are submitted to HUD or for which assistance is provided under this demonstration; however, the pension fund may not have an ownership interest in such projects. The Secretary may establish such other standards regarding financing and securitization of project mortgages as the Secretary deems appropriate.

Finally, the Department has determined that section 3 of the Housing and Urban Development Act of 1968 and the regulations at 24 CFR part 135 (see June 30, 1994 Interim Rule, 59 FR 33866) are applicable to funding awards made under this NOFA. The purpose of section 3 is to ensure the training and employment of residents and business concerns for economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low- and very-low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very-low-income persons.

(B) Allocation Amounts and Number of Units To Be Assisted

From the amounts of Section 8 assistance made available in VA, HUD-Independent Agencies Appropriations Act for FY 1995 (Pub. L. 103–327, 108 Stat. 2299, approved September 28, 1994) the Department has set aside approximately $334,891,000 in budget authority for this demonstration program, of which up to $251,168,250 is being made available through this NOFA. The number and type of units that can be assisted will depend upon the level of gross rents (*i.e.*, contract rents plus allowance for tenant paid utilities), the contract administration fee and the term of contract for specific projects.

Budget authority will be distributed under this NOFA in the following manner:

Category A Applicants

Approximately $167,445,500 of Section 8 budget authority is being made available under this NOFA for Category A participants. At least 50 percent of this amount must be used for HUD-owned properties or properties with HUD-held mortgages.

A Category A applicant must identify and document in its application the presence of a pipeline of projects for which project-specific proposals sufficient to use the total amount of the set-aside requested by it can be submitted to HUD within the timeframes specified in section I(i) of this NOFA. This identification and documentation also must substantiate the applicant's ability to meet the requirement that at least 50 percent of any set-aside awarded to the fund must be used for HUD-owned properties or properties with HUD-held mortgages. The maximum amount that may initially be awarded to any one applicant may not exceed $167,445,500 or the amount sufficient to fund the pipeline identified and documented in its application for participation, whichever is less. The information required to support such identification and documentation is contained in HUD Notice 95–2.

Category B Applicants

Approximately $83,722,750 of Section 8 budget is being made available under this NOFA for Category B participants. A Category B participant is not required to demonstrate the presence of the type of pipeline described above but must be able to submit project specific proposals within the time frames specified in Section I(ii) of this NOFA.

A category B participant may receive an initial set-aside of not more than $10 million. A Category B participant may use the entire amount of any set-aside awarded to it for non-HUD properties (although HUD-owned properties or properties with mortgages held by HUD are eligible).

(C) Eligible Applicants

Each applicant for participation in this program must demonstrate to the satisfaction of the Department that: (1) It is a trust, fund, plan or other program established or maintained by an employer or other person for the purpose of providing income or benefits to employees after the termination of employment or deferring income by employees until the termination of employment; (2) it is an entity that serves as an investment advisor to or engages principally in the investment of the funds of such a trust, fund, plan, or other program; or (3) it is a partnership or organization established to invest pension funds in affordable multifamily housing.

Each applicant must demonstrate to the satisfaction of HUD that the trust, fund, plan or other program which it administers, invests or to which it serves as an advisor is fully capitalized at the time the application for participation in the demonstration is submitted and that capitalization is not contingent upon or in any way delayed by pending approval of the application. If the applicant administers, invests or serves as an advisor to one or more trust, fund, plan or other program, each such trust, fund, plan or program must be identified in the application together with documentation as to full capitalization of each.

Each applicant must demonstrate its ability and intent to provide permanent financing in connection with projects to be developed under this demonstration.

Each applicant must also demonstrate the availability of adequate staff capacity to perform the functions required under this demonstration or its ability to contract for or to enter into a partnership to obtain such services, in which case the applicant will still be responsible for overall program administration and decisions.

(D) Pension Fund Applications

All applications from pension funds must contain information specifying the number of projects and units expected to be financed, the number and percent in each project expected to receive Section 8 assistance, contract terms anticipated, anticipated initial contract rents, total Section 8 budget authority requested, the number of units to be newly constructed and the number to be substantially rehabilitated; types of families (e.g., elderly or large families or families with special needs (disabled, displaced or homeless)) and number of each expected to be assisted. Pension funds that submitted applications in response to the April 26, 1994 NOFA, including those pension funds that were selected, must submit applications in response to this NOFA if they wish to be eligible for a portion of the FY 1995 budget authority.

All applications must contain sufficient supporting information, in narrative and/or numerical form, as appropriate, to enable HUD to evaluate the applicant on the basis of the Pension Fund Selection Criteria set forth in subpart (E) below.

(E) Pension Fund Selection Criteria

All applications for participation in the demonstration will be evaluated on the basis of the following criteria:

1. Past involvement in and capacity to permanently finance multifamily housing;

2. Capability to make overall program and mortgage finance decisions;

3. Use of its own resources, including how it will maximize any Section 8 set-aside awarded to it;

4. Current multifamily pipeline and ability to move housing to construction/rehabilitation start in a short time frame;

5. Use of HUD-owned properties or properties with mortgages held by HUD in a variety of geographic locations (required of Category A applicants only);

6. Efforts to promote economic or neighborhood development and/or employment opportunities for project area residents while achieving ethnic, cultural and gender diversity;

7. Efforts to ensure compliance with the requirements of section 3 and the implementing regulations at 24 CFR part 135 by project owners, contractors and subcontractors; and

8. Consideration of housing needs created by dislocation of major employment sources.

Additional, more detailed information and instructions with respect to the above criteria, as well as on application and program procedures in general, are contained in HUD Notice 95–2 which will be provided to pension funds upon request to the HUD program headquarters office referred to above. Applicants should refer to HUD Notice 95–2 for details as to the supporting information required for each criterion.

Acceptable applications received by the deadline date and time specified above will be evaluated against each other. Category A applications will be evaluated separately from Category B applications. Applications will be selected on the basis of numerical ratings assigned to the criteria identified above.

The Department will formally notify each pension fund as to whether or not it was selected to participate in this demonstration program and the amount of set-aside awarded.

(F) Guidelines on Eligible and Ineligible Projects

Pension funds selected by HUD to participate in this demonstration must submit proposals for projects they wish to permanently finance to the Department for approval.

1. Eligible Projects

New construction projects are eligible under this demonstration. In addition, the following types of existing projects are eligible for substantial rehabilitation:

—A multifamily project owned by the Secretary or subject to a mortgage held by the Secretary;

—A multifamily project eligible for assistance as a troubled project under section 201 of the Housing Community Development Amendments of 1978;

—A multifamily project located in an empowerment zone or enterprise community designated pursuant to Federal law;

—Any other multifamily project, including those to be occupied by homeless persons or homeless families as defined in section 103 of the Stewart B. McKinney Homeless Assistance Act.

2. Ineligible Projects

Certain projects are not eligible for use in this demonstration. These include:

(a) Projects that are subject to mortgage prepayment restrictions, including projects meeting the definition of ''eligible low income housing'' under the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRHA);

(b) Projects that are subject to section 250(a) of the National Housing Act; and

(c) High rise elevator projects for families with children unless HUD determines there is no practical alternative.

(G) Project Selection Criteria

Pension funds may establish their own criteria for selecting project-specific proposals but such criteria must, in the aggregate, reflect the following public purposes to the satisfaction of the Secretary:

—Achieving economic mix;

—Increasing housing choices and fostering neighborhood diversity;

—Providing affordable housing for large, low-income families and providing access to necessary supportive facilities and services;

—Involving other state and local and public and private resources to achieve these objectives and to limit Section 8 assistance to less than 50 percent of the units (except in HUD-owned properties or properties with mortgages held by HUD and under limited special circumstances approved by HUD such as assistance for homeless, disabled, or displaced;

—Facilitating maximum use of available Section 8 budget authority by limiting gross rents to less than the Fair Market Rent Limitations and contract terms to less than 15 years;

—Facilitating geographic/locality diversity of project sites and complying with any applicable court orders;

—For Category A participants, using HUD owned properties and properties with mortgages held by HUD in a variety of geographic locations, and giving preferences to projects in Empowerment Zones;

—Meeting special needs of homeless, disabled, or displaced individuals; and

—Complying with section 3 responsibilities, as set forth in 24 CFR part 135.

A list of HUD-owned properties is available from HUD Headquarters, Office of Preservation and Property Disposition, telephone (202) 708–3343, or (202) 708–4595 (TDD). Information on properties with mortgages held by HUD is available from the Office of Multifamily Housing Management in HUD Headquarters, telephone (202) 708–3730, or (202) 708–4594 (TDD).

More detailed information with respect to these criteria and methods of selection is contained in HUD Notice 95–2. HUD Notice 95–2 sets forth the format and specific information needed for pension funds to meet the requirements of this subpart (G).

(H) Use of HUD Inventory

A Category A participant will be required to use at least 50 percent of its Section 8 set-aside in connection with HUD-owned properties or properties with mortgages held by HUD unless the Department determines that requirements of section 6(b) of the Act will otherwise be met and approves an exception.

In the case of HUD-owned properties, the number of units required to be assisted will be determined in the disposition plan in accordance with statutory requirements. The pension fund will provide assistance from its set-aside for one-half the number of units to be assisted as determined in the disposition plan; HUD will provide the other one-half from its property disposition set-aside.

A Category B participant may, but will not be required to, use any of its set-aside for HUD-owned properties or properties with mortgages held by HUD.

(I) Section 8 Project-Specific Contract Award

(i) Category A Participants. A Category A participant will have 120 days from the date of its selection to participate in the demonstration to submit project-specific proposals utilizing 75 percent of the total amount of its Section 8 set-aside under this NOFA. It will have 10 months from the date of selection to commit (*i.e.,* close on construction financing) its Section 8 set-aside to specific projects.

A Category A participant will have 180 days and 12 months, respectively, to submit project-specific proposals and to close on construction financing for the remaining 25 percent of its Section 8 set-aside.

(ii) Category B Participants. A Category B participant must submit project-specific proposals sufficient to use 50 percent of its Section 8 set-aside under this NOFA within 6 months from the date of selection to participate in the demonstration. It will have 10 months from the date of selection to reach closing of construction financing.

A Category B participant will have 12 months and 16 months, respectively, to submit project-specific proposals and to close on construction financing for the remaining 50 percent of its Section 8 set-aside.

(iii) Uncommitted Set-asides. Any amount of set-asides not committed to specific projects by the end of the time periods indicated above, or any extensions of these time periods granted by HUD, may be withdrawn by HUD and reallocated to other pension funds based on the performance of the receiving pension fund in utilizing its previous allocation(s) or to pension funds not previously selected by HUD due to the lack of available budget authority.

(J) Receipt and Processing of Project-Specific Proposals

Project-specific proposals must include the information and certifications identified in HUD Notice 95–2 and be submitted in the format specified therein.

After receipt of a project-specific proposal, HUD will, in accordance with HUD Notice 95–2, obtain and issue appropriate Davis-Bacon wage rate determinations and perform certain HUD-retained reviews for compliance with:

—Site acceptability criteria for this demonstration;
—Environmental requirements, except that HUD may accept and adopt an environmental review conducted by a CDBG or HOME grantee in accordance with 24 CFR part 58;
—Affirmative Fair Housing Marketing requirements;
—Previous participation of project principals in HUD programs; and
—Subsidy layering guidelines, unless the Housing Credit Agency has agreed to perform subsidy layering reviews for projects receiving Low Income Housing Tax Credits or some form of HUD assistance.

Upon completion of the HUD reviews, HUD will notify the pension fund whether or not the proposal is acceptable and of the steps requisite to execution of the HAP Agreement.

(K) Post Approval Processing

The HAP Agreement may not be executed nor may construction or substantial rehabilitation begin until the certifications required by HUD Notice 95–2 are submitted to and found acceptable by HUD.

(L) Contract Administration

The statute calls for assistance to be provided through ''a contract entered into by the Secretary and the owner.'' It is the Department's intent to enter into a HUD/Private Owner HAP Agreement and Contract. HUD will then enter into a contract with an HFA or PHA that has jurisdiction over the geographic area in which the project is located. For a fee, the HFA or PHA will carry out certain administrative or ministerial functions that otherwise would be the responsibility of HUD as the Section 8 Contract Administrator. Any administrative fee payable to the HFA or PHA will not exceed 5 percent of the published 2 bedroom Fair Market Rent for Existing Housing for the area and will be payable out of the Section 8 contract and budget authority reserved for each project.

(M) Project Construction and Completion

Project construction, completion and cost certification requirements are contained in HUD Notice 95–2. HUD may perform field reviews if necessary to substantiate compliance with program requirements.

(N) HUD-Private Owner HAP Contract

If the pension fund and owner are in compliance with HUD Notice 95–2, HUD will execute a HUD/Private Owner HAP Contract with the owner. The contract will contain provisions relative to: (1) The terms of the contract which may be not less than 5 nor more than 15 years; (2) the responsibilities of the owner for project management and maintenance; (3) a prohibition on the use of other Federal programs so long as the contract is in effect; (4) a limitation on assistance for the project to the housing assistance payments available under the Contract; (5) the requirement that in the event the project is refinanced to lower the interest rate and/or debt service payment, HUD may reduce the Contract rents; and (6) the right for HUD to terminate the Contract for cause if the owner fails to perform in accordance with the provisions of the Contract.

II. Other Matters

(A) Environmental Impact

A Finding of No Significant Impact with respect to the environment was made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, at the time of development of the NOFA published on April 26, 1994 (59 FR 21826). The Finding remains applicable to this NOFA and is available for public inspection during regular business hours in the Office of General Counsel, the Rules Docket Clerk room 10276, 451 Seventh Street, SW, Washington, DC 20410.

(B) Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism,* has determined that this NOFA does not have substantial, direct effect on the States, on their political subdivisions, or on the relationship between the Federal government and the States, or on the distribution of power or responsibilities among the various levels of government, because this NOFA would not

substantially alter the established roles of HUD, the States and local governments.

(C) Impact on the Family

The General Counsel, as the Designated Official under Executive Order 12606, the Family, has determined that this notice does not have potential for significant impact on family formation, maintenance, and general well-being within the meaning of the Executive Order and, thus, is not subject to review under the Order. This is a funding notice and does not alter any HUD program requirements affecting the family.

(D) Accountability in the Provision of HUD Assistance

HUD has promulgated a final rule to implement section 102 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act). The final rule is codified at 24 CFR part 12. Section 102 contains a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 16, 1992, HUD published at 57 FR 1942, additional information that gave the public (including applicants for, and recipients of, HUD assistance) further information on the implementation of section 102. The documentation, public access, and disclosure requirements of section 102 are applicable to assistance awarded under this NOFA as follows:

(1) Documentation and Public Access

HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its quarterly **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these requirements.)

(2) Disclosures

HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period generally less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. (See 24 CFR Part 12 subpart C, and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

(E) Prohibition Against Lobbying Activities

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) (the ''Byrd Amendment'') and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients, and subrecipients of assistance exceeding $100,000 must certify that no Federal funds have been or will be spent on lobbying activities in connection with the assistance.

(F) Prohibition Against Lobbying of HUD Personnel

Section 13 of the Department of Housing and Urban Development Act (42 U.S.C. 3537b) contains two provisions dealing with efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department and those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance.

HUD's regulation implementing section 13 is codified at 24 CFR part 86. If readers are involved in any efforts to influence the Department in these ways, they are urged to read the final rule, particularly the examples contained in appendix A of the rule. Appendix A of this rule contains examples of activities covered by this rule.

Any questions concerning the rule should be directed to the Office of Ethics, Room 2158, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington DC 20410. Telephone: (202) 708–3815 (voice/TDD). This not a toll-free number. Forms necessary for compliance with the rule may be obtained from the local HUD office.

(G) Prohibition Against Advance Information on Funding Decisions

Section 103 of the HUD Reform Act proscribes the communication of certain information by HUD employees to persons not authorized to receive that information during the selection process for the award of assistance. HUD's regulation implementing section 103 is codified at 24 CFR part 4. In accordance with the requirements of section 103, HUD employees involved in the review of applications and in the making of funding decisions are restrained by 24 CFR part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted by 24 CFR part 4. Applicants who have questions should contact the HUD Office of Ethics (202) 708–3815 (voice/TDD). (This is not a toll-free number.)

Dated: January 6, 1995.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 95–2149 Filed 1–27–95; 8:45 am]

BILLING CODE 4210–27–P

Federal Register

Monday
January 30, 1995

Part V

Department of the Interior

Bureau of Indian Affairs

Indian Gaming; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of amendment to Approved Tribal-State Compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Amendments to Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through her delegated authority, has approved Amendment I to the Tribal-State Compact For Regulation of Class III Gaming Between the Cow Creek Band of Umpqua Tribe of Indians and the State of Oregon, which was executed on October 24, 1994.

DATES: January 30, 1995.

FOR FURTHER INFORMATION CONTACT: Nancy Pierskalla, Acting Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4068.

Dated: January 17, 1995.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 95–2192 Filed 1–27–95; 8:45 am]

BILLING CODE 4310–02–P

Federal Register

Monday
January 30, 1995

Part VI

Department of the Interior

Bureau of Indian Affairs

Indian Gaming; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of amendment to Approved Tribal-State Compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gaming on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through her delegated authority, has approved the Amendment to the Tribal-State Compact Between the St. Regis Mohawk Tribe and the State of New York, which was executed on November 22, 1994.

DATES: This action is effective January 30, 1995.

FOR FURTHER INFORMATION CONTACT: Nancy Pierskalla, Acting Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, D.C. 20240, (202) 219–4068.

Dated: January 19, 1995.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 95–2193 Filed 1–27–95; 8:45 am]

BILLING CODE 4310–02–P

Federal Register

Monday
January 30, 1995

Part VII

Department of Education

5 CFR Chapter LIII

34 CFR Part 73

Supplemental Standards of Ethical Conduct for Employees of the Department of Education; Interim Final Rule

DEPARTMENT OF EDUCATION

5 CFR Chapter LIII

34 CFR Part 73

RIN 1801–AA09, 3209–AA15

Supplemental Standards of Ethical Conduct for Employees of the Department of Education

AGENCY: Department of Education.

ACTION: Interim final rule with invitation for comments.

SUMMARY: The Department of Education, with the concurrence of the Office of Government Ethics (OGE), is issuing a regulation for employees of the Department of Education that supplements the Standards of Ethical Conduct for Employees of the Executive Branch issued by OGE. The supplemental rule requires Department of Education employees to obtain written approval prior to engaging in certain outside activities. The Department is also revising its residual standards regulation in its own CFR title and adding a cross-reference to the new provisions.

DATES: These regulations take effect January 30, 1995. Comments on this interim final rule must be received on or before March 16, 1995.

ADDRESSES: All comments concerning these regulations should be addressed to Susan A. Winchell, Office of the General Counsel, U.S. Department of Education, 600 Independence Avenue, SW., Room 5304, Washington, D.C. 20202–2110.

FOR FURTHER INFORMATION CONTACT: Susan A. Winchell, Office of the General Counsel, U.S. Department of Education, 600 Independence Avenue SW., Room 5304, Washington D.C. 20202–2110. Telephone (202) 401–8309. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

I. Background

On August 7, 1992, OGE published final regulations entitled ''Standards of Ethical Conduct for Employees of the Executive Branch'' (Standards) codified at 5 CFR part 2635. (See 57 FR 35006–35067, as corrected at 57 FR 48557 and 52583 with an additional grace period extension at 59 FR 4779–4780.) The Standards took effect February 3, 1993 and established uniform standards of ethical conduct that are applicable to all executive branch personnel.

Under 5 CFR 2635.105 executive branch agencies, with OGE's concurrence, are authorized to publish agency-specific supplemental regulations that are necessary to implement an agency's ethics program. The Department of Education, with OGE's concurrence, has determined that the following supplemental rules, being codified in the new chapter LIII of 5 CFR, consisting of part 6301, are necessary to implement its ethics program. This interim final rule will remain in effect until the Department of Education, with OGE's concurrence, publishes an amendment.

II. Analysis of the Regulations

Section 6301.101 General

Section 6301.101 explains that the regulations contained in the interim final rule apply to all employees of the Department of Education and are supplemental to the executive branch-wide Standards.

Section 6301.102 Prior Approval for Certain Outside Activities

The Standards, at 5 CFR 2635.803, recognize that individual agencies may find it necessary or desirable to supplement the executive branch-wide regulations with a requirement that their employees obtain approval prior to engaging in outside activities. The Department of Education has long required employees, other than special Government employees, to obtain written permission before engaging in certain outside activities or employment. (See 34 CFR 73.22 (1994 edition).) The Department has found this requirement useful in ensuring that employees' outside activities conform to all applicable laws and regulations and, in accordance with 5 CFR 2635.803, has determined that it is necessary to the administration of its ethics program to continue to require prior approval of those outside activities that pose a potential for employees to engage in conduct that might violate the Standards.

Section 6301.102 requires Department employees to obtain approval in advance of engaging in certain outside activities. As compared to the requirement that had been imposed by 34 CFR 73.22, § 6301.102 has been changed to simplify and clarify the requirement, and to narrow its scope, consistent with the Standards. In order to do this, the new provisions significantly revise the situations in which employees are required to seek prior approval to participate in outside employment and activities. Further, the new provisions spell out specific types of volunteer activities that are excluded from the prior approval requirement. Several examples are also included to clarify the application of this section.

Because the Standards no longer contain a provision such as that previously applicable under prior 5 CFR 735.203(a)(2)(1993 edition, pt. 735, note), the new provisions delete the previous requirement that employees obtain approval prior to participating in any activity or employment that aggregates more than 10 hours per week. Because 5 CFR 2635.705 satisfactorily addresses the issues relating to misuse of official time, the new provisions also delete the requirement that employees obtain prior approval to participate in activities performed during regular work hours. And, because the standard would be too vague, they also delete the general requirement that employees obtain prior approval to participate in an activity or employment that ''reasonably raises questions under the standards [of conduct].''

Section 6301.102 of the interim final rule continues, in modified form, the Department's longstanding requirement that employees obtain approval before participating in outside activities for a prohibited source, as that term is defined in paragraph 6301.102(e)(2) of this section. Further, the new provisions add the requirement that employees obtain approval before providing services, other than clerical services or services as a fact witness, in connection with a particular matter in which the United States is a party or has a direct and substantial interest, or which involves the preparation of materials for submission to, or representation before, a Federal court or agency.

Under 5 CFR 2635.805, employees are required to obtain authorization before acting as expert witnesses, other than on behalf of the United States, in any proceeding before a Federal court or agency in a matter in which the United States is a party or has a direct and substantial interest. Paragraph 6301.102(a)(1) is intended to cover such testimony as an outside activity, thus eliminating the need to create a separate procedure for the required authorization.

There may be circumstances in which an employee is not required to obtain authorization to serve as an expert witness but is nonetheless required to obtain prior approval. For instance, an employee might wish to serve as an expert witness on the braking distances of school buses on behalf of a local school district in a negligence case in State court. The employee will be paid the customary rate for appearing as an expert witness. This employee is not

required to obtain authorization to provide expert testimony because the action is not one in which the United States is a party or has a direct and substantial interest. However, the employee is required to obtain prior approval under paragraph 6301.102(a)(2) because he or she is acting as a consultant for a prohibited source.

The new provisions narrow the general requirement that employees obtain approval before engaging in any public writing or speaking, and adopt criteria consistent with the Standards to define when an employee must obtain advance approval for outside teaching, speaking, or writing. For instance, under the Department's previous regulation, an employee was required to obtain approval before publishing an article, or undertaking public speaking on a subject, such as jazz music or gardening, that was clearly unrelated to his or her duties. The new provisions require employees to obtain approval before they participate in teaching, speaking, or writing only if it ''relates to their official duties,'' as that phrase is defined in subpart H of the Standards at 5 CFR part 2635.

The new provisions exclude from the prior approval requirement a number of uncompensated and volunteer activities that are unlikely to raise issues under the Standards. Specifically, employees are not required to obtain approval prior to engaging in activities such as volunteering for a social, fraternal, civic, or political entity, or any religious entity that is not a prohibited source. Further, employees need not obtain approval prior to participating in the activities of a parent association at their children's school. Employees are also not required to obtain prior approval to volunteer with any entity if they are providing direct instructional, social, or medical services.

Even when prior approval is not required by § 6301.102, the Standards and other ethics laws and regulations continue to apply to outside activities and employment. For instance, even if an employee is not required to obtain approval prior to publishing magazine articles on subjects unrelated to his or her duties, that employee may still be subject to the restriction on outside earned income applicable to certain noncareer employees. (See 5 CFR 2635.804(b) and subpart C of 5 CFR part 2636.) Furthermore, employees are generally prohibited from using Government resources to participate in outside activities and outside employment, regardless of whether they are required to obtain prior approval to participate. See subpart G of 5 CFR part 2635 and 5 CFR 2635.801. Additionally, whether subject to advance approval or not, an outside activity or outside employment may raise conflict of interest or impartiality concerns under subparts D and E of 5 CFR part 2635.

III. Repeal and Revision of Department of Education Standards of Conduct

Because 34 CFR 73.22, the Department's residual standards regulation, is superseded by new chapter LIII of title 5, as added by this rulemaking, the Department of Education is herewith amending that section to repeal the Department's previous requirements for prior approval to participate in outside activities, and to provide cross-references to the executive branch-wide Standards at 5 CFR part 2635, to the Department's new supplemental regulation at 5 CFR part 6301, and to the executive branch financial disclosure regulation at 5 CFR part 2634. A more recent version of the ''Code of Ethics for Government Service,'' as enacted by Congress and signed into law by the President in 1980, is also being adopted in the appendix to amended part 73.

IV. Matters of Regulatory Procedure

Waiver of Proposed Rulemaking

In accordance with section 437 of the General Education Provisions Act (20 U.S.C. 1232) and the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. Since these interim final regulations relate to agency management and personnel, they are exempt from notice and comment required under 5 U.S.C. 553(a). However, the Department will consider public comments made within 45 days after the publication of this interim final rule. Depending on the nature of the comments, the Department may or may not adopt and publish amendments to these regulations based on these comments.

Regulatory Flexibility Act Certification

The Department of Education has determined under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this regulation will not have a significant impact on small business entities because it primarily affects Department employees.

Paperwork Reduction Act

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

List of Subjects

5 CFR Part 6301

Conflict of interests, Standards of conduct, Education Department, Government employees.

34 CFR Part 73

Conflict of interests, Standards of conduct, Education Department, Government employees.

Dated: January 20, 1995.

Richard W. Riley,

Secretary of Education.

Dated: January 23, 1995.

Stephen D. Potts,

Director, Office of Government Ethics.

(Catalog of Federal Domestic Assistance Number does not apply)

The Secretary of Education, with the concurrence of the Office of Government Ethics, amends title 5 of the Code of Federal Regulations and title 34, part 73, of the Code of Federal Regulations, as follows:

TITLE 5—[AMENDED]

1. A new chapter LIII, consisting of part 6301, is added to title 5 of the Code of Federal Regulations to read as follows:

5 CFR CHAPTER LIII—DEPARTMENT OF EDUCATION

PART 6301—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE DEPARTMENT OF EDUCATION

Sec.

Authority: 5 U.S.C. 301, 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12674, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.803.

§ 6301.101 General.

In accordance with 5 CFR 2635.105, the regulations in this part apply to employees of the Department of Education and supplement the Standards of Ethical Conduct for Employees of the Executive Branch contained in 5 CFR part 2635.

§ 6301.102 Prior approval for certain outside activities.

(a) An employee, other than a special Government employee, must obtain written approval prior to engaging—with or without compensation—in the following outside activities:

(1) Except as provided in paragraph (b)(1) of this section, providing services,

other than clerical services or service as a fact witness, on behalf of any other person in connection with a particular matter:

(i) In which the United States is a party;

(ii) In which the United States has a direct and substantial interest; or

(iii) If the provision of services involves the preparation of materials for submission to, or representation before, a Federal court or executive branch agency.

(2) Except as provided in paragraph (b)(2) of this section:

(i) Serving as an officer, director, trustee, general partner, agent, attorney, consultant, contractor, employee, advisory committee member, or active participant for a prohibited source; or

(ii) Engaging in teaching, speaking, consulting, or writing that relates to the employee's official duties.

(b) Unless the services are to be provided for compensation, including reimbursement for transportation, lodging and meals:

(1) Prior approval is not required by paragraph (a)(1) of this section to provide services as an agent or attorney for, or otherwise to represent, another Department of Education employee who is the subject of disciplinary, loyalty, or other personnel administration proceedings in connection with those proceedings; and

(2) Prior approval is not required by paragraph (a)(2) of this section:

(i) To participate in the activities of a:

(A) Social, fraternal, civic, or political entity;

(B) Religious entity that is not a prohibited source; or

(C) Parent-Teacher Association or similar parent organization at the employee's child's school or day care center, other than as a member of a board of directors or other governing body of the school or center, or the educational agency of which it is a part; or

(ii) To provide direct instructional, social, or medical services to students or other individuals.

(c) An employee who is required by paragraph (a) of this section to obtain prior written approval shall submit a written request for approval in accordance with Department procedures.

(d) The cognizant reviewing official shall grant approval unless he or she determines that the outside activity is expected to involve conduct prohibited by statute or Federal regulations, including 5 CFR part 2635.

(e) For the purposes of this section:

(1) ''Active participant'' has the meaning set forth in 5 CFR 2635.502(b)(1)(v).

(2) ''Prohibited source'' has the meaning set forth in 5 CFR 2635.203(d).

(3) ''Relates to the employee's official duties'' means that the activity meets one or more of the tests described in 5 CFR 2635.807(a)(2)(i) (B) through (E). It includes, in relevant part:

(i) Activities an employee has been invited to participate in because of his or her official position rather than his or her expertise in the subject matter;

(ii) A situation in which an employee has been asked to participate in an activity by a person or organization that has interests that may be substantially affected by the performance or nonperformance of the employee's official duties;

(iii) Activities that convey information derived from nonpublic information gained during the course of Government employment; and

(iv) Activities that deal in significant part with any matter to which the employee is or has been officially assigned in the last year, any ongoing or announced Department policy, program or operation, or—in the case of certain noncareer employees—any matter that is generally related to education or vocational rehabilitation.

Example 1: A Department employee witnessed an automobile accident involving two privately owned cars on her way to work. Some time later she is served with a subpoena at home to appear in Federal court as a fact witness on behalf of the plaintiff, who was injured in the car accident, in a civil case alleging negligence. The Department employee is not required to obtain prior approval to comply with the subpoena because this civil case is not a matter in which the United States is a party or has a direct and substantial interest.

Example 2: A Department employee would like to prepare Federal tax returns for clients on his own time. He is required to obtain prior approval to participate in this outside activity because it involves the provision of personal services in the preparation of materials for submission to the Internal Revenue Service, an executive branch agency.

Example 3: Arlene, a Department employee, has been asked by a Department colleague to represent him, without compensation, in an equal employment opportunity complaint he filed alleging that his supervisor failed to promote him because he is over 40 years old. Arlene is not required to obtain prior approval under this regulation before providing such representation because it involves services for another Department of Education employee in connection with a personnel administration proceeding. However, under 18 U.S.C. section 205, she may only provide such representation if it is not inconsistent with faithful performance of her duties.

Example 4: A local school board offers a Department employee a paid position as a referee of high school football games. The employee must seek prior approval to accept this outside employment because the local school board is a prohibited source. If, on the other hand, the employee volunteered to coach soccer, without pay, in a sports program sponsored by the local school board, no prior approval is required because she would be engaging in direct instructional services to students.

Example 5: A Department program specialist in the Office of Elementary and Secondary Education actively pursues an interest in painting. The community art league, where he has taken evening art classes, asks him if he would be interested in teaching an evening course on painting with acrylics. The employee is not required to obtain approval prior to accepting this employment. The community art league is not a prohibited source, and the subject matter of the course is not related to his duties.

Example 6: A Department employee helps organize local tennis tournaments. A national tennis magazine calls and asks her to write a monthly column about recreational tennis in her area. The magazine offers to pay the employee $500 for each column. The subject matter is not related to her duties, and the employee is not required to seek prior approval to write this column. However, the employee is still subject to all of the Standards of Conduct and other laws that may apply, including the limitation on outside earned income for certain noncareer employees, as well as the prohibition on using Government resources to pursue outside activities and employment.

Example 7: An employee's elderly parent is retired and receiving Social Security benefits. The employee would like to represent his parent in an administrative hearing before the Social Security Administration concerning a dispute over benefits. The employee must obtain prior approval to undertake the activity of representing his parent because he is providing services to his parent in a particular matter in which the United States is a party. Moreover, the services will involve representation before a Federal agency.

TITLE 34—EDUCATION

2. Part 73 of Title 34 is revised to read as follows:

PART 73—STANDARDS OF CONDUCT

Sec.

Authority: 5 U.S.C. 301, 7301; 18 U.S.C. 208; and E.O. 12674, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 3 CFR, 1990 Comp., p. 306.

§ 73.1 Cross-reference to employee ethical conduct standards and financial disclosure regulations.

Employees of the Department of Education are subject to the executive

branch-wide Standards of Ethical Conduct at 5 CFR part 2635 and to the Department of Education regulation at 5 CFR part 6301 which supplements the executive branch-wide standards with a requirement for employees to obtain prior approval to participate in certain outside activities. In addition, employees are subject to the executive branch-wide financial disclosure regulations at 5 CFR part 2634.

§ 73.2 Conflict of interest waiver.

If a financial interest arises from ownership by an employee—or other person or enterprise referred to in 5 CFR 2635.402(b)(2)—of stock in a widely diversified mutual fund or other regulated investment company that in turn owns stock in another enterprise, that financial interest is exempt from the prohibition in 5 CFR 2635.402(a).

Appendix to Part 73—Code of Ethics for Government Service

Any person in Government service should:

Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.

Uphold the Constitution, laws, and regulations of the United States and of all governments therein and never be a party to their evasion.

Give a full day's labor for a full day's pay; giving earnest effort and best thought to the performance of duties.

Seek to find and employ more efficient and economical ways of getting tasks accomplished.

Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or herself or for family members, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of governmental duties.

Make no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.

Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of governmental duties.

Never use any information gained confidentially in the performance of governmental duties as a means of making private profit.

Expose corruption wherever discovered.

Uphold these principles, ever conscious that public office is a public trust.

(This Code of Ethics was unanimously passed by the United States Congress on June 27, 1980, and signed into law as Public Law 96–303 by the President on July 3, 1980.)

[FR Doc. 95–2211 Filed 1–27–95; 8:45 am]

BILLING CODE 4000–01–P

Federal Register

Monday
January 30, 1995

Part VIII

Department of Transportation

Research and Special Programs Administration

49 CFR Part 107

Hazardous Materials Transportation Registration and Fee Assessment Program; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 107

[Docket No. HM–208B, Notice No. 95–3]

RIN 2137–AC58

Hazardous Materials Transportation Registration and Fee Assessment Program

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: RSPA is proposing changes to the current registration and fee assessment program for persons engaged in transporting or offering for transportation certain categories and quantities of hazardous materials in intrastate, interstate, and foreign commerce under the Hazardous Materials Regulations. The proposed changes would increase the annual registration fee for a number of persons by distinguishing between large, medium, and small entities that conduct operations in one or more of the several categories for which registration is required. The intended effect of the proposed changes is to provide a sound basis for funding the national emergency response training and planning grant program.

DATES: *Written comments:* Comments must be received on or before April 3, 1995.

Public hearing: A public hearing will be held beginning at 9:00 a.m., February 16, 1995. Persons desiring to make oral statements at the hearing should notify the Research and Special Programs Administration (RSPA) Docket Clerk by telephone (202) 366–5046 or in writing by February 13, 1995.

ADDRESSES: *Written comments:* Address comments to Dockets Unit (DHM–30), Hazardous Materials Safety, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590–0001. Comments should identify the docket (HM–208B) and be submitted in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed, stamped postcard showing the docket number. The Dockets Unit is located in Room 8421 of the Nassif Building, 400 Seventh Street SW., Washington, DC 20590–0001. Public dockets may be viewed between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Public hearing: The public hearing will be held in the Auditorium of the Federal Aviation Administration Building located at 800 Independence Avenue, SW., Washington, DC 20491. Mail written requests to speak at the hearing to: Docket Clerk, Room 8421, Office of Hazardous Materials Safety, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590–0001. For further information on public hearing procedures, see Supplementary Information.

FOR FURTHER INFORMATION CONTACT: David Donaldson, Office of Hazardous Materials Planning and Analysis, (202) 366–4484, or Joan McIntyre, Office of Hazardous Materials Standards, (202) 366–8553, RSPA, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

I. Public Hearing Information

Each request to speak at the public hearing must identify the speaker; organization represented, if any; daytime telephone number; and the anticipated length of the presentation, not to exceed 10 minutes. Written text of the oral statement should be presented to the hearing officer and reporter prior to the oral presentation. Hearings may conclude before 5:00 p.m. if all persons wishing to give oral comments have been heard. To confirm plans to attend, contact Ms. Joan McIntyre at (202) 366–8553 by February 15, 1995.

II. Background

On July 9, 1992, RSPA published a final rule under Docket HM–208 [57 FR 30620], establishing a national registration and fee assessment program, as required by 49 U.S.C. 5108, for persons engaged in transporting or offering for transportation certain categories and quantities of hazardous materials in intrastate, interstate, and foreign commerce. Persons currently subject to the registration program are required to annually file a registration statement with RSPA and pay a total annual fee of $300.00, of which $250.00 is to fund a nationwide emergency response training and planning grant program for States, local governments, and Indian tribes and $50.00 is to offset Department of Transportation (DOT) processing costs. The registration fee of $250.00 is the minimum amount permitted under the statute to be collected for funding the Interagency Hazardous Materials Public Sector Training and Planning Grants Program. RSPA estimates that approximately 25,000 persons will register for the current (1994–1995) registration year, thereby generating $6.25 million. This amount is not sufficient to carry out the national emergency response training and planning grant program at the level contemplated by Congress.

III. Scope of the Current Registration Program

A. General

The current registration program is focused on persons who are under a statutory obligation to register with RSPA. Under 49 U.S.C. 5108, each person who carries out one or more of the following activities must file a registration statement with RSPA and pay an annual registration fee:

(1) Transports or causes to be transported or shipped in commerce highway-route controlled quantities of Class 7 (radioactive) materials;

(2) Transports or causes to be transported or shipped in commerce more than 25 kilograms (55 pounds) of Division 1.1, 1.2, or 1.3 (Class A or Class B explosive) material in a motor vehicle, rail car, or freight container;

(3) Transports or causes to be transported or shipped in commerce more than one liter (1.06 quarts) per package of a hazardous material which has been designated by RSPA as extremely toxic by inhalation;

(4) Transports or causes to be transported or shipped in commerce a hazardous material in a bulk packaging, container, or tank if the packaging, container, or tank has a capacity equal to or greater than 13,248 liters (3,500 gallons) or more than 13.24 cubic meters (468 cubic feet); or

(5) Transports or causes to be transported or shipped in commerce a shipment in other than a bulk packaging of 2,268 kilograms (5,000 pounds) or more of a class of hazardous materials for which placarding of a vehicle, rail car, or freight container is required.

In addition, RSPA holds authority under § 5108 to require registration by each person who offers for transportation or transports any form or quantity of a hazardous material in commerce, and each person that manufactures, fabricates, marks, maintains, reconditions, repairs, or tests packagings that are represented, marked, certified, or sold for use in the transportation in commerce of hazardous materials. At this time, RSPA is not proposing to expand the registration requirement to such persons.

B. Foreign Offerors

Foreign offerors are included in the definition of ''persons'' who are subject to the registration requirement to the extent that they engage in any of the activities covered by the registration program. However, because of the potential for reciprocal actions by other governments, and significant problems associated with informing and identifying the parties concerned, RSPA delayed application of the registration requirement to these entities until July 1, 1996. See 49 CFR 107.606(f). Subsequently, section 104 of Public Law 103–311, enacted August 26, 1994, amended 49 U.S.C. 5108(a) by adding a new subparagraph that reads as follows:

(4) The Secretary may waive the filing of a registration statement, or the payment of a fee, required under this subsection, or both, for any person not domiciled in the United States who solely offers hazardous materials for transportation to the United States from a place outside the United States if the country of which such person is a domiciliary does not require persons domiciled in the United States who solely offer hazardous materials for transportation to the foreign country from places in the United States to file registration statements, or to pay fees, for making such an offer.

In this notice, RSPA proposes to make permanent the exception currently provided in § 107.606(f). However, in proposed § 107.606(a)(6), the general exception would be limited to persons who offer hazardous materials for transportation to the United States from a foreign country that does not impose a registration statement or fee payment requirement on a person domiciled in the United States who offers hazardous materials for transportation to that country.

In § 107.606(b), RSPA explains that persons domiciled in countries that enforce a registration statement or fee payment requirement shall file a registration statement and pay the annual fee upon a positive determination made by RSPA's Associate Administrator for Hazardous Materials Safety, the U.S. Competent Authority, that the other country's requirement is prejudicial to persons domiciled in the United States. The U.S. Competent Authority's determination would be communicated directly to the other country's Competent Authority, and it would be published in the **Federal Register**. No later than 60 days following publication in the **Federal Register** of that Competent Authority determination, offerors domiciled in the other country would be required to file a registration statement and pay the annual fee. If such an offeror were not registered, it could not offer a hazardous material for transportation from that country to the United States.

IV. Fee Schedule Under the Current Program

Under 49 U.S.C. 5108 the amount of the registration fee which may be collected from a person required to register with RSPA may not be less than $250.00 nor more than $5,000.00. The current registration fee is $250.00 for all persons required to be registered with RSPA, plus a processing fee of $50.00. All registrants, regardless of the size of their company, their level of income, or the extent to which they engage in hazardous materials transportation activities, currently pay the same registration fee.

V. Funding Shortfalls and Compliance Enforcement

A. Training and Planning Program Funding Shortfall

For the public sector training and planning program, 49 U.S.C. 5116 and 5127 provide an annual authorization in the amount of $18.975 million from 1993 through 1998. The authorization allocates $5 million for planning grants; $7.8 million for training grants; $1 million for development of a national curriculum; $3.2 million for monitoring and technical assistance by DOT and other Federal departments and agencies; $250,000 for a hazmat employee training grant program; and up to 10% of the amount made available from the registration fee account (or a maximum of $1.725 million) for the administrative costs of the program.

The planning and training grants awarded to States and Indian tribes, as well as expenditures for development of the training curriculum and other elements of the program, are drawn from an account established by the Secretary of the Treasury for the deposit of registration fees. In the registration years ending in June 1993 and 1994, registration fees collected and deposited into that account under the registration program amounted to $6.8 million and $6.7 million, respectively. An estimated $6.25 million in registration fees will be deposited during the current registration year ending in June 1995.

Currently, annual registration fees do not provide all of the $12.8 million authorized for training and planning grants to States and Indian tribes or the amounts authorized for other purposes. This funding shortfall compelled the Department to reduce grant allocations to the States and Indian tribes by approximately 40%. Increased registration fees will permit RSPA to substantially improve support of hazardous materials emergency response planning and training to the extent contemplated by Congress.

B. Outreach Efforts, Compliance, and Enforcement

RSPA has conducted an extensive outreach effort to increase awareness of the registration requirement. Over 400,000 informational brochures have been distributed through direct mailing campaigns and during presentations to industry. Those mailing campaigns targeted, among others, more than 46,000 carriers and shippers identified by the Federal Highway Administration's (FHWA) Office of Motor Carriers; more than 22,000 generators and 13,000 transporters of hazardous waste, as identified by the Environmental Protection Agency; nearly 6,000 shippers identified in RSPA's Hazardous Materials Incident Reporting System; approximately 4,000 holders of hazardous materials exemptions issued by RSPA; thousands of shippers and carriers that constitute the membership of several trade associations having an interest in the transportation of hazardous materials; and numerous State agencies. During this outreach, RSPA has cross-checked its registrations data base with each of the other lists provided by State agencies, and others, to identify potential cases of non-compliance. The registration program has been publicized in trade magazines and industry newsletters. Three supplemental notices have been published in the **Federal Register** advising the public of registration requirements. 58 FR 10985, February 23, 1993; 58 FR 26040, April 29, 1993; and 59 FR 22132, April 29, 1994. Compliance enforcement with the registration requirements was a key element of ROADCHECK–93, a nationwide inspection effort sponsored by the FHWA. Of 2,300 placarded trucks that were checked for proof of registration during that inspection, 88% were registered and had proof on board. Of the 12% that did not have proof on board, 80% were already registered. The Federal Railroad Administration (FRA) has publicized the registration program through technical bulletins and informational brochures distributed to their regional offices and all FRA inspectors. Approximately 60 Federal enforcement actions have been initiated throughout the United States, and eighteen State enforcement agencies have issued more than 250 citations for failure to register. Finally, during May, 1994, RSPA's Associate Administrator for Hazardous Materials Safety wrote to each State grant recipient to request

their assistance in identifying persons who have not registered, but who are required to do so.

As an alternative to increasing registration fees, RSPA recently proposed that offerors and transporters verify the registration status of each other before transportation begins. *See* Notice of Proposed Rulemaking in Docket HM–208A, 59 FR 15602, April 1, 1994. Most commenters opposed this proposal. Commenters overwhelmingly believed that Federal and State agencies should be responsible for enforcing the regulations, not industry. Logistical problems, administrative burdens, and increased costs were cited by commenters opposing this proposal. RSPA did not adopt the proposal in the final rule. 59 FR 32930, June 27, 1994.

Based on our outreach, our compliance efforts, and the results of ROADCHECK–93, RSPA believes the compliance rate to be approximately 90%. A significant increase in the campaign to inform shippers and carriers through education and stronger compliance is not expected to result in a sufficient number of new registrants to make-up the current funding shortfall. At the same time, 100% compliance remains the goal, and RSPA invites the submission of information which may be used to identify and contact unregistered offerors and transporters of hazardous materials. Suspected violations of the registration requirements may be brought to the attention of Federal or State enforcement agencies and specifically may be brought to RSPA's attention by calling RSPA's Registration Program Office at (202) 366–4484.

VI. Factors Taken Into Consideration in Developing the Proposals of This NPRM

Within the range of $250.00 to $5,000.00, 49 U.S.C. 5108 allows RSPA to base the amount of the registration fee on one or more of the following factors:

(1) The gross revenues from the transportation of hazardous materials;

(2) The types of hazardous materials transported or caused to be transported;

(3) The quantities of hazardous materials transported or caused to be transported;

(4) The number of shipments of hazardous materials;

(5) The number of activities which a person carries out for which a filing of a registration statement is required;

(6) The threat to property, persons, and the environment from an accident or incident involving the hazardous materials transported or caused to be transported;

(7) The percentage of gross revenues which are derived from the transport of hazardous materials;

(8) The amount of funds which are made available to carry out the emergency response planning and training grant program; and

(9) Such other factors as RSPA considers appropriate.

Given the relatively narrow permissible range of the registration fee (between $250.00 and $5,000.00), RSPA believes that the fee levels should be as simple and as straightforward as possible so as to be easily understood, administered, and enforceable. RSPA also believes that the fee levels should consider the comparative risks that may be posed by the types of activities covered by the registration requirement, to which emergency response planning and training are addressed. This includes the difference in the level of activity between small and large companies as well as any differences between the ''types of hazardous materials transported or caused to be transported''—e.g., a highway route controlled quantity of radioactive materials, or a shipment of 5,000 pounds or more of one hazardous material for which placarding is required.

In trying to strike a balance between equity and efficiency considerations, and in trying to make the registration process as clear and as administratively simple as possible, RSPA has tried to link the registration fee to information which is readily available to potential registrants, which can be verified by inspection and enforcement personnel, and which bears some relationship to the risk or magnitude of a person's involvement in hazardous materials transportation activities. Although the registration statement and fee level categories are excepted from the Paperwork Reduction Act by 49 U.S.C. 5108, RSPA has sought to avoid any approach which would entail a large recordkeeping and accounting burden on industry and the government. For example, basing the annual registration fee on a person's annual gross revenue, or on the percentage of gross revenue derived from the transportation of hazardous materials, could require significant changes in the way paperwork tracking and accounting procedures are handled by a company. Further, this information would be subject to verification in order to ensure that a person's annual fee was in fact commensurate with annual gross revenue, or with the percentage of gross revenue, derived from the company's transportation of hazardous materials.

One commenter on the proposal under HM–208A, the National Industrial Transportation League (NITL), stated that, if the universe of prospective registrants is smaller than originally estimated, an equitable increase in fees to cover a deficiency in funds would be less costly and burdensome than requiring offerors and transporters to verify each other's registration status. NITL believed that this deficiency could be eliminated by increasing the flat fee or by implementing a graduated fee schedule with registrants who are significantly more involved in the transport of hazardous material bearing a proportionately larger share of the increase.

At its annual meeting on July 23–28, 1994, the National Conference of State Legislatures (NCSL) again expressed its support of the action taken by Congress in the 1990 amendments to the Hazardous Materials Transportation Act (now replaced by 49 U.S.C. 5101 *et seq.*) to clarify government's regulatory roles and responsibilities; establish uniform standards for regulation; improve the existing preemption determination procedure; provide increased financial support for inspection, enforcement, training and response activities; guarantee State fiscal autonomy; and increase overall program coordination and data collection. NCSL also expressed its concern that the current funding mechanism for Federal grants to State training and emergency response activities is deficient. These concerns include unreliable appropriations; insufficient receipt of registration fees; high administrative costs; and lack of collection enforcement.

VII. Proposed Fees To Be Assessed for Funding the National Emergency Response Training and Planning Grant Program

In order to adequately fund the training and planning grant program, RSPA seeks, through this rulemaking action, to collect an amount equal to the annual funding authorization of $18.975 million. RSPA believes that this is best accomplished by proposing fee levels that range from the statutorily mandated minimum ($250.00) to the mandated maximum ($5,000.00), depending on the type, quantity, and the manner in which hazardous materials are offered for transportation or transported.

RSPA is proposing to establish a graduated fee schedule based on the type of hazard posed and the quantity of material offered for transportation or transported during the prior calendar year. Any person registering for a registration year subsequent to a year in

which it did not offer or transport hazardous material of the type, and quantity, for which registration is required would pay the minimum registration fee of $250.00, plus the $50.00 processing fee, for a total fee of $300.00.

RSPA believes that this regulatory approach provides fee levels which broadly address many of the factors contained in 49 U.S.C. 5108. Thus, it addresses the types and quantities of hazardous materials transported or caused to be transported; the threat to property, persons, and the environment from an accident or incident involving the hazardous materials transported or caused to be transported; gross revenues from the transportation of hazardous materials—to the extent that these revenues are a function of hazardous materials transportation-related activity; and the need to adequately fund the mandated training and planning grant program.

In addition, the proposal provides a reasonably fair and equitable solution to the great disparity between many small companies who are engaged in the shipment and transportation of hazardous materials, and large companies which annually manufacture, offer and transport thousands of tons of hazardous materials. RSPA is also confident that the revised fee structure would provide a sound basis for the funding and continued integrity of the emergency response training and planning grant program at a level authorized by law.

VIII. Discussion of Proposed Fee Levels

A. General

Under this proposal, all persons currently required to file a registration statement with RSPA would continue to be assessed, at a minimum, a registration fee of $250.00, plus a processing fee of $50.00, for a total of $300.00. In addition, offerors and transporters who handle quantities of hazardous materials that pose a greater hazard potential would pay higher registration fees, up to $5,000.00, plus the $50.00 processing fee, for a total of $5,050.00.

The proposed fee schedule is a tiered system that follows the mandatory registration filing criteria specified in 49 U.S.C. 5108 and reflects the hazard potential posed by various transportation activities. The complete fee schedule appears in the table in § 107.612 later in this document. For Class 7 (radioactive materials), a total annual fee of $5,050.00, the maximum permitted by § 5108, is assessed for transportation of any highway route controlled quantity. For explosives and for poison inhalation hazard (PIH), Zone A, materials there is a three-tiered sub-system of fees. The tiered fees, including the $50.00 processing fee, are $5,050.00 for larger quantities, $2,550.00 for intermediate quantities, and $300.00 for smaller quantities.

The schedule of registration fees for hazardous materials in bulk packagings is keyed to the number of *different* bulk packagings used during the year. As used in the Table in § 107.612, ''different'' bulk packagings refers to bulk packagings that are separately identifiable through permanent markings, serial numbers, or the like. Fees would be incrementally assessed based upon the number of different bulk packagings, including tank cars, cargo tank motor vehicles, portable tanks (e.g., IM–101/102), hopper vehicles, and hopper cars. Total annual fee levels would be based, in three increments ($5,050.00, $2,550.00, and $500.00), upon the number of different bulk packagings offered for transportation or transported during the prior calendar year.

Finally, an annual registration fee of $250.00, the minimum allowed by § 5108, plus the $50.00 annual processing fee, for a total of $300.00, is assessed for the transportation of 5,000 pounds or more of aggregated non-bulk packages of hazardous materials for which placarding is required, and for persons not engaged in any of the higher fee activities in the prior calendar year.

Persons who perform both offeror and carrier functions would be assessed fees based on the full scope of their transportation activities. However, no person would be required to pay more than the highest single annual fee associated with that person's operations, as specified in the Registration Fee Table in § 107.612(a).

The following are hypothetical examples of total annual fees payable by persons who, based upon their prior calendar year hazardous material transportation activity, are required to file a registration statement:

(1) A shipper that offered eight or more different tank cars would be assessed a total annual fee of $5,050.00.

(2) A carrier that transported only eleven different cargo tank motor vehicles would be assessed a total annual fee of $500.00.

(3) A shipper that offered fifteen different cargo tank motor vehicles and 75 different Class 106 multi-unit tank car tanks (nominal water capacity of 2,000 pounds) loaded with a PIH, Zone A, material would be assessed a total annual fee of $2,550.00.

RSPA believes this simplified distinction between large, medium, and small entities achieves the same level of equity as may be achieved by more complex calculations, such as the determination of revenue ton-miles or total number of shipments. The bulk transportation fee categories also would be mutually exclusive (e.g., a person that offers seven tank cars and 23 cargo tank motor vehicles would be assessed fees as a medium-size entity, since neither category by itself results in a classification as a large entity).

The requirement to register, and the amount of the fee, are based upon transportation that occurs to, from, or between points within the United States. Thus, even though a foreign motor carrier's fleet may comprise a large number of cargo tank motor vehicles, the carrier's registration fee level in this category is based upon the number of different cargo tank motor vehicles actually used during the prior year for hazardous materials transportation to, from, or between points within the United States.

Although the proposed fee schedule loses some of the simplicity of the current system, RSPA is proposing these changes in the interest of striking a balance between equity considerations, minimizing the impact on smaller businesses, and insuring the adequacy of funding for the emergency response training and planning grant program. In addition, it is important to recognize that the emergency response planning and training program focuses upon those situations involving materials presenting the greatest hazard potential. Accordingly, RSPA believes scaled registration fees should be applied in such a way that the highest fees are paid by persons who offer or transport those materials.

RSPA welcomes comments on the proposed graduated registration fee levels and the thresholds which trigger the increase in fees, as well as on any other factors that might be considered as the basis for the assessment of registration fees. For example, should there be more (or fewer) subdivisions in any of the five (5) categories of activities for which registration is required, and what should be the registration fee for each subdivision? Alternatively, should there be a progressive increase in the registration fee associated with an increase in activity (e.g., $250.00 for each tank car shipment—not to exceed $5,000.00 per year)?

B. Possible Expansion of the Registration Fee Base

The regulatory evaluation prepared in support of this rulemaking action

considered an alternative that would expand the scope of coverage of the registration program. Specifically, within this alternative, RSPA evaluated the following options:

(1) Include all shipments (bulk and non-bulk) for which placarding is required.

(2) Include all shipments (bulk and non-bulk) for which placarding is required, except for certain transportation by a private carrier exclusively for agricultural purposes (i.e., nurse tanks, as specified in 49 CFR 173.315(m)).

(3) Include certain manufacturers and reconditioners of packagings used in the transportation of hazardous materials.

(4) Include all transport vehicles and freight containers which contain more than 400 kg (882 pounds) of a hazardous material.

This alternative was not selected primarily because it would place an even greater burden on small shippers and carriers, thereby increasing the inequity that exists in the current fee structure. Moreover, in some cases, this may not add a significant number of persons required to register.

For example, RSPA recently proposed [Docket HM–206, NPRM; 59 FR 41848; August 15, 1994] several improvements to the existing hazard communications system that were identified as necessary by commenters to the ANPRM [Docket HM–206; 57 FR 24532; June 9, 1992], the National Academy of Sciences in its Special Report 239, ''Hazardous Materials Shipment Information for Emergency Response'', and agency initiative. RSPA is proposing to lower from 2,268 kg (5,000 pounds) to 1,000 kg (2,205 pounds) the quantity for specific hazard class placarding when one category of material is loaded on a transport vehicle at one loading facility. However, it seems probable that most persons who offer or transport at least one shipment per year of more than 1,000 kg of one class of a hazardous material will offer or transport at least a similar shipment that exceeds 2,268 kg. If so, lowering the threshold quantity, for shipments of hazardous materials in non-bulk packagings, would not result in a significant number of new persons having to file a registration statement.

However, RSPA is proposing, in this rulemaking, to broaden the scope of materials extremely toxic by inhalation covered by the registration requirement, to include every ''material poisonous by inhalation'' (PIH) as defined in 49 CFR 171.8 that meets the criteria for Hazard Zone A (extremely toxic). This change would add several PIH materials that are listed in the Hazardous Materials Table in 49 CFR 172.101 as a Class 3, Class 8, Division 4.2 or Division 5.1 hazardous material. It is not likely that this change will add a substantial number of persons that are required to register.

Commenters are encouraged to provide specific comments as to whether the registration requirement should be expanded in any way, including the desirability of making it parallel to the proposed placarding requirement, i.e., to 1,000 kg or more of any single class. Commenters should also provide information on the effect of any such expansion of the registration requirement, including an estimate of the number of additional persons that would be required to register.

C. Fee Reductions in Subsequent Years

Under 49 U.S.C. 5108(g)(2)(B), adjustments in registration fee levels are required if there is an uncommitted balance in the registration fee account. Therefore, if any new fee levels are adopted and result in the collection of fees significantly greater than the approximately $19 million authorized by 49 U.S.C. 5116 and 5127, RSPA proposes to make proportional reductions, on a year-by-year basis, in the registration fees within the statutory limits ($250.00–$5,000.00). This would be announced by publication of a notice in the **Federal Register** at least 60 days prior to the beginning of the registration year.

IX. An Industry Perspective

During May 1994, an industry working group was organized by the Hazardous Materials Advisory Council to review the current registration program and to make recommendations to RSPA in regard to the future of the program. Recommendations, dated September 23, 1994, were received and are available in the public docket. They will be reviewed and considered during this proceeding.

X. Section-By-Section Summary

Section 107.601

In paragraph (c), the entry for materials extremely toxic by inhalation would be revised to include every ''material poisonous by inhalation,'' as defined in 49 CFR 171.8, that meets the criteria for Hazard Zone A. This proposed requirement effectively captures poison inhalation hazard, Hazard Zone A, materials in divisions other than Division 2.3 and Division 6.1 (e.g., isobutyl isocyanate, a Class 3 hazardous material). The Hazard Zone A assignment for isobutyl isocyanate, and certain other materials, is specifically communicated through reference to Special Provision 1 in column 7 of the Hazardous Materials Table.

Section 107.606

This proposed revision would remove the July 1, 1996 limitation on the exception for foreign offerors. In paragraph (b), RSPA proposes to apply the registration and fee payment requirements to foreign offerors domiciled in any country that requires offerors domiciled in the United States to file a registration statement or pay a fee. See also the discussion in Section III.B. of this preamble.

Section 107.612

In this proposed rule, all persons currently required to file a registration statement with RSPA would continue to be assessed an annual registration fee, at a minimum, of $250.00, plus a $50.00 processing fee, for a total of $300.00. In addition, RSPA is proposing graduated registration fee levels, up to a maximum of $5,000.00 (plus the $50.00 processing fee), to which certain registrants would be subject on the basis of having offered or transported during the prior calendar year: a highway route controlled quantity of Class 7 (radioactive) materials; certain size shipments of Division 1.1, 1.2 or 1.3 (explosive) materials, or materials extremely toxic by inhalation; or a specified number of different bulk packagings.

The entire schedule of fees appears in a table within paragraph (a). The fees are keyed to the five activities for which registration is mandatory, and, where appropriate, specified in increments generally related to the quantity of hazardous material offered for transportation or transported.

In paragraph (b), RSPA is proposing a provision to proportionally reduce fees in subsequent registration years based on uncommitted balances, if any, in the grant account.

Section 107.616

Paragraphs (d)(2) and (d)(3) would be revised to provide procedures for the payment of any applicable increased fee required by the proposed amendment to § 107.612 when submitting a registration statement under the provisions of an expedited registration.

XI. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This proposed rule is considered a significant regulatory action under section 3(f) of Executive Order 12866 and was reviewed by the Office of Management and Budget. The rule is not considered a major rule under the Regulatory Policies and Procedures of

the Department of Transportation [44 FR 11034] because its economic impact on certain hazardous materials offerors and transporters is not expected to exceed $100 million annually. This proposal is expected to generate additional registration fees of approximately $12 million per year. A preliminary regulatory evaluation is available for review in the Docket. Because the statute mandates the establishment and collection of fees, the discretionary aspects of this rulemaking are limited to setting the amount of the fee within the statutory range for each person subject to the registration program. The proposed fees are not related to the cost of RSPA's hazardous materials safety programs. The fees to be paid by shippers and carriers of certain hazardous materials in transportation are related to the benefits received by these persons from the sale and transportation of hazardous materials and from emergency response services provided by public sector resources, should an accident or incident occur. The fees are also related to expenses incurred by State, Indian tribal, and local hazardous materials emergency preparedness and response activities.

B. Executive Order 12612

This action has been analyzed in accordance with Executive Order 12612 (''Federalism''). States and local governments are ''persons'' under 49 U.S.C. 5102, but are specifically exempted from the requirement to file a registration statement. The regulations herein have no substantial effects on the States, on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various levels of government. This registration regulation has no preemptive effect. It does not impair the ability of States, local governments or Indian tribes to impose their own fees or registration or permit requirements on intrastate, interstate or foreign offerors or carriers of hazardous materials. Thus, RSPA lacks discretion in this area, and preparation of a federalism assessment is not warranted.

C. Regulatory Flexibility Act

This proposed rule maintains the minimum fee requirement for small shippers and carriers of hazardous materials who are subject to the registration requirement. Therefore, I certify that this proposal will not, if promulgated, have a significant economic impact on a substantial number of small entities. This certification is subject to modification as a result of a review of comments received in response to this proposal.

D. Paperwork Reduction Act

Under 49 U.S.C. 5108, the information management requirements of the Paperwork Reduction Act [44 U.S.C. 3501 *et seq.*) do not apply to this proposed rule.

E. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 107

Administrative practice and procedure, Hazardous materials transportation, Packaging and containers, Penalties, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR part 107 is proposed to be amended as follows:

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

1. The authority citation for part 107 would continue to read as follows:

Authority: 49 U.S.C. 5101–5127, 44701; 49 CFR 1.45, 1.53.

2. In § 107.601, paragraph (c) would be revised to read as follows:

§ 107.601 Applicability.

* * * * *

(c) More than one L (1.06 quarts) per package of a material extremely toxic by inhalation (i.e., ''material poisonous by inhalation,'' as defined in § 171.8 of this chapter, that meets a criteria for ''hazard zone A,'' as specified in §§ 173.116(a) or 173.133(a) of this chapter);

* * * * *

3. Section 107.606 would be revised to read as follows:

§ 107.606 Exceptions.

(a) The following are excepted from the requirements of this subpart:

(1) An agency of the Federal government.

(2) A State agency.

(3) An agency of a political subdivision of a State.

(4) An employee of any of those agencies in paragraphs (a)(1) through (a)(3) of this section with respect to the employee's official duties.

(5) A hazmat employee (including, for purposes of this subpart, the owner-operator of a motor vehicle that transports in commerce hazardous materials if that vehicle, at the time of those activities, is leased to a registered motor carrier under a 30-day or longer lease as prescribed in 49 CFR part 1057 or an equivalent contractual agreement).

(6) A person domiciled outside the United States who offers, solely from a location outside the United States, hazardous materials for transportation in commerce, *provided* that the country of which such person is a domiciliary does not require persons domiciled in the United States who solely offer hazardous materials for transportation to the foreign country from places in the United States to file a registration statement or to pay a registration fee.

(b) Upon making a determination that persons domiciled in the United States who offer hazardous materials for transportation to a foreign country solely from places in the United States must file registration statements, or pay fees, the U.S. Competent Authority will provide notice of such determination directly to the Competent Authority of that foreign country, and by publication in the **Federal Register**. Persons affected by this determination shall file a registration statement and pay the required fee no later than 60 days following publication of the determination in the **Federal Register**.

4. Section 107.612 would be revised to read as follows:

§ 107.612 Amount of fee.

(a) Each person subject to the requirements of this subpart shall report its activities and pay the highest single (not aggregate) annual fee (which includes a $50.00 processing fee) that reflects the type and quantity of hazardous materials offered for transportation or transported into, from, or within the United States during the prior calendar year, as specified in the following table:

REGISTRATION FEE TABLE FOR HAZARDOUS MATERIALS ACTIVITIES

Type of hazardous material	Quantity	Total annual fee
Radioactive Material. A highway route controlled quantity of a Class 7 (radioactive) material, as defined in §173.403(l) of this chapter.	One (1) or more packages	$5,050.00
Explosive Material. A Division 1.1, 1.2 or 1.3 explosive material, as defined in §173.50 of this chapter, in a motor vehicle, rail car or freight container.	10,000 kg (22,046 pounds) or more	5,050.00
	1,000 kg (2,205 pounds) or more but less than 10,000 kg (22,046 pounds).	2,550.00
	More than 25 kg (55 pounds) but less than 1,000 kg (2,205 pounds).	300.00
Extremely Toxic by Inhalation. A ''material poisonous by inhalation,'' as defined in §171.8 of this chapter, that meets the criteria for ''hazard zone A'' (see §§173.116(a) and 173.133(a) of this chapter) in a packaging having a capacity of—.	13,248 L (3,500 gallons) or more	5,050.00
	More than 450 L (119 gallons) but less than 13,248 L (3,500 gallons).	2,550.00
	More than 1 L (1.06 quart) but less than or equal to 450 L (119 gallons).	300.00
Hazardous Material in a Bulk Packaging. A hazardous material in a bulk packaging, as defined in §171.8 of this chapter, having a capacity equal to or greater than 13,248 L (3,500 gallons) for liquids or gases or more than 13.24 cubic meters (468 cubic feet) for solids and the number of different packagings used during the year is—.	8 or more different tank cars, or 24 or more different other bulk packagings.	5,050.00
	4–7 different tank cars, or 12–23 different other bulk packagings.	2,550.00
	1–3 different tank cars, or 1–11 different other bulk packagings	500.00
Placarded Hazardous Material That is Not in a Bulk Packaging .	One (1) or more shipments of hazardous materials in other than a bulk packaging of 2,268 kg (5,000 pounds) gross weight or more of one class of hazardous material for which placarding of a vehicle, rail car, or freight container is required for that class, under provisions of subpart F of part 172 of this chapter.	300.00
During the prior calendar year did not engage in any of the above activities.	Will offer for transportation or transport during this registration year a hazardous material as specified above.	300.00

(b) For any registration year the Administrator may reduce, in a proportional amount, all the amounts greater than $300.00 indicated in the registration fee table in paragraph (a) of this section to reflect any uncommitted balance in the account established under 49 U.S.C. 5116. Notice of such adjustments will be published in the **Federal Register** no later than April 1 prior to the beginning of the registration year affected.

5. In §107.616, paragraphs (d)(2) and (d)(3) would be revised to read as follows:

§107.616 Payment procedures.

* * * * *

(d) * * *

(2) Pay $350.00 (including the $50.00 processing fee and an additional $50.00 expedited handling fee); and

(3) Submit all of the following to RSPA before the expiration date of the temporary registration number:

(i) A completed registration statement;

(ii) Proof of $350.00 payment; and

(iii) Payment of any balance of the annual fee (as specified in §107.612) in excess of $300.00.

Issued in Washington DC on January 25, 1995 under the authority delegated in 49 CFR part 106, Appendix A.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 95–2281 Filed 1–26–95; 10:20 am]

BILLING CODE 4910–60–P

Monday
January 30, 1995

Part IX

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Part 53

Federal Acquisition Regulation; Corrections to Standard Forms Included in the Truth in Negotiations Act Case; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 53

[FAR Case 94–721]

RIN 9000–AG30

Federal Acquisition Regulation; Corrections to Standard Forms Included in the Truth in Negotiations Act Case

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Correction to proposed rule.

SUMMARY: FAR case 94–721 proposes revisions to the FAR to implement Sections 1201–1210, 1251, and 1252 of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355). It was published as a proposed rule at 60 FR 2282; January 6, 1995. Included within the case are Standard Forms (SF) 1412 and 1412A. Due to administrative error the SF 1412 and 1412A previously published in the January 6, **Federal Register** were not the forms that were formulated by the Truth in Negotiations Act Team. For this reason we are correctly publishing SF 1412 and 1412A for the public to consider along with the proposed regulations.

DATES: *Comment Due Date:* Comments should be submitted on or before March 7, 1995, to be considered in the formulation of a final rule.

Public Meeting: A public meeting will be held on February 13, 1995, at 1:00 p.m.

Oral/Written Statements: Views to be presented at the public meeting should be sent, in writing, to the FAR Secretariat, at the address given below, not later than February 8, 1995.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW, Room 4037, Washington, DC 20405, Telephone: (202) 501–4755.

The public meeting will be held at General Services Administration Auditorium, 18th & F Streets, NW, First Floor, Washington, DC 20405.

Please cite FAR case 94–721 in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Al Winston, Truth in Negotiations Act (TINA) Team Leader, at (703) 602–2119 in reference to this correction. Please cite FAR case 94–721.

Dated: January 25, 1995.

Edward Loeb,

Deputy Project Manager for Implementation of the Federal Acquisition Streamlining Act.

BILLING CODE 6820–34–P

REQUEST FOR EXEMPTION FROM SUBMISSION OF COST OR PRICING DATA

(See reverse for instructions)

OMB No.: 9000-0013
Expires: 03/31/96

Public reporting burden for this collection of information is estimated to average 3.89 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Federal Acquisition Policy, (VR), GSA, Washington, DC 20405; and to the Office of Management and Budget, Paperwork Reduction Project (9000-0013), Washington, DC 20503.

1. OFFEROR (Name, address, ZIP code)	3. SOLICITATION NUMBER	
	4. ITEM OF SUPPLIES AND/OR SERVICES TO BE FURNISHED	
2. DIVISION(S) AND LOCATION(S) WHERE WORK IS TO BE PERFORMED	5. QUANTITY	6. TOTAL AMOUNT PROPOSED FOR ITEM $

By submission of this form the offeror requests exemption from requirements for submitting cost or pricing data on the basis that the price offered is based on an established catalog or market price of a commercial item sold in substantial quantitites to the general public or is a price set by law or regulation (see FAR 15.804-1). Complete Section I, II, or III below as applicable.

SECTION I - CATALOG PRICE *(See instructions for Items 7 thru 11 on reverse.)*

7. CATALOG IDENTIFICATION AND DATE	8. SALES PERIOD COVERED FROM	 TO

9. CATEGORIES OF SALES	TOTAL UNITS SOLD *	10. REMARKS
a. Sales at catalog price to the general public		
b. Total sales of catalog item to all customers		

*If your accounting system does not provide precise information, insert your estimate and explain the basis for it in Item 10, REMARKS. Conintue on a separate sheet, if necessary.

11. LIST THREE SALES OF THE ITEM OFFERED

SALES CATEGORY	DATE	NO. OF UNITS SOLD	PRICE/UNIT
a. Lowest price, any customer, any quantity			$
b. Lowest price, any customer, comparable quantities			$
c. Lowest price, same customer class, comparable quantities			$

SECTION II - MARKET PRICE *(See instructions for Item 12 on reverse.)*

12. SET FORTH THE SOURCE AND DATE OR PERIOD OF THE MARKET QUOTATION OR OTHER BASIS FOR MARKET PRICE, THE BASE AMOUNT, AND APPLICABLE DISCOUNTS

SECTION III - LAW OR REGULATION *(See insrtructions for Item 13 on reverse.)*

13. IDENTIFY THE LAW OR REGULATION ESTABLISHING THE PRICE OFFERED

REPRESENTATION *(See instructions for Item 14 on reverse.)*

The offeror represents to the best of its knowledge and belief that all data submitted concerning the items listed on this form are accurate as of the date of submittal to the Government and are in accordance with the instructions printed on the back of this form and that, except as stated in an attachment, a similar request for exemption involving the same or a similar item has not been denied by the Government within the last 2 years. Pending consideration of the proposal supported by this submission and, if this proposal or a modification of it is accepted by the Government, until the expiration of 3 years from the date of final payment under a contract resulting from this proposal, the Contracting officer and authorized representatives are granted access to books, records, document and other supporting data that will permit verification of the request for exemption and the reasonableness of price. Access does not extend to cost or profit information or other data relevant solely to the offeror's determination of the prices to be offered in the catalog or marketplace.

14. TYPED NAME, TITLE, AND FIRM	15. SIGNATURE	16. DATE OF SUBMISSION

AUTHORIZED FOR LOCAL REPRODUCTION
Previous edition not useable

STANDARD FORM 1412 (REV.)
Prescribed by GSA
FAR (48 CFR) 53.215-2(b)

Instructions to Offerors Submitting Request for Exemption from Submission of Cost or Pricing Data

The Offeror shall use the SF 1412 to submit a request for exemption from the submission of cost or pricing data. Attach all supporting information described below to the SF 1412. Complete Section I, Items 7 through 11, if you are proposing a catalog price. Complete Section II, Item 12, if you are proposing a market price. Complete Section III, Item 13, if you are proposing a price set by law or regulation.

Items 1-6. Self-explanatory. Provide information identified in the applicable block for each item for which an exemption is requested.

Item 7. Attach a copy of or identify the catalog and its date, or the appropriate pages for the offered items, or a statement that the catalog is on file in the buying office to which this proposal is being made.

Additional Information. Provide the following additional information in Items 7 - 11 for the catalog item with the highest total proposed price for the total quantity and for each catalog item with a total proposed price exceeding $100,000, or other threshold established by the contracting officer.

Item 7. Provide a copy or describe all current discount policies and price lists (published or unpublished) applicable to each class of customer. Show rebates, discounts applicable to multiple quantities or cumulative orders, and volume discounts applicable to the combination of supplies or services into one order. If the proposed price of a catalog item was determined on the basis of assignment of the Government to a particular customer class, identify the customer class and state the reasons for selecting that customer class. To justify a catalog price exemption for the Government item, the catalog item and the offered item must be the same or similar. For similar items, a statement must be attached identifying the technical differences and explaining, by price analysis, how the proposed price is derived from the catalog price.

Item 8. Sales period for block 9 sales information. This period should include the most recent regular quarterly or longer period for which sales data are reasonably available and should extend back only far enough to provide a total period representative of average sales. You may also attach sales data for a prior representative period if for any reason recent sales are abnormal and the prior period is sufficiently recent to support the proposed price for the Government item. In the latter case, explain how the proposed price is derived from the sales made at catalog price for the prior period.

Item 9. (a) Identify the amount of all sales of the catalog item at catalog price, or at an established discount from the catalog price, to the general public as defined in FAR 15.801 that were made during the period identified in block 8. See FAR 15.804-3(b)(2)(iv)(A) if you want sales by affiliates to be considered. (b) Identify the total amount of sales of the catalog item to all customers.

Item 10. Insert the following information on sales made during the most recent regular quarterly or longer period for which sales data are available:

On line a, insert information on the lowest price at which sales of the offered item were made to any customer during the period, regardless of quantity.

On line b, insert the lowest price at which any sales of the offered item were made at comparable quantities to any customer.

On line c, if the proposed price of the catalog item was determined on the basis of assignment of the Government to a particular customer class, insert the lowest price at which sales of the offered item were made at comparable quantities to any customer in that class.

Attach a complete explanation if the price proposed is not the lowest price at which a sale was made to any customer during the period for the same or similar items.

Item 12. Market price exemption criteria appear at FAR 15.804-1(b)(2)(ii). The nature of this market should be described. To justify a market-price exemption, the supply or service being purchased must be the same as or similar to the market price supply or service. For similar items, a statement must be attached identifying the specific differences and explaining how the proposed price is derived from the market price.

Item 13. Identify the law or regulation establishing the price offered. If the price is controlled under law by periodic rulings, reviews or similar actions of a governmental body, attach a copy of the controlling document, unless it was previously submitted to the contracting office.

Item 14. Insert the name, title, and firm of the person authorized by the offeror to sign this form.

REQUEST FOR EXEMPTION FROM SUBMISSION OF COST OR PRICING DATA - CONTINUATION
(See reverse for instructions.)

OMB NO.: 9000-0013
Expires: 03/31/96

4. ITEM OF SUPPLIES AND/OR SERVICES TO BE FURNISHED

2. DIVISION(S) AND LOCATION(S) WHERE WORK IS TO BE PERFORMED	5. QUANTITY	6. TOTAL AMOUNT PROPOSED FOR ITEM
		$

SECTION I - CATALOG PRICE *(See instructions for Items 7 thru 11 on reverse.)*

7. CATALOG IDENTIFICATION AND DATE	8. SALES PERIOD COVERED FROM	TO

9. CATEGORIES OF SALES	TOTAL UNITS SOLD*	10. REMARKS
a. Sales at catalog price to the general public		
b. Total sales of catalog item to all customers		

*If your accounting system does not provide precise information, insert your estimate and explain the basis for it in Item 10, REMARKS. Continue on a separate sheet, if necessary.

11. LOWEST PRICE SALES OF THE ITEM OFFERED

SALES CATEGORY	DATE	NO. OF UNITS SOLD	PRICE/UNIT
a. Lowest price, any customer, any quantity			$
b. Lowest price, any customer, comparable quantitites			$
c. Lowest price, same customer class, comparable quantities			$

SECTION II - MARKET PRICE *(See instructions for Item 12 on reverse.)*

12. SET FORTH THE SOURCE AND DATE OR PERIOD OF THE MARKET QUOTATION OR OTHER BASE FOR MARKET PRICE, THE BASE AMOUNT, AND APPLICABLE DISCOUNTS

SECTION III - LAW OR REGULATION *(See instructions for Item 13 on reverse.)*

13. IDENTIFY THE LAW OR REGULATION ESTABLISHING THE PRICE OFFERED

Instructions to Offerors Submitting Continuation Sheets for a Request for Exemption from Submission of Cost or Pricing Data

The Offeror shall submit the SF 1412A Continuation sheet(s) in accordance with the requirements of FAR 15.804-1 for additional items that do not fit on a single SF 1412. Attach all supporting information described below to the SF 1412A Continuation sheet(s). Complete Section I, Items 7 through 11, if you are proposing a catalog price. Complete Section II, Item 12, if you are proposing a market price. Complete Section III, Item 13, if you are proposing a price set by law or regulation.

Items 2, 4, 5 & 6. Self-explanatory. Provide information identified in the applicable block for each item for which an exemption is requested.

Item 7. Attach a copy of or identify the catalog and its date, or the appropriate pages for the offered items, or a statement that the catalog is on file in the buying office to which this proposal is being made.

Additional Information. Provide the following additional information in Items 7 - [illegible] for the catalog item with the highest total proposed price for the total quantity and for each catalog item with a total proposed price exceeding $100,000, or other threshold established by the contracting officer.

Item 7. Provide a copy or describe all current discount policies and price lists (published or unpublished) applicable to each class of customer. Show rebates, discounts applicable to multiple quantities or cumulative orders, and volume discounts applicable to the combination of supplies or services into one order. If the proposed price of the catalog item was determined on the basis of assignment of the Government to a particular customer class, identify the customer class and state the reasons for selecting that customer class. To justify the catalog price exemption for the Government item, the catalog item and the offered item must be the same or similar. For similar items, a statement must be attached identifying the technical differences and explaining, by price analysis, how the proposed price is derived from the catalog price.

Item 8. Sales period for block 9 sales information. This period should include the most recent regular quarterly or longer period for which sales data are reasonably available and should extend back only far enough to provide a total period representative of average sales. You may also attach sales data for a prior representative period if for any reason recent sales are abnormal and the prior period is sufficiently recent to support the proposed price for the Government item. In the latter case explain how the proposed price is derived from the sales made at catalog price for the prior period.

Item 9. (a) Identify the amount of all sales of the catalog item at catalog price, or at an established discount from the catalog price, to the general public as defined in FAR 15.801 that were made during the period identified in block 8. See FAR 15.804-1(b)(2)(iv)(A) if you want sales by affiliates to be considered. (b) Identify the total amount of sales of the catalog item to all customers.

Item 11. Insert the following information on sales made during the most recent regular quarterly or longer period for which sales data are available:

On line a, insert information on the lowest price at which sales of the offered item were made to any customer during the period, regardless of quantity.

On line b, insert the lowest price at which any sales of the offered item were made at comparable quantities to any customer.

On line c, if the proposed price of the catalog item was determined on the basis of assignment of the Government to a particular customer class, insert the lowest price at which sales of the offered item were made at comparable quantities to any customer in that class. Attach a complete explanation if the price proposed is not the lowest price at which a sale was made to any customer during the period for the same or similar items.

Item 12. Market price exemption criteria appear at FAR 15.804-1(b)(2)(ii). The nature of this market should be described. To justify a market-price exemption, the supply or service being purchased must be the same as or similar to the market price supply or service. For similar items, a statement must be attached identifying the specific differences and explaining how the proposed price is derived from the market price.

Item 13. Identify the law or regulation establishing the price offered. If the price is controlled under law by periodic rulings, reviews or similar actions of a governmental body, attach a copy of the controlling document, unless it was previously submitted to the contracting office.

STANDARD FORM 1412A (REV.) BACK

[FR Doc. 95–2289 Filed 1–27–95; 8:45 am]
BILLING CODE 6820–34–C

Reader Aids

Federal Register

Vol. 60, No. 19

Monday, January 30, 1995

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	**202–523–5227**
Public inspection announcement line	**523–5215**
Corrections to published documents	**523–5237**
Document drafting information	**523–3187**
Machine readable documents	**523–3447**

Code of Federal Regulations

Index, finding aids & general information	**523–5227**
Printing schedules	**523–3419**

Laws

Public Laws Update Service (numbers, dates, etc.)	**523–6641**
Additional information	**523–5230**

Presidential Documents

Executive orders and proclamations	**523–5230**
Public Papers of the Presidents	**523–5230**
Weekly Compilation of Presidential Documents	**523–5230**

The United States Government Manual

General information	**523–5230**

Other Services

Data base and machine readable specifications	**523–3447**
Guide to Record Retention Requirements	**523–3187**
Legal staff	**523–4534**
Privacy Act Compilation	**523–3187**
Public Laws Update Service (PLUS)	**523–6641**
TDD for the hearing impaired	**523–5229**

ELECTRONIC BULLETIN BOARD

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

FAX-ON-DEMAND

You may access our Fax-On-Demand service. You only need a fax machine and there is no charge for the service except for long distance telephone charges the user may incur. The list of documents on public inspection and the daily Federal Register's table of contents are available using this service. The document numbers are 7050-Public Inspection list and 7051-Table of Contents list. The public inspection list will be updated immediately for documents filed on an emergency basis.

NOTE: YOU WILL ONLY GET A LISTING OF DOCUMENTS ON FILE AND NOT THE ACTUAL DOCUMENT. Documents on public inspection may be viewed and copied in our office located at 800 North Capitol Street, N.W., Suite 700. The Fax-On-Demand telephone number is: **301–713–6905**

FEDERAL REGISTER PAGES AND DATES, JANUARY

1–318.....3
319–1706.....4
1707–1988.....5
1989–2320.....6
2321–2492.....9
2493–2670.....10
2671–2872.....11
2873–3054.....12
3055–3334.....13
3335–3532.....17
3533–3724.....18
3725–4068.....19
4069–4370.....20
4371–4526.....23
4527–4830.....24
4831–5086.....25
5087–5308.....26
5309–5558.....27
5559–5834.....30

CFR PARTS AFFECTED DURING JANUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
5759 (See Proc. 6763).....1007
6455 (See Proc. 6763).....1007
6641 (See Proc. 6763).....1007
6726 (See Proc. 6763).....1007
6763.....1007
6764.....3053
6765.....3333
6766.....4067

Executive Orders:
12640 (Amended by EO 12945).....4527
12826 (Superseded by 12944).....309
12886 (Superseded by 12944).....309
12944.....309
12945.....4527
12946.....4829
12947.....5079

Administrative Orders:
Memorandums:
January 4, 1995.....3335
Presidential Determinations:
No. 95–11 of December 30, 1994.....2671
No. 95–12 of December 31, 1994.....2673
No. 95–13 of December 31, 1994.....2675

5 CFR

Ch. LIII.....5816
211.....3055
230.....3055
300.....3055
301.....3055
307.....3055
315.....3948
316.....3055
330.....3055
333.....3055
339.....3055
340.....3055
351.....2677, 3055
353.....3055
532.....319, 5309, 5312
550.....3303
581.....5044
630.....3032, 5252
831.....3337
842.....3337
870.....5461
871.....5461
872.....5461
873.....5461
874.....5461
890.....5461
930.....3055

Proposed Rules:
300.....2546
430.....5542
432.....5542
451.....5542
531.....5542
551.....2549

7 CFR

7.....1989
52.....3533
58.....4824
201.....2493
272.....1707
273.....1707
301.....2321, 5087
319.....3067, 4529
400.....1996
402.....2000
782.....5087
925.....3725
929.....1
932.....4531
966.....2, 5559
967.....2873
979.....5560
982.....5561
989.....4532
1005.....319
1032.....320
1434.....321
1421.....1709
1425.....2680
1427.....1709
1710.....3726
1712.....3726
1714.....3726
1717.....3726
1719.....3726
1755.....1710, 1711, 5096
1773.....2874
1785.....3726
1944.....4069

Proposed Rules:
1.....5597
53.....3982
54.....3982
75.....379
210.....5514, 5527
220.....5514, 5527
273.....2703
274.....2703
335.....5289
400.....3106
457.....5339
723.....4871
948.....5597

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is $883.00 domestic, $220.75 additional for foreign mailing.

Mail orders to the Superintendent of Documents, Attn: New Orders, P.O. Box 371954, Pittsburgh, PA 15250–7954. All orders must be accompanied by remittance (check, money order, GPO Deposit Account, VISA, or Master Card). Charge orders may be telephoned to the GPO Order Desk, Monday through Friday, at **(202) 512–1800** from 8:00 a.m. to 4:00 p.m. eastern time, or FAX your charge orders to **(202) 512-2233**.

Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–022–00001–2)	$5.00	Jan. 1, 1994
3 (1993 Compilation and Parts 100 and 101)	(869–022–00002–1)	33.00	[1] Jan. 1, 1994
4	(869–022–00003–9)	5.50	Jan. 1, 1994
5 Parts:			
1–699	(869–022–00004–7)	22.00	Jan. 1, 1994
700–1199	(869–022–00005–5)	19.00	Jan. 1, 1994
1200–End, 6 (6 Reserved)	(869–022–00006–3)	23.00	Jan. 1, 1994
7 Parts:			
0–26	(869–022–00007–1)	21.00	Jan. 1, 1994
27–45	(869–022–00008–0)	14.00	Jan. 1, 1994
46–51	(869–022–00009–8)	20.00	[6] Jan. 1, 1993
52	(869–022–00010–1)	30.00	Jan. 1, 1994
53–209	(869–022–00011–0)	23.00	Jan. 1, 1994
210–299	(869–022–00012–8)	32.00	Jan. 1, 1994
300–399	(869–022–00013–6)	16.00	Jan. 1, 1994
400–699	(869–022–00014–4)	18.00	Jan. 1, 1994
700–899	(869–022–00015–2)	22.00	Jan. 1, 1994
900–999	(869–022–00016–1)	34.00	Jan. 1, 1994
1000–1059	(869–022–00017–9)	23.00	Jan. 1, 1994
1060–1119	(869–022–00018–7)	15.00	Jan. 1, 1994
1120–1199	(869–022–00019–5	12.00	Jan. 1, 1994
1200–1499	(869–022–00020–9)	30.00	Jan. 1, 1994
1500–1899	(869–022–00021–7)	30.00	Jan. 1, 1994
1900–1939	(869–022–00022–5)	15.00	Jan. 1, 1994
1940–1949	(869–022–00023–3)	30.00	Jan. 1, 1994
1950–1999	(869–022–00024–1)	35.00	Jan. 1, 1994
2000–End	(869–022–00025–0)	14.00	Jan. 1, 1994
8	(869–022–00026–8)	22.00	Jan. 1, 1994
9 Parts:			
1–199	(869–022–00027–6)	29.00	Jan. 1, 1994
200–End	(869–022–00028–4)	23.00	Jan. 1, 1994
10 Parts:			
0–50	(869–022–00029–2)	29.00	Jan. 1, 1994
51–199	(869–022–00030–6)	22.00	Jan. 1, 1994
200–399	(869–022–00031–4)	15.00	[6] Jan. 1, 1993
400–499	(869–022–00032–2)	21.00	Jan. 1, 1994
500–End	(869–022–00033–1)	37.00	Jan. 1, 1994
11	(869–022–00034–9)	14.00	Jan. 1, 1994
12 Parts:			
1–199	(869–022–00035–7)	12.00	Jan. 1, 1994
200–219	(869–022–00036–5)	16.00	Jan. 1, 1994
220–299	(869–022–00037–3)	28.00	Jan. 1, 1994
300–499	(869–022–00038–1)	22.00	Jan. 1, 1994
500–599	(869–022–00039–0)	20.00	Jan. 1, 1994
600–End	(869–022–00040–3)	32.00	Jan. 1, 1994
13	(869–022–00041–1)	30.00	Jan. 1, 1994
14 Parts:			
1–59	(869–022–00042–0)	32.00	Jan. 1, 1994
60–139	(869–022–00043–8)	26.00	Jan. 1, 1994
140–199	(869–022–00044–6)	13.00	Jan. 1, 1994
200–1199	(869–022–00045–4)	23.00	Jan. 1, 1994
1200–End	(869–022–00046–2)	16.00	Jan. 1, 1994
15 Parts:			
0–299	(869–022–00047–1)	15.00	Jan. 1, 1994
300–799	(869–022–00048–9)	26.00	Jan. 1, 1994
800–End	(869–022–00049–7)	23.00	Jan. 1, 1994
16 Parts:			
0–149	(869–022–00050–1)	6.50	Jan. 1, 1994
150–999	(869–022–00051–9)	18.00	Jan. 1, 1994
1000–End	(869–022–00052–7)	25.00	Jan. 1, 1994
17 Parts:			
1–199	(869–022–00054–3)	20.00	Apr. 1, 1994
200–239	(869–022–00055–1)	23.00	Apr. 1, 1994
240–End	(869–022–00056–0)	30.00	Apr. 1, 1994
18 Parts:			
1–149	(869–022–00057–8)	16.00	Apr. 1, 1994
150–279	(869–022–00058–6)	19.00	Apr. 1, 1994
280–399	(869–022–00059–4)	13.00	Apr. 1, 1994
400–End	(869–022–00060–8)	11.00	Apr. 1, 1994
19 Parts:			
1–199	(869–022–00061–6)	39.00	Apr. 1, 1994
200–End	(869–022–00062–4)	12.00	Apr. 1, 1994
20 Parts:			
1–399	(869–022–00063–2)	20.00	Apr. 1, 1994
400–499	(869–022–00064–1)	34.00	Apr. 1, 1994
500–End	(869–022–00065–9)	31.00	Apr. 1, 1994
21 Parts:			
1–99	(869–022–00066–7)	16.00	Apr. 1, 1994
100–169	(869–022–00067–5)	21.00	Apr. 1, 1994
170–199	(869–022–00068–3)	21.00	Apr. 1, 1994
200–299	(869–022–00069–1)	7.00	Apr. 1, 1994
300–499	(869–022–00070–5)	36.00	Apr. 1, 1994
500–599	(869–022–00071–3)	16.00	Apr. 1, 1994
600–799	(869–022–00072–1)	8.50	Apr. 1, 1994
800–1299	(869–022–00073–0)	22.00	Apr. 1, 1994
1300–End	(869–022–00074–8)	13.00	Apr. 1, 1994
22 Parts:			
1–299	(869–022–00075–6)	32.00	Apr. 1, 1994
300–End	(869–022–00076–4)	23.00	Apr. 1, 1994
23	(869–022–00077–2)	21.00	Apr. 1, 1994
24 Parts:			
0–199	(869–022–00078–1)	36.00	Apr. 1, 1994
200–499	(869–022–00079–9)	38.00	Apr. 1, 1994
500–699	(869–022–00080–2)	20.00	Apr. 1, 1994
700–1699	(869–022–00081–1)	39.00	Apr. 1, 1994
1700–End	(869–022–00082–9)	17.00	Apr. 1, 1994
25	(869–022–00083–7)	32.00	Apr. 1, 1994
26 Parts:			
§§ 1.0-1–1.60	(869–022–00084–5)	20.00	Apr. 1, 1994
§§ 1.61–1.169	(869–022–00085–3)	33.00	Apr. 1, 1994
§§ 1.170–1.300	(869–022–00086–1)	24.00	Apr. 1, 1994
§§ 1.301–1.400	(869–022–00087–0)	17.00	Apr. 1, 1994
§§ 1.401–1.440	(869–022–00088–8)	30.00	Apr. 1, 1994
§§ 1.441-1.500	(869-022-00089-6)	22.00	Apr. 1, 1994
§§ 1.501–1.640	(869–022–00090–0)	21.00	Apr. 1, 1994
§§ 1.641–1.850	(869–022–00091–8)	24.00	Apr. 1, 1994
§§ 1.851–1.907	(869–022–00092–6)	26.00	Apr. 1, 1994
§§ 1.908–1.1000	(869–022–00093–4)	27.00	Apr. 1, 1994
§§ 1.1001–1.1400	(869–022–00094–2)	24.00	Apr. 1, 1994
§§ 1.1401–End	(869–022–00095–1)	32.00	Apr. 1, 1994
2–29	(869–022–00096–9)	24.00	Apr. 1, 1994
30–39	(869–022–00097–7)	18.00	Apr. 1, 1994
40–49	(869–022–00098–4)	14.00	Apr. 1, 1994
50–299	(869–022–00099–3)	14.00	Apr. 1, 1994
300–499	(869–022–00100–1)	24.00	Apr. 1, 1994
500–599	(869–022–00101–9)	6.00	[4] Apr. 1, 1990

Title	Stock Number	Price	Revision Date
600–End	(869–022–00102–7)	8.00	Apr. 1, 1994
27 Parts:			
1–199	(869–022–00103–5)	36.00	Apr. 1, 1994
200–End	(869–022–00104–3)	13.00	Apr. 1, 1994
28 Parts:			
1-42	(869–022–00105–1)	27.00	July 1, 1994
43-end	(869-022-00106-0)	21.00	July 1, 1994
29 Parts:			
0–99	(869–022–00107–8)	21.00	July 1, 1994
100–499	(869–022–00108–6)	9.50	July 1, 1994
500–899	(869–022–00109–4)	35.00	July 1, 1994
900–1899	(869–022–00110–8)	17.00	July 1, 1994
1900–1910 (§§ 1901.1 to 1910.999)	(869–022–00111–6)	33.00	July 1, 1994
1910 (§§ 1910.1000 to end)	(869–022–00112–4)	21.00	July 1, 1994
1911–1925	(869–022–00113–2)	26.00	July 1, 1994
1926	(869–022–00114–1)	33.00	July 1, 1994
1927–End	(869–022–00115–9)	36.00	July 1, 1994
30 Parts:			
1–199	(869–022–00116–7)	27.00	July 1, 1994
200–699	(869–022–00117–5)	19.00	July 1, 1994
700–End	(869–022–00118–3)	27.00	July 1, 1994
31 Parts:			
0–199	(869–022–00119–1)	18.00	July 1, 1994
200–End	(869–022–00120–5)	30.00	July 1, 1994
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–022–00121–3)	31.00	July 1, 1994
191–399	(869–022–00122–1)	36.00	July 1, 1994
400–629	(869–022–00123–0)	26.00	July 1, 1994
630–699	(869–022–00124–8)	14.00	[5] July 1, 1991
700–799	(869–022–00125–6)	21.00	July 1, 1994
800–End	(869–022–00126–4)	22.00	July 1, 1994
33 Parts:			
1–124	(869–022–00127–2)	20.00	July 1, 1994
125–199	(869–022–00128–1)	26.00	July 1, 1994
200–End	(869–022–00129–9)	24.00	July 1, 1994
34 Parts:			
1–299	(869–022–00130–2)	28.00	July 1, 1994
300–399	(869–022–00131–1)	21.00	July 1, 1994
400–End	(869–022–00132–9)	40.00	July 1, 1994
35	(869–022–00133–7)	12.00	July 1, 1994
36 Parts:			
1–199	(869–022–00134–5)	15.00	July 1, 1994
200–End	(869–022–00135–3)	37.00	July 1, 1994
37	(869–022–00136–1)	20.00	July 1, 1994
38 Parts:			
0–17	(869–022–00137–0)	30.00	July 1, 1994
18–End	(869–022–00138–8)	29.00	July 1, 1994
39	(869–022–00139–6)	16.00	July 1, 1994
40 Parts:			
1–51	(869–022–00140–0)	39.00	July 1, 1994
52	(869–022–00141–8)	39.00	July 1, 1994
53–59	(869–022–00142–6)	11.00	July 1, 1994
60	(869-022-00143-4)	36.00	July 1, 1994
61–80	(869–022–00144–2)	41.00	July 1, 1994
81–85	(869–022–00145–1)	23.00	July 1, 1994
86–99	(869–022–00146–9)	41.00	July 1, 1994
100–149	(869–022–00147–7)	39.00	July 1, 1994
150–189	(869–022–00148–5)	24.00	July 1, 1994
190–259	(869–022–00149–3)	18.00	July 1, 1994
260–299	(869–022–00150–7)	36.00	July 1, 1994
300–399	(869–022–00151–5)	18.00	July 1, 1994
400–424	(869–022–00152–3)	27.00	July 1, 1994
425–699	(869–022–00153–1)	30.00	July 1, 1994
700–789	(869–022–00154–0)	28.00	July 1, 1994
790–End	(869–022–00155–8)	27.00	July 1, 1994
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
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
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–022–00156–6)	9.50	July 1, 1994
101	(869–022–00157–4)	29.00	July 1, 1994
102–200	(869–022–00158–2)	15.00	July 1, 1994
201–End	(869–022–00159–1)	13.00	July 1, 1994
42 Parts:			
1–399	(869–022–00160–4)	24.00	Oct. 1, 1994
400–429	(869–019–00161–1)	25.00	Oct. 1, 1993
430–End	(869–019–00162–0)	36.00	Oct. 1, 1993
43 Parts:			
1–999	(869–022–00163–9)	23.00	Oct. 1, 1994
1000–3999	(869–019–00164–6)	32.00	Oct. 1, 1993
*4000–End	(869–022–00165–5)	14.00	Oct. 1, 1994
44	(869–019–00166–2)	27.00	Oct. 1, 1993
45 Parts:			
1–199	(869–019–00167–1)	22.00	Oct. 1, 1993
200–499	(869–019–00168–9)	15.00	Oct. 1, 1993
*500–1199	(869–022–00169–8)	32.00	Oct. 1, 1994
1200–End	(869–019–00170–1)	22.00	Oct. 1, 1993
46 Parts:			
1–40	(869–019–00171–9)	18.00	Oct. 1, 1993
41–69	(869–019–00172–7)	16.00	Oct. 1, 1993
70–89	(869–019–00173–5)	8.50	Oct. 1, 1993
90–139	(869–022–00174–4)	15.00	Oct. 1, 1994
140–155	(869–019–00175–1)	12.00	Oct. 1, 1993
156–165	(869–019–00176–0)	17.00	Oct. 1, 1993
166–199	(869–022–00177–9)	17.00	Oct. 1, 1994
200–499	(869–022–00178–7)	21.00	Oct. 1, 1994
500–End	(869–019–00179–4)	15.00	Oct. 1, 1993
47 Parts:			
0–19	(869–019–00180–8)	24.00	Oct. 1, 1993
20–39	(869–019–00181–6)	24.00	Oct. 1, 1993
40–69	(869–019–00182–4)	14.00	Oct. 1, 1993
70–79	(869–019–00183–2)	23.00	Oct. 1, 1993
80–End	(869–019–00184–1)	26.00	Oct. 1, 1993
48 Chapters:			
1 (Parts 1–51)	(869–022–00185–0)	36.00	Oct. 1, 1994
*1 (Parts 52–99)	(869–022–00186–8)	23.00	Oct. 1, 1994
2 (Parts 201–251)	(869–022–00187–6)	16.00	Oct. 1, 1994
2 (Parts 252–299)	(869–022–00188–4)	13.00	Oct. 1, 1994
3–6	(869–022–00189–2)	23.00	Oct. 1, 1994
7–14	(869–019–00190–5)	31.00	Oct. 1, 1993
15–28	(869–019–00191–3)	31.00	Oct. 1, 1993
29–End	(869–022–00192–2)	17.00	Oct. 1, 1994
49 Parts:			
1–99	(869–019–00193–0)	23.00	Oct. 1, 1993
100–177	(869–019–00194–8)	30.00	Oct. 1, 1993
178–199	(869–019–00195–6)	20.00	Oct. 1, 1993
200–399	(869–019–00196–4)	27.00	Oct. 1, 1993
400–999	(869–019–00197–2)	33.00	Oct. 1, 1993
1000–1199	(869–019–00198–1)	18.00	Oct. 1, 1993
1200–End	(869–022–00199–0)	15.00	Oct. 1, 1994
50 Parts:			
1–199	(869–019–00200–6)	20.00	Oct. 1, 1993
200–599	(869–019–00201–4)	21.00	Oct. 1, 1993
600–End	(869–019–00202–2)	22.00	Oct. 1, 1993
CFR Index and Findings Aids	(869–022–00053–5)	38.00	Jan. 1, 1994

Title	Stock Number	Price	Revision Date
Complete 1995 CFR set		883.00	1995
Microfiche CFR Edition:			
Complete set (one-time mailing)		188.00	1992
Complete set (one-time mailing)		223.00	1993
Complete set (one-time mailing)		244.00	1994
Subscription (mailed as issued)		264.00	1995
Individual copies		1.00	1995

[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.