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CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
Vol. 60, No. 45
Wednesday, March 8, 1995

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 708a

Mergers or Conversions of Federally-Insured Credit Unions to Non Credit Union Status: NCUA Approval

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The final rule applies to any credit union that is insured by the National Credit Union Share Insurance Fund (NCUSIF) and that proposes to merge into or convert to any non credit union institution. The rule imposes new substantive requirements. The purposes of these requirements are to ensure that such transactions take place only pursuant to an informed vote of the credit union's members/owners, to prevent self-dealing and other abuses by individuals involved in the transactions and to ensure that these transactions do not present safety and soundness risks to the NCUSIF and the credit union system. State chartered NCUSIF insured credit unions may, on a case-by-case basis, obtain a waiver from NCUA's rules if state laws and procedures are determined to adequately address these concerns.

EFFECTIVE DATE: April 1, 1995.

FOR FURTHER INFORMATION CONTACT: Mary F. Rupp, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428 or telephone: (703) 518–6553.

SUPPLEMENTARY INFORMATION:

Background

In June 1994, the NCUA requested comments on proposed changes to part 708 of its regulations. At that time, part 708 only addressed situations where an NCUSIF insured credit union dropped NCUSIF insurance, either through a merger into a non NCUSIF insured credit union or through a voluntary termination or conversion of insurance. It did not cover the merger or conversion of a credit union into a non credit union institution. The Federal Credit Union Act, however, vests the NCUA Board with the responsibility to regulate such mergers or conversions. 12 U.S.C. 1785(b). The proposed changes to part 708 clarified that NCUA approval requirements apply to *all* mergers and conversions where the continuing institution is not insured by NCUSIF. 59 FR 33702 (June 30, 1994).

The proposal was in response to abuses that had occurred with bank and thrift conversions, some isolated instances in the credit union system, and recent solicitations by outside consultants and attorneys to federally insured credit unions for conversion to non credit union charters. The solicitations often appeared motivated by benefits to the attorneys, consultants and insiders, rather than the members. The amendment was deemed necessary ''to provide NCUA with clear authority to prevent abuses in connection with conversions of insured status.'' 59 FR 33702. The comments to the proposal were generally positive and consistently stressed that the members need to be properly informed and that the NCUA needs to ensure that safety and soundness and members' interests are protected.

On September 16, 1994, the NCUA Board issued an interim final rule and request for further comment. The rule was effective upon publication on September 23, 1994. 59 FR 48790. The new rule, part 708a, established that the NCUA Board must approve any merger or conversion of a federally-insured credit union to any non credit union institution, including preapproval of any notices to members that are sent out in connection with the merger or conversion. At the same time, the Board requested further comment on a number of issues related to the application and approval process.

Summary of Comments and Discussion of Issues

In the June 1994, proposal, the NCUA Board requested comment on the general issue of NCUA regulation in this area and on the specific issue of uniform member notice. In the interim rule, comment was requested on a number of issues that the Board felt required further consideration and review. The NCUA received 16 comments on the proposed rule: 10 from credit unions; 4 from credit union trade groups; 1 from a bank trade group; and 1 from a credit union league. The NCUA received 19 comments on the interim rule: 6 from federal credit unions; 6 from federally insured state chartered credit unions (FISCUs); 3 from credit union trade groups; 2 from bank trade groups; and 2 from state regulators. The following is a combined summary of the comments received on the proposed rule and the interim final rule.

1. NCUA Oversight

In the proposed rule, 14 commenters addressed the issue of NCUA oversight. Twelve expressed general support for NCUA oversight and two expressed general opposition. The supportive commenters cited the following benefits of NCUA regulation: Eliminate confusion, prevent unnecessary litigation, protect the members from potential abuse, assure that the members know the advantages and disadvantages of any proposal, protect the assets and integrity of the NCUSIF and assure that financial benefits to insiders are fully disclosed. The two negative commenters were a bank trade group and a state chartered credit union. The bank trade group characterized the proposal as an overreaction by NCUA to a few isolated examples.

The issue of NCUA's jurisdiction over mergers or conversions by federally-insured state credit unions (FISCUs) was raised by 5 commenters on the interim rule. The five consisted of the professional group that represents state credit union supervisors (the National Association of State Credit Union Supervisors, or NASCUS), two FISCUs and two state regulators. All strongly opposed any NCUA regulation of mergers or conversions of FISCUs.

NASCUS made the point that only seven of the 48 states which charter credit unions allow them to merge with other financial institutions and only four states allow credit unions to convert into another form of financial institution. NASCUS' comment also recognized, however, that several states have statutes that are silent on the issue. It is those states which cause the Board the most concern. Without specific

regulations in this area, there is potential for abuse.

The NCUA Board believes that basic regulatory standards applicable to all NCUSIF insured credit unions are necessary to safeguard the integrity of the process and to ensure that issues of safety and soundness and fiduciary duty are properly addressed. The Board has attempted, however, to balance these concerns with a deference to the important role of the state supervisors. As it is NCUA's intention to work with the state supervisor in cases involving federally-insured state credit unions, the Board has crafted a final rule that would allow FISCUs to merge or convert if they have the state's authority to do so. In those instances, the FISCU may file a written request with the NCUA Board for a waiver of compliance with the procedural portions of part 708a and instead follow the applicable state regulation. The request would have to demonstrate that the waiver would not be detrimental to the safety and soundness of the credit union, that there is no possibility of self-dealing or other breach of fiduciary duty by the credit union's management or others involved in the transaction, and that the members' interests are adequately protected.

2. Insider Preferences

The proposed rule asked whether directors and management officials involved in the conversion process should be allowed to receive any personal financial benefit from the transaction, other than that available to ordinary members. The ten commenters responding to this question agreed that directors and management should not be allowed to receive any compensation in excess of that available to other members. Several commenters suggested NCUA enact strong regulations in this area. As well as limiting the compensation available to insiders, one commenter suggested individuals should not be guaranteed employment at the continuing institution, noting that this would remove the incentive for insiders encouraging a merger that is not in the best interest of the members.

A related issue is that of what post-merger or post-conversion controls are needed to protect against improper insider preferences after the transaction is completed. Some of the suggestions of the five commenters who commented on this issue were that NCUA should prohibit stock acquisition by insiders for a period of five years and that both pre- and post-merger or conversion controls are necessary to prevent insider abuse. One of the trade groups suggested a way to avoid the problem would be to condition approval of the transaction ''on a return of equal shares of equity to all members before the execution of the charter change.''

The recommendations of the commenters have been modified and incorporated into the final rule as follows: For a period of two years after the transaction, directors may not receive any benefits not otherwise equally available to other members, and directors and senior management officials may not acquire stock in the continuing institution or its successor on terms not available to the other members of the credit union. These prohibitions on directors and senior management officials must remain in effect for at least two years following the merger. In order to enable NCUA to ensure compliance with these prohibitions, the affected individuals will be required to enter into written agreements with NCUA. The NCUA Board decided not to require a distribution of reserves and undivided earnings to members, as such a requirement would have the practical effect of prohibiting the transactions covered by the rule. Among the disclosures required to be provided to the members, however, is a clear explanation of the change in the nature of their ownership interest in reserves and undivided earnings that will result from the transaction.

3. Majority Approval

NCUA requested comment on whether a majority of eligible voting members should be required to approve the transaction. Comment was further requested on whether majority should be defined as a simple majority or a super majority, and, if a super majority, how it should be defined. The six commenters that addressed the issue all agreed that a majority of the voting members should be required for approval. Two defined majority as over 50%, two defined it as 60% to 63⅓%, one defined it as 70% to 80% and the other commenter did not define it.

Recognizing the importance of a clear mandate on an issue of such significance to the members, the final rule requires that a majority of all eligible voters approve any transaction covered by the rule.

4. Appraisal

In those cases the Board is aware of where credit unions have considered conversions or mergers to non credit union charters, the first step of the transaction would be to move from a credit union charter to a mutual savings bank charter. In cases where the ultimate goal is to become a stock institution, conversion from mutual to stock would be proposed as a second, but virtually simultaneous step.

For those cases involving this second step, the Board specifically asked for comment on how to properly appraise the value of the credit union for purposes of issuing stock. This issue is important to the members, who, as noted above, are entitled to acquire stock on the same terms and conditions as directors and senior management officials. Seven commenters had suggestions on this issue. One recommended that a professional appraisal be performed, three recommended that the value of the stock include accumulated capital and one suggested the new regulator determine the value of the stock. One trade group suggested it be handled as a liquidation and payout and another suggested NCUA turn to state law for guidance.

After considering the comments and reviewing the other agencies' rules in this area, the Board has determined to simply require that an appraisal be performed and included in the application. The Board will review the appraisal as part of its review of the application.

5. Uniform Member Notice

The proposal requested comment on whether the rule should include a uniform member notice. Nine of the ten commenters responding to this issue supported a uniform notice. Commenters suggested that a uniform notice would provide clear and consistent guidelines for merging institutions, ensure that important information is not withheld from the members and require less individual review. The Board agrees with these goals, but believes they can be accomplished more effectively through a listing of the information that must be included in the notice to members, rather than a form which may become outdated or not apply to all transactions.

Overview of Final Rule

The final rule adopts with minor modifications the interim rule and expands upon it to impose substantive and procedural requirements that the Board has determined are necessary to ensure an informed membership vote, to safeguard against potential safety and soundness problems and to prevent breaches of fiduciary duty. The final rule, part 708a, tracks in large part the current part 708b. Its key provisions are as follows: NCUA Board approval is required in advance of any transaction whereby a federally insured credit union transfers all or any part of its

members' shares or similar accounts to any non credit union institution; a majority of all members of record must vote to approve the transaction; directors must agree to receive no benefits in excess of those available to the members; notice to members must be preapproved by the NCUA Board and must include all pertinent information required by the rule as well as any additional information deemed necessary on a case by case basis; FISCUs may only engage in the transaction if they obtain approval from the state authority to proceed with the merger or conversion; and FISCUs must follow part 708a unless they obtain a waiver from NCUA.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires the NCUA to prepare an analysis to describe any significant economic impact any regulation may have on a substantial number of small credit unions. It is highly unlikely that small credit unions (those under $1 million in assets) would be engaged in a merger or conversion to a non credit union institution. The final rule merely clarifies statutory authority. Accordingly, the NCUA Board has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

These amendments do not change paperwork requirements.

Executive Order 12612

This rule applies to all federally insured credit unions. The rule clarifies existing statutory requirements of NCUA Board approval of certain transactions involving federally insured credit unions. Recognizing the interests of states and state regulators in supervising state chartered credit unions, the NCUA Board has included a provision in the final rule that allows FISCUs, on a case-by-case basis, to obtain a waiver from NCUA's rule and follow state procedures if those procedures are determined to adequately address the concerns of NCUA's rule. With this provision, the NCUA Board has determined that this amendment is not likely to have any direct effect on states, on the relationship between the states, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 12 CFR Part 708a

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

By the National Credit Union Administration Board on March 1, 1995.

Becky Baker,

Secretary of the Board.

Accordingly, the interim rule adding a new regulation in 12 CFR part 708a which was published at 59 FR 48790 on September 23, 1994, is adopted as a final rule with changes as follows:

PART 708a—MERGERS OR CONVERSIONS OF FEDERALLY-INSURED CREDIT UNIONS TO NON CREDIT UNION STATUS: NCUA APPROVAL

1. The authority citation for part 708a continues to read as follows:

Authority: 12 U.S.C. 1766, 12 U.S.C. 1785.

2. Sections 708a.1 and 708a.2 are revised to read as follows:

§ 708a.1 NCUA Board Approval.

Section 205(b)(1) of the Federal Credit Union Act requires NCUA Board approval in advance of any transaction whereby a federally-insured credit union transfers all or any part of its members' accounts to any non credit union institution. This part establishes rules and procedures for any merger, conversion or other transaction in which a federally-insured credit union's share accounts or similar member accounts are transferred to a non credit union institution. Transactions where a federally-insured credit union transfers member accounts to another credit union are subject to the provisions of part 708b of this chapter. Compliance with this part 708a is in addition to any other federal or state laws and regulations which may be applicable to the proposed transaction, including state corporate laws and state and federal securities laws.

§ 708a.2 Plan for Merger or Conversion to a Non Credit Union Institution.

(a) *Proposition for merger or conversion.* The board of directors of the credit union shall approve a proposition for merger or conversion.

(b) *Plan for merger or conversion.* Upon approval of a proposition for merger or conversion by the board of directors, a plan for the transaction shall be prepared. The plan shall include:

(1) Current financial reports;

(2) Current delinquent loan schedules annotated to reflect collection problems;

(3) Combined financial report, if applicable;

(4) Contingencies;

(5) Explanation of any provisions for reserves, undivided earnings or dividends;

(6) Analyses of share values and explanation of any adjustments to member's share accounts;

(7) Analyses of the regulatory effect of the merger or conversion brought about by the change in government regulator;

(8) Explanation of any other relevant effects on the members; and

(9) Any additional information, as required by the NCUA Regional Director.

(c) *Nonpreferential treatment.* The plan for merger or conversion shall provide that, for a period of at least two years after the effective date of the transaction:

(1) No director of the credit union may receive any compensation or any benefits not provided or available to other members; and

(2) No director or senior management official of the credit union shall be allowed to acquire stock in the resulting or continuing institution or any successor institution, on any terms other than those readily available to all members of the former credit union. This prohibition would include stock issued for services rendered prior to the merger or conversion. For purposes of this section, *senior management official* means the credit union's chief executive officer, any assistant chief executive officers and the chief financial officer.

3. Sections 708a.3, 708a.4, 708a.5, 708a.6 and Appendix A are added to read as follows:

§ 708a.3 Submission of Proposal to NCUA.

(a) *Submissions to the NCUA Regional Director.* Upon approval of the plan by the board of directors of the credit union, the following will be submitted to the appropriate NCUA Regional Director:

(1) The plan, as described in § 708a.2(b) of this part;

(2) A resolution of the board of directors approving the plan;

(3) A written agreement from each member of the board of directors and each senior management official to comply with the terms of § 708a.2(c) (the agreement shall be executed by NCUA as well, in the event of approval of the transaction);

(4) A proposed merger or conversion agreement;

(5) A proposed Notice of Meeting, as described in Appendix A of this part;

(6) A copy of the form ballot and any accompanying materials to be sent to the members, as described in Appendix A of this part;

(7) A complete copy of the package [to be] submitted to any other regulatory agencies involved in the merger or conversion;

(8) A copy of an appraisal of the value of the credit union, if the proposal is to

convert or merge the credit union either directly or indirectly into a stock institution, and any plan for sale or distribution of stock to the credit union's members, officials and employees; and

(9) In the case of a federally-insured state chartered credit union, evidence that the state supervisory authority is in agreement with the merger or conversion proposal.

(b) *Coordination with State Supervisory Authority.* In the event the proposal is filed with the NCUA prior to receiving consent from the state supervisory authority:

(1) The Board will coordinate with the state supervisory authority; and

(2) The Board will not approve any merger or conversion unless it is approved by the state supervisory authority.

(c) *Waiver of NCUA rules and approval by state supervisory authority.* A federally-insured state credit union may, on a case-by-case basis, request a waiver of this part 708a from the Board and receive authority to proceed under state rules and procedures. In making such a request, the credit union shall demonstrate that the concerns underlying this part 708a are adequately addressed and, in particular that:

(1) Proceeding under state rules present no financial risk to the credit union or the NCUSIF;

(2) Adequate safeguards exist against breach of duty by, or preferential treatment of directors, committee members and others involved in the transaction; and

(3) The transaction is otherwise fair to members and carried out pursuant to an informed and decisive membership vote.

§ 708a.4 Approval of Proposal by NCUA.

If NCUA finds that the proposal complies with the provisions of this part and does not present an undue risk to the NCUSIF or unduly prejudice the members, it may approve the proposal subject to such other specific requirements as may be prescribed to fulfill the stated purposes of the proposal. No proposal will be approved that does not *clearly* inform the members of the fundamental rights they would be giving up if their credit union converts or merges into a non credit union institution.

§ 708a.5 Approval of Proposal by Members.

(a) *Notification of members.* The members shall:

(1) Have the option of voting on the proposal either in person at a membership meeting or by mail ballot.

(2) Be given advance notice of the membership meeting in accordance with the provisions of Appendix A of this part. The notice shall be delivered in person to each member, or mailed to each member at the address for such member as it appears on the records of the credit union, not more than 30 days nor less than 14 days prior to the date for the vote. The ballot to be used for the membership vote shall be in accordance with the provisions of Appendix A of this part. The notice and ballot shall be provided to the members at the same time. If applicable, the notice and ballot shall be provided in both English as well as the native language of the majority of the members.

(3) Be made aware that the complete application and proposal are available for inspection at the credit union's branch offices during normal business hours.

(b) *Vote by members.* The proposal must be approved by the affirmative vote of a majority of the credit union's members.

(c) *Notice of Approval to members.* If the proposal for merger or conversion is approved by the membership and the NCUA Board, prompt and reasonable notice shall be given to all members.

§ 708a.6 Certification and Completion of Merger or Conversion.

(a) *Certification of vote.* The board of directors shall certify the results of the membership vote to the Regional Director within 10 days after the vote is taken.

(b) *Completion.* Upon approval of the proposal by NCUA, the state supervisory authority (where the credit union is state chartered), the members and any federal agency with approval or regulatory authority for the transaction, the credit union may complete the merger or conversion.

(c) *Certification of completion.* Within 30 days after the effective date of the merger or conversion, the board of directors of the continuing institution shall certify the completion of the transaction to the Regional Director.

(d) *Cancellation of charter and insurance.* Upon NCUA's receipt of certification that the transaction has been completed, the charter of the federal credit union (if applicable) and the insurance certificate of the federally insured credit union will be canceled.

Appendix A to Part 708a—Notice to Members of Special Meeting, Disclosure and Ballot

(1) The Notice of Special Meeting must include the following:

(a) The date, time and place of the Meeting;

(b) A description of the matters to be voted upon at the Special Meeting;

(c) A statement in a prominent location in bold letters that ''A DISCLOSURE STATEMENT HAS BEEN PROVIDED TO YOU WITH THIS NOTICE OF SPECIAL MEETING. THE DISCLOSURE MUST BE READ BEFORE VOTING ON THE PROPOSED (''CONVERSION'' or ''MERGER'', as appropriate)'', and

(d) A statement that a Mail Ballot for the Special Meeting is enclosed.

(2) The Disclosure provided with the Notice must at a minimum provide the following information to the members:

(a) Factual information about the credit union, i.e. name and address of credit union and telephone number of contact person;

(b) Summary of the proposal which shall contain but not necessarily be limited to current financial reports for the credit union and the other institution if a merger is proposed; a projected financial report for the continuing institution; analyses of share values; an explanation of any proposed share adjustments; and an explanation of any changes relative to insurance such as insurance of member accounts and life savings and loan protection insurance.

(c) Summary of the direct and indirect benefits to the credit union members, as well as any disadvantages, including a clear explanation of the nature of the change in the members' ownership interest in the reserves and undivided earnings of the credit union as a result of the merger or conversion;

(d) Summary of the direct and indirect benefits to management and other key persons at the credit union and at the new institution, including a comparison of salaries for those individuals employed by both the credit union and the new institution; copies of the certifications from the directors and committee members that they will receive no compensation either directly or indirectly from the new institution for a period of two years; and disclosure of any relationship by blood or marriage, of any of the officers, directors, key personnel or principal stockholders of the proposed institution to any officials or employees of the credit union.

(e) For each director, officer, key employee and consultant of the proposed institution, state in detail the names, positions, addresses, age and description of employment and educational background. Include any petitions for bankruptcy, civil judgments (indicate the plaintiff and the amount of the judgment), criminal conviction (indicate the nature of the charge) and any administrative action taken by a federal or state agency.

(f) Description of how the proposed merger/conversion results in a new financial institution without the unique characteristics of a credit union, for example, that the board of directors (that is, any new board members, since § 708a.2(c) prohibits compensation for a period of 2 years) may be compensated as officials instead of offering volunteer services, that the credit union will lose its tax exempt status, and any changes in the voting power of members.

(g) A dollar expenditure comparison chart of the estimated increases/decreases in regulatory and insurance fees;

(h) Itemized expenses incurred to date in the conversion process with an estimate as to future expenses;

(i) Management's discussion and analysis of the proposed conversion, including its economic advisability and how it will serve the needs of the members of the merging or converting credit union;

(j) Business and properties of the proposed institution—describe in detail the assets of the credit union and whether these assets will be transferred to the proposed institution and how the members will or will not benefit from the transfer;

(k) Description and comparison of the competition of the proposed institution and why the proposed institution believes it can effectively compete;

(l) In any transaction where the new or resulting institution is a stock institution, identify the principal owners of the proposed stock institution (those who will beneficially own directly or indirectly 1% or more of the common and preferred stock outstanding) starting with the largest common stockholder. Indicate by footnote if the price paid was for a consideration other than cash and the nature of any such consideration. Indicate the number of shares to be individually owned by officers, directors and key personnel of the new institution; and

(m) State in bold on the cover ''PLEASE READ THIS DISCLOSURE DOCUMENT. IT CONTAINS IMPORTANT INFORMATION ABOUT YOUR CREDIT UNION.''

(3) The Mail Ballot must:

(a) State at the top in bold letters using 12 point pitch or greater that ''THE ATTACHED DISCLOSURE STATEMENT MUST BE READ BEFORE VOTING ON THE PROPOSED (''CONVERSION'' or ''MERGER'', as appropriate)'';

(b) The issues for the member to vote on should be stated as follows:

Please vote for either (a) or (b) by checking the appropriate box.

(a) Approve the merger ☐

(b) Disapprove the merger ☐

(c) Advise the member of the right to terminate the mail ballot and attend and vote at the Special Meeting.

[FR Doc. 95–5593 Filed 3–7–95; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–ANE–02; Amendment 39–9170; AD 95–05–03]

Airworthiness Directives; Hamilton Standard 14RF Series, 14SF Series, and Hamilton Standard/British Aerospace Model 6/5500/F Propellers

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to Hamilton Standard 14RF series, 14SF series, and Hamilton Standard/British Aerospace 6/5500/F series propellers, that currently requires a one-time ultrasonic shear wave inspection for cracks in the propeller blade taper bore. This amendment requires initial and repetitive ultrasonic shear wave inspections, and a one-time visual and borescope inspection of the taper bore for corrosion as a terminating action to the ultrasonic shear wave inspections. This amendment is prompted by reports of two incidents where a portion of the propeller blade was lost in flight. The actions specified by this AD are intended to prevent loss of a propeller blade due to cracks initiating in the blade taper bore, that can result in possible aircraft damage, and possible loss of aircraft control.

DATES: Effective March 23, 1995.

The incorporation by reference of the following Hamilton Standard Alert Service Bulletins (ASB) was approved by the Director of the Federal Register as of May 2, 1994: ASB's No. 14RF–9–61–A66, No. 14RF–19–61–A34, No. 14RF–21–61–A53, No. 14SF–61–A73, and No. 6/5500/F–61–A27, all dated April 18, 1994.

The incorporation by reference of all other Hamilton Standard ASB's and Service Bulletins listed in this AD is approved by the Director of the Federal Register as of March 23, 1995.

Comments for inclusion in the Rules Docket must be received on or before May 8, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–ANE–02, 12 New England Executive Park, Burlington, MA 01803–5299.

The service information referenced in this AD may be obtained from Hamilton Standard, One Hamilton Road, Windsor Locks, CT 06096–1010; telephone (203) 654–3610. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Frank Walsh, Aerospace Engineer, Boston Aircraft Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7158, fax (617) 238–7199.

SUPPLEMENTARY INFORMATION: On April 18, 1994, the Federal Aviation Administration (FAA) issued airworthiness directive (AD) 94–09–06, Amendment 39–8894 (59 FR 19127, April 22, 1994), applicable to Hamilton Standard 14RF series, 14SF series, and Hamilton Standard/British Aerospace 6/5500/F series propellers, to require an ultrasonic shear wave inspection of the blade taper bore for cracks, and replacement, if necessary, with a serviceable propeller blade. That action was prompted by reports of two incidents where a portion of the propeller blade was lost in flight. On March 13, 1994, an ATR–42 commuter aircraft experienced an inflight loss of the right propeller and a portion of the associated engine gearbox. Later that month, on March 30, 1994, an Embraer EMB–120 commuter aircraft also experienced an inflight loss of a portion of a propeller blade. This blade fractured at approximately the 19-inch station and the remainder of the propeller blade, propeller, and gearbox remained intact.

Subsequent metallurgical examination of these fractured blades revealed that the fracture initiated in a small cavity or pit that formed on the inner surface of the taper bore inside the aluminum blade spar. Further laboratory investigations revealed these corrosion pits may develop occasionally when chlorine residue present in the cork used to seal the inner taper bore combines with water in the presence of oxygen. That condition, if not corrected, could result in loss of a propeller blade due to cracks initiating in the blade taper bore, that can result in possible aircraft damage, and possible loss of aircraft control.

Since the issuance of that AD, the FAA has conducted engineering and laboratory investigation and analysis of world-wide inspection results received from AD 94–09–06. This data indicates that either periodic ultrasonic shear wave inspection of the propeller taper bore should be conducted every 1,250 flight cycles in service (CIS) in order to discover cracks that may initiate in pits, or a one-time visual and borescope inspection of the taper bore should be conducted after removing the propeller inner taper bore cork seal to insure that no corrosion has occurred.

The FAA has reviewed and approved the technical contents of the following Hamilton Standard Service Bulletins (SB's) and Alert Service Bulletins (ASB's):

ASB's No. 14RF–9–61–A66, No. 14RF–19–61–A34, No. 14RF–21–61–A53, No. 14SF–61–A73, and No. 6/5500/F–61–A27, all dated April 18, 1994, that describe procedures for ultrasonic shear wave inspections of the

blade taper bores for cracks. These ASB's are the same as those referenced in AD 94–09–06.

SB's No. 14RF–9–61–70, dated August 26, 1994; No. 14RF–19–61–37, dated August 29, 1994; No. 14RF–21–61–56, dated August 29, 1994; No. 14SF–61–75, dated August 29, 1994; and No. 6/5500/F–61–30, dated August 29, 1994. These SB's describe procedures to remove the propeller inner taper bore cork seal and inspect the inside surface of the taper bore for corrosion pits visually and by borescope. Blades found to be free of pits are marked and reidentified. Propeller blade maintenance logs shall also be annotated to show compliance with this AD. Blades found to have any corrosion pits during these inspections shall be removed from service prior to further flight and sent to an FAA-approved repair facility for disposition in accordance with the instructions of the appropriate SB.

ASB's No. 14SF–61–A74, Revision 1, dated October 5, 1994; No. 14RF–9–61–A69, Revision 1, dated October 5, 1994; No. 14RF–19–61–A36, Revision 1, dated October 5, 1994; No. 14RF–21–61–A55, Revision 1, dated October 5, 1994; and No. 6/5500/F–61–A29, dated August 29, 1994. These ASB's list the serial numbers of all blades with unpeened taper bores by model that require inspection. These ASB's present several options as to how to inspect the blade taper bores, and also give instructions to operators and repair facilities on how to report inspection data in order to show compliance with the AD.

Since an unsafe condition has been identified that is likely to exist or develop on other propellers of this same type design, this AD supersedes AD 94–09–06 to require initial and repetitive ultrasonic shear wave inspections and a one-time visual and borescope inspection of the taper bore for corrosion. Accomplishment of the visual and borescope inspection constitutes terminating action to the repetitive ultrasonic shear wave inspections. The actions are required to be accomplished in accordance with the SB's and ASB's described previously.

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–ANE–02.'' 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 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 removing Amendment 39–8894, (59 FR 19127, April 22, 1994), and by adding a new airworthiness directive, Amendment 39–9170, to read as follows:

95–05–03 Hamilton Standard: Amendment 39–9170. Docket 95–ANE–02. Supersedes AD 94–09–06, Amendment 39–8894.

Applicability: Hamilton Standard Models 14RF–9, 14RF–19, 14RF–21, and 14SF–5, 14SF–7, 14SF–11, 14SFL11, 14SF–15, 14SF–17, 14SF–19, and 14SF–23; and Hamilton Standard/British Aerospace 6/5500/F propellers installed on but not limited to Embraer EMB–120 and EMB 120–RT; SAAB-SCANIA SF 340B; Aerospatiale ATR42–100, ATR42–300, ATR42–320, ATR72; DeHavilland DHC–8–100 series, DHC–8–300 Series; Construcciones Aeronauticas SA (CASA) CN–235 series and CN–235–100; Canadair CL–215T and CL–415; and British Aerospace ATP airplanes.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of a propeller blade due to cracks initiating in the blade taper bore, that can result in possible aircraft damage, and possible loss of aircraft control, accomplish the following:

(a) For propeller blades that have accumulated 1,750 or more flight cycles since ultrasonic shear wave inspection in accordance with AD 94–09–06, perform either paragraph (a) or (d) of this AD within 100 flight cycles of the effective date of this AD:

(1) Perform an ultrasonic shear wave inspection for cracks in the blade taper bore, in accordance with the procedures described in the following Hamilton Standard Alert Service Bulletins (ASB's), as applicable: No. 14RF–21–61–A53, dated April 18, 1994, and No. 14RF–21–61–A55, Revision 1, dated October 5, 1994; No. 14SF–61–A73, dated April 18, 1994, and No. 14SF–61–A74,

Revision 1, dated October 5, 1994; No. 14RF–19–61–A34, dated April 18, 1994, and No. 14RF–19–61–A36, Revision 1, dated October 5, 1994; No. 14RF–9–61–A66, dated April 18, 1994, and No. 14RF–9–61–A69, Revision 1, dated October 5, 1994; No. 6/5500/F–61–A27, dated April 18, 1994, and No. 6/5500/F–61–A29, dated August 29, 1994. Remove cracked propeller blades and replace with a serviceable blade prior to further flight.

(2) Thereafter, perform repetitive ultrasonic shear wave inspections at intervals not to exceed 1,250 CIS since last inspection in accordance with the applicable Hamilton Standard ASB's listed in paragraph (a)(1) of this airworthiness directive (AD). Remove cracked propeller blades and replace with a serviceable blade prior to further flight.

(3) No later than December 31, 1997, perform the visual and borescope inspection required by paragraph (d) of this AD.

(b) For propeller blades that have accumulated less than 1,750 flight cycles since ultrasonic shear wave inspection in accordance with AD 94–09–06, perform either paragraph (a) or (d) of this AD before accumulating 1,850 flight cycles since ultrasonic shear wave inspection in accordance with AD 94–09–06.

(c) For propeller blades that have not been inspected in accordance with AD 94–09–06, perform paragraphs (a)(1) or (d) of this AD prior to installing the blade in service and thereafter perform paragraph (a)(2) of this AD if applicable.

(d) Prior to December 31, 1997, remove and scrap the propeller inner taper bore cork seal and visually inspect the inside surface of the taper bore for corrosion pits in accordance with the applicable Hamilton Standard Service Bulletins (SB's): No. 14RF–9–61–70, dated August 26, 1994; No. 14RF–19–61–37, dated August 29, 1994; No. 14RF–21–61–56, dated August 29, 1994; No. 14SF–61–75, dated August 29, 1994; and No. 6/5500/F–61–30, dated August 29, 1994.

(1) For propeller blades found with any corrosion pits, remove from service prior to further flight and send the propeller blades to an FAA-approved repair facility for disposition in accordance with Hamilton Standard ASB's No. 14SF–61–A74, Revision 1, dated October 5, 1994; No. 14RF–9–61–A69, Revision 1, dated October 5, 1994; No. 14RF–19–61–A36, Revision 1, dated October 5, 1994; No. 14RF–21–61–A55, Revision 1, dated October 5, 1994; and No. 6/5500/F–61–A29, dated August 29, 1994; as applicable.

(2) For propeller blades found with no corrosion pits, mark the blade and return it to service in accordance with the Hamilton Standard SB's listed in paragraph (d) of this AD.

(3) Returning propeller blades to service in accordance with paragraph (d) of this AD constitutes terminating action to the repetitive ultrasonic shear wave inspections required by paragraph (a)(2) of this AD.

(e) For the purpose of this AD, a flight cycle is defined as one takeoff and the next landing of an aircraft.

(f) 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, Boston Aircraft Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Boston Aircraft Certification Office.

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

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

(h) The requirements of this AD shall be done in accordance with the following Hamilton Standard ASB's and SB's:

Document No.	Pages	Revision	Date
ASB No. 14SF–61–A74 Total pages: 7.	1–7	1	October 5, 1994.
ASB No. 14SF–61–A73 Total pages: 19.	1–19	Original	April 18, 1994.
SB No. 14SF–61–75 Total pages: 17.	1–17	Original	August 29, 1994.
ASB No. 14RF–9–61–A69 Total pages: 6.	1–6	1	October 5, 1994.
ASB No. 14RF–9–61–A66 Total pages: 19.	1–19	Original	April 18, 1994.
SB No. 14RF–9–61–70 Total pages: 17.	1–17	Original	August 29, 1994.
ASB No. 14RF–19–61–A36 Total pages: 6.	1–6	1	October 5, 1994.
ASB No. 14RF–19–61–A34 Total pages: 19.	1–19	Original	April 18, 1994.
SB No. 14RF–19–61–37 Total pages: 17.	1–17	Original	August 29, 1994.
ASB No. 14RF–21–61–A55 Total pages: 6.	1–6	1	October 5, 1994.
ASB No. 14RF–21–61–A53 Total pages: 19.	1–19	Original	April 18, 1994.
SB No. 14RF–21–61–56 Total pages: 17.	1–17	Original	August 29, 1994.
ASB No. 6/5500/F–61–A29 Total pages: 5.	1–5	Original	August 29, 1994.
ASB No. 6/5500/F–61–A27 Total pages: 19.	1–19	Original	April 18, 1994.
SB No. 6/5500/F–61–30 Total pages: 17.	1–17	Original	August 29, 1994.

The incorporation by reference of the following Hamilton Standard ASB's was approved by the Director of the Federal Register as of May 2, 1994: ASB's No. 14RF–9–61–A66, No. 14RF–19–61–A34, No. 14RF–21–61–A53, No. 14SF–61–A73, and No. 6/5500/F–61–A27, all dated April 18, 1994. The incorporation by reference of all other Hamilton Standard ASB's and SB's listed in this AD 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 Hamilton Standard, One Hamilton Road, Windsor Locks, CT 06096–1010; telephone (203) 654–3610. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) This amendment becomes effective on March 23, 1995.

Issued in Burlington, Massachusetts, on February 28, 1995.

James C. Jones,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 95–5483 Filed 3–7–95; 8:45 am]

BILLING CODE 4910–13–P

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–NM–97–AD; Amendment 39–9157; AD 95–04–05]

Airworthiness Directives; Bombardier (Formerly Canadair) Model CL–600–2B19 (Regional Jet Series 100) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Bombardier Model CL–600–2B19 (Regional Jet Series 100) series airplanes, that requires various modifications of the passenger doors. This amendment is prompted by reports that some passenger doors froze shut during flight and could not be opened after landing the airplane. The actions specified by this AD are intended to prevent the passenger doors from freezing shut, and consequently, prohibiting the passengers from exiting the airplane in the event of an emergency.

DATES: Effective April 7, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 7, 1995.

ADDRESSES: The service information referenced in this AD may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario, Canada M3K 1Y5. 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 FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Michele Maurer, Aerospace Engineer, Systems and Equipment Branch, ANE–173, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7508; fax (516) 568–2716; telephone (516) 791–6427; fax (516) 791–9024.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Bombardier Model CL–600–2B19 (Regional Jet Series 100) series airplanes was published in the **Federal Register** on October 28, 1994 (59 FR 54136). That action proposed to require various modifications of the passenger doors.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

The final rule has been revised to reflect the manufacturer's corporate name change from Canadair to ''Bombardier, Inc.''

Additionally, 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 long-standing requirement.

After careful review of the available data 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 17 airplanes of U.S. registry will be affected by this AD, that it will take approximately 67 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $10,945 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $254,405, or $14,965 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:

95–04–05 Bombardier, Inc. (Formerly Canadair): Amendment 39–9157. Docket 94–NM–97–AD.

Applicability: Model CL–600–2B19 (Regional Jet Series 100) series airplanes, serial numbers 7003 and subsequent, 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 (h) 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 the inability of passengers to exit the airplane in the event of an emergency, accomplish the following:

(a) For airplanes having serial numbers 7004 through 7028, inclusive: Within 14 days after the effective date of this AD, and thereafter at intervals not to exceed 3 days until the action required by paragraph (e)(2) of this AD is accomplished, apply an anti-icing agent to the operating mechanisms of the passenger door in accordance with Canadair Alert Service Bulletin S.B. A601R–52–002, Revision 'C,' dated December 1, 1993.

(b) For airplanes having serial numbers 7004 through 7006, inclusive, and 7008 through 7010, inclusive: Within 14 days after the effective date of this AD, and thereafter at intervals not to exceed 300 hours time-in-service until the actions required by paragraphs (e)(1) and (e)(3) of this AD are accomplished, apply grease to the passenger door latch-pin fittings in accordance with Canadair Service Bulletin S.B. 601R–52–007, Revision 'B,' dated December 1, 1993.

(c) For airplanes having serial numbers 7004 through 7006, inclusive, and 7008 through 7010, inclusive: Within 14 days after the effective date of this AD, deactivate the pull-out handle located on the outside of the passenger door, in accordance with Canadair Alert Service Bulletin S.B. A601R–52–008, Revision 'B,' dated December 1, 1993.

(d) For airplanes having serial numbers 7004 through 7019, inclusive: Within 14 days after the effective date of this AD, install sealed insulation packages to the interior of the passenger door in accordance with Canadair Service Bulletin S.B. 601R–52–006, Revision 'B,' dated December 1, 1993.

(e) Within 60 days or 600 hours time-in-service after the effective date of this AD, whichever occurs first, accomplish the procedures specified in paragraphs (e)(1), (e)(2), and (e)(3) of this AD:

(1) For airplanes having serial numbers 7004 through 7024, inclusive: Modify the passenger door latch pin fittings, and install grease retain, grease tube, and nipple assembly; and grease the latch pins in accordance with paragraphs 2A and 2B of the Accomplishment Instructions of Canadair Alert Service Bulletin S.B. A601R–52–009, Revision 'B,' dated December 1, 1993.

(2) For airplanes having serial numbers 7004 through 7028, inclusive: Modify the outer handle of the passenger door in accordance with Canadair Alert Service Bulletin S.B. A601R–52–021, Revision 'A,' dated December 7, 1993. Repetitive applications of an anti-ice agent, as required by paragraph (a) of this AD, must be discontinued upon accomplishment of the modification required by this paragraph.

(3) For airplanes having serial numbers 7004 through 7024, inclusive: Install placards adjacent to the door latch pins on the passenger door structure in accordance with Canadair Service Bulletin S.B. 601R–11–007, dated December 1, 1993.

(f) Accomplishment of the actions required by paragraphs (e)(1) and (e)(3) of this AD constitutes terminating action for the repetitive greasing requirements of paragraph (b) of this AD.

(g) For airplanes having serial numbers 7003 and subsequent: Within 300 hours time-in-service after accomplishing the applicable modifications required by paragraphs (e)(1), (e)(2), and (e)(3) of this AD, and thereafter at intervals not to exceed 300 hours time-in-service, accomplish the lubrication procedures in specified paragraphs (g)(1) and (g)(2) of this AD.

(1) Lubricate the passenger door latch pins in accordance with paragraph 2B, Part ''A,'' Items (26) through (28), of the Accomplishment Instructions of Canadair Alert Service Bulletin S.B. A601R–52–009, Revision B, dated December 1, 1993.

(2) Lubricate the passenger door outer handle assembly in accordance with paragraph 2B, Item (28), of the Accomplishment Instructions of Canadair Alert Service Bulletin S.B. A601R–52–021, Revision A, dated December 7, 1993.

(h) 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, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

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

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

(j) The actions shall be done in accordance with Canadair Alert Service Bulletin S.B. A601R–52–002, Revision 'C,' dated December 1, 1993; Canadair Service Bulletin S.B. 601R–52–007, Revision 'B', dated December 1, 1993; Canadair Alert Service Bulletin S.B. A601R–52–008, Revision 'B', dated December 1, 1993; Canadair Service Bulletin S.B. 601R–52–006, Revision 'B', dated December 1, 1993; Canadair Alert Service Bulletin S.B. A601R–52–009, Revision 'B', dated December 1, 1993; Canadair Alert Service Bulletin S.B. A601R–52–021, Revision 'A', dated December 7, 1993; and Canadair Service Bulletin S.B. 601R–11–007, dated December 1, 1993; 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 Bombardier, Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario, Canada M3K 1Y5. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

This amendment becomes effective on April 17, 1995.

Issued in Renton, Washington, on February 15, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–4256 Filed 3–7–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 71

[Airspace Docket No. 93–AWP–19]

Amendment to Class D Airspace; Luke Air Force Base (AFB), AZ

AGENCY: Federal Aviation Administration [FAA], DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects an error in the Class D airspace area description in a final rule that was published in the **Federal Register** on January 19, 1995. The FAA has obtained additional airport data and is revising the description of the Luke AFB, AZ Class D airspace area based on this data.

EFFECTIVE DATE: 0901 UTC, March 30, 1995.

FOR FURTHER INFORMATION CONTACT: Charles Register, System Management Specialist, System Management Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 297–1640.

SUPPLEMENTARY INFORMATION:

History

Airspace Docket No. 93–AWP–19, published on January 19, 1995 (60 FR 3741), revised the description of the Class D airspace at Luke AFB, AZ to provide adequate controlled airspace for instrument approach procedures. An error was discovered in the Class D airspace area description for Luke AFB AZ. The FAA has obtained additional airport data and is revising the description of the Luke AFB, AZ Class D airspace area based on this data.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the description of the Class D airspace area at Luke AFB, AZ, as published in the **Federal Register** on January 19, 1995 (60 FR 3741) and the description in FAA Order 7400.9B, which is incorporated by reference in 14 CFR 71.7, are corrected as follows:

§ 71.7 [Corrected]

On page 3742, in the second column, the description for the Luke AFB, AZ Class D airspace is corrected as follows:

AWP AZ D Phoenix, Luke Air Force Base, AZ [Corrected]

Phoenix Luke Air Force Base, AZ
(Lat. 33°32′06″ N, long. 112°22′59″ W)
Luke Air Force Base TACAN
(Lat. 33°32′16″ N, long. 112°22′49″ W)

That airspace extending upward from the surface to and including 3,600 feet MSL within a 4.4-mile radius of the Luke AFB and within 2.0 miles each side of the Luke TACAN 220° radial, extending from the 4.4-mile radius to 5.2 miles southwest of the Luke TACAN, and excluding that portion within the Glendale, AZ Class D airspace area. This Class D 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 Los Angeles, California, on February 22, 1995.

Richard R. Lien,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 95–5642 Filed 3–7–95; 8:45 am]

BILLING CODE 4910–13–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1262

RIN 2700–AC00

Equal Access to Justice Act in Agency Proceedings

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: NASA is amending its regulations under the Equal Access to Justice Act by updating the definition of ''Adversary Adjudication'' to conform to the amendments of 5 U.S.C. 504(b)(1)(C); to delete references to the NASA Board of Contract Appeals in 14 CFR 1262.307(a), since its functions have been assumed by the Armed Services Board of Contract Appeals pursuant to an interagency Memorandum of Agreement dated June 28, 1993, and effective July 12, 1993; and to correct typographical errors in §§ 1262.104(b)(4) and 1262.309.

EFFECTIVE DATE: March 8, 1995.

FOR FURTHER INFORMATION CONTACT: Sara Najjar-Wilson, Office of the General Counsel, 202–358–2465.

SUPPLEMENTARY INFORMATION: NASA published its final rule, 14 CFR Part 1262, ''Implementation of the Equal Access to Justice Act in Agency Proceedings,'' in the **Federal Register** on April 23, 1986 (51 FR 15311). These changes to the rule are administrative in nature and do not require a period for public comment.

NASA has determined that this regulation is not a major rule as defined in Executive Order 12866.

This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, since it will not exert a significant economic impact on a substantial number of small business entities.

List of Subjects in 14 CFR Part 1262

Claims, Equal access to justice, Lawyers.

For reasons set forth in the Summary of the Preamble, 14 CFR Part 1262 is amended as follows:

PART 1262—EQUAL ACCESS TO JUSTICE ACT IN AGENCY PROCEDURES

1. The authority citation of 14 CFR Part 1262 is revised to read as follows:

Authority: 5 U.S.C. 504; 42 U.S.C. 2473(c)(1).

2. Section 1262.101 is amended by revising paragraph (b)(1) to read as follows:

§ 1262.101 Purpose of these rules.

* * * * *

(b) * * *

(1) *Adversary adjudication* means:

(i) An adjudication under 5 U.S.C. 554 in which the position of the United States is represented by counsel or otherwise, but excludes an adjudication for the purpose of establishing or fixing a rate or for the purpose of granting or renewing a license;

(ii) Any appeal of a decision made pursuant to section 6 of the Contract Disputes Act (CDA) of 1978, as amended (41 U.S.C. 605) before an agency board of contract appeals as provided in section 8 of the CDA (41 U.S.C. 607);

(iii) Any hearing conducted under Chapter 38 of Title 31 (added by section 6104 of the Program Fraud Civil Remedies Act of 1986 (Pub. L. 99–509, 100 Stat. 1948, Oct. 21, 1986), 31 U.S.C. 3801, et seq., as amended); and

(iv) The Religious Freedom Restoration Act (RFRA) of 1993 (added by section 4(b), of RFRA (Pub. L. 103–141, 107 Stat. 1489, Nov. 16, 1993), 42 U.S.C. 2000bb).

* * * * *

3. Section 1262.103 is revised to read as follows:

§ 1262.103 Proceedings covered.

(a) The Act applies to the following adversary adjudications conducted by the Agency:

(1) Adjudications under 5 U.S.C. 554 in which the position of NASA or any other agency of the United States, or any component of an agency, is presented by an attorney or other representative who enters an appearance and participates in the proceedings;

(2) Appeals of decisions made pursuant to section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605) before the Board of Contract Appeals (BCA) as provided in Section 8 of that Act (41 U.S.C. 607);

(3) Any hearing conducted under Chapter 38 of Title 31 (31 U.S.C. 3801, et seq., as amended); and

(4) Adjudications under the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb).

(b) The Act does not apply to:

(1) Any proceeding in which this Agency may prescribe a lawful present or future rate;

(2) Proceedings to grant or renew licenses (note, however, that proceedings to modify, suspend, or revoke licenses are covered if they are otherwise adversary adjudications); and

(3) Proceedings which are covered by a compromise or settlement agreement, unless specifically consented to in such agreement.

(c) NASA may also designate a proceeding as an adversary adjudication for purposes of the Act by so stating in an order initiating the proceeding or designating the matter for hearing. The Agency's failure to designate a proceeding as an adversary adjudication shall not preclude the filling of an application by a party who believes the proceeding is covered by the Act; whether the proceeding is covered will then be an issue for resolution in proceedings on the application.

(d) If a proceeding includes both matters covered by the Act and matters specifically excluded from coverage, any award made will include only fees and expenses related to covered issues.

4. In Section 1262.104, paragraph (b)(4), the citation ''12 U.S.C. 1441j(a))'' is revised to read ''(12 U.S.C. 1141j(a))''.

5. Section 1262.307 is amended by revising paragraph (a) introductory text to read as follows:

§ 1262.307 Decision.

(a) The adjudicative officer shall issue an initial decision on the application with 90 calendar days after completion of proceedings on the application. The decision shall include written findings and conclusions on such of the following as are relevant to the decision:

* * * * *

§ 1262.309 [Amended]

6. In section 1262.309, last sentence, the word ''amont'' is revised to read ''amount''.

Dated: March 3, 1995.

Daniel S. Goldin,

Administrator.

[FR Doc. 95–5669 Filed 3–7–95; 8:45 am]

BILLING CODE 7510–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 179

[Docket Nos. 89F–0011 and 93F–0384]

Irradiation in the Production, Processing, and Handling of Food

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of sources of radiation to irradiate frozen, packaged meats for use in the National Aeronautics and Space Administration (NASA) space flight programs. FDA is also amending the food additive regulations to permit the use of packaging materials that are not otherwise listed in the regulations regarding food irradiation in the irradiation of frozen, packaged meats for use in the NASA space flight programs. This action is in response to two petitions filed by NASA.

DATES: Effective March 8, 1995; written objections and requests for a hearing by April 7, 1995.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Patricia A. Hansen, Center for Food Safety and Applied Nutrition (HFS–206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3098.

SUPPLEMENTARY INFORMATION:

I. Introduction

In a notice published in the **Federal Register** of February 6, 1989 (54 FR 5679), FDA announced that a food additive petition (FAP 9M4125) had been filed by NASA, Washington, DC 20546, proposing that the food additive regulations be amended to provide for the safe use of sources of radiation to process beefsteaks for use in space flight programs.

In a tentative final rule published in the **Federal Register** of December 8, 1993 (58 FR 64526), FDA announced its tentative decision to amend the food additive regulations to provide for the safe use of sources of radiation to irradiate frozen, packaged beefsteak for use in NASA's space flight programs. FDA also announced its tentative final decision to amend the food additive regulations to permit the use of packaging materials that are not listed in the regulations regarding food irradiation in the irradiation of frozen, packaged beefsteak for use in the NASA space flight programs. The agency published a tentative final rule before proceeding to final action because it was including provisions regarding the packaging materials to be used with the beefsteaks that it had not announced in the notice of filing for the petition (FAP 9M4125). Interested persons were given the opportunity to comment on FDA's tentative decision. FDA did not receive any comments in response to this tentative final rule.

In the meantime, in a notice published in the **Federal Register** of November 19, 1993 (58 FR 61093), FDA announced that a food additive petition (FAP 3M4394) had been filed by NASA, Lyndon B. Johnson Space Center, Houston, TX 77058, proposing that the food additive regulations be amended to provide for the safe use of sources of radiation to process certain prepackaged meats for use in NASA space flight programs and to permit the use of packaging materials that are not listed in the regulations regarding food irradiation in the irradiation of the meats for use in NASA space flight programs. Interested persons were given the opportunity to comment on the environmental assessment submitted in the petition. No comments were received.

The amendment to the food additive regulations proposed in FAP 9M4125 is encompassed by that proposed in FAP 3M4394. This rule is the agency's final decision with respect to both FAP 3M4394 and FAP 9M4125.

II. Evaluation of Safety

In assessing the safety of food additives, including the use of irradiation in the processing of food, the agency usually considers the effects of lifetime daily exposure to the additive. The requested use, however, is limited to NASA's space flight programs. The amount of irradiated meat that could be consumed by individuals in the programs would constitute an extremely small fraction of their diets when considered over a lifetime. Because of this factor, questions regarding acute hazards, including those resulting from pathogenic organisms that could be present in the food, are more significant in evaluating this petitioned use of a source of radiation than they would ordinarily be in deciding whether to list a food additive. The petitions have requested that FDA authorize the use of irradiation processing only under conditions that ensure the microbial sterility of the product and the integrity of the product packaging. NASA has stated that it will ensure these qualities of sterility and packaging integrity by requiring adherence to an irradiation processing protocol (scheduled process) that it submitted with both petitions (Ref. 1). NASA's protocol specifies a minimum dose of 44 kiloGrays (kGy) in order to ensure sterility of the treated meat (Ref. 1).

Having evaluated the data in the petitions and other relevant material in its files, the agency finds that radiation-sterilized meats will be at least as nutritious as those sterilized by conventional means. FDA also finds that the total amount of radiolytic products that are produced in the meats during irradiation processing, and that will be consumed by individuals in the space flight programs, will be too small to be of any toxicological significance. Likewise, FDA finds that the total amount of radiolytic products that could be formed in the packaging materials during irradiation processing, and then migrate to the food and subsequently be consumed by individuals in the space flight programs, is too small to be of any toxicological significance (Refs. 2 and 3).

Section 179.25(c) (21 CFR 179.25(c)) restricts packaging materials used in the irradiation of prepackaged foods to those materials listed in § 179.45 (21 CFR 179.45), namely, those that have been demonstrated to be safe for use during irradiation of prepackaged foods, assuming that those foods would be consumed daily over a lifetime. The agency finds that this restriction is unnecessary for packaging that is to be used only in space flight programs. The

final regulation set forth below, therefore, exempts this packaging from the requirement in § 179.25(c) that packaging materials be restricted to those listed in § 179.45, provided that FDA has listed the packaging as safe for holding food in the applicable regulations ((parts 174 through 186) (21 CFR parts 174 through 186)).

III. Conclusions

The agency finds that meats irradiated at a minimum dose of 44 kGy and handled in accordance with the provisions of § 179.25(d) will meet current standards for commercial sterility and nutritional adequacy. The protocol submitted by NASA (Ref. 1) in its petitions is a scheduled process that satisfies the requirements of § 179.25(d) because, among other things, it sets forth procedures that will ensure that the minimum dose will be delivered. The agency concludes, therefore, that the proposed use of sources of radiation is safe, and that § 179.26 of the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petitions and the documents that FDA considered and relied upon in reaching its decision to approve the petitions are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

IV. Environmental Impact

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

V. Objections

Any person who will be adversely affected by this regulation may at any time on or before April 7, 1995, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

VI. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. U.S. Army Natick RD & E Center, ''Space Food Prototype, Production Guide No. 60–C,'' April 13, 1993.

2. Memorandum from M. DiNovi, Chemistry Review Branch, CFSAN, FDA, to P. Hansen, Biotechnology Policy Branch, CFSAN, FDA, dated April 29, 1994.

3. Memorandum from H. Irausquin, Division of Health Effects Evaluation, CFSAN, FDA, to P. Hansen, Biotechnology Policy Branch, CFSAN, FDA, dated November 9, 1994.

List of Subjects in 21 CFR Part 179

Food additives, Food labeling, Food packaging, Radiation protection, Reporting and recordkeeping requirements, Signs and symbols.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 179 is amended as follows:

PART 179—IRRADIATION IN THE PRODUCTION, PROCESSING AND HANDLING OF FOOD

1. The authority citation for 21 CFR part 179 continues to read as follows:

Authority: Secs. 201, 402, 403, 409, 703, 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 343, 348, 373, 374).

2. Section 179.26 is amended in the table in paragraph (b) by adding a new entry ''7.'' under the headings ''Use'' and ''Limitations'' to read as follows:

§ 179.26 Ionizing radiation for the treatment of food.

* * * * *

(b) * * *

Use	Limitations
* * *	* *
7. For the sterilization of frozen, packaged meats used solely in the National Aeronautics and Space Administration space flight programs.	Minimum dose 44 kGy (4.4 Mrad). Packaging materials used need not comply with § 179.25(c) provided that their use is otherwise permitted by applicable regulations in parts 174 through 186 of this chapter.

* * * * *

Dated: February 26, 1995.

Janice F. Oliver,

Deputy Director for Systems and Support, Center for Food Safety and Applied Nutrition.

[FR Doc. 95–5672 Filed 3–7–95; 8:45 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 63

[AD–FRL–5165–3]

RIN 2060–AD97

National Emission Standards for Hazardous Air Pollutants Final Standards for Epoxy Resins Production and Non-Nylon Polyamides Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates final standards that limit emissions of hazardous air pollutants (HAP) from existing and new epoxy resins and non-nylon polyamides production operations that are located at major sources. The EPA is in the process of developing standards for a wide range of types of polymer and resin production facilities. The polymers and resins covered by this rule use epichlorohydrin as a feedstock. This rulemaking would affect epoxy resin manufacturers that produce basic liquid epoxy resin, which is often used to produce a cured resin with desired

properties for adhesives, coatings, and other plastic applications. This rulemaking would also affect non-nylon polyamide resin manufacturers that use epichlorohydrin in the production of wet strength resin, which is used to increase the tensile strength of paper products. The rule is estimated to reduce emissions of HAP, mainly epichlorohydrin, by approximately 105 tons per year. Epichlorohydrin is considered a probable human carcinogen when inhaled and causes additional toxic effects. The emission reductions achieved by these standards, when combined with the emission reductions achieved by other standards mandated by the CAA, will contribute to achieving the primary goal of the Act, which is to ''enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population.'' These final standards implement section 112(d) and 112(h) of the Clean Air Act as amended in 1990 (the Act). The purpose of this final rule is to protect the public by requiring all new and existing major sources to control HAP emissions to the level corresponding to the maximum achievable control technology (MACT).

EFFECTIVE DATE: March 8, 1995.

ADDRESSES: *Docket.* Docket No. A–92–37, containing information considered by the EPA in developing the promulgated NESHAP for epoxy resins and non-nylon polyamides operations is available for public inspection and copying between 8 a.m. and 5:30 p.m., Monday through Friday, except for Federal holidays, at the EPA's Air and Radiation Docket and Information Center, Room M1500, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; telephone (202) 260–7548. A reasonable fee may be charged for copying.

Background Information Document. A background information document (BID) for the promulgated NESHAP may be obtained from the docket; the U. S. EPA Library (MD–35), Research Triangle Park, NC 27711; telephone number (919) 541–2777; or from National Technical Information Services, 5285 Port Royal Road, Springfield, Virginia 22161; telephone (703) 487–4650. Please refer to ''Hazardous Air Pollutants from Epoxy Resins and Non-Nylon Polyamide Resins Production—Information for Promulgated Standards'' (EPA–453/R–95–001b). The BID contains a summary of the public comments made on the proposed standards for epoxy resins and non-nylon polyamides and EPA responses to the comments.

FOR FURTHER INFORMATION CONTACT: Mr. Randy McDonald of the Organic Chemicals Group, Emission Standards Division (MD–13), U. S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone (919) 541–5402.

SUPPLEMENTARY INFORMATION:

Judicial Review

Under section 307(b)(1) of the Act, judicial review of national emission standards for hazardous air pollutants (NESHAP) is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this final rule. Under section 307(b)(2) of the Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

The information presented in this preamble is organized as follows:

I. Background

Section 112(b) of the Act lists 189 HAP and requires the EPA to establish national emission standards for all major sources and some area sources emitting those HAP. On July 16, 1992 (57 FR 31576), EPA published a list of major and area sources for which NESHAP are to be promulgated, and on December 3, 1993 (58 FR 83941), EPA published a schedule for promulgating those standards. The epoxy resins and non-nylon polyamides production source categories are included in the list of major sources to be regulated for which the EPA is to establish national emission standards by November 1994.

This NESHAP was proposed in the **Federal Register** on May 16, 1994 (59 FR 25387). In addition, 11 letters commenting on the proposed rule were received.

II. Summary of Promulgated Standards

The affected sources subject to these standards are existing and new facilities producing basic liquid epoxy resins (BLR) and facilities producing non-nylon polyamide resins or ''wet strength'' resins (WSR), that are also classified as major sources per section 112(a) of the Clean Air Act, as amended. The standards do not apply to research and laboratory facilities which do not manufacture products for sale, except in a de minimis manner.

Table 1 summarizes the standards for both BLR and WSR facilities. Existing BLR sources are required to limit HAP emissions from process vents, storage tanks, and wastewater systems to 130 pounds per million pounds of product. In addition, existing BLR sources are required to control equipment leak emissions by implementing the leak detection and repair (LDAR) program specified in 40 CFR part 63, subpart H. Existing WSR sources are required to limit HAP emissions from process vents, storage tanks, and wastewater systems to 10 pounds per million pounds of product. There is no requirement to control equipment leak emissions for existing WSR sources; however, an alternative standard is specified whereby sources may implement the requirements of 40 CFR part 63, subpart H in lieu of meeting the emission limit of 10 lb/MM lb product.

TABLE 1.—SUMMARY OF STANDARDS

Emission source	Basic liquid epoxy resins	Wet strength resins	
			Equivalent standard
Existing Sources			
(1) Process vents, storage tanks, and wastewater.	HAP emission limit of 130 lb/MM lb product.	HAP emission limit of 10 lb/MM lb product.	No requirement.

TABLE 1.—SUMMARY OF STANDARDS—Continued

Emission source	Basic liquid epoxy resins	Wet strength resins	
			Equivalent standard
(2) Equipment leaks	Requirements of 40 CFR 63, subpart H.	No requirement	Requirements of 40 CFR 63, subpart H.
New Sources			
(1) Process vents, storage tanks, and wastewater.	98 percent reduction of HAP emissions from the sum of uncontrolled emission points; or limit HAP emissions to 5,000 lb/yr.	HAP emission limit of 7 lb/MM lb product.	No requirement.
(2) Equipment leads	Requirements of 40 CFR 63, subpart H.	No requirement	Requirements of 40 CFR 63, subpart H.

New BLR sources must either reduce HAP emissions from process vents, storage tanks, and wastewater systems by 98 percent, or limit HAP emissions from this portion of the source to 5,000 pounds per year or less. New BLR sources must also implement the requirements of 40 CFR part 63, subpart H to control equipment leak emissions. New WSR sources have the option of either complying with a HAP emission limit of 7 pounds per million pounds of product for the process vents, storage tanks, and wastewater systems portion of the source, or implementing the LDAR program requirements of 40 CFR part 63, subpart H to control equipment leak emissions.

Owners or operators of existing affected sources are required to comply with these standards within 3 years after the effective date. All new and reconstructed sources must comply immediately upon startup.

Owners or operators of affected sources must demonstrate initial compliance following the compliance methods and procedures of § 63.525. Continuous compliance is demonstrated by conducting monitoring in accordance with § 63.526.

Section 114 (a)(3) of the Act requires enhanced monitoring and compliance certifications of all major stationary sources. The annual compliance certifications certify whether compliance has been continuous or intermittent. Enhanced monitoring shall be capable of detecting deviations from each applicable emission limitation or standard with sufficient representativeness, accuracy, precision, reliability, frequency, and timeliness to determine if compliance is continuous during a reporting period. The monitoring in this regulation satisfies the requirements of enhanced monitoring. Compliant monitoring parameter values are established according to procedures contained in § 63.526. A de minimis level is specified for the BLR source category for emission points below which monitoring is not required.

Owners or operators of affected sources shall maintain records and submit reports in accordance with §§ 63.527 and 63.528. Records are consistent with those required by 40 CFR part 63, subpart A, and also include the recordkeeping requirements associated with the LDAR program specified in 40 CFR part 63, subpart H where applicable.

The EPA is also amending the table of currently approved information collection request (ICR) control numbers issued by the Office of Management and Budget (OMB) for various regulations. This amendment updates the table to accurately display those information requirements contained in this final rule. This display of the OMB control number and its subsequent codification in the Code of Federal Regulations satisfies the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and OMB's implementing regulations at 5 CFR part 1320.

The ICR was previously subject to public notice and comment prior to OMB approval. As a result, EPA finds that there is ''good cause'' under section 553(b)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(B)) to amend this table without prior notice and comment. Due to the technical nature of the table, further notice and comment would be unnecessary. For the same reasons, EPA also finds that there is good cause under 5 U.S.C. 553(d)(3).

III. Summary of Considerations Made in Developing This Rule

The Clean Air Act was created, in part, ''to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population'' (the Act, section 101(b)(1)). As such, this regulation protects the public health by reducing emissions of epichlorohydrin from basic liquid resins and wet strength resins processes. Available emission data for the epoxy resins and non-nylon polyamides source categories indicate that epichlorohydrin is the primary pollutant listed in section 112(b)(1) of the CAA that is emitted in from sources in the source category.

In addition, note that epichlorohydrin is listed under section 112(r) of the CAA. The intent of section 112(r), Prevention of Accidental Releases, is to focus on chemicals that pose a significant hazard to the community should an accident occur, to prevent their accidental release, and to minimize consequences should a release occur. Epichlorohydrin, along with the other substances listed under section 112(r)(3), is listed because it is known to cause, or may be reasonably anticipated to cause death, injury, or serious adverse effects to human health or the environment (see 59 FR 4478, January 31, 1994). Sources that handle epichlorohydrin in greater quantities than the established threshold quantity under section 112(r)(5) will be subject to the risk management program requirements under section 112(r)(7) (see 58 FR 54190, October 20, 1993).

Epichlorohydrin is considered to be a probable human carcinogen when inhaled and can cause additional toxic effects. These effects include respiratory, skin, and eye irritation, pulmonary edema, renal lesions, and hematological and central nervous system effects. The severity of observed effects varies depending on the level and length of exposure. The exposure duration and level (that is, the amount inhaled from the air and absorbed within the body) are strongly influenced by source-specific characteristics such as emission rates and local meteorological conditions. The severity of effects also depends on multiple

factors that affect human variability such as age, genetics, and general health status (e.g., presence of pre-existing disease). The EPA does not have the type of current detailed data on each of the BLR or WSR facilities covered by this rule, and the people living around the facilities, that would be necessary to conduct an analysis to determine the actual population exposures to epichlorohydrin and resulting health effects. Therefore, EPA does not know the extent to which the adverse health effects described above occur in the populations surrounding these facilities. However, to the extent the adverse effects do occur, the promulgated standard will substantially reduce emissions and exposures to the level achievable with maximum achievable control technology. However, due to the volatility and relatively low potential for bioaccumulation of epichlorohydrin, air emissions are not expected to deposit on land or water and cause subsequent adverse health or ecosystem effects.

The alternatives considered in the development of this regulation, including those alternatives selected as standards for new and existing BLR and WSR sources, are based on process and emissions data received from every existing BLR and WSR facility known to be in operation. The EPA met with industry several times to discuss this data. In addition, facilities, State regulatory authorities, and environmental groups had the opportunity to comment on the proposed standards and provide additional information during the public comment period which followed proposal. Some facilities did provide comments; these comments were considered, and in some cases, the standards were changed in response to the comments. Of major concern to the commenters was the proposed format of the standards for new sources. After considering various alternatives, the EPA decided the format of the standard could be changed in a way which allays their concerns.

The final standards give existing facilities 3 years from the date of promulgation to comply. This is the maximum amount allowed under the Clean Air Act (CAA). New facilities are required to comply with the standard upon startup. The EPA sees no reason why new facilities would not be able to comply with the requirements of the standards upon startup. The number of existing sources affected by this rule is less than 20; therefore, EPA does not believe that required retrofits or other actions cannot be achieved in the time frame allotted.

Included in the final rule are methods for determining initial compliance as well as monitoring, recordkeeping, and reporting requirements. All of these components are necessary to ensure that sources will comply with the standards both initially and over time. However, EPA has made every effort to simplify the requirements in the rule. The Agency has also attempted to maintain consistency with existing regulations by either incorporating text from existing regulations or referencing the applicable sections, depending on which method would be least confusing for a given situation.

As described in the preamble to the proposed rule, two regulatory alternatives above the MACT floor were considered for BLR and WSR. For BLR, the final standards reflect the option with the lowest overall cost effectiveness in dollars per megagram of HAP emission reduction. For WSR the MACT floor, as well as the two regulatory alternatives above the floor, were found to have relatively high cost effectiveness. However, an alternative standard was specified that allows facilities to implement the requirements of subpart H to control emissions from equipment leaks. The alternative standard is much more cost effective, and will result in a greater overall HAP emission reduction. However, the alternative standard is not being *required* because the cost was considered to be too high to justify requiring more control than that achieved at the MACT floor. Section 112(d) of the Clean Air Act requires standards to be set at a level no less stringent than the MACT floor but requires consideration of the cost of achieving further reductions before requiring reductions beyond the MACT floor.

Representatives from other interested EPA offices and programs, as well as representatives from State regulatory agencies, are included in the regulatory development process as members of the Work Group. The Work Group is involved in the regulatory development process, and must review and concur with the regulation before proposal and promulgation. Therefore, EPA believes that the implications to other EPA offices and programs has been adequately considered during the development of these standards.

IV. Summary of Environmental, Energy, Cost, and Economic Impacts

The environmental impacts for this rule were not impacted significantly by changes made to the rule between proposal and promulgation. The promulgated standards reduce HAP emissions from existing BLR sources by 95 megagrams per year (Mg/yr) (105 tons per year (tons/yr)) from the baseline level, a reduction of 78 percent from baseline. Emissions of HAP from existing WSR sources will decrease by 2 Mg/yr (2 tons/yr) if facilities elect to comply with the standard for process vents, storage tanks, and wastewater systems, a reduction of 7 percent from baseline. If facilities elect to comply with the alternative standard (comply with the 40 CFR part 63, subpart H requirements for equipment leaks), HAP emissions will decrease by 14 Mg/yr (15 tons/yr), a reduction of 52 percent from baseline.

No additional wastewater generation results from compliance with the standards as a result of changing the new source standard for BLR and WSR process vents, storage tanks, and wastewater systems emission sources from an equipment-based standard to a performance-based standard. No solid waste is generated from the BLR or WSR production processes.

The energy impacts for this rule were not affected by changes made to the rule between proposal and promulgation. The standards for the BLR source category require energy usage of 1.5×10^6 Btu per year (Btu/yr). Energy usage for the WSR will be 4×10^6 Btu/yr if sources comply with the standard for process vents, storage tanks, and wastewater systems; however, if sources choose to comply with the alternative standard (subpart H), the additional energy usage will be negligible. The cost impacts for this rule were not affected by changes made to the rule between proposal and promulgation. Nationwide, the total annual cost of the standard to the BLR industry will be $140,000. If all WSR sources choose to comply with the standard for process vents, storage tanks, and wastewater systems, the total cost of this regulation to the WSR industry will be $520,000. If all WSR sources decide to comply with the alternative standard (subpart H), the total annual cost will be $52,000.

V. Significant Changes to the Proposed Standards

A. Public Participation

Prior to proposal of this rule a meeting of the National Air Pollution Control Techniques Advisory Committee (NAPCTAC) was held to discuss the development of the draft rule for epoxy resins and non-nylon polyamide resins production. That meeting was held on November 18, 1992. The meeting was open to the public, and each attendee was given an

opportunity to comment on the draft rule.

The proposed rule was published in the **Federal Register** on May 16, 1994 (59 FR 25387). The preamble to the proposal discussed the availability of the proposal BID (Emissions from Epoxy Resins Production and Non-Nylon Polyamides Production—Information for Proposed Standards (EPA–493/R–94–033a)), which describes in detail the regulatory alternatives considered and the impacts associated with those alternatives. Public comments were solicited at the time of proposal, and copies of the proposal BID were made available to interested parties.

The public comment period ended on July 15, 1994. A total of 11 comment letters were received. The comments were carefully considered, and, where determined by the Administrator to be appropriate, changes were made in the final rule.

Comments on the proposed rule were received from BLR and WSR manufacturers, State and local air pollution control agencies, and environmental organizations. A detailed discussion of these comments and responses can be found in the promulgation BID (see **ADDRESSES** section). The summary of comments and responses in the promulgation BID serves as the basis for the revisions that have been made to the rule between proposal and promulgation. The major comments and responses are summarized in this preamble.

For the purpose of orderly presentation, the comments have been categorized in the promulgation BID under the following topics:

1. Applicability of the Standard;
2. Description of Emission Control Technology;
3. Selection of MACT;
4. Selection of Compliance Dates;
5. Selection of Emission Limits or Equipment/Work Practice Specifications;
6. Selection of Compliance Methods and Monitoring Requirements;
7. Selection of Reporting and Recordkeeping Requirements;
8. Interaction of Polymers and Resins II NESHAP with the General Provisions;
9. Wording of the Standard; and
10. Miscellaneous.

B. Summary of Significant Comments and Changes

In response to public comments and as a result of additional evaluation by EPA, changes have been made to the standards. Significant changes are summarized below, and are explained fully in the promulgation BID.

1. Several commenters objected to the format of the standard for new BLR sources. The commenters pointed out the inflexibility of the equipment standard, which would have required certain control technology (water scrubbers) and venting configurations (manifolding all vents to common control), rather than allowing owners and operators the flexibility of controlling the process in a manner of their own choosing. In response to these comments, formats for the new source maximum achievable control technology (MACT) requirements for process vents, wastewater, and storage tank emissions for BLR and WSR have been changed. For BLR facilities, the standard is a 98 percent reduction of HAP from the sum of uncontrolled process vents, storage, and wastewater systems emission points or an emission limit of 5,000 pounds per year (lb/yr) HAP from the sum of process vents, storage, and wastewater systems emission points. For WSR, the requirement is a limit of 7 lb of HAP per million (MM) lb resin production from the sum of process vents, storage, and wastewater systems emission points. These changes in format for new source MACT requirements reflect the same level of control as the proposed equipment standard requirements.

2. One commenter argued that the methods proposed for determining emissions from storage tanks and wastewater systems, which were referenced from the emissions averaging section of the Hazardous Organic NESHAP (HON) are not appropriate for this regulation. Upon further review, EPA agrees with the commenter's arguments concerning estimating emissions from wastewater, but not those concerning storage tanks. Consequently, the methods of calculating emissions and determining the effectiveness of certain control measures on wastewater emission points have been corrected and now specify methodologies contained in the HON, appendix C. The required emission estimation methods for storage tanks did not change.

3. One commenter stated that sampling frequencies specified in the proposed performance test guidelines are not feasible for BLR sources. The EPA has reexamined the proposed sampling guidelines and agrees with the commenter's argument. Therefore, the frequency of flowrate and concentration sampling of emission stream characteristics during a performance test has been reduced. For continuous BLR emission points, sampling at 15-minute intervals for flowrate and concentration or 1-hour time-integrated sampling of concentration have replaced the requirement of simultaneous minute-by-minute measurements of flowrate and concentration. For WSR, sampling of flowrate every 15 minutes, or least once per batch step, and integrated concentration measurements over each step have replaced the minute-by-minute flowrate and concentration measurements. In addition, EPA has decided not to require three test runs for WSR process vents, due to the dynamic nature of batch emission stream characteristics. The data obtained from a batch test run may be representative of only that batch; therefore, running repeat tests may not be justified. The EPA has also specified that owners or operators of WSR sources perform a maximum of 8 hours of testing for batch emission episodes of duration greater than 8 hours. This provision was included to prevent the possibility of excessive testing costs for owners of batch processes containing very long emission episodes. Finally, the EPA has decided to allow owners or operators of WSR sources to test intermittently if they can provide evidence that the periods tested represent periods in which emissions are greater than the average emissions over the batch emission episode.

4. In response to comments relating to the averaging period for ongoing compliance determination, the averaging period for measurements taken to verify continuous compliance for continuous BLR sources has been increased from 1 hour to 24 hours. The target values for comparison of these continuous compliance measurements are the average of the maximum or minimum values obtained from the three 1-hour performance tests. The 24-hour averaging period results in an average obtained over 96, 15-minute readings. The EPA believes that calculating an average over 96 readings will sufficiently diminish the effect of excursions on the value of the average.

5. Two commenters stated that the de minimis levels specified in the HON for process vents, storage tanks, and wastewater systems are appropriate for BLR sources and should be included in the final rule. Because EPA has decided to change the format of the standard for new BLR sources to a 98 percent overall reduction from the total of uncontrolled process vents, storage tanks and wastewater systems or an absolute cap of 2.27 Mg/yr (5,000 lb/yr) from the total of these emission sources, EPA does not believe de minimis levels for controlling emission points are necessary, as owners and operators will be afforded the flexibility of deciding the degree of control for a particular emission point, provided that compliance with the overall emission limit is achieved.

However, EPA agrees with the commenters' suggestion that de minimis levels should be established for exempting emission points from monitoring, because monitoring emission points with emission stream flow rates and/or HAP concentrations below a certain de minimis level is not reasonable. Therefore, a de minimis level of 1 pound per year of uncontrolled HAP emissions has been established for emission points within BLR sources below which continuous monitoring is not required.

6. Two commenters stated that EPA should not specify in the rule the wastewater treatment system parameters to monitor. The commenters stated that the parameters specified in the proposed rule are not appropriate for all treatment systems; that the parameters are tailored to the treatment system, and that there should be flexibility to determine which parameters should be used in each instance. The commenters further argued that States, in their role as permitting authorities, set monitoring parameters as part of the NPDES permit system under the Clean Water Act. Therefore, the commenters maintained, it is unreasonable for facilities to monitor two different sets of parameters.

The wastewater monitoring provisions of the HON, which are referenced in the final rule, allow biological treatment system monitoring parameters to be determined on a case-by-case basis. In light of the issues raised above by the commenters, and in accordance with the wastewater monitoring provisions of the HON, the final rule has been changed to allow owners and operators to monitor the wastewater treatment system parameters specified by the permitting authority responsible for enforcing the Clean Water Act.

7. Several commenters requested clarification of the compliance dates for existing, new, and reconstructed sources, which were not stated in the proposed rule. In response to these comments, the final rule specifies that the compliance date is 3 years from the date of promulgation for existing sources; new sources are required to be in compliance upon startup of the source.

8. Several commenters requested clarification of the General Provisions to part 63 as they relate to this rule. In response to these comments, a table identifying the relationship of the General Provisions requirements has been added to the final regulation.

9. Several commenters stated that EPA should clarify that the modification of existing BLR sources is covered by the section 112(g) rule, and will be subject to ''existing source MACT'' as defined by the standard.

No additional language has been added to the regulatory text to address this comment. Instead, EPA has provided the following explanation to clarify the role of section 112(g) in determining the applicability of existing and new source MACT. Section 112(2)(B) of the Act requires that ''after the effective date of a permit program under title V of this chapter, no person may modify any major source of hazardous air pollutants in such State, unless *the Administrator (or the State) determines that the maximum achievable control technology emission limitation for existing sources will be met.*'' The EPA believes that the requirement for a ''determination'' suggests that an administrative review is needed when an affected source is subject to a MACT standard, and that affected source undergoes a physical change or change in the method of operation that meets the definition of ''modification'' in section 112(a) of the Act. The purpose of this section of the preamble is to clarify the types of administrative review for sources in the epoxy resins and non-nylon polyamides source categories.

As discussed in the preamble to the proposed rule implementing section 112(g) of the Act, the EPA believes that in many if not most cases, an emission increase that meets the definition of ''modification'' will not have a substantive effect on the emission and/or work practice standards that the affected sources will have to meet (see 59 FR 15504, April 1, 1994). Before and after the change, the affected source must continue to meet the ''existing source MACT'' level. The only circumstance which could affect the degree of control required is when the modification of a source creates an affected source above a threshold in an applicability definition after the change, which was under the applicability threshold before the change. For this rule, EPA believes there will be no such circumstances because the regulation contains no applicability threshold. The standard is an emission factor format which applies to BLR and WSR processes of any size.

The EPA believes that the process included in today's rule is sufficient to satisfy the requirement for a ''determination'' under section 112(g). Where a ''modification'' does not affect an affected source's applicability status, the proposed rule implementing section 112(g) requires that the source notify the permitting authority prior to startup of operation of the change (see proposed § 63.45(f)).

A similar ''determination'' is required for major source construction and reconstruction under section 112(g)(2)(A) of the Act. The administrative process for these determinations is contained in § 63.5 of the 40 CFR part 63, subpart A, General Provisions.

10. Revisions to definitions and phrasing have been made to clarify the regulation.

VI. Administrative Requirements

A. Docket

The docket for this rulemaking is A–92–37. The docket is an organized and complete file of all the information submitted to or otherwise considered by the EPA in the development of this rulemaking. The principal purposes of the docket are: (1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the rulemaking process; and (2) to serve as the record in case of judicial review (except for interagency review materials) (section 307(d)(7)(A) of the Act). The docket is available for public inspection at the EPA's Air and Radiation Docket and Information Center, the location of which is given in the **ADDRESSES** section of this notice.

B. Enhancing the Intergovernmental Partnership Under Executive Order 12875

In compliance with Executive Order 12875 we have involved State, local, and tribal governments in the development of this rule. These governments are not directly impacted by the rule; i.e., they are not required to purchase control systems to meet the requirements of this rule. They will collect permit fees which will be used to offset the resource burden of implementing the rule. One representative of the State governments has been a member of the EPA Work Group developing this rule. The Work Group has met numerous times, and comments have been solicited from the Work Group members, including the State representative; and their comments have been carefully considered in the rule development. In addition, all States were encouraged to comment on the proposed rule during the public comment period. The EPA fully considered comments from States in the final rulemaking.

C. 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 Office of Management and

Budget (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.''

The EPA has submitted this action to OMB for review. The action was approved by OMB without comment.

D. Paperwork Reduction Act

Information collection requirements associated with this rule have been approved by OMB under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and have been assigned OMB control number 2060–0290. An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1681.02), and a copy may be obtained from Sandy Farmer, Information Policy Branch, EPA 2136, Washington, DC 20460, or by calling (202) 260–2740.

The public reporting burden for this collection of information is estimated to average 1,253 hours per respondent in the first year, 765 hours per respondent in the second year, and 589 hours per respondent in the third year. This includes the time required for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch; EPA; 401 M Street, SW. (Mail Code 2136); Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked ''Attention: Desk Officer for EPA.''

E. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires that a Regulatory Flexibility Analysis be performed for all rules that have ''significant impact on a substantial number of small entities.'' If a preliminary analysis indicates that a proposed regulation would have a significant economic impact on 20 percent or more of small entities, then a regulatory flexibility analysis must be prepared.

Present Regulatory Flexibility Act guidelines for regulations like this one whose start action notifications (SAN's) were filed before April 1992 indicate that an economic impact should be considered significant if it meets one of the following criteria:

1. Compliance increases annual production costs by more than 5 percent, assuming costs are passed on to consumers;

2. Compliance costs as a percentage of sales for small entities are at least 10 percent more than compliance costs as a percentage of sales for large entities;

3. Capital costs of compliance represent a ''significant'' portion of capital available to small entities, considering internal cash flow plus external financial capabilities; or

4. Regulatory requirements are likely to result in closures of small entities.

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities. All of the affected BLR and WSR producers are large enough not to satisfy the criteria for a small business. Consequently, no significant small business impacts will result from compliance with these standards.

F. Miscellaneous

In accordance with section 117 of the Act, publication of this promulgated rule was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies.

This regulation will be reviewed 5 years from the date of promulgation. This review will include an assessment of such factors as evaluation of the residual health risks, any overlap with other programs, the existence of alternative methods, enforceability, improvements in emission control technology and health data, and the recordkeeping and reporting requirements.

List of Subjects in 40 CFR Parts 9 and 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: February 28, 1995.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as set forth below.

PART 9—[AMENDED]

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

Authority: 7 U.S.C. 135 et seq., 1235–1236y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 et seq., 1311, 1313d, 1314, 1321, 1326, 1330, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 et seq., 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

2. Section 9.1 is amended by adding a new entry to the table under the indicated heading to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation	OMB control No.
* * * * *	
National Emission Standards for Hazardous Air Pollutants for Source Categories:	
* * * * *	
63.525–63.528	2060–0290
* * * * *	

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Part 63 is amended by adding subpart W consisting of §§ 63.520 through 63.528 to read as follows:

Subpart W—National Emission Standards for Hazardous Air Pollutants for Epoxy Resins Production and Non-Nylon Polyamides Production

Sec.

Subpart W—National Emission Standards for Hazardous Air Pollutants for Epoxy Resins Production and Non-Nylon Polyamides Production

§ 63.520 Applicability and designation of sources.

The provisions of this subpart apply to all existing, new, and reconstructed manufacturers of basic liquid epoxy resins (BLR) and manufacturers of wet strength resins (WSR) that are located at a plant site that is a major source, as defined in section 112(a) of the Clean Air Act. Research and development facilities, as defined in § 63.522, are exempt from the provisions of this subpart. The affected source is also defined in § 63.522. If a change occurs to an existing source that does not constitute reconstruction then the additions have to meet the existing source requirements of the MACT standards. Any reconstruction of an existing source, or construction of a new source, must meet the new source standard. Affected sources are also subject to certain requirements of subpart A of this part, as specified in Table 1 of this subpart.

§ 63.521 Compliance schedule.

(a) Owners or operators of existing affected BLR and WSR sources shall comply with the applicable provisions of this subpart within 3 years of the promulgation date.

(b) New and reconstructed sources subject to this subpart shall be in compliance with the applicable provisions of this subpart upon startup.

§ 63.522 Definitions.

Terms used in this subpart are defined in the Act, in subpart A of this part, or in this section as follows:

Administrator means the Administrator of the U.S. Environmental Protection Agency, or any official designee of the Administrator.

Affected source means all HAP emission points within a facility that are related to the production of BLR or WSR, including process vents, storage tanks, wastewater systems, and equipment leaks.

Basic liquid epoxy resins (BLR) means resins made by reacting epichlorohydrin and bisphenol A to form diglycidyl ether of bisphenol-A (DGEBPA).

Batch emission episode means a discrete venting episode that may be associated with a single unit operation. For example, a displacement of vapor resulting from the charging of a vessel with HAP will result in a discrete emission episode that will last through the duration of the charge and will have an average flow rate equal to the rate of the charge. If the vessel is then heated, there will also be another discrete emission episode resulting from the expulsion of expanded vessel vapor space. Both emission episodes may occur in the same vessel or unit operation. There are possibly other emission episodes that may occur from the vessel or other process equipment, depending on process operations.

Batch process refers to a discontinuous process involving the bulk movement of material through sequential manufacturing steps. Mass, temperature, concentration, and other properties of a system vary with time. Addition of raw material and withdrawal of product do not typically occur simultaneously in a batch process.

Closed-vent system means a system that is not open to the atmosphere and is composed of piping, ductwork, connections, and, if necessary, flow-inducing devices that transport gas or vapor from an emission point to a control device or back into the process.

Continuous process means a process where the inputs and outputs flow continuously throughout the duration of the process. Continuous processes are typically steady-state.

Drain system means the system used to convey wastewater streams from a process unit, product storage tank, or feed storage tank to a waste management unit. The term includes all process drains and junction boxes, together with their associated sewer lines and other junction boxes, manholes, sumps, and lift stations, down to the receiving waste management unit. A segregated stormwater sewer system, which is a drain and collection system designed and operated for the sole purpose of collecting rainfall-runoff at a facility, and which is segregated from all other drain systems, is excluded from this definition.

Equipment leaks means emissions of hazardous air pollutants from a pump, compressor, agitator, pressure relief device, sampling connection system, open-ended valve or line, or instrumentation system in organic hazardous air pollutant service.

Process vent means a point of emission from a unit operation. Typical process vents include condenser vents, vacuum pumps, steam ejectors, and atmospheric vents from reactors and other process vessels.

Production-based emission rate means a ratio of the amount of HAP emitted to the amount of BLR or WSR produced.

Research and development facility means laboratory operations whose primary purpose is to conduct research and development into new processes and products, where the operations are under the close supervision of technically trained personnel, and is not engaged in the manufacture of products for commercial sale, except in a de minimis manner.

Storage tank means a tank or other vessel that is used to store liquids that contain one or more HAP compounds.

Unit operation means those processing steps that occur within distinct equipment that are used, among other things, to prepare reactants, facilitate reactions, separate and purify products, and recycle materials. There may be several emission episodes within a single unit operation.

Waste management unit means any component, piece of equipment, structure, or transport mechanism used in storing, treating, or disposing of wastewater streams, or conveying wastewater between storage, treatment, or disposal operations.

Wastewater means aqueous liquid waste streams exiting equipment at an affected source.

Wastewater system means a system made up of a drain system and one or more waste management units.

Wet strength resins (WSR) means polyamide/ epichlorohydrin condensates which are used to increase the tensile strength of paper products.

§ 63.523 Standards for basic liquid resins manufacturers.

(a) Owners or operators of existing affected BLR sources shall operate sources such that the rate of emissions of hazardous air pollutants from all process vents, storage tanks, and wastewater systems combined shall not exceed 130 pounds per 1 million pounds of BLR produced.

(b) Owners or operators of new or reconstructed affected BLR sources shall reduce uncontrolled emissions from the sum of uncontrolled process vents, storage tanks, and wastewater systems by 98 percent, or limit the total emissions from these emission points to 5,000 pounds per year.

(1) For process vents, uncontrolled emissions are defined as gaseous emission streams past the last recovery device.

(2) For storage tanks, uncontrolled emissions are defined as emissions calculated according to the methodology specified in § 63.150(g)(3).

(3) For wastewater systems, uncontrolled emissions are the total amount of HAP discharged to the drain system.

(c) Owners or operators of existing, new, or reconstructed affected BLR sources shall comply with the requirements of subpart H of this part to control emissions from equipment leaks.

§ 63.524 Standards for wet strength resins manufacturers.

(a) Owners or operators of existing affected WSR sources shall either:

(1) Limit the total emissions of hazardous air pollutants from all process vents, storage tanks, and wastewater systems to 10 pounds per 1 million pounds of wet strength resins produced; or

(2) Comply with the requirements of subpart H of this part to control emissions from equipment leaks.

(b) Owners or operators of new or reconstructed affected WSR sources shall either:

(1) Limit the total emissions of hazardous air pollutants from all process vents, storage tanks, and wastewater systems to 7 pounds per 1 million pounds of wet strength resins produced; or

(2) Comply with the requirements of subpart H of this part to control emissions from equipment leaks.

§ 63.525 Compliance and performance testing.

(a) The owner or operator of any existing affected BLR source shall, in order to demonstrate initial compliance with the applicable emission limit, determine the emission rate from all process vent, storage tank, and wastewater system emission points using the methods described below. Compliance tests shall be performed under normal operating conditions.

(1) The owner or operator shall use the EPA Test Methods from 40 CFR part 60, appendix A, listed in paragraphs (a)(1) (i) through (iii) of this section, to determine emissions from process vents. Testing of process vents on equipment operating as part of a continuous process will consist of conducting three 1-hour runs. Gas stream volumetric flow rates shall be measured every 15 minutes during each 1-hour run. Organic HAP or TOC concentration shall be determined from samples collected in an integrated sample over the duration of each 1-hour test run, or from grab samples collected simultaneously with the flow rate measurements (every 15 minutes). If an integrated sample is collected for laboratory analysis, the sampling rate shall be adjusted proportionally to reflect variations in flow rate. If the flow of gaseous emissions is intermittent, determination of emissions from process vents shall be performed according to the methods specified in paragraph (e) of this section. For process vents with continuous gas streams, the emission rate used to determine compliance shall be the average emission rate of the 3 test runs. For process vents with intermittent emission streams, the calculated emission rate or the emission rate from a single test run may be used to determine compliance.

(i) Method 1 or 1A of 40 CFR part 60, appendix A, as appropriate, shall be used for selection of the sampling sites if the flow measuring device is a pitot tube. A traverse shall be conducted before and after each 1-hour sampling period. No traverse is necessary when using Method 2A or 2D to determine flow rate.

(ii) Method 2, 2A, 2C or 2D of 40 CFR part 60, appendix A, as appropriate, shall be used for the determination of gas stream volumetric flow rate. If Method 2 or 2C is used, the velocity measurements shall be made at a single point, in conjunction with the traverse, to establish an average velocity across the stack.

(iii) Method 25A and/or Methods 18 and 25A of 40 CFR part 60, appendix A, as appropriate, shall be used to determine the concentration of HAP in the streams.

(iv) Initial determination of de minimis status for process vents may be made by engineering assessment, as specified in § 63.526(a)(1)(iv).

(2) Emissions from wastewater treatment systems shall be determined in accordance with the methods described in 40 CFR part 63, appendix C.

(3) Emissions from storage tanks shall be calculated in accordance with the methods specified in § 63.150(g)(3).

(b) The owner or operator of any existing affected BLR source shall determine a production-based emission rate for each emission point by dividing the emission rate of each emission point by the BLR production rate of the source. The production rate shall be based on normal operations.

(1) The production-based emission rate for process vents shall be calculated by dividing the average emission rate the average production rate.

(2) The production-based emission rate for storage tanks shall be calculated by dividing annual emissions for each storage tank emission point by the production rate for a one-year period. The production rate shall be calculated using the same data used to calculate the production-based emission rate in paragraph (b)(1) of this section, converted to an annual rate.

(3) The production-based emission rate for wastewater systems shall be calculated by dividing annual emissions for each wastewater system emission point by the production rate for one-year period. The production rate shall be calculated using the same data used to calculate the production-based emission rate in paragraph (b)(1) of this section, converted to an annual rate.

(c) The owner or operator of an existing affected BLR source shall calculate the total emissions per product produced by summing the production-based emissions for all process vent, storage tank, and wastewater system emission points according to the following equation:

$$E=\sum PV+\sum ST+\sum WW$$

where:

E=emissions, pounds (lb) HAP per million (MM) lb product;

PV=process vent emissions, lb HAP/MM lb product;

ST=storage tank emissions, lb HAP/MM lb product; and

WW=wastewater system emissions, lb HAP/MM lb product.

The source is in compliance with the standard for process vents, storage tanks, and wastewater systems if the sum of the equation is less than the applicable emission limit from § 63.523(a).

(d) The owner or operator of any new or reconstructed affected BLR source shall demonstrate compliance using the methods described in this section.

(1) Any owner or operator who elects to comply with § 63.523(b) by achieving 98 percent control of emissions from process vents, storage tanks, and wastewater systems shall demonstrate compliance according to the requirements of paragraphs (d)(1) (i) through (iv) of this section.

(i) The owner or operator shall perform testing as specified in paragraph (a)(1) of this section to determine controlled and uncontrolled emissions from process vents. Sampling points for determining uncontrolled emissions shall be located based on the definition of uncontrolled process vents in § 63.523(b)(1).

(ii) The owner or operator shall calculate controlled and uncontrolled emissions from storage tanks in accordance with the methods specified in § 63.150(g)(3).

(iii) The owner or operator shall determine controlled and uncontrolled emissions from wastewater systems using the methodology of 40 CFR part 63, appendix C. Uncontrolled emission calculations shall be consistent with the definition of uncontrolled wastewater system emissions in § 63.523(b)(3).

(iv) The owner or operator shall calculate the percent reduction in

emissions from process vents, storage tanks, and wastewater systems combined. The affected source is in compliance if the emission reduction is greater than or equal to 98 percent.

(2) Any owner or operator who elects to comply with § 63.523(b) by limiting HAP emissions from process vents, storage tanks, and wastewater systems to 5,000 pounds per year or less shall demonstrate compliance according to the requirements of paragraphs (d)(2) (i) and (ii) of this section.

(i) Emissions from process vents, storage tanks, and wastewater systems shall be determined according to paragraphs (a) (1) through (3) of this section. Emissions shall be converted to annual emissions. Annual emission calculations shall reflect production levels representative of normal operating conditions.

(ii) The owner or operator shall calculate total emissions from all process vent, storage tank, and wastewater system emission points. The affected source is in compliance with the standard if total emissions are less than or equal to 5,000 lb/yr.

(e) The owner or operator of any existing, new, or reconstructed WSR source that chooses to comply with the emission limit for process vents, storage tanks, and wastewater systems shall demonstrate initial compliance by determining emissions for all process vent, storage tank, and wastewater systems emission points using the methods described in this section.

(1) Emissions of HAP reactor process vents shall be calculated for each batch emission episode according to the methodologies described in paragraph (e)(1) of this section.

(i) Emissions from vapor displacement due to transfer of material into or out of the reactor shall be calculated according to the following equation:

$$E = \frac{(y_i)(V)(P_T)(MW)}{(R)(T)}$$

where:

E=mass emission rate;

yi=saturated mole fraction of HAP in the vapor phase;

V=volume of gas displaced from the vessel;

R=ideal gas law constant;

T=temperature of the vessel vapor space; absolute;

P_T=pressure of the vessel vapor space; and

MW=molecular weight of the HAP.

(ii) Emissions from reactor purging shall be calculated using the methodology described in paragraph (e)(1)(i) of this section, except that for purge flow rates greater than 100 standard cubic feet per minute (scfm), the mole fraction of HAP will be assumed to be 25 percent of the saturated value.

(iii) Emissions caused by heating of the reactor vessel shall be calculated according to the following methodology:

$$E = \frac{\frac{\sum (P_i)_{T1}}{Pa_1} + \frac{\sum (P_i)_{T2}}{Pa_2}}{2} \times \Delta\eta \times MW_{HAP}$$

where:

E=mass of HAP vapor displaced from the vessel being heated up;

$(P_i)_{Tn}$=partial pressure of each HAP in the vessel headspace at initial (n=1) and final (n=2) temperature;

Pa_1=initial gas pressure in the vessel;

Pa_2=final gas pressure; and

MW_{HAP}=the average molecular weight of HAP present in the vessel.

The moles of gas displaced is represented by:

$$\Delta\eta = \frac{V}{R}\left[\left(\frac{Pa_1}{T_1}\right) - \left(\frac{Pa_2}{T_2}\right)\right]$$

where:

> η=number of lb-moles of gas displaced;

V=volume of free space in the vessel;

R=ideal gas law constant;

Pa_1=initial gas pressure in the vessel;

Pa_2=final gas pressure;

T_1=initial temperature of vessel; and

T_2=final temperature of vessel.

The initial pressure of the noncondensable gas in the vessel shall be calculated according to the following equation:

$$Pa_1 = P_{atm} - \sum (P_{ic})_{T1}$$

where:

Pa_1=initial partial pressure of gas in the vessel headspace;

P_{atm}=atmospheric pressure; and

$(P_{ic})_{T1}$=initial partial pressure of each condensable volatile organic compound (including HAP) in the vessel headspace, at the initial temperature (T_1).

The average molecular weight of HAP in the displaced gas shall be calculated as follows:

$$MW_{HAP} = \frac{\sum_{i=1}^{n} (\text{mass of HAP})_i}{\sum_{i=1}^{n} \frac{(\text{mass of HAP})_i}{(\text{HAP molecular weight})_i}}$$

where n is the number of different HAP compounds in the emission stream.

(2) Emissions of HAP from process vents may be measured directly. The EPA Test Methods listed in paragraph (e)(2) (i) through (iii) of this section, from 40 CFR part 60, appendix A, shall be used to demonstrate compliance with the requirements of § 63.524 by direct measurement. Testing shall be performed for every batch emission episode of the unit operation. Gas stream volumetric flow rates shall be measured at 15-minute intervals, or at least once during each batch emission episode. Organic HAP or TOC concentration shall be determined from samples collected in an integrated sample over the duration of each episode, or from grab samples collected simultaneously with the flow rate measurements (every 15 minutes). If an integrated sample is collected for laboratory analysis, the sampling rate shall be adjusted proportionally to reflect variations in flow rate. Test conditions shall represent the normal operating conditions under which the data used to calculate the production rate are taken.

(i) Method 1 or 1A of 40 CFR part 60, appendix A, as appropriate, shall be used for selection of the sampling sites if the flow measuring device is a pitot tube. A traverse shall be conducted before and after each sampling period. No traverse is necessary when using Method 2A or 2D.

(ii) Method 2,2A, 2C or 2D of 40 CFR part 60, appendix A, as appropriate, shall be used for the determination of gas stream volumetric flow rate. If Method 2 or 2C is used, the velocity measurements shall be made at a single point than can be used, in conjunction with the traverse, to establish an average velocity across the stack.

(iii) Method 25A and/or Methods 18 and 25A of 40 CFR part 60, appendix A, as appropriate, shall be used to

determine the concentration of HAP in the streams.

(iv) The owner or operator may choose to perform tests only during those periods of the episode in which the emission rate for the entire episode can be determined, or when the emissions are greater than the average emission rate of the episode. The owner or operator who chooses either of these options must develop an emission profile for the entire batch emission episode, based on either process knowledge or test data collected, to demonstrate that test periods are representative. Examples of information that could constitute process knowledge include calculations based on material balances, and process stoichiometry. Previous test results may be used provided the results are still relevant to the current process vent stream conditions.

(v) For batch emission episodes of duration greater than 8 hours, the owner or operator is required to perform a maximum of 8 hours of testing. The test period must include the period of time in which the emission rate is predicted by the emission profile to be greater than average emission rate for the batch emission episode.

(f) The owner or operator of any affected WSR source that chooses to comply with the emissions limit for process vents, storage tanks, and wastewater systems shall calculate emissions from storage tanks in accordance with the methods specified in § 63.150(g)(3).

(g) The owner or operator of any affected WSR source that chooses to comply with the emission limit for process vents, storage tanks, and wastewater systems shall calculate emissions from wastewater treatment systems (if applicable) in accordance with the methods described in 40 CFR part 63, appendix C.

(h) The owner or operator of any affected WSR source that chooses to comply with the emission limit for process vents, storage tanks, and wastewater systems shall calculate the average amount of WSR product manufactured per batch, using data from performance tests or from emission calculations, as applicable, to determine the average WSR production per-batch production data for an annual period representing normal operating conditions.

(1) The owner or operator shall calculate an average emission rate per batch as the average of the results from the performance tests or calculations. The production-based emission rate shall be calculated by dividing the emissions per batch by the average production per batch.

(2) Compliance shall be determined according to the methodology described in paragraph (c) of this section. The source is in compliance with the standard for process vents, storage tanks, and wastewater systems if the sum of the equation in paragraph (c) of this section is less than the applicable emission limit from § 63.524.

(i) The owner or operator of any affected BLR source or any affected WSR source that chooses to comply with the requirements of subpart H of this part must demonstrate the ability of its specific program to meet the compliance requirements therein to achieve initial compliance.

§ 63.526 Monitoring requirements.

(a) The owner or operator of any existing, new, or reconstructed affected BLR source shall provide evidence of continued compliance with the standard. During the initial compliance demonstration, maximum or minimum operating parameters, as appropriate, shall be established for processes and control devices that will indicate the source is in compliance. If the operating parameter to be established is a maximum, the value of the parameter shall be the average of the maximum values from each of the three test runs. If the operating parameter to be established is a minimum, the value of the parameter shall be the average of the minimum values from each of the three test runs. Parameter values for process vents with intermittent emission streams shall be determined as specified in paragraph (b)(1) of this section. The owner or operator shall operate processes and control devices within these parameters to ensure continued compliance with the standard. A de minimis level is specified in paragraph (a)(1) of this section. Monitoring parameters are specified for various process vent control scenarios in paragraphs (a) (2) through (6) of this section.

(1) For affected BLR sources, uncontrolled emission points emitting less than one pound per year of HAP are not subject to the monitoring requirements of paragraphs (a) (2) through (6) of this section. The owner or operator shall use the methods specified in § 63.525(a), as applicable, or as specified in paragraph (a)(1)(i) of this section, to demonstrate which emission points satisfy the de minimis criteria, to the satisfaction of the Administrator.

(i) For the purpose of determining de minimis status for emission points, engineering assessment may be used to determine process vent stream flow rate and/or concentration for the representative operating conditions expected to yield the highest flow rate and concentration. Engineering assessment includes, but is not limited to, the following:

(A) Previous test results provided the tests are representative of current operating practices at the process unit.

(B) Bench-scale or pilot-scale test data representative of the process under representative operating conditions.

(C) Maximum flow rate, HAP emission rate, concentration, or other relevant parameter specified or implied within a permit limit applicable to the process vent.

(D) Design analysis based on accepted chemical engineering principles, measurable process parameters, or physical or chemical laws or properties. Examples of analytical methods include, but are not limited to:

(*1*) Use of material balances based on process stoichiometry to estimate maximum organic HAP concentrations,

(*2*) Estimation of maximum flow rate based on physical equipment design such as pump or blower capacities,

(*3*) Estimation of HAP concentrations based on saturation conditions.

(ii) All data, assumptions, and procedures used in the engineering assessment shall be documented in accordance with § 63.527(c).

(2) For affected sources using water scrubbers, the owner or operator shall establish a minimum scrubber water flow rate as a site-specific operating parameter which must be measured and recorded every 15 minutes. The affected source will be considered to be out of compliance if the scrubber water flow rate, averaged over any continuous 24-hour period, is below the minimum value established during the initial compliance demonstration.

(3) For affected sources using condensers, the owner or operator shall establish the maximum condenser outlet gas temperature as a site-specific operating parameter which must be measured and recorded every 15 minutes. The affected source will be considered to be out of compliance if the condenser outlet gas temperature, averaged over any continuous 24-hour period, is greater than the maximum value established during the initial compliance demonstration.

(4) For affected sources using carbon adsorbers or having uncontrolled process vents, the owner or operator shall establish a maximum outlet HAP concentration as the site-specific operating parameter which must be measured and recorded every 15 minutes. The affected source will be considered to be out of compliance if

the outlet HAP concentration, averaged over any continuous 24-hour period, is greater than the maximum value established during the initial compliance demonstration.

(5) For affected sources using flares, the presence of the pilot flame shall be monitored every 15 minutes. The affected source will be considered to be out of compliance upon loss of pilot flame.

(6) Wastewater system parameters to be monitored are the parameters specified under 40 CFR part 414, subpart E. The affected source will be considered to be out of compliance with this subpart W if it is found to be out of compliance with 40 CFR part 414, subpart E.

(b) The owner or operator of any existing, new, or reconstructed affected WSR source that chooses to comply with the emission limit for process vents, storage tanks, and wastewater systems shall provide evidence of continued compliance with the standard. As part of the initial compliance demonstrations for batch process vents, test data or compliance calculations shall be used to establish a maximum or minimum level of a relevant operating parameter for each unit operation. The parameter value for each unit operation shall represent the worst case value of the operating parameter from all episodes in the unit operation. The owner or operator shall operate processes and control devices within these parameters to ensure continued compliance with the standard.

(1) For batch process vents, the level shall be established in accordance with paragraphs (b)(1) (i) through (iv) of this section if compliance testing is performed.

(i) If testing is used to demonstrate initial compliance, the appropriate parameter shall be monitored during all batch emission episodes in the unit operation.

(ii) An average monitored parameter value shall be determined for each of the batch emission episodes in the unit operation.

(iii) If the level to be established for the unit operation is a maximum operating parameter, the level shall be defined as the minimum of the average parameter values determined in paragraph (b)(1)(ii) of this section.

(iv) If the level to be established for the unit operation is a minimum operating parameter, the level shall be defined as the maximum of the average parameter values determined in paragraph (b)(1)(ii) of this section.

(2) Affected sources with condensers on process vents shall establish the maximum condenser outlet gas temperature as a site-specific operating parameter, which must be measured every 15 minutes, or at least once for batch emission episodes less than 15 minutes in duration. The affected source will be considered to be out of compliance if the maximum condenser outlet gas temperature, averaged over the duration of the batch emission episode or unit operation, is greater than the value established during the initial compliance demonstration.

(3) For affected sources using water scrubbers, the owner or operator shall establish a minimum scrubber water flow rate as a site-specific operating parameter which must be measured and recorded every 15 minutes, or at least once for batch emission episodes less than 15 minutes in duration. The affected source will be considered to be out of compliance if the scrubber water flow rate, averaged over the duration of the batch emission episode or unit operation, is below the minimum flow rate established during the initial compliance demonstration.

(4) For affected sources using carbon adsorbers or having uncontrolled process vents, the owner or operator shall establish a maximum outlet HAP concentration as the site-specific operating parameter which must be measured and recorded every 15 minutes, or at least once for batch emission episodes of duration shorter than 15 minutes. The affected source will be considered to be out of compliance if the outlet HAP concentration, averaged over the duration of the batch emission episode or unit operation, is greater than the value established during the initial compliance demonstration.

(5) For affected sources using flares, the presence of the pilot flame shall be monitored every 15 minutes, or at least once for batch emission episodes less than 15 minutes in duration. The affected source will be considered to be out of compliance upon loss of pilot flame.

(6) Wastewater system parameters to be monitored are the parameters specified by 40 CFR part 414, subpart E. The affected source will be considered to be out of compliance with this subpart W if it is found to be out of compliance with 40 CFR part 414, subpart E.

(c) Periods of time when monitoring measurements exceed the parameter values do not constitute a violation if they occur during a startup, shutdown, or malfunction, and the facility follows its startup, shutdown, and malfunction plan.

(d) The owner or operator of any affected WSR source that chooses to comply with the requirements of subpart H of this part shall meet the monitoring requirements of subpart H of this part.

§ 63.527 Recordkeeping requirements.

(a) The owner or operator of any affected BLR source shall keep records of daily average values of equipment operating parameters specified to be monitored under § 63.526(a) or specified by the Administrator. Records shall be kept in accordance with the requirements of applicable paragraphs of § 63.10 of subpart A of this part, as specified in the General Provisions applicability table of this subpart. The owner or operator shall keep records up-to-date and readily accessible.

(1) A daily (24-hour) average shall be calculated as the average of all values for a monitored parameter recorded during the operating day. The average shall cover a 24-hour period if operation is continuous, or the number of hours of operation per operating day if operation is not continuous.

(2) The operating day shall be the period defined in the operating permit or the Notification of Compliance Status in § 63.9(h) of subpart A of this part. It may be from midnight to midnight or another continuous 24-hour period.

(3) In the event of an excursion, the owner or operator must keep records of each 15-minute reading during the period in which the excursion occurred.

(b) The owner or operator of any affected WSR source that elects to comply with the emission limit for process vents, storage tanks, and wastewater systems shall keep records of values of equipment operating parameters specified to be monitored under § 63.526(b) or specified by the Administrator. The records that shall be kept are the average values of operating parameters, determined for the duration of each unit operation. Records shall be kept in accordance with the requirements of applicable paragraphs of § 63.10 of subpart A of this part, as specified in the General Provisions applicability table in this subpart. The owner or operator shall keep records up-to-date and readily accessible. In the event of an excursion, the owner or operator must keep records of each 15-minute reading for the entire unit operation in which the excursion occurred.

(c) The owner or operator of any affected BLR source, as well the owner or operator of any affected WSR source that chooses to comply with the emission limit for process vents, storage tanks, and wastewater systems, who

demonstrates that certain process vents are below the de minimis cutoff for continuous monitoring specified in § 63.526(a)(1)(i), shall maintain up-to-date, readily accessible records of the following information to document that a HAP emission rate of less than one pound per year is maintained:

(1) The information used to determine de minimis status for each de minimis process vent, as specified in § 63.526(a)(1)(i);

(2) Any process changes as defined in § 63.115(e) of subpart G of this part that increase the HAP emission rate;

(3) Any recalculation or measurement of the HAP emission rate pursuant to § 63.115(e) of subpart G of this part; and

(4) Whether or not the HAP emission rate increases to one pound per year or greater as a result of the process change.

(d) The owner or operator of any affected BLR source, as well as the owner or operator of any affected WSR source who elects to implement the leak detection and repair program specified in subpart H of this part, shall implement the recordkeeping requirements outlined therein. All records shall be retained for a period of 5 years, in accordance with the requirements of 40 CFR 63.10(b)(1).

(e) Any excursion from the required monitoring parameter, unless otherwise excused, shall be considered a violation of the emission standard.

§ 63.528 Reporting requirements.

(a) The owner or operator of any affected BLR source, as well as the owner or operator of any affected WSR source that elects to comply with the emission limit for process vents, storage tanks, and wastewater systems, shall comply with the reporting requirements of applicable paragraphs of § 63.10 of subpart A of this part, as specified in the General Provisions applicability table in this subpart. The owner or operator shall also submit to the Administrator, as part of the quarterly excess emissions and continuous monitoring system performance report and summary report required by § 63.10(e)(3) of subpart A of this part, the following recorded information.

(1) Reports of monitoring data, including 15-minute monitoring values as well as daily average values or per-unit operation average values, as applicable, of monitored parameters for all operating days or unit operations when the average values were outside the ranges established in the Notification of Compliance Status or operating permit.

(2) Reports of the duration of periods when monitoring data is not collected for each excursion caused by insufficient monitoring data. An excursion means any of the three cases listed in paragraph (a)(2)(i) or (a)(2)(ii) of this section. For a control device where multiple parameters are monitored, if one or more of the parameters meets the excursion criteria in paragraph (a)(2)(i) or (a)(2)(ii) of this section, this is considered a single excursion for the control device.

(i) When the period of control device operation is 4 hours or greater in an operating day and monitoring data are insufficient to constitute a valid hour of data, as defined in paragraph (a)(2)(iii) of this section, for at least 75 percent of the operating hours.

(ii) When the period of control device operation is less than 4 hours in an operating day and more than one of the hours during the period of operation does not constitute a valid hour of data due to insufficient monitoring data.

(iii) Monitoring data are insufficient to constitute a valid hour of data, as used in paragraphs (a)(2) (i) and (ii) of this section, if measured values are unavailable for any of the 15-minute periods within the hour.

(3) Whenever a process change, as defined in § 63.115(e) of subpart G of this part, is made that causes the emission rate from a de minimis emission point to become a process vent with an emission rate of one pound per year or greater, the owner or operator shall submit a report within 180 calendar days after the process change. The report may be submitted as part of the next summary report required under § 63.10(e)(3) of subpart A of this part. The report shall include:

(i) A description of the process change; and

(ii) The results of the recalculation of the emission rate.

(b) The owner or operator of any affected BLR source, as well as the owner or operator of any affected WSR source who elects to implement the leak detection and repair program specified in subpart H of this part, shall implement the reporting requirements outlined therein. Copies of all reports shall be retained as records for a period of 5 years, in accordance with the requirements of 40 CFR 63.10(b)(1).

(c) The owner or operator of any affected BLR source, as well as the owner or operator of any affected WSR source that elects to comply with the emission limit for process vents, storage tanks, and wastewater systems shall include records of wastewater system monitoring parameters in the Notification of Compliance Status and summary reports required by subpart A of this part.

TABLE 1 TO SUBPART W.—GENERAL PROVISIONS APPLICABILITY TO SUBPART W

Reference	Applies to subpart W			Comment
	BLR	WSR	WSR alternative standard, and BLR equipment leak standard (40 CFR part 63, subpart H)	
§ 63.1(a)(1)	Yes	Yes	Yes	Additional terms defined in § 63.522.
§ 63.1(a)(2)	Yes	Yes	Yes.	
§ 63.1(a)(3)	Yes	Yes	Yes.	
§ 63.1(a)(4)	Yes	Yes	Yes	Subpart W specifies applicability of each paragraph in subpart A to subpart W.
§ 63.1(a)(5)	N/A	N/A	N/A	Reserved.
§ 63.1(a)(6)	Yes	Yes	Yes.	
§ 63.1(a)(7)	Yes	Yes	Yes.	
§ 63.1(a)(8)	No	No	No	Discusses State programs.
§ 63.1(a)(9)	N/A	N/A	N/A	Reserved.

TABLE 1 TO SUBPART W.—GENERAL PROVISIONS APPLICABILITY TO SUBPART W—Continued

Reference	Applies to subpart W			Comment
	BLR	WSR	WSR alternative standard, and BLR equipment leak standard (40 CFR part 63, subpart H)	
§ 63.1(a)(10)	Yes	Yes	Yes.	
§ 63.1(a)(11)	Yes	Yes	Yes.	
§ 63.1(a)(12)–(14)	Yes	Yes	Yes.	
§ 63.1(b)(1)	No	No	No	§ 63.521 of subpart W specifies applicability.
§ 63.1(b)(2)	Yes	Yes	Yes.	
§ 63.1(b)(3)	Yes	Yes	Yes.	
§ 63.1(c)(1)	Yes	Yes	Yes	Subpart W specifies applicability of each paragraph in subpart A to sources subject to subpart W.
§ 63.1(c)(2)	No	No	No	Area sources are not subject to subpart W.
§ 63.1(c)(3)	N/A	N/A	N/A	Reserved.
§ 63.1(c)(4)	Yes	Yes	Yes.	
§ 63.1(c)(5)	Yes	Yes	No	Subpart H specifies applicable notification requirements.
§ 63.1(d)	N/A	N/A	N/A	Reserved.
§ 63.1(e)	Yes	Yes	Yes.	
§ 63.2	Yes	Yes	Yes	Additional terms are defined in § 63.522 of subpart W; when overlap between subparts A and W occurs, subpart W takes precedence.
§ 63.3	Yes	Yes	No	Other units used in subpart W are defined in that subpart; units of measure are spelled out for subpart H.
§ 63.4(a)(1)–(3)	Yes	Yes	Yes.	
§ 63.4(a)(4)	N/A	N/A	N/A	Reserved.
§ 63.4(a)(5)	Yes	Yes	Yes.	
§ 63.4(b)	Yes	Yes	Yes.	
§ 63.4(c)	Yes	Yes	Yes.	
§ 63.5(a)	Yes	Yes	Yes	Except replace the terms ''source'' and ''stationary source'' in § 63.5(a)(1) of subpart A with ''affected source''.
§ 63.5(b)(1)	Yes	Yes	Yes.	
§ 63.5(b)(2)	N/A	N/A	N/A	Reserved.
§ 63.5(b)(3)	Yes	Yes	Yes.	
§ 63.5(b)(4)	Yes	Yes	Yes.	
§ 63.5(b)(5)	Yes	Yes	Yes.	
§ 63.5(b)(6)	Yes	Yes	Yes.	
§ 63.5(c)	N/A	N/A	N/A	Reserved.
§ 63.5(d)(1)(i)	Yes	Yes	Yes.	
§ 63.5(d)(1)(ii)	Yes	Yes	Yes.	
§ 63.5(d)(1)(iii)	Yes	Yes	Yes.	
§ 63.5(d)(2)	Yes	Yes	Yes.	
§ 63.5(d)(3)–(4)	Yes	Yes	Yes.	
§ 63.5(e)	Yes	Yes	Yes.	
§ 63.5(f)(1)	Yes	Yes	Yes	Except replace ''source'' in § 63.5(f)(1) of subpart A with ''affected source''.
§ 63.5(f)(2)	Yes	Yes	Yes.	
§ 63.6(a)	Yes	Yes	Yes.	
§ 63.6(b)(1)–(2)	No	No	No	Subpart W specifies compliance dates.
§ 63.6(b)(3)–(4)	Yes	Yes	Yes.	
§ 63.6(b)(5)		Yes	No	Subpart H includes notification requirements.
§ 63.6(b)(6)	N/A	N/A	N/A	Reserved.
§ 63.6(b)(7)	No	Yes	No	Sources subject to subpart H must comply according to the schedule in § 63.520 of subpart W for new sources subject to subpart H.
§ 63.6(c)(1)–(2)	Yes	Yes	Yes	Except replace ''source'' in § 63.6(c)(1)–(2) of subpart A with ''affected source''.
§ 63.6(c)(3)–(4)	N/A	N/A	N/A	Reserved.
§ 63.6(c)(5)	Yes	Yes	Yes.	
§ 63.6(d)	N/A	N/A	N/A	Reserved.
§ 63.6(e)	Yes	Yes	Yes.	
§ 63.6(f)(1)	Yes	Yes	Yes.	
§ 63.6(f)(2)(i)–(ii)	Yes	Yes	Yes.	
§ 63.6(f)(2)(iii)	Yes	Yes	Yes.	
§ 63.6(f)(2)(iv)	Yes	Yes	Yes.	
§ 63.6(f)(3)	Yes	Yes	Yes.	
§ 63.6(g)	Yes	Yes	Yes	An alternative standard has been proposed for WSR; however, affected sources will have the opportunity to demonstrate other alternatives to the Administrator.
§ 63.6(h)	No	No	No	Subpart W does not contain any opacity or visible emissions standards.

TABLE 1 TO SUBPART W.—GENERAL PROVISIONS APPLICABILITY TO SUBPART W—Continued

Reference	Applies to subpart W			Comment
	BLR	WSR	WSR alternative standard, and BLR equipment leak standard (40 CFR part 63, subpart H)	
§ 63.6(i)(1)	Yes	Yes	Yes.	
§ 63.6(i)(2)	Yes	Yes	Yes	Except replace ''source'' in § 63.6(2) (i) and (ii) of subpart A with ''affected source''.
§ 63.6(i)(3)	Yes	Yes	Yes.	
§ 63.6(i)(4)(i)	Yes	Yes	Yes.	
§ 63.6(i)(4)(ii)	Yes	Yes	Yes.	
§ 63.6(i)(5)–(14)	Yes	Yes	Yes.	
§ 63.6(i)(15)	N/A	N/A	N/A	Reserved.
§ 63.6(i)(16)	Yes	Yes	Yes.	
§ 63.6(j)	Yes	Yes	Yes.	
§ 63.7(a)(1)	Yes	Yes	No	Subpart H specifies required testing and compliance procedures.
§ 63.7(a)(2)(i)–(vi)	Yes	Yes	No	Subpart H specifies that test results must be submitted in the Notification of Compliance Status due 150 days after the compliance date.
§ 63.7(a)(2)(vii)–(viii)	N/A	N/A	N/A	Reserved.
§ 63.7(a)(2)(ix)	Yes	Yes	Yes.	
§ 63.7(a)(3)	Yes	Yes	Yes.	
§ 63.7(b)(1)	Yes	Yes	Yes.	
§ 63.7(b)(2)	Yes	Yes	Yes.	
§ 63.7(c)	No	No	No.	
§ 63.7(d)	Yes	Yes	Yes	Except replace ''source'' in § 63.7(d) of subpart A with ''affected source''.
§ 63.7(e)(1)	Yes	Yes	Yes	Subpart W also contains test methods specific to BLR and WSR sources.
§ 63.7(e)(2)	Yes	Yes	Yes.	
§ 63.7(e)(3)	Yes	Yes	No	Subpart H specifies test methods and procedures.
§ 63.7(f)	Yes	Yes	No	Subpart H specifies applicable methods and provides alternatives.
§ 63.7(g)(1)	Yes	Yes	No	Subpart H specifies performance test reporting.
§ 63.7(g)(2)	N/A	N/A	N/A	Reserved.
§ 63.7(g)(3)	Yes	Yes	Yes.	
§ 63.7(h)(1)–(2)	Yes	Yes	Yes.	
§ 63.7(h)(3)(i)	Yes	Yes	Yes.	
§ 63.7(h)(3)(ii)–(iii)	Yes	Yes	Yes.	
§ 63.7(h)(4)–(5)	Yes	Yes	Yes.	
§ 63.8(a)(1)	Yes	Yes	Yes.	
§ 63.8(a)(2)	Yes	Yes	Yes.	
§ 63.8(a)(3)	N/A	N/A	N/A	Reserved.
§ 63.8(a)(4)	Yes	Yes	Yes.	
§ 63.8(b)(1)	Yes	Yes	Yes.	
§ 63.8(b)(2)	Yes	Yes	No	Subpart H specifies locations to conduct monitoring.
§ 63.8(b)(3)	Yes	Yes	Yes.	
§ 63.8(c)(1)(i)	Yes	Yes	Yes.	
§ 63.8(c)(1)(ii)	Yes	Yes	Yes.	
§ 63.8(c)(1)(iii)	Yes	Yes	Yes.	
§ 63.8(c)(2)–(3)	Yes	Yes	Yes.	
§ 63.8(c)(4)–(8)	No	No	No	Subpart W specifies monitoring frequencies.
§ 63.8(d)	No	No	No.	
§ 63.8(e)	No	No	No.	
§ 63.8(f)(1)	Yes	Yes	Yes.	
§ 63.8(f)(2)	Yes	Yes	Yes.	
§ 63.8(f)(3)	Yes	Yes	Yes.	
§ 63.8(f)(4)	Yes	Yes	Yes.	
§ 63.8(f)(5)	Yes	Yes	Yes.	
§ 63.8(f)(6)	Yes	Yes	No.	
§ 63.8(g)	Yes	Yes	Yes.	
§ 63.9(a)	Yes	Yes	Yes.	
§ 63.9(b)(1)(i)–(ii)	Yes	Yes	Yes.	
§ 63.9(b)(1)(iii)	Yes	Yes	Yes.	
§ 63.9(b)(2)	Yes	Yes	Yes.	
§ 63.9(b)(3)	Yes	Yes	Yes.	
§ 63.9(b)(4)	Yes	Yes	Yes.	
§ 63.9(b)(5)	Yes	Yes	Yes.	
§ 63.9(c)	Yes	Yes	Yes.	
§ 63.9(d)	Yes	Yes	Yes.	

TABLE 1 TO SUBPART W.—GENERAL PROVISIONS APPLICABILITY TO SUBPART W—Continued

Reference	Applies to subpart W			Comment
	BLR	WSR	WSR alternative standard, and BLR equipment leak standard (40 CFR part 63, subpart H)	
§ 63.9(e)	No	No	No.	
§ 63.9(f)	No	No	No.	
§ 63.9(g)	No	No	No.	
§ 63.9(h)(1)–(3)	Yes	Yes	No	Separate Notification of Compliance Status requirements are specified for subpart H.
§ 63.9(h)(4)	N/A	N/A	N/A	Reserved.
§ 63.9(h)(5)–(6)	Yes	Yes	No	Subpart H specifies Notification of Compliance Status requirements.
§ 63.9(i)	Yes	Yes	Yes.	
§ 63.9(j)	Yes	Yes	Yes.	
§ 63.10(a)	Yes	Yes	Yes.	
§ 63.10(b)(1)	Yes	Yes	Yes.	
§ 63.10(b)(2)	No	No	No	Subparts H and W specify recordkeeping requirements.
§ 63.10(b)(3)	Yes	Yes	Yes.	
§ 63.10(c)(1)–(6)	No	No	No.	
§ 63.10(c)(7)–(8)	Yes	Yes	Yes.	
§ 63.10(c)(9)–(15)	No	No	No.	
§ 63.10(d)(1)	Yes	Yes	No	Subpart H specifies performance test reporting requirements.
§ 63.10(d)(2)	Yes	Yes	No	Subpart H specifies performance test reporting requirements.
§ 63.10(d)(3)	No	No	No.	
§ 63.10(d)(4)	Yes	Yes	Yes.	
§ 63.10(d)(5)	Yes	Yes	Yes.	
§ 63.10(e)(1)–(2)	No	No	No.	
§ 63.10(e)(3)	Yes	Yes	No.	
§ 63.10(e)(4)	No	No	No.	
§ 63.10(f)	Yes	Yes	Yes.	
§ 63.11–63.15	Yes	Yes	Yes.	

[FR Doc. 95–5590 Filed 3–7–95; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 52

[WA–18–1–5933a; FRL–5151–9]

Approval and Promulgation of Small Business Assistance Program: State of Washington

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) approves the State of Washington Implementation Plan (SIP) revision submitted by the State of Washington for the purpose of establishing a Small Business Stationary Source Technical and Environmental Compliance Assistance Program. The implementation plan was submitted by the State to satisfy the Federal mandate of the Clean Air Act (CAA or Act), to ensure that small businesses have access to the technical assistance and regulatory information necessary to comply with the CAA. The rationale for the approval is set forth in this document; additional information is available at the address indicated in the **ADDRESSES** section.

DATES: This final rule is effective on May 8, 1995, unless notice is received by April 7, 1995 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to: Montel Livingston, SIP Manager, Air and Radiation Branch (AT–082), EPA, 1200 Sixth Avenue, Seattle, WA 98101.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, 401 M Street, SW., Washington, DC 20460.

Copies of materials submitted to EPA may be examined during normal business hours at the following locations: EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101, and Washington State Department of Ecology, P.O.Box 47600, PV–11, Olympia, WA 98504–7600.

FOR FURTHER INFORMATION CONTACT: David J. Dellarco, Air and Radiation Branch (AT–082), EPA, 1200 Sixth Avenue, Seattle, WA 98101, (206) 553–4978.

SUPPLEMENTARY INFORMATION:

I. Background

Implementation of the provisions of the CAA, as amended in 1990, will require regulation of many small businesses so that areas may attain and maintain the National ambient air quality standards (NAAQS) and reduce the emission of air toxics. Small businesses frequently lack the technical expertise and financial resources necessary to evaluate such regulations and to determine the appropriate mechanisms for compliance. In anticipation of the impact of these requirements on small businesses, the CAA requires that States adopt a Small Business Stationary Source Technical and Environmental Compliance Assistance Program (PROGRAM), and submit this PROGRAM as a revision to the federally-approved SIP. In addition, the CAA directs the EPA to oversee

these small business assistance programs and report to Congress on their implementation. The requirements for establishing a PROGRAM are set out in section 507 of title V of the CAA. In January 1992, EPA issued *Guidelines for the Implementation of Section 507 of the 1990 Clean Air Act Amendments*, in order to delineate the Federal and State roles in meeting the new statutory provisions and as a tool to provide further guidance to the States on submitting acceptable SIP revisions.

The State of Washington has submitted a SIP revision to EPA in order to satisfy the requirements of section 507. In order to gain full approval, the State submittal must provide for each of the following PROGRAM elements: (1) The establishment of a Small Business Assistance Program (SBAP) to provide technical and compliance assistance to small businesses; (2) the establishment of a State Small Business Ombudsman to represent the interests of small businesses in the regulatory process; and (3) the creation of a Compliance Advisory Panel to determine and report on the overall effectiveness of the SBAP.

II. Analysis

1. Small Business Assistance Program

Section 507(a) sets forth six requirements [1] that the State must meet to have an approvable SBAP. The first requirement is to establish adequate mechanisms for developing, collecting and coordinating information concerning compliance methods and technologies for small business stationary sources, and programs to encourage lawful cooperation among such sources and other persons to further compliance with the Act. The State of Washington has met this requirement through participation in a Pacific Northwest regional effort designed to ensure collection and development of compliance methods and technologies for small businesses. In addition, Washington's SBAP is comprised of both proactive and reactive components. The proactive component includes agressive outreach to the business community with information which details their rights and obligations under the Act. The reactive component establishes an information network to respond to questions from small businesses concerning regulatory requirements, appropriate control technologies, and other specific inquiries such as pollution prevention opportunities.

The second requirement is to establish adequate mechanisms for assisting small business stationary sources with pollution prevention and accidental release detection and prevention, including providing information concerning alternative technologies, process changes, products and methods of operation that help reduce air pollution. The State has met this requirement by planning to provide direct support for these areas to small businesses. The SBAP can also draw upon the expertise of the Department of Ecology's pollution prevention program–the Washington Department of Ecology's Waste Reduction, Recycling, and Litter Control program (WRRLC). In conjunction with the WRRLC program, the SBAP has the ability to utilize consultation, information distribution, and general engineering assistance to support the pollution prevention needs of small businesses. The SBAP can also draw upon State expertise with Superfund Amendments and Reauthorization Act (SARA) Title III to address small business needs in the area of accidental release detection and prevention.

The third requirement is to develop a compliance and technical assistance program for small business stationary sources which assists small businesses in determining applicable requirements and in receiving permits under the Act in a timely and efficient manner. The State has met this requirement by planning to have trained SBAP and/or local air pollution control agency staff available to help interpret Federal, State, and local air quality requirements, as well as provide permit assistance.

The fourth requirement is to develop adequate mechanisms to assure that small business stationary sources receive notice of their rights under the Act in such manner and form as to assure reasonably adequate time for such sources to evaluate compliance methods and any relevant or applicable proposed or final regulation or standards issued under the Act. The State has met this requirement by planning to assure that small businesses receive information regarding their rights through various outreach mechanisms such as mass mailings and workshops. In addition, the SBAP commits to coordinating with regulatory development organizations, including local air pollution control agencies, so that small businesses have sufficient lead time to evaluate compliance methods and applicable requirements.

The fifth requirement is to develop adequate mechanisms for informing small business stationary sources of their obligations under the Act, including mechanisms for referring such sources to qualified auditors or, at the option of the State, for providing audits of the operations of such sources to determine compliance with the Act. The State has met this requirement by planning to utilize activities such as on-site consultation/site assessments provided by the SBAP or local air control authority, or provide lists of qualified auditors on request.

The sixth requirement is to develop procedures for consideration of requests from small business stationary sources for modification of: (A) Any work practice or technological method of compliance; or (B) the schedule of milestones for implementing such work practice or method of compliance preceding any applicable compliance date, based on the technological and financial capability of any such small business stationary source. The State has met this requirement through State law (RCW 70.94.181) which establishes these provisions.

2. Ombudsman

Section 507(a)(3) requires the designation of a State office to serve as the Ombudsman for small business stationary sources. The State has met this requirement by creating a Small Business Ombudsman position within the Washington Department of Ecology.

3. Compliance Advisory Panel

Section 507(e) requires the State to establish a Compliance Advisory Panel (CAP) that must include two members selected by the Governor who are not owners or representatives of owners of small businesses; four members selected by the State legislature who are owners, or represent owners, of small businesses; and one member selected by the head of the agency in charge of the Air Pollution Permit Program. The State has met this requirement by establishing a Compliance Advisory Panel comprised of these representatives.

In addition to establishing the minimum membership of the CAP the CAA delineates four responsibilities of the Panel: (1) To render advisory opinions concerning the effectiveness of the SBAP, difficulties encountered and the degree and severity of enforcement actions; (2) to periodically report to EPA concerning the SBAP's adherence to the principles of the Paperwork Reduction Act, the Equal Access to Justice Act, and the Regulatory Flexibility Act [2]; (3) to

[1] A seventh requirement of section 507(a), establishment of an Ombudsman office, is discussed in the next section.

[2] Section 507(e)(1)(B) requires the CAP to report on the compliance of the SBAP with these three Federal statutes. However, since State agencies are not required to comply with them, EPA believes that the State PROGRAM must merely require the

review and assure that information for small business stationary sources is easily understandable; and (4) to develop and disseminate the reports and advisory opinions made through the SBAP. The State has met these requirements by directing its Compliance Advisory Panel to address these areas of responsibility as their primary function.

4. Eligibility

Section 507(c)(1) of the CAA defines the term ''small business stationary source'' as a stationary source that:

(A) Is owned or operated by a person who employs 100 or fewer individuals;

(B) Is a small business concern as defined in the Small Business Act;

(C) Is not a major stationary source;

(D) Does not emit 50 tons per year (tpy) or more of any regulated pollutant; and

(E) Emits less than 75 tpy of all regulated pollutants.

The State of Washington has established a mechanism for ascertaining the eligibility of a source to receive assistance under the PROGRAM, including an evaluation of a source's eligibility using the criteria in section 507(c)(1) of the CAA.

The State of Washington has provided for public notice and comment on grants of eligibility to sources that do not meet the provisions of sections 507(c)(1) (C), (D), and (E) of the CAA but do not emit more than 100 tpy of all regulated pollutants.

The State of Washington has provided for exclusion from the small business stationary source definition, after consultation with the EPA and the Small Business Administration Administrator and after providing notice and opportunity for public comment, of any category or subcategory of sources that the State determines to have sufficient technical and financial capabilities to meet the requirements of the CAA.

5. Technical Assistance Visits

Washington submitted RCW 70.94.035, the statute authorizing Washington's PROGRAM as part of its SBAP submittal. Washington has another statute, RCW 43.21A.087, which also authorizes technical assistance visits which was not submitted as part of Washington's SBAP submittal. Importantly, each of these statutes places certain limits on the State's authority to bring enforcement actions for violations observed during technical assistance visits. RCW 70.94.035, which was enacted in 1991 and specifically applies to the air program, prohibits enforcement action ''unless and until the facility owner or operator has been provided a reasonable time to correct the violation.'' According to an opinion of the Washington Attorney General, this provision does not prevent a permitting authority from commencing an enforcement action for a violation observed during a technical assistance visit, but merely requires the permitting authority to give the source a reasonable opportunity to comply before deciding whether enforcement action is appropriate. The Attorney General similarly interprets RCW 43.21A.087, enacted in 1992, which allows the permitting authority to reinspect the facility and take enforcement action ''[i]f the owner or operator of the facility does not correct the violation.'' [3] The Attorney General also states that because RCW 70.94.035 applies specifically to the air program and specifically requires that the technical assistance program be consistent with the Federal Clean Air Act, this provision would prevail in the event of any conflict with RCW 43.21A.087, which applies to technical assistance visits under all of Ecology's environmental programs. EPA agrees that RCW 70.94.035 would allow enforcement action in such a case provided the enforcement action was commenced after the source had an opportunity to comply. EPA also believes that RCW 70.94.035, and not RCW 43.21A.087, applies in the case of technical assistance visits under the air program. EPA therefore believes that Washington's technical assistance statutes, as interpreted by the Attorney General, do not bar approval of Washington's SBAP PROGRAM.

III. This Action

In this action, EPA approves the SIP revision submitted by the State of Washington. Based on the Attorney General's opinion discussed above that RCW 70.94.035 is the statute that applies in the case of technical assistance visits under the Washington's SBAP PROGRAM, EPA is approving RCW 70.94.035 as part of Washington's SBAP SIP revision. The State of Washington has submitted a SIP revision implementing each of the PROGRAM elements required by section 507 of the CAA. At this time, the Small Business Assistance Program, the Ombudsman, and the Compliance Advisory Panel are all in place and functioning. EPA is therefore approving this submittal.

IV. Administrative Review

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

By this action, the EPA is approving a State program created for the purpose of assisting small businesses in complying with existing statutory and regulatory requirements. The program being approved in this action does not impose any new regulatory burden on small businesses; it is a program under which small businesses may elect to take advantage of assistance provided by the state. Therefore, because the EPA's approval of this program does not impose any new regulatory requirements on small businesses, I certify that it does not have a significant economic impact on any small business entities affected.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective May 8, 1995 unless, by April 7, 1995, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective May 8, 1995.

The EPA has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the 1990 Clean Air Act Amendments enacted on November 15, 1990. The EPA has determined that this action conforms with those requirements.

CAP to report on whether the SBAP is adhering to the general principles of these Federal statutes.

[3] Both statutes allow Ecology to commence immediate enforcement action for any violation that places anyone in imminent danger of death or substantial bodily harm or causes substantial property damage.

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

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from Executive Order 12866 review.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 8, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2), 42 U.S.C. 7607(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Small business assistance program.

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

Dated: February 1, 1995.

Chuck Clarke,

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 WW—Washington

2. Section 52.2470 is amended by adding paragraph (c)(45) to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

(45) On November 16, 1992 the Director of the Washington State Department of Ecology submitted ''State Implementation Plan for the Washington State Business Assistance Program,'' adopted November 13, 1992, as a revision to the Washington SIP.

(i) Incorporation by reference.

(A) November 13, 1992 letter from the Director of the Washington State Department of Ecology submitting ''State Implementation Plan for the Washington State Business Assistance Program'' to EPA.

(B) *State Implementation Plan for the Washington State Business Assistance Program*, including Appendix B, Revised Code of Washington (RCW) 70.94.035; Appendix D, Washington Administrative Code 173–400–180; Appendix E, RCW 70.94.181; and Appendix F, Business Assistance Program Guidelines (and exluding Appendices A, C, and G), dated November 1992, and adopted November 13, 1992.

* * * * *

[FR Doc. 95–5447 Filed 3–7–95; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 52

[GA–15–1–6285a; GA–21–4–6514a: FRL–5153–3]

Approval and Promulgation of Implementation Plans Georgia: Approval of Part D New Source Review (NSR) Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On December 15, 1986, and November 13, 1992, the Georgia Department of Natural Resources, Environmental Protection Division (EPD) submitted to EPA amendments to Georgia Air Quality Control Rules for Definitions and Permits. Georgia's definitions rule was amended to incorporate and adopt by reference definitions in Federal rules for application in designated nonattainment areas. Georgia's permit rule was amended to add new paragraphs to meet the requirements of the Clean Air Act (Act) as amended in 1977 and 1990. The New Source Review (NSR) revisions of the Georgia submittal fully meet the NSR requirements of the amended Act. Therefore, EPA is approving the submitted revisions.

DATES: This final rule is effective on May 8, 1995 unless adverse or critical comments are received by April 7, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to: Dick Schutt, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street NE, Atlanta, Georgia 30365.

Copies of the documents relevant to this final action are available for public inspection during normal business hours at the following locations:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Region 4 Air Programs Branch, Environmental Protection Agency, 345 Courtland Street NE, Atlanta, Georgia 30365.

Air Protection Branch, Georgia Environmental Protection Division, Georgia Department of Natural Resources, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354.

FOR FURTHER INFORMATION CONTACT: Please contact Dick Schutt of the EPA Region 4 Air Programs Branch at 404–347–3555, extension 4206, and at the above address.

SUPPLEMENTARY INFORMATION: On December 15, 1986, the Georgia Department of Natural Resources (DNR) submitted changes to Chapter 391–3–1 of their rules, Rules for Air Quality Control. Among the revisions were amendments to Georgia Air Quality Control Rules 391–3–1–.01, Definitions, and 391–3–1–.03, Permits. EPA proposed to approve these revisions in the June 3, 1988 **Federal Register** document (53 FR 20347).

In response to the 1990 Clean Air Act Amendments (CAAA), the DNR submitted on November 13, 1992, additional changes to the Air Quality rules. This submittal, along with the 1986 submittal, satisfies the new source review requirements for nonattainment areas in Georgia. Georgia Rule 391–3–1–.01, Definitions, was amended to incorporate and adopt by reference the definitions contained in 40 CFR 51.165(a)(1) (i)–(xix) for application in designated nonattainment areas. The definitions contained in the Federal rules include definitions for the following: stationary source, major stationary source, potential to emit, major modification, net emissions increase, emissions unit, secondary emissions, fugitive emissions, significant, allowable emissions, actual emissions, lowest achievable emission rate, federally enforceable, begin actual construction, commence, necessary

preconstruction approvals or permits, construction, and volatile organic compounds.

Georgia Rule 391–3–1–.03(8) provides for permitting of new and modified major sources. Paragraph 1 of Georgia Rule 391–3–1–.03(8)(c) was revised to conform to the statutory language in section 173(a)(1)(A) of the Act, concerning emission offsets. Paragraphs 2 and 3 were not changed and require a proposed source to comply with the lowest achievable emission rate and to demonstrate statewide compliance under the Act by the owner or operator of the proposed source. Paragraph 4 was revised to conform to the statutory language in section 173(a)(5) by requiring an analysis of alternatives to any proposed source. Paragraph 5 was not changed and requires a finding that the State Implementation Plan (SIP) is being carried out in accordance with the requirements of part D of Title I of the Act.

Georgia Rule 391–3–1–.03(8)(c), Permits, was amended in 1986 to add six new paragraphs (paragraphs 6 to 11) to meet the requirements of 40 CFR 51.165(a)(3)(i), (3)(ii)(C)–(D), (3)(ii)(F)–(G), and (4)(i)–(xxvii). The new paragraph of 391–3–1–.03(8)(c) specified as paragraph six (6) meets the requirements of 40 CFR 51.165(a)(3)(i). Paragraph six (6) is more stringent than the latter in stating that ''the offset baseline for determining credits for emission reductions at a source is the applicable emission limit in this Chapter or the actual emissions at the time the application to construct is filed, whichever is less.'' Regulation 40 CFR 51.165(a)(3)(i) simply states that ''the baseline for determining credit for emission reductions is the emissions limit under the applicable State Implementation Plan in effect at the time the application to construct is filed, except that the offset baseline shall be the actual emissions of the source from which the offset credit is obtained * * *. In addition, paragraph six (6) incorporates the stipulation that ''creditable reductions must occur within two years prior to the filing of the permit application and the time the newly permitted source emissions commence.''

Georgia Rule 391–3–1–.03(8)(c), paragraph seven (7) specifies that in order to be used for offset credits, a ''shutdown or curtailment of production'' occurring prior to the date of the new source application must occur ''less than one year prior to the date of permit application,'' and the new source must be a replacement for the shutdown in whole or in part. Paragraph seven (7) meets the requirements of 40 CFR 51.165(a)(3)(ii)(C).

Paragraph eight (8) of Georgia Rule 391–3–1–.03(8)(c) states, ''No emission offset credit may be allowed for replacing one VOC compound with another of less reactivity.'' This paragraph is more stringent than the corresponding Federal regulation, 40 CFR 51.165(a)(3)(ii)(D), which allows for certain exceptions.

Paragraph nine (9) of Georgia Rule 391–3–1–.03(8)(c) is identical to 40 CFR 51.165(a)(3)(ii)(F), except in an apparent typographical error, paragraph nine refers to 40 CFR Part 52, Appendix S, rather than 40 CFR Part 51, Appendix S. Because there is no Appendix S to Part 52, EPA believes that a typographical error occurred and interprets the paragraph to refer to 40 CFR Part 51, Appendix S. Paragraph ten (10), although worded differently, is identical in meaning to 40 CFR 51.165(a)(3)(ii)(G). Paragraph eleven (11) is identical in meaning to 40 CFR 51.165(a)(4)(i)–(xxvii), but stated in a different manner.

Georgia Rule 391–3–1–.03(8)(c) was amended in 1992 to add two new paragraphs to meet the NSR requirements of the amended Act. Paragraph 12 was added to meet the offset requirements and paragraph 13 was added to identify additional provisions for the ozone nonattainment areas. Paragraph 12 is nearly identical to the statutory language in section 173(c) of the Act. Paragraph 13 is nearly identical to the statutory language in section 182(c), especially section 182(c)(6–8, 10), of the Act.

The 1992 submittal also deleted Georgia Rule 391–3–1.03(8)(f). The requirement in this paragraph regarding de minimis levels was incorporated in the paragraph (8)(c).

The 1986 submittal adopted the definition of ''stationary source'' which was promulgated on June 25, 1982 (47 FR 27554), by EPA. This definition excludes all vessel emissions in determining if the source is major. On January 17, 1984, the Court of Appeals for the District of Columbia Circuit overturned and remanded to EPA for further consideration the vessel emission exemption portion of EPA's new source review regulations. EPA has not yet completed its reconsideration of how vessel emissions are to be treated. However, Georgia has submitted a written statement specifying that waterways (of the appropriate depth and width) to afford passage of ships and barges are not located within the Atlanta nonattainment area, the only such area in Georgia. Therefore, EPA is approving the amendments to Georgia Rules 391–3–1–.01 and 391–3–1–.03.

The proposal (June 3, 1988 (53 FR 20347)) referenced that Georgia lacked provisions for source responsibility (40 CFR 51.165(a)(5)(ii)). The Georgia Environmental Protection Division notified EPA on February 28, 1989, that they intend to apply Georgia Rule 391–3–1-.03(8)(c) to any source which becomes a major source or undergoes modification due to a change in operation and not covered in an enforceable permit. EPA believes that this satisfies the requirement of 40 CFR 51.165(a)(5)(ii).

On October 14, 1981, the EPA revised the NSR regulations in 40 CFR Part 51 to give states the option of adopting the ''plantwide'' definition of stationary source which provides that only physical or operational changes that result in a net increase in emissions at the entire plant require a NSR permit. For example, if a plant increased emissions from one piece of process equipment but reduced emissions by the same amount at another piece of process equipment, then there would be no net increase in emissions at the plant and therefore, no ''modification'' to the ''source.'' The plantwide definition is in contrast to the so-called ''dual'' definition [or definitional structure like that in the 1979 offset ruling (44 FR 3274), which has much the same effect as the dual definition]. Under the dual definition, the emissions from each physical or operational change are gauged without regard to reductions elsewhere at the plant.

In the October 1981 **Federal Register** document, EPA set forth its rationale for allowing use of the plantwide definition (46 FR 50766–50769). In EPA's view, allowing use of the plantwide definition was a reasonable accommodation of the conflicting goals of part D of the Act. The Act provided for reasonable further progress (RFP) and timely attainment of National Ambient Air Quality Standards (NAAQS), while also allowing for maximum state flexibility and economic growth. EPA recognized that the plantwide definition would bring fewer plant modifications into the nonattainment permitting process, but emphasized that this generally would not interfere with RFP and timely attainment primarily because the states, under the demands of part D, eventually would have adequate SIPs in place. For instance, EPA stated:

> Since demonstration of attainment and maintenance of the NAAQS continues to be required, deletion of the dual definition increases State flexibility without interfering with timely attainment of the ambient standards and so is consistent with Part D [46 FR 50767 col. 2].

EPA also indicated that under the plantwide definition, new equipment would still be subjected to any applicable new source performance standard and that wholly new plants, as well as any modifications that resulted in a significant net emissions increase, would still be subject to NSR. Thus, EPA saw no significant disadvantage in the plantwide definition from the environmental standpoint, but the advantages from the standpoints of state flexibility and economic growth. It regarded the plantwide definition as presenting, at the very worst, environmental risks that were manageable because of the independent impetus to create adequate part D plans.

As a result, EPA ruled that a state wishing to adopt a plantwide definition generally has complete discretion to do so, and it set only one restriction on that discretion. If a state had specifically projected emission reductions from its NSR program as a result of a dual or similar definition and had relied on those reductions in an attainment strategy that EPA later approved, then the state needed to revise its attainment strategy as necessary to accommodate reduced NSR permitting under the plantwide definition (46 FR 50767 Col. 2 and 50769 Col. 1).

In 1984, the Supreme Court upheld EPA's action as a reasonable accommodation of the conflicting purposes of part D of the Act, and hence, well within EPA's broad discretion. *Chevron, U.S.A., Inc.* v. *Natural Resources Defense Council, Inc.*, 104 S. Ct. 2778 (1984). Specifically, the Court agreed that the plantwide definition is fully consistent with the Act's goal of maximizing state flexibility and allowing reasonable economic growth. Likewise, the Court recognized that EPA had advanced a reasonable explanation for its conclusion that the plantwide definition serves the Act's environmental objectives as well (*see* 104 S. Ct. at 2792). EPA today generally reaffirms the rationales stated in the 1981 rulemaking. Those rationales were left undisturbed by the Supreme Court decision.

The SIP revision EPA is approving in this action substitutes a plantwide definition for a dual definition in Georgia's existing NSR program. The one nonattainment area to which this program applies (the 13-county metropolitan Atlanta area for ozone) has a part D plan previously approved by EPA, but nevertheless is still experiencing violations of the ozone NAAQS. In response to a 1984 SIP call, Georgia submitted a SIP addressing the nonattainment situation on May 22, 1985. Due to major deficiencies in the submittal EPA proposed disapproval (52 FR 26435, July 14, 1987). An updated and revised SIP was later submitted October 1, 1987. The SIP addressed many problems noted in the earlier submittal, however, a few minor problems still existed after a detailed review by EPA. In a letter to the Georgia Environmental Protection Division dated November 9, 1989, EPA identified a few remaining minor Volatile Organic Compound (VOC) Reasonably Available Control Technology (RACT) issues that had to be resolved before EPA could approve the revision. Georgia resolved these issues and they have been approved by EPA in a **Federal Register** document dated October 13, 1992 (57 FR 46780). In fact Georgia has submitted several revisions required by the amended Act prior to the attainment of the NAAQS by 1999, the statutory attainment date for serious ozone nonattainment areas. Georgia has submitted revisions for VOC and NO_X Reasonable Available Control Technology, Stage II vapor recovery, clean fuel fleet regulations and 15% VOC reduction. These revisions will be acted on in subsequent actions. The State has shown that in obtaining EPA approval of its original part D SIP it did not rely on any emission reductions from the operation of its existing NSR program. Therefore, EPA approves the switch to a plantwide definition, in accordance with its 1981 action.

Georgia's plantwide definition of source is consistent with the NSR requirements for ozone nonattainment areas in the Clean Air Act Amendments of 1990. The Atlanta area is classified as a ''serious'' ozone nonattainment area. Therefore, the attainment date for Atlanta is now 1999 (see section 181(a)), and Georgia must meet an independent requirement to reduce VOC emissions by fifteen percent in the first six years after 1990 and three percent per year thereafter (see section 182 (b) and (c)(2)(B)). While Georgia must account for the impact of its plantwide definition of source in the attainment and reasonable further progress demonstrations it submits under the 1990 Amendments, it is clear that Congress anticipated States could use the plantwide definition of source when devising such plans.

The 1990 Amendments include provisions regulating the application of the plantwide definition of source, including a special rule for serious and severe ozone nonattainment areas for determining ''de minimis'' net increases in VOC emissions from source modifications (section 182(c)(6)). It is clear that Congress anticipates states will often continue to employ EPA's plantwide definition of source in ozone nonattainment areas (except in extreme areas, see section 182(e)(2)), provided the states can also meet the new reasonable further progress requirements in the Act. In addition, it is important to note that the 1990 Amendments' adoption of new future attainment deadlines for ozone has mooted concerns regarding the approvability of a plantwide source definition where a state has additional time to submit a revised SIP to provide for attainment by the revised deadline. As described above, Georgia has already begun to meet its obligations under the 1990 Amendments.

All of the amendments to Georgia Rules 391–3–1–.01 and 391–3–1–.03 are identical to or more stringent than corresponding federal regulations. Therefore, they will adequately protect the NAAQS and meet all requirements of the Act.

Public Comments

EPA received comments on the proposed approval of these SIP revisions from two sources. Both commenters questioned approval of the ''plantwide'' new source definition for nonattainment areas without an approved plan.

Response to Comments

As discussed earlier in this document, Georgia's submission, including the plantwide source definition, meets all applicable Federal regulations and policies. Further, the 1990 Amendments accommodate a plantwide definition of source and provide revised attainment deadlines. Finally, the State's previous attainment demonstration did not rely on NSR reductions from the dual source definition, and Georgia is making reasonable efforts to develop a complete and approvable ozone SIP in accordance with the 1990 Amendments. Therefore, EPA is approving this SIP revision.

Final Action

EPA is approving the aforementioned amendments to the Georgia rules submitted on December 15, 1986, and November 13, 1992.

EPA is publishing this action without prior proposal because the Agency views these as noncontroversial amendments and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revisions should adverse or critical comments be filed. This action will be effective on May 8, 1995 unless, by April 7, 1995 adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on May 8, 1995.

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 8, 1995. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

The OMB has exempted these actions from review under Executive Order 12866.

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

SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the Act, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action.

The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. Environmental Protection Agency et al,* 96 S.Ct. 2518 (1976); 42 U.S.C. 7410(a)(2) and 7410(k).

List of Subjects in 40 CFR Part 52

Air pollution control, Environmental protection, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: February 6, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

Part 52 of chapter I, title 40, 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 L—Georgia

2. Section 52.570 is amended by adding paragraph (c)(39) to read as follows:

§ 52.570 Identification of plan.

* * * * *

(c) * * *

(39) On December 15, 1986, and November 13, 1992, the Georgia Department of Natural Resources, Environmental Protection Division submitted regulations for Part D New Source Review.

(i) Incorporation by reference. Revisions to the following Rules of Georgia Department of Natural Resources, Environmental Protection Division, effective November 22, 1992:

(A) 391–3–1–.01 introductory paragraph

(B) 391–3–1–.03(8)(c)

(ii) Other material. Letter dated February 28, 1989, from the Georgia Department of Natural Resources, page 3 regarding change in operation of a source.

* * * * *

[FR Doc. 95–5441 Filed 3–7–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[AR–3–1–5727a; FRL–5155–8]

Clean Air Act Approval and Promulgation of Title V, Section 507, Small Business Stationary Source Technical and Environmental Compliance Assistance Program for Arkansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving the State Implementation Plan (SIP) revision submitted by the State of Arkansas for the purpose of establishing a Small Business Stationary Source Technical and Environmental Compliance Assistance Program. The SIP revision was submitted by the State to satisfy the Federal mandate, found in the Clean Air Act (CAA), to ensure that small businesses have access to the technical assistance and regulatory information necessary to comply with the CAA. The rationale for the approval is set forth in this document; additional information is available at the address indicated in the **ADDRESSES** section.

DATES: This final rule will become effective on May 8, 1995, unless adverse or critical comments are received by April 7, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas Diggs, Chief (6T–AP), Planning Section, at the EPA Regional Office listed below. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

U.S. Environmental Protection Agency, Region 6, Air Programs Branch (6T–AP), 1445 Ross Avenue, suite 700, Dallas, Texas 75202–2733.

Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Arkansas Department of Pollution Control and Ecology, Division of Air Pollution Control, 8001 National Drive, Little Rock, Arkansas 72209.

FOR FURTHER INFORMATION CONTACT: Dr. John Crocker, Planning Section (6T–AP), Air Programs Branch, U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7596.

SUPPLEMENTARY INFORMATION:

I. Background

Implementation of the provisions of the CAA, as amended in 1990, will require regulation of many small businesses so that areas may attain and maintain the National Ambient Air Quality Standards (NAAQS) and reduce the emissions of air toxics. Small businesses frequently lack the technical expertise and financial resources

necessary to evaluate such regulations and to determine the appropriate mechanisms for compliance. In anticipation of the impact of these requirements on small businesses, the CAA requires that States adopt a Small Business Stationary Source Technical and Environmental Compliance Assistance Program (PROGRAM), and submit this PROGRAM as a revision to the federally approved SIP. In addition, the CAA directs the EPA to oversee these small business assistance programs and report to Congress on their implementation. The requirements for establishing a Program are set out in section 507 of title V of the CAA. In February 1992, the EPA issued ''Guidelines for the Implementation of Section 507 of the 1990 Clean Air Act Amendments'', in order to delineate the Federal and State roles in meeting the new statutory provisions and as a tool to provide further guidance to the States on submitting acceptable SIP revisions.

The State of Arkansas submitted a SIP revision to the EPA in order to satisfy the requirements of section 507. In order to gain full approval, the State submittal must provide for each of the following three PROGRAM elements: (1) The establishment of a Small Business Assistance Program (SBAP) to provide technical and compliance assistance to small businesses; (2) the establishment of a State Small Business Ombudsman to represent the interests of small businesses in the regulatory process; and (3) the creation of a Compliance Advisory Panel (CAP) to determine and report on the overall effectiveness of the SBAP. All areas in the State are classified attainment for each of the NAAQS pollutants.

The Region used section 507 of the CAA and considered the ''SIP Revision Approval Checklist for Section 507 Small Business Assistance Program'' when reviewing the State submittal for approvability. The SIP revision, discussed in detail in the Technical Support Document, is briefly outlined below.

II. Analysis

A. Procedural Background

The State of Arkansas has met all of the requirements of section 507 by submitting a SIP revision that implements all required PROGRAM elements. Arkansas Act 251 (Senate Bill 347) enacted by the 79th General Assembly Regular Session in 1993 and approved by the Governor on February 26, 1993, provides authority for the State to establish a CAP for the PROGRAM as required by Section 507 of the CAA. The PROGRAM is to be administered by the Arkansas Department of Pollution Control and Ecology (ADPC&E), and is intended to help eligible small businesses understand and comply with the CAA. Included in the Act are provisions creating a CAP, establishing membership and terms of the CAP, and establishing CAP duties.

The State held a public hearing on October 19, 1992, to consider public comments on the proposed PROGRAM, which will amend the Arkansas SIP to add a revision entitled, ''Arkansas Small Business Stationary Source Technical and Environmental Compliance Assistance Program SIP Revision''. No public comments were received on the PROGRAM. The proposed SIP revision was adopted November 5, 1992, by the Arkansas Commission on Pollution Control and Ecology. The Arkansas PROGRAM was submitted to the EPA by the Governor of Arkansas on November 6, 1992, as a revision to the Arkansas SIP. Additional information (draft Arkansas CAP legislation) was submitted on January 6, 1993. The submittal was initially reviewed for completeness and was determined complete on January 15, 1993. Supplemental information (Arkansas Act 251) was submitted on April 23, 1993. The submittal was then reviewed for approvability by EPA Region 6 and EPA headquarters.

B. Plan Requirements

1. Small Business Assistance Program

The first PROGRAM element is the establishment of a SBAP to provide technical and compliance assistance to small businesses.

The State has met the first PROGRAM element by committing in its SIP revision, sections (c) ''Small Business Assistance Program (SBAP)'', and (g) ''Schedule of Program Implementation'', to establish an SBAP in the Air Division of the ADPC&E, which meets the six requirements set forth in section 507(a). (Details are presented in the EPA's Technical Support Document and the State's submittal.) It will be administered by an SBAP coordinator in the Air Division.

a. Section 507(a) sets forth six requirements [1] that the State must meet to have an approvable SBAP. The first requirement is to establish adequate mechanisms for developing, collecting, and coordinating information concerning compliance methods and technologies for small business stationary sources, and programs to encourage lawful cooperation among such sources and other persons to further compliance with the CAA.

The State has met this requirement. The SBAP coordinator will be charged with the duties of collecting, developing, and coordinating information on compliance methods and technologies for small business stationary sources. The SBAP will include a proactive component and a reactive component.

(i) Proactive Component. The SBAP coordinator will be responsible for operating the SBAP and will work in the Air Division of the ADPC&E. Small businesses that are, or will be, affected by CAA requirements will be placed in a computer database. The database will contain information such as the facility address, environmental contact, and Standard Industrial Classification code. Possible sources of data for this database are the existing ADPC&E data files and the Arkansas Industrial Development Commission database. This system will enable the SBAP to notify small businesses of the existence of the SBAP (through newsletters) and any new or upcoming applicable air pollution requirements of the CAA. Additionally, the SBAP coordinator will be available, upon reasonable request, to trade associations or industry groups representing small businesses for seminars and workshops.

(ii) Reactive Component. The SBAP coordinator will be responsible for handling questions from small businesses. The coordinator will act as an information clearinghouse, and will be responsible for making sure that small businesses receive the requested information either by phone or by mail. A small library of applicable literature will be maintained by the coordinator. If the coordinator cannot supply the requested information directly, he shall be responsible for seeking out the information from other available channels, such as the Air Division staff, EPA technical support services (including the Technology Transfer Network bulletin board), industry contacts, etc. The names and the direct telephone numbers of the SBAP coordinator and Ombudsman will be published in a newsletter to allow for quick access.

b. The second requirement is to establish adequate mechanisms for assisting small business stationary sources with pollution prevention and accidental release detection and prevention, including providing information concerning alternative technologies, process changes, products and methods of operation that help reduce air pollution.

[1] A seventh requirement of section 507(a), establishment of an Ombudsman office, is discussed in the next section.

The State has met this requirement. The SBAP will address pollution prevention and accidental release detection and prevention.

(i) Pollution Prevention. The SBAP coordinator will conduct an information clearinghouse on small business pollution prevention topics. Available literature from the EPA Pollution Prevention Office and other sources will be kept in the SBAP library. The availability of such information will be announced in newsletters.

(ii) Accidental Release. The SBAP coordinator will conduct an information clearinghouse for prevention, detection, and monitoring of accidental chemical releases. Basic information will cover four areas: (1) Requirements under the accidental release provisions of the CAA; (2) related requirements under Superfund Amendments and Reauthorization Act title III; (3) the Occupational Safety and Health Administration process safety standard as required by the CAA; and (4) general information on prevention practices and technologies. EPA publications on this subject matter shall be kept in the SBAP library. The availability of such information will be announced in newsletters.

c. The third requirement is to develop a compliance and technical assistance program for small business stationary sources which assists small businesses in determining applicable requirements and in receiving permits under the CAA in a timely and efficient manner.

The State has met this requirement. The SBAP coordinator shall be responsible for providing small businesses with information regarding applicability to CAA requirements and the ADPC&E permitting process (applications, fees, enforcement, etc.)

d. The fourth requirement is to develop adequate mechanisms to assure that small business stationary sources receive notice of their rights under the CAA in such manner and form as to assure reasonably adequate time for such sources to evaluate compliance methods and any relevant or applicable proposed or final regulation or standards issued under the CAA.

The State has met this requirement. The SBAP coordinator will be responsible for notifying small businesses of their rights under the CAA. The SBAP computer database discussed above in II.B.1.a. will be used to notify small businesses in a timely manner of any upcoming regulations that could potentially affect them. This should give small businesses plenty of time to evaluate compliance methods far in advance of compliance dates. In addition, the SBAP coordinator shall operate an information clearinghouse on small business ''legal rights'' under the CAA.

e. The fifth requirement is to develop adequate mechanisms for informing small business stationary sources of their obligations under the CAA, including mechanisms for referring such sources to qualified auditors or, at the option of the State, for providing audits of the operations of such sources to determine compliance with the CAA.

The State has met this requirement. The SBAP will address obligations and audits.

(i) Obligations. The SBAP coordinator will be responsible for notifying small businesses of their obligations under the CAA. The SBAP database and newsletters will be used to inform small businesses of their obligations.

(ii) Audits. The SBAP coordinator shall be responsible for keeping a list of qualified compliance auditors for small businesses to contact. This list shall contain qualified ADPC&E personnel and other qualified environmental consultants. Environmental consultants may be placed on the qualified auditors list by sending a written request and resume to the SBAP coordinator. Simple complimentary audits performed by ADPC&E personnel shall be done at the convenience of ADPC&E personnel commensurate with available resources, and there shall be no charge for the service. Any violations uncovered during an audit performed by ADPC&E personnel shall be dealt with immediately. Audits performed by qualified environmental consultants may entail a fee (to be paid by the audited business) at the discretion of the consultant.

f. The sixth requirement is to develop procedures for consideration of requests from a small business stationary source for modification of: (A) Any work practice or technological method of compliance; or (B) the schedule of milestones for implementing such work practice or method of compliance preceding any applicable compliance date, based on the technological and financial capability of any such small business stationary source.

The State has met this requirement. Procedures for the permitting of stationary source modifications are contained in Section 19.4 of the State Implementation Plan. No such request for permit modification shall be granted unless it meets all applicable State and Federal requirements. Application processing priority, to the extent practicable, will be given to applications requesting modifications necessary to achieve compliance with applicable regulations.

2. Ombudsman

The second PROGRAM element is the establishment of a State Small Business Ombudsman to represent the interests of small businesses in the regulatory process. Section 507(a)(3) requires the designation of a State office to serve as the Ombudsman for small business stationary sources.

The State has met this requirement by committing to establish (prior to November 1994) a dedicated Small Business Ombudsman Office within the ADPC&E, as stated in section (d) ''Ombudsman'' of its SIP revision. The Ombudsman Office will not be within the Air Division, but will be within the agency. Thus, the Ombudsman's Office is going to be separate from the air quality regulatory branch of the State agency, and therefore can be an independent advocate for small businesses. The Ombudsman position will be filled prior to November 15, 1994. The Ombudsman Office will have sufficient resources to discharge its duties effectively.

The Ombudsman will have access to the Governor's office, the Director of the ADPC&E, and to other State agencies. He will have the ability to informally request information from other State agencies, and to formally obtain information from other agencies through the Governor's office. The Ombudsman, through the Director, will have a channel for proposing legislation or administrative action necessary to assist eligible small businesses.

3. Compliance Advisory Panel (CAP)

The third PROGRAM element is the creation of a CAP to determine and report on the overall effectiveness of the SBAP. Section 507(e) requires the State to establish a CAP that must include two members selected by the Governor who are not owners or representatives of owners of small businesses; four members selected by the State legislature who are owners, or represent owners, of small businesses; and one member selected by the head of the agency in charge of the Air Pollution Permit Program.

In addition to establishing the minimum membership of the CAP, the CAA delineates four responsibilities of the Panel: (1) To render advisory opinions concerning the effectiveness of the SBAP, difficulties encountered, and the degree and severity of enforcement actions; (2) to periodically report to the EPA concerning the SBAP's adherence to the principles of the Paperwork Reduction Act, the Equal Access to Justice Act, and the Regulatory

Flexibility Act[2]; (3) to review and assure that information for small business stationary sources is easily understandable; and (4) to develop and disseminate the reports and advisory opinions made through the SBAP.

The State has met these requirements: (A) By enacting the State law creating the CAP and providing it with the enumerated responsibilities; and (B) by committing to appoint members to the Panel by November 1994. Sections 1.–2. of Arkansas Act 251 of 1993 creates the State Compliance Advisory Panel with responsibilities consistent with the requirements in title V of the Federal CAA and specifies the panel's make-up, qualifications, terms, and duties. Adequate support sources and sufficient resources to conduct business will be provided to the Panel by the ADPC&E through the SBAP administered by the Air Division, which shall serve as secretariat to the Panel. Section 2. of Act 251 (i.e., Arkansas Code 8–4–314(1)(A)(4)) authorizes the SBAP to serve as the secretariat to the Panel. Details of these commitments to appoint the members of the CAP as stated above, and to designate to the CAP the four responsibilities listed in the CAA, are discussed in section (e) ''Compliance Advisory Panel'' of its SIP revision.

4. Eligibility

Section 507(c)(1) of the CAA defines the term ''small business stationary source'' as a stationary source that:

(A) Is owned or operated by a person who employs 100 or fewer individuals;

(B) Is a small business concern as defined in the Small Business Act;

(C) Is not a major stationary source;

(D) Does not emit 50 tons per year (tpy) or more of any regulated pollutant; and

(E) Emits less than 75 tpy of all regulated pollutants.

The State of Arkansas has established a mechanism for ascertaining the eligibility of a source to receive assistance under the Program, including an evaluation of a source's eligibility using the criteria in section 507(c)(1) of the CAA. This mechanism is contained in the State's narrative SIP revision, section (b) entitled ''Eligibility and Program Scope''.

The State of Arkansas has provided for public notice and comment on grants of eligibility to sources that do not meet the provisions of sections 507(c)(1) (C), (D), and (E) of the CAA but do not emit more than 100 tpy of all regulated pollutants.

The State has also provided for exclusion from the small business stationary source definition, after consultation with the EPA and the Small Business Administration Administrator and after providing notice and opportunity for public hearing, of any category or subcategory of sources that the State determines to have sufficient technical and financial capabilities to meet the requirements of the CAA.

III. Final Action

In this action, the EPA is approving the SIP revision submitted by the State of Arkansas for establishing a Small Business Stationary Source Technical and Environmental Compliance Assistance Program.

The State of Arkansas has submitted a SIP revision for establishing each of the required PROGRAM elements required by section 507 of the CAA. The EPA has reviewed this revision to the Arkansas SIP and is approving it as submitted because the State's PROGRAM meets the requirements of section 507 of the CAA. The SIP includes a schedule of implementation which commits the State to have all three principal PROGRAM elements fully implemented by November 15, 1994. SIP schedule implementation milestones are being tracked and monitored by the Region as part of the State's normal Program review. Currently, the State has selected and staffed the SBAP coordinator and initiated the SBAP (i.e., in the Air Division of the ADPC&E), designated the State Office to serve as Small Business Ombudsman, hired the Ombudsman in November 1993, and created a CAP (and begun appointing its members).

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. Thus, today's direct final action will be effective May 8, 1995 unless, by April 7, 1995, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective May 8, 1995.

The EPA has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the 1990 Clean Air Act Amendments enacted on November 15, 1990. The EPA has determined that this action conforms with those requirements.

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

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

By this action, the EPA is approving a State program created for the purpose of assisting small businesses in complying with existing statutory and regulatory requirements. The program being approved in this action does not impose any new regulatory burden on small businesses; it is a program under which small businesses may elect to take advantage of assistance provided by the State. Therefore, because the EPA's approval of this program does not impose any new regulatory requirements on small businesses, I certify that it does not have a significant economic impact on any small entities affected.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United

[2] Section 507(e)(1)(B) of the CAA requires the CAP to report on the compliance of the SBAP with these three Federal statutes. However, since State agencies are not required to comply with them, the EPA believes that the State PROGRAM must merely require the CAP to report on whether the SBAP is adhering to the general principles of these Federal statutes.

States Court of Appeals for the appropriate circuit by May 8, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Small business assistance program.

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

Dated: January 24, 1995.

William B. Hathaway,

Acting 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 E—Arkansas

2. Section 52.170 is amended by adding paragraph (c)(31) to read as follows:

§ 52.170 Identification of plan.

* * * * *

(c) * * *

(31) The State is required to implement a Small Business Stationary Source Technical and Environmental Compliance Assistance Program (PROGRAM) as specified in the plan revision submitted by the Governor on November 6, 1992. This plan submittal, as adopted by the Arkansas Commission on Pollution Control and Ecology on November 5, 1992, was developed in accordance with section 507 of the Clean Air Act. On April 23, 1993, the Governor submitted Act 251 of 1993 which establishes the Compliance Advisory Panel (CAP) for the PROGRAM.

(i) Incorporation by reference.

(A) Act 251 of 1993 approved by the Governor on February 26, 1993. Included in this Act are provisions creating a CAP, establishing membership of the CAP, and addressing the responsibilities and duties of the CAP.

(B) Arkansas Department of Pollution Control and Ecology, Minute Order No. 92–81, adopted November 5, 1992.

(ii) Additional material.

(A) Revision entitled, ''Arkansas Small Business Stationary Source Technical and Environmental Compliance Assistance Program SIP Revision'', adopted November 5, 1992.

(B) Legal opinion letter dated November 5, 1992, from Steve Weaver, Chief Counsel, Arkansas Department of Pollution Control and Ecology, regarding legality of Commission teleconference meeting.

3. Section 52.183 is added to subpart E to read as follows:

§ 52.183 Small business assistance program.

The Governor of Arkansas submitted on November 6, 1992, a plan revision to develop and implement a Small Business Stationary Source Technical and Environmental Compliance Assistance Program (PROGRAM) to meet the requirements of section 507 of the Clean Air Act by November 15, 1994. The plan commits to provide technical and compliance assistance to small businesses, hire an Ombudsman to serve as an independent advocate for small businesses, and establish a Compliance Advisory Panel to advise the program and report to the EPA on the program's effectiveness. On April 23, 1993, the Governor submitted Act 251 of 1993 which establishes the Compliance Advisory Panel for the PROGRAM.

[FR Doc. 95–5442 Filed 3–7–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[IN39–3–6715; FRL–5158–1]

Approval and Incorporation of Employee Commute Option Program in the State Implementation Plan; Indiana

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On August 18, 1994, the United States Environmental Protection Agency (USEPA) approved the Employee Commute Options (ECO) regulation for Lake and Porter Counties, Indiana. On the same day (August 18, 1994), a proposed rule was also published which established a 30-day public comment period noting that, if adverse comments were received regarding the direct final rule, the USEPA would withdraw the direct final rule and publish an additional final rule to address the public comments. Adverse comments were received during the public comment period from the Indiana Chamber of Commerce, the Northwest Indiana Forum, three affected employers, three motorcycle associations, and three individuals. This final rule summarizes these comments and USEPA's responses and finalizes the approval of the ECO program for Lake and Porter Counties.

EFFECTIVE DATE: This action will be effective on April 7, 1995.

ADDRESSES: Copies of the SIP revision, public comments and USEPA's responses are available for inspection at the following address: (It is recommended that you telephone Jessica Radolf at (312) 886–3198 before visiting the Region 5 Office.) United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604.

A copy of this SIP revision is available for inspection at: Office of Air and Radiation (OAR), Docket and Information Center (Air Docket 6102), room 1500, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Jessica Radolf, Regulation Development Section (AR–18J), Regulation Development Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number (312) 886–3198.

SUPPLEMENTARY INFORMATION:

I. Background Information

The ECO regulations (326 Indiana Administrative Code Article 19) discussed in this rule were submitted on February 25, 1994, by the Indiana Department of Environmental Management (IDEM) for the severe ozone nonattainment area that includes Lake and Porter Counties. These rules were submitted to satisfy section 182(d)(1)(b) of the Clean Air Act (Act) which requires that employers in severe ozone nonattainment areas with 100 or more employees at a worksite participate in a trip reduction program. On August 18, 1994 (59 FR 42506) the USEPA approved the ECO regulation as a revision to the Indiana ozone SIP. (For further information refer to the August 18, 1994, final rule.) Because adverse comments were received regarding the direct final rule, USEPA removed the direct final rule on November 7, 1994 (59 FR 55368). This final rule addresses the comments which were received during the public comment period and announces USEPA's final action on the

ECO regulation for Lake and Porter Counties.

II. Public Comments and USEPA Responses

Comment

Several commenters believe that employees will be forced to change their commuting habits. Employees note that driving is a privilege and that the USEPA is trying to take it away with the ECO program. There is concern that employees will face substantial penalties if they do not meet the ECO regulations. Employers believe they will be required to force their employees to change their commuting habits. The employers note that ECO will create opportunities for legal challenges from angry employees against employers put in the position of infringing on employee's commuting choices and personal schedules.

USEPA Response

There is nothing in the Act that would force an employee to change commuting habits. The Act requires employers to provide incentives to employees so that employees may choose alternatives to driving alone. The Act gives employers flexibility to use any incentives they choose to promote compressed work weeks, mass transit, vanpools, carpools, telecommuting, bicycling, and walking. An employee may accept or reject an employer's incentives to stop driving alone to work.

Many employees will benefit from the ECO program. Coordinated ridesharing programs will facilitate carpooling and vanpooling that can reduce employee stress and save employees money. Efforts by employers to support coordinated transportation planning at the regional level may improve transportation services, such as added bus routes, so that employees will have more choices in how they get to work. Guaranteed ride home programs have been found to cost employers very little and provide assurance to employees who do not drive to work that their transportation needs can be met in case an emergency arises.

Consequently, the privilege of driving is not being taken away with the ECO program and employees will not face penalties for not meeting the ECO requirements. Employees will voluntarily decide whether or not to change their commuting habits. Conversely, employers will not be required to force their employees to change their commuting habits. Employers will develop a program of incentives with the goal of influencing their employees to voluntarily decide to commute differently.

Comment

One commenter objects to the need for an ECO program since new cars are built to be much cleaner. The commenter notes that if the ECO program goes into affect, money developing these cleaner cars will have been wasted since people can't drive the clean cars.

USEPA Response

The Act requires implementation of an ECO program in those areas that have been classified as severe or extreme nonattainment for ozone or serious nonattainment for carbon monoxide. Fourteen areas in eleven States, including Lake and Porter Counties in Northwest Indiana, must implement an ECO program.

These severe and extreme ozone nonattainment areas will have to reduce emissions by a very large amount to achieve the health-based ambient air quality standard for ozone. A study currently being conducted for the Chicago, Milwaukee, and Northwest Indiana areas by the Lake Michigan Air Directors Consortium and the States of Indiana, Illinois, Wisconsin, and Michigan indicates that current levels of emissions, considering growth, will need to be reduced by as much as 40 to 60 percent, or more to achieve attainment of the ozone air quality standard by the year 2007. Implementation of numerous control measures for stationary, area, and mobile sources of emissions will have to occur to achieve this percentage reduction. Mobile sources, which include automobiles, account for almost 47 percent of the ozone pollution in Northwest Indiana.

The growth in the use of automobiles is one of the primary reasons it has been difficult to achieve better ozone air quality. Vehicle miles traveled have experienced a growth rate over the past 25 years which is nearly three times the rate of the population growth. While hundreds of millions of dollars have been invested over the past 25 years to reduce vehicle emissions by applying good technology to both the vehicles and the fuel, it is predicted that the growth in total emissions due to continued growth in vehicle miles traveled may eventually outweigh those gains.

The ECO program is part of the Act's strategy to address the growth in vehicle miles traveled. The purpose of the ECO program is to reduce air pollution caused by vehicle traffic and congestion through reductions in the number of work-related drive-alone trips. Although work-related commute travel is only about a third of all travel, it is uniquely suited to promote alternatives to single occupant vehicle travel. There are concentrations of people going to the same place at the same time who can share rides. The ECO program was mandated by Congress because Congress believes there is a need to address how people travel as a part of the solution to cleaning the air and reducing travel congestion.

Therefore, even though new cars are built to be much cleaner, there is a need for ECO and the money spent to develop cleaner cars will not have been wasted. The ECO is a means to reduce, not eliminate, automobile usage and, thus, maintain the emission reduction benefits derived from cleaner cars.

Comment

One commenter opposes ECO as a ''band-aid'' solution to the ozone problem. The commenter notes that the appropriate approach is for the Federal Government to mandate that the automobile manufacturers produce more natural gas powered vehicles. The commenter points out that natural gas is plentiful in this country, inexpensive and clean burning, and that the technology exists. The commenter notes that all that is needed is to make natural gas available to the consumer. The commenter suggests that the phase-in of natural gas vehicles should begin now, so future generations naturally have that option.

USEPA Response

A major goal of the Act is to promote vehicles that pollute less than conventional gasoline powered vehicles or not at all. Act initiatives include promotion of natural gas vehicles which are recognized as an available and clean technology.

The Clean Fuel Fleet (CFF) (section 246) program explicitly addresses the phase-in of lower emitting vehicles and trucks beginning in model year (MY) 1998 for fleets of 10 or more vehicles, that are either centrally fueled or determined to be ''capable'' of being centrally fueled, and which are located or primarily operated in an affected nonattainment area. The CFF program will require that specified percentages of a covered fleet operator's new vehicle acquisitions in a given model year consist of low emitting vehicles. The light-duty clean fuel vehicle (up to 8,500 pounds GVWR) phase-in requirements are 30 percent in MY 1998, 50 percent in MY 1999, and 70 percent thereafter. The heavy-duty clean fuel vehicle (8,500 to 26,000 pounds

GVWR) phase-in requirement is 50 percent each year starting in MY 1998. Fleet owners will receive emission credits for purchasing ultra low emitting vehicles.

USEPA ECO guidance issued on December 17, 1992, recognizes the importance of encouraging the use of vehicles operated by means other than a gasoline or diesel operated internal combustion engine. For the purpose of calculating the average passenger occupancy (APO), States may develop factors to be applied to the vehicle count which would reflect the lower emission levels from alternatively fueled vehicles that include natural gas vehicles.

Comment

Several commenters believe the program will result in great costs to area ECO employers, but will not result in any environmental benefits. The commenters cite that the results of an ECO pilot project in Northwest Indiana show that despite great expense and sincere effort to make the program successful, employees simply were not responding.

USEPA Response

As discussed above, the ECO program is part of the Act's strategy for addressing the growth in vehicle miles traveled. Congress mandated ECO as a starting point for changing travel behavior so air quality problems associated with single-occupancy automobiles usage can be solved. The program should not be thought of as a short-term effort. It is really the beginning of a ten- or twenty-year effort to expand employees' choices and opportunities for travel. The funding provisions of the Intermodal Surface Transportation and Efficiency Act make it possible for Federal dollars to be used for public transportation projects which can support ECO long-term goals. The USEPA believes that the ECO program will play a significant role in making people aware of how they travel and this awareness will eventually extend beyond work-related trips to trips taken throughout the day. This awareness will have important implications related to traffic congestion, air quality, climate change and energy usage.

The results of the ECO pilot project cannot be used to substantiate claims that ECO will not work in Indiana. Employer plans only began to be implemented in the late spring of 1994 and there has not been enough time to evaluate effectiveness or costs. In addition, participants in the ECO pilot project were not required to develop the full scale compliance plans that will be required when the program is fully implemented.

Comment

Several commenters address the unlikely success of carpooling in Northwest Indiana. The commenters note that employees of any one company are spread out over a wide geographic area, and many worksites have multiple shifts beginning during the peak travel period of 6:00 a.m. to 10:00 a.m. The commenters also discuss that the nature of their work requires that employees have use of their car at all times. The commenters note that they often do errands on the way to and from work, such as taking children to and from daycare, and are concerned about handling a family emergency that may occur in the middle of the day.

USEPA Response

Carpooling and vanpooling will be important elements of many ECO programs. While there will always be employees that cannot carpool because of individual needs, there will be many employees that will be able to carpool. Moreover, the needs of commuters will change over time. For example, employees that must drop children off at daycare currently may be able to carpool in the future when their children are older. The ECO program provides an opportunity to establish commuting options, such as carpooling, public transit or other alternatives, to meet future commuting needs.

Employers cannot determine that their employees are spread out over too wide a geographic area for carpooling to succeed until they have conducted their APO surveys that include employee locations and attitudes. Even if employees are spread out over a large area, there may be small pockets of employees willing to carpool. In addition, more employers in close proximity may operate cooperative carpooling programs in which their employees would be given the opportunity to carpool together.

The potential success of carpooling in any area will largely be determined by the amount of effort by employers to provide educational programs and measures that support ridesharing. Guaranteed ride home programs provide assurance to employees who do not drive to work that their transportation needs can be met in case of a midday emergency. All of the participating employers in the Northwest Indiana ECO pilot project have included a guaranteed ride home program in their compliance plan. Employers may also establish on-site amenities that will make it less necessary for employees to have their own vehicle, including automatic teller machines, cafeterias, and daycare facilities.

Other support measures for carpooling include: offering preferential or subsidized parking for carpools and vanpools; charging drive alones for parking; cashing out parking with cash equivalents to free parking; sponsoring or subsidizing carpools and vanpools; providing comprehensive rideshare matching services; subsidizing shuttles during midday to local shopping areas; and providing company-owned vehicles for ridesharing.

Several alternative measures would address the concern over multiple shifts during the peak travel period. The ECO can be looked at as an opportunity for employers to reevaluate how they do business. At some worksites, it may be possible to reschedule shifts by reducing the number of starting times to consolidate the number of employees arriving at worksites at the same times. Other alternatives include changing work schedules to accommodate compressed work weeks in which employees work longer shifts over fewer days. This gives employers the opportunity to offer their employees more favorable schedules such as four day work weeks and three-day weekends. Some employers may want to allow certain employees to telecommute, or work at home, one or two days a week.

Employers can also adopt incentive programs to encourage employees to use public transit if it is available. Where public transit is not available, employers may want to turn to the private sector and sponsor subscription bus services. Employers can also improve facilities to promote bicycle use and walking options.

Comment

Several commenters object that the ECO program is required all year long, although the ozone season is only April through October. The commenters note that high ozone levels typically are recorded only during exceptionally hot and dry periods in June, July or August.

USEPA Response

The ozone season in Indiana is April through September, not October. However, excessive driving of single occupied vehicles during the 6 a.m. to 10 a.m. peak commuting period and the resulting traffic congestion occurs all year long. Indiana chose to implement its ECO program on an annual basis because the State believes it would be difficult to change commuting habits, such as reforming carpools, just in the spring and summer. The State believes

it makes financial sense, as well as practical sense, to implement several of the alternative commuting measures on a year-round basis, thereby avoiding continual start-up costs and the initial resistance of commuters to changing their commuting habits.

Comment

Several commenters note that high ozone levels have been recorded only in one urbanized area of Lake County and no monitoring data exist to justify expansion of the ECO program to all of Lake County or any of Porter County.

USEPA Response

Lake and Porter Counties, Indiana are part of the Chicago consolidated metropolitan statistical area (CMSA) as determined by the census bureau. Section 107(d)(4)(A)(iv)of the Act requires that the boundaries of any ozone nonattainment area classified as serious, severe, or extreme by operation of law include the entire CMSA. Congress thus ensured that the entire area contributing ozone forming pollutants would be included in the nonattainment area. The inherent nature of ozone formation is that volatile organic compounds and oxides of nitrogen are emitted in one area and carried downwind while reacting in the presence of sunlight to form ozone. Thus, the highest concentrations of ozone are not necessarily experienced in the area producing the greatest amount of pollutants but instead the highest ozone readings may be recorded many miles downwind.

Section 181(a) of the Act also requires that the years to consider when determining the classification of an area were to be the years 1987 to 1989. In the case of Lake and Porter Counties, the monitoring site at Ogden Dunes in Porter County recorded 4 days during 1987, 10 days during 1988, and 0 days during 1989, with ozone exceeding the National Ambient Air Quality Standard (NAAQS). The highest 1-hour ozone level at the Ogden Dunes site was during 1988 and was 0.192 parts per million (ppm). The monitoring site in Lake County with the most ozone exceedances during this time period was in Hammond, Indiana which recorded 1 exceedance day during 1987, 5 days during 1988, and 0 days during 1989. The highest 1-hour ozone concentration was 0.186 ppm. However, the sites in Lake and Porter Counties were not the highest sites in the CMSA. The monitoring site with the highest recorded ozone levels in the CMSA is located in Kenosha County, Wisconsin. This site recorded 18 days during 1988 that exceeded the ozone NAAQS with the highest concentrations being 0.222, 0.193, 0.190 and 0.187 ppm. Thus, this site was used as the ''design value'' site and determined the classification of the entire CMSA, as required by the Act.

Therefore, the entire Chicago CMSA is, by operation of law, classified as a severe ozone nonattainment area and the Act requires that all counties in the area must be included in the ECO program.

Comment

Several commenters are concerned that employer monitoring of the success of ECO plans cannot be determined with any degree of accuracy. The commenters note that employer monitoring is unreasonable and requires resources unavailable to most employers.

USEPA Response

Employers in Northwest Indiana will be required to evaluate the success of their ECO program 1 year after the initial plan submittal and annually thereafter. Employers will be required to resurvey their employees to calculate the APO attained. The survey and survey methods will be the same as the initial survey conducted, insuring consistency between surveys. Employers will receive computer software developed by Purdue University—Calumet to electronically calculate the APO and do cross-tabulations.

During the year, employers can monitor participation in their programs to determine participation levels and whether there is a need to make program modifications. A variety of methods that are not beyond the means of Northwest Indiana employers can be used to monitor employee participation, including but not limited too: registering program participants; monitoring preferential parking; having supervisors complete weekly reporting forms; having employees complete weekly self-reporting forms; and conducting periodic surveys. The degree of accuracy in monitoring will be determined by the honesty of employees reporting how they are commuting. Since employees are not facing any penalties for not participating in an employer's program, there should be little incentive to be untruthful.

Comment

Several commenters are concerned that Northwest Indiana does not have a regional public transportation system in place. As such, most area employers do not have the option of encouraging or providing financial incentives to their employees to use transit. In addition, commenters note their concern over potential safety problems from their employees using transit in high crime areas or walking several blocks along dark roads from bus stops.

USEPA Response

ECO provides an opportunity for employers to get involved in regional transportation planning issues. The Northwest Indiana Regional Planning Commission has proposed extensive improvements in the transportation network in Lake and Porter Counties. The Indiana Transportation Association, the statewide organization of public and private transit providers, is working with local transit agencies and state representatives to develop a legislative initiative for funding transit improvements statewide, including Lake and Porter Counties.

There are full-scale public transit systems in place in the cities of Hammond and Gary and a small transit system in the city of East Chicago that can provide alternatives for employees. Hammond Transit has recently extended its bus service on Calumet Avenue into the town of Munster. There are also a number of private transit companies willing to work with employers subject to ECO to provide subscription bus services.

The Congestion Mitigation and Air Quality (CMAQ) provision of the Intermodal Surface Transportation and Efficiency Act (ISTEA) is providing money that is enabling the transit agencies in Northwest Indiana to provide expanded service. These funds have enabled the region to launch a tri-city link-up pilot project which involves the interconnection of bus services between the central business districts of Gary, East Chicago, and Hammond. This pilot project has proven extremely successful and will most likely be continued. The city of Gary has been doing a study of expanding transit service into the cities of Griffin, Highland, and Munster and linking up with the Hammond transit service in Munster. Gary Transit has recently submitted a proposal for CMAQ funds to run a pilot of the actual service. In addition, several new park-and-ride facilities, which will be staging areas for mass transit, vanpools, carpools, and subscription bus services, are being designed and will be paid for with CMAQ funds.

Concern over the lack of safety due to poor walking or safety conditions can be addressed by working with the appropriate entities to have lighting and walking facilities improved; relocating transit stops so they are closer to the worksite; or providing shuttle service from transit stops to the worksite.

Where transit is not an option, there are several measures discussed above that can be used to encourage employees to drive to work in a means other than a single occupied vehicle.

The funding available through ISTEA as well as the requirements of the ECO program should be seen as an opportunity to improve the provision of public transportation in Lake and Porter Counties and other similar areas.

Comment

One commenter opposes the mandate that public schools participate in the ECO program. The commenter noted that several characteristics of public schools will make them unable to comply successfully with the ECO program and will divert needed resources from the primary goal of educating students. The commenter explained that public school work schedules are inflexible prohibiting adjustment of work hours to accommodate flexible hours or compressed work weeks; and providing monetary incentives to staff is prohibited since funds can only be dispersed for educational expenses. The commenter noted the ECO program discriminates against employees of larger schools and favors employees of smaller schools; students account for the majority of drivers and are not included in the program; and the school district does not get credit in the average passenger occupancy calculation for the 6000 students that are transported by school bus.

USEPA Response

The USEPA is committed to finding ways for States to implement the ECO program so that the burden on affected employers is minimized. However, USEPA cannot categorically exempt any employers from any of the requirements of the ECO program. It is clear that public schools must be subject to the program and so long as they demonstrate a good faith effort to meet the target average passenger occupancy, they will not be penalized.

There are ways for public schools to encourage employees to commute differently that do not involve large expenditures or manipulation of work schedules. Because the school work schedule is fixed, there are a large number of employees arriving at the worksite at the same time making it possible to encourage ridesharing. Several of the measures listed above which would support ridesharing are inexpensive such as preferential parking for vehicles with more than one passenger; guaranteed ride home programs; comprehensive rideshare matching services; and educational programs that promote ridesharing.

The ECO program does not discriminate against employees of larger schools in favor of employees of smaller schools. Congress selected a threshold of 100 employees because it is Congress' intent to target employers who have enough employees arriving in the peak period to establish a viable ECO program. The USEPA recognizes there are situations in which the majority of an employer's workforce follows a non-standard schedule, and the number of employees arriving in the peak period is small enough to make ridesharing and special employer-provided services difficult. Therefore, under the December 17, 1994, USEPA ECO Guidance, a de minimis exemption may be made at the State's option whereby employers with worksites at which fewer than 33 employees report to work during the peak travel period are not subject to the requirements. The Indiana ECO rule has adopted this de minimis exemption. While the Indiana ECO rule applies to those employers which employ 100 or more employees at a single worksite, the worksite must have 33 or more employees reporting between 6 a. m. and 10 a.m. on any single day, Monday through Friday.

The Act does not require the inclusion of students in the State ECO program even though students may account for the majority of drivers in some schools. However, the Act does not preclude the State from developing a separate trip reduction regulation that would specifically address the commuting habits of students. In addition, students riding school buses are not included in the APO calculations because they are not employees commuting to the worksite. Other types of businesses and worksites, such as hospitals and shopping centers for example, have large numbers of nonemployees coming to the worksite as well.

Comment

Several commenters claim that ECO precludes the use of motorcycles as a commuting option without consideration of convenience, contributions to reduced congestion, economic hardship imposed by such prohibitions, or environmental benefits such as fuel efficiency and less manufacturing pollution. Commenters believe the Indiana ECO rule does not address the rights of those Indiana citizens who choose to commute to work using a motorcycle and recommend that motorcycles be exempted from the program. The commenters fear that ECO could lead to a ban of motorcycle operation between the hours of 6 a.m. and 10 a.m. Commenters believe that the methodologies used to calculate the average vehicle occupancy (AVO) and APO diminish the value of motorcycles.

USEPA Response

The ECO program requires employers with 100 or more employees to implement programs that will encourage their employees that arrive at their worksite between 6 a.m. and 10 a.m. to commute to work by a means other than a single occupied vehicle. Affected employers will conduct surveys to determine the APO of the vehicles arriving at their worksites between 6 a.m. and 10 a.m. and then develop a program to encourage their employees that arrive in single occupied vehicles to use an alternative means of commuting.

Motorcycles used to commute to an affected worksite will be counted as vehicles since they have internal combustion engines. While USEPA recognizes the need for additional information on motorcycle emissions and commute patterns, current data show that motorcycles emit significantly more pollutants that help to form ozone than do light-duty vehicles (e.g., passenger cars) on a grams/mile basis.

Individuals who ride a motorcycle to an affected worksite between 6 a.m. and 10 a.m. will be encouraged to find an alternative means of commuting to that worksite. However, as discussed above, there is nothing in the Act that would force motorcyclists to change commuting habits. Motorcyclists, like all employees, may accept or reject an employer's incentives to stop driving. Many motorcyclists could benefit by participating in carpools and vanpools, or using public transit programs that reduce stress and save money.

Consequently, it is not necessary to exempt motorcycles from the ECO program since motorcycles have the same rights under the program as all other vehicles. ECO does not preclude the use of motorcycles as a commuting option; and does not eliminate the rights of Indiana citizens who choose to commute by motorcycle. In addition, the methodologies used to determine the AVO and APO do not need to be modified since they appropriately identify the number of vehicles with internal combustion engines on the road during the 6 a.m. to 10 a.m. peak period and the number of people traveling in those vehicles.

III. Final Rulemaking Action

The State of Indiana has met the requirements of the Act by revising the Indiana ozone SIP to include an ECO

program. Therefore, USEPA approves the ECO program for Lake and Porter Counties.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

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

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

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 8, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Ozone.

Dated: February 10, 1995.

David A. Ullrich,

Acting 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 P—Indiana

2. Section 52.770 is amended by adding paragraph (c)(92) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(92) On February 25, 1994, Indiana submitted an employee commute option rule intended to satisfy the requirements of section 182(d)(1)(B) of the Clean Air Act Amendments of 1990.

(i) *Incorporation by reference.* (A) Title 326 of the Indiana Administrative Code, Article 19 MOBILE SOURCE RULES, Rule 1, Employee Commute Options. Filed with the Secretary of State, October 28, 1993, effective November 29, 1993. Published at Indiana Register, Volume 17, Number 3, December 1, 1993.

* * * * *

[FR Doc. 95–5446 Filed 3–7–95; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[SC19–1–5031a; FRL–5166–7]

Approval and Promulgation of Implementation Plans State: Disapproval of Revisions to the South Carolina State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is disapproving South Carolina's generic bubble regulation submitted for approval into the State Implementation Plan (SIP) by the State of South Carolina through the South Carolina Department of Health and Environmental Control (DHEC) on June 5, 1985, because it does not comply with EPA's Emissions Trading Policy Statement (ETPS) of December 4, 1986, or the Economic Incentive Program Rules (EIP). The policy states that existing state generic bubble rules should be reviewed and that a notice be published identifying any deficiencies found in the review and giving a means and a schedule to correct them. However, since revision of their federally approved generic rule or withdrawal of the 1985 submittal will require legislative action by the State, South Carolina requested in a letter to John Hankinson, Regional Administrator, that EPA disapprove the submittal. Therefore, EPA is rescinding the previous approval of the generic bubble regulations and disapproving the June 5, 1985 submittal.

DATES: This final rule will be effective May 8, 1995 unless adverse or critical comments are received by April 7, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments on this action should be addressed to Kay T. Prince, at the EPA Regional Office listed below.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365.

South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201.

FOR FURTHER INFORMATION CONTACT: Kay T. Prince, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365. The telephone number is 404/347–3555 x4221. Reference file SC19–1–5031.

SUPPLEMENTARY INFORMATION: On June 7, 1982 (47 FR 38887), EPA approved into the SIP the South Carolina generic bubble regulation as meeting all EPA

requirements at that time. On January 14, 1985, the State of South Carolina through DHEC submitted revisions to their generic bubble regulation, requesting concurrent review by EPA. On June 5, 1985, the State of South Carolina submitted the state-effective version of the bubble regulation (Regulation No. 62.5, Standard No. 6, Alternative Emission Limitation Options (''Bubble''). Subsequently EPA's revised ETPS was published on December 4, 1986. (51 FR 43814). The policy indicates that existing state generic bubble rules should be reviewed and notices published identifying any deficiencies and a means to correct them. It also gives EPA the option to rescind its previous approval of a generic bubble rule. (51 FR 43853) Following enactment of the 1990 Clean Air Act Amendments, EPA promulgated the EIP on April 7, 1994. (59 FR 16690)

EPA has reviewed both the approved and revised generic bubble rules and found them to be deficient with respect to the ETPS, the EIP, and the provisions of the 1990 Amendments. Following is a summary of the review of some of the deficiencies of the revised generic rule.

Section II—Conditions for Approval

The rule does not provide for federal enforceability. To assure that Clean Air Act requirements are met, each transaction which revises any emission limit upward must be approved by the state and be federally enforceable. (e.g., 51 FR 43832, 59 FR 16700) Revised limits can be made federally enforceable through source specific SIP revisions, federally approved generic bubble regulations, federally approved EIPs or construction permits issued through a federally approved permit program.

Emissions prior to and after the bubble from all points involved must be quantifiable, the total emissions resulting from the bubble must show a net decrease, and the procedures for determining the emissions from the bubble must be replicable. Replicability generally means a high likelihood that two decision-makers applying the rule to a given bubble would reach the same conclusion. The South Carolina generic bubble rule does not contain any provisions to ensure that the calculation procedures used to quantify the emissions are replicable. (e.g., 51 FR 43850, 59 FR 16713)

Bubble rules must contain provisions for determining a baseline emissions level beyond which the reductions must occur to be creditable. There are three baseline factors—emission rate, capacity utilization, and hours of operation—which must be used to compute pre- and post-bubble emission levels. Baseline factors differ depending on the status of SIP development for the area. The South Carolina rule does not address baseline factors. (e.g., 51 FR 43838, 59 FR 16697)

Section III—Part B.—Emissions of Volatile Organic Compounds

In general, generic bubble rules for volatile organic compounds (VOCs) must require that surface coating emissions be calculated on a solids-applied basis and specify a maximum time period over which emissions may be averaged in an acceptable compliance demonstration, usually not exceeding 24 hours. Averaging times greater than 24 hours must meet the criteria outlined in Appendix D of the ETPS. (51 FR 48857) The South Carolina rule does not include these requirements. The South Carolina rule also does not include the requirements to meet the extended averaging times provided in the EIP rule. (e.g., 59 FR 16706)

Final Action

EPA is disapproving the May 24, 1985, version of the South Carolina generic bubble rule, Regulation No. 62.5, Standard No. 6, as requested by the State on March 24, 1994, because it does not meet EPA requirements. Additionally, EPA is rescinding its approval of the May 28, 1982, version of the rule as approved in the **Federal Register** on June 7, 1982. (47 FR 38887) This action is being published without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective May 8, 1995 unless, by April 7, 1995, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective May 8, 1995.

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

Under section 307(b)(1) of the Act, 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 8, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the Act, 42 U.S.C. 7607(b)(2).)

The OMB has exempted these actions from review under Executive Order 12866.

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

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

EPA's disapproval of the State request under section 110 and subchapter I, Part D of the CAA does not affect any existing requirements applicable to small entities. Any pre-existing Federal requirements remain in place after this disapproval. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, EPA's disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor

does it impose any new Federal requirements.

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: January 26, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

Part 52 of chapter I, title 40, *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 PP—South Carolina

2. Section 52.2122, is amended by designating the introductory text as paragraph (a) and adding paragraph (b) to read as follows:

§ 52.2122 Approval status.

* * * * *

(b) EPA disapproved South Carolina's generic bubble regulation submitted for approval into the State Implementation Plan (SIP) on June 5, 1985.

[FR Doc. 95–5574 Filed 3–7–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 180

[PP 4F4328/R2112; FRL–4940–5]

RIN 2070–AB78

Pseudomonas Syringae; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement for a tolerance for residues of *Pseudomonas syringae* in or on all raw agricultural commodities when applied postharvest in accordance with good agricultural practices. EcoScience Corp. requested this exemption.

EFFECTIVE DATE: This regulation becomes effective March 8, 1995.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [PP4F4328/R2112], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

FOR FURTHER INFORMATION CONTACT: By mail: Sheryl K. Reilly, Biopesticides and Pollution Prevention Division (7501W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (703)–308–8265.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 11, 1994 (59 FR 24429), EPA issued a notice that the EcoScience Corp., One Innovation Drive, Worcester, MA 01545, had submitted pesticide petition PP 4F4328 to EPA proposing to amend 40 CFR part 180 by establishing a regulation pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to exempt from the requirement of a tolerance the residues of the biological control agent, Bio-Save 10, containing the active ingredient *Pseudomonas syringae* in or on pears, apples, lemons, oranges, and grapefruit when applied postharvest in accordance with good agricultural practices.

There were no comments received in response to the notice of filing.

Pseudomonas syringae is naturally occurring and was originally isolated from apples.

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

The results of these studies indicated that the organism was not toxic to test animals when administered via oral, dermal, pulmonary, or intravenous routes.

The active ingredient was not infective or pathogenic to test animals in any of the studies. Minimal ocular irritation observed in the eye irritation study dissipated within 5 days; very slight skin irritation noted immediately following exposure to the compound dissipated within 2 days. There have been no reports of hypersensitivity related to the active ingredient. All of the toxicity studies submitted are considered acceptable.

The toxicology data provided are sufficient to demonstrate that there are no foreseeable human health hazards likely to arise from the use of *Pseudomonas syringae* on all raw agricultural commodities when applied postharvest in accordance with good agricultural practices.

Acceptable daily intake (ADI) and maximum permissible intake (MPI) considerations are not relevant to this petition because the data submitted demonstrated that this biological control agent is not toxic to humans by dietary exposure. No enforcement actions are expected. Therefore, the requirement for an analytical method for enforcement purposes is not applicable to this exemption request. This is the first exemption from the requirement of a tolerance for this biological control agent.

Based on the information considered, the Agency concludes that establishment of a tolerance is not necessary to protect the public health. Therefore, the exemption from tolerance is established as set forth below.

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

one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

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

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not ''significant'' and is therefore not subject to OMB review.

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

List of Subjects in 40 CFR Part 180

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

Dated: February 27, 1995.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR part 180 is amended as follows:

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

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

2. In subpart D, by adding new § 180.1145, to read as follows:

§ 180.1145 Pseudomonas syringae; exemption from the requirement of a tolerance.

Pseudomonas syringae is exempted from the requirement of a tolerance on all raw agricultural commodities when applied postharvest according to good agricultural practices.

[FR Doc. 95–5655 Filed 3–7–95; 8:45 am]

BILLING CODE 6550–50–F

40 CFR Part 180

[PP 4E4349/R2111; FRL–4940–3]

RIN 2070–AB78

Pesticide Tolerance for Amitraz

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes a tolerance for residues of the insecticide/miticide amitraz and its metabolites in or on imported dried hops at 60 parts per million (ppm). AgrEvo (formerly Nor Am) Chemical Co. requested this regulation to establish the maximum permissible level for residues of the insecticide/miticide in or on the commodity.

EFFECTIVE DATE: This regulation becomes effective March 8, 1995.

ADDRESSES: Written objections, identified by the document control number, [PP 4E4349/R2111], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

FOR FURTHER INFORMATION CONTACT: By mail: Dennis H. Edwards, Jr., Registration Division (7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 207, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)–305–386.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 19, 1995 (60 FR 3797), EPA issued a proposed rule that gave notice that the AgrEvo (formerly Nor Am) Chemical Co., Little Falls Centre One, 2711 Centerville Rd., Wilmington, DE 19808, had petitioned EPA under section 408 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a, to establish a tolerance for the insecticide/miticide amitraz (*N*'-[2,4-dimethylphenyl]-*N*-[[(2,4-dimethylphenyl)imino]methyl]-*N*-methylmethanimidamide) and its metabolites *N*-(2,4-dimethylphenyl)-*N*-methyl formamide and *N*-(2,4-dimethylphenyl)-*N*-methylmethanimidamide (both calculated as the parent compound) in or on imported dried hops at 75 ppm. An EPA review of the data concluded that a tolerance of 60 ppm was needed given the existing application rates.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted on the proposal and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register,** file written objections and/or request a hearing with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following:

There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

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

Pursuant to the terms of the Executive Order, EPA has determined that this rule is not ''significant'' and is therefore not subject to OMB review.

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

List of Subjects in 40 CFR Part 180

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

Dated: February 23, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

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

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

2. In § 180.287, by amending the table therein by adding and alphabetically inserting the raw agricultural commodity dried hops, to read as follows:

§ 180.287 Amitraz; tolerances for residues.

* * * * *

Commodity	Parts per million
* * * * *	
Hops, dried	60
* * * * *	

[FR Doc. 95–5654 Filed 3–7–95; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 180

[PP 4F4285/R2110/FRL–4935–5]

RIN 2070–AB78

Pesticide Tolerance for Imidacloprid

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide 1-[(6-chloro-3-pyridinyl)methyl]-*N*-nitro-2-imidazolidinimine and its metabolites (common name ''imidacloprid''), in or on the raw agricultural commodity mango at 0.2 part per million (ppm). Miles, Inc., requested this regulation to establish a maximum permissible level for residues of the insecticide.

EFFECTIVE DATE: This regulation becomes effective March 8, 1995.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [PP 4F4285/R2110], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

FOR FURTHER INFORMATION CONTACT: By mail: Dennis H. Edwards, Product Manager (PM 19), Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 207, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)–305–3686.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of July 13, 1994 (59 FR 35718), which announced that Miles, Inc., 8400 Hawthorn Rd., P.O. Box 4913, Kansas City, MO 64120–0013, had submitted pesticide petition 4F4285 to EPA requesting that the Administrator, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), establish tolerances for residues of the insecticide 1-[(6-chloro-3-pyridinyl)methyl]-*N*-nitro-2-imidazolidinimine (imidacloprid) in or on the raw agricultural mango at 0.2 ppm.

There were no comments or requests for referral to an advisory committee received in response to this notice of filing.

All relevant materials have been evaluated. The toxicology data considered in support of the tolerance include:

1. A three-generation rat reproduction study with a no-observed-effect level (NOEL) of 100 ppm (8 mg/kg/bwt); rat and rabbit teratology studies were negative at doses up to 30 mg/kg/bwt and 24 mg/kg/bwt, respectively.

2. A 2-year rat feeding/carcinogenicity study that was negative for carcinogenic effects under the conditions of the study and had a NOEL of 100 ppm (5.7 mg/kg/bwt in males and 7.6 mg/kg/bwt in females) for noncarcinogenic effects that included decreased body weight gain in females at 300 ppm and increased thyroid lesions in males at 300 ppm and females at 900 ppm.

3. A 1-year dog-feeding study with a NOEL of 1,250 ppm (41 mg/kg/bwt).

4. A 2-year mouse carcinogenicity study that was negative for carcinogenic

effects under conditions of the study and that had a NOEL of 1,000 ppm (208 mg/kg/day).

There is no cancer risk associated with exposure to this chemical. Imidacloprid has been classified under ''Group E'' (no evidence of carcinogenicity) by EPA's OPP/HED's Reference Dose (RFD) Committee.

The reference dose (RfD), based on the 2-year rat feeding/carcinogenic study with a NOEL of 5.7 mg/kg/bwt and 100-fold uncertainty factor, is calculated to be 0.057 mg/kg/bwt. The theoretical maximum residue contribution (TMRC) from published uses is 0.000985 mg/kg/bwt/day. This represents 2% of the RfD. The proposed tolerance contributes 0.000001 mg/kg/bwt/day. This represents no significant increase in the RfD. Dietary exposure from the existing uses and proposed use will not exceed the reference dose for any subpopulation (including infants and children) based on the information available from EPA's Dietary Risk Evaluation System.

The nature of the imidacloprid residue in plants and livestock is adequately understood. The residues of concern are combined residues of imidacloprid and it metabolites containing the 6-chloropyridinyl moiety, all calculated as imidacloprid. The analytical method is a common moiety method for imidacloprid and its metabolites containing the 6-chloropyridinyl moiety using a permanganate oxidation, silyl derivatization, and capillary GC–MS selective ion monitoring. Imidacloprid and its metabolites are stable in the commodities when frozen for at least 24 months. There are adequate amounts of geographically representative crop field trial data to show that combined residues of imidacloprid and its metabolites, all calculated as imidacloprid, will not exceed the proposed tolerance on mangoes at 0.2 ppm when use as directed.

There are currently no actions pending against the continued registration of this chemical.

This pesticide is considered useful for the purposes for which the tolerance is sought and capable of achieving the intended physical or technical effect. Based on the information and data considered, the Agency has determined that the tolerances established by amending 40 CFR part 180 will protect the public health. Therefore, the tolerance is established as set forth below.

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

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

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not ''significant'' and is therefore not subject to OMB review.

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

List of Subjects in 40 CFR Part 180

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

Dated: February 21, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

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

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

2. In § 180.472, by amending paragraph (a) in the table therein by adding and alphabetically inserting the entry for mango, to read as follows:

§ 180.472 1-[(6-Chloro-3-pyridinyl)methyl]-N-nitro-2-imidazolidinimine; tolerances for residues.

(a) * * *

Commodity	Part per million
* * * * *	
Mango	0.2
* * * * *	

* * * * *

[FR Doc. 95–5653 Filed 3–7–95; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 180

[OPP–300374A; FRL–4933–7]

RIN 2070–AB78

3,5-Bis(6-Isocyanatohexyl)-2H-1,3,5-Oxadiazine-2,4,6-(3H,5H)-Trione, Polymer With Diethylenetriamine; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes an exemption from the requirement of a tolerance for residues of 3,5-*bis*(6-isocyanatohexyl)-2*H*-1,3,5-oxadiazine-2,4,6-(3*H*,5*H*)-trione, polymer with diethylenetriamine (CAS Reg. No. 87823-33-4), when used as an inert ingredient (encapsulating agent) in pesticide formulations applied to growing crops. Miles, Inc., requested this regulation.

EFFECTIVE DATE: This regulation becomes effective March 8, 1995.

ADDRESSES: Written objections, identified by the document control number, [OPP-300374A], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing request to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

FOR FURTHER INFORMATION CONTACT: By mail: Connie Welch, Registration Support Branch, Registration Division (7508W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Westfield Building North, 6th Fl., 2800 Crystal Drive, Arlington, VA 22202, (703)–308–8470.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 12, 1995 (60 FR 2921), EPA issued a proposed rule that gave notice that Miles, Inc., 8400 Hawthorn Rd., P.O. Box 4913, Kansas City, MO 64120–0013, had submitted pesticide petition (PP) 4E4416 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA) (21 U.S.C. 346a(e)), propose to amend 40 CFR 180.1001(d) by establishing an exemption from the requirement of a tolerance for residues of 3,5-*bis*(6-isocyanatohexyl)-2*H*-1,3,5-oxadiazine-2,4,6-(3*H*,5*H*)-trione, polymer with diethylenetriamine (CAS Reg. No. 87823-33-4), when used as an inert ingredient (encapsulating agent) in growing crops under 40 CFR 180.1001(d).

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

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted relevant to the proposal and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance exemption will protect the public health. Therefore, the tolerance exemption is established as set forth below.

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

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

Pursuant to the terms of the Executive Order, EPA has determined that this rule is not ''significant'' and is therefore not subject to OMB review.

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

List of Subjects in 40 CFR Part 180

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

Dated: February 24, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

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

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

2. Section 180.1001(d) is amended in the table therein by adding and alphabetically inserting the inert ingredient, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
* * *	* *	* *
3,5-*Bis*(6-isocyanatohexyl)-2*H*-1,3,5-oxadiazine-2,4,6-(3*H*,5*H*)-trione, polymer with diethylenetriamine (CAS Reg. No. 87823-33-4); minimum number average molecular weight 1,000,000..	.....	Encapsulating agent
* * *	* *	* *

* * * * *

[FR Doc. 95–5652 Filed 3–7–95; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 180

[PP 6F3392/R2105; FRL–4933–1]

RIN 2070–AB78

Pesticide Tolerance for Clofentezine

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide clofentezine in or on the raw agricultural commodity apples. AgroEvo USA Corp. (formerly Nor-Am Chemical Co.) requested this regulation to establish a maximum permissible level for residues of the insecticide.

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

ADDRESSES: Written objections and hearing requests, identified by the document control number, [PP 6F3392/R2105], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

FOR FURTHER INFORMATION CONTACT: By mail: Dennis H. Edwards, Product Manager (PM) 19, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 207, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. (703)–305–3686.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of June 4, 1986 (51 FR 20343), which announce that Nor-Am Chemical Co. of Little Falls Centre One, 2711 Centerville Rd., Wilmington, DE 19803, had sumitted a pesticide petition to EPA requesting that the Administrator, pursuant to section 408(d) of the Federal Food, Drug and Costmetic Act (FFDCA), 21 U.S.C. 346a(d), propose to amend 40 CFR 180.446 by establishing tolerances for residues of the insecticide clofentezine 3,b-bis(2-chlorophenyl)-1,2,4,5-tetrazine in or on the commodities apples at 0.05 part per million (ppm), meat at 0.05 ppm, meat byproducts at 0.05 ppm, milk at 0.01 ppm, and poultry and poultry byproducts at 0.05. A feed additive tolerance was proposed for dry apple pomace at 1.0 ppm.

Subsequent to the orginal notice of filing, EPA issued a notice, published **Federal Register** of May 27, 1992 (57 FR 22232), which announced that the Nor-Am Chemical Co. was amending pesticide petition 6F3392 by increasing the proposed tolerance in/on apples to 0.01 ppm, withdrawing the proposed feed additive tolerance, and withdrawing the petition for animal tolerances since they have already been established.

There were no comments or requests for referral to an advisory committee received in response to the notice of filings.

The scientific data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the tolerance include a 1-year dog feeding study with a no-observed-effect level (NOEL) of 50 ppm (1.25 mg/kg/day); a mouse carcinogenicity study which was negative at the doses tested, 50 ppm (7.5 mg/kg/day), 500 ppm (75 mg/kg/day), and 5,000 ppm (750 mg/kg/day); a multi-generation rat study with a NOEL of 400 ppm (20 mg/kg/day) (highest dose tested (HDT); a rat teratology study which was negative at 3,200 mg/kg/day (HDT) and had a developmental NOEL of 3,200 mg/kg/day; a rabbit teratology study which was negative at 3,000 mg/kg/day (HDT) also had a NOEL of 1,000 mg/kg/day for maternal toxicity (reduced litter and fetal body weights); and a 2-year rat chronic feeding/carcinogenicity study which showed an increase in the incidence of centrilobular hepatocyte hypertrophy and showed a statistically significant increase in thyroid follicular cell tumors in male rats at 400 ppm (20 mg/kg/day (HDT). Gene mutation, chromosomal aberrations, and diet DNA damage tests were negative for genetic toxicity.

The registrant (Nor-AM) also submitted additional thyroid studies intended to show that there was an indirect mechanism for the follicular cell tumors associated with clofentezine's liver toxicity. The Agency has reviewed the data in accordance with criteria outlined in a draft document entitled, ''Thyroid Follicular Cell Carcinogenesis: Mechanistic and Science Policy Considerations,'' (December 15, 1987). While this document is still undergoing Agency review, and the assessment procedures set forth therein have not been adopted by the Agency, the draft does provide a useful framework in which to consider the issue. Although the additional thyroid function studies suggest the possibility of an indirect mechanism for follicular cell tumor induction that may be associated with clofentezine's liver toxicity, the Agency believes that

additional data are necessary to more completely define the mechanism of clofentezine's thyroid tumor induction in terms of the criteria listed in the above document. Based on the rat feeding/ carcinogenicity study, the Agency has classified clofentezine as a possible human carcinogen (Group C). The qualitative designation ''C'' refer to EPA's weight-of-evidence classification. The classification is based on the Agency's ''Guidelines for Carcinogenic Risk Assessment,'' published in the **Federal Register** of September 25, 1996 (51 FR 33992). The Agency believes a quantitative risk assessment based on the thyroid incidence is not approprate for the following reasons:

1. The increase tumor incidence was marginally increased above the control incidence only at the highest dose tested (20 mg/kg/day) in the chronic feeding study.
2. The increased incidence was observed only in male rats.
3. The thyroid tumor incidence in the chronic feeding study's highest dose group (20 percent) was slightly greater than the historical range provided by limited control group data (7.5 to 15 percent) from two other studies.
4. The additional thyroid function studies suggest the possibility of an indirect mechanism for follicular cell tumor induction that may be associated with clofentezine's liver toxicity.
5. The mouse was negative for carcinogency effects at all dose levels, i.e., 50, 500, 5,000 ppm (equivalent to 7.5, 75, 750 mg/kg/day, respectively).
6. There are no close structural analogs with carcinogenic concerns identified.
7. Clofentezine is not mutagenic in several acceptable studies.

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Science Advisory Panel (SAP) also reviewed the weight-of-evidence consideration and classification of the carcinogenic potential of clofentezine. The SAP review included the additional thyroid studies submitted by Nor-Am that were available at that time. The SAP concluded that thyroid tumors in male rats from the chronic feeding/ carcinogenicity study with clofentezine did not provide adequate evidence of a potential carcinogenic hazard to humans and that the carcinogenic potential of clofentezine belongs to Group D (not classifiable as a human carcinogen).

The Panel's interpretation was based on observed increases in thyroid stimulation hormone (TSH) levels and the incidence of thyroid follicular cell hyperplasia which may be responses to decreases in blood levels of the circulating thyroid hormones (triiodothyroxine (T_3) and tetra-iodothyroxine (T_4) observed in clofentezine-treated rats. This sequence of reduced circulating thyroid hormones and increased TSH levels and follicular cell hyperplasia is known to lead to thyroid tumors in rats, and the Panel noted, ''Exposure to agents that cause this sequence in rats has not resulted in increased TSH, hyperplasia, and thyroid tumors in humans.'' Therefore, the Panel concluded that there was inadequate data for suggesting human carcinogenicity or a quantitative risk assessment.

Nor-Am has since submitted additional thyroid studies intended to show the mechanism of clofentezine's thyroid tumor induction. The Agency has reviewed these data, but as previously stated, the Agency continues to believe that additional data are needed to more completely define the mechanism of clofentezine's thyroid tumor induction and that the available data are not sufficient to change the classification of clofentezine from Category ''C'' to Category ''D.'' However, the Agency does agree with the SAP that a quantitative risk assessment is not appropriate.

The reference dose (RfD), based on the 1-year dog feeding/carcinogenic study with a NOEL of 1.25 mg/kg/bwt and 100-fold uncertainity factor, is calculated to be 0.013 mg/kg/bwt. The theoretical maximum residue contribution (TMRC) from published uses is 0.000591 mg/kg/bwt/day. This represents 4.54 percent of the RfD. The proposed tolerance contributes .000231 mg/kg/bwt/day. This represents 1.78 precent of the RfD. Dietary exposure from the existing uses and proposed uses will not exceed the reference dose for any subpopulation (including infants and children) based on the information available from EPA's Dietary Risk Evaluation System.

The nature of the residue is understood. An adequate analytical method, high-performance liquid chromatography (HPLC), is available for enforcement.

Also, in an editorial amendment to the clofentezine tolerances in 40 CFR 180.446, EPA is removing the sole entry in paragraph (a), for pears, and moving it to the table in paragraph (b). Paragraph (a) is redundant and is being removed and designated as ''reserved.''

There are currently no actions pending against the continued registration of this chemical.

This pesticide is considered useful for the purposes for which the tolerances are sought and capable of achieving the intended physical or technical effect. Based on the information and data considered, the Agency has determined that the tolerances established by amending 40 CFR part 180 will protect the public health. Therefore, the tolerance is established as set forth below.

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

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines ''significant'' as those actions likely to lead to a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as ''economically significant''); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary

impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not ''significant'' and is therefore not subject to OMB review.

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

List of Subjects in 40 CFR Part 180

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

Dated: February 22, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

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

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

2. In § 180.446, by removing paragraph (a) and designating it as ''reserved'' and by amending paragraph (b) by revising the table therein, to read as follows:

§ 180.446 Clofentezine; tolerances for residues.

(a) [Reserved]

(b) * * *

Commodity	Parts per million
Almonds, hulls	5.0
Almonds, nutmeat	0.5
Apples	0.01
Apricots	1.0
Cherries	1.0
Nectarines	1.0
Peaches	1.0
Pears	0.5
Walnuts	0.02

* * * * *

[FR Doc. 95–5651 Filed 3–7–95; 8:45 am]
BILLING CODE 6560–50–F

40 CFR Part 281

[FRL–5168–1]

Utah; Final Approval of State Underground Storage Tank Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of final determination on State of Utah application for final approval.

SUMMARY: The State of Utah has applied for final approval of its underground storage tank program under Subtitle I of the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed the Utah application and has reached a final determination that Utah's underground storage tank (UST) program satisfies all of the requirements necessary to qualify for final approval. Thus, EPA is granting final approval to the State to operate its program in lieu of the Federal program.

EFFECTIVE DATE: Final approval for Utah shall be effective at 1:00 pm Eastern Time on April 7, 1995.

FOR FURTHER INFORMATION CONTACT: Leslie Zawacki, Underground Storage Tank Program Section, U.S. EPA, Region 8, 8HWM–WM, 999 18th Street, Denver, Colorado 80202, phone: (303) 293–1665.

SUPPLEMENTARY INFORMATION:

A. Background

Section 9004 of the Resource Conservation and Recovery Act (RCRA) enables EPA to approve state underground storage tank programs to operate in the State in lieu of the Federal underground storage tank (UST) program. Program approval is granted by EPA if the Agency finds that the State program: (1) is ''no less stringent'' than the Federal program in all seven elements, and includes notification requirements of section 9004(a)(8), 42 U.S.C. 6991c(a)(8); and (2) provides for adequate enforcement of compliance with UST standards (section 9004(a), 42 U.S.C. 6991c(a)).

On September 20, 1993, Utah submitted an application for ''complete'' program approval which includes regulation of both petroleum and hazardous substance tanks. The State of Utah established authority through the Utah Solid and Hazardous Waste Act to implement an underground storage tank program in February 1986, and further developed its authority in the UST Act in February 1989. The State adopted the federal rules and developed some additional rules in February 1989.

On October 27, 1994, EPA published a tentative decision announcing its intent to grant Utah final approval. Further background on the tentative decision to grant approval appears at 59 FR 53955, October 27, 1994. Along with the tentative determination, EPA announced the availability of the application for public comment and provided notice that a public hearing would be provided if significant public interest was shown. EPA received no comments on the application and no request for a public hearing, therefore, a hearing was not held.

B. Decision

I conclude that Utah's application for final approval meets all of the statutory and regulatory requirements established by Subtitle I of RCRA. Accordingly, Utah is granted final approval to operate its underground storage tank program in lieu of the Federal program. Utah now has the responsibility for managing underground storage tank facilities within its borders and carrying out all aspects of the UST program except with regard to ''Indian Country,'' as defined in 18 U.S.C. 1151, where EPA will retain and otherwise exercise regulatory authority. Utah also has primary enforcement responsibility, although EPA retains the right to conduct inspections under section 9005 of RCRA 42 U.S.C. 6991d and to take enforcement actions under section 9006 of RCRA 42 U.S.C. 6991e.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this approval will not have a significant economic impact on a substantial number of small entities. The approval effectively suspends the applicability of certain Federal regulations in favor of Utah's program, thereby eliminating duplicative requirements for owners and operators of underground storage tanks in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 281

Environmental protection, Administrative practice and procedure, Hazardous materials, State program approval, Underground storage tanks.

Authority: This notice is issued under the authority of sections 2002(a), 7004(b), and 9004 of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6974(b), and 6991(c).

Dated: March 1, 1995.

Jack W. McGraw,

Acting Regional Administrator.

[FR Doc. 95–5657 Filed 3–7–95; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2720

RIN 1004–AB86

[WO–690–02–4120–24 1A; Circular No. 2658]

Conveyance of Federally-Owned Mineral Interests

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: This final rule amends 43 CFR part 2720 in order to streamline and clarify the procedures for conveying Federally-owned mineral interests to the owner of the surface estate overlying the mineral interests. Section 209 of the Federal Land Policy and Management Act (FLPMA) allows such conveyances when there are no known mineral values present, or when the reservation of the mineral rights is interfering with or precluding appropriate nonmineral development of the land that would be more beneficial than mineral development. The rule is necessary because the wording of the existing regulation has caused considerable confusion on the part of both the public and public land managers, and has been interpreted to require expensive mineral surveys in many cases where such surveys were unnecessary. The final rule will simplify the conveyance of Federally-owned mineral interests.

EFFECTIVE DATE: April 7, 1995.

ADDRESSES: Suggestions or inquiries should be sent to: Director (690), Bureau of Land Management, 1849 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Clyde Topping, (202) 452–0380.

SUPPLEMENTARY INFORMATION: Five sections of subpart 2720 are amended in this final rule. The amendments in two of these sections are substantive and are designed to meet the objectives stated above in the Summary, and are explained below in the discussion of the comments received on the rule. The remaining three sections—sections 2720.0–6, 2720.1–3, and 2720.3—contain minor clarifications and corrections in language that were explained in the preamble to the proposed rule published in the **Federal Register** on September 28, 1993 (58 FR 50536). The rule allowed 60 days for public comment. During this public comment period, 1 public comment was received.

The comment basically supported the rule. It also asked for a reaffirmation of BLM's policy regarding exchanges involving surface and mineral rights, which allows both parties to an exchange to reserve mineral rights or to convey other mineral rights in order to keep the exchange balanced. This final rule has no effect on this BLM policy.

The statute that is implemented in these regulations allows conveyance of the mineral rights when the Secretary of the Interior finds that there are no known mineral values or that the mineral reservation is interfering with or precluding appropriate nonmineral development that is more beneficial than mineral development. It requires payment of administrative costs and the current fair market value of the minerals conveyed. It does not require the retention of non-valuable minerals in Federal ownership where there is a beneficial use of the surface with which mineral development would interfere. If the Secretary finds that mineral development in a particular case may be more beneficial than the surface use planned by the non-Federal owner, the conveyance would not be allowed.

The definition of ''known mineral value'' has been amended in the final rule to make it clear that mineral values will be determined in light of the current market, and to refer to lands containing mineral formations rather than to lands with underlying formations.

Minor changes in style have been made in the regulatory text to improve clarity and readability.

The principal author of this final rule is Clyde Topping of the Biotic and Landscape Resource Team, assisted by the Regulatory Management Team, BLM.

It is hereby determined that this final rule does not constitute a major Federal action significantly affecting the quality of the human environment, and that no detailed statement pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(2)(C)) is required. The BLM has determined that this final rule is categorically excluded from further environmental review. Under the Council on Environmental Quality regulations (40 CFR 1508.4) and environmental policies and procedures of the Department of the Interior, ''categorical exclusions'' means a category of actions that do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency and for which neither an environmental assessment nor an environmental impact statement is required. The BLM has made this determination under 516 Departmental Manual (DM), Chapter 2, Appendix 1, Item 1.10, which includes ''regulations * * * the environmental effects of which are too broad, speculative or conjectural to lend themselves to meaningful analysis and will be subject later to the NEPA process, either collectively or case-by-case,'' because the environmental effects of the transactions covered by this rule (a great variety of possible proposed uses of non-Federal surface) are entirely speculative and conjectural, and the transactions covered by the regulations will be subject to the NEPA process on a case-by-case basis as they are proposed. The BLM further determined that the rule will not trigger any of the 10 exceptions disallowing categorical exclusions listed in 516 DM 2, Appendix 2. These 10 exceptions apply to individual actions, not broad regulations covering a multitude of possible individual actions.

This rule was not subject to review by the Office of Management and Budget under Executive Order 12866.

The Department has determined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that the final rule will not have a significant economic impact on a substantial number of small entities. The rule, by clarifying provisions that have been misinterpreted in the past, obviates unneeded and expensive mineral exploration programs to prove the market value of reserved mineral rights that are not valuable in the market sense. The rule imposes no costs, and makes the regulatory process less cumbersome.

The Department certifies that this final rule does not represent a governmental action capable of interference with constitutionally protected property rights. The rule does not require the taking of any property rights. Therefore, as required by Executive Order 12630, the Department

of the Interior has determined that the rule will not cause a taking of private property.

The information collection requirements contained in part 2720 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1004–0153.

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

List of Subjects in 43 CFR Part 2720

Administrative practice and procedure, Public lands-mineral resources, Public lands-sale.

Dated: March 2, 1995.

Bob Armstrong,

Assistant Secretary of the Interior.

For the reasons stated in the preamble, and under the authorities stated below, part 2720 of Group 2700, Subchapter B, Chapter II, Title 43 of the Code of Federal Regulations is amended as follows:

PART 2720—CONVEYANCE OF FEDERALLY-OWNED MINERAL INTERESTS

Subpart 2720—Conveyance of Federally-Owned Mineral Interests

1. The authority citation for part 2720 is revised to read as follows:

Authority: 43 U.S.C. 1719 and 1740.

2. Section 2720.0–5(b) is revised to read as follows:

§ 2720.0–5 Definitions.

* * * * *

(b) *Known mineral values* means mineral rights in lands containing geologic formations that are valuable in the monetary sense for exploring, developing, or producing natural mineral deposits. The presence of such mineral deposits with potential for mineral development may be known because of previous exploration, or may be inferred based on geologic information.

* * * * *

3. Section 2720.0–6 is amended by revising the first sentence thereof to read as follows:

§ 2720.0–6 Policy.

As required by the Federal Land Policy and Management Act, the Bureau of Land Management may convey a federally owned mineral interest only when the authorized officer determines that it has no known mineral value, or that the mineral reservation is interfering with or precluding appropriate nonmineral development of the lands and that nonmineral development is a more beneficial use than mineral development. * * *

4. Section 2720.0–9 is added to read as follows:

§ 2720.0–9 Information collection.

(a) The Office of Management and Budget has approved under 44 U.S.C. 3507 the information collection requirements contained in part 2720 and assigned clearance number 1004–0153. The Bureau of Land Management is collecting the information to permit the authorized officer to determine whether the Bureau of Land Management should dispose of Federally-owned mineral interests. The Bureau of Land Management will use the information collected to make these determinations. A response is required to obtain a benefit.

(b) The Bureau of Land Management estimates the public reporting burden for this information to average 8 hours per response, including the time for reviewing regulations, 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 the burden, to the Information Collection Clearance Officer (783), Bureau of Land Management, Washington, D.C. 20240, and the Office of Management and Budget, Paperwork Reduction Project, 1004–0153, Washington, D.C. 20503.

5. Section 2720.1–3 is amended by revising the concluding text of paragraph (b) to read as follows:

§ 2720.1–3 Action on application.

* * * * *

(b) * * *

The authorized officer, in reaching a determination as to whether there are any known mineral values in the land and, if so, the estimated costs of an exploratory program, if one is needed, will rely upon reports on minerals prepared by or reviewed and approved by the Bureau of Land Management.

* * * * *

6. Section 2720.2 is amended by revising paragraph (b) and adding paragraph (c) to read as follows:

§ 2720.2 Determination that an exploratory program is not required.

(a) * * *

(b) The authorized officer will not require an exploratory program to ascertain the presence of mineral values where the authorized officer determines that a reasonable person would not make exploration expenditures with expectations of deriving economic gain from the mineral production.

(c) The authorized officer will not require an exploratory program if the authorized officer determines that, for the mineral interests covered by the application, sufficient information is available to determine their fair market value.

7. Section 2720.3 is amended by revising the fourth sentence of paragraph (a), and paragraph (b) in its entirety, to read as follows:

§ 2720.3 Action upon determination of the fair market value of the mineral interests.

(a) * * * The notice must require the applicant to pay both the fair market value of the Federal mineral interests and the remaining administrative costs owed within 90 days after the date the authorized officer mails the notice.

* * * * *

(b) The Bureau of Land Management will convey mineral rights on lands for which this part does not require an exploratory program upon payment by the applicant of fair market value for those mineral interests and all administrative costs of processing the application to acquire the mineral rights.

[FR Doc. 95–5626 Filed 3–7–95; 8:45 am]

BILLING CODE 4310–84–P

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

48 CFR Chapter 99

Cost Accounting Standards Board; Interim Interpretation 95–01, Allocation of Contractor Restructuring Costs Under Defense Contracts

AGENCY: Cost Accounting Standards Board, Office of Federal Procurement Policy, OMB.

ACTION: Interpretation.

SUMMARY: The Cost Accounting Standards Board is issuing an interim interpretation designed to address period cost assignment and allocability criteria for restructuring costs incurred under certain national defense contracts.

DATES: *Effective Date:* August 15, 1994. Comments on this interim interpretation must be in writing and must be received by May 8, 1995.

ADDRESSES: Comments upon this interim interpretation should be

addressed to Richard C. Loeb, Executive Secretary, Cost Accounting Standards Board, Office of Federal Procurement Policy, 725 17th Street, NW., Room 9001, Washington, DC 20503. ATTN: CASB Interpretation 95–01.

FOR FURTHER INFORMATION CONTACT: Richard C. Loeb, Executive Secretary, Cost Accounting Standards Board (telephone: 202–395–3254).

SUPPLEMENTARY INFORMATION:

A. Background

Section 818 of the National Defense Authorization Act for Fiscal Year 1995, Pub. L. 103–337, restricts the Department of Defense from reimbursing contractor restructuring costs associated with a business combination unless certain ''net savings'' provisions are met. Questions have arisen as to the methods to be used in measuring, assigning and allocating such restructuring costs. This interim interpretation is designed to address these questions. The Board would appreciate receiving comments concerning this interpretation.

B. Authority to Issue an Interpretation

Authority for issuance of this interpretation is provided by 41 U.S.C. 422(f)(1) and 48 CFR 9901.302(b).

Richard C. Loeb,

Executive Secretary, Cost Accounting Standards Board.

Cost Accounting Standards Board Interim Interpretation 95–01, ''Allocation of Contractor Restructuring Costs Under Defense Contracts''

(a) Questions have arisen as to the appropriate methodologies to be used for the allocation and period cost assignment of contract costs categorized or classified as ''restructuring costs'' under certain defense contracts. This Interpretation applies to the provisions of several Cost Accounting Standards, including, but not limited to CAS 9904.403, 9904.404, 9904.406, 9904.409 and 9904.418, as they relate to ''restructuring costs'' associated with CAS-covered contracts.

(b) ''Restructuring costs'' are incurred after an entity decides to make a significant nonrecurring change in its business operations or structure in order to reduce overall cost levels in future periods through work force reductions, the elimination of selected activities, and/or the combination of ongoing operations, including plant relocations. Restructuring activities do not include ongoing routine changes an entity makes in its business operations or organizational structure. Restructuring costs are comprised both of direct and indirect costs associated with contractor restructuring activities taken after a business combination is effected or after an internal corporate restructuring decision is made. Typical categories of costs that have been included as restructuring charges include severance pay, early retirement incentive, retraining, employee relocation, lease cancellation, asset disposition and write-offs, and relocation and rearrangement of plant and equipment. Restructuring costs do not include the cost of such activities when they do not relate either to business combinations or significant nonrecurring internal corporate restructuring decisions. Generally, activities giving rise to restructuring charges should normally be completed within one year.

(c) The costs of betterments or improvements of capital assets that result from restructuring activities shall be capitalized and depreciated in accordance with the provisions of CAS 9904.404 and 9904.409.

(d) When a procuring agency imposes a net savings requirement for the payment of restructuring costs, the contractor shall submit data specifying (1) restructuring costs by period, (2) restructuring savings by period (if applicable), and (3) the methods by which such costs shall be allocated.

(e) Under normal circumstances, most categories of costs that qualify as restructuring costs are recognized as current period cost in the period in which the cost is incurred. However, for contractor restructuring costs defined pursuant to this Interpretation, such costs may be deferred, and subsequently amortized, over a period during which the benefits are expected to accrue. A proposal to expense restructuring costs in the current period is acceptable when the Contracting Officer agrees that such treatment will result in a more equitable assignment of costs in the circumstances.

(f) If a contractor incurs restructuring costs but does not have an established or disclosed cost accounting practice covering such costs, the deferral of such restructuring costs may be treated as the initial adoption of a cost accounting practice (see 9903.302–2(a)). If a contractor incurs restructuring costs but has an existing established or disclosed cost accounting practice that does not provide for deferring such costs, any resulting change in cost accounting practice to defer such costs may be presumed to be desirable and not detrimental to the interests of the Government (see 9903.201–6). Changes in cost accounting practices for restructuring costs shall be subject to disclosure statement revision requirements (see CAS 9903.202–3), if applicable.

(g) Measurement of cost impact on existing CAS-covered contracts, shall be the difference between an estimate to complete before giving effect to the restructuring, and, an estimate to complete considering restructuring. The estimates to complete shall be based on the contractor's compliant cost accounting practices for the affected cost accounting periods, from the applicability date of the restructuring plan through the end of the period designated as the benefiting period.

(h) The amortization period for deferred restructuring costs shall not exceed five years. Straight line amortization should normally be used, unless another method results in a more appropriate matching of cost to expected benefits.

(i) Restructuring costs that are deferred shall not be included in the allocation based for cost of money purposes (see CAS 9904.414). Deferred charges are not tangible or intangible capital assets and therefore are excluded from the base for computation of facilities capital cost of money.

(j) Restructuring costs incurred at a home office level shall be treated in accordance with the provisions of CAS 9904.403. Restructuring costs incurred at the segment level that benefit more than one segment should be allocated to the home office and treated as home office expense pursuant to CAS 9904.403. Restructuring costs incurred at the segment level that benefit only that segment shall be treated in accordance with the provisions of CAS 9904.418. Restructuring costs that are not considered to meet the homogeneity requirements of CAS 9904.418 shall be grouped in indirect cost pools that are distinct from the contractor's current indirect cost pools.

(k) This Interpretation is applicable to contractor ''restructuring costs'' paid or approved on or after August 15, 1994.

[FR Doc. 95–5607 Filed 3–7–95; 8:45 am]

BILLING CODE 3110–01–M

ENVIRONMENTAL PROTECTION AGENCY

48 CFR Part 1517

[FRL–5168–6]

Acquisition Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document amends the EPA Acquisition Regulation (EPAAR)

on the use of options. This rule eliminates a provision on the use of options which is more restrictive than coverage in the Federal Acquisition Regulation (FAR).

EFFECTIVE DATE: March 8, 1995.

FOR FURTHER INFORMATION CONTACT: Paul Schaffer at (202) 260–9032, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 (Mail Code 3802F).

SUPPLEMENTARY INFORMATION:

A. Background

Under this rule, EPA Contracting Officers (COs) will no longer need the approval of the Chief of the Contracting Office (CCO) (which includes the Office of Acquisition Management Division Directors at Headquarters, Research Triangle Park, NC, and Cincinnati, OH) when the use of options for increased quantities of supplies or services exceed 50% of the base quantity specified in the contract for a particular period. FAR coverage, which is less restrictive, is adequate.

Under this rule, EPA COs will no longer need the approval of the CCO when the use of options, combined with the base contract period, results in a total contract period of performance which exceeds thirty-six (36) months. CCO approval will be required only for total contract periods in excess of sixty (60) months, unless otherwise prohibited by statute.

B. Executive Order 12866

This rule is not a significant regulatory action as defined in Executive Order 12866. Therefore no review is required at the Office of Information and Regulatory Affairs within OMB.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this rule does not propose any information collection requirements which would require the approval of OMB under 44 U.S.C. 3501, et seq.

D. Regulatory Flexibility Act

The EPA certifies this rule will have no significant impact on small entities, since the rule eliminates a procedure internal to the Government. Therefore, no regulatory flexibility analysis has been prepared.

List of Subjects in 48 CFR Part 1517

Special contracting methods.

For the reasons set out in the preamble, Chapter 15 of Title 48, Code of Federal Regulations is amended as set forth below:

1. The authority citation for Part 1517 continues to read as follows:

Authority: Sec 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

§ 1517.202 [Removed]

2. Subpart 1517.2 is amended by removing section 1517.202.

3. Subpart 1517.2 is amended by adding section 1517.204 to read as follows:

1517.204 Contracts.

The CCO may approve a contract with a base contract period and option periods which total in excess of five (5) years, unless otherwise prohibited by statute.

Dated: February 27, 1995.

Betty L. Bailey,

Director, Office of Acquisition Management.

[FR Doc. 95–5660 Filed 3–7–95; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 60, No. 45
Wednesday, March 8, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–CE–28–AD]

Airworthiness Directives; Piper Aircraft Corporation PA–28 and PA–32 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to supersede AD 76–25–06, which currently requires replacing certain engine oil hoses on Piper Model PA–28–140 airplanes, and inspecting for a minimum clearance between the oil hose assemblies and the front exhaust stacks and adjusting if proper clearance is not obtained. The proposed action would maintain the clearance inspection and hose replacement, require this inspection and replacement to be repetitive, and extend the applicability to include PA–32 series and other PA–28 series airplanes. It would also provide the option of installing an approved TSO–C53a, Type D, hose assembly as terminating action for the repetitive inspection requirement. Numerous incidents/accidents caused by oil cooler hose rupture or failure on the affected airplanes prompted the proposed action. The actions specified by the proposed AD are intended to prevent these hoses from failing or rupturing, which could result in engine stoppage and subsequent loss of control of the airplane.

DATES: Comments must be received on or before May 19, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–CE–28–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to this AD may be obtained from the Piper Aircraft Corporation, Customer Services, 2926 Piper Drive, Vero Beach, Florida 32960. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Ms. Juanita Craft-Lloyd, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, Campus Building, 1701 Columbia Avenue, suite 2–160, College Park, Georgia 30337–2748; telephone (404) 305–7373; facsimile (404) 305–7348.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes 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 No. 94–CE–28–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, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–CE–28–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

AD 76–25–06, Amendment 39–2788, currently requires replacing certain engine oil hoses on Piper Model PA–28–140 airplanes, and inspecting for a minimum clearance between the oil hose assemblies and the front exhaust stacks and adjusting if proper clearance is not obtained.

Since issuance of that AD, the FAA has received over 20 incident and accident reports on Piper PA–28 and PA–32 series airplanes where the oil cooler hoses either ruptured or failed. Many of these occurrences required the pilot to make an emergency landing. In some instances, oil spraying from these ruptured hoses contacted the hot engine and produced smoke in the cockpit or caused controllability problems when sprayed on the windshield.

Other airplane models have shown a history of oil cooler hose problems; however, most of these have been attributed to leaking hoses instead of ruptured or broken hoses as detailed in the incident/accident reports referenced above on the PA–28 and PA–32 series airplanes. The close proximity of the oil cooler hoses to the exhaust stacks in some of these airplanes also contributes to the hazardous nature of these oil cooler hose failures.

The Model PA–28–140 airplanes in the referenced incidents/accidents were in compliance with AD 76–26–05; however, that AD did not establish any repetitive oil cooler hose inspection or replacement requirements.

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that (1) the oil cooler assemblies should be repetitively inspected for clearance, and the oil cooler hoses should be replaced at certain time intervals; (2) the applicability of AD 76–26–05 should be extended to include other PA–28 series and the PA–32 series airplanes; and (3) AD action should be taken to prevent oil cooler hoses from failing or rupturing, which could result in engine stoppage and subsequent loss of control of the airplane.

Since an unsafe condition has been identified that is likely to exist or develop in other Piper PA–28 and PA–

32 series airplanes of the same type design, the proposed AD would supersede AD 76–25–06, Amendment 39–2788, with a new AD that would retain the clearance inspection and hose replacement for the Piper Model PA–28–140 airplanes, and make the inspection and replacement repetitive for these airplane models as well as other PA–28 series and the PA–32 series airplanes. It would also provide the option of installing an approved TSO–C53a, Type D, hose assembly as terminating action for the repetitive inspection requirement.

The replacement compliance time for the proposed AD is presented in both hours time-in-service (TIS) and calendar time with the prevalent compliance time being that which occurs first. Deterioriation or failure of the oil cooler hose assemblies could occur as a result of normal flight operation or as a result of time. Therefore, the FAA has determined that this proposed dual replacement compliance time is needed to assure that the oil cooler hose assemblies are replaced before they deteriorate and rupture or fail.

The FAA estimates that 25,000 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 2 workhours (1 workhour inspection and 1 workhour replacement) per airplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $110 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $5,750,000. This figure does not take into the account the cost of repetitive inspections or repetitive replacements. The FAA has no way of determining the number of repetitive inspections or replacements each owner/operator would incur over the life of the airplane.

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 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) 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 has been placed 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 removing AD 76–25–06, Amendment 39–2788, and by adding a new airworthiness directive to read as follows:

Piper Aircraft Corporation: Docket No. 94–CE–28–AD; Supersedes AD 76–25–06, Amendment 39–2788.

Applicability: The following airplane models, all serial numbers, that are equipped with one of the applicable oil cooler hose assembly part numbers (specified below), certificated in any category:

Models	Part Nos.
PA–28–140	63901–69 or 63901–72.
PA–28–150, PA–28–160, PA–28S–160, PA–28–180, and PA–28S–180.	63635–00, 63636–00, 63701–00, 63901–20, 63901–26, 63901–43, or 63901–72.
PA–28R–180, PA–28R–200, and PA–28R–201.	63901–43.
PA–28–151 and PA–28–161.	63901–34 or 63901–49.
PA–28–181	63901–26, 63901–43, or 63901–50.
PA–28–235	61413–3, 63901–16, or 63901–26.
PA–28–236	35801 or 35801–7.
PA–32–260	63901–26.
PA–32–300, PA–32S–300, and PA–32–301.	63901–26, 63901–35, or 63901–73.
PA–32R–300, PA–32RT–300, PA–32R–301(SP), and PA–32R–301(HP).	63901–98, 63901–99, or 63901–100.
PA–32RT–300T, PA–32R–301T, and PA–32–301T.	63901–26 or 63901–91.

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 (f) of this AD 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 aircraft from the applicability of this AD.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent oil cooler hoses from failing or rupturing, which could result in engine stoppage and subsequent loss of control of the airplane, accomplish the following:

(a) Within the next 100 hours time-in-service (TIS) after the effective date of this AD, and thereafter at intervals not to exceed 100 hours TIS, inspect the oil cooler hoses to ensure that the hoses meet the criteria presented in the paragraphs below.

(1) For airplanes that have any oil cooler mounted at the front or back of the airplane, or both, the fire sleeve of the hose should not be soaked with oil or have a brownish or whitish color, and there should be no evidence of deterioration as a result of heat, brittleness, or oil seepage. Prior to further flight, replace any hose that is soaked with oil, has a brownish or whitish color, or has evidence of deterioration.

(2) On airplanes that have any oil cooler mounted in the front of the airplane, ensure that the following exists, and, prior to further flight, adjust accordingly:

(i) The hose passes underneath and behind the electrical ground cable and in front of the lower of the two engine mount struts when the hose is routed to the rear of the engine; and

(ii) The hose is tied to the engine mount strut and a clearance of at least 2 inches exists between the oil hose and exhaust stack.

Note 2: Figure 1 of this AD relates to the conditions specified in paragraphs (a)(2)(i) and (a)(2)(ii) of this AD.

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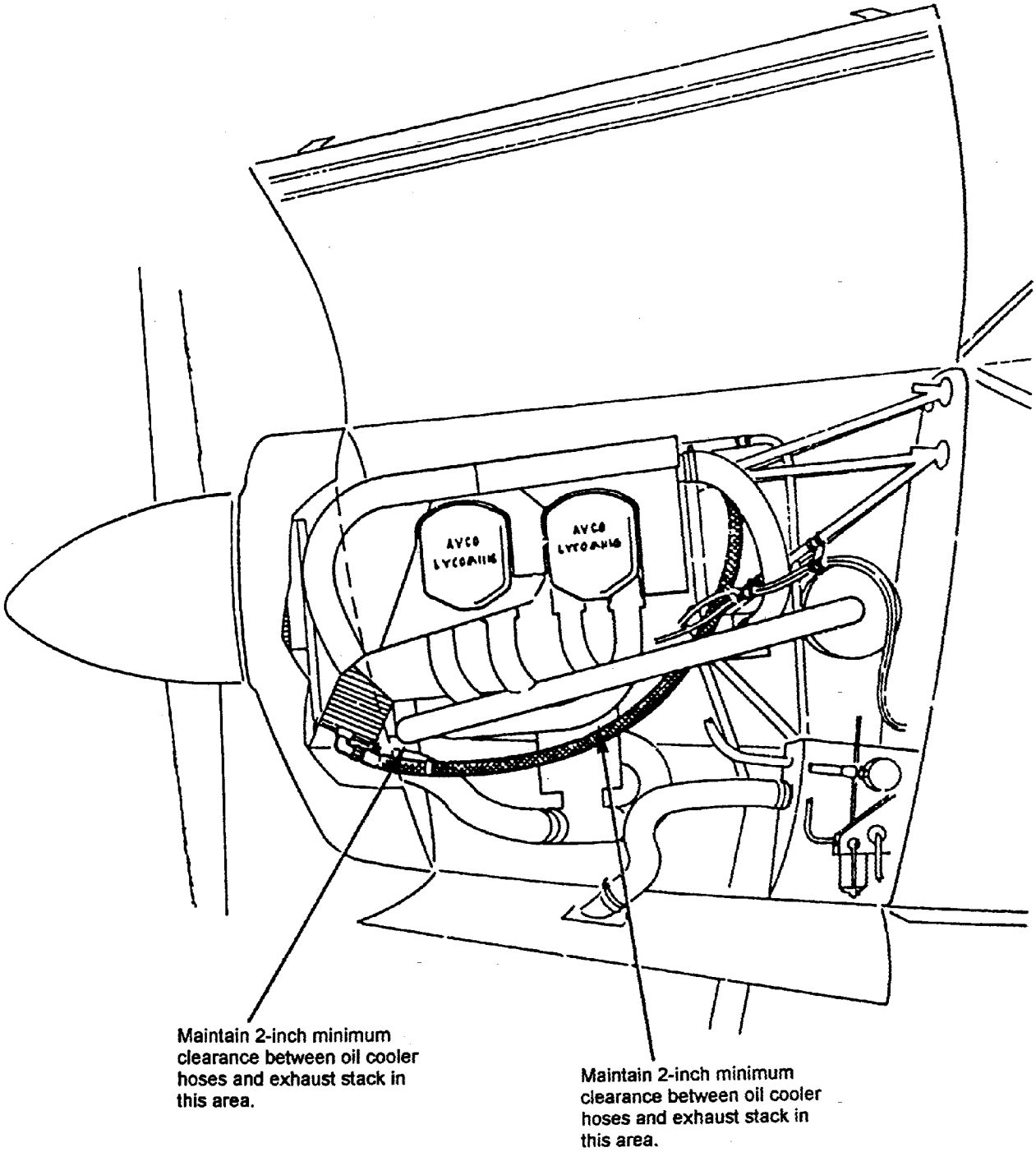

Figure 1

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(b) Upon the accumulation of 8 years or 1,000 hours TIS on the oil cooler assembly, whichever occurs first, and thereafter at every 8 years or 1,000 hours TIS (whichever occurs first), accomplish one of the following:

(1) Replace the oil cooler hose assembly with a part number specified in the APPLICABILITY section of this AD, and reinspect in accordance with paragraph (a) of this AD at intervals not to exceed 100 hours TIS; or

(2) Replace the oil cooler assembly with an approved TSO–C53a, Type D, hose assembly ensuring that there is a minimum of 2 inches between the oil cooler hoses and exhaust stacks (as applicable) upon installation.

(c) The replacement specified in paragraph (b)(2) of this AD may be accomplished at any time prior to the 8-year or 1,000-hour compliance time as terminating action for the 100-hour TIS repetitive inspection requirement of this AD.

(d) After adjusting or installing oil cooler hoses, prior to further flight, run the engine for 5 minutes to ensure that there are no oil leaks and that the 2-inch clearance is maintained (as applicable) when the engine is warm. Prior to further flight, replace any leaking oil cooler hoses and adjust the clearance accordingly.

Note 3: Although not required by this AD, it is recommended that a hose flexibility test be accomplished at each 100-hour TIS inspection interval. Hose flexibility may be determined by gently lifting the hose in several places from the bottom of its downward arc to the oil cooler. If the hose moves slightly either from side-to-side or upward with the hand at the center of an even arc, then some flexibility remains. If the hose appears hardened or inflexible, hose replacement is recommended.

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

(f) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Atlanta Aircraft Certification Office (ACO), Campus Building, 1701 Columbia Avenue, suite 2–160, College Park, Georgia 30337–2748. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

(g) Figure 1 of this AD may be obtained from the Atlanta ACO at the address specified in paragraph (f) of this AD. This document or any other information that relates to this AD may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri.

(h) This amendment supersedes AD 76–25–06, Amendment 39–2788.

Issued in Kansas City, Missouri, on March 2, 1995.

Henry A. Armstrong,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–5601 Filed 3–7–95; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD 6010.8–R]

RIN–0720–AA27

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Provider Certification Requirements—Corporate Services Provider Class; Occupational Therapists

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed rule.

SUMMARY: This proposed rule presents requirements to permit payment of professional or technical health care services rendered by certain corporate providers and to self-employed occupational therapists; makes changes to clarify the general requirements for individual professional providers; and adds standard provider participation agreement provisions when such agreements are otherwise required.

DATES: Comments must be submitted on or before May 8, 1995.

ADDRESSES: Office of CHAMPUS (PDD), Aurora, CO 80045–6900.

FOR FURTHER INFORMATION CONTACT: Theresa R. Gilstrap, telephone (303) 361–1309.

SUPPLEMENTARY INFORMATION: The Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) supplements the availability of health care in military hospitals and clinics. Services and items allowable as CHAMPUS benefits must be obtained from CHAMPUS authorized civilian providers to be considered for CHAMPUS payment. Requirements for CHAMPUS provider authorization are published as regulation.

This amendment proposes to create a fourth class of CHAMPUS provider consisting of freestanding corporations and foundations that render principally professional ambulatory or in-home care and technical diagnostic procedures. Such organizations are currently excluded as an allowable type of CHAMPUS-authorized institutional provider, and employees of these organizations are excluded as CHAMPUS-authorized individual professional providers.

The CHAMPUS currently has requirements for three classes of providers. The institutional provider class includes hospitals and other categories of similar facilities. The individual professional provider class includes physicians and other categories of licensed individuals who render professional services independently, and certain allied health and extra medical providers that must function under physician orders and supervision. The third class of providers consists of sellers of items and supplies of an ancillary or supplemental nature, such as durable equipment.

CHAMPUS payment depends upon a service being both allowable as a benefit and rendered by a CHAMPUS authorized provider. Consequently, it is currently possible that, for example, outpatient treatment by an occupational therapist employed by a hospital may be paid (to the hospital) while the same service provided by an employee of a freestanding clinic, home care agency, or self-employed occupational therapist is denied payment.

This administrative exclusion is difficult for beneficiaries to apply when seeking health care services because it requires an understanding of the underlying business structure of the provider. But the underlying business structure of a provider organization is important to CHAMPUS management decisions regarding quality assurance and payment methods.

Corporations, both not-for-profit and shareholder, and foundations are an alternative source of ambulatory and in-home care. The proposed addition of the corporate provider class will recognize the current range of providers within today's health care delivery structure and give beneficiaries access to another segment of the health care delivery industry.

This amendment proposes to allow qualified self-employed occupational therapists to be authorized for direct CHAMPUS payment for allowable services as individual professional providers.

This amendment proposes to more clearly establish that a professional corporation or association is not itself a provider but may file claims and receive payment on behalf of an individual professional provider member, and to more clearly state the other general requirements for these providers.

This amendment proposes to establish standard general provisions for agreements with certain providers when such agreements are otherwise required. These provisions will improve

efficiency in CHAMPUS oversight of providers and will limit beneficiary liability related to claims denied due to provider noncompliance with CHAMPUS requirements.

This amendment proposes to remove two provisions which exclude CHAMPUS coverage of civilian diagnostic and consultation services requested by a Military Treatment Facility (MTF) physician in support of continued MTF care of a CHAMPUS-eligible beneficiary. Because MTFs vary in size and clinical capacity for the care of CHAMPUS-eligible beneficiaries, the lack of access to specialized diagnostic and consultation resources through CHAMPUS may result in the MTF purchasing the civilian services directly without the advantage of CHAMPUS price requirements; the beneficiary paying the total cost of such non-MTF services; or the beneficiary choosing to obtain all care in the civilian community in order to take advantage of CHAMPUS cost-share of all the necessary care. Removal of these exclusions will allow flexibility in the implementation of an MTF-based plan-of-care resulting in continuity of care at a lower cost to both the beneficiary and the government.

Executive Order 12866. OMB has determined this is not a significant rule as defined by Executive Order 12866.

The Regulatory Flexibility Act of 1980 requires that a federal agency prepare an analysis when the agency issues regulations which would have significant impact upon a substantial number of small entities. An estimated 2,200 occupational therapists in private practice; approximately 850 corporate or foundation physician groups; and approximately 4,500 freestanding Medicare certified in-home health care agencies would become eligible to apply for CHAMPUS provider status if this proposed rule is finalized. These changes are expected to competitively redistribute ambulatory care benefit costs for already existing benefits. We certify that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Paperwork Reduction Act of 1980 requires all Departments to submit to the Office of Management and Budget (OMB) for review and approval any reporting or record keeping requirements in a proposed or final rule. This proposed rule will, if adopted, require information from the provider applicant to document that the criteria for CHAMPUS-provider status are met.

List of Subjects in 32 CFR Part 199

Claims, Disability, Handicapped, Health insurance, and Military personnel.

PART 199—[AMENDED]

Accordingly, 32 CFR part 199 is amended as follows:

1. The authority citation for part 199 is proposed to be to revised to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

2. Section 199.2(b) is proposed to be amended by revising the definition for ''Participating provider,'' and by adding definitions for ''Corporate services provider,'' ''Economic interest,'' and ''Qualified accreditation organization'' in alphabetical order to read as follows:

§ 199.2 Definitions.

(b) * * *

Corporate services provider. A health care provider which meets the applicable requirements established by § 199.6(e).

* * * * *

Economic interest. (i) Any right, title, or share in the income, remuneration, payment, or profit of a CHAMPUS-authorized provider, or of an individual or entity eligible to be a CHAMPUS-authorized provider, resulting, directly or indirectly, from a referral relationship; or any direct or indirect ownership, right, title, or share, including a mortgage, deed of trust, note, or other obligation secured (in whole or in part) by one entity for another entity in a referral or accreditation relationship, which is equal to or exceeds 5 percent of the total property and assets of the other entity.

(ii) A referral relationship exists when a CHAMPUS beneficiary is sent, directed, assigned or influenced to use a specific CHAMPUS-authorized provider, or a specific individual or entity eligible to be a CHAMPUS-authorized provider.

(iii) An accreditation relationship exists when a CHAMPUS-approved accreditation organization evaluates for accreditation an entity that is an applicant for, or recipient of, CHAMPUS-authorized provider status.

* * * * *

Participating provider. A CHAMPUS-authorized provider that is required, or has agreed by entering into a CHAMPUS participation agreement or by act of indicating ''accept assignment'' on the CHAMPUS claim form, to accept the CHAMPUS-allowable amount as the maximum total charge for a service or item rendered to a CHAMPUS beneficiary whether the amount is paid for fully by the CHAMPUS or requires cost-sharing by the CHAMPUS beneficiary.

* * * * *

Qualified accreditation organization. A not-for-profit corporation or a foundation that:

(i) Develops process standards and outcome standards for health care delivery programs, or knowledge standards and skill standards for health care professional certification testing, using experts both from within and outside of the health care program area or individual speciality to which the standards are to be applied;

(ii) Creates measurable criteria that demonstrate compliance with each standard;

(iii) Publishes the organization's standards, criteria and evaluation processes so that they are available to the general public;

(iv) Performs on-site evaluations of health care delivery programs, or provides testing of individuals, to measure the extent of compliance with each standard;

(v) Provides on-site evaluations or individual testing on a national or international basis;

(vi) Provides to evaluated programs and tested individuals time-limited written certification of compliance with the organization's standards;

(vii) Excludes certification of any program operated by an organization which has an economic interest, as defined by § 199.2, in the accreditation organization or in which the accreditation organization has an economic interest;

(viii) Publishes promptly the certification outcome of each program evaluation or individual test so that it is available to the general public; and

(ix) Has been found by the Director to apply standards, criteria, and certification processes which reinforce CHAMPUS provider authorization requirements and promote efficient delivery of CHAMPUS benefits.

* * * * *

3. Section 199.4 is proposed to be amended by revising paragraph (c)(3)(x) and by removing and reserving (g)(70) and (g)(71) to read as follows:

§ 199.4 Basic program benefits.

* * * * *

(c) * * *

(3) * * *

(x) *Physical and occupational therapy.* Assessment and treatment services of a CHAMPUS-authorized physical or occupational therapist may be cost-shared when:

(A) The services are prescribed and monitored by a physician;

(B) The purpose of the prescription is to reduce the disabling effects of an illness, injury, or neuromuscular disorder; and

(C) The prescribed treatment increases, stabilizes, or slows the deterioration of, the beneficiary's ability to perform specified purposeful activity in the manner, or within the range considered normal, for a human being.

* * * * *

(g) *Exclusions and limitations*

(70)–(71)[Reserved]

* * * * *

4. Section 199.6 is proposed to be amended by adding new paragraphs (a)(13) and (a)(14); removing paragraph (b)(1)(ii); revising paragraphs (a)(8), (c)(1), (c)(2) and (c)(3)(iii)(I)(*3*), redesignating paragraph (e) as (a)(15) and paragraph (f) as (a)(16) and by adding a new paragraph (e) to read as follows:

§ 199.6 Authorized providers.

* * * * *

(a) * * *

(8) *Participating providers.* A CHAMPUS-authorized provider is a participating provider, as defined in § 199.2, under the following circumstances:

(i) *Mandatory participation.*

(A) All medicare-participating hospitals must be CHAMPUS participating providers for all inpatient CHAMPUS claims.

(B) Hospitals that are not Medicare-participating but are subject to the CHAMPUS-DRG-based payment methodology or the CHAMPUS mental health payment methodology as established by § 199.14(a), must enter into a participating agreement with the CHAMPUS for all inpatient claims in order to be a CHAMPUS-authorized provider.

(C) Corporate services providers authorized as CHAMPUS providers under the provisions of paragraph (e) of this section.

(ii) *Voluntary participation.*

(A) *Total claims participation: The participating provider program.* A CHAMPUS-authorized provider that is not required to participate by this part may become a participating provider by entering into an agreement or memorandum of understanding (MOU) with the Director, OCHAMPUS, which includes, but is not limited to, the provisions of paragraph (a)(14) of this section. The Director, OCHAMPUS, may include in a participating provider agreement/MOU provisions that establish between OCHAMPUS and a class, category, type, or specific provider, uniform procedures and conditions which encourage provider participation while improving beneficiary access to benfits and contributing to CHAMPUS efficiency. Such provisions shall be otherwise allowed by this part or by DoD Directive or DoD Instruction. Participating provider program provisions may be incorporated into an agreement/MOU to establish a specific CHAMPUS-provider relationship, such as a preferred provider arrangement.

(B) *Claim-specific participation.* A CHAMPUS-authorized provider that is not required to participate and that has not entered into a participation agreement pursuant to paragraph (a)(8)(ii)(A) of this section may elect to be a participating provider on a claim-by-claim basis by indicating ''accept assignment'' on each CHAMPUS claim form for which participation is elected.

* * * * *

(13) *Medical records:* CHAMPUS-authorized provider organizations and individuals providing clinical services shall maintain adequate clinical records to substantiate that specific care was actually furnished, was medically necessary, and appropriate, and identify(ies) the individual(s) who provided the care. This applies whether the care is inpatient or outpatient. The minimum requirements for medical record documentation are set forth by all of the following:

(i) The cognizant state licensing authority;

(ii) The Joint Commission on Accreditation of Healthcare Organizations, or the appropriate Qualified Accreditation Organization as defined in § 199.2;

(iii) Standards of practice established by national medical organizations; and

(iv) This part.

(14) *Participation agreements.* Except for agreements in effect on September 30, 1994, a participation agreement otherwise required by this part shall include, in part, all of the following provisions requiring that the provider shall:

(i) Not charge a beneficiary for the following:

(A) Services for which the provider is entitled to payment from CHAMPUS;

(B) Services for which the beneficiary would be entitled to have CHAMPUS payment made had the provider complied with certain procedural requirements;

(C) Services not medically necessary and appropriate for the clinical management of the presenting illness, injury, disorder or maternity;

(D) Services for which a beneficiary would be entitled to payment but for a reduction or denial in payment as a result of quality review; and

(E) Services rendered during a period in which the provider was not in compliance with one or more conditions of authorization;

(ii) Comply with the applicable provisions of this part and related CHAMPUS administrative policy;

(iii) Accept the CHAMPUS determined allowable payment combined with the cost-share, deductible, and other health insurance amounts payable by, or on behalf of, the beneficiary, as full payment for CHAMPUS allowed services;

(iv) Collect from the CHAMPUS beneficiary those amounts that the beneficiary has a liability to pay for the CHAMPUS deductible and cost-share;

(v) Permit accessed by the Director to the clinical record of any CHAMPUS beneficiary, to the financial and organizational records of the provider, and to reports of evaluations and inspections conducted by state of private agencies or organizations;

(vi) Provide to the Director prompt written notification of the provider's employment of an individual who, at any time during the twelve months preceding such employment, was employed in a managerial, accounting, auditing, or similar capacity by an agency or organization which is responsible, directly or indirectly for decisions regarding Department of Defense payments to the provider;

(vii) Cooperate fully with a designated utilization and clinical quality management organization which has a contract with the Department of Defense for the geographic area in which the provider renders services;

(viii) Obtain written authorization before rendering designated services or items for which CHAMPUS cost-share may be expected;

(ix) Maintain clinical and other records related to individuals for whom CHAMPUS payment was made for services rendered by the provider, or otherwise under arrangement, for a period of 60 months from the date of service;

(x) Maintain contemporaneous clinical records that substantiate the clinical rationale for each course of treatment, the methods, modalities or means of treatment, periodic evaluation of the efficacy of treatment, and the outcome at completion or discontinuation of treatment;

(xi) Refer CHAMPUS beneficiaries only to providers with which the referring provider does not have an

economic interest, as defined in § 199.2; and

(xii) Limit services furnished under arrangement to those for which receipt of payment by the CHAMPUS authorized provider discharges the payment liability of the beneficiary.

* * * * *

(c) *Individual professional providers of care.*

(1) *General.*

(i) *Purpose.* This individual professional provider class is established to accommodate individuals who are recognized by 10 U.S.C. 1079(a) as authorized to assess or diagnose illness, injury, or bodily malfunction as a prerequisite for CHAMPUS cost-share of otherwise allowable related preventive or treatment services or supplies, and to accommodate such other qualified individuals who the Director may authorize to render otherwise allowable services essential to the efficient implementation of a plan-of-care established and managed by a 10 U.S.C. 1079(a) authorized professional.

(ii) *Professional corporation affiliation or association membership permitted.* Paragraph (c) of this section applies to those individual health care professionals who have formed a professional corporation or association pursuant to applicable state laws. Such a professional corporation or association may file claims on behalf of a CHAMPUS-authorized individual professional provider and be the payee for any payment resulting from such claims when the CHAMPUS-authorized individual certifies to the Director in writing that the professional corporation or association is acting on the authorized individual's behalf.

(iii) *Scope of practice limitation.* For CHAMPUS cost-sharing to be authorized, otherwise allowable services provided by a CHAMPUS-authorized individual professional provider shall be within the scope of the individual's license as regulated by the applicable state practice act of the state where the individual rendered the service to the CHAMPUS beneficiary or shall be within the scope of the test which was the basis for the individual's qualifying certification.

(iv) *Employee status exclusion.* An individual employed, directly, or indirectly by contract, by an individual or entity to render professional services otherwise allowable by this part is excluded from provider status as established by paragraph (c) of this section for the duration of such employment.

(v) *Training status exclusion.* Individual health care professionals who are allowed to render health care services only under direct and ongoing supervision as training to be credited towards earning a clinical academic degree or other clinical credential required for the individual to practice independently are excluded from provider status as established by paragraph (c) of this section for the duration of such training.

(2) *Conditions of authorization.*

(i) *Professional license requirement.* The individual must be currently licensed to render professional health care services in each state in which the individual renders services to CHAMPUS beneficiaries. Such license is required when a specific state provides, but does not require, license for a specific category of individual professional provider. The license must be at a full clinical practice level to meet this requirement. A temporary license at the full clinical practice level is acceptable.

(ii) *Professional certification requirement.* When a state does not license a specific category of individual professional certification by a Qualified Accreditation Organization, as defined in § 199.2 of this part is required. Certification must be at the full clinical practice level. A temporary certification at the full clinical practice level is acceptable.

(ii) *Education, training, and experience requirement.* The director may establish for each category or type of provider allowed by paragraph (c) of this section specific education, training, and experience requirements as necessary to promote the delivery of services by fully qualified individuals.

(iv) *Physician referral and supervision.* When physician referral and supervision is a prerequisite for CHAMPUS cost-sharing of the services of a provider authorized under paragraph (c) of this section, such referral and supervision means that the physician must actually see the patient to evaluate and diagnose the condition to be treated prior to referring the beneficiary to another provider and that the referring physician provides ongoing oversight of the course of referral related treatment throughout the period during which the beneficiary is being treated in response to the referral. Written contemporaneous documentation of the referring physician's basis for referral, and of ongoing communication between the referring and treating provider regarding the oversight of the treatment rendered as a result of the referral must meet all requirements for medical records established by this part. Referring physician supervision does not require physical location on the premises of the treating provider or at the site of treatment.

(3) * * *

(iii) * * *

(I) * * *

(*3*) Licensed registered physical therapists and occupational therapists.

* * * * *

(e) *Corporate services providers.*

(1) *General.*

(1) This corporate services provider class is established to accommodate individuals who would meet the criteria for status as a CHAMPUS authorized individual professional provider as established by paragraph (c) of this section but for the fact that they are employed directly or contractually by a corporation or foundation that provides principally professional services which are within the scope of the CHAMPUS benefit.

(ii) Payment for otherwise allowable services may be made to a CHAMPUS-authorized corporate services provider subject to the applicable requirements, exclusions and limitations of this part.

(iii) The Director may create discrete types within any allowable category of provider established by paragraph (e) of this section to improve the efficiency of CHAMPUS management.

(iv) The Director may require, as a condition of authorization, that a specific category or type of provider established by paragraph (e) of this section:

(A) Maintain certain accreditation in addition to or in lieu of the requirements of paragraph (e)(2)(v) of this section;

(B) Cooperate fully with a designated utilization and clinical quality management organization which has a contract with the Department of Defense for the geographic area in which the provider does business;

(C) Render services for which direct or indirect payment is expected to be made by the CHMPUS only after obtaining CHAMPUS written authorization; and

(D) Maintain Medicare approval for payment when the Director determines that a category, or type, of provider established by paragraph (e) of this section is substantially comparable to a provider or supplier for which Medicare has regulatory conditions of participation or conditions of coverage;

(v) Otherwise allowable services may be rendered at the authorized corporate services provider's place of business, or in the beneficiary's home under such circumstances as the Director determines to be necessary for the efficient delivery of such in-home services.

(vi) The Director may limit the term of a participation agreement for any category or type of provider established by paragraph (e) of this section.

(vii) Corporate services providers shall be assigned to only one of the following allowable categories based upon the predominate type of procedure rendered by the organization:

(A) Medical treatment procedures;

(B) Surgical treatment procedures;

(C) Maternity management procedures;

(D) Rehabilitation and/or habilitation procedures; or

(E) Diagnostic technical procedures.

(viii) The Director shall determine the appropriate procedural category of a qualified organization and may change the category based upon the provider's CHAMPUS claim characteristics. The category determination of the Director is conclusive and may not be appealed.

(2) *Conditions of authorization.* An applicant must meet the following conditions to be eligible for authorization as a CHAMPUS corporate services provider:

(i) Be a corporation or a foundation, but not a professional corporation or professional association, and

(ii) be institution-affiliated or freestanding as defined in § 199.2 and

(iii) Provide:

(A) Services and related supplies of a type rendered by CHAMPUS individual professional providers or diagnostic technical services and related supplies of a type which requires direct patient contact and a technologist who is licensed by the state in which the procedure is rendered for who is certified by a Qualified Accreditation Organization as defined in § 199.2 and

(B) A level of care which does not necessitate that the beneficiary be provided with on-site sleeping accommodations and food in conjunction with the delivery of services and

(iv) Complies with all applicable organizational and individual licensing or certification requirements that are extant in the state, county, municipality, or other political jurisdiction in which the provider renders services and

(v) Be approved for Medicare payment when determined to be substantially comparable under the provisions of paragraph (e)(1)(iv)(D) of this section or, when Medicare approved status is not required, be accredited by a qualified accreditation organization, as defined in § 199.2 and

(vi) Has entered into a participation agreement approved by the Director which at least complies with the minimum participation agreement requirements of this section.

(3) *Transfer of participation agreement.* In order to provide continuity of care for beneficiaries when there is a change of provider ownership, the provider agreement is automatically assigned to the new owner, subject to all the terms and conditions under which the original agreement was made.

(i) The merger of the provider corporation or foundation into another corporation or foundation, or the consolidation of two or more corporations or foundations, resulting in the creation of a new corporation or foundation constitutes a change of ownership.

(ii) Transfer of corporate stock or the merger of another corporation or foundation into the provider corporation or foundation does not constitute change of ownership.

(iii) The surviving corporation or foundation shall notify the Director in writing of the change of ownership promptly after the effective date of the transfer or change in ownership.

(4) *Pricing and payment methodology.* The pricing and payment of procedures rendered by a provider authorized under paragraph (e) of this section shall be limited to those methods for pricing and payment allowed by this part which the Director determines contribute to the efficient management of the CHAMPUS.

(5) *Termination of participation agreement.* A provider may terminate a participation agreement upon 45 days written notice to the Director and to the public.

Dated: March 1, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–5377 Filed 3–7–95; 8:45 am]

BILLING CODE 5000–04–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WA–18–1–5933b; FRL–5152–1]

Approval and Promulgation of State Implementation Plans: Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Washington for the purpose of establishing a Small Business Stationary Source Technical and Environmental Compliance Assistance Program. The SIP revision was submitted by the State to satisfy the Federal mandate of the Clean Air Act (CAA or Act), to ensure that small businesses have access to the technical assistance and regulatory information necessary to comply with the CAA. In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document.

DATES: Comments on this proposed rule must be received in writing by April 7, 1995.

ADDRESSES: Written comments should be addressed to Montel Livingston, Environmental Protection Specialist (AT–082), Air Programs Section, at the EPA Regional Office listed. Copies of the documents relevant to this proposed rule are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

U.S. Environmental Protection Agency, Region 10, Air Programs Section, 1200 6th Avenue, Seattle, WA 98101.

Washington State Department of Ecology, P.O. Box 47600, Olympia, WA 98504.

FOR FURTHER INFORMATION CONTACT: David J. Dellarco, Air and Radiation Branch (AT–082), EPA, 1200 Sixth Avenue, Seattle, WA 98101, (206) 553–4978.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of this **Federal Register**.

Dated: February 1, 1995.

Chuck Clarke,

Regional Administrator.

[FR Doc. 95–5448 Filed 3–7–95; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 52

[AR–3–1–5727b; FRL–5155–9]

Clean Air Act Approval and Promulgation of Title V, Section 507, Small Business Stationary Source Technical and Environmental Compliance Assistance Program for Arkansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Arkansas for the purpose of establishing a Small Business Stationary Source Technical and Environmental Compliance Assistance Program. The SIP revision was submitted by the State to satisfy the Federal mandate, found in the Clean Air Act (CAA), to ensure that small businesses have access to the technical assistance and regulatory information necessary to comply with the CAA. In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If the EPA receives adverse comments, the direct final rule will be withdrawn, and all public comments received during the 30-day comment period set forth below will be addressed in a subsequent final rule based on this proposed rule. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by April 7, 1995. If no adverse comments are received, then the direct final rule will be effective on May 8, 1995.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas Diggs, Chief (6T–AP), Planning Section, at the EPA Regional Office listed below. Copies of the documents relevant to this proposed rule are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

U.S. Environmental Protection Agency, Region 6, Air Programs Branch (6T–AP), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

Arkansas Department of Pollution Control and Ecology, Division of Air Pollution Control, 8001 National Drive, Little Rock, Arkansas 72209.

FOR FURTHER INFORMATION CONTACT: Dr. John Crocker, Planning Section (6T–AP), EPA Region 6, telephone (214) 665–7596.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title which is located in the final rules section of this **Federal Register**.

Dated: January 24, 1995.

William B. Hathaway,

Acting Regional Administrator.

[FR Doc. 95–5443 Filed 3–7–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[GA–15–1–6285b; GA–21–4–6514b: FRL–5153–4]

Approval and Promulgation of Implementation Plans; Georgia: Approval of Part D New Source Review (NSR) Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Georgia for the purpose of establishing a New Source Review program for nonattainment areas. In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because EPA views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by April 7, 1995.

ADDRESSES: Written comments should be addressed to: Dick Schutt, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Copies of the documents relevant to this final action are available for public inspection during normal business hours at the following locations:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Region 4 Air Programs Branch, Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Air Protection Branch, Georgia Environmental Protection Division, Georgia Department of Natural Resources, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354.

FOR FURTHER INFORMATION CONTACT: Please contact Dick Schutt of the EPA Region 4 Air Programs Branch at 404–347–3555 ext. 4206, and at the above address.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the Rules Section of this **Federal Register**.

Dated: February 6, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 95–5440 Filed 3–7–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[SC19–1–5031b; FRL–5166–8]

Disapproval of Revision to the South Carolina SIP

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to disapprove the State implementation plan (SIP) revision submitted by the State of South Carolina containing South Carolina's generic bubble regulation. In the final rules section of this **Federal Register**, the EPA is disapproving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the disapproval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct

final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by April 7, 1995.

ADDRESSES: Written comments on this action should be addressed to Kay T. Prince, at the EPA Regional Office listed below.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365.

South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201.

FOR FURTHER INFORMATION CONTACT: Kay T. Prince, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365. The telephone number is 404/347–3555 x4221. Reference file SC19–1–5031.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this **Federal Register**.

Dated: January 26, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 95–5575 Filed 3–7–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 63

[AD–FRL–5168–3]

RIN 2060–AD02

Federal Standards for Marine Tank Vessel Loading and Unloading Operations and National Emission Standards for Hazardous Air Pollutants for Marine Vessel Loading and Unloading Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Reopening of public comment period.

SUMMARY: On May 13, 1994 (59 FR 25004), the EPA proposed standards to regulate the emissions of volatile organic compounds (VOC) and hazardous air pollutants (HAP) from new and existing marine tank vessel loading and unloading operations which are part of major sources under section 112 of the Clean Air Act (CAA). The initial public comment period closed on July 18, 1994. With this document, the EPA reopens the comment period on the marine tank vessel loading and unloading operations to request comment on extending the proposed compliance dates of 2 years and 3 years for sections 183(f) and 112 of the CAA respectively.

DATES: Comments must be received on or before April 7, 1995.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to the EPA's Air and Radiation Docket and Information Center (6102), ATTN. Docket Number A–90–44, Room M1500, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Dockets. Docket Number A–90–44 contains supporting information used in developing the proposed provisions. This docket is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at the EPA's Air and Radiation Docket and Information Center, Waterside Mall, Room M1500, 410 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Contact Mr. David Markwordt, Policy, Planning and Standards Group, Emission Standards Division (MD–13), Office of Air Quality Planning and Standards, U. S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–0837.

SUPPLEMENTARY INFORMATION: On May 13, 1994 (59 FR 25004), the EPA proposed standards to regulate the emissions of VOC and HAP from new and existing marine tank vessel loading and unloading operations which are part of major sources under sections 183(f) and 112 of the CAA. The comment period on the proposed rule ended on July 18, 1994. This notice reopens the public comment period for the proposed rule. However, only comments limited to the subject described below will be considered at this time.

The docket for the proposed rule for marine vessel loading and unloading operations received many comments concerning the 2 and 3 year compliance dates for section 183(f) and 112 of the CAA respectively (see Docket Number A–90–44 items IV–D6, 7, 8, 23, 24, 28, 30, 31, 32, 34, 36, 39, 41, 42, 47, 50, 51, 55, 56, 58, 68, 71, 75, 78, 86, and 103).

These comments provide information that, according to the commenters, show that the deadlines provided in the proposed rule are not practicable. The commenters also suggest that there are provisions in sections 112 and 183(f) which would allow the Agency to revise its deadline for compliance.

Section 183(f)

The American Petroleum Institute (API) suggests that, as the controls required under section 183(f) must be ''reasonably available,'' the Agency cannot require implementation of controls within 2 years if such controls can not reasonably be completed in the 2-year time frame. API suggests that EPA should delay the compliance date to a date that is ''reasonable.'' API also suggests a possible phase-in of the compliance date (see Docket Number A–90–44 item IV–D–103).

In addition, API notes that section 183(f)(1)(B) provides that a regulation issued pursuant to Section 183(f)

> shall take effect after such period as the Administrator finds * * * necessary to permit the development and application of the requisite technology, * * * except that the effective date shall not be more than 2 years after promulgation of such regulation.

According to API, this requirement that the ''effective date'' be no more than 2 years from promulgation does not necessarily mean that facilities necessarily must complete installation of control equipment within that period. Indeed, API notes that section 112(d) regulations are effective upon promulgation, but the Agency is free to establish a compliance date for existing sources of up to 3 years from the effective date.

According to API, the use of the term ''reasonably available control technology'' and imprecision of the term ''effective date'' in section 183(f)(1)(B), as well as the provision's directive that the Agency consider the ''development and application of the requisite technology,'' would appear to provide EPA with the latitude to fashion a solution similar to the one the Agency arrived at arising under section 211. In a rulemaking pursuant to section 211(b), the Agency prescribed testing requirements for fuels and fuel additives. The Agency initially took the position that all testing had to have been completed and submitted to the Agency within 3 years of the Section 211 rule's promulgation date. API presented evidence demonstrating that it would be

impossible for the industry to meet this deadline primarily because ''the number of laboratory facilities currently available to conduct the required emission-based toxicological tests is very limited.'' 59 FR 33046 (June 27, 1994). The Agency added:

> [W]hile EPA believes that some groups could complete the testing required by the rule in 3 years, it is likely that not all of the fuels and fuel additives to be tested could complete the requirements in the 3-year time frame.

Id. The Agency resolved the issue in the final rule by requiring complete ''Tier 2'' test data submittal within 3 years of the rule's promulgation and a literature search, characterization of emissions, exposure analysis, and evidence of a contractual obligation, ''a qualified laboratory to conduct the required tests,'' and submittal of complete Tier 2 test data within 6 years of promulgation. 59 FR 33046.

For the section 211(b) rulemaking, the Agency interpreted the term, ''requisite information'' as ''either data required by Tier 1 and 2 or data required by Tier 1 and commitment to conduct Tier 2 testing.'' 59 FR 33047. Similarly, according to API, the 2-year ''effective date'' of Section 183(f) could be construed to require that facilities subject to the control requirements have contracts in place for the installation of equipment within 2 years of the rule's promulgation. Installation of equipment could be required by a reasonable date after the 2 year deadline. (API suggests 3 years after that date.)

Section 112

One option for extending the compliance date for the Section 112 rule is to utilize the authority of Section 112(i)(3)(B), which authorizes a 1-year extension ''if * * * necessary for the installation of controls.'' As is noted in API's July 18, 1994 comments (see Docket Number A–90–44 item IV-D34), the Agency could use the precedent of the Benzene Waste Operations NESHAP to announce, in the final rule, that all facilities subject to control requirements will be afforded 4 years from the promulgation date to achieve compliance. 55 FR 8332 (March 7, 1990). According to API, because of the very large number of facilities that are likely to need extensions, an EPA requirement for individual applications—and processing of those applications—would be unnecessarily burdensome on both the facilities and the permitting authorities.

Another option for extending the compliance date for the section 112 rule, according to API, is based on the Agency's experience with the section 211 testing rule described above. The Agency could define ''compliance'' as having contracts in place for the installation of equipment.

Finally, the Agency has concluded, in the final hazardous organic NESHAP (HON) rule, that phasing in compliance with a section 112(d) regulation is warranted in circumstances where requiring simultaneous compliance by a large number of facilities would strain existing contractors. 59 FR 19402 (April 22, 1994). In the HON rule, the Agency allowed a phasing-in of the compliance date for equipment leaks for existing sources. 40 CFR 63.100(k). Process units subject to the rule were divided into five groups; Group V's compliance date is 1 year later than Group I's. Similarly, the Agency has proposed to allow phasing in of the compliance date for equipment leaks in thirds, over an 18-month period in the Refinery MACT rule. 59 FR 36130 (June 30, 1994).

The Agency could use a similar approach in the final marine loading and unloading rules. API suggested that one of several possible phase-in approaches would be to require compliance in the following order:

(1) facilities subject to the section 183(f) rule that are located in ozone nonattainment areas;

(2) facilities subject to the section 183(f) rule that are located in ozone attainment areas;

(3) facilities subject to the section 112 rule only.

The Agency requests comments on whether the rule can legally go beyond the 2 and 3 year compliance dates. And if extension of compliance dates beyond the 2 and 3 year requirements is legal, should the Agency extend the compliance schedules?

Administrative Requirements

A. Docket

Address: Docket. Docket No. A–90–44, containing supporting information used in developing the notice, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at the Agency's Air Docket, Room M1500, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

B. Executive Order 12866 Review

The Agency has determined that this action is not ''significant'' under the terms of the Executive Order 12866 and is therefore not subject to OMB review.

C. Paperwork Reduction Act

This action does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act, 55 U.S.C. 3501 *et seq*.

D. Regulatory Flexibility Act Compliance

Pursuant to 5 U.S.C. 605(6), I hereby certify that this action will not have a significant economic impact on a substantial number of small entities because it imposes no new requirements.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Intergovernmental relations.

Dated: March 1, 1995.

Mary D. Nichols.

Assistant Administrator.

[FR Doc. 95–5658 Filed 3–7–95; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 95–30, RM–8599]

Radio Broadcasting Services; Harwood, North Dakota

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Conway Broadcasting seeking the allotment of Channel 264C3 to Harwood, ND, as the community's first local aural broadcast service. Channel 264C3 can be allotted to Harwood in compliance with the Commission's minimum distance separation requirements with a site restriction of 14.7 kilometers (9.1 miles) southwest, at coordinates 47–05–00 North Latitude; 97–00–00 West Longitude, to avoid a short-spacing to Station KIKV-FM, Channel 264C1, Alexandria, Minnesota. Canadian concurrence in this allotment is required since Harwood is located within 320 kilometers of the U.S.-Canadian border.

DATES: Comments must be filed on or before April 24, 1995, and reply comments on or before May 10, 1995.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Lars Conway, Conway Broadcasting, 4415 Fremont Avenue, South, Minneapolis, MN 55409 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making,* MM Docket No. 95–30, adopted February 21, 1995, and released March 3, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A Karousos,

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

[FR Doc. 95–5618 Filed 3–7–95; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

[MM Docket No. 95–28; RM–8593]

Radio Broadcasting Services; Stamping Ground, Kentucky

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Scott County Broadcasting, Inc., proposing the substitution of Channel 241A for Channel 256A at Stamping Ground, Kentucky, to enable Station WKYI(FM) to increase its power to six kilowatts and eliminate interference within its protected contour. An engineering analysis has determined that Channel 241A can be allotted to Stamping Ground in compliance with the Commission's minimum distance separation requirements at petitioner's requested site with a site restriction of 12.0 kilometers (7.5 miles) east to avoid short-spacings to the application and allotment site of Channel 242C3, Stanford, Kentucky, and Station WKID(FM), Channel 240A, Vevay, Indiana. The coordinates for Channel 241A at Stamping Ground are North Latitude 38–17–43 and West Longitude 84–33–10.

DATES: Comments must be filed on or before April 24, 1995 and reply comments on or before May 10, 1995.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: James P. Gray, President, Scott County Broadcasting, Inc., 10 Trinity Place, Fort Thomas, Kentucky 41075 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making,* MM Docket No. 95–28, adopted February 21, 1995, and released March 3, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 95–5617 Filed 3–7–95; 8:45 am]

BILLING CODE 6712–01–F

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

48 CFR Part 9904

Cost Accounting Standards Board; Treatment of Gains or Losses Subsequent to Mergers or Business Combinations by Government Contractors

AGENCY: Cost Accounting Standards Board, Office of Federal Procurement Policy, OMB.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of Federal Procurement Policy, Cost Accounting Standards Board (CASB), proposes to amend the Cost Accounting Standards (CAS) relating to treatment of gains or losses attributable to tangible capital assets subsequent to mergers or business combinations by government contractors.

To resolve the problems that have been identified in this area, the Board proposes to amend CAS 9904.404, ''Capitalization of Tangible Assets'' and CAS 9904.409, ''Depreciation of Tangible Capital Assets''. The proposed amendments are based on an approach involving a ''no step-up, no step-down'' of asset bases and no recognition of gain or loss on a transfer of assets following a business combination by contractors subject to CAS.

Section 26(g)(1) of the Office of Federal Procurement Policy Act requires that the Board, prior to the promulgation of any new or revised Cost Accounting Standard, publish a Notice of Proposed Rulemaking (NPRM). This NPRM addresses the Board's proposal to amend CAS 9904.404 and CAS 9904.409 to deal with the issue of gains and losses subsequent to a merger or business combination.

DATES: Comments should be received by May 8, 1995.

ADDRESSES: Comments should be addressed to Dr. Rein Abel, Director of Research, Cost Accounting Standards Board, Office of Federal Procurement Policy, 725 17th Street, NW., room 9001, Washington, DC 20503. Attn: CASB Docket No. 91–06N.

FOR FURTHER INFORMATION CONTACT: Dr. Rein Abel, Director of Research, Cost Accounting Standards Board (telephone 202–395–3254).

SUPPLEMENTARY INFORMATION:

A. Regulatory Process

The Cost Accounting Standards Board's rules and regulations are codified at 48 CFR Chapter 99. Section

26(g)(1) of the Office of Federal Procurement Policy Act, 41 U.S.C. § 422(g)(1), requires that the Board, prior to the establishment of any new or revised Cost Accounting Standard, complete a prescribed rulemaking process. This process consists of the following four steps:

1. Consult with interested persons concerning the advantages, disadvantages and improvements anticipated in the pricing and administration of government contracts as a result of a proposed Standard.

2. Promulgate an Advance Notice of Proposed Rulemaking.

3. Promulgate a Notice of Proposed Rulemaking.

4. Promulgate a Final Rule.

This proposal is step three in the four step process.

B. Background

Prior Promulgations

The issues addressed in this proposal were first identified by commenters in response to the Board's request for suggested agenda topics in November 1990. Subsequently two Staff Discussion Papers (SDPs) were issued.

The first, dated August 26, 1991 and titled ''Recognition and Pricing of Changing Capital Asset Values Resulting from Mergers and Business Combination by Government Contractors.'' (56 FR 42079) raised broad issues such as the scope of the proposed project, the basis for any Government claim to gains or losses resulting from a business combination and the likely economic consequences of a policy that would prohibit revaluation of assets following a merger.

The responses to this SDP were used by the Board as the basis for discussing the basic issues involved in this case. As a result of this discussion, the Board decided to issue a second SDP dealing with a series of questions concerning the specific procedures needed to deal effectively with the recognition, allocation and recovery of the gain or loss subsequent to a merger or business combination. The second SDP, entitled ''Treatment of Gains or Losses Subsequent to Mergers or Business Combinations by Government Contractors,'' was issued on November 4, 1993 (58 FR 58882). On the basis of comments received to the SDP, an Advance Notice of Proposed Rulemaking (ANPRM) was developed and published in the **Federal Register** on August 24, 1994 (59 FR 26774). The responses to the ANPRM were of significant assistance to the Board in developing this NPRM.

Public Comments

Fourteen sets of public comments were received from government contractors, professional and industrial associations, Federal agencies, and accounting and consulting firms.

All three Government commenters supported the basic approach and format incorporated in the ANPRM. All the other commenters, with one exception, were clearly opposed to the basic approach adopted in the ANPRM., i.e., the no step-up, no step-down approach. One industry commenter, although critical of the ANPRM, did not reject its basic approach out of hand and reserved his most critical comments to the current FAR provision that, in effect, sanctions the use of ''historical cost or fair value, whichever is lower'' principle in cases of mergers or business combinations.

Irrespective of their support or opposition to the basic approach incorporated in the ANPRM, a number of commenters offered additional, detailed comments on the various specific provisions of the document. Some of these comments were clearly editorial while others were more substantive in nature.

These comments are discussed below in greater detail, under Section E., Public Comments. The Board and the CASB staff express their appreciation for the generally constructive and thoughtful responses provided by the commenters.

Benefits

After consideration of all the comments received in response to the ANPRM, the Board continues to believe that amendments to CAS 9904.404, ''Capitalization of Tangible Assets,'' and CAS 9904.409, ''Depreciation of Tangible Capital Assets,'' as set forth in the ANPRM and essentially restated in this NPRM, will significantly improve and clarify the implementation of CAS and related procurement regulations in accounting for tangible capital assets after completion of a merger or business combination. In particular, the Board continues to believe that the proposal embodied in this NPRM will clarify the current ambiguities in this area and thus should lead to reductions in negotiations and litigation. This point is of particular significance in the current economic and budgetary environment where further reductions in the defense budget can be expected to lead to additional mergers and business combinations among defense contractors. The Board believes that the potential benefit to the audit, negotiation, and general contract administration processes accruing from the added clarity and uniformity in the measurement of the cost of depreciation and cost of money subsequent to a business combination will be substantial and will greatly outweigh any added costs.

Summary of Proposed Amendments

A brief description of the proposed amendments follows:

a. The current subsection 9904.404–50(d) is deleted and is replaced by an amended section that prescribes:

(1) That for Federal contract costing purposes tangible capital assets following a business combination shall retain their net book value recognized prior to the business combination provided that the assets had previously generated costs that were charged either as direct or indirect costs to Federal government contracts subject to CAS.

(2) That the cost of tangible capital assets shall be restated after the business combination at a figure not to exceed the fair value at the date of the acquisition pursuant to a business combination where the assets prior to the business combination did not generate costs that were charged either as direct or indirect costs to Federal contracts subject to CAS.

b. A new subparagraph 9904.409–50(j)(5), is added to current subsection 9904.409–50(j). The purpose of this new subparagraph is to make it clear that the CAS 9904.409 provisions dealing with the recapture of gains and losses on disposition of tangible capital assets should not apply when assets are transferred subsequent to a business combination.

C. Paperwork Reduction Act

The Paperwork Reduction Act, Public Law 96–511, does not apply to this proposal, and any associated rulemaking, because this proposal would impose no paperwork burden on offerors, affected contractors and subcontractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

D. Executive Order 12866 and the Regulatory Flexibility Act

The economic impact of this proposal on contractors and subcontractors is expected to be minor. As a result, the Board has determined that this ANPRM will not result in the promulgation of a ''major rule'' under the provisions of Executive Order 12866, and that a regulatory impact analysis will not be required. Furthermore, this proposal will not have a significant effect on a substantial number of small entities because small businesses are exempt

from the application of the Cost Accounting Standards. Therefore, this proposed rule does not require a regulatory flexibility analysis under the Regulatory Flexibility Act of 1980.

E. Public Comments

This NPRM was developed after consideration of the public comments received in response to the Board's ANPRM published on May 24, 1994 (59 FR 26774). The comments have provided valuable input to the Board's rulemaking process. The comments received and the action taken by the Board are summarized in the paragraphs that follow:

Comment: Most non-Government commenters disagreed with the Board's proposed ''no step-up, no step-down'' approach. They opposed the exception from generally accepted accounting principles (GAAP) and expressed the opinion that the proposed approach does not represent sound accounting. They also pointed out that the proposed approach would lead to inconsistencies in the accounting practices applied in cases of CAS-covered contracts as contrasted with non-CAS-covered contracts. In general, the alternative approaches suggested involved either continuation of the ''status quo'', combined with proposals to rescind FAR 31.205–52, or suggestions to explore ways to insure that the government participates, when appropriate, in gains and losses recognized from assets involved in mergers or business combinations.

Response: The Board adopted the ''no step-up no step-down'' approach after extensive consideration of the possible alternative approaches. In particular, the issues associated with the recognition, allocation and recovery of the gain or loss subsequent to a merger or business combination were extensively explored in a Staff Discussion Paper (SDP) entitled ''Treatment of Gains or Losses Subsequent to Mergers or Business Combinations by Government Contractors''. It was only after careful consideration of the responses to this SDP that the Board decided to proceed with the ''no step-up, no step-down'' approach.

The Board cannot agree with the suggestions that the status quo should be, in essence, maintained. The issues addressed in this proposal were first identified as significant issues by commenters in responses to the Board's request for suggested agenda topics in November 1990. Furthermore, the FAR 31.205–52 provisions, which are part of the current regulatory environment in this area, have been generally recognized as leading to inequitable consequences from the perspective of contractors. One commenter stated: ''* * * the FAR provision not only suffers from implementation and transition problems, but as written is patently unfair by using historical costs when the purchase method indicates increased asset values and using the purchase cost when it is lower than the historical values. This allows the government to choose the method of accounting which is most cost beneficial to it.'' Given these circumstance, the Board cannot agree that ''no action'' is the proper course to follow in this instance.

Comment: Several commenters discussed the need to solve the apparent conflict between the CAS allocability provisions and the Federal Acquisition Regulation (FAR) allowability provisions in this area. In particular, it was suggested the OFPP Administrator address any continuing conflict between the Cost Accounting Standards and FAR 31.205–52 pursuant to the authority conferred on the Administrator by 41 U.S.C. 422(j)(3).

Response: The Board is aware of the apparent conflict between the provisions of CAS 9904.404 and FAR 31.205–52. Once the proposed amendment to CAS has been promulgated, the OFPP Administrator will determine whether any changes may be necessary in the FAR cost principles to make them fully compatible with the amended CAS 9904.404 and 9904.409.

Comment: Several commenters stated that the proposed amendment is unfair to contractors as it would prevent them from recouping their investments through future contract prices. In particular, the contrast was drawn between the acquisition of individual assets through purchase and the acquisition of assets as part of a business combination. In one case, the GAAP rules regarding acquisition cost would be followed, whereas in the other, the new CAS rule would mandate adherence to historical cost.

Response: It is the intent of the Board to apply the proposed amendments to CAS 9904.404 and 9904.409 on a prospective basis only. Therefore, any assets acquired in business combinations that have been concluded prior to the promulgation of these amendments will not be affected by the proposed changes in CAS. As to business combination taking place after the promulgation of the amendments, it is assumed that the parties involved will take into account, while negotiating the merger agreement, that any future depreciation chargeable to Government contracts and corresponding cash flow projections, will be based on the historical costs of the tangible capital assets being transferred in the course of the merger.

As to the treatment of purchased assets in contrast to assets acquired through a business combination, it should be pointed out that in cases of individual tangible capital assets acquired from a CAS-covered contractor, any gain or loss from such a sale would be subject to recapture by the Government in accordance with the provisions of CAS 9904.409–50(j). It is precisely because the Board concluded that such a recapture would be impractical in cases of business combinations that it decided to proceed with the ''no step-up, no step-down'' approach in the proposed amendments.

Comment: One commenter argued that any Government claim to a share in a gain resulting from changes in asset values due to price level changes cannot be justified on the basis of payment of cost of money as a government contract cost. The commenter argued that cost of money was introduced as an offset to profit and therefore should not have an impact on cost measurement.

Response: At the time the CASB separately recognized cost of money in CAS 9904.414 as an imputed contract cost, it clearly acknowledged that prior to the promulgation of that Standard, this cost element had been a ''consideration in determining contract profit compensation.'' However, this acknowledgement did not imply that the Board regarded cost of money as being part of, or having the characteristics of profit. It clearly recognized pre-CAS 9904.414 cost of money as an element of cost that implicitly was recognized as part of profit. CAS 9904.414 merely turned an implicitly recognized cost into an explicitly recognized cost.

Comment: Several commenters suggested that some type of materiality or significance criterion should be introduced to deal with those instances where the acquired entity has allocated only immaterial amounts of assets costs to CAS-covered contracts prior to the business combination or where such allocations were not made during the cost accounting period immediately preceding the business combination although they may have been made in the course of earlier periods.

Response: CAS 9904.404 and 9904.409 apply only in the case of full CAS coverage. Therefore, after the recent changes in the applicability criteria, the threshold for full CAS coverage has been increased to $25 million in contract awards during a cost accounting period. It is hard to conceive

of circumstances where such an amount in contract awards would result, on a consistent basis, in insignificant depreciation and/or cost of money charges.

Comment: Some commenters believed that the term ''generated costs chargeable'' was too ambiguous.

Response: The word ''chargeable'' has been replaced by ''charged either as direct cost or as indirect cost''.

Comment: Several commenters were concerned about the perceived potential recordkeeping burden including massive studies and protracted audits.

Response: When CAS has been applied continuously, the proposed amendments do not create any need for new or additional data regarding tangible capital assets. The only requirement is that records regarding the net book values that were maintained prior to the business combination should be retained and kept up to date after the business combination.

It is only when the contractor believes that the historical costs used for CAS purposes do not represent the fair value to be used for financial reporting purposes that the creation of additional records (or at least additional entries on existing records) becomes necessary.

Comment: One commenter stated that an adequate definition of ''business combination'' is required.

Response: ''Business combination'' and ''purchase method'' are financial accounting terms that are already used in the current version of CAS 9904.404. CAS uses these terms in a derivative sense, i.e., it prescribes certain courses of action when events so described have been recognized for financial reporting purposes. The CASB is not an originator of these terms.

Comment: One commenter suggested that issues dealt with in the proposed amendment also apply to intangible assets and that these should also be addressed in this proposal.

Response: The proposed amendments are necessarily a part of CAS 9904.404 and 9904.409. Since the application of these two Standards is limited to tangible capital assets, the proposed amendment is not a suitable vehicle for extending the coverage to intangible assets. A separate project on intangible assets would be necessary for such a purpose.

Comment: One commenter in particular offered extensive editorial comments on the proposed amendments.

Response: Most of these editorial comments were accepted.

List of Subjects in 48 CFR Part 9904

Cost accounting standards, Government procurement.

Richard C. Loeb,

Executive Secretary, Cost Accounting Standards Board.

For the reasons set forth in this preamble, chapter 99 of title 48 of the Code of Federal Regulations is proposed to be amended as set forth below:

1. The authority citation for part 9904 continues to read as follows:

Authority: Public Law 100–679, 102 Stat. 4056, 41 U.S.C. 422.

PART 9904—COST ACCOUNTING STANDARDS

9904.404 Capitalization of tangible assets.

2. Section 9904.404–50 is proposed to be amended by revising paragraph (d) to read as follows:

9904.404–50 Techniques for application.

* * * * *

(d) For Federal Government contract costing purposes, acquisition costs of tangible capital assets acquired in a business combination and accounted for under the ''purchase method'' of accounting shall be assigned to these assets as follows:

(1) Tangible capital assets that generated costs charged either as direct costs or as indirect costs to Federal Government contracts prior to a business combination shall retain the same net book value(s) subsequent to a business combination as if the business combination had not taken place.

(2) Where acquired tangible capital asset(s) did not generate costs that were charged to Federal contracts subject to CAS at the time of the business combination, the asset(s) shall be assigned a portion of the cost of the acquired company not to exceed their fair value(s) at the date of acquisition. When the fair value of identifiable acquired assets less liabilities assumed exceeds the purchase price of the acquired company in an acquisition under the ''purchase method,'' the value otherwise assignable to tangible capital assets shall be reduced by a proportionate part of the excess.

* * * * *

3. Section 9904.404–63 is proposed to be amended by designating the existing paragraph as (a) and by adding a new paragraph (b) to read as follows:

9904.404–63 Effective date.

(a) * * *

(b) The effective date of 9904.404–50(d) is [30 days after date of publication of the final rule in the **Federal Register**].

4. Section 9904.409–50 is proposed to be amended by adding a new paragraph (j)(5) to read as follows:

9904.409–50 Techniques for application.

* * * * *

(j) * * *

(5) The provisions of this subsection 9904.409–50(j) do not apply to business combinations. The carrying values of tangible capital assets subsequent to a business combination shall be established in accordance with the provisions of 9904.404–50(d).

* * * * *

6. Section 9904.409–63 is proposed to be amended by designating the existing paragraph as (a) and by adding a new paragraph (b) to read as follows:

9904.409–63 Effective date.

(a) * * *

(b) The effective date of 9904.409–50(j)(5), is [30 days after date of publication of the final rule in the **Federal Register**].

[FR Doc. 95–5566 Filed 3–7–95; 8:45 am]

BILLING CODE 3110–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AD02

Endangered and Threatened Wildlife and Plants; Proposed Revisions for Proposed Designation of Critical Habitat for the Mexican Spotted Owl

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Supplemental proposed rule, proposed revisions to proposed designation of critical habitat.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces proposed exclusions from its previously published proposal to designate critical habitat for the Mexican spotted owl. The draft economic analysis upon which the exclusions are partly based has also been made available.

DATES: The original comment period on the proposed rule to designate critical habitat extended from December 7, 1994, to March 7, 1995. The comment period on the proposal and the proposed exclusions extends through May 8, 1995.

ADDRESSES: Requests for copies of the Service's Economic Analysis and comments concerning that document and the proposal to designate critical habitat for the Mexican spotted owl or

proposed exclusions should be sent to the State Supervisor, U.S. Fish and Wildlife Service, 2105 Osuna NE, Albuquerque, New Mexico 87113. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Jennifer Fowler-Propst, New Mexico State Supervisor, at the above address, telephone (505) 761–4525.

SUPPLEMENTARY INFORMATION:

Background

The Service listed the Mexican spotted owl as a threatened species on March 16, 1993 (58 FR 14248). At the time of the listing, the Service found that, although considerable knowledge of Mexican spotted owl habitat needs had been gathered in recent years, habitat maps in sufficient detail to accurately delineate these areas were not available. Subsequent to listing the owl, the Service began gathering the data necessary to develop the proposed rule to designate critical habitat. On February 14, 1994, several environmental groups and an individual filed a lawsuit in Federal District Court in Arizona against the Department of the Interior for failure to designate critical habitat for the Mexican spotted owl (*Dr. Robin Silver, et al.* v. *Bruce Babbitt, et al.*, CIV–94–0337–PHX–CAM). On October 6, 1994, the Court ordered the Service to ''publish a proposed designation of critical habitat, including economic exclusion pursuant to 16 U.S.C. Sec. 1533(b)(2), no later than December 1, 1994.'' The proposal was published on December 7, 1994 (59 FR 63162); since the Service had not yet completed an economic analysis on the potential effects of the designation, economic exclusions were not proposed at that time. A total of 4,770,223 acres was proposed for inclusion in critical habitat for the Mexican spotted owl.

The extent and trend of habitat loss and degradation was the basis for determining that protection under the Endangered Species Act (Act) was necessary. The vegetative communities and structural attributes used by the Mexican spotted owl vary across its range. In forested habitat types, the vegetative communities consist primarily of warm-temperate and cold-temperate forests, and, to a lesser extent, woodlands and riparian deciduous forests. Canyons, deep drainages, and other topographical features that influence vegetative associations are also essential components of owl habitat. Characteristics associated with forested Mexican spotted owl habitat usually develop with increasing forest age, but their occurrence may vary by location, past forest management practices, forest type, and productivity. The attributes of nesting and roosting habitat typically include a moderate to high canopy closure; a multi-layered canopy with large overstory trees, often with various deformities; large snags; and accumulations of fallen trees and other woody debris on the ground.

Currently, land managing agencies characterize Mexican spotted owl habitat under the term ''suitable.'' Suitable habitat is often only applied to habitat able to sustain the combined nesting, roosting, and foraging needs of the species' life history. Additional habitat utilized only for foraging frequently comprises the majority of the surrounding habitat base. The term ''capable'' is applied to habitat that was suitable some time in the past, but whose condition has changed through natural or human-caused structural modifications, and that retains the potential to return to suitable conditions at some time in the future.

The Service's determination of the extent and trend of habitat loss and degradation was based on the assessment of the impacts of timber management in forested owl habitat. Under presently approved forest management plans, timber on the majority of lands on which the owl occurs is managed primarily under a shelterwood harvest regime. The shelterwood harvest method results in even-aged stands, rather than the uneven-aged, multi-layered stands used by Mexican spotted owls. In addition, the shelterwood silvicultural system calls for even-aged conditions in perpetuity. Thus, stands already changed from suitable to capable would not be allowed to return to a suitable condition, and acreage slated for future harvest would be similarly rendered perpetually unsuitable for Mexican spotted owls. National Forest plans currently in place in the Southwest Region allow for up to 95 percent of commercial forest (59 percent of suitable owl habitat) to be managed under a shelterwood system. The Service also considered the various Federal and State laws and agency management policies, and concluded that existing regulatory mechanisms were inadequate to protect the Mexican spotted owl.

Proposed Revisions to Proposed Critical Habitat

In analyzing potential areas of critical habitat for the owl, the Service evaluated the known and primary threats to the species: even-aged timber harvest practices, steep-slope timber harvests, and inadequate regulatory mechanisms. Areas of known or suspected threats were compared to areas containing habitats that support or could support the nesting, roosting, and foraging requirements of the owl. This process resulted in the identification of the approximately 4.8 million acres that were included in the proposed rule to designate critical habitat.

After the Service identified areas to be proposed for designation as critical habitat, information was submitted to the Service by the Jicarilla Apache Tribe concerning the occurrence of the Mexican spotted owl on its Reservation and the Tribe's plan for protecting the species and managing timber resources. After reviewing this information, the Regional Director of the Southwest Region of the Service (Regional Director) is of the opinion that the Jicarilla Apache Reservation lands do not require special Federal management considerations or protection. Therefore, for reasons discussed in more detail below, the Service is proposing to delete the reservation lands described below from the area proposed for critical habitat designation in the **Federal Register** on December 7, 1994.

Approximately 101,923 acres of Jicarilla Apache Tribal lands, in five discrete units (NM–JAIR–1, NM–JAIR–2, NM–JAIR–3, NM–JAIR–4, and NM–JAIR–5), were included in the proposed designation of critical habitat for the Mexican spotted owl. These critical habitat units (CHUs) run north-south along a series of canyon-incised mesas, and lie between the proposed CHUs in the Santa Fe National Forest to the south and the Colorado-New Mexico state line. A parallel north-south series of proposed CHUs in the Jicarilla Ranger District of the Carson National Forest lie 5 to 18 kilometers to the west. The majority of the high-potential breeding habitat (steep slopes, mixed conifer) receives little or no timber management, and the surrounding foraging habitat is managed primarily under uneven-age silviculture. Furthermore, there are only two known records for the Mexican spotted owl on the Jicarilla Reservation. Both records were documented in the 1980's approximately 3 miles west of the Town of Dulce. Additional records exist for areas adjacent to the Reservation. Extensive surveys between 1990 and 1994 were unsuccessful in locating any owls, nests, or roost sites on the Jicarilla Reservation.

Informal discussions between staffs of the Service's New Mexico Ecological Services State Office and Jicarilla Game and Fish Department on owl related issues were initiated during the data

collection period for critical habitat development in early summer 1993. Continued discussions led to a mutual recognition of the significant differences between resource management and habitat conditions on federally administered lands and Jicarilla Apache Reservation lands. These differences afforded an opportunity to address the threats identified in the listing proposal through the development of a tribal management plan for the owl. Working independently, the Jicarilla Game and Fish Department developed a draft ''Conservation Plan for the Mexican Spotted Owl on the Jicarilla Apache Reservation, New Mexico'' and requested review of the document by the New Mexico Ecological Services State Office at a meeting on November 21, 1994. Reviews were conducted and recommendations provided by the Service at that meeting and during subsequent telephone conversations with representatives of the Tribe. On December 16, 1994, the Jicarilla Apache Tribal Council approved the plan and formally submitted it to the Service.

The plan addresses the identified threats to owl habitat by maintaining sufficient suitable habitat across the landscape and the site-specific retention of complex forest structure following timber harvest. Nest/roost habitats, primarily in mixed conifer and steep slope areas, are not managed for timber extraction and are to remain in suitable nest-roost condition. Foraging habitat consisting of ponderosa pine is to be managed almost entirely by uneven-aged methods. Timber harvest may lower the quality of a fraction of the foraging habitat base, but adequate residual structure remains so that the habitat may rapidly reattain suitable condition. At any point in time the majority of foraging habitat remains in suitable foraging condition across the landscape. Site-specific management of territories address both habitat conditions and behavioral disturbance within owl territories. Territorial management includes the establishment of 300-acre protected activity centers (PAC) around nest-roost sites. No timber, or oil and gas development is to occur within these areas, and no behaviorally disturbing activities are permitted within ¼ mile of any nest or roost site during the breeding season. Habitat in the areas surrounding the PACs are to be managed as described above.

The plan fully incorporates the Service's criteria for management of critical habitat. These criteria were adopted, in part, from the recommended guidelines outlined in the Draft Recovery Plan prepared by the Mexican Spotted Owl Recovery Team. In addition, the Jicarilla plan has increased protection in ponderosa pine foraging habitat above those levels identified in the Draft Recovery Plan.

Based on information provided during the initial public comment period by the Jicarilla Apache Indian Tribe, the Service has determined that identified threats to the species over the majority of its range have been removed on the Jicarilla Apache Indian Reservation through the establishment and enforcement of the Tribe's Mexican Spotted Owl Conservation Plan. Therefore, the Service proposes to delete the 101,923 acres in Critical Habitat Units NM–JAIR–1, NM–JAIR–2, NM–JAIR–3, NM–JAIR–4, and NM–JAIR–5, on the Jicarilla Apache Indian Reservation from the proposed rule to designate critical habitat based on the new information provided by the Tribe.

Section 4(b)(2) of the Act (16 U.S.C. 1533 (b)(2)) requires the Service to consider economic and other impacts of designating a particular area as critical habitat. In a final designation of critical habitat, the Service is required to balance the benefits of excluding a significantly impacted area against the benefits of including that area within the boundaries of critical habitat. In fulfillment of that requirement, the Service has prepared a draft economic analysis of the effects that may be caused by the designation of critical habitat. The Service will provide a copy of the Economic Analysis to interested parties upon request. Based on the data provided for the draft economic analysis, and the assessment of identified economic impacts, the lands of the Navajo Nation, and the Southern Ute, Mescalero Apache, and San Carlos Apache tribes are being proposed for exclusion under section 4(b)(2), contingent upon Service receipt and review of specific economic information for each of those tribes, and biological data concerning the presence, distribution, and habitat use of Mexican spotted owls on those tribal lands. Information provided for the draft economic analysis indicates that significant economic impacts may occur on lands of these tribes due to the designation of critical habitat. However, the information was not conclusive. In one instance, data were grouped together for three of the tribes: Jicarilla Apache, Mescalero Apache, and Southern Ute. Such aggregation does not allow specific impacts to be delineated for individual tribes. In another instance, information provided on economic impacts on the Navajo Reservation was contradictory and may require further review and analysis. While information is available regarding economic effects, biological information is lacking concerning the abundance, distribution and management of Mexican spotted owls on the Navajo, Southern Ute, Mescalero Apache, and San Carlos Apache reservation lands. Therefore, the Service is inviting submission of information and comment on these and any other relevant issues. A more detailed discussion of economic impacts is provided in the Economic Analysis. The Service will consider the critical habitat designation in light of all additional relevant information obtained during the comment period before making a final decision with respect to the proposed rule.

A series of public hearings have been scheduled in connection with the announcement of availability of the draft economic analysis; notice of the times and locations of the hearings appears elsewhere in today's issue of the **Federal Register**. Comments regarding the proposed exclusions described above will also be accepted at these hearings or in writing through the end of the comment period on May 8, 1995.

Author

The primary author of this notice is Jennifer Fowler-Propst, New Mexico State Supervisor, at the above address.

Authority

Authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*)

Dated: March 6, 1995.

George T. Frampton Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 95–5809 Filed 3–7–95; 8:45 am]

BILLING CODE 4310–55–P

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50 CFR Part 17

RIN 1018–AD02

Endangered and Threatened Wildlife and Plants; Notice of Document Availability, Notice of Public Hearings, and Reopening of Public Comment Period

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability, reopening of public comment period, notice of public hearings.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces availability of a draft economic analysis of its proposal to designate critical habitat for the Mexican spotted owl. A comment period is opened and public hearings

will be held on the analysis and the proposal.

DATES: Comment: The original comment period on the proposed rule to designate critical habitat extended from December 7, 1994, to March 7, 1995. The comment period is now reopened until May 8, 1995.

Hearings: The Service will hold four public hearings at the times noted below. Public hearings will be held from 6 p.m. to 9 p.m. on the following dates: March 22, 1995, in Santa Fe, New Mexico; March 23, 1995, in Socorro, New Mexico; March 29, 1995, in Tucson, Arizona; and March 30, 1995, in Flagstaff, Arizona.

ADDRESSES: Hearings: The public hearings will be held at the following places: Santa Fe—Morgan Hall, 310 Old Santa Fe Trail, Santa Fe, New Mexico; Socorro—Galena Auditorium, New Mexico Institute of Mining and Technology, 1 Olive Lane, Socorro, New Mexico; Tucson—Rincon Room, Student Union, Second Floor, University of Arizona, Tucson, Arizona; Flagstaff—Flagstaff High School Auditorium, 400 West Elm Street, Flagstaff, Arizona.

Documents and comments: Requests for copies of the Service's Economic Analysis and comments concerning that document and the proposal to designate critical habitat for the Mexican spotted owl should be sent to the State Supervisor, U.S. Fish and Wildlife Service, 2105 Osuna NE., Albuquerque, New Mexico 87113. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Jennifer Fowler-Propst, New Mexico State Supervisor, at the above address, telephone (505) 761–4525.

SUPPLEMENTARY INFORMATION:

Background

The Service listed the Mexican spotted owl as a threatened species on March 16, 1993 (58 FR 14248). A proposal to designate critical habitat was published on December 7, 1994 (59 FR 63162). A total of 4,770,223 acres was proposed for inclusion in critical habitat.

Section 4(b)(2) of the Act (16 U.S.C. § 1533 (b)(2)) requires the Service to consider economic and other impacts of designating a particular area as critical habitat. In a final designation of critical habitat, the Service is required to balance the benefits of excluding areas against the benefits of including those areas within the boundaries of critical habitat. In fulfillment of that requirement, the Service has prepared a draft economic analysis of the effects that may be caused by the designation of critical habitat. The Service will provide a copy of the economic analysis to interested parties upon request. The Service will consider the critical habitat designation in light of all additional relevant information obtained during the comment period before making a final decision with respect to the proposed rule.

The comment period on the proposal is reopened until May 8, 1995, to receive views and recommendations on both the proposed designation and the draft economic analysis. Public hearings on the proposal and the draft economic analysis will be held at the times and places listed above. Oral statements at the hearings may be limited to several minutes if there are many requests to speak. Oral comments presented at the public hearings are given the same weight and consideration as written comments. If the public hearings are of insufficient time to provide for all who wish to speak, all who are not accommodated will be asked to submit their comments in writing. There are, however, no limits to the length of written comments or materials presented at the hearing or mailed to the Service.

Author

The primary author of this notice is Jennifer Fowler-Propst, New Mexico State Supervisor, at the above address.

Authority

Authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*)

Dated: March 3, 1995.

Edward H. Cynar, II,

Acting Director, Fish and Wildlife Service.

[FR Doc. 95–5810 Filed 3–7–95; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 60, No. 45

Wednesday, March 8, 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

Forms Under Review by Office of Management and Budget

March 3, 1995.

The Department of Agriculture has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extension, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title the information collection; (3) Form numbers(s), if applicable; (4) Who will be required or asked to report; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250, (202) 690–2118.

Extension

- Forest Service

Baseline and Trend Information on National Forest Communication Use and Users

Individuals or households; business or other for-profit; 2,600 responses; 650 hours

Elizabeth L. Horn (406) 329–3089

New Collection

- Agricultural Marketing Service

Freight Forwarder Directory-Data Collection Form

TMD–7

Business or other for-profit; 1,343 responses; 443 hours

Ellen Welby (202) 690–1335

Larry K. Roberson,

Deputy Departmental Clearance Officer.

[FR Doc. 95–5634 Filed 3–7–95; 8:45 am]

BILLING CODE 3410–01–M

Food and Consumer Service

Child Nutrition Programs; Income Eligibility Guidelines

AGENCY: Food and Consumer Service, USDA.

ACTION: Notice.

SUMMARY: This Notice announces the Department's annual adjustments to the Income Eligibility Guidelines to be used in determining eligibility for free and reduced price meals or free milk for the period from July 1, 1995 through June 30, 1996. These guidelines are used by schools, institutions, and centers participating in the National School Lunch Program, School Breakfast Program, Special Milk Program for Children, Child and Adult Care Food Program and Commodity School Program. The annual adjustments are required by section 9 of the National School Lunch Act. The guidelines are intended to direct benefits to those children most in need and are revised annually to account for increases in the Consumer Price Index.

EFFECTIVE DATE: July 1, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Eadie, Chief, Policy and Program Development Branch, Child Nutrition Division, FCS, USDA, Alexandria, Virginia 22302, or by phone at (702) 305–2618.

SUPPLEMENTARY INFORMATION: This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of that Act. In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), no new recordkeeping or reporting requirements have been included that are subject to approval from the Office of Management and Budget. These programs are listed in the Catalog of Federal Domestic Assistance under No. 10.553, No. 10.555, No. 10.556 and No. 10.558 and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V, and the final rule related notice published at 48 FR 29114, June 24, 1983.)

Background

Pursuant to sections 9(b)(1) and 17(c)(4) of the National School Lunch Act (42 U.S.C. 1758(b)(1) and 42 U.S.C. 1766(c)(4)), and sections 3(a)(6) and 4(e) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)(6) and 1773(e)), the Department annually issues the Income Eligibility Guidelines for free and reduced price meals in the National School Lunch Program (7 CFR part 210), School Breakfast Program (7 CFR part 220), Child and Adult Care Food Program (7 CFR part 226), and Commodity School Program (7 CFR part 210), and the guidelines for free milk in Special Milk Program for Children (7 CFR part 215). These eligibility guidelines are based on the Federal income poverty guidelines and are stated by household size.

The Department requires schools and institutions which charge for meals separately from other fees to service free meals to all children from any household with income at or below 130 percent of the poverty guidelines. The Department also requires such schools and institutions to serve reduced price meals to all children from any household with income higher than 130 percent of the poverty guidelines, but at or below 185 percent of the poverty guidelines. Schools and institutions participating in the Special Milk Program for Children may, at local option, serve free milk to all children from any household with income at or below 130 percent of the Poverty guidelines.

Definition of Income

''Income,'' as the term is used in this Notice, means income before any deductions such as income taxes, Social Security taxes, insurance premiums, charitable contributions and bonds. It includes the following: (1) Monetary compensation for services, including wages, salary, commissions or fees; (2) net income from nonfarm self-employment; (3) net income from farm self-employment; (4) Social Security; (5) dividends or interest on savings or bonds or income from estates or trusts; (6) net rental income; (7) public assistance or welfare payments; (8) unemployment compensation; (9)

government civilian employee or military retirement; or pensions or veterans payments; (10) private pensions or annuities; (11) alimony or child support payments; (12) regular contributions from persons not living in the household; (13) net royalties; and (14) other cash income. Other cash income would include cash amounts received or withdrawn from any source including savings, investments, trust accounts and other resources which would be available to pay the price of a child's meal.

''Income,'' as the term is used in this Notice, does not include any income or benefits received under any Federal programs which are excluded from consideration as income by any legislative prohibition. Furthermore, the value of meals or milk to children shall not be considered as income to their households for other benefit programs in accordance with the prohibitions in section 12(e) of the National School Lunch Act and section 11(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1760(e) and 1780(b)).

The Income Eligibility Guidelines

The following are the Income Eligibility Guidelines to be effective from July 1, 1995 through June 30, 1996. The Department's guidelines for free meals and milk and reduced price meals were obtained by multiplying the 1995 Federal income poverty guidelines by *1.30* and *1.85*, respectively, and by rounding the result upward to the next whole dollar. Weekly and monthly guidelines were computed by dividing annual income by 52 and 12, respectively, and by rounding upward to the next whole dollar.

Authority: (42 U.S.C. 1758(b)(1)).

Dated: March 3, 1995.

William E. Ludwig,

Administrator.

INCOME ELIGIBILITY GUIDELINES

[Effective from July 1, 1995 to June 30, 1996]

Household size	Federal poverty guidelines			Reduced price meals—185%			Free meals—130%		
	Annual	Month	Week	Annual	Month	Week	Annual	Month	Week
48 Contiguous United States, District of Columbia, Guam and Territories									
1	7,470	623	144	13,820	1,152	266	9,711	810	187
2	10,030	836	193	18,556	1,547	357	13,039	1,087	251
3	12,590	1,050	243	23,292	1,941	448	16,367	1,364	315
4	15,150	1,263	292	28,028	2,336	539	19,695	1,642	379
5	17,710	1,476	341	32,764	2,731	631	23,023	1,919	443
6	20,270	1,690	390	37,500	3,125	722	26,351	2,196	507
7	22,830	1,903	440	42,236	3,520	813	29,679	2,474	571
8	25,390	2,116	489	46,972	3,915	904	33,007	2,751	635
For each add'l family member add	+2,560	+214	+50	+4,736	+395	+92	+3,328	+278	+64
Alaska									
1	9,340	779	180	17,279	1,440	333	12,142	1,012	234
2	12,540	1,045	242	23,199	1,934	447	16,302	1,359	314
3	15,740	1,312	303	29,119	2,427	560	20,462	1,706	394
4	18,940	1,579	365	35,039	2,910	674	24,622	2,052	474
5	22,140	1,845	426	40,959	3,414	788	28,782	2,399	554
6	25,340	2,112	488	46,879	3,907	902	32,942	2,746	634
7	28,540	2,379	549	52,799	4,400	1,016	37,102	3,092	714
8	31,740	2,645	611	58,719	4,894	1,130	41,262	3,439	794
For each add'l family member add	+3,200	+267	+62	+5,920	+494	+114	+4,160	+347	+80
Hawaii									
1	8,610	718	166	15,929	1,328	307	11,193	933	216
2	11,550	963	223	21,368	1,781	411	15,015	1,252	289
3	14,490	1,208	279	26,807	2,234	516	18,837	1,570	363
4	17,430	1,453	336	32,246	2,688	621	22,659	1,889	436
5	20,370	1,698	392	37,685	3,141	725	26,481	2,207	510
6	23,310	1,943	449	43,124	3,594	830	30,303	2,526	583
7	26,250	2,188	505	48,563	4,047	934	34,125	2,844	657
8	29,190	2,433	562	54,002	4,501	1,039	37,947	3,163	730
For each add'l family member add	+2,940	+245	+57	+5,439	+454	+105	+3,822	+319	+74

[FR Doc. 95–5633 Filed 3–7–95; 8:45 am]

BILLING CODE 3410–30–M

Forest Service

Clearwater National Forest, Northern Region

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement and revise the land and resource management plan (forest plan) for the Clearwater National Forest.

SUMMARY: The current Forest Plan for the Clearwater National Forest was completed in September, 1987 and has guided the management of the Forest since then. Forest Plans shall ordinarily be revised on a 10-year cycle or at least every 15 years. It also may be revised whenever the Forest Supervisor determines that conditions or demands in the area have significantly changed.

In January of 1993, two lawsuits were filed against the Forest Service alleging violations of the National Forest Management Act, National

Environmental Policy Act, and the Administrative Procedures Act. The lead plaintiffs were the Sierra Club and the Wilderness Society, representing nine co-plaintiffs. A Settlement Agreement was signed on September 13, 1993 and the U.S. District Court has issued an order directing implementation of the Settlement Agreement.

The key component of the Settlement Agreement was a commitment by the Forest Service to begin the process of revising the Clearwater Forest Plan within 18 months of the settlement agreement being signed to provide long-term resolution between the parties. The settlement agreement was signed on September 13, 1993.

The Settlement Agreement also states that the current Forest Plan will remain in effect during the revision process but implementation would be modified using four interim measures. These interim measures provide additional direction related to the implementation of projects and activities in certain roadless areas, timber harvest, old growth and water quality.

Following the settlement agreement, the Clearwater National Forest began gathering background information necessary to begin the revision process. However, since September 1993, several other related Forest Service planning efforts have been initiated that involve the Clearwater National Forest. Most notable is the ''Upper Columbia River Basin, Environmental Impact Statement'' (UCRB), which will address issues relevant to the Clearwater National Forest and likely result in changes to Forest Plans in the UCRB. Notice of this effort and supporting information was previously published in the **Federal Register** on December 4, 1994.

The purpose of the Upper Columbia River Basin, EIS is to ''* * * develop and analyze a scientifically sound, ecosystem-based strategy for management of lands administered by the United States Department of Agriculture (USDA) Forest Service. * * * The strategy will modify existing Forest Plans and will focus on forest, rangeland, and aquatic/riparian ecosystem health and the sustainability of threatened, endangered, and sensitive species.'' Clearly this effort will have a profound influence on the revision process for the Clearwater National Forest. Therefore, the revision schedule for the Clearwater National Forest is designed to coordinate with the information and decisions produced by the UCRB, EIS. As part of the revision schedule separate notices will go out for scoping, comments on the DEIS, and comments on the FEIS.

During the next 12–18 months, while the UCRB, EIS is in preparation, the Clearwater National Forest will continue to gather data and information, and conduct assessments of resource conditions to better frame the revision process. Tribal governments, state or federal agencies or the public are invited to send comments regarding their ideas concerning information or data that the Clearwater National Forest can be gathering and assessing during this 12–18 month period.

DATES: Comments concerning resource assessments or data gathering in support of the Clearwater Forest Plan revision, should be received in writing by 90 days following the publication of this notice in the **Federal Register**. A supplemental notice will be placed in the **Federal Register** announcing the beginning of formal scoping for the DEIS with an opportunity to comment following completion of the UCRB, EIS.

ADDRESSES: Send written comments concerning this proposal to James L. Caswell, Forest Supervisor, Clearwater National Forest, 12730 US Highway 12, Orofino, Idaho 83544.

FOR FURTHER INFORMATION CONTACT: Doug Gochnour, Forest Planning Staff Officer or Harry Jageman, Acting Revision Team Leader, 12730 US Highway 12, Orofino, Idaho 83544, phone (208) 476–4541.

SUPPLEMENTARY INFORMATION: Preliminary tasks that have been identified for assessment and data gathering include: Land type descriptions, social/economic, old growth, watersheds, recreation, forest health and fire history. In general, these assessments will be conducted at a smaller, more localized scale than will occur for the entire UCRB.

Revision scoping meetings are tentatively planned for Moscow, Lewiston, Orofino, and Kooskia, in Idaho and Missoula Montana. Specific dates, times and locations will be announced in local newspapers of general distribution. These scoping meetings will begin following the completion of the UCRB, EIS presently scheduled for summer, 1996. The projected dates for the DEIS and FEIS will be posted in the **Federal Register** at a later date.

The alternatives considered in the revision of the Clearwater Forest Plan will be consistent with decisions made in the UCRB, EIS. The purpose and need, preliminary issues, and the scope of the Clearwater Forest Plan revision, will be further described in a separate **Federal Register** notice at a later date.

The responsible official for the revision of the Clearwater Forest Plan will be the Regional Forester, Northern Region, P.O. Box 7669, Missoula, Montana.

David F. Jolly,

Regional Forester.

[FR Doc. 95–5567 Filed 3–7–95; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

[Order No. 730]

Foreign-Trade Zones Board; Approval of Export Processing Activity; Upstate Precision Mfg., Inc. (Office Furniture Systems) Within Foreign-Trade Zone 54, Clinton County, NY

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, § 400.28(a)(2) of the Board's regulations, requires approval of the Board prior to commencement of new manufacturing/processing activity within existing zone facilities;

Whereas, the Clinton County Area Development Corporation, grantee of FTZ 54, Clinton County, New York, has requested authority under § 400.32(b)(1) of the Board's regulations on behalf of Upstate Precision Mfg., Inc. (UPMI), to manufacture modular furniture panels for export within FTZ 54 (filed 11–23–94, FTZ Docket A(32b1)–4–94; Doc. 7–95, assigned 2/21/95);

Whereas, pursuant to § 400.32(b)(1), the Commerce Department's Assistant Secretary for Import Administration has the authority to act for the Board in making such decisions on new manufacturing/processing activity under certain circumstances, including situations where the proposed activity is for export only (§ 400.32(b)(1)(ii); and,

Whereas, the FTZ Staff has reviewed the proposal, taking into account the criteria of § 400.31, and the Executive Secretary has recommended approval;

Now, Therefore, the Assistant Secretary for Import Administration, acting for the Board pursuant to § 400.32(b)(1), concurs in the recommendation and hereby approves the request subject to the Act and the Board's regulations, including § 400.28, and subject to the further condition that all textile products admitted to the zone for UPMI shall be of U.S. origin or shall be a good originating in the territory of a NAFTA country (Sec. 202, PL 103–182, 12–8–93).

Signed at Washington, DC, this 28th day of February 1995.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates Foreign-Trade Zones Board.

[FR Doc. 95–5562 Filed 3–7–95; 8:45 am]

BILLING CODE 3510–DS–P

[Order No. 734]

Foreign-Trade Zones Board; Expansion of Foreign-Trade Zone 21 Charleston, SC, Area

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, an application from the South Carolina State Ports Authority, grantee of Foreign-Trade Zone No. 21, requesting authority to expand its general-purpose zone at sites in the Charleston and Georgetown Customs port of entry areas, and requesting authority to use zone procedures for the installation of foreign audio components into automobiles within FTZ 21, was filed by the Foreign-Trade Zones (FTZ) Board on September 14, 1993 (Docket 50–93, 58 FR 50330, 9/27/93) (amended, 8/9/94, 49 FR 40519; and, 11/10/94, 59 FR 56034);

Whereas, notice inviting public comment was given in the **Federal Register** and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board has found that the requirements of the Act and the regulations are satisfied, and that the proposal is in the public interest;

Now, Therefore, the Board hereby orders:

The grantee is authorized to expand its zone and conduct processing activity under zone procedures as requested in the application, as amended, subject to the Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 28th day of February 1995.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 95–5563 Filed 3–7–95; 8:45 am]

BILLING CODE 3510–DS–P

[Order No. 727]

Foreign-Trade Zones Board; Grant of Authority for Subzone Status; Smithkline Beecham Corporation (Pharmaceuticals) Bristol, TN

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Industrial Board of Blount County, Tennessee, grantee of Foreign-Trade Zone 148, for authority to establish special-purpose subzone status at the pharmaceutical manufacturing plant of SmithKline Beecham Corporation, in Bristol, Tennessee, was filed by the Board on November 8, 1993, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 55–93, 58 FR 61065, 11–19–93); and,

Whereas, the Board has found that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, Therefore, the Board hereby authorizes the establishment of a subzone (Subzone 148A) at the plant site of SmithKline Beecham Corporation, in Bristol, Tennessee, at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 28th day of February 1995.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration Alternate Chairman Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 95–5561 Filed 3–7–95; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration, Commerce

Export Trade Certificate of Review

ACTION: Notice of Issuance of an Export Trade Certificate of Review, Application No. 94–00007.

SUMMARY: The Department of Commerce has issued an Export Trade Certificate of Review to Florida Citrus Exports, L.C. This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: W. Dawn Busby, Director, Office of Export Trading Company Affairs, International Trade Administration, 202–482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (1993).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Secretary of Commerce to publish a summary of a Certificate in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Export Trade

1. *Products*
   Fresh citrus.
2. *Services*
   Inspection, quality control, marketing and promotional services.
3. *Technology Rights*
   Proprietary rights to all technology associated with Products or Services, including, but not limited to: patents, trademarks, service marks, trade names, copyrights, trade secrets, and know-how.
4. *Export Trade Facilitation Services (as they relate to the Export of Products, Services and Technology Rights)*
   All export trade-related facilitation services, including, but not limited to: consulting and trade strategy; sales and marketing; export brokerage; foreign marketing research; foreign market development; overseas advertising and promotion; product research and design based on foreign buyer

and consumer preferences; communication and processing of export orders; inspection and quality control; transportation; freight forwarding and trade documentation; insurance; billing of foreign buyers; collection (letters of credit and other financial instruments); provision of overseas sales and distribution facilities and overseas sales staff; legal, accounting and tax assistance; management information systems development and application; assistance related to participation in government export assistance programs, such as the Export Enhancement and Market Promotion programs.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

In connection with the promotion and sale of Members' Products, Services and/or Technology Rights into the Export Markets, FCE and/or one or more of its Members may:

1. Design and execute foreign marketing strategies for its Export Markets;
2. Prepare joint bids, establish export prices for Members' Products and Services and establish terms of sale in Export Markets in connection with potential or actual bona fide opportunities;
3. Allocate export sales, international buyers and/or export markets among Members;
4. Grant exclusive and non-exclusive sales and distribution rights for Products in designated Export Markets to foreign agents or importers (''exclusive'' meaning that FCE and Members may agree not to sell Products into designated Export Markets through any other foreign distributor, and that the foreign distributor may agree to represent only FCE in the Export Markets and none of FCE's competitors);
5. Design, develop and market generic corporate labels for use in Export Markets;
6. Engage in joint promotional activities directly targeted at developing Export Markets, such as: Arranging trade shows and marketing trips; providing advertising services; providing brochures and industry newsletters; providing product, service, and industry information; conducting international market and product research; and procuring international marketing, advertising, and promotional services;
7. Share the cost of joint promotional activities among the Members;
8. Conduct product and packaging research and development exclusively for export in order to meet foreign regulatory requirements, foreign buyer specifications, and foreign consumer preferences;
9. Negotiate and enter into agreements with governments and other foreign persons regarding non-tariff trade barriers in Export Markets;
10. Establish and operate fumigation facilities and provide specialized packing operations and other quality control procedures to be followed by Members in the export of Products into Export Markets;
11. Assist each other in maintaining the quality standards necessary to be successful in Export Markets;
12. Advise and cooperate with agencies of the U.S. Government in establishing procedures regulating the export of Members' Products, Services and/or Technology Rights into Export Markets;
13. Negotiate and enter into purchase agreements with buyers in Export Markets regarding export prices, quantities, type and quality of Products, time periods, and the terms and conditions of sale;
14. Broker or take title to Products intended for Export Markets;
15. Purchase Products from non-Member producers to fulfill specific sales obligations, provided that FCE and/or Members shall make such purchases only on a transaction-by-transaction basis and when the Members are unable to supply, in a timely manner, the requisite Products at a price competitive under the circumstances;
16. Solicit non-Member producers to become Members;
17. Jointly undertake the administrative tasks of processing export orders;
18. Procure, negotiate, contract, and administer transportation services for Products in the course of export, including overseas freight transportation, inland freight transportation from the packing house to the U.S. port of embarkment, leasing of transportation equipment and facilities, storing and warehousing, stevedoring, wharfage and handling, insurance, and freight forwarder services;
19. Arrange for trade documentation and services, customs clearance, financial instruments, and foreign exchange;
20. Arrange financing through private financial entities;
21. Bill and collect monies from foreign buyers, and arrange for or provide accounting, tax, legal and consulting services in relation to Export Trade Activities and Methods of Operation;
22. Enter into exclusive agreements with non-Members to provide Export Trade Facilitation Services;
23. Design, implement, and administer Foreign Sales Corporations as provided by the Internal Revenue Code;
24. Open and operate overseas sales and distribution offices and companies to facilitate the sales and distribution of Products into and within Export Markets;
25. Apply for and utilize applicable export assistance and incentive programs available within governmental sectors;
26. Negotiate and enter into agreements with governments and foreign persons to develop countertrade arrangements, provided that this Certificate does not protect any conduct related to the sale of goods in the United States that are imported as part of any countertrade transactions;
27. Refuse to deal with or provide quotations to other Export Intermediaries for sales of Members' Products into Export Markets;
28. Require common marking and identification of Members' Products sold in Export Markets;
29. Exchange information as necessary to carry out Export Trade Activities and Methods of Operation, including:
    (a) Information about sales, marketing efforts, and sales strategies in Export Markets, including pricing; projected demand in Export Markets for Products; customary terms of sale; and foreign buyer and consumer product specifications;
    (b) Information about the price, quality, quantity, source and delivery dates of Products available from the Members for export;
    (c) Information about terms and conditions of contracts for sales in Export Markets to be considered and/or bid on by FCE and/or Members;
    (d) Information about the terms and conditions of export orders

necessary to process such orders;
(e) Information about joint bidding opportunities;
(f) Information about methods by which exports sales are to be allocated among Members;
(g) Information about expenses specific to exporting to and within Export Markets, including transportation, transshipments, intermodal shipments, insurance, inland freight to port, port storage, commissions, export sales, documentation, financing and customs duties or taxes;
(h) Information about U.S. and foreign legislation and regulations, including Federal marketing order programs that may affect sales to Export Markets; and
(i) Information about FCE's or Members' export operations, including sales and distribution networks established by FCE or Members in Export Markets, and prior export sales by Members, including export price information.

Members (Within the Meaning of § 325.2(1) of the Regulations)

Florida Fresh Citrus Sales, Inc., Wabasso, Florida; Golden River Fruit Co., Vero Beach, Florida; Leroy E. Smith's Sons, Inc., Vero Beach, Florida; Ocean Spray Cranberries, Inc., Vero Beach, Florida; Seald-Sweet Growers, Inc., Vero Beach, Florida.

Definitions

1. *Export Intermediary* means a person who acts as distributor, sales representative, sales or marketing agent, or broker, or who performs similar functions, including providing, or arranging for the provision of, Export Trade Facilitation Services.

2. *Member* means a person who has membership in FCE and who has been certified as a ''Member'' within the meaning of § 325.2(*1*) of the Regulations, set out in Attachment A and incorporated by reference.

Terms and Conditions of Certificate

1. Except as provided in paragraphs 29(b) and 29(g) of the Export Trade Activities and Methods of Operation, neither FCE nor any Member shall intentionally disclose, directly or indirectly, to any other Member any information about its or any other Member's costs, production, capacity, inventories, domestic prices, domestic sales, terms of domestic marketing or sale, or U.S. business plans, strategies, or methods, unless (1) such information is already generally available to the trade or public; or (2) the information disclosed is a necessary term or condition (e.g., price, time required to fill an order, etc.) of an actual or potential bona fide sale and the disclosure is limited to the prospective purchasing Member.

2. Each Member shall determine independently of other members the quantity of Products the Member will make available for export or sell through FCE. FCE may not solicit from any member specific quantities for export or require any member to export any minimum quantity of products.

3. Any agreements, discussions, or exchanges of information under this Certificate relating to quantities of Products available for Export Markets, product specifications or standards, export prices, product quality or other terms and conditions of export sales (other than export financing) shall be in connection only with actual or potential bona fide export transactions or opportunities and shall include only those Members participating or having a genuine interest in participating in such transactions or opportunities; provided that FCE and/or the Members may discuss standardization of Products and Services for purposes of making bona fide recommendations to foreign governmental or private standard-setting organizations.

4. Meetings at which FCE allocates export sales among Members and establishes export prices shall not be open to the public.

5. Participation by a Member in any Export Trade Activity or Method of Operation under this Certificate shall be entirely voluntary as to that Member, subject to the honoring of contractual commitments for sales of Products, Services or Technology Rights in specific export transactions. A Member may withdraw from coverage under this Certificate at any time by giving written notice to FCE, a copy of which FCE shall promptly transmit to the Secretary of Commerce and the Attorney General.

6. FCE and the Members will comply with requests made by the Secretary of Commerce on behalf of the Secretary or the Attorney General for information or documents relevant to conduct under the Certificate. The Secretary of Commerce will request such information or documents when either the Attorney General or the Secretary believes that the information or documents are required to determine that the Export Trade, Export Trade Activities and Methods of Operation of a person protected by this Certificate of Review continue to comply with the standards of section 303(a) of the Act.

Protection Provided by Certificate

The Certificate protects FCE and its directors, officers, and employees acting on its behalf, as well as its Members, and their directors, officers, and employees acting on their behalf, from private treble damage actions and governmental criminal and civil suits under U.S. federal and state antitrust laws for the export conduct specified in the Certificate and carried out during its effective period in compliance with its terms and conditions.

Effective Period of Certificate

The Certificate continues in effect from the effective date indicated below until it is relinquished, modified or revoked as provided in the Act and the Regulations.

Other Conduct

Nothing in the Certificate prohibits FCE and its Members from engaging in conduct not specified in this Certificate, but such conduct is subject to the normal application of the antitrust laws.

Disclaimer

The issuance of the Certificate of Review to FCE by the Secretary of Commerce with the concurrence of the Attorney General under the provisions of the Act does not constitute, explicitly or implicitly, an endorsement or opinion by the Secretary of Commerce or the Attorney General concerning either (a) the viability or quality of the business plans of FCE or its Members or (b) the legality of such business plans of FCE or its Members under the laws of the United States (other than as provided in the Act) or under the laws of any foreign country.

The application of the Certificate to conduct in Export Trade where the United States Government is the buyer or where the United States Government bears more than half the cost of the transaction is subject to the limitations set forth in Section V.(D.) of the ''Guidelines for the Issuance of Export Trade Certificates of Review (Second Edition),'' 50 FR 1786 (January 11, 1985) (''Guidelines'').

Dated: February 23, 1995.

W. Dawn Busby,

Director, Office of Export Trading Company Affairs.

[FR Doc. 95–5668 Filed 3–7–95; 8:45 am]

BILLING CODE 3510–DR–P

Minority Business Development Agency

Business Development Center Applications: San Francisco, CA

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625 and 15 U.S.C. 1512, the Minority Business Development Agency (MBDA) is soliciting competitive applications to operate its San Francisco Minority Business Development Center (MBDC).

The purpose of the MBDC Program is to provide business development services to the minority business community to help establish and maintain viable minority businesses. To this end, MBDA funds organizations to identify and coordinate public and private sector resources on behalf of minority individuals and firms; to offer a full range of client services to minority entrepreneurs; and to serve as a conduit of information and assistance regarding minority business. The MBDC will provide service in the San Francisco, California Metropolitan Area. The award number of the MBDC will be 09–10–95015–01.

DATES: The closing date for applications is April 17, 1995. Applications must be received in the MBDA Headquarters' Executive Secretariat on or before April 17, 1995. A pre-application conference will be held on April 3, 1995, at 10:00 a.m., at the San Francisco Regional Office, 221 Main Street, Room 1280, San Francisco, California 94105, (415) 744–3001.

ADDRESSES: U.S. Department of Commerce, Minority Business Development Agency, MBDA Executive Secretariat, 14th and Constitution Avenue, NW., Room 5073, Washington, DC 20230, (202) 482–3763.

FOR FURTHER INFORMATION, CONTACT: Steven Saho at (415) 744–3001.

SUPPLEMENTARY INFORMATION: Contingent upon the availability of Federal funds, the cost of performance for the first budget period (13 months) from August 1, 1995 to August 31, 1996, is estimated at $611,081. The total Federal amount is $519,419 and is composed of $506,750 plus the Audit Fee amount of $12,669. The application must include a minimum cost share of 15%, $91,662 in non-federal (cost-sharing) contributions for a total project cost of $611,081. Cost-sharing contributions may be in the form of cash, client fees, third party in-kind contributions, non-cash applicant contributions or combinations thereof.

The funding instrument for this project will be a cooperative agreement. For those applicants who are not incumbent organizations or who are incumbents that have experienced closure due to a break in service, a 30-day start-up period will be added to their first budget period, making it a 13-month award. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

Applications will be evaluated on the following criteria: the knowledge, background and/or capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (45 points), the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (25 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to each evaluation criteria category to be considered programmatically acceptable and responsive. Those applications determined to be acceptable and responsive will then be evaluated by the Director of MBDA. Final award selections shall be based on the number of points received, the demonstrated responsibility of the applicant, and the determination of those most likely to further the purpose of the MBDA program. Negative audit findings and recommendations and unsatisfactory performance under prior Federal awards may result in an application not being considered for award. The applicant with the highest point score will not necessarily receive the award. Periodic reviews culminating in year-to-date evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the total discretion of MBDA based on such factors as the MBDC's performance, the availability of funds and Agency priorities.

The MBDC shall be required to contribute at least 15% of the total project cost through non-Federal contributions. To assist in this effort, the MBDC may charge client fees for services rendered. Fees may range from $10 to $60 per hour based on the gross receipts of the client's business.

Anticipated processing time of this award is 120 days. Executive order 12372, ''Intergovernmental Review of Federal Programs,'' is not applicable to this program. Federal funds for this project include audit funds for non-CPA recipients. In event that a CPA firm wins the competition, the funds allocated for audits are not applicable. Questions concerning the preceding information can be answered by the contact person indicated above, and copies of application kits and applicable regulations can be obtained at the above address. The collection of information requirements for this project have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 0640–0006.

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

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

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

Name Check Policy—All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury or other matters which significantly reflect on the applicant's management honesty or financial integrity.

Award Termination—The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the award recipient has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements; unsatisfactory performance of the MBDC work requirements; and reporting inaccurate or inflated claims of client assistance. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

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

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

Nonprocurement Debarment and Suspension—Prospective participants (as defined at 15 CFR Part 26, § 26.105) are subject to 15 CFR Part 26, ''Nonprocurement Debarment and Suspension'' and the related section of the certification form prescribed above applies.

Drug Free Workplace—Grantees (as defined at 15 CFR Part 26, Section 26.605) are subject to 15 CFR Part 26, Subpart F, ''Governmentwide Requirements for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed above applies.

Anti-Lobbying—Persons (as defined at 15 CFR Part 28, § 28.105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions,'' and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000 or the single family maximum mortgage limit for affected programs, whichever is greater.

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

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

Buy American-made Equipment or Products—Applicants are hereby notified that they are encouraged, to the extent feasible, to purchase American-made equipment and products with funding provided under this program in accordance with Congressional intent as set forth in the resolution contained in Public Law 103–121, Sections 606 (a) and (b).

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

Dated: March 3, 1995.

Donald L. Powers,

Federal Register Liaison Officer, Minority Business Development Agency.

[FR Doc. 95–5682 Filed 3–7–95; 8:45 am]

BILLING CODE 3510–21–P

Business Development Center Applications: Jacksonville, FL

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625 and 15 U.S.C. 1512, the Minority Business Development Agency (MBDA) is soliciting competitive applications to operate its Jacksonville, Florida Minority Business Development Center (MBDC).

The purpose of the MBDC Program is to provide business development services to the minority business community to help establish and maintain viable minority businesses. To this end, MBDA funds organizations to identify and coordinate public and private sector resources on behalf of minority individuals and firms; to offer a full range of client services to minority entrepreneurs; and to serve as a conduit of information and assistance regarding minority business. The MBDC will provide service in the Jacksonville, Florida Metropolitan Area. The award number of the MBDC will be 04–10–95011–01.

DATES: The closing date for applications is April 14, 1995. Applications must be received in the MBDA Headquarters' Executive Secretariat on or before April 14, 1995. A pre-application conference will be held on March 29, 1995, at 9:00 a.m., at the Atlanta Regional Office, 401 W. Peachtree Street, N.W., Suite 1715, Atlanta, Georgia 30308–3516, (404) 730–3300.

ADDRESSES: U.S. Department of Commerce, Minority Business Development Agency, MBDA Executive Secretariart, 14th and Constitution Avenue, N.W., Room 5073, Washington, D.C. 20230, (202) 482–3763.

FOR FURTHER INFORMATION, CONTACT: Robert Henderson at (404) 730–3300.

SUPPLEMENTARY INFORMATION: Contingent upon the availability of Federal funds, the cost of performance for the first budget period (13 months) from August 1, 1995 to August 31, 1996, is estimated at $198,971. The total Federal amount is $169,125 and is composed of $165,000 plus the Audit Fee amount of $4,125. The application must include a minimum cost share of 15%, $29,846 in non-federal (cost-sharing) contributions for a total project cost of $198,971. Cost-sharing contributions may be in the form of cash, client fees, third party in-kind contributions, non-cash applicant contributions or combinations thereof.

The funding instrument for this project will be a cooperative agreement. For those applicants who are not incumbent organizations or who are incumbents that have experienced closure due to a break in service, a 30-day start-up period will be added to their first budget period, making it a 13-month award. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

Applications will be evaluated on the following criteria: the knowledge, background and/or capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (45 points), the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (25 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to each evaluation criteria category to be considered programmatically acceptable and responsive. Those applications determined to be acceptable and responsive will then be evaluated by the Director of MBDA. Final award selections shall be based on the number of points received, the demonstrated responsibility of the applicant, and the determination of those most likely to further the purpose of the MBDA program. Negative audit findings and recommendations and unsatisfactory performance under prior Federal awards may result in an application not being considered for award. The applicant

with the highest point score will not necessarily receive the award. Periodic reviews culminating in year-to-date evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the total discretion of MBDA based on such factors as the MBDC's performance, the availability of funds and Agency priorities.

The MBDC shall be required to contribute at least 15% of the total project cost through non-Federal contributions. To assist in this effort, the MBDC may charge client fees for services rendered. Fees may range from $10 to $60 per hour based on the gross receipts of the client's business.

Anticipated processing time of this award is 120 days. Executive order 12372, ''Intergovernmental Review of Federal Programs,'' is not applicable to this program. Federal funds for this project include audit funds for non-CPA recipients. In event that a CPA firm wins the competition, the funds allocated for audits are not applicable. Questions concerning the preceding information can be answered by the contact person indicated above, and copies of application kits and applicable regulations can be obtained at the above address. The collection of information requirements for this project have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 0640–0006.

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

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

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

Name Check Policy—All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury or other matters which significantly reflect on the applicant's management honesty or financial integrity.

Award Termination—The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the award recipient has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements; unsatisfactory performance of the MBDC work requirements; and reporting inaccurate or inflated claims of client assistance. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

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

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

Nonprocurement Debarment and Suspension—Prospective participants (as defined at 15 CFR Part 26, Section 26.105) are subject to 15 CFR Part 26, ''Nonprocurement Debarment and Suspension'' and the related section of the certification form prescribed above applies.

Drug Free Workplace—Grantees (as defined at 15 CFR Part 26, Section 26.605) are subject to 15 CFR Part 26, Subpart F, ''Governmentwide Requirements for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed above applies.

Anti-Lobbying—Persons (as defined at 15 CFR Part 28, Section 28.105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions,'' and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000 or the single family maximum mortgage limit for affected programs, whichever is greater.

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

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

Buy American-made Equipment or Products—Applicants are hereby notified that they are encouraged, to the extent feasible, to purchase American-made equipment and products with funding provided under this program in accordance with Congressional intent as set forth in the resolution contained in Public Law 103–121, Sections 606 (a) and (b).

11.800 Minority Business Development Center

(Catalog of Federal Domestic Assistance)

Dated: March 3, 1995.

Donald L. Powers,

Federal Register Liaison Officer, Minority Business Development Agency.

[FR Doc. 95–5684 Filed 3–7–95; 8:45 am]

BILLING CODE 3510–21–P

Business Development Center Applications: Baton Rouge, LA

AGENCY: Minority Business Development Agency.

ACTION: Correction.

SUMMARY: On page 9662, in the issue dated February 21, 1995, third column, third paragraph, the closing date for applications is corrected to read March 24, 1995.

FOR FURTHER INFORMATION, CONTACT: Demetrice Jenkins at (214) 767–8001.

11.800 Minority Business Development Center

(Catalog of Federal Domestic Assistance)

Dated: March 3, 1995.

Donald L. Powers,

Federal Register Liaison Office, Minority Business Development Agency.

[FR Doc. 95–5676 Filed 3–7–95; 8:45 am]

BILLING CODE 3510–21–P

Business Development Center Applications: Shreveport, LA

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Correction.

SUMMARY: On page 9664, first column, third paragraph, the closing date for applications is corrected to read March 24, 1995.

FOR FURTHER INFORMATION, CONTACT: Demetrice Jenkins at (214) 767–8001.

11.800 Minority Business Development Center

(Catalog of Federal Domestic Assistance)

Dated: March 3, 1995.

Donald L. Powers,

Federal Register Liaison Office, Minority Business Development Agency.

[FR Doc. 95–5677 Filed 3–7–95; 8:45 am]

BILLING CODE 3510–21–P

Business Development Center Applications: Pittsburgh, PA

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625 and 15 U.S.C. 1512, the Minority Business Development Agency (MBDA) is soliciting competitive applications to operate its Pittsburgh Minority Business Development Center (MBDC).

The purpose of the MBDC Program is to provide business development services to the minority business community to help establish and maintain viable minority businesses. To this end, MBDA funds organizations to identify and coordinate public and private sector resources on behalf of minority individuals and firms; to offer a full range of client services to minority entrepreneurs; and to serve as a conduit of information and assistance regarding minority business. The MBDC will provide service in the Pittsburgh, Pennsylvania Metropolitan Area. The award number of the MBDC will be 03–10–95011–01.

DATES: The closing date for applications is April 10, 1995. Applications must be received in the MBDA Headquarters' Executive Secretariat on or before April 10, 1995.

ADDRESSES: U.S. Department of Commerce, Minority Business Development Agency, MBDA Executive Secretariat, 14th and Constitution Avenue, N.W., Room 5073, Washington, D.C. 20230, (202) 482–3763.

FOR FURTHER INFORMATION, CONTACT: Levi Pace at (212) 264–3262.

SUPPLEMENTARY INFORMATION: Contingent upon the availability of Federal funds, the cost of performance for the first budget period (13 months) from August 1, 1995 to August 31, 1996, is estimated at $198,971. The total Federal amount is $169,125 and is composed of $165,000 plus the Audit Fee amount of $4,125. The application must include a minimum cost share of 15%, $29,846 in non-federal (cost-sharing) contributions for a total project cost of $198,971. Cost-sharing contributions may be in the form of cash, client fees, third party in-kind contributions, non-cash applicant contributions or combinations thereof.

The funding instrument for this project will be a cooperative agreement. For those applicants who are not incumbent organizations or who are incumbents that have experienced closure due to a break in service, a 30-day start-up period will be added to their first budget period, making it a 13-month award. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

Applications will be evaluated on the following criteria: The knowledge, background and/or capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (45 points), the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (25 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to each evaluation criteria category to be considered programmatically acceptable and responsive. Those applications determined to be acceptable and responsive will then be evaluated by the Director of MBDA. Final award selections shall be based on the number of points received, the demonstrated responsibility of the applicant, and the determination of those most likely to further the purpose of the MBDA program. Negative audit findings and recommendations and unsatisfactory performance under prior Federal awards may result in an application not being considered for award. The applicant with the highest point score will not necessarily receive the award. Periodic reviews culminating in year-to-date evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the total discretion of MBDA based on such factors as the MBDC's performance, the availability of funds and Agency priorities.

The MBDC shall be required to contribute at least 15% of the total project cost through non-Federal contributions. To assist in this effort, the MBDC may charge client fees for services rendered. Fees may range from $10 to $60 per hour based on the gross receipts of the client's business.

Anticipated processing time of this award is 120 days. Executive order 12372, ''Intergovernmental Review of Federal Programs,'' is not applicable to this program. Federal funds for this project include audit funds for non-CPA recipients. In event that a CPA firm wins the competition, the funds allocated for audits are not applicable. Questions concerning the preceding information can be answered by the contact person indicated above, and copies of application kits and applicable regulations can be obtained at the above address. The collection of information requirements for this project have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 0640–006.

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

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

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

Name Check Policy—All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury or other matters which significantly reflect on the applicant's management honesty or financial integrity.

Award Termination—The Departmental Grants Officer may

terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the award recipient has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements; unsatisfactory performance of the MBDC work requirements; and reporting inaccurate or inflated claims of client assistance. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

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

Primary Applicant Certifications—All primary applicants must submit a completed Form CD–11, ''Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying.''

Nonprocurement Debarment and Suspension—Prospective participants (as defined at 15 CFR Part 26, Section 26.105) are subject to 15 CFR Part 26, ''Nonprocurement Debarment and Suspension'' and the related section of the certification form prescribed above applies.

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

Anti-Lobbying—Persons (as defined at 15 CFR Part 28, 28. Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions,'' and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000 or the single family maximum mortgage limit for affected programs, whichever is greater.

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

Lower Tier Certifications—Recipients shall require applications/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–12, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions and Lobbying'' and disclosure form, SF–LLL, ''Disclosure of Lobbying Activities.'' Form CD–12 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

Buy American-made Equipment or Products—Applicants are hereby notified that they are encouraged, to the extent feasible, to purchase American-made equipment and products with funding provided under this program in accordance with Congressional intent as set forth in the resolution contained in Public Law 103–21, Sections 606 (a) and (b).

11.800 Minority Business Development Center

(Catalog of Federal Domestic Assistance)

Dated: March 3, 1995.

Donald L. Powers,

Federal Register Liaison Officer, Minority Business Development Agency.

[FR Doc. 95–5681 Filed 3–7–95; 8:45 am]

BILLING CODE 3510–21–P

Business Development Center Applications: San Juan, PR

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625 and 15 U.S.C. 1512, the Minority Business Development Agency (MBDA) is soliciting competitive applications to operate its San Juan Minority Business Development Center (MBDC).

The purpose of the MBDC Program is to provide business development services to the minority business community to help establish and maintain viable minority businesses. To this end, MBDA funds organizations to identify and coordinate public and private sector resources on behalf of minority individuals and firms; to offer a full range of client services to minority entrepreneurs; and to serve as a conduit of information and assistance regarding minority business. The MBDC will provide service in the San Juan, Puerto Rico Metropolitan Area. The award number of the MBDC will be 02–10–95012–01.

DATES: The closing date for applications is April 14, 1995. Applications must be received in the MBDA Headquarters' Executive Secretariat on or before April 14, 1995. A pre-application conference will be held on March 29, 1995, at 9:00 a.m., at the Atlanta Regional Office, 401 W. Peachtree Street, N.W., Suite 1715, Atlanta, Georgia 30308–3516, (404) 730–3300.

ADDRESSES: U.S. Department of Commerce, Minority Business Development Agency, MBDA Executive Secretariat, 14th and Constitution Avenue, N.W., Room 5073, Washington, D.C. 20230, (202) 482–3763.

FOR FURTHER INFORMATION, CONTACT: Robert Henderson at (404) 730–3300.

SUPPLEMENTARY INFORMATION: Contingent upon the availability of Federal funds, the cost of performance for the first budget period (13 months) from August 1, 1995 to August 31, 1996, is estimated at $388,898. The total Federal amount is $330,563 and is composed of $322,500 plus the Audit Fee amount of $8,063. The application must include a minimum cost share of 15%, $58,335 in non-federal (cost-sharing) contributions for a total project cost of $388,898. Cost-sharing contributions may be in the form of cash, client fees, third party in-kind contributions, non-cash applicant contributions or combinations thereof.

The funding instrument for this project will be a cooperative agreement. For those applicants who are not incumbent organizations or who are incumbents that have experienced closure due to a break in service, a 30-day start-up period will be added to their first budget period, making it a 13-month award. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

Applications will be evaluated on the following criteria: the knowledge, background and/or capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (45 points), the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (25 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to each evaluation criteria category to be considered programmatically acceptable and

responsive. Those applications determined to be acceptable and responsive will then be evaluated by the Director of MBDA. Final award selections shall be based on the number of points received, the demonstrated responsibility of the applicant, and the determination of those most likely to further the purpose of the MBDA program. Negative audit findings and recommendations and unsatisfactory performance under prior Federal awards may result in an application not being considered for award. The applicant with the highest point score will not necessarily receive the award. Periodic reviews culminating in year-to-date evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the total discretion of MBDA based on such factors as the MBDC's performance, the availability of funds and Agency priorities.

The MBDC shall be required to contribute at least 15% of the total project cost through non-Federal contributions. To assist in this effort, the MBDC may charge client fees for services rendered. Fees may range from $10 to $60 per hour based on the gross receipts of the client's business.

Anticipated processing time of this award is 120 days. Executive order 12372, ''Intergovernmental Review of Federal Programs,'' is not applicable to this program. Federal funds for this project include audit funds for non-CPA recipients. In event that a CPA firm wins the competition, the funds allocated for audits are not applicable. Questions concerning the preceding information can be answered by the contact person indicated above, and copies of application kits and applicable regulations can be obtained at the above address. The collection of information requirements for this project have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 0640–0006.

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

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

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

Name Check Policy—All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury or other matters which significantly reflect on the applicant's management honesty or financial integrity.

Award Termination—The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the award recipient has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements; unsatisfactory performance of the MBDC work requirements; and reporting inaccurate or inflated claims of client assistance. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

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

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

Nonprocurement Debarment and Suspension—Prospective participants (as defined at 15 CFR Part 26, Section 26.105) are subject to 15 CFR Part 26, ''Nonprocurement Debarment and Suspension'' and the related section of the certification form prescribed above applies.

Drug Free Workplace—Grantees (as defined at 15 CFR Part 26, Section 26.605) are subject to 15 CFR Part 26, Subpart F, ''Governmentwide Requirements for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed above applies.

Anti-Lobbying—Persons (as defined at 15 CFR Part 28, Section 28.105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions,'' and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000 or the single family maximum mortgage limit for affected programs, whichever is greater.

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

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

Buy American-made Equipment or Products—Applicants are hereby notified that they are encouraged, to the extent feasible, to purchase American-made equipment and products with funding provided under this program in accordance with Congressional intent as set forth in the resolution contained in Public Law 103–121, Sections 606 (a) and (b).

11.800 Minority Business Development Center

(Catalog of Federal Domestic Assistance)

Dated: March 3, 1995.

Donald L. Powers,

Federal Register Liaison Officer, Minority Business Development Agency.

[FR Doc. 95–5683 Filed 3–7–95; 8:45 am]

BILLING CODE 3510–21–P

Native American Business Development Center Applications: North Dakota

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Correction.

SUMMARY: On page 9667, in the issue dated February 21, 1995, first column, second paragraph, the closing date for

applications is corrected to read March 24, 1995.

FOR FURTHER INFORMATION, CONTACT: Demetrice Jenkins at (214) 767–8001.

11.801 Native American Program

(Catalog of Federal Domestic Assistance)

Dated: March 3, 1995.

Donald L. Powers,

Federal Register Liaison Officer, Minority Business Development Agency.

[FR Doc. 95–5679 Filed 3–7–95; 8:45 am]

BILLING CODE 3510–21–P

Native American Business Development Center Applications: New Mexico

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Correction.

SUMMARY: On page 9665, in the issue dated February 21, 1995, third column, second paragraph, the closing date for applications is corrected to read March 24, 1995.

FOR FURTHER INFORMATION, CONTACT: Demetrice Jenkins at (214) 767–8001.

11.801 Native American Program

(Catalog of Federal Domestic Assistance)

Dated: March 3, 1995.

Donald L. Powers,

Federal Register Liaison Officer, Minority Business Development Agency.

[FR Doc. 95–5678 Filed 3–7–95; 8:45 am]

BILLING CODE 3510–21–P

Native American Business Development Center Applications: Oklahoma

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Correction.

SUMMARY: On page 9668, second column, first paragraph, the closing date for applications is corrected to read March 24, 1995.

FOR FURTHER INFORMATION, CONTACT: Demetrice Jenkins at (214) 767–8001.

11.801 Native American Program

(Catalog of Federal Domestic Assistance)

Dated: March 3, 1995.

Donald L. Powers,

Federal Register Liaison Officer; Minority Business Development Agency.

[FR Doc. 95–5680 Filed 3–7–95; 8:45 am]

BILLING CODE 3510–21–P

National Institute of Standards and Technology

Announcement of an Opportunity To Join a Cooperative Research and Development Consortium for Alternative Approaches to Nanometer-Level Overlay and CD Metrology for IC Manufacturing

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of public meeting and notice of Government owned invention available for licensing.

SUMMARY: The National Institute of Standards and Technology (NIST) invites interested parties to attend a meeting on April 26, 1995 to discuss the possibility of setting up a cooperative research consortium to develop innovative approaches to overlay and CD metrology consistent with SIA-projected requirements. Parties interested in participating in the consortium should be prepared to invest adequate resources in the collaboration and be firmly committed to the goal of developing innovative approaches.

The program will be within the scope and confines of The Federal Technology Transfer Act of 1986 (Public Law 99–502, 15 U.S.C. 3710a), which provides Federal laboratories including NIST, with the authority to enter into cooperative research agreements with qualified parties. Under this law, NIST may contribute personnel, equipment and facilities—but no funds—to the cooperative research program.

Members will be expected to make a contribution to the consortium's efforts in the form of materials, equipment, personnel, and/or funds. The program is expected to last 18 months. This is not a grant program.

DATES: Interested parties should contact NIST to confirm their interest at the address, telephone number or FAX number shown below no later than April 7, 1995.

ADDRESSES: Technology Building, Room B360, National Institute of Standards and Technology, Gaithersburg, MD 20899.

FOR FURTHER INFORMATION CONTACT: Michael W. Cresswell, Telephone: 301–975–2072; FAX: 301–948–4081.

SUPPLEMENTARY INFORMATION: The National Institute of Standards and Technology (NIST) invites interested parties to participate in a cooperative research consortium to conduct modeling of overlay detection by electrostatic/magnetic sensors interacting with optical metrology target architectures commonly used in advanced IC manufacturing, examine enhancements deriving from target-geometry modifications and sensor-head innovations, design and evaluate a test implementation using Maxwell-equation-based simulation software and, formulate specifications of a candidate design for selected applications.

In conjunction with the opportunity to join this Cooperative Research and Development Consortium, the following invention is available for licensing:

NIST Docket No. 94–040CIP

Title: Method and Reference Standards for Measuring Overlay in Multilayer Structures, and for Calibrating Imaging Equipment as Used in Semiconductor Manufacture.

Description: Imaging instruments for overlay-measurement extraction from partially-processed semiconductor wafers, are calibrated by providing a reference test structure having features which can be located by electrical measurements not subject to tool-induced shift and water-induced shift experienced by the imaging instrument. The reference test structure is first qualified using electrical measurements, and is then used to provided the effect of the said shifts on the imaging-instrument measurements.

Dated: March 1, 1995.

Samuel Kramer,

Associate Director.

[FR Doc. 95–5662 Filed 3–7–95; 8:45 am]

BILLING CODE 3510–13–M

Patent and Trademark Office

National Information Infrastructure (NII) Copyright Awareness Campaign

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice of meeting.

SUMMARY: The Working Group on Intellectual Property Rights of the White House Information Infrastructure Task Force (IITF) issued a preliminary draft of its report, ''Intellectual Property and the National Information Infrastructure,'' on July 7, 1994. One of the Working Group's findings announced in the preliminary draft is that effective education of the public about intellectual property rights is crucial to the successful development of the NII. The Working Group recognizes that the public's awareness of their own intellectual property rights, as well as those of others, will lead to increased respect for those rights.

In order to effectuate public awareness of copyright, the preliminary draft, on page 140, stated that the

Working Group would sponsor a conference to develop curricula that may be used in schools and libraries to educate the public about intellectual property rights in the NII environment. The draft further stated that anyone who wished to participate in the conference should request to do so by sending a request to Terri A. Southwick by July 25, 1994. The participants have been chosen and notified. Every effort was made to ensure that a wide diversity of interests will be represented at the conference. All meetings will be open to the public. Information on subsequent meetings may be obtained by calling Alan Wright at (703) 305–9300.

DATES: The first meeting of the Copyright Awareness Campaign, will be held in Washington, DC, on Tuesday, March 21, 1995. It will begin at 2 p.m. and last until 5 p.m.

ADDRESSES: The first meeting will be held at the U.S. Department of Education, 600 Independence Avenue, SW., Washington, DC, in the Barnard Auditorium.

FOR FURTHER INFORMATION CONTACT: Alan Wright, Office of Legislative and International Affairs, U.S. Patent and Trademark Office, Box 4, Washington, DC 20231. Telephone: (703) 305–9300; Fax: (703) 305–8885.

SUPPLEMENTARY INFORMATION: The Working Group on Intellectual Property Rights, chaired by Assistant Secretary of Commerce and Commissioner of Patents and Trademarks Bruce A. Lehman, was established as part of the White House Information Infrastructure Task Force. The Task Force, chaired by Secretary of Commerce Ronald H. Brown, was created to work with Congress and the private sector to develop comprehensive telecommunications and information policies aimed at articulating and implementing the Administration's vision for the National Information Infrastructure (NII).

The Working Group's concern for improved public education regarding intellectual property rights in the NII environment was expressed in the preliminary draft of its report. The Copyright Awareness Campaign will bring together public and private educators, representing all levels of elementary, secondary, and post-secondary education, as well as copyright owners and users to formulate public awareness strategies and develop model curricula regarding the use of protected intellectual property on the NII. In addition to developing substantive curricula, the campaign will also explore how best to disseminate such curricula. The ultimate goal of the campaign is to identify the intellectual property issues that the public must be aware of in the NII environment, and to determine the methods by which such information may be disseminated to the public. The campaign is not intended to be a forum for further elaboration on the issue of educational fair use, which is currently under discussion in the Conference on Fair Use that began last September. The campaign is concerned with educating the public on the importance of respecting intellectual property rights generally, with a particular focus on the NII environment.

Dated: March 3, 1995.

Bruce A. Lehman,

Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.

[FR Doc. 95–5666 Filed 3–7–95; 8:45 am]

BILLING CODE 3510–16–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Cotton Textile Products Produced or Manufactured in the People's Republic of China

March 2, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a limit.

EFFECTIVE DATE: March 3, 1995.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, 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) 927–6703. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limit for Category 362 is being increased by application of swing.

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). Also see 59 FR 65760, published on December 21, 1994.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Memorandum of Understanding dated January 17, 1994, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 2, 1995.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 16, 1994, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textile products, produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on January 1, 1995 and extends through December 31, 1995.

Effective on March 3, 1995, you are directed to amend the directive dated December 16, 1994 to increase the limit for Category 362 to 5,811,680 numbers [1], as provided under the terms of the Memorandum of Understanding dated January 17, 1994 between the Governments of the United States and the People's Republic of China.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–5602 Filed 3–7–95; 8:45 am]

BILLING CODE 3510–DR–F

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Presidio Leadership Center Call for Public Participation

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (the Corporation) has established the Presidio Leadership Center (PLC) to train and develop leaders for community service, including programs currently funded by the Corporation.

[1] The limit has not been adjusted to account for any imports exported after December 31, 1994.

The Corporation, through the PLC, seeks information and input regarding the planning, development, implementation, and evaluation of leadership development and leadership training programs.

DATES: The Corporation seeks the participation of the public in this process until April 7, 1995.

ADDRESSES: Responses to this notice should be mailed to the Presidio Leadership Center, P.O. Box 2995, The Presidio of San Francisco, CA 94129.

FOR FURTHER INFORMATION CONTACT: The Presidio Leadership Center, at (415) 744–3016. For individuals with disabilities, the information contained in this notice will be made available in alternative formats, upon request.

SUPPLEMENTARY INFORMATION: The Corporation is a government corporation that engages Americans of all ages and backgrounds in community-based service. This service addresses the nation's education, public safety, human, and environmental needs to achieve direct and demonstrable results. In doing so, the Corporation fosters civic responsibility, strengthens the ties that bind us together as a people, and provides education opportunity for those who make a substantial commitment to service.

Pursuant to the National and Community Service Act of 1990, as amended, 42 U.S.C. 12501, the Corporation may ''conduct, directly or by grant or contract, appropriate training programs'' to promote leadership development in national service programs. The Corporation has established the Presidio Leadership Center (PLC) to carry out this objective. The goals of the PLC's leadership development program include the following:

(1) To bring together people of diverse viewpoints in the field to exchange ideas and practices;

(2) To identify and develop leaders at various levels in the field;

(3) To create a sense to professional identity and purpose among leaders working at all levels in the national service field;

(4) To teach effective communication, problem-solving, decision-making, and management; and

(5) To extend and cement the infrastructure of the national service movement.

The PLC seeks input from persons and organizations with expertise in leadership training and development on how it can most effectively achieve the above-listed goals.

Dated: March 3, 1995.

Terry Russell,

General Counsel.

[FR Doc. 95–5686 Filed 3–7–95; 8:45 am]

BILLING CODE 6050–28–M

DEPARTMENT OF DEFENSE

General Services Administration

National Aeronautics and Space Administration

[OMB Control No. 9000–0102]

Clearance Request for Prompt Payment

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0102).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Prompt Payment.

FOR FURTHER INFORMATION CONTACT: Beverly Fayson, Office of Federal Acquisition Policy, GSA (202) 501–4755.

SUPPLEMENTARY INFORMATION:

A. Purpose

Part 32 of the Federal Acquisition Regulation (FAR) and the clause at FAR 52.232–5, Payments Under Fixed-Price Construction Contracts, require that contractors under fixed-price construction contracts certify, for every progress payment request, that payments to subcontractors/suppliers have been made from previous payments received under the contract and timely payments will be made from the proceeds of the payment covered by the certification, and that this payment request does not include any amount which the contractor intends to withhold from a subcontractor/supplier. Part 32 of the FAR and the clause at 52.232–27, Prompt Payment for Construction Contracts, further require that contractors on construction contracts:

(a) Notify subcontractors/suppliers of any amounts to be withheld and furnish a copy of the notification to the contracting officer;

(b) Pay interest to subcontractors/suppliers if payment is not made by 7 days after receipt of payment from the Government or within 7 days after correction of previously identified deficiencies;

(c) Pay interest to the Government if amounts are withheld from subcontractors/suppliers after the Government has paid the contractor the amounts subsequently withheld, or if the Government has inadvertently paid the contractor for nonconforming performance; and

(d) Include a payment clause in each subcontract which obligates the contractor to pay the subcontractor for satisfactory performance under its subcontract not later than 7 days after such amounts are paid to the contractor, include an interest penalty clause which obligates the contractor to pay the subcontractor an interest penalty if payments are not made in a timely manner, and include a clause requiring each subcontractor to include these clauses in each of its subcontracts and to require each of its subcontractors to include similar clauses in their subcontracts.

These requirements are imposed by Pub. L. 100–496, the Prompt Payment Act Amendments of 1988.

Contracting officers will be notified if the contractor withholds amounts from subcontractors/suppliers after the Government has already paid the contractor the amounts withheld. The contracting officer must then charge the contractor interest on the amounts withheld from subcontractors/suppliers. Federal agencies could not comply with the requirements of the law if this information were not collected.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average .33 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 General Services Administration, FAR Secretariat, 18th & F Streets, NW, Room 4037, Washington, DC 20405, and to the FAR Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

The annual reporting burden is estimated as follows: Respondents, 4,000; responses per respondent, 3; total annual responses, 12,000; preparation

hours per response, .33; and total response burden hours, 4,000.

C. Annual Recordkeeping Burden

The annual recordkeeping burden is estimated as follows: Recordkeepers, 20,000; hours per recordkeeper, 18; and total recordkeeping burden hours, 360,000.

Obtaining Copies of Proposals

Requester may obtain copies of OMB applications or justifications from the General Services Administration, FAR Secretariat (VRS), Room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0102, Prompt Payment, in all correspondence.

Dated: March 2, 1995.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 95–5631 Filed 3–7–95; 8:45 am]

BILLING CODE 6820–34–M

General Services Administration

National Aeronautics and Space Administration

[OMB Control No. 9000–0012]

Clearance Request for Termination Settlement Proposal Forms—FAR (Standard Forms 1435 Through 1440)

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0012).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Termination Settlement Proposal Forms—FAR (Standard Forms 1435 through 1440).

FOR FURTHER INFORMATION CONTACT: Beverly Fayson, Office of Federal Acquisition Policy, GSA (202) 501–4755.

SUPPLEMENTARY INFORMATION:

A. Purpose

The termination settlement proposal forms (Standard Forms 1435 through 1440) provide a standardized format for listing essential cost and inventory information needed to support the terminated contractor's negotiation position. Submission of the information assures that a contractor will be fairly reimbursed upon settlement of the terminated contract.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *25* hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to General Services Administration, FAR Secretariat, 18th & F Streets, NW., Room 4037, Washington, DC 20405, and to the FAR Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

The annual reporting burden is estimated as follows: Respondents, *600*; responses per respondent, *1*; total annual responses, *600*; preparation hours per response, *25*; and total response burden hours, *15,000*.

Obtaining Copies of Proposals

Requester may obtain copies of OMB applications or justifications from the General Services Administration, FAR Secretariat (VRS), Room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0012, Termination Settlement Proposal Forms—FAR (Standard Forms 1435 through 1440), in all correspondence.

Dated: March 2, 1995.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 95–5627 Filed 3–7–95; 8:45 am]

BILLING CODE 6820–34–M

Department of the Navy

Combined Notice of Intent To Prepare and Notice of Preparation for an Environmental Impact Statement for the Disposal and Reuse of the Naval Facilities Engineering Service Center, Formerly the Naval Civil Engineering Laboratory (NCEL) Property and Structures, Port Hueneme, CA

Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 as implemented by the Council on Environmental Quality regulations (40 CFR Parts 1500–1508), the Department of the Navy in coordination with the City of Port Hueneme is preparing an Environmental Impact Statement (EIS) for the proposed disposal and reuse of the former Naval Civil Engineering Laboratory (NCEL) property and structures at Port Hueneme, California. The Defense Base Closure and Realignment Act (Public Law 101–510) of 1990, as implemented by the 1993 base closure process, directs the Navy to close the former NCEL. The City of Port Hueneme intends to use the EIS is place of an Environmental Impact Report (EIR) pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15221.

The former NCEL is within the jurisdiction of the City of Port Hueneme, on the California coast midway between the cities of Los Angeles and Santa Barbara, and covers approximately 33 acres. The Navy facility is scheduled for operational closure in April 1996. The property is currently developed with office buildings, laboratory facilities, and an active Coast Guard lighthouse. The EIS will address disposal of the property and the potential impacts associated with reuse alternatives.

The EIS will address the potential impacts to the environment that may result from implementation of three reuse alternatives and a ''no action'' alternative. An NCEL Community Reuse Plan, developed by the City of Port Hueneme, shall constitute the preferred alternative. The Reuse Plan identifies a mix of three land use types: approximately 22 acres designated for coastal oriented use (such as aquaculture, marine education and training, research and development), 8 acres designated for port-related use (such as container and break-bulk cargo storage, warehousing and distribution of goods) and 3 acres for retention and enhancement of the public access to the Pacific coast shoreline. The second alternative identifies two land use types: approximately 30 acres designated for port-related industrial use and 3 acres public access to the Pacific coast shoreline. The third alternative identifies four land use types: approximately 11 acres designated for aquaculture and commercial visitor-serving (i.e., restaurant), 11 acres designated for educational and recreational, 8 acres designated for port-related uses, 3 acres for public access to the Pacific coast shoreline. The ''no action'' alternative would consist of federal government retention of the property in an ''inactive'' status.

Federal, state and local agencies, and interested individuals are encouraged to participate in the scoping process for the EIS to determine the range of issues and reuse alternatives to be addressed. A public scoping meeting to receive oral and written comments will be held on

March 23, 1995, at 7:30 p.m., in the Port Hueneme City Hall, located at 250 North Ventura Road, Port Hueneme, California. In addition, written comments may be submitted within 30 days of the published date of this notice to Ms. Mary Doyle, Environmental Planning Branch (Code 09F2), Engineering Field Activity West, Naval Facilities Engineering Command, 900 Commodore Drive, San Bruno, California 94066–5006, telephone (415) 244–3024, fax (415) 244–3737. For further information regarding the Port Hueneme NCEL Community Reuse Plan, please contact Mr. Thomas Figg, Director of Community Development, 250 North Ventura Road, Port Hueneme, California 93041, telephone (805) 986–6514.

Dated: March 3, 1995.

M.D. Schetzsle,

Lt, JAGC, USNR, Alternative Federal Register Liaison Officer.

[FR Doc. 95–5648 filed 3–7–95; 8:45 am]

BILLING CODE 3810–FF–M

Notice of Intent To Prepare an Environmental Impact Statement for the Shock Testing of the Seawolf Submarine

Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 as implemented by the Council on Environmental Quality regulations (40 CFR parts 1500–1508), the Department of the Navy announces its intent to prepare an Environmental Impact Statement (EIS) to evaluate the environmental effects of shock testing the SEAWOLF Submarine at a site to be located off the east coast of the United States.

Pursuant to 40 CFR 1501.6, the National Marine Fisheries Service (NMFS) will be a cooperating agency in the preparation and development of the EIS.

A ''shock test'' is the name given to a series of underwater detonations that are used to propagate a shock wave through a ship's hull (similar to those encountered in combat). It is required to test the hull, all ship systems, and crew survivability of each new class of Navy ships. This test provides important information which will be used to improve the initial design and enhance the effectiveness and overall survivability of the ship and crew. The improvements are applied to follow-on ships of that class. The shock test of the lead ship of the class is an integral part of the Live Fire Test (LFT) Program mandated by Congress. Shock tests have proven their value as recently as the Persian Gulf War when ships were able to survive battle damage and continue their mission because of ship design, crew survivability, and crew training lessons learned during previous shock tests.

The proposed action would subject the SEAWOLF submarine to a total of five explosive charges, 10,000 lbs. each, while monitoring the results. The decision to be addressed in the Environmental Impact Statement is the siting of shock test. Important logistical considerations include: a Naval base proximate to the test location, and water depth of 500 feet, which, for the sites being considered, range from 70 to 100 miles offshore. The shock test is proposed to occur over a five week period between April 1 and October 1, of 1997.

Alternative sites that would be considered include a number of different sites off the eastern U.S. coast. These areas are off the coast of Norfolk, Virginia, and Jacksonville, Florida, due to the existence of supporting Naval Bases at those sites. The ''no action'' alternative of not conducting the shock test will be addressed in the EIS.

Physical and biological issues that will be addressed in the EIS include impacts on air and water resources, impacts to other uses of the area, and impacts to marine life including marine mammals and endangered and threatened species.

The Navy will initiate a scoping process for the purpose of determining the scope of issues to be addressed and for identifying the significant issues related to this action. The Navy will hold three public scoping hearings to receive comments from the public on the proposed action. The first hearing will be held on March 23, 1995, at 10 a.m., in the auditorium of NMFS Office, 1335 East-West Highway, Silver Spring, Maryland. The second meeting will be on March 28, 1995, at 7 p.m., in the auditorium of the Granby High School, 701 Granby Street, Norfolk, Virginia. The last meeting will be on March 29, 1995, at 7 p.m., in the cafeteria of the Mayport Middle School, 2600 Mayport Road, Atlantic Beach, Florida. The meeting will be advertised in area newspapers.

A brief presentation will precede the request for public comment. Navy representatives will be available at this meeting to receive comments from the public regarding issues of concern to the public. It is important that federal, state, and local agencies and interested individuals take this opportunity to identify environmental concerns that should be addressed during the preparation of the EIS. In the interest of available time, each speaker will be asked to limit oral comments to five minutes.

Agencies and the public are also invited and encouraged to provide written comments in addition to, or in lieu of, oral comments at the public meeting. To be most helpful, scoping comments should clearly describe specific issues or topics which the commenter believes the EIS should address. Written statements and/or questions regarding the scoping process should be mailed no later than May 1, 1995 to: Commanding Officer, Southern Division, Naval Facilities Engineering Command, P.O. Box 190010, North Charleston, SC 29419–9010 (Attention: Mr. Will Sloger, Code 064WS), telephone 803–743–0797, FAX 803–743–0993.

Dated: March 3, 1995.

M.D. Schetzsle,

Lt, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 95–5647 Filed 3–7–95; 8:45 am]

BILLING CODE 3810–FF–M

Notice of Public Hearing for the Draft Environmental Impact Statement for Seawolf Class Submarine Homeporting on the East Coast of the United States

Pursuant to Council on Environmental Quality regulations (40 CFR parts 1500–1508) implementing the procedural provisions of the National Environmental Policy Act, the Department of the Navy has prepared and filed with the US Environmental Protection Agency, the Draft Environmental Impact Statement (DEIS) for SEAWOLF Class Submarine Homeporting on the East Coast of the United States. The DEIS addresses the need, alternatives, and environmental consequences of homeporting three SEAWOLF Class submarines at three submarine facilities including the Naval Submarine Base New London, Groton CT; the Naval Submarine Base Kings Bay GA, and the Naval Station Norfolk VA. The Naval Submarine Base New London has been identified as the preferred alternative.

Dredging and the disposal of dredged material are required for SEAWOLF homeporting at each of the candidate homeports and have been identified as the significant issues of environmental concern. The DEIS quantifies and characterizes the dredge material and disposal options at each homeport alternative.

The DEIS has been distributed to various federal, state and local agencies, elected officials, special interest groups, the media, and concerned citizens. Copies of the DEIS have also been

placed in local libraries in Connecticut, Virginia, and Georgia. A limited number of single copies are available at the address at the end of this announcement.

The Department of the Navy will hold four public hearings to inform the public of the DEIS findings and to solicit comments. The first meeting will be held on Monday, March 27, 1995 beginning at 1:00 PM in the Groton Municipal Building, Groton, Connecticut. The Groton Municipal Building is located at 295 Meridian Street. The second meeting will be held on Tuesday, March 28, 1995 beginning at 7 pm at the same location, the Groton Municipal Building. These meetings will be co-chaired by the New England Division, U.S. Army Corp of Engineers. The third meeting will be held on Wednesday, March 29, 1995 beginning at 7 pm at the Airport Hilton, Norfolk, Virginia. The Hilton is located at 1500 North Military Highway and Northhampton Avenue. The fourth meeting will be held on Thursday, March 30, 1995 beginning at 7 pm at Crooked River Elementary School, St Marys, Georgia. The school is located at 1820 Spur 40.

The public hearings will be conducted by the Navy. Federal, state, and local agencies and interested parties are invited and urged to be present or represented at the hearings. Oral statements will be heard and transcribed by a stenographer; however, to assure the accuracy of the record, all statements should be submitted in writing. All statements, both oral and written, will become part of the public record on this action and will be given equal consideration.

In the interest of available time, each speaker will be asked to limit their oral comments to five minutes. If longer statements are to be presented, they should be summarized at the public hearing(s) and submitted in writing either at the hearing(s) or mailed to the address listed at the end of this notice. Written comments on the DEIS should be mailed to the address noted below and must be postmarked not later than April 10, 1995 to be part of the official record.

Additional information may be obtained by contacting Mr. Robert Ostermueller (Code 202) Northern Division, Naval Facilities Engineering Command, 10 Industrial Highway, MSC 82, Lester, PA 19113, telephone 610–595–0759.

Dated: March 3, 1995.

M.D. Schetzsle,

Lt, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 95–5646 Filed 3–7–95; 8:45 am]

BILLING CODE 3810–FF–M

DEPARTMENT OF EDUCATION

Urban Community Service Program

AGENCY: Department of Education.

ACTION: Notice of final priority.

SUMMARY: The Secretary announces a competitive funding priority to focus funds for new urban community service projects on communities designated as Empowerment Zones (EZs) or Enterprise Communities (ECs) by the Department of Housing and Urban Development (HUD). Under the competitive funding priority, the Secretary awards five (5) additional points to an application that meets the priority.

EFFECTIVE DATE: This priority takes effect April 7, 1995.

FOR FURTHER INFORMATION CONTACT: Sarah Babson, U. S. Department of Education, 600 Independence Avenue, SW (Portals C–80), Washington, DC 20202–5329. Telephone: (202) 260–3472. Persons 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:

Background on the Empowerment Zone and Enterprise Community Initiative

The Empowerment Zone and Enterprise Community program is a critical element of the Administration's community revitalization strategy. It promotes comprehensive economic and community development through strategic planning. On December 21, 1994, the President announced the designation of six urban Empowerment Zones, two urban Supplemental EZs, 65 urban Enterprise Communities, and four Enhanced urban ECs. These areas will benefit from flexible social service block grants and tax breaks in accordance with Internal Revenue Code section 1392, as amended by Title XIII of the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103–66). Urban Empowerment Zones and Enterprise Communities were nominated by one or more local governments and their States and have been designated by HUD on the basis of the quality of their strategic plans. Interested individuals may contact HUD at 1–800–998–9999 for additional information on the Empowerment Zone and Enterprise Community program, including which communities have been selected for designation.

The Department of Education is supporting the Empowerment Zone and Enterprise Community initiative through the Urban Community Service Program by giving preference to proposed projects which are located in urban Empowerment Zones and Enterprise Communities. A list of the designated Empowerment Zones and Enterprise Communities will be included in the application package. The program's emphasis on coordinated planning to meet pressing urban needs makes it ideally suited to play a key role in the Empowerment Zone and Enterprise Community program.

Background on the Urban Community Service Program

The Urban Community Service Program is authorized under Title XI of the Higher Education Act of 1965, as amended. It uses the skills, experience and resources of institutions of higher education to help public and private organizations devise and carry out solutions to pressing and severe problems in their urban communities. The program makes discretionary grants of up to five years in duration to support collaborative projects that address problems confronting urban communities, ranging from work force preparation, economic development, urban poverty, crime, lack of health care services and access, underperforming school systems and students to urban housing and infrastructure deficits. Recipients may use program funds to carry out a variety of activities, such as planning, applied research, training, resource exchanges or technology transfers, delivery of services and other activities that the urban institution and its community partners agree have high priority.

Only institutions of higher education which have been designated as urban grant institutions are eligible to apply for funding. A designated urban grant institution has demonstrated to the Secretary that (a) it is a nonprofit municipal university established by the governing body of the city in which it is located and operating as of July 23, 1992, or that (b) it is an institution of higher education which meets all of the following criteria (a consortium of institutions is also eligible if at least one of its members meets all of the criteria). The institution—(1) is located in an urban area; (2) draws a substantial portion of its undergraduate student body from the urban area in which it is

located or from contiguous areas; (3) carries out programs to make postsecondary educational opportunities more accessible to residents of the urban area or contiguous areas; (4) has the present capacity to provide resources pertinent to the needs and priorities of the urban area or contiguous areas; (5) offers a range of professional, technical or graduate programs sufficient to sustain the capacity of the institution to provide these resources; and (6) has demonstrated and sustained a sense of responsibility to the urban area and adjoining areas and the people in those areas.

On August 29, 1994 the Secretary published a notice of proposed priority for this program in the **Federal Register** (59 FR 44580).

Note: This notice of final priority does *not* solicit applications. A notice inviting applications under the FY 1995 competition will be published in the **Federal Register** at a later date.

Analysis of Comments

Two parties submitted comments in response to the Secretary's invitation in the notice of proposed priority. An analysis of the comments follows:

Comment: One party commented that designations will be limited due to funding restraints and suggested expanding the definition of designated Empowerment Zones and Enterprise Communities to include areas that submitted Empowerment Zone and Enterprise Community designation requests.

Discussion: The Secretary believes that the Urban Community Service Program would be most effective in communities that are actually designated and have embarked on implementing their strategic plans.

Change: None.

Comment: The second party suggested giving a competitive preference to proposals that show partnerships with AmeriCorps.

Discussion: The program regulations already give an absolute preference (34 CFR 636.23) to applications that propose to conduct joint projects with other Federal, State or local programs. This would include partnerships with AmeriCorps. AmeriCorps is a new national initiative to foster community-based service and includes a wide variety of programs operated by grantees, the National Civilian Community Corps and Volunteers in Service to America (VISTA).

Change: None.

Priority

Under 34 CFR 75.105(c)(2)(i) the Secretary gives preference to applications that meet the following priority:

Projects that use 75 percent or more of the project budget to address pressing and severe problems in an Empowerment Zone or Enterprise Community.

The proposed project must contribute to the strategic plan of the Empowerment Zone or Enterprise Community and be made an integral component of the Empowerment Zone or Enterprise Community activities. The Secretary awards five points to an application that meets this priority. These points will be added to any points the application earns under the selection criteria for the program.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on procedures developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Applicable Program Regulations: 34 CFR Part 636.

Program Authority: 20 U.S.C. 1136–1136h.

Dated: March 2, 1995.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 95–5591 Filed 3–7–95; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Community Outreach

Pre-Application Conference and Notice of Availability of Cooperative Agreement Solicitation to Establish and Support the International Center for Applied Research (ICAR)

AGENCY: U.S. Department of Energy (DOE), Savannah River (SR) Office.

ACTION: Notice of pre-application conference and availability of grant solicitation.

SUMMARY: The U.S. Department of Energy (DOE) at SR is announcing a Pre-Application Conference for organizations wishing to be considered as the entity to establish and support the ICAR. The conference is scheduled for April 11, 1995 at the Savannah River Site (SRS), Aiken, SC, commencing at 8:30 a.m. and completing by 5 p.m. In addition to discussion regarding the objectives of ICAR and the criteria which will be used to select the ICAR Manager, the conference will also offer a tour of the Savannah River Technology Center whereby participants will have the opportunity to become familiar with available technologies. A solicitation for the ICAR Manager will be made available on or about March 20, 1995; applications are expected to be due May 11, 1995. Interested parties should note that funds are not presently available for this project.

SUPPLEMENTARY INFORMATION: ICAR is intended to facilitate private and public sector access to the technical and scientific capabilities of the SRS. ICAR will be responsible for organizational support (including incubation, maturation, and commercialization) for various technologies, to be identified through separate solicitations, that are available at SRS for development of commercial products and services. ICAR is to be established at or adjacent to the SRS and is to operate under a cooperative agreement with the DOE.

The objectives of ICAR are:

(1) To stimulate economic development in the regional area through the application of science and technology.

(2) To establish a technology development and incubation center utilizing SRS technologies and processes.

(3) To promote as a minimum, activities related to the following:

—The application in the United States of hydrogen technology research derived from tritium production;
—The development of beneficial uses of nuclear materials;
—The research and development of innovative methods for the treatment and disposal of nuclear materials; and
—Bioremediation of environmental hazards.

(4) To leverage applied research activities (of the nature listed above) to provide maximum dual-use benefit for the Government.

The ICAR Manager must be a non-profit entity or a consortium of non-profits chartered to accomplish economic development through applied science and technology. The ICAR Manager must have also demonstrated experience in management of diverse teams of organizations who have technical experience in industrial

research and development of high-technology programs.

The estimated federal funding for ICAR management and technical programs is $12M in FY95; however, award of the cooperative agreement is subject to availability of funds. Interested parties should note that funds are not presently available for this project. The costs for the management and operating function should not exceed one quarter of the total available funding. Those who submitted an Expression of Interest (EOI) in response to the Department's November 1994 request for EOI's will automatically receive a copy of the solicitation. Notification to attend the conference and/or requests for copies of the solicitation should be received in writing or be transmitted via facsimile to (803) 725–8573 no later than close of business (4:00 p.m. Eastern Standard Time) March 15, 1995. Requests or notifications should be sent to Ms. Angela Sistrunk, Contracts Division, U.S. Department of Energy, P.O. Box A, Aiken, SC 29802. Telephonic requests will not be accepted.

Issued in Aiken, S.C., on February 22, 1995.

Robert E. Lynch,

Head of Contracting, Activity Designee, Contracts Division, Savannah River Operations Office.

[FR Doc. 95–5661 Filed 3–7–95; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. CP95–220–000, et al.]

Tennessee Gas Pipeline Co., et al.; Natural Gas Certificate Filings

March 1, 1995.

Take notice that the following filings have been made with the Commission:

1. Tennessee Gas Pipeline Company

[Docket No. CP95–220–000]

Take notice that on February 23, 1995, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP95–220–000 a request pursuant to Section 157.205 of the Commission's Regulations to construct and operate a new delivery point located on a platform in state waters, Timbalier Bay, LaFourche Parish, Louisiana (Cailliou Island Platform), to supply natural gas to Union Oil Company of California (Unocal) for gas-lift purposes under Tennessee's blanket certificate issued in Docket No. CP82–413–000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Tennessee proposes to install on Tennessee's existing right-of-way a 2-inch side valve assembly between an existing 6-inch block valve and check valve and inspect Unocal's installation of the interconnecting piping and buy-back meter on the Cailliou Island Platform. Tennessee states that Tennessee would install, own, operate and maintain the tie-in assembly and would operate the measurement facility. Unocal would install, own, operate and maintain the interconnect piping and install, own and maintain the measurement facility, it is indicated. Tennessee states that the estimated cost to install these facilities is $7,700, for which Tennessee would be reimbursed by Unocal. Tennessee states that the volumes to be delivered to Unocal after the delivery point is established would not exceed the total quantities authorized to be delivered and would have no impact on Tennessee's peak day and annual deliveries. National states that the addition of the new delivery point is not prohibited by Tennessee's existing tariff and Tennessee has sufficient capacity to accomplish deliveries at the new delivery point without detriment or disadvantage to Tennessee's other customers.

Comment date: April 17, 1995, in accordance with Standard Paragraph G at the end of this notice.

2. Colorado Interstate Gas Co.

[Docket No. CP95–226–000]

Take notice that on February 24, 1995, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944 filed, in Docket No. CP95–226–000, an application pursuant to Section 7(b) of the Natural Gas Act and Part 157 of the Commission's Regulations for permission and approval to abandon one 149-horsepower compressor engine at the Left Hand Field No. 2 Compressor Station (Left Hand Field), located in Kiowa County Colorado, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

CIG states that the 149-horsepower compressor unit installed at Left Hand Field in 1979 is a single stage unit and low suction pressure is causing excessive vibration. CIG notes that the compressor is utilized to compress natural gas supplies from the Cavalry and Buscadero Fields to CIG's 20-inch transmission line. CIG indicates that the unit proposed to be abandoned will be replaced by a two-stage 123-horsepower unit to be installed at the existing site pursuant to the provisions and authority of CIG's blanket certificate issued in Docket No. CP83–21–000.

CIG asserts that the removal and replacement of the compressor unit will not affect the existing land use nor affect CIG's system design capacity or operation.

Comment date: March 22, 1995, in accordance with Standard Paragraph F at the end of this notice.

3. Transcontinental Gas Pipe Line Corp.

[Docket No. CP95–227–000]

Take notice that on February 24, 1995, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP95–227–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon the sales service provided to its customers under Rate Schedule FS-G, to be effective November 1, 1994, which was authorized in Docket No. RS92–86–000 et al., all as more fully set forth in the application on file with the Commission and open to public inspection.

Transco states that on March 3, 1993, it filed a revised Order No. 636 compliance filing in Docket Nos. RS92–86, RP92–137 and RP92–108 in which it proposed to eliminate bundled sales service to small customers under Rate Schedules G and OG and to replace that bundled service with (1) an unbundled firm transportation service under new Rate Schedule FT-G and (2) for those customers that elected FT-G service, an optional sales service under new Rate Schedule FS-G, to be available for a one-year period. Transco states that this service was approved for a period of one year by Commission order issued on October 4, 1993, in Docket Nos. RS92–86–000 et al. implementing Rate Schedule FS-G to become effective November 1, 1993. Transco further states that in compliance with the revised compliance filing, each Rate Schedule G or OG customer that elected Rate Schedule FS-G service had the option ninety days prior to the end of the one-year period to submit to Transco a one-time nomination specifying the portion, if any, of Rate Schedule FS-G sales service to be converted to Rate Schedule FS. Transco states that by August 1, 1994, ninety days prior to the termination date, no FS-G customer had elected to convert any of its FS-G entitlements to service under Rate Schedule FS, and that by letter dated September 6, 1994, Transco requested that each FS-G customer submit an election form confirming that they declined to convert all or part of their FS-G sales entitlement to transportation

service under Rate Schedule FS. Transco states that eight out of ten customers declined to convert their service and the remaining two customers verbally confirmed their election not to convert.

Transco states that even though it believes it to be clear that the Commission contemplated that the one-year cost-based sales service to small customers, as embodied in Transco's Rate Schedule FS-G, would terminate automatically, Section 6 of Rate Schedule FS-G, as approved by the Commission, states that ''* * * [s]ervice under this Rate Schedule is subject to the abandonment requirements of Section 7(b) of the Natural Gas Act.'' Accordingly, Transco requests authorization to abandon all service under its Rate Schedule FS-G and requests that such abandonment be made effective November 1, 1994.

Transco states that the subject application is the result of and consistent with Article II of Transco's Rate Schedule FS-G service agreements and with the provisions of Order No. 636, both of which clearly viewed service under Rate Schedule FS-G to be interim service available only for a period of one year.

Comment date: March 22, 1995, in accordance with Standard Paragraph F at the end of this notice.

4. Mississippi River Transmission Corp.

[Docket No. CP95–228–000]

Take notice that on February 27, 1995, Mississippi River Transmission Corporation (MRT), 9900 Clayton Road, St. Louis, Missouri 63124, filed in Docket No. CP95–228–000 an application pursuant to Sections 7(c) and 7(b) of the Natural Gas Act to construct and abandon facilities necessary to modernize and improve the reliability of its Main Line System, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

MRT states because of safety, system reliability and increasing operating cost concerns, MRT is proposing to implement the first portion of a 16-year system modernization program. MRT proposes in the first phase of the program to add compression at its Biggers and Tuckerman Compressor Stations, retire certain compressor engines at these compressor stations, and retire approximately 93 miles of its Main Line No. 1. It is indicated that, as a consequence of these additions and abandonments, MRT would also need to reconfigure the station piping at its Biggers, Tuckerman and Diaz Compressor Stations, and relocate interconnections serving 13 delivery points to other main line facilities.

MRT estimates construction costs during 1995 of $6.7 million and during 1996 of $7.2 million, to be financed with internally generated funds. MRT states that the proposed construction and abandonment would not affect the capacity of its Main Line System and would not affect service to any existing customer.

Comment date: March 22, 1995, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs:

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

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

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

G. Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 95–5622 Filed 3–7–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. RP95–115–002]

CNG Transmission Corp.; Notice of Compliance Filing

March 2, 1995.

Take notice that on February 27, 1995, CNG Transmission Corporation (CNG) pursuant to Section 4 of the Natural Gas Act, Section 154.63 of the Commission's Regulations, and the Commission's January 27, 1995, order in the referenced proceeding (Suspension Order), filed the following proposed changes to its FERC Gas Tariff, Second Revised Volume No. 1, to become effective on February 1, 1995:

Substitute Sixth Revised Sheet No. 32
Substitute Sixth Revised Sheet No. 33

The Suspension Order accepted and suspended CNG's filing, allowing CNG's tariff sheets to become effective, subject to refund, and subject to three conditions: (1) CNG was required to provide an explanation of its agreement with Transcontinental Gas Pipe Line Corporation (Transco); (2) CNG was required to provide an explanation of its proposed exclusion of FTY-GSS and FTNN–GSS customers from operation of the Account No. 858 component of the stranded cost surcharge; and (3) CNG was required to provide work papers that detail the derivation of its billing determinants.

CNG states that its filing complies with each of the three conditions. In partial response to the Commission's second condition, CNG's filing would revise its tariff sheets to require its FT–GSS and FTNN–GSS customers to pay the Account No. 858 component of the stranded cost surcharge.

CNG states that it has posted and served its filing in accordance with the Commission's regulations.

Any person desiring to be heard or to protest said filing should file a protest

with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR Section 385.214 and 385.211). All motions or protests should be filed on or before March 9, 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. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–5599 Filed 3–7–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP92–182–007 and RP95–103–000]

Florida Gas Transmission Co.; Notice of Rescheduling of Technical Conference

March 2, 1995.

The Commission previously an order in the captioned proceeding establishing a technical conference to be held on March 22, 1994, regarding Florida Gas Transmission Company's proposed changes to its operating conditions. At the request of several interested parties the conference is rescheduled for 10:00 a.m. Thursday, March 23, 1995, at 810 First Street, N.E., Washington, D.C., in a room to be designated at that time. Any questions concerning the conference should be directed to John M. Robinson (202) 208–0808, or Kerry Noone (202) 208–0285.

Lois D. Cashell,

Secretary.

[FR Doc. 95–5594 Filed 3–7–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–93–006]

K N Interstate Gas Transmission Co.; Notice of Revised Compliance Filing

March 2, 1995.

Take notice that on February 27, 1995, K N Interstate Gas Transmission Co. (KNI) tendered for filing revised tariff sheets in compliance with the Commission's February 10, 1995 Letter Order in the referenced proceeding. KNI states that the tariff sheets reflect revised pagination and correction of a typographical error.

KNI states that copies of the filing were served upon each person designated on the official service list compiled by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before March 9, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make any 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. 95–5596 Filed 3–7–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–111–001]

Northwest Pipeline Corp., Notice of Compliance Report

March 2, 1995.

Take notice that on February 27, 1995, Northwest Pipeline Corporation (Northwest), tendered for filing with the Federal Energy Regulatory Commission (Commission) a report in the above referenced docket.

Northwest states that the purpose of this filing is to comply with the Commission's letter order issued January 27, 1995 in Docket No. RP95–111–000 (Order). On December 29, 1994, Northwest proposed to direct bill the Account No. 191 amounts listed on Second Revised Sheet No. 292 to its Converting Customers. This tariff sheet was accepted subject to refund and conditions. The Order requires Northwest to show how the $17,955 debited to its Account No. 191 and included in the amounts listed on Second Revised Sheet No. 292 ties to the refund report accepted in Docket No. TM91–6–37–004.

Northwest states that a copy of this filing has been served upon each of Northwest's affected former jurisdictional sales customers, upon all intervenors in Docket No. RP95–111–000, 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, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before March 9, 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. 95–5598 Filed 3–7–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–325–000]

Panhandle Eastern Pipe Line Co.; Notice of Informal Settlement Conference

March 2, 1995.

Take notice that an informal settlement conference will be convened in this proceeding on Thursday, March 9, 1995, at 10 a.m., at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC, for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact J. Carmen Gastilo, (202) 208–2182 or Kathleen M. Dias, (202) 208–0524.

Lois D. Cashell,

Secretary.

[FR Doc. 95–5597 Filed 3–7–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. ST95–1081–000 et al.]

Rocky Mountain Natural Gas Co.; Notice of Self-Implementing Transactions

March 1, 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]

[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 ''Recipient'' column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

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 Section 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 Section 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 Section 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 Section 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 Section 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 Section 284.222 and a blanket certificate issued under Section 284.221 of the Commission's Regulations.

A ''G–I'' indicates transportation by an intrastate pipeline company pursuant to a blanket certificate issued under Section 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 Section 284.223 and a blanket certificate issued under Section 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 Section 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 Section 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 Section 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 Section 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
ST95–1081	Rocky Mountain Natural Gas Co.	Northwest Pipeline Corp.	01–04–95	G–HT	1,500	N	I	06–01–94	Indef.
ST95–1082	Transok, Inc	ANR Pipeline Co., et al.	01–04–95	C	2,000	N	I	12–01–94	Indef.
ST95–1083	Transok, Inc	ANR Pipeline Co., et al.	01–04–95	C	6,200	N	I	12–01–94	Indef.
ST95–1084	Colorado Interstate Gas Co.	Montana Power Co	01–04–95	B	7,000	N	F	12–20–94	10–31–04.
ST95–1085	Colorado Interstate Gas Co.	Holnam, Inc., Ideal Cement Division.	01–04–95	G–S	130	N	F	12–09–94	09–30–95.
ST95–1086	K N Interstate Gas Trans. Co.	Aquila Energy Marketing Corp.	01–04–95	G–S	100,000	N	I	12–08–94	Indef.
ST95–1087	K N Interstate Gas Trans. Co.	Pennzoil Gas Marketing Co.	01–04–95	G–S	5,000	N	I	12–02–94	Indef.
ST95–1088	K N Interstate Gas Trans. Co.	American Westex Gas Services Co.	01–04–95	G–S	250,000	A	I	12–02–94	Indef.
ST95–1089	K N Interstate Gas Trans. Co.	K W Gas Marketing, Inc.	01–04–95	G–S	250,000	A	I	12–02–94	Indef.
ST95–1090	K N Interstate Gas Trans. Co.	Cibola Corp	01–04–95	G–S	350	N	F	12–01–94	11–30–95.
ST95–1091	K N Interstate Gas Trans. Co.	NGC Transportation, Inc.	01–04–95	G–S	100,000	N	I	12–02–94	Indef.
ST95–1092	K N Interstate Gas Trans. Co.	Post Rock Gas, Inc	01–04–95	G–S	1,580	N	F	12–01–94	02–28–95.
ST95–1093	Northern Natural Gas Co.	Conagra Energy Services Co.	01–04–95	G–S	2,000	N	F	12–01–94	10–30–95.
ST95–1094	Northern Border Pipeline Co.	Progras U.S.A., Inc	01–04–95	G–S	50,000	N	I	12–01–94	10–31–01.
ST95–1095	Transcontinental Gas P/L Corp.	Transco Energy Marketing Co.	01–04–95	G–S	39,077	A	F	12–09–94	Indef.
ST95–1096	Transcontinental Gas P/L Corp.	Sonat Marketing Co., et al.	01–04–95	G–S	20,000	N	I	12–11–94	Indef.
ST95–1097	Transcontinental Gas P/L Corp.	Appalachian Gas Sales.	01–04–95	G–S	120,000	N	I	12–05–94	Indef.
ST95–1098	Transcontinental Gas P/L Corp.	Atlanta Gas Light Co.	01–04–95	B	20,000	N	I	12–01–94	Indef.
ST95–1099	Williams Natural Gas Co.	Sun Gas Services ..	01–05–95	G–S	100,000	N	I	01–01–95	08–01–95.
ST95–1100	Williams Natural Gas Co.	Rangeline Corp	01–05–95	G–S	20,000	N	I	12–23–94	12–01–95.

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
ST95–1101	Panhandle Eastern Pipe Line Co.	Citizens Energy Services Corp.	01–05–95	G–S	35,000	N	I	12–09–94	08–22–96.
ST95–1102	Florida Gas Transmission Co.	Orlando Utilities Commission.	01–06–95	G–S	10,000	N	I	12–08–94	Indef.
ST95–1103	Columbia Gas Transmission Corp.	C & L Petroleum	01–06–95	G–S	6,400	N	I	11–01–94	Indef.
ST95–1104	Columbia Gas Transmission Corp.	Columbia Gas of Ohio, Inc.	01–06–95	G–S	10,600	Y	F	01–01–95	03–31–95.
ST95–1105	Columbia Gas Transmission Corp.	Latrobe Steel Co	01–06–95	G–S	2,500	N	F	01–01–95	Indef.
ST95–1106	Columbia Gas Transmission Corp.	Phibro Energy, Inc ..	01–06–95	G–S	N/A	N	I	01–01–95	Indef.
ST95–1107	Columbia Gas Transmission Corp.	Border Resources, Inc.	01–06–95	G–S	N/A	N	I	11–01–94	Indef.
ST95–1108	Columbia Gas Transmission Corp.	Arcadia Energy Corp.	01–06–95	G–S	1,000	N	I	01–01–95	Indef.
ST95–1109	Columbia Gas Transmission Corp.	Stand Energy Corp .	01–06–95	B	160	N	I	01–01–95	Indef.
ST95–1110	Columbia Gas Transmission Corp.	Stand Energy Corp .	01–06–95	G–S	1,000	N	F	01–01–95	03–31–95.
ST95–1111	Columbia Gas Transmission Corp.	Columbia Gas of Ohio, Inc.	01–06–95	G–S	35,000	Y	F	01–01–95	03–31–95.
ST95–1112	Columbia Gas Transmission Corp.	Commonwealth Gas Services, Inc.	01–06–95	G–S	5,000	Y	F	01–01–95	03–31–95.
ST95–1113	Columbia Gas Transmission Corp.	Conoco, Inc	01–06–95	G–S	2,500	N	F	01–01–95	11–30–95.
ST95–1114	Columbia Gas Transmission Corp.	Volunteer Energy Corp.	01–06–95	G–S	1,000	N	F	01–01–95	02–28–95.
ST95–1115	Columbia Gas Transmission Corp.	Columbia Gas of Ohio, Inc.	01–06–95	G–S	2,000	Y	F	01–01–95	03–31–95.
ST95–1116	Columbia Gas Transmission Corp.	Columbia Gas of Kentucky, Inc.	01–06–95	G–S	15,400	Y	F	01–01–95	03–31–95.
ST95–1117	Northern Natural Gas Co.	St. Croix Valley Natural Gas Co.	01–06–95	G–S	10,000	N	I	11–30–94	Indef.
ST95–1118	Columbia Gulf Transmission Co.	Alatenn Energy Marketing Co., Inc.	01–09–95	G–S	60,000	N	I	12–10–94	Indef.
ST95–1119	Columbia Gulf Transmission Co.	Exxon Corp	01–09–95	G–S	20,000	N	F	12–22–94	12–21–96.
ST95–1120	Northern Natural Gas Co.	Interlink, A Div. of Minnegasco.	01–09–95	G–S	20,000	N	F	12–15–94	02–15–95.
ST95–1121	Transwestern Pipeline Co.	Teco Gas Marketing	01–09–95	G–S	100,000	N	I	12–14–94	12–14–94.
ST95–1122	Transwestern Pipeline Co.	Meridian Oil Trading, Inc.	01–09–95	G–S	20,000	N	F	12–01–94	02–28–00.
ST95–1123	Kern River Gas Transmission Co.	HUB Services, Inc ..	01–09–95	G–S	200,000	N	I	12–09–94	Indef.
ST95–1124	Northwest Pipeline Corp.	Mid-America Pipeline Co.	01–09–95	G–S	3,150	N	I	10–01–94	Indef.
ST95–1125	Transcontinental Gas P/L Corp.	Encina Gas Marketing, Inc.	01–09–95	G–S	40,000	N	I	12–20–94	Indef.
ST95–1126	Florida Gas Transmission Co.	Associated Natural Gas, Inc.	01–10–95	G–S	100,000	N	I	12–09–94	Indef.
ST95–1127	Northwest Pipeline Corp.	City of Ellensburg ...	01–10–95	G–S	1,500	N	F	11–01–94	Indef.
ST95–1128	ONG Transmission Co.	Natural Gas P/L Co. of America.	01–10–95	C	10,000	N	I	01–01–95	Indef.
ST95–1129	Transok, Inc	ANR Pipeline Co., et al.	01–10–95	C	14,000	N	I	12–19–94	Indef.

Docket No.*	Transporter/ seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	Aff. Y/A/ N***	Rate sch.	Date com-menced	Projected termination date
ST95–1130	Transok, Inc	ANR Pipeline Co., et al.	01–10–95	C	1,000	N	I	12–22–94	Indef.
ST95–1131	Transok, Inc	ANR Pipeline Co., et al.	01–10–95	C	7,000	N	I	12–22–94	Indef.
ST95–1132	Transok, Inc	ANR Pipeline Co., et al.	01–10–94	C	1,000	N	I	12–22–94	Indef.
ST95–1133	Delhi Gas Pipeline Corp.	ANR Pipeline Co., et al.	01–10–95	C	8,000	N	I	12–10–94	Indef.
ST95–1134	Colorado Interstate Gas Co.	Barrett Resources Corp.	01–11–95	G–S	7,000	N	F	01–01–95	12–31–96.
ST95–1135	Cove Point LNG Limited Part.	Washington Gas Light Co.	01–11–95	B	300,000	N	I	12–12–94	09–01–95.
ST95–1136	Algonquin Gas Transmission Co.	Norther Utilities, Inc	01–11–95	B	127	N	F	12–13–94	Indef.
ST95–1137	Algonquin Gas Transmission Co.	North Attleboro Gas Co.	01–11–95	B	32	N	F	12–12–94	Indef.
ST95–1138	Algonquin Gas Transmission Co.	Commonwealth Gas Co.	01–11–95	B	2,683	N	F	12–11–94	Indef.
ST95–1139	Tennessee Gas Pipeline Co.	Delta Natural Gas Co., Inc.	01–11–95	B	129	N	F	12–19–94	Indef.
ST95–1140	Tennessee Gas Pipeline Co.	Texas-Ohio Gas Inc	01–11–95	G–S	5,000	N	F	01–01–95	Indef.
ST95–1141	Tennessee Gas Pipeline Co.	Virginia Electric & Power Co.	01–11–95	G–S	5,000	N	F	01–01–95	Indef.
ST95–1142	Tennessee Gas Pipeline Co.	CO Energy Trading Co.	01–11–95	G–S	7,500	N	F	01–01–95	Indef.
ST95–1143	Tennessee Gas Pipeline Co.	Appalachian Gas Sales.	01–11–95	G–S	5,000	N	F	12–15–94	Indef.
ST95–1144	Questar Pipeline Co	Conoco, Inc	01–12–95	G–S	3,600	N	F	01–01–95	01–31–95.
ST95–1145	K N Interstate Gas Trans. Co.	Maxus Exploration Co.	01–12–95	G–S	50,000	N	I	01–01–95	Indef.
ST95–1146	K N Interstate Gas Trans. Co.	Premier Gas Co	01–12–95	G–S	20,000	N	I	12–02–94	Indef.
ST95–1147	Midwestern Gas Transmission Co.	Eastex Hydro-carbons, Inc.	01–12–95	G–S	10,000	N	F	12–29–94	Indef.
ST95–1148	Algonquin Gas Transmission Co.	Boston Gas Co	01–13–95	B	5,862	N	F	12–13–94	Indef.
ST95–1149	Algonquin Gas Transmission Co.	Providence Gas Co	01–13–95	B	79	N	F	12–14–94	Indef.
ST95–1150	Natural Gas P/L Co. of America.	Wisconsin Natural Gas Co.	01–13–95	G–S	2,000	N	F	12–15–94	11–30–95.
ST95–1151	Delhi Gas Pipeline Corp.	ANR Pipeline Co., et al.	01–13–95	C	40,000	N	I	12–21–94	Indef.
ST95–1152	Columbia Gas Transmission Corp.	Columbia Gas of Ohio, Inc.	01–12–95	B	1,451	Y	F	01–01–95	Indef.
ST95–1153	Columbia Gas Transmission Corp.	Catex Energy, Inc ...	01–12–95	G–S	1,000,000	N	I	07–20–94	Indef.
ST95–1154	Columbia Gas Transmission Corp.	New England Power Co.	01–12–95	G–S	200,000	N	I	01–01–95	Indef.
ST95–1155	Colorado Interstate Gas Co.	Montana Power Co	01–12–95	B	9,545	N	F	09–02–94	12–31–99.
ST95–1156	Kern River Gas Transmission Co.	KCS Energy Mar-keting, Inc.	01–13–95	G–S	75,000	N	I	12–17–94	Indef.
ST95–1157	Tennessee Gas Pipeline Co.	Appalachian Gas Sales.	01–13–95	G–S	15,000	N	F	12–15–94	Indef.
ST95–1158	Tennessee Gas Pipeline Co.	Appalachian Gas Sales.	01–13–95	G–S	20,000	N	I	12—16–94	Indef.
ST95–1159	Midwestern Gas Transmission Co.	Appalachian Gas Sales.	01–13–95	G–S	30,000	N	I	12–15–94	Indef.
ST95–1160	Channel Industries Gas Co.	Northern Natural Gas Co., et al.	01–13–95	C	75,000	Y	I	12–14–94	Indef.
ST95–1161	Williams Natural Gas Co.	Texaco Gas Market-ing, Inc.	01–17–95	G–S	5,000	N	I	09–01–94	12–31–95.
ST95–1162	Williams Natural Gas Co.	Texaco Gas Market-ing, Inc.	01–17–95	G–S	25,000	N	I	09–01–94	12–31–95.
ST95–1163	K N Interstate Gas Trans. Co.	Anadarko Trading Co.	01–17–95	G–S	30,000	N	I	12–02–94	Indef.
ST95–1164	Texas Eastern Transmisson Corp.	Providence Gas Co	01–17–95	G–S	5,001	N	I	12–17–94	Indef.

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ST95–1165	Panhandle Eastern Pipe Line Co.	Interstate Gas Supply, Inc.	01–17–95	G–S	4,000	N	I	02–18–94	01–01–99.
ST95–1166	Panhandle Eastern Pipe Line Co.	Citizens Energy Services Corp.	01–17–95	G–S	1,857	N	I	11–01–94	10–24–96
ST95–1167	Northern Natural Gas Co.	Noram Energy Services, Inc.	01–17–95	G–S	100,000	N	I	01–04–95	Indef.
ST95–1168	Northern Natural Gas Co.	Utilicorp United Inc .	01–17–95	G–S	25,000	N	I	12–06–94	Indef.
ST95–1169	Northern Natural Gas Co.	Industrial Energy Applications Inc.	01–17–95	G–S	300	N	F	01–03–95	03–31–95.
ST95–1170	Tennessee Gas Pipeline Co.	Conoco, Inc	01–17–95	G–S	1,500	N	F	01–01–95	Indef.
ST95–1171	Tennessee Gas Pipeline Co.	Equitable Gas Co ...	01–17–95	G–S	8,047	N	F	01–01–95	Indef.
ST95–1172	Tennessee Gas Pipeline Co.	Appalachian Gas Sales.	01–17–95	G–S	10,000	N	F	12–31–94	Indef.
ST95–1173	Tennessee Gas Pipeline Co.	Appalachian Gas Sales.	01–17–95	G–S	5,000	N	F	12–15–94	Indef.
ST95–1174	Tennessee Gas Pipeline Co.	Coastal Gas Marketing Co.	01–17–95	G–S	3,200	N	F	01–01–94	Indef.
ST95–1175	Kern River Gas Transmission Co.	Southwest Gas Corp.	01–17–95	B	30,000	N	F	12–01–93	02–28–07.
ST95–1176	Great Lakes Gas Trans., L.P.	Aig Trading Corp	01–17–95	G–S	20,000	N	F	12–09–94	12–31–94.
ST95–1177	Northern Illinois Gas Co.	Natural G/P/L Co. of America, et al.	01–17–95	G–HT	3,510	N	I	12–30–94	01–04–95.
ST95–1178	Northern Illinois Gas Co.	Natural G/P/L Co. of America, et al.	01–17–95	G–HT	7,805	N	I	12–30–94	01–31–95.
ST95–1179	Midwestern Gas Transmission Co.	Appalachian Gas Sales.	01–18–95	G–S	10,000	N	F	01–01–95	Indef.
ST95–1180	Midwestern Gas Transmission Co.	Southern Indiana Gas & Electric Co.	01–18–95	G–S	2,111	N	F	01–11–95	Indef.
ST95–1181	Transcontinental Gas P/L Corp.	Cornerstone Gas Resources, Inc.	01–18–95	G–S	500,000	N	I	01–01–95	Indef.
ST95–1182	Transcontinental Gas P/L Corp.	J. Aron & Co	01–18–95	G–S	300,000	N	I	01–01–95	Indef.
ST95–1183	Transcontinental Gas P/L Corp.	Superior Natural Gas Corp.	01–18–95	G–S	400,000	Y	I	01–01–95	Indef.
ST95–1184	Transcontinental Gas P/L Corp.	Algonquin Gas Transmission Co.	01–18–95	G	3,900,000	N	I	12–22–94	Indef.
ST95–1185	Transcontinental Gas P/L Corp.	Cornerstone Gas Resources, Inc.	01–18–95	G–S	40,000	N	I	01–04–95	Indef.
ST95–1186	Transcontinental Gas P/L Corp.	Transco Energy Marketing Co.	01–18–95	G–S	21,000,000	A	I	01–01–95	Indef.
ST95–1187	Transcontinental Gas P/L Corp.	Chevron U.S.A., Inc	01–18–95	G–S	50,000	N	I	01–01–95	Indef.
ST95–1188	Columbia Gas Transmission Corp.	Fellow McCord & Associates, Inc.	01–18–95	G–S	N/A	N	I	01–05–95	Indef.
ST95–1189	Sea Robin Pipeline Co.	Hadson Gas Systems.	01–18–95	G–S	10,000	Y	I	01–13–95	Indef.
ST95–1190	U–T Offshore System.	Transco Gas Marketing Co.	01–18–95	K–S	10,000	N	F	12–01–94	02–28–95.
ST95–1191	U–T Offshore System.	Vastar Gas Marketing, Inc.	01–18–95	K–S	10,997	N	F	12–01–94	12–31–94.
ST95–1192	U–T Offshore System.	Catex Vitol Gas Inc	01–18–95	K–S	9,500	N	F	12–01–94	12–31–94.
ST95–1193	U–T Offshore System.	Coast Energy Group	01–18–95	K–S	60,000	N	F	12–01–94	12–31–94.
ST95–1194	U–T Offshore System.	CNG Producing Co	01–18–95	K–S	45,000	N	F	12–01–94	12–31–94.
ST95–1195	U–T Offshore System.	Columbia Energy Services Corp.	01–18–95	K–S	20,000	N	I	12–01–94	12–01–95.
ST95–1196	High Island Offshore System.	Coastal Gas Marketing Co.	01–18–95	K–S	500	A	F	12–01–94	12–31–94.
ST95–1197	High Island Offshore System.	Columbia Energy Services Corp.	01–18–95	K–S	20,000	N	I	12–01–94	12–01–95.
ST95–1198	High Island Offshore System.	Coastal Gas Marketing Co.	01–18–95	K–S	6,000	A	F	12–01–94	12–30–94.
ST95–1199	Northwest Pipeline Corp.	Washington Natural Gas Co.	01–18–95	G–S	178,905	N	F	11–02–94	Indef.

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ST95–1200	Northwest Pipeline Corp.	Washington Natural Gas Co.	01–18–95	G–S	9,467	N	F	12–04–94	Indef.
ST95–1201	Northwest Pipeline Corp.	Intermountain Gas Co.	01–18–95	G–S	29,987	N	F	11–02–94	Indef.
ST95–1202	Northwest Pipeline Corp.	Intermountain Gas Co.	01–18–95	G–S	72,000	N	F	11–01–94	Indef.
ST95–1203	Northwest Pipeline Corp.	Cascade Natural Gas Corp.	01–18–95	G–S	15,000	N	F	11–03–94	04–30–95.
ST95–1204	Northwest Pipeline Corp.	Cascade Natural Gas Corp.	01–18–95	G–S	16,595	N	F	11–22–94	Indef.
ST95–1205	Northwest Pipeline Corp.	Northwest Natural Gas Co.	01–18–95	G–S	9,467	N	F	11–02–94	Indef.
ST95–1206	Northwest Pipeline Corp.	Northwest Natural Gas Co.	01–18–95	G–S	60,100	N	F	12–28–94	Indef.
ST95–1207	Northwest Pipeline Corp.	Washington Water Power Co.	01–18–95	G–S	2,623	N	F	11–02–94	Indef.
ST95–1208	Northwest Pipeline Corp.	Washington Water Power Co.	01–18–95	G–S	19,200	N	F	11–02–94	Indef.
ST95–1209	Northwest Pipeline Corp.	Washington Water Power Co.	01–18–95	G–S	76,200	N	F	11–02–94	04–30–95.
ST95–1210	Noram Gas Transmission Co.	City of Willow	01–19–95	G–S	200	N	F	09–01–94	Indef.
ST95–1211	Chandeleur Pipe Line Co.	Murphy Exploration and Prod. Co.	01–19–95	K–S	7,700	N	F	01–01–94	01–31–94.
ST95–1212	Chandeleur Pipe Line Co.	Murphy Exploration and Prod. Co.	01–19–95	K–S	6,600	N	F	12–01–94	12–31–94.
ST95–1213	Oasis Pipe Line Co	El Paso Natural Co., et al.	01–20–95	C	50,000	N	I	10–01–94	Indef.
ST95–1214	Houston Pipe Line Co.	Transco Energy Marketing Co.	01–19–95	G–I	100,000	N	I	12–01–94	Indef.
ST95–1215	Houston Pipe Line Co.	Transco Energy Marketing Co.	01–19–95	G–I	25,000	N	I	10–01–94	Indef.
ST95–1216	Houston Pipe Line Co.	Transco Energy Marketing Co.	01–19–95	G–I	25,000	N	I	11–01–94	Indef.
ST95–1217	Houston Pipe Line Co.	Black Marlin Pipeline Co., et al.	01–20–95	C	25,000	N	I	10–01–94	Indef.
ST95–1218	Houston Pipe Line Co.	Black Marlin Pipeline Co., et al.	01–20–95	C	5,000	N	I	10–01–94	Indef.
ST95–1219	Houston Pipe Line Co.	Black Marlin Pipeline Co., et al.	01–20–95	C	50,000	N	I	11–01–94	Indef.
ST95–1220	Midcon Texas Pipeline Corp.	Eastex Hydrocarbons, Inc.	01–19–95	G–I	5,000	N	I	12–21–94	Indef.
ST95–1221	Williston Basin Inter. P/L Co.	Montana-Dakota Utilities Co.	01–20–95	G–S	50,000	A	I	12–21–94	11–30–96.
ST95–1222	Williston Basin Inter. P/L Co.	Interenergy Resources Corp.	01–20–95	G–S	150,000	A	I	12–21–94	12–12–96.
ST95–1223	Kern River Gas Transmission Co.	Wasatch Oil & Gas Corp.	01–20–95	G–S	5,000	N	I	12–22–94	Indef.
ST95–1224	Columbia Gas Transmission Corp.	Suburban Natural Gas Co.	01–20–95	G–S	N/A	N	I	01–13–95	Indef.
ST95–1225	Columbia Gas Transmission Corp.	Virginia Gas Distribution Co.	01–20–95	B	1,000	N	I	01–01–95	Indef.
ST95–1226	Columbia Gas Transmission Corp.	Pennzoil Products ..	01–20–95	B	1,470	N	I	01–01–95	Indef.
ST95–1227	Columbia Gas Transmission Corp.	Inco Alloys International, Inc.	01–20–95	G–S	500	N	F	01–16–95	02–28–95.
ST95–1228	Equitrans, Inc	Energy Sales Co	01–23–95	G–S	700	N	F	12–08–94	11–30–99.
ST95–1229	Equitrans, Inc	Peoples Natural Gas Co.	01–23–95	G–S	2,239	N	F	01–05–95	03–31–03.
ST95–1230	Sea Robin Pipeline Co.	Challenger Minerals, Inc.	01–23–95	G–S	3,500	Y	I	01–19–95	Indef.
ST95–1231	Southern Natural Gas Co.	City of Talbotton	01–23–95	G–S	156	N	F	01–02–95	10–31–95.
ST95–1232	Williams Natural Gas Co.	Sun Gas Energy	01–23–95	G–S	5,000	N	I	12–01–94	11–30–95.
ST95–1233	Williams Natural Gas Co.	Barrett Resources, Inc.	01–23–95	G–S	3,000	N	I	12–01–94	11–30–95.

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ST95–1234	Williams Natural Gas Co.	Michael Stephen, Inc.	01–23–95	G–S	1,000	N	I	12–01–94	11–30–95.
ST95–1235	Williams Natural Gas Co.	Amoco Energy Trading.	01–23–95	G–S	5,000	N	I	11–01–94	11–01–95.
ST95–1236	Panhandle Eastern Pipe Line Co.	Mountain Iron & Supply Co.	01–23–95	G–S	1,075	N	F	01–01–95	12–31–95.
ST95–1237	Panhandle Eastern Pipe Line Co.	Nucor Steel, A Div. of Nucor Corp.	01–23–95	G–S	5,000	N	F	01–01–95	12–31–96.
ST95–1238	Panhandle Eastern Pipe Line Co.	Anadarko Petroleum Corp.	01–23–95	G–S	36,000	N	F	01–01–95	01–31–95.
ST95–1239	Panhandle Eastern Pipe Line Co.	Enron Gas Marketing, Inc.	01–23–95	G–S	2,000	N	F	01–01–95	03–31–95.
ST95–1240	Panhandle Eastern Pipe Line Co.	Archer Daniels Midland Co.	01–23–95	G–S	25,000	N	F	01–01–95	03–31–96.
ST95–1241	Panhandle Eastern Pipe Line Co.	NGC Transportation, Inc.	01–23–95	G–S	500,000	N	I	01–01–95	04–30–98.
ST95–1242	Northern Border Pipeline Co.	Koch Hydrocarbon Co.	01–23–95	G–S	20,000	Y	I	12–21–94	02–29–96.
ST95–1243	Northern Natural Gas Co.	Enron Oil & Gas Co	01–23–95	G–S	100,000	Y	F	01–01–95	06–30–97.
ST95–1244	Lone Star Gas Co ..	El Paso Natural Gas Co., et al.	01–23–95	C	50,000	N	I	12–22–94	Indef.
ST95–1245	Tennessee Gas Pipeline Co.	Essex County Gas Co.	01–23–95	G–S	2,455	N	I	01–15–95	Indef.
ST95–1246	Rocky Mountain Natural Gas Co.	Northwest Pipeline Corp., et al.	01–23–95	G–HT	8,000	N	F	12–01–94	Indef.
ST95–1247	Columbia Gulf Transmission Co.	Arcadian Fertilizer LP.	01–23–95	G–S	80,000	N	I	01–17–95	Indef.
ST95–1248	Columbia Gulf Transmission Co.	Brymore Energy Corp.	01–23–95	G–S	10,000	N	I	01–17–95	Indef.
ST95–1249	Columbia Gulf Transmission Co.	C&L Petroleum Co .	01–23–95	G–S	15,000	N	I	01–18–95	Indef.
ST95–1250	Columbia Gulf Transmission Co.	El Paso Gas Marketing Co.	01–23–95	G–S	12,000	N	I	10–01–94	Indef
ST95–1251	Columbia Gulf Transmission Co.	Energy Source, Inc .	01–23–95	G–S	100,000	N	I	01–18–95	Indef.
ST95–1252	Columbia Gulf Transmission Co.	Interenergy Gas Services Corp.	01–23–95	G–S	10,000	N	I	01–18–95	Indef.
ST95–1253	Columbia Gulf Transmission Co.	Nycotex Gas Transport.	01–23–95	G–S	7,000	N	I	01–18–95	Indef.
ST95–1254	Columbia Gulf Transmission Co.	Parker & Parsley Development, L.P.	01–23–95	G–S	500	N	I	01–17–95	Indef.
ST95–1255	Columbia Gas Transmission Corp.	National Fuel Gas Supply Corp.	01–23–95	G	500	N	I	11–01–93	Indef.
ST95–1256	Columbia Gas Transmission Corp.	Sonat Marketing Co	01–23–95	G–S	100,000	N	I	01–01–95	Indef
ST95–1257	Columbia Gas Transmission Corp.	Eastex Hydrocarbons, Inc.	01–23–95	G–S	50,000	N	I	11–01–95	Indef.
ST95–1258	Koch Gateway Pipeline Co.	Enron Capital & Trade Res. Corp.	01–24–95	G–S	92,600	N	F	01–10–95	05–10–95.
ST95–1259	Koch Gateway Pipeline Co.	Chevron U.S.A. Inc	01–24–95	G–S	800	N	F	01–10–95	04–10–95.
ST95–1260	Koch Gateway Pipeline Co.	Western Gas Resources, Inc.	01–24–95	G–S	15,000	N	F	01–10–95	04–10–95.
ST95–1261	Koch Gateway Pipeline Co.	Koch Gas Services Co.	01–24–95	G–S	10,000	Y	F	01–10–95	01–10–96.
ST95–1262	Koch Gateway Pipeline Co.	LGS Natural Gas Co.	01–24–95	G–S	7,500	N	F	01–10–95	12–10–95.
ST95–1263	Koch Gateway Pipeline Co.	Mississippi Marketing, Inc.	01–24–95	G–S	N/A	N	I	01–06–95	Indef.
ST95–1264	Koch Gateway Pipeline Co.	Mangum Gas Marketing, Inc.	01–24–95	G–S	N/A	N	I	01–01–95	Indef
ST95–1265	Iroquois Gas Trans. System, L.P.	Gaz Metropolitain and Co., L.P.	01–24–95	G–S	10,000	N	F	12–15–94	04–01–95.
ST95–1266	Iroquois Gas Trans. System, L.P.	Gaz Metropolitain and Co., L.P.	01–24–95	G–S	10,000	N	F	12–15–94	03–01–96.
ST95–1267	Iroquois Gas Trans. System, L.P.	CNG Energy Services Corp.	01–24–95	G–S	25,000	N	F	12–15–94	12–02–95.

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ST95–1268	Iroquois Gas Trans. System, L.P.	Phibro Division of Salomon Inc.	01–24–95	G–S	15,000	N	F	12–15–94	04–01–95.
ST95–1269	Delhi Gas Pipeline Corp.	Southern California Gas Co., et al.	01–24–95	C	20,000	N	I	12–23–94	Indef
ST95–1270	CNG Transmission Corp.	CNG Energy Services.	01–24–95	G–S	16,600	N	F	01–01–95	02–28–95.
ST95–1271	CNG Transmission Corp.	Public Service Electric & Gas.	01–24–95	G–S	60,000	N	I	01–09–95	05–01–95.
ST95–1272	Transok, Inc	ANR Pipeline Co., et al.	01–25–95	C	50,000	N	I	01–01–95	Indef.
ST95–1273	Transok, Inc	ANR Pipeline Co., et al.	01–25–95	C	10,000	N	I	01–01–95	Indef.
ST95–1274	Transok, Inc	ANR Pipeline Co., et al.	01–25–95	C	10,000	N	I	01–01–95	Indef.
ST95–1275	Transok, Inc	ANR Pipeline Co., et al.	01–25–95	C	5,000	N	I	12–01–94	Indef.
ST95–1276	Transok, Inc	ANR Pipeline Co., et al.	01–25–95	C	50,000	Y	I	01–01–95	Indef.
ST95–1277	Transok, Inc	Mississippi River TR. Corp., et al.	01–25–95	C	15,000	N	I	01–01–95	Indef.
ST95–1278	Transok, Inc	ANR Pipeline Co., et al.	01–25–95	C	10,000	N	I	08–01–94	Indef.
ST95–1279	Transok, Inc	ANR Pipeline Co., et al.	01–25–95	C	50,000	Y	I	01–01–95	Indef.
ST95–1280	Granite State Gas Trans., Inc.	Northern Utilities, Inc.	01–25–95	B	3,800	N	I	10–01–94	09–30–95.
ST95–1281	Granite State Gas Trans., Inc.	Northern Utilities, Inc.	01–25–95	B	1,210	N	I	12–15–94	12–14–95.
ST95–1282	Panhandle Eastern Pipe Line Co.	ONG Transmission Co.	01–25–95	B	36,518	N	I	01–01–95	03–31–95.
ST95–1283	Panhandle Eastern Pipe Line Co.	Union Gas Limited ..	01–25–95	G–S	35,129	N	F	11–01–94	10–31–95.
ST95–1284	Noram Gas Transmission Co.	Delta, Inc. of Arkansas.	01–25–95	G–S	450	N	F	01–01–95	Indef.
ST95–1285	Noram Gas Transmission Co.	Winburn Tile Manufacturing.	01–25–95	G–S	240	N	F	01–01–95	Indef.
ST95–1286	Noram Gas Transmission Co.	Associated Gas Services, Inc.	01–25–95	G–S	7,500	N	F	12–28–94	Indef.
ST95–1287	Noram Gas Transmission Co.	Baptist Medical Center.	01–25–95	G–S	1,185	N	F	01–01–95	Indef.
ST95–1288	Noram Gas Transmission Co.	Medical Center of South Arkansas.	01–25–95	G–S	332	N	F	01–01–95	Indef.
ST95–1289	Noram Gas Transmission Co.	NGC Transportation, Inc.	01–25–95	G–S	25,000	N	F	12–13–94	Indef.
ST95–1290	Noram Gas Transmission Co.	Noram Energy Services, Inc.	01–25–95	G–S	30,000	N	F	01–01–95	Indef.
ST95–1291	Natural Gas P/L Co. of America.	Bethlehem Steel Corp.	01–25–95	G–S	30,000	N	F	01–05–95	04–30–95.
ST95–1292	Natural Gas P/L Co. of America.	American Energy Management, Inc.	01–25–95	G–S	10,000	N	I	01–11–95	Indef.
ST95–1293	Williams Natural Gas Co.	City Utilities of Springfield.	01–25–95	B	10,000	N	F	01–04–95	Indef.
ST95–1294	Stingray Pipeline Co	Tauber Oil Co	01–26–95	K–S	100,000	N	I	01–06–95	Indef.
ST95–1295	Transcontinental Gas P/L Corp.	Southern Connecticut Gas Co.	01–26–95	G–S	1,408	N	F	01–02–95	06–01–08.
ST95–1296	Transcontinental Gas P/L Corp.	Scana Hydrocarbons, Inc.	01–26–95	G–S	30,000	N	F	01–01–95	01–31–95.
ST95–1297	Channel Industries Gas Co.	Tennessee Gas Pipeline Co., et al.	02–02–95	C	100,000	Y	I	01–01–95	Indef.
ST95–1298	Panhandle Eastern Pipe Line Co.	Utilicorp United, Inc	01–27–95	G–S	50,000	N	I	01–06–95	03–31–99.
ST95–1299	Panhandle Eastern Pipe Line Co.	Bring Gas Services Corp.	01–27–95	G–S	50,000	N	I	01–04–95	10–31–96.
ST95–1300	Trunkline Gas Co ...	Bethlehem Steel Corp.	01–27–95	G–S	77,625	N	I	01–04–95	Indef.
ST95–1301	Trunkline Gas Co ...	H & N Gas, LTD	01–27–95	G–S	100,000	N	I	01–01–95	Indef.
ST95–1302	Trunkline Gas Co ...	Energy Development Corp.	01–27–95	G–S	77,625	N	I	01–01–95	Indef.
ST95–1303	Trunkline Gas Co ...	Cargill, Inc	01–27–95	G–S	100,000	N	I	01–10–95	Indef.
ST95–1304	K N Interstate Gas Trans. Co.	Transok, Inc	01–27–95	B	50,000	A	I	12–02–94	Indef.

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ST95–1305	Cypress Gas Pipeline Co.	Columbia Gulf Trans. Co., et al.	01–27–95	C	20,000	N	I	01–01–95	Indef.
ST95–1306	Cypress Gas Pipeline Co.	Columbia Gulf Trans. Co., et al.	01–27–95	C	15,000	N	I	01–01–95	Indef.
ST95–1307	Kentucky West Virginia Gas Co.	Foothills Natural Gas Co.	01–30–95	G–S	250	N	I	12–01–94	Indef.
ST95–1308	Natural Gas P/L Co. of America.	NGC Transportation, Inc.	01–27–95	G–S	30,000	N	F	01–01–95	01–31–95.
ST95–1309	El Paso Natural Gas Co.	Valero Transmission, L.P.	01–27–95	B	50,000	N	I	12–31–94	Indef.
ST95–1310	Florida Gas Transmission Co.	Cornerstone Gas Resources.	01–27–95	G–S	24,000	N	I	01–01–95	Indef.
ST95–1311	Florida Gas Transmission Co.	Hardee Power Partners Limited.	01–27–95	G–S	62,500	N	I	01–01–95	Indef.
ST95–1312	Florida Gas Transmission Co.	James River Paper Co. Inc.	01–27–95	G–S	500	N	F	01–01–95	Indef.
ST95–1313	Texas Gas Transmission Co.	Coast Energy Group	01–30–95	G–S	30,000	N	I	01–10–95	Indef.
ST95–1314	Texas Gas Transmission Co.	Coast Energy Group	01–30–95	G–S	30,000	N	I	01–10–95	Indef.
ST95–1315	Texas Gas Transmission Co.	Coast Energy Group	01–30–95	G–S	21,000	N	I	01–10–95	Indef.
ST95–1316	Texas Gas Transmission Co.	Coast Energy Group	01–30–95	G–S	30,000	N	I	01–11–95	Indef.
ST95–1317	Texas Gas Transmission Co.	Mobil Natural Gas, Inc.	01–30–95	G–S	150,000	Y	I	01–06–95	Indef.
ST95–1318	El Paso Natural Gas Co.	MBR Resources, Inc.	01–30–95	B	5,150	N	I	01–01–95	Indef.
ST95–1319	El Paso Natural Gas Co.	Channel Gas Marketing Co.	01–30–95	G–S	77,250	N	I	01–01–95	Indef.
ST95–1320	Texas Gas Transmission Co.	Colonial Gas Co	01–30–95	G–S	6,984	N	I	01–04–95	Indef.
ST95–1321	Texas Gas Transmission Co.	North Attleboro Gas Co.	01–30–95	G–S	100	N	I	01–05–95	Indef.
ST95–1322	Texas Gas Transmission Co.	Columbia Gas Transmission Corp.	01–30–95	G	35,000	N	I	01–03–95	Indef.
ST95–1323	Texas Gas Transmission Co.	United Cities Gas Co.	01–30–95	G–S	15,000	N	I	01–03–95	Indef.
ST95–1324	Texas Gas Transmission Co.	Global Petroleum Corp.	01–30–95	G–S	75,000	N	I	01–20–95	Indef.
ST95–1325	Texas Gas Transmission Co.	Eastex Hydrocarbons, Inc.	01–30–95	G–S	100,000	N	I	01–01–95	Indef.
ST95–1326	Texas Gas Transmission Co.	Eastex Hydrocarbons, Inc.	01–30–95	G–S	100,000	N	I	01–03–95	Indef.
ST95–1327	Texas Gas Transmission Co.	1 Source Energy Services Co.	01–30–95	G–S	15,000	Y	F	01–01–95	Indef.
ST95–1328	Algonquin Gas Transmission Co.	Appalachian Gas Sales, Inc.	01–30–95	G–S	1,000	N	F	01–01–95	01–31–95.
ST95–1329	Algonquin Gas Transmission Co.	Global Petroleum Corp.	01–30–95	G–S	10,000	N	F	01–01–95	02–28–95.
ST95–1330	Algonquin Gas Transmission Co.	Seitel Gas & Energy Corp.	01–30–95	G–S	5,000	N	F	01–01–95	03–31–95.
ST95–1331	Algonquin Gas Transmission Co.	Transco Energy Marketing Co.	01–30–95	G–S	5,000	N	F	01–01–95	03–30–95.
ST95–1332	Kern River Gas Transmission Co.	Mountain Fuel Supply Co.	01–30–95	B	10,000	N	F	01–01–95	01–31–95.
ST95–1333	Kern River Gas Transmission Co.	Amoco Energy Trading Corp.	01–30–95	G–S	10,000	N	F	01–01–95	01–31–95.
ST95–1334	Natural Gas P/L Co. of America.	Catex Vitol Gas, Inc	01–30–95	G–S	20,000	N	F	01–01–95	01–31–95.
ST95–1335	Natural Gas P/L Co. of America.	Tejas Gas Pipeline Co.	01–30–95	B	15,000	N	I	01–01–95	Indef.
ST95–1336	Natural Gas P/L Co. of America.	Petro-Hunt Corp	01–30–95	G–S	50,000	N	I	01–01–95	Indef.
ST95–1337	Natural Gas P/L Co. of America.	Catex Vitol Gas, Inc	01–30–95	G–S	50,000	N	F	01–18–95	01–31–95.
ST95–1338	Texas Eastern Transmission Co.	Columbia Gas of Pennsylvania.	01–30–95	G–S	170,000	N	I	01–16–95	Indef.
ST95–1339	Tennessee Gas Pipeline Co.	Global Petroleum	01–30–95	G–S	15,000	N	I	12–29–94	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
ST95–1340	Iroquois Gas Trans. System, L.P.	Enron Gas Marketing Inc.	01–30–95	G–S	5,000	N	F	01–01–95	04–01–95.
ST95–1341	Iroquois Gas Trans. System, L.P.	Renaissance Energy (U.S.) Inc.	01–30–95	G–S	8,000	N	F	01–01–95	02–01–95.
ST95–1342	Iroquois Gas Trans. System, L.P.	A–G Energy, L.P	01–30–95	G–S	16,500	N	F	01–05–95	02–01–95.
ST95–1343	Iroquois Gas Trans. System, L.P.	Coenergy Trading Co.	01–30–95	G–S	5,000	N	F	01–01–95	02–01–95.
ST95–1344	Iroquois Gas Trans. System, L.P.	St. Lawrence Gas Co.	01–30–95	G–S	36,500	N	I	01–18–95	Indef.
ST95–1345	Iroquois Gas Trans. System, L.P.	Wickford Energy Marketing.	01–30–95	G–S	50,000	N	I	01–20–95	Indef.
ST95–1346	Iroquois Gas Trans. System, L.P.	Transco Gas Marketing Co.	01–30–95	G–S	5,000	N	F	01–01–95	04–01–95.
ST95–1347	Iroquois Gas Trans. System, L.P.	Catex Vitol Gas Inc	01–30–95	G–S	10,000	N	F	01–01–95	02–01–95.
ST95–1348	Texas Gas Transmission Corp.	City of Benton	01–31–95	G–S	250	N	F	01–01–95	Indef.
ST95–1349	Williston Basin Inter. P/L Co.	Koch Gas Services Co.	01–31–95	G–S	300	A	F	01–01–95	02–28–95.
ST95–1350	Williston Basin Inter. P/L Co.	Amerada Hess Corp	01–31–95	G–S	45,000	A	I	01–01–95	12–31–96.
ST95–1351	Williston Basin Inter. P/L Co.	Rainbow Gas Co	01–31–95	G–S	2,716	A	F	01–01–95	01–31–95.
ST95–1352	Williston Basin Inter. P/L Co.	Amoco Energy Trading Corp.	01–31–95	G–S	50,000	A	I	01–01–95	12–31–96.
ST95–1353	Williston Basin Inter. P/L Co.	Cenex, Inc	01–31–95	G–S	12,000	A	I	01–01–95	12–31–95.
ST95–1354	Williston Basin Inter. P/L Co.	Retex Gathering Co., Inc.	01–31–95	G–S	33,000	A	I	12–21–94	09–30–96.
ST95–1355	Williston Basin Inter. P/L Co.	Interenergy Resources Corp.	01–31–95	G–S	10,000	A	I	01–01–95	12–31–95.
ST95–1356	Kern River Gas Transmission Co.	Mountain Fuel Supply Co.	01–31–95	B	300,000	N	I	01–04–95	Indef.
ST95–1357	Tennessee Gas Pipeline Co.	Alatenn Energy Marketing Co.	01–31–95	G–S	2,000	N	F	01–02–95	Indef.
ST95–1358	Tennessee Gas Pipeline Co.	Appalachian Gas Sales.	01–31–95	G–S	7,500	N	F	01–01–95	Indef.
ST95–1359	Tennessee Gas Pipeline Co.	Direct Gas Supply Corp.	01–31–95	G–S	18,000	N	F	01–01–95	Indef.
ST95–1360	East Tennessee Natural Gas Co.	Unicoi County Utility District.	01–31–95	G–S	4,120	N	F	01–01–95	Indef.
ST95–1361	East Tennessee Natural Gas Co.	Catex Energy, Inc ...	01–31–95	G–S	3,000	N	I	01–01–95	Indef.
ST95–1362	Great Lakes Gas Trans., L.P.	AIG Trading Corp ...	01–31–95	G–S	20,000	N	F	01–01–95	03–31–95.
ST95–1363	Great Lakes Gas Trans., L.P.	Michigan Consolidated Gas Co.	01–31–95	G–S	30,000	N	F	01–03–95	03–31–95.
ST95–1364	Great Lakes Gas Trans., L.P.	ANR Gas Supply Co.	01–31–95	G–S	50,000	Y	F	01–07–95	11–30–95.
ST95–1365	Trunkline Gas Co ...	Columbia Energy Services Corp.	01–31–95	G–S	20,000	N	I	01–01–95	Indef.
ST95–1366	Mississippi River Trans. Corp.	Seagull Marketing Services, Inc.	01–31–95	G–S	20,000	N	I	01–13–95	Indef.
ST95–1367	Mississippi River Trans. Corp.	Amoco Energy Trading Corp.	01–31–95	G–S	5,132	Y	I	01–01–95	Indef.
ST95–1368	Mississippi River Trans. Corp.	Sonat Marketing Co	01–31–95	G–S	50,000	N	I	01–18–95	Indef.
ST95–1369	Mississippi River Trans. Corp.	Associated Gas Services, Inc.	01–31–95	G–S	300,000	Y	I	01–05–95	Indef.
ST95–1370	Midwestern Gas Transmission Co.	Mobil Natural Gas Inc.	01–31–95	G–S	4,500	N	F	01–01–95	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. 95–5621 Filed 3–7–95; 8:45 am]
BILLING CODE 6717–01–P

[Docket No. GT95–21–000]

Transcontinental Gas Pipe Line Corp.; Notice of Report of Refunds

March 2, 1995.

Take notice that on February 6, 1995, Transcontinental Gas Pipe Line Corporation (TGPL), tendered for filing with the Federal Energy Regulatory Commission (Commission), its refund report made to comply with the Commission's order dated September 21, 1994, in Docket Nos. RP93–106–000, *et al.* TGPL received refunds from Texas Gas Transmission Corporation (Texas Gas), in connection with Texas Gas's settlement of various matters in Docket No. RP93–106–000, *et al.*

TGPL states that it refunded $3,995,416.17, including interest to its FT–NT customers on February 1, 1995 for the period November 1993 through September, 1994, as a result of the approved Texas Gas settlement.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 and 385.214. All such motions or protests should be filed on or before March 9, 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. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–5595 Filed 3–7–95; 8:45 am]
BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5165–4]

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.

DATES: Comments must be submitted on or before April 7, 1995.

FOR FURTHER INFORMATION CONTACT: For further information or a copy call Sandy Farmer at EPA, (202) 260–2740, please refer to EPA ICR # 0596.05.

SUPPLEMENTARY INFORMATION:

OFFICE OF PESTICIDES AND TOXIC SUBSTANCES

Title: Application and Summary Report for an Emergency Exemption for Pesticides. (EPA ICR No. 0596.05; OMB No. 2070–0032). This is a request to extend the expiration date of a presently approved collection.

Abstract: Under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act, the EPA may temporarily authorize states, territories, and Federal agencies to ship and use unregistered pesticides in emergency situations. To ensure that an emergency actually exists, and that use of the pesticide will not pose an unreasonable risk to human health or the environment, the EPA requires exemption applicants to explain the circumstances necessitating the emergency use and to provide details on the pesticide and its proposed application. Following the application of the pesticide, applicants must submit a report to the EPA describing the pesticide treatment and its effectiveness, as well as any adverse effects.

Burden Statement: The public burden for this collection of information is estimated to average 101 hours per response for reporting and 2 hours per recordkeeper annually. This estimate includes the initial request for an emergency exemption and the time needed to complete and submit the summary report after the pesticide application. Included in this estimate is also the time needed to review instructions, search existing data sources, gather and maintain data needed, and review the collection of information.

Respondents: States, territories and Federal agencies.

Estimated No. of Respondents: 300.

Estimated No. of Responses per Respondents: 1.

Estimated Total Annual Burden on Respondents: 30,500 hours.

Frequency of Collection: On occasion.

Send comments regarding the burden estimate, or any other aspect of the collection of information, including suggestion for reducing the burden (please refer to EPA ICR # 0596.05 and OMB # 2070–0032) to:

Sandy Farmer, EPA ICR # 0596.05, U.S. Environmental Protection Agency, Information Policy Branch (2136), 401 M Street, SW., Washington, DC 20460.

and

Tim Hunt, OMB # 2070–0032, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW.,Washington, DC 20503.

Dated: March 2, 1995.

David Schwarz,

Acting Director, Regulatory Management Division.

[FR Doc. 95–5589 Filed 3–7–95; 8:45 am]
BILLING CODE 6560–50–F

[OPP–34072; FRL–4940–6]

Reregistration Eligibility Decision Documents for Bentazon, et. al.; Availability for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of Reregistration Eligibility Decision documents; opening of public comment period.

SUMMARY: This Notice announces the availability of the Reregistration Eligibility Decision (RED) documents for the active ingredients from Lists A and C, and this notice also starts a 60-day public comment period. The REDs for the chemicals listed are the Agency's formal regulatory assessments of the health and environmental data base of the subject chemicals and present the Agency's determination regarding which pesticidal uses are eligible for reregistration.

DATES: Written comments on these decisions must be submitted by May 8, 1995.

ADDRESSES: Three copies of comments identified with the docket number ''OPP–34072'' and the case number (noted below), should be submitted to: By mail: OPP Pesticide Docket, Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: OPP Pesticide Docket, Rm. 1132, Crystal Mall 2 (CM–2), 1921 Jefferson Davis Highway, Arlington, VA. E-mail inquiries may be addressed to: SRRD@CAIS.COM.

FOR FURTHER INFORMATION CONTACT: Technical questions on the listed decisions should be directed to the appropriate Chemical Review Managers:

List	Chemical name	Case No.	Chemical review manager	Telephone No.
List A	Bentazon	Case 0182	Eric Feris	(703) 308–8048
List A	Difenzoquat	Case 0223	Andrew Ertman	(703) 308–8063
List A	Hexazinone	Case 0266	Andrew Ertman	(703) 308–8063
List A	Metalaxyl	Case 0081	Judy Loranger	(703) 308–8056
List A	Oryzalin	Case 0186	Judy Coombs	(703) 308–8046
List C	BHAP	Case 3032	Frank Rubis	(703) 308–8184
List C	Piperalin	Case 3114	Jean Holmes	(703) 308–8008

Information submitted as a comment in response to this Notice may be claimed confidential by marking any part or all of that information as ''Confidential Business Information (CBI).'' Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public docket. Information not marked confidential will be included in the public docket without prior notice. The public docket and docket index will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

To request a copy of any of the above listed RED documents, or a RED Fact Sheet, contact the OPP Pesticide Docket, Public Response and Program Resources Branch, in Rm. 1132 at the address given above or call (703) 305–5805.

Electronic copies of the REDs and RED fact sheets can be downloaded from the Pesticide Special Review and Reregistration Information System at 703–308–7224, which also can be reached on the Internet via fedworld.gov and from EPA's gopher server, gopher.epa.gov.

SUPPLEMENTARY INFORMATION: The Agency has issued Reregistration Eligibility Decision (RED) documents for the pesticidal active ingredients listed above. Under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1988, EPA is conducting an accelerated reregistration program to reevaluate existing pesticides to make sure they meet current scientific and regulatory standards. The data base to support the reregistration of each of the chemicals listed above is substantially complete. EPA has determined that all currently registered products subject to reregistration containing these active ingredients are eligible for reregistration.

All registrants of products containing one or more of the above listed active ingredients have been sent the appropriate RED documents and must respond to labeling requirements and product specific data requirements (if applicable) within 8 months of receipt. Products containing other active ingredients will not be reregistered until those other active ingredients are determined to be eligible for reregistration.

The reregistration program is being conducted under Congressionally mandated time frames, and EPA recognizes both the need to make timely reregistration decisions and to involve the public. Therefore, EPA is issuing these REDs as final documents with a 60–day comment period. Although the 60–day public comment period does not affect the registrant's response due date, it is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the RED. All comments will be carefully considered by the Agency. If any comment significantly affects a RED, EPA will amend the RED by publishing the amendment in the **Federal Register**.

List of Subjects

Environmental protection.

Dated: March 2, 1995.

Peter Caulkins,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 95–5650 Filed 3–7–95; 8:45 am]

BILLING CODE 6560–50–F

[PP 3G4244/T670; FRL 4936–8]

E.I. du Pont de Nemours & Co., Inc; Establishment of a Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established a temporary tolerance for residues of the herbicide Staple *pyrithiobac-sodium* derived from its application in or on the raw agricultural commodity cottonseed at 0.02 parts per million (ppm).

DATES: This temporary tolerance expires March 31, 1997.

FOR FURTHER INFORMATION CONTACT: By mail: Cynthia Giles-Parker, Product Manager (PM) 22, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 229, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5540.

SUPPLEMENTARY INFORMATION: E.I. du Pont de Nemours & Co., Inc., Barley Mills Plaza, Walker's Mill, P.O. Box 80038, Wilmington, DE 19880–0038, has requested in pesticide petition (PP) 3G4244, the establishment of a temporary tolerance for residues of the herbicide Staple *pyrithiobac-sodium* derived from its application in or on the raw agricultural commodity cottonseed at 0.02 parts per million (ppm). This temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of the experimental use permit 352–EUP–162, which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. E.I. du Pont de Nemours & Co., Inc. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires March 31, 1997. Residues not in excess of this amounts remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary

tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

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

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

Authority: 21 U.S.C. 346a(j).

List of Subjects

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

Dated: February 14, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 95–5400 Filed 3–7–95; 8:45 am]

BILLING CODE 6560–50–F

[OPP–30381; FRL–4937–2]

FMC Corporation; Applications to Register Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing an active ingredient not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by April 7, 1995.

ADDRESSES: By mail, submit written comments identified by the document control number [OPP–30381] and the registration/file number, attention Product Manager (PM) 23, to: Public Response and Program Resources Branch, Field Operations Divisions (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Environmental Protection Agency, Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: PM 23, Joanne I. Miller, Rm. 237, CM #2, (703–305–7830).

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register pesticide products containing an active ingredient not included in any previously registered products pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Products Containing an Active Ingredient Not Included In Any Previously Registered Products

1. File Symbol: 279–GRUO Applicant: FMC Corporation, 1735 Market St., Philadelphia, PA, 19103. Product name: Sulfentrazone Technical. Herbicide. Active ingredient: Sulfentrazone, *N*-[2,4-dichloro-5-[4-(difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1*H*-1,2,4-triazol-1-yl]phenyl]methanesulfonamide at 91 percent. Proposed classification/Use: None. For formulating use only on soybeans. Type registration: Conditional. (PM 23)

2. File Symbol: 279–GRUA. FMC Corporation, 1735 Market St., Philadelphia, PA, 19103. Product name: Sulfentrazone 4F. Herbicide. Active ingredient: Sulfentrazone, *N*-[2,4-dichloro-5-[4-(difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1*H*-1,2,4-triazol-1-yl]phenyl]methanesulfonamide at 39.6 percent. Proposed classification/Use: None. For the control of broadleaf weeds, grasses, and sedge when applied preplant and preemergence on soybeans. Type registration: Conditional. (PM 23)

3. File Symbol: 279–GRUI. FMC Corporation. Product name: Sulfentrazone 75DF. Herbicide. Active ingredient: Sulfentrazone, *N*-[2,4-dichloro-5-[4-(difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1*H*-1,2,4-triazol-1-yl]phenyl]methanesulfonamide at 75 percent. Proposed classification/Use: None. For the control of broadleaf weeds, grasses, and sedge when applied preplant and preemergence on soybeans. Type registration: Conditional. (PM 23)

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the Public Response and Program Resources Branch, Field Operation Division office at the address provided from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the FOD office (703–305–5805), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registration.

Dated: February 14, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 95–5398 Filed 3–7–95; 8:45 am]

BILLING CODE 6560–50–F

[PP 3G4210/T671; FRL 4938–7]

Iprodione; Extension of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended temporary tolerances for the combined residues of the fungicide Iprodione and its metabolite in or on certain raw agricultural commodities.

DATES: These temporary tolerances expire April 15, 1996.

FOR FURTHER INFORMATION CONTACT By mail: Connie Welch, Product Manager

(PM) 21, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 229, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–6900.

SUPPLEMENTARY INFORMATION: EPA issued a notice, which was published in the **Federal Register** of October 27, 1993 (58 FR 57827), announcing the establishment of temporary tolerances for the combined residues of the fungicide Iprodione [3-(3,5-dichlorophenyl)-*N*-(methylethyl)-2,4-dioxo-1-imidazolidinecarboximide] and its isomer [3-(1-methylethyl)-*N*-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboximide], and its metabolite [3-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboximide] in or on the raw agricultural commodities tangerines and tangelos at 3.0 parts per million (ppm). These tolerances were issued in response to pesticide petition (PP) 3G4210, submitted by Rhone-Poulenc Ag Co., P.O. Box 12014, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709.

These temporary tolerances have been extended to permit the continued marketing of the raw agricultural commodities named above when treated in accordance with the provisions of experimental use permit 264–EUP–94, which is being extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that the extension of these temporary tolerances will protect the public health. Therefore, the temporary tolerances have been extended on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Rhone-Poulenc Ag Co., must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire April 15, 1996. Residues not in excess of this amount remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

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

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

Authority: 21 U.S.C. 346a(j).

List of Subjects

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

Dated: February 21, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 95–5401 Filed 3–7–95; 8:45 am]

BILLING CODE 6560–50–F

[OPP–30382; FRL–4940–1]

Mycotech Corp.; Application to Register a Pesticide Product

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application submitted by Mycotech Corporation to register a pesticide product containing an active ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by April 7, 1995.

ADDRESSES: By mail, submit written comments identified by the document control number [OPP–30382] and the file number (65626–T), to: Public Response and Program Resources Branch, Field Operations Divisions (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Environmental Protection Agency, Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Janet L. Andersen, Acting Director, Biopesticides and Pollution Prevention Division (7501W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. CS51B6, Westfield Building North Tower, 2800 Crystal Drive, Arlington, VA 22202, (703–308–8712).

SUPPLEMENTARY INFORMATION: EPA received an application from Mycotech Corp., 630 Utah Avenue, P.O. Box 4109, Butte, MT 59702, to register the pesticide product Mycotrol WP Biological Insecticide (EPA File Sybmol 65626–T), containing the active ingredient *Beauvaria bassiana* Strain GHA, an ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(4) of FIFRA. This product is proposed for use to control whiteflies, aphids, thrips, fungus psyllids, and mealybugs on vegetables, fruits, tree nuts, agronomic crops, herbs, ornamentals, turf, and forestry. Notice of receipt of this application does not imply a decision by the Agency on the application.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the Public Response and Program Resources Branch, Field Operation Division office at the address provided from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the FOD office (703–305–5805), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registration.

Dated: February 24, 1995.

Janet L. Andersen,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 95–5397 Filed 3–7–95; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

[WT Docket No. 95–26; FCC 95–59]

Notice of Order to Show Cause; Commercial Realty St. Pete, Inc.

AGENCY: Federal Communications Commission.

ACTION: Notice of order to show cause.

SUMMARY: Commercial Realty St. Pete, Inc. (Commercial Realty), an Interactive Video and Data Services (IVDS) auction bidder, and its principals are ordered to show cause why they should not be barred from participating in any future Commission auction and from holding any Commission licenses. The Commission has determined that Commercial Realty and its principals have engaged in serious misconduct that call into question their basic qualifications to be a Commission applicant or licensee. The hearing will examine the misconduct to determine whether the abuses and violations should prohibit Commercial Realty and its principals from participating in Commission auctions and from being Commission licensees.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Joseph Weber, Enforcement Division, Wireless Telecommunications Bureau (202) 418–1310.

SUPPLEMENTARY INFORMATION: This is a summary of the Order to Show Cause in WT Docket 95–26, adopted February 15, 1995, and released February 16, 1995.

The full text of Commission decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street NW., Suite 140, Washington, DC 20037, (202) 857–3800.

Summary of Order to Show Cause

The Commission has determined that Commercial Realty engaged in misconduct during the Commission's IVDS auctions. The Commission has found that a written declaration submitted by Commercial Realty contained false information about Commercial Realty's financial qualifications. The Commission has also determined that inappropriately claimed a bidding credit as a woman-owned company. Finally, the Commission determined that James C. Hartley, one of Commercial Realty's principals, engaged in improper communications with other IVDS bidders.

Pursuant to Section 312 of the Communications Act of 1934, as amended, Commercial Realty, James C. Hartley, and Ralph E. Howe are ordered to show cause why they should not be barred from future Commission auctions and from holding Commission licenses based upon the following issues listed below:

(1)(a) The facts and circumstances surrounding the aforementioned Declarations submitted to the Commission by Commercial Realty St. Pete, Inc.;

(b) Whether Commercial Realty and/or its principals misrepresented facts, lacked candor, or attempted to mislead the Commission;

(c) Whether, based on the evidence adduced pursuant to 1 (a) and (b), above, Commercial Realty and/or its principals should be subject to a forfeiture up to the statutory limit pursuant to Section 503 of the Communications Act, as amended, 47 U.S.C. 503.

(d) Whether, based on the evidence adduced pursuant to 1 (a) and (b), above, Commercial Realty and/or its principals should be barred from future auctions and from holding Commission licenses.

(2)(a) The facts and circumstances surrounding Commercial Realty's claim of a bidding credit as a woman-owned small business at the IVDS auctions;

(b) Whether Commercial Realty and/or its principals misrepresented facts, lacked candor, or attempted to mislead the Commission in claiming a bidding credit as a woman-owned small business;

(c) Whether, based on the evidence adduced pursuant to 2 (a) and (b), above, Commercial Realty and/or its principals should be subject to a forfeiture up to the statutory limit pursuant to Section 503 of the Communications Act, as amended, 47 U.S.C. 503;

(d) Whether, based on the evidence adduced pursuant to 2 (a) and (b), above, Commercial Realty's and/or its principals' conduct in requesting said bidding credit as a woman-owned small business warrants barring Commercial Realty and/or its principals from future auctions and from holding Commission licenses;

(3) Whether Commercial Realty's and/or its principals' improper communication with Christopher Pedersen of Interactive America Corporation should bar Commercial Realty and/or its principals from future auctions and from holding Commission licenses;

(4)(a) The facts and circumstances surrounding the letter sent by facsimile to other successful IVDS auction bidders;

(b) The facts and circumstances surrounding the press release caused to be released by Commercial Realty on, or about, August 5, 1994;

(c) Whether, based on evidence adduced pursuant to 4 (a) and (b), above, Commercial Realty and/or its principals abused the Commission processes and should be subject to a forfeiture up to the statutory limit pursuant to Section 503 of the Communications Act, as amended, 47 U.S.C. 503:

(d) Whether, based on the evidence adduced pursuant to 4 (a) and (b), above, Commercial Realty and/or its prinicpals abused Commission processes and should be barred from future auctions and from holding Commission licenses;

(5) Whether, based on the totality of the evidence adduced pursuant to 1 (a) and (b), 2 (a) and (b), 3, and 4 (a) and (b), above, and the violations of the Commission's Rules established in the Notice of Apparent Liability for Forfeiture, File No. 519WT0002, Commercial Realty and/or its principals

should be barred from future auctions and from holding Commission licenses.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–5569 Filed 3–7–95; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL RESERVE SYSTEM

First Southern Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 31, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. First Southern Bancshares, Inc., Florence, Alabama; to become a bank holding company by acquiring 100 percent of the voting shares of First Southern Bank, Florence, Alabama, a *de novo* bank.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Citizens Financial Corporation Employee Stock Ownership Plan, Fort Atkinson, Wisconsin; to acquire 47.6 percent of the voting shares of Citizens State bank, Fort Atkinson, Wisconsin, and thereby indirectly acquire Citizens Financial Corporation, Fort Atkinson, Wisconsin.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Norwest Corporation, Minneapolis, Minnesota; to acquire 100 percent of the voting shares of First Tule Bancorp, Inc., Tulia, Texas, and thereby indirectly acquire First Tule Bancorp of Delaware, Inc., Wilmington, Delaware, and First Tule National Bank of Tulia, Tulia, Texas.

2. Norwest Corporation, Minneapolis, Minnesota; to acquire 100 percent of the voting shares of New Braunfels Bancshares, Inc., New Braunfels, Texas, and thereby indirectly acquire Citizens Bank, New Braunfels, Texas.

Board of Governors of the Federal Reserve System, March 2, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–5603 Filed 3–7–95; 8:45 am]

BILLING CODE 6210–01–F

Larry D. Peterson; Change in Bank Control Notice

Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than March 22, 1995.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Larry D. Peterson, Moose Lake, Minnesota; to acquire an additional 1.3 percent, for a total of 25.5 percent, of the voting shares of First Financial Services of Moose Lake, Inc., Moose Lake, Minnesota, and thereby indirectly acquire First National Bank of Moose Lake, Moose Lake, Minnesota.

Board of Governors of the Federal Reserve System, March 2, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–5604 Filed 3–7–95; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

Public Meeting of the Native American Working Group, in Association With the Meeting of the Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Hanford Health Effects Subcommittee

The Agency for Toxic Substances and Disease Registry (ATSDR) and the Centers for Disease Control and Prevention (CDC) announce the following meeting.

Name: Public Meeting of the Native American Working Group (NAWG), in association with the meeting of the Citizens Advisory Committee on Public Health Service Activities and Research at DOE Sites: Hanford Health Effects Subcommittee.

Time and Date: 1 p.m.–5 p.m., March 15, 1995.

Place: WestCoast Ridpath Hotel, 515 West Sprague Avenue, Spokane, Washington 99204, telephone (509) 838–2711, FAX (509) 747–6970.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Background: A Memorandum of Understanding (MOU) was signed in October 1990 and renewed in November 1992 between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or ''Superfund''). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

In addition, under an MOU signed in December 1990 with DOE, the Department of Health and Human Services (HHS) has been given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production and use.

HHS delegated program responsibility to CDC.

Community involvement is a critical part of ATSDR's and CDC's energy-related research and activities and input from members of NAWG is part of these efforts. NAWG will work with the Hanford Health Effects Subcommittee to provide input on Native American health effects at the Hanford, Washington, site.

Purpose: The purpose of this meeting of NAWG is to discuss Native American membership and participation on the Hanford Health Effects Subcommittee, government-to-government working relations with ATSDR and CDC, and issues related to site restoration and waste management options at the Hanford DOE site.

Matters to be Discussed: Agenda items will include options for other types of relationships between the tribes and ATSDR and CDC regarding the study of health effects from past, current, or future release of radioactive and hazardous materials into the environment at Hanford and proposed actions based on the findings of ATSDR and CDC health research and public health activities.

Agenda items are subject to change as priorities dictate.

Contact Persons for More Information: Linda A. Carnes, Health Council Advisor, ATSDR, E–28, 1600 Clifton Road, NE, Atlanta, Georgia 30333, telephone 404/639–0730, FAX 404/639–0759.

Dated: March 1, 1995.

William H. Gimson,

Acting Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–5623 Filed 3–7–95; 8:45 am]

BILLING CODE 4163–70–M

Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Hanford Health Effects Subcommittee

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) and the Centers for Disease Control and Prevention (CDC) announce the following meeting.

Name: Citizens Advisory Committee on Public Health Service Activities and Research at DOE Sites: Hanford Health Effects Subcommittee (HHES).

Time and Dates: 8 a.m.–5 p.m., March 16–17, 1995.

Place: WestCoast Ridpath Hotel, 515 West Sprague Avenue, Spokane, Washington 99204, telephone (509) 838–2711, FAX (509) 747–6970.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 150 people.

Background: A Memorandum of Understanding (MOU) was signed in October 1990 and renewed in November 1992 between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or ''Superfund''). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

In addition, under an MOU signed in December 1990 with DOE, the Department of Health and Human Services (HHS) has been given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production and use. HHS delegated program responsibility to CDC.

Purpose: The purpose of this meeting is to continue the subcommittee's work to update the public on the status of ATSDR's and CDC's community involvement plans, health research, and public health activities and to provide advice to ATSDR and CDC concerning these plans.

Matters to be Discussed: The subcommittee will consider a number of items including ATSDR's medical monitoring options, ATSDR's planning for a medical assistance program, current ATSDR health assessment activities and solicitation of concerns the subcommittee wants ATSDR and CDC to address, and issues relating to HHES Operational Guidelines and future subcommittee activities.

Agenda items are subject to change as priorities dictate.

This notice is being published less than 15 days prior to the meeting due to administrative delays which constitute an exceptional circumstance.

Contact Person for More Information: Linda A. Carnes, Health Council Advisor, ATSDR, E–28, 1600 Clifton Road, NE, Atlanta, Georgia 30333, telephone 404/639–0730, FAX 404/639–0759.

Dated: March 1, 1995.

William H. Gimson,

Acting Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–5624 Filed 3–7–95; 8:45 am]

BILLING CODE 4163–70–M

Centers for Disease Control and Prevention

Twenty-Fifth National Meeting of the Public Health Conference on Records and Statistics and the National Committee on Vital and Health Statistics' 45th Anniversary Symposium; Meeting

The National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC), announces the following meeting.

Name: Twenty-Fifth National Meeting of the Public Health Conference on Records and Statistics and the National Committee on Vital and Health Statistics' 45th Anniversary Symposium.

Times and Dates: 9 a.m.–5 p.m., July 17–19, 1995; 9 a.m.–1 p.m., July 20, 1995.

Place: Mayflower Hotel, 1127 Connecticut Avenue, NW., Washington, DC 20036.

Status: Open to the public, limited only by the space available.

Preregistration is recommended; however, there is no registration fee. Information regarding registration may be obtained from the contact person listed below.

Purpose: Papers presented will address the theme, ''Data Needs in an Era of Health Reform,'' and the agenda will focus on health statistics needed for health reform relative to emerging public health issues and vulnerable populations.

Matters To Be Discussed: Public health issues to be discussed will consist of emerging issues in public health and the potential of health reform for vulnerable populations: a challenge for public health. The symposium will address ways to improve our existing data infrastructure by highlighting both the opportunities and tensions between financially-oriented data and data needed by other parts of the health care system to evaluate health status, health outcomes, and health services utilization.

Contact Person For More Information: Substantive program and registration information for the meeting may be obtained from Barbara Butler, Public Health Conference on Records and Statistics, Office of Planning and Extramural Programs, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone 301/436–7122.

Dated: March 1, 1995.

William H. Gimson,

Acting Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–5620 Filed 3–7–95; 8:45 am]

BILLING CODE 4163–18–M

Food and Drug Administration

[Docket No. 93N–0405]

New Monographs and Revisions of Certain Food Chemicals Codex Monographs; Final Approval by the Committee on Food Chemicals Codex; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of certain new and revised Food Chemicals Codex monographs. These monographs have been approved by the National Academy of Sciences/Institute of Medicine (NAS/IOM) Committee on Food Chemicals Codex (the committee) for inclusion in the fourth edition of the Food Chemicals Codex, which is scheduled for release in March 1996. Until the fourth edition is published, copies of the monographs may be obtained upon request to NAS/IOM.

ADDRESSES: Submit written requests for copies of the Food Chemicals Codex monographs to the NAS/IOM Committee on Food Chemicals Codex, National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20418.

FOR FURTHER INFORMATION CONTACT:

Fatima N. Johnson, Committee on Food Chemicals Codex, Food and Nutrition Board, National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20418, 202–334–2580; or

Paul M. Kuznesof, Center for Food Safety and Applied Nutrition (HFS–247), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3009.

SUPPLEMENTARY INFORMATION: FDA provides research contracts to NAS/IOM to support the preparation of the Food Chemicals Codex, a compendium of specification monographs for substances used as food ingredients. Before the inclusion of any specifications in a Food Chemicals Codex publication, an announcement is published in the **Federal Register** inviting all interested parties to comment and to make suggestions for consideration.

In the **Federal Register** of January 4, 1994 (59 FR 307), FDA announced that the committee was considering several new monographs and monograph revisions. The following monographs have now been approved by the committee for inclusion in the fourth edition:

I. New Monographs

Acesulfame potassium
Glyceryl monooleate

II. Current Revised Monographs

Calcium carbonate (lead and heavy metals limits)
Caramel (numerous revisions)
Carnauba Wax

No changes from what was previously offered for public review in the **Federal Register** of January 4, 1994, resulted from comments received on these monographs. Individual copies of these monographs are available from NAS/IOM (address above) until the fourth edition of the Food Chemicals Codex is published in 1996.

FDA emphasizes, however, that it will not consider adopting and incorporating any of the committee's new monographs and monograph revisions into FDA's regulations without ample opportunity for public comment. If FDA decides to propose the adoption of changes and new monographs that have received final approval by the committee, such opportunity for public comment will be announced in a notice published in the **Federal Register**.

Dated: February 26, 1995.

Janice F. Oliver,

Deputy Director for Systems and Support, Center for Food Safety and Applied Nutrition.

[FR Doc. 95–5673 Filed 3–7–95; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB) for Clearance

AGENCY: Health Care Financing Administration, HHS.

The Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to OMB the following proposals for the collection of information in compliance with the Paperwork Reduction Act (Public Law 96–511).

1. *Type of Request:* Extension; *Title of Information Collection:* Survey Report Form; *Form No.:* HCFA–1557; *Use:* This survey form is an instrument used by the State agency to record data collected in order to determine compliance with the Clinical Laboratory Improvement Amendments. This information is needed for laboratory certification and recertification; *Respondents:* Business or other for profit, Federal Government, State or local government; *Number of Respondents:* 30,225; *Total Annual Responses:* 30,225; *Total Annual Hours Requested:* 16,321.5.

2. *Type of Request:* Extension; *Title of Information Collection:* Clinical Laboratory Improvement Amendments Application forms; *Form Nos.:* HCFA–14 and –116; *Use:* The application must be completed by entities performing laboratory testing on human specimens for health purposes; *Respondents:* Business or other for profit, Federal Government, State or local government; *Number of Respondents:* 16,000; *Total Annual Responses:* 16,000; *Total Annual Hours Requested:* 20,000.

3. *Type of Request:* New; *Title of Information Collection:* Quality Assurance for Phase II of the Home Health Agency Prospective Payment Demonstration; *Form No.:* HCFA–R–74; *Use:* This instrument will be used to collect information to implement an outcome-based quality assurance program to monitor the quality of care provided by agencies participating in Phase II of the Home Health Agency Prospective Payment Demonstration; *Respondents:* Business or other for profit, nonprofit institutions; *Number of Respondents:* 29,427 (episodes); *Total Annual Responses:* 58,854; *Total Annual Hours Requested:* 10,152.

Additional Information or Comments: Call the Reports Clearance Office on (410) 966–5536 for copies of the clearance request packages. Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: February 27, 1995.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 95–5572 Filed 3–7–95; 8:45 am]

BILLING CODE 4120–03–P

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Heart, Lung, and Blood Special Emphasis Panel (SEP) meetings:

Name of SEP: Coagulation, Platelets and Thrombosis in Sickle Cell Disease.

Date: March 29, 1995.

Time: 8:30 a.m.

Place: Hyatt Regency, Bethesda, Maryland.

Contact Person: Dr. Lynn Amende, 5333 Westbard Avenue, Room 5A10, Bethesda, Maryland 20892, (301) 594–7480.

Purpose/Agenda: To review and evaluate grant applications.

Name of SEP: Cytokine Effect on Hematopoiesis in AIDS Animal Models.

Date: May 1–2, 1995.

Time: 7 p.m.

Place: Holiday Inn, Chevy Chase, Maryland.

Contact Person: Dr. Deborah Beebe, 5333 Westbard Avenue, Room 555, Bethesda, Maryland 20892, (301) 594–7418.

Purpose/Agenda: To review and evaluate grant applications.

These meetings will be closed in accordance with the provisions set forth in sec. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health.)

Dated: March 3, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–5643 Filed 3–7–95; 8:45 am]

BILLING CODE 4140–01–M

Uniform Biological Material Transfer Agreement: Discussion of Public Comments Received; Publication of the Final Format of the Agreement

AGENCY: National Institutes of Health (NIH), Public Health Service (PHS), DHHS.

ACTION: Notice.

SUMMARY: Following consideration of public comments, the NIH, as designated lead PHS agency for technology transfer activities, is issuing the final version of the Uniform Biological Material Transfer Agreement (''UBMTA'') to be used by participating public and nonprofit organizations, an implementing letter to memorialize individual exchanges of biological material under the UBMTA, and a simple letter agreement for transferring nonproprietary biological materials among public and nonprofit organizations. For-profit organizations may also choose to adopt these agreements as well. The PHS recommends that the UBMTA be considered for general use in the exchange of biological material for research purposes among public and nonprofit entities.

FOR FURTHER INFORMATION CONTACT: Carol C. Lavrich, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804, phone: 301–496–7735 ext. 287, fax: 301–402–0220.

Background

Open access to the results of federally-funded research is a cornerstone of PHS's research policy. In the case of many research projects, this includes not only access to information provided through publications, but also access to biological research materials necessary to replicate or build on the initial results. Frequently, the exchange of research materials between scientists in separate organizations involves case-by-case negotiation of material transfer agreements (''MTAs''). In order to guide and facilitate the increasing number of such transfers, PHS issued in 1988, a ''Policy Relating to Distribution of Unique Research Resources Produced with PHS Funding'' (NIH Guide for Grants and Contracts, Vol. 17, No. 29, September 16, 1988: pg. 1; also published at pp. 8–25–8–26 of the PHS Grants Policy Statement, DHHS Publication No. (OASH) 94–50,000 (Rev.) April 1, 1994. This was followed in 1989 by adoption of a standard Material Transfer Agreement form for use by PHS scientists. MTAs are important because they require the recipient to exercise care in the handling of the materials, to maintain control over the distribution of the materials, to acknowledge the provider in publications, and to follow relevant PHS guidelines relating to recombinant DNA, protection of human subjects in research, and the use of animals. However, while most other organizations have adopted some standard material transfer agreement form, they are not all consistent.

Issue

Several issues have affected the sharing of research materials. These include delays in sharing of materials while conducting unnecessarily extensive negotiations on individual MTAs, required grants of invention rights to improvements to the materials or to inventions made using the materials, and required approval for publication. The negotiation of these complex issues has resulted in significant delays in sharing materials, undue administrative barriers to sharing, and in some cases, lack of availability of materials for further research by federal grantees. (For reports and discussion of these issues, please refer to The New Biologist, Vol. 2, No. 6, June 1990: pp 495–497; and Science, Vol. 248, 25 May, 1990: pp 952–957).

Proposal

The PHS, in conjunction with representatives of academia and industry, has coordinated the development of a proposed uniform biological material transfer agreement (''UBMTA'') to address concerns about contractual obligations imposed by some MTAs and to simplify the process of sharing proprietary materials among public and nonprofit organizations. Since 1990, the Association of University Technology Managers (''AUTM''), and many individuals representing universities, law firms, and industry, have played leadership roles in furthering the development of common materials sharing practices. The consistent use of the UBMTA by public and nonprofit organizations could reduce the administrative burden of sharing materials as investigators come to rely on common acceptance of its terms by cooperating organizations.

The PHS recommends that the UBMTA be considered for general use in the exchange of materials for research purposes among public and nonprofit organizations. For-profit organizations may also choose to adopt this agreement as well. While use of the UBMTA may not be appropriate for every material transfer, if used for the majority of transfers, it could set standards for materials sharing that would be of long-term benefit to the research enterprise and to the public health.

As a further suggestion to simplify the process of materials sharing, it is proposed that the UBMTA be approved at the organizational level, and handled in a master agreement or treaty format, so that individual transfers could be made with reference to the UBMTA, without the need for separate negotiation of an individual document to cover each transfer. As a result, transfers of biological materials would be accomplished by an Implementing Letter (see sample) containing a description of the material and a statement indicating that the material was being transferred in accordance with the terms of the UBMTA. The Implementing Letter would be executed by the provider scientist, the recipient scientist, and any other authorized official(s) of the provider or recipient organization who might be required to sign on behalf of the organization. Thus, sharing of materials between organizations, each of which had executed the UBMTA, would be significantly simplified. At the same time, any organization would retain the

option to handle specific material with unusual commercial or research value on a customized basis. Thus, the use of the UBMTA would not be mandatory, even for signatory organizations. Administration of the signatory process also may be organization-specific. For example, organizational policies may require additional, or fewer, signatures.

For non-proprietary materials, a Simple Letter Agreement also has been developed, which incorporates many of the same principles as the UBMTA. This Simple Letter Agreement also could be used where the organizations have not agreed to the UBMTA.

On behalf of PHS, NIH published the full text of the proposed version of the UBMTA, the draft Implementing Letter, and the draft Simple Letter Agreement in the **Federal Register** on June 21, 1994, and invited public comment. NIH received thirteen written comments from universities, research organizations, and various associations. The primary concerns raised by respondents and the NIH response to these comments are described in the comment section below.

Comments

The vast majority of the respondents were extremely supportive of the UBMTA concept as a means of simplifying and expediting biological material transfers among public and nonprofit organizations. Several respondents suggested that a comparable agreement be developed for transfers between for-profit and nonprofit organizations. The PHS fully supports this idea and recognizes the importance of streamlining this type of agreement with industry. The NIH, in conjunction with the working group listed above, developed a proposed model for UBMTA transfers from industry to nonprofit organizations which was circulated to AUTM membership on December 31, 1992. This was an adaptation of the original UBMTA format which grants the industrial provider an option to negotiate a license agreement to inventions made through the use of the provided material. It should be noted that government agencies will not be able to use this format unless a Cooperative Research and Development Agreement (''CRADA'') is negotiated because of limitations in statutory authority to provide licenses or options to license intellectual property in other types of agreements. No format was ultimately created by the working group for the transfer of material from nonprofit organizations to industry because it was viewed as being essentially a license negotiation. Most organizations have license agreement formats for internal use of biological materials by commercial organizations, as well as for commercial sale of biological materials. The PHS will be soliciting further public commentary on the proposed model for UBMTA transfers from industry to nonprofit organizations.

Several respondents indicated that some of the UBMTA definitions were confusing. As appropriate, clarifications have been made. In particular, the definition relating to ''Modifications'' has been refined so that it is clear that Modifications are developed by the Recipient and contain or incorporate the Material. While the Modifications are owned by the Recipient who can license them for commercial use, this new use also may require a second commercial license or other evidence of agreement from the Provider since the Modifications incorporate the Material. The UBMTA also acknowledges that there may be other substances created by the Recipient through the use of the Material which are not Modifications, Progeny, or Unmodified Derivatives of the Material, and are owned by the Recipient, who is free to license them. The UBMTA does not provide for any type of ''reach-through'' rights for the Provider of the Material, i.e. property rights in products developed by the Recipient through the use of the transferred material. Several definitions of ''nonprofit organization'' were proposed, and the final definition used was taken directly from the implementing regulations to the Bayh-Dole Act (37 CFR Part 401). We have also instituted a definition of Commercial Purposes to provide a clear distinction between academic research and activities which are considered commercial.

Other issues raised by respondents fell into two areas: issues regarding confidentiality with respect to protection of intellectual property rights, and issues regarding organizational policy variance on signature requirements from the suggested UBMTA signature requirements:

(1) Confidentiality Issues

Some respondents were concerned that the requirement for the Provider to provide the Recipient with specific information regarding patent status of the Material might impair an organization's ability to obtain patent protection and questioned the necessity for the Recipient to obtain such information. The PHS agrees that the provision of such information is not necessary and would create an additional administrative burden that would be inconsistent with the primary purpose of the UBMTA. We also agree that any commercial use or improper disclosure on the part of the Recipient could impair the Provider's ability to obtain suitable patent protection. Therefore, we have removed the requirement for the Provider to inform the Recipient about patent status and have included a provision that the Material may be the subject of a patent application. However, the Recipient is bound to inform the Provider upon filing patent applications which claim Modifications or method(s) of manufacture or use(s) of the Material so that the Provider may determine whether it believes joint inventorship is appropriate. The requirement to divulge the Provider's prior grant of rights to a third party (other than the customary rights granted to the federal government), that would substantially affect Recipient, has been eliminated since the agreement specifies that this transfer is for teaching and academic research purposes and that the Provider is under no obligation to widen the rights granted.

(2) Signature Requirement Issues

Some respondents were concerned that their organizational polices with respect to signing MTAs are different than those suggested in the UBMTA Implementing Letter. An organization may require an additional signature of an authorized official of the Recipient organization if the signatory scientist is not legally authorized to bind the organization. In this case, the legally binding signature of the authorized official of the Recipient organization would provide assurance to the Provider organization that the Recipient organization is a signatory to the UBMTA. This assurance is critical because if the Recipient organization is not a party to the UBMTA, it may not be bound by the terms of the UBMTA. The signatures of the scientists provide a necessary record for both organizations of the transfer of the Material. Of course, organizations are free to develop their own signatory policies regarding the UBMTA.

We hope to get practical guidance and constructive feedback from scientists and technology transfer professionals as they begin to use the UBMTA. It is anticipated that the UBMTA will be a ''living'' document which will be further refined and streamlined over time. Many of the definitions were intensively debated throughout the course of drafting the UBMTA and it is expected that they will be sharpened over time through use. We attempted to

emphasize a fair allocation of rights between the Provider and the Recipient and had to draw lines especially in the definitions of Modifications and Commercial Purposes. The use of the UBMTA over time will ultimately determine whether the right decisions were made.

The Association of University Technology Managers (''AUTM'') will be providing assistance in implementation of the UBMTA among its members and nonprofit organizations by notifying members of its availability in its newsletter, providing signature copies of the agreement at its annual meeting, assisting with training regarding material transfers, and maintaining a master list of signatories to the UBMTA. We anticipate that the master list of signatories will be published in the **Federal Register** annually. In order for AUTM to compile a master list of signatories, organizations should return an executed copy of the UBMTA Master Agreement to: The UBMTA Project, AUTM Headquarters, 71 East Avenue, Suite S, Norwalk, CT 06851–4903. A read only version of the signatory list will be made available on the Internet. A copy of this announcement also will be appearing in the NIH Guide For Grants and Contracts.

Complete texts of the final version of the UBMTA, the Implementing Letter, and the Simple Letter Agreement follow in the Appendix.

Dated: February 18, 1995.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

Appendix—Master Agreement Regarding Use of the Uniform Biological Material Transfer Agreement March 8, 1995

Upon execution of an Implementing Letter in the form attached which specifies the materials to be transferred, this organization agrees to be bound by the terms of the attached Uniform Biological Material Transfer Agreement (''UBMTA'') published in the **Federal Register** on March 8, 1995.

Attachments:
UBMTA
Implementing Letter

Organization: _____

Address: _____

Authorized Official: _____

Title: _____

Signature: _____

Date: _____

Please return an executed copy of this Master Agreement to: The UBMTA Project, Association of University Technology Managers (AUTM), 71 East Avenue, Suite S, Norwalk, CT 06851–4903. AUTM will be maintaining signed originals and the official list of signatory organizations.

The Uniform Biological Material Transfer Agreement

March 8, 1995

I. Definitions:

1. PROVIDER: Organization providing the ORIGINAL MATERIAL. The name and address of this party will be specified in an implementing letter.

2. PROVIDER SCIENTIST: The name and address of this party will be specified in an implementing letter.

3. RECIPIENT: Organization receiving the ORIGINAL MATERIAL. The name and address of this party will be specified in an implementing letter.

4. RECIPIENT SCIENTIST: The name and address of this party will be specified in an implementing letter.

5. ORIGINAL MATERIAL: The description of the material being transferred will be specified in an implementing letter.

6. MATERIAL: ORIGINAL MATERIAL, PROGENY, and UNMODIFIED DERIVATIVES. The MATERIAL shall not include: (a) MODIFICATIONS, or (b) other substances created by the RECIPIENT through the use of the MATERIAL which are not MODIFICATIONS, PROGENY, or UNMODIFIED DERIVATIVES.

7. PROGENY: Unmodified descendant from the MATERIAL, such as virus from virus, cell from cell, or organism from organism.

8. UNMODIFIED DERIVATIVES: Substances created by the RECIPIENT which constitute an unmodified functional subunit or product expressed by the ORIGINAL MATERIAL. Some examples include: subclones of unmodified cell lines, purified or fractionated subsets of the ORIGINAL MATERIAL, proteins expressed by DNA/RNA supplied by the PROVIDER, or monoclonal antibodies secreted by a hybridoma cell line.

9. MODIFICATIONS: Substances created by the RECIPIENT which contain/incorporate the MATERIAL.

10. COMMERCIAL PURPOSES: The sale, lease, license, or other transfer of the MATERIAL or MODIFICATIONS to a for-profit organization. COMMERCIAL PURPOSES shall also include uses of the MATERIAL or MODIFICATIONS by any organization, including RECIPIENT, to perform contract research, to screen compound libraries, to produce or manufacture products for general sale, or to conduct research activities that result in any sale, lease, license, or transfer of the MATERIAL or MODIFICATIONS to a for-profit organization. However, industrially sponsored academic research shall not be considered a use of the MATERIAL or MODIFICATIONS for COMMERCIAL PURPOSES *per se*, unless any of the above conditions of this definition are met.

11. NONPROFIT ORGANIZATION(S): A university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute. As used herein, the term also includes government agencies.

II. Terms and Conditions of this Agreement

1. The PROVIDER retains ownership of the MATERIAL, including any MATERIAL contained or incorporated in MODIFICATIONS.

2. The RECIPIENT retains ownership of: (a) MODIFICATIONS (except that, the PROVIDER retains ownership rights to the MATERIAL included therein), and (b) those substances created through the use of the MATERIAL or MODIFICATIONS, but which are not PROGENY, UNMODIFIED DERIVATIVES or MODIFICATIONS (i.e., do not contain the ORIGINAL MATERIAL, PROGENY, UNMODIFIED DERIVATIVES). If either 2 (a) or 2 (b) results from the collaborative efforts of the PROVIDER and the RECIPIENT, joint ownership may be negotiated.

3. The RECIPIENT and the RECIPIENT SCIENTIST agree that the MATERIAL:

(a) is to be used solely for teaching and academic research purposes;

(b) will not be used in human subjects, in clinical trials, or for diagnostic purposes involving human subjects without the written consent of the PROVIDER;

(c) is to be used only at the RECIPIENT organization and only in the RECIPIENT SCIENTIST's laboratory under the direction of the RECIPIENT SCIENTIST or others working under his/her direct supervision; and

(d) will not be transferred to anyone else within the RECIPIENT organization without the prior written consent of the PROVIDER.

4. The RECIPIENT and the RECIPIENT SCIENTIST agree to refer to the PROVIDER any request for the MATERIAL from anyone other than those persons working under the

RECIPIENT SCIENTIST's direct supervision. To the extent supplies are available, the PROVIDER or the PROVIDER SCIENTIST agrees to make the MATERIAL available, under a separate implementing letter to this Agreement or other agreement having terms consistent with the terms of this Agreement, to other scientists (at least those at NONPROFIT ORGANIZATION(S)) who wish to replicate the RECIPIENT SCIENTIST's research; provided that such other scientists reimburse the PROVIDER for any costs relating to the preparation and distribution of the MATERIAL.

5. (a) The RECIPIENT and/or the RECIPIENT SCIENTIST shall have the right, without restriction, to distribute substances created by the RECIPIENT through the use of the ORIGINAL MATERIAL only if those substances are not PROGENY, UNMODIFIED DERIVATIVES, or MODIFICATIONS.

(b) Under a separate implementing letter to this Agreement (or an agreement at least as protective of the PROVIDER's rights), the RECIPIENT may distribute MODIFICATIONS to NONPROFIT ORGANIZATION(S) for research and teaching purposes only.

(c) Without written consent from the PROVIDER, the RECIPIENT and/or the RECIPIENT SCIENTIST may NOT provide MODIFICATIONS for COMMERCIAL PURPOSES. It is recognized by the RECIPIENT that such COMMERCIAL PURPOSES may require a commercial license from the PROVIDER and the PROVIDER has no obligation to grant a commercial license to its ownership interest in the MATERIAL incorporated in the MODIFICATIONS. Nothing in this paragraph, however, shall prevent the RECIPIENT from granting commercial licenses under the RECIPIENT's intellectual property rights claiming such MODIFICATIONS, or methods of their manufacture or their use.

6. The RECIPIENT acknowledges that the MATERIAL is or may be the subject of a patent application. Except as provided in this Agreement, no express or implied licenses or other rights are provided to the RECIPIENT under any patents, patent applications, trade secrets or other proprietary rights of the PROVIDER, including any altered forms of the MATERIAL made by the PROVIDER. In particular, no express or implied licenses or other rights are provided to use the MATERIAL, MODIFICATIONS, or any related patents of the PROVIDER for COMMERCIAL PURPOSES.

7. If the RECIPIENT desires to use or license the MATERIAL or MODIFICATIONS for COMMERCIAL PURPOSES, the RECIPIENT agrees, in advance of such use, to negotiate in good faith with the PROVIDER to establish the terms of a commercial license. It is understood by the RECIPIENT that the PROVIDER shall have no obligation to grant such a license to the RECIPIENT, and may grant exclusive or non-exclusive commercial licenses to others, or sell or assign all or part of the rights in the MATERIAL to any third party(ies), subject to any pre-existing rights held by others and obligations to the Federal Government.

8. The RECIPIENT is free to file patent application(s) claiming inventions made by the RECIPIENT through the use of the MATERIAL but agrees to notify the PROVIDER upon filing a patent application claiming MODIFICATIONS or method(s) of manufacture or use(s) of the MATERIAL.

9. Any MATERIAL delivered pursuant to this Agreement is understood to be experimental in nature and may have hazardous properties. The PROVIDER MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THAT THE USE OF THE MATERIAL WILL NOT INFRINGE ANY PATENT, COPYRIGHT, TRADEMARK, OR OTHER PROPRIETARY RIGHTS.

10. Except to the extent prohibited by law, the RECIPIENT assumes all liability for damages which may arise from its use, storage or disposal of the MATERIAL. The PROVIDER will not be liable to the RECIPIENT for any loss, claim or demand made by the RECIPIENT, or made against the RECIPIENT by any other party, due to or arising from the use of the MATERIAL by the RECIPIENT, except to the extent permitted by law when caused by the gross negligence or willful misconduct of the PROVIDER.

11. This agreement shall not be interpreted to prevent or delay publication of research findings resulting from the use of the MATERIAL or the MODIFICATIONS. The RECIPIENT SCIENTIST agrees to provide appropriate acknowledgement of the source of the MATERIAL in all publications.

12. The RECIPIENT agrees to use the MATERIAL in compliance with all applicable statutes and regulations, including Public Health Service and National Institutes of Health regulations and guidelines such as, for example, those relating to research involving the use of animals or recombinant DNA.

13. This Agreement will terminate on the earliest of the following dates: (a) When the MATERIAL becomes generally available from third parties, for example, through reagent catalogs or public depositories, or (b) on completion of the RECIPIENT's current research with the MATERIAL, or (c) on thirty (30) days written notice by either party to the other, or (d) on the date specified in an implementing letter, provided that:

(i) If termination should occur under 13(a), the RECIPIENT shall be bound to the PROVIDER by the least restrictive terms applicable to the MATERIAL obtained from the then-available sources; and

(ii) If termination should occur under 13 (b) or (d) above, the RECIPIENT will discontinue its use of the MATERIAL and will, upon direction of the PROVIDER, return or destroy any remaining MATERIAL. The RECIPIENT, at its discretion, will also either destroy the MODIFICATIONS or remain bound by the terms of this agreement as they apply to MODIFICATIONS; and

(iii) In the event the PROVIDER terminates this Agreement under 13(c) other than for breach of this Agreement or for cause such as an imminent health risk or patent infringement, the PROVIDER will defer the effective date of termination for a period of up to one year, upon request from the RECIPIENT, to permit completion of research in progress. Upon the effective date of termination, or if requested, the deferred effective date of termination, RECIPIENT will discontinue its use of the MATERIAL and will, upon direction of the PROVIDER, return or destroy any remaining MATERIAL. The RECIPIENT, at its discretion, will also either destroy the MODIFICATIONS or remain bound by the terms of this agreement as they apply to MODIFICATIONS.

14. Paragraphs 6, 9, and 10 shall survive termination.

15. The MATERIAL is provided at no cost, or with an optional transmittal fee solely to reimburse the PROVIDER for its preparation and distribution costs. If a fee is requested by the PROVIDER, the amount will be indicated in an implementing letter.

Implementing Letter

The purpose of this letter is to provide a record of the biological material transfer, to memorialize the agreement between the PROVIDER SCIENTIST (identified below) and the RECIPIENT SCIENTIST (identified below) to abide by all terms and conditions of the Uniform Biological Material Transfer

Agreement (''UBMTA'') March 8, 1995, and to certify that the RECIPIENT (identified below) organization has accepted and signed an unmodified copy of the UBMTA. The RECIPIENT organization's Authorized Official also will sign this letter if the RECIPIENT SCIENTIST is not authorized to certify on behalf of the RECIPIENT organization. The RECIPIENT SCIENTIST (and the Authorized Official of RECIPIENT, if necessary) should sign both copies of this letter and return one signed copy to the PROVIDER. The PROVIDER SCIENTIST will forward the material to the RECIPIENT SCIENTIST upon receipt of the signed copy from the RECIPIENT organization.

Please fill in all of the blank lines below:

1. PROVIDER: Organization providing the ORIGINAL MATERIAL:

Organization: _____
Address: _____

_____

2. RECIPIENT: Organization receiving the ORIGINAL MATERIAL:

Organization: _____
Address: _____

_____

3. ORIGINAL MATERIAL (Enter description):

_____

_____

_____

_____

4. Termination date for this letter (optional):
5. Transmittal Fee to reimburse the PROVIDER for preparation and distribution costs (optional).

Amount: _____

This Implementing Letter is effective when signed by all parties. The parties executing this Implementing Letter certify that their respective organizations have accepted and signed an unmodified copy of the UBMTA, and further agree to be bound by its terms, for the transfer specified above.

PROVIDER SCIENTIST

Name: _____
Title: _____
Address: _____

_____

Signature: _____
Date: _____

RECIPIENT SCIENTIST

Name: _____
Title: _____
Address: _____

_____

Signature: _____
Date: _____

RECIPIENT ORGANIZATION CERTIFICATION

Certification: I hereby certify that the RECIPIENT organization has accepted and signed an unmodified copy of the UBMTA

(May be the RECIPIENT SCIENTIST if authorized by the RECIPIENT organization):

Authorized Official: _____
Title: _____
Address: _____

_____

Signature: _____
Date: _____

Simple Letter Agreement for Transfer of Non-Proprietary Biological Material

PROVIDER

Authorized Official: _____
Organization: _____
Address: _____

_____

RECIPIENT

Authorized Official: _____
Organization: _____
Address: _____

_____

In response to the RECIPIENT's request for the BIOLOGICAL MATERIAL identified as

_____

_____

_____

_____

_____

the PROVIDER asks that the RECIPIENT and the RECIPIENT SCIENTIST agree to the following before the RECIPIENT receives the BIOLOGICAL MATERIAL:

1. The above BIOLOGICAL MATERIAL is the property of the PROVIDER and is made available as a service to the research community.

2. The BIOLOGICAL MATERIAL will be used for teaching and academic research purposes only.

3. The BIOLOGICAL MATERIAL will not be further distributed to others without the PROVIDER's written consent. The RECIPIENT shall refer any request for the BIOLOGICAL MATERIAL to the PROVIDER. To the extent supplies are available, the PROVIDER or the PROVIDER SCIENTIST agrees to make the BIOLOGICAL MATERIAL available, under a separate Simple Letter Agreement, to other scientists (at least those at nonprofit organizations or government agencies) who wish to replicate the RECIPIENT SCIENTIST's research.

4. The RECIPIENT agrees to acknowledge the source of the BIOLOGICAL MATERIAL in any publications reporting use of it.

5. Any BIOLOGICAL MATERIAL delivered pursuant to this Simple Letter Agreement is understood to be experimental in nature and may have hazardous properties. The PROVIDER MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THAT THE USE OF THE BIOLOGICAL MATERIAL WILL NOT INFRINGE ANY PATENT, COPYRIGHT, TRADEMARK, OR OTHER PROPRIETARY RIGHTS. Except to the extent prohibited by law, the RECIPIENT assumes all liability for damages which may arise from its use, storage or disposal of the BIOLOGICAL MATERIAL. The PROVIDER will not be liable to the RECIPIENT for any loss, claim or demand made by the RECIPIENT, or made against the RECIPIENT by any other party, due to or arising from the use of the MATERIAL by the RECIPIENT, except to the extent permitted by law when caused by the gross negligence or willful misconduct of the PROVIDER.

6. The RECIPIENT agrees to use the BIOLOGICAL MATERIAL in compliance with all applicable statutes and regulations, including, for example, those relating to research involving the use of human and animal subjects or recombinant DNA.

7. The BIOLOGICAL MATERIAL is provided at no cost, or with an optional transmittal fee solely to reimburse the PROVIDER for its preparation and distribution costs. If a fee is requested, the amount will be indicated here: _____

The RECIPIENT and the RECIPIENT SCIENTIST should sign both copies of this letter and return one signed copy to the PROVIDER SCIENTIST. The PROVIDER will then forward the BIOLOGICAL MATERIAL.

PROVIDER SCIENTIST

Organization: _____
Address: _____

_____

Name: _____
Title: _____
Signature: _____
Date: _____

RECIPIENT SCIENTIST

Organization: _____
Address: _____

_____

Name: _____
Title: _____
Signature: _____
Date: _____

RECIPIENT ORGANIZATION APPROVAL

Authorized Official: _____
Title: _____
Address: _____
Signature: _____
Date: _____

[FR Doc. 95–5644 Filed 3–7–95; 8:45 am]

BILLING CODE 4140–01–P

Office of Refugee Resettlement

Refugee Resettlement Program: Proposed Allocations to States of FY 1995 Funds for Refugee Social Services and for Refugees Who Are Former Political Prisoners From Vietnam

AGENCY: Office of Refugee Resettlement (ORR), ACF, HHS.

ACTION: Notice of proposed allocations to States of FY 1995 funds for refugee [1]

[1] In addition to persons who meet all requirements of 45 CFR 400.43, ''Requirements for documentation of refugee status,'' eligibility for

Continued

social services and for refugees who are former political prisoners from Vietnam.

SUMMARY: This notice announces the proposed allocations to States of FY 1995 funds for social services under the Refugee Resettlement Program (RRP). In order to help meet the special needs of former political prisoners from Vietnam, the Director has added to the formula allocation $2,000,000 in funds previously set aside for social services discretionary projects. In the final notice, allocation amounts could be adjusted slightly based on final adjustments in FY 1994 arrivals in some States.

EFFECTIVE DATES: Comments on the proposed allocations contained in this notice must be received by April 7, 1995.

ADDRESSES: Address written comments, in duplicate, to: Toyo A. Biddle, Office of Refugee Resettlement, Administration for Children and Families, 370 L'Enfant Promenade, SW., Washington, DC 20447.

FOR FURTHER INFORMATION CONTACT: Toyo Biddle (202) 401–9250.

SUPPLEMENTARY INFORMATION:

I. Amounts Proposed for Allocation

The Office of Refugee Resettlement (ORR) has available $80,802,000 in FY 1995 refugee social service funds as part of the FY 1995 appropriation for the Department of Health and Human Services (Pub. L. No. 103–333).

Of the total of $80,802,000, the Director of ORR proposes to make available to States $68,681,700 (85%) under the allocation formula set out in this notice. These funds would be made available for the purpose of providing social services to refugees. In addition, the Director of ORR proposes to make available $2,000,000 from discretionary social service funds to be allocated under the formula in this notice for additional services to former political prisoners from Vietnam. Although we had indicated in the FY 1994 social service allocations notice that FY 1994 would be the last year in which a special set-aside would be allocated for additional services for former political prisoners from Vietnam, we propose to continue this special set-aside in FY 1995 due to continued arrivals of this population in FY 1995.

A. Discretionary Social Service Funds for Vietnamese Political Prisoners

In recognition of the special vulnerability of refugees who are former political prisoners from Vietnam, the Director of ORR proposes to set aside $2,000,000 from discretionary social service funds to be allocated under the formula set forth in this announcement, based on the number of actual political prisoner arrivals in FY 1994. This formula allocation is shown separately in Table 1 (cols. 7 and 8). States are required to use this allocation to provide additional services, as described below, to recent arrivals from Vietnam who are former political prisoners and members of their families.

Allowable services for the above-cited funds for political prisoners include the following direct services: (1) Specialized orientation and adjustment services, including peer support activities; and (2) specialized employment-related services, as needed. Adjustment services include any service listed under 45 CFR 400.155(c) of the ORR regulations. Under no circumstances may these funds be used for direct cash payments or stipends, for the purchase of advertising space or air time, or for services covered under the Department of State Reception and Placement Cooperative Agreements.

Allowable services under this allocation for Vietnamese political prisoners are intended to supplement, not to supplant, those services provided to refugees in general under the social service formula allocation, discussed below.

ORR intends to provide technical assistance to States and organizations that request it to assure effective program development and implementation.

Because these funds are proposed to provide specifically for services for former political prisoners from Vietnam, States which allocate social service funds to other local administrative jurisdictions, such as counties, shall do so for these funds, using a formula which reflects arrivals of this target population during FY 1994.

ORR strongly encourages States and other contracting jurisdictions, in selecting service providers for the above, to award these funds, to the extent possible, to qualified refugee mutual assistance associations (MAAs) with experience serving the target population. All contractors receiving these funds should have Vietnamese language capacity and Vietnamese cultural understanding.

States are required to provide to ORR program performance information on the Vietnamese political prisoner program that meets the reporting requirements contained in 45 CFR 92.40, under the terms and conditions of the social services grant awards to States. The information to be contained in the narrative portion of State quarterly performance reports must include: (1) Names of service contractors; (2) categories of activities provided; (3) numbers of persons served; and (4) outcomes, to the extent possible.

B. Refugee Social Service Funds

The population figures for the social service allocation include refugees, Cuban/Haitian entrants, and Amerasians from Vietnam since these populations may be served through funds addressed in this notice. (A State must, however, have an approved State plan for the Cuban/Haitian Entrant Program in order to use funds on behalf of entrants as well as refugees.)

The Director proposes to allocate $68,681,700 to States on the basis of each State's proportion of the national population of refugees who had been in the U.S. 3 years or less as of October 1, 1994 (including a floor amount for States which have small refugee populations).

The use of the 3-year population base in the allocation formula is required by section 412(c)(1)(B) of the Immigration and Nationality Act (INA) which states that the ''funds available for a fiscal year for grants and contracts [for social services] * * * shall be allocated among the States based on the total number of refugees (including children and adults) who arrived in the United States not more than 36 months before the beginning of such fiscal year and who are actually residing in each State (taking into account secondary migration) as of the beginning of the fiscal year.''

As established in the FY 1991 social services notice published in the **Federal Register** of August 29, 1991, section I, ''Allocation Amounts'' (56 FR 42745), a variable floor amount for States which

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refugee social services also includes: (1) Cuban and Haitian entrants, under section 501 of the Refugee Education Assistance Act of 1980 (Pub. L. No. 96–422); (2) certain Amerasians from Vietnam who are admitted to the U.S. as immigrants under section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as included in the FY 1988 Continuing Resolution (Pub. L. No. 100–202); and (3) certain Amerasians from Vietnam, including U.S. citizens, under title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1989 (Pub. L. No. 100–461), 1990 (Pub. L. No. 101–167), and 1991 (Pub. L. No. 101–513). For convenience, the term ''refugee'' is used in this notice to encompass all such eligible persons unless the specific context indicates otherwise.

Refugees admitted to the U.S. under admissions numbers set aside for private-sector-initiative admissions are not eligible to be served under the social service program (or under other programs supported by Federal refugee funds) during their period of coverage under their sponsoring agency's agreement with the Department of State—usually two years from their date of arrival or until they obtain permanent resident alien status, whichever comes first.

have small refugee populations is calculated as follows: If the application of the regular allocation formula yields less than $100,000, then—

(1) a base amount of $75,000 is provided for a State with a population of 50 or fewer refugees who have been in the U.S. 3 years or less; and

(2) for a State with more than 50 refugees who have been in the U.S. 3 years or less: (a) A floor has been calculated consisting of $50,000 plus the regular per capita allocation for refugees above 50 up to a total of $100,000 (in other words, the maximum under the floor formula is $100,000); (b) if this calculation has yielded less than $75,000, a base amount of $75,000 is provided for the State.

ORR has consistently supported floors for small States in order to provide sufficient funds to carry out a minimum service program. Given the range in numbers of refugees in the small States, we have concluded that a variable floor, as established in the FY 1991 notice, will be more reflective of needs than previous across-the-board floors.

The $12,120,300 in remaining social service funds (15% of the total funds available) is expected to be used by ORR on a discretionary basis to provide funds for individual projects intended to contribute to the effectiveness and efficiency of the refugee resettlement program. Grant announcements on discretionary initiatives will be issued separately.

Population To Be Served

Although the allocation formula is based on the 3-year refugee population, in accordance with the requirements of 45 CFR Part 400 Subpart I—Refugee Social Services, States are not required to limit social service programs to refugees who have been in the U.S. only 3 years. In keeping with 45 CFR 400.147(a), a State must allocate an appropriate portion of its social service funds, based on population and service needs, as determined by the State, for services to newly arriving refugees who have been in the U.S. less than one year.

While 45 CFR 400.147(b) requires that in providing employability services, a State must give priority to a refugee who is receiving cash assistance, social service programs should not be limited exclusively to refugees who are cash assistance recipients. If a State intends to provide services to refugees who have been in the U.S. more than 3 years, 45 CFR 400.147(c) requires the State to specify and justify as part of its Annual Services Plan those funds that it proposes to use to provide services to those refugees.

ORR expects States to ensure that refugee social services are made available to special populations such as Amerasians and former political prisoners from Vietnam, in addition to special funding that ORR may designate to address the special needs of these populations.

ORR funds may not be used to provide services to United States citizens, since they are not covered under the authorizing legislation, with the following exceptions: (1) Under current regulations at 45 CFR 400.208, services may be provided to a U.S.-born minor child in a family in which both parents are refugees or, if only one parent is present, in which that parent is a refugee; and (2) under the FY 1989 Foreign Operations, Export Financing, and Related Programs Appropriations Act (Pub. L. No. 100–461), services may be provided to an Amerasian from Vietnam who is a U.S. citizen and who enters the U.S. after October 1, 1988.

Service Priorities

Refugee social service funding should be used to assist refugee families to achieve economic independence. To this end, ORR expects States to ensure that a coherent plan of services is developed for each eligible family that addresses the family's needs from time of arrival until attainment of economic independence. Each service plan should address a family's needs for both employment-related services and other needed social services.

Reflecting section 412(a)(1)(A)(iv) of the INA, the Director expects States to ''insure that women have the same opportunities as men to participate in training and instruction.'' In addition, States are expected to make sure that services are provided in a manner that encourages the use of bilingual women on service agency staffs to ensure adequate service access by refugee women. In order to facilitate refugee self-support, the Director also expects States to implement strategies which address simultaneously the employment potential of both male and female wage earners in a family unit, particularly in the case of large families. States are expected to make every effort to assure the availability of day care services in order to allow women with children the opportunity to participate in employment services or to accept or retain employment. To accomplish this, day care may be treated as a priority employment-related service under the refugee social services program. Refugees who are participating in employment services or have accepted employment are eligible for day care services. For an employed refugee, day care funded by refugee social service dollars must be limited to one year after the refugee becomes employed. States are expected to use day care funding from other publicly funded mainstream programs as a prior resource and are expected to work with service providers to assure maximum access to other publicly funded resources for day care.

In accordance with 45 CFR 400.146, if a State's cash assistance dependency rate for refugees (as defined in § 400.146(b)) is 55% or more, funds awarded under this notice (with the exception of the political prisoner set-aside) are subject to a requirement that at least 85% of the State's award be used for employability services as set forth in section 400.154. ORR expects these funds to be used for services which directly enhance refugee employment potential, have specific employment objectives, and are designed to enable refugees to obtain jobs in less than one year as part of a plan to achieve self-sufficiency. This reflects the Congressional objective that ''employable refugees should be placed on jobs as soon as possible after their arrival in the United States'' and that social service funds be focused on ''employment-related services, English-as-a-second-language training (in non-work hours where possible), and case-management services'' (INA, section 412(a)(1)(B)). If refugee social service funds are used for the provision of English language training, such training should be provided concurrently, rather than sequentially, with employment or with other employment-related services, to the maximum extent possible. ORR also encourages the continued provision of services after a refugee has entered a job to help the refugee retain employment or move to a better job.

Since current welfare dependency data are not available, those States that historically have had dependency rates at 55% and above are invited to submit a request for a waiver of the 85% requirement if they can provide reliable documentation that demonstrates a lower dependency rate.

ORR will consider granting a waiver of the 85% provision if a State meets one of the following conditions:

1. The State demonstrates to the satisfaction of the Director of ORR that the dependency rate of refugees who have been in the U.S. 24 months or less is below 55% in the State.

2. The State demonstrates to the satisfaction of the Director that (a) less than 85% of the State's social service allocation is sufficient to meet all employment-related needs of the State's refugees and (b) there are non-employment-related service needs

which are so extreme as to justify an allowance above the basic 15%. Or

3. In accordance with section 412(c)(1)(C) of the INA, the State submits to the Director a plan (established by or in consultation with local governments) which the Director determines provides for the maximum appropriate provision of employment-related services for, and the maximum placement of, employable refugees consistent with performance standards established under section 106 of the Job Training Partnership Act.

Refugee social services should be provided in a manner that is culturally and linguistically compatible with a refugee's language and cultural background. In light of the increasingly diverse population of refugees who are resettling in this country, refugee service agencies will need to develop practical ways of providing culturally and linguistically appropriate services to a changing ethnic population. Refugee-specific social services should be provided which are specifically designed to meet refugee needs and are in keeping with the rules and objectives of the refugee program, particularly during a refugee's initial years of resettlement. When planning State refugee services, States are strongly encouraged to take into account the reception and placement (R & P) services provided by local resettlement agencies in order to utilize these resources in the overall program design and to ensure the provision of seamless services to refugees.

In order to provide culturally and linguistically compatible services in as cost-efficient a manner as possible in a time of limited resources, ORR encourages States and counties to promote and give special consideration to the provision of refugee social services through coalitions of refugee service organizations, such as coalitions of MAAs, voluntary resettlement agencies, or a variety of service providers. ORR believes it is essential for refugee-serving organizations to form close partnerships in the provision of services to refugees in order to be able to respond adequately to a changing refugee picture. Coalition-building and consolidation of providers is particularly important in communities with multiple service providers in order to ensure better coordination of services and maximum use of funding for services by minimizing the funds used for multiple administrative overhead costs.

States should also expect to use funds available under this notice to pay for social services which are provided to refugees who participate in alternative projects. Section 412(e)(7)(A) of the INA provides that:

The Secretary [of HHS] shall develop and implement alternative projects for refugees who have been in the United States less than thirty-six months, under which refugees are provided interim support, medical services, support [social] services, and case management, as needed, in a manner that encourages self-sufficiency, reduces welfare dependency, and fosters greater coordination among the resettlement agencies and service providers.

This provision is generally known as the Wilson/Fish Amendment. The Department has already issued a separate notice in the **Federal Register** with respect to applications for such projects (50 FR 24583, June 11, 1985). The notice on alternative projects does not contain provisions for the allocation of additional social service funds beyond the amounts established in this notice. Therefore a State which may wish to consider carrying out such a project should take note of this in planning its use of social service funds being allocated under the present notice.

Funding to MAAs

ORR no longer provides set-aside funds to refugee mutual assistance associations as a separate component under the social service notice; instead we have folded these funds into the social service formula allocation to States. Elimination of the MAA set-aside, however, does not represent any reduction in ORR's commitment to MAAs as important participants in refugee resettlement. ORR believes that the continued and/or increased utilization of qualified refugee mutual assistance associations in the delivery of social services helps to ensure the provision of culturally and linguistically appropriate services as well as increasing the effectiveness of the overall service system. Therefore, ORR expects States to use MAAs as service providers to the maximum extent possible. ORR strongly encourages States when contracting for services, including employment services, to give consideration to the special strengths of MAAs, whenever contract bidders are otherwise equally qualified, provided that the MAA has the capability to deliver services in a manner that is culturally and linguistically compatible with the background of the target population to be served. ORR also expects States to continue to assist MAAs in seeking other public and/or private funds for the provision of services to refugee clients.

ORR defines MAAs as organizations with the following qualifications:

a. The organization is legally incorporated as a nonprofit organization; and

b. Not less than 51% of the composition of the Board of Directors or governing board of the mutual assistance association is comprised of refugees or former refugees, including both refugee men and women.

State Administration

States are reminded that under current regulations at 45 CFR 400.206 and 400.207, States have the flexibility to charge the following types of administrative costs against their refugee program social service grants, if they so choose: direct and indirect administrative costs incurred for the overall management and operation of the State refugee program, including its coordination, planning, policy and program development, oversight and monitoring, data collection and reporting, and travel. *See also* State Transmittal No. 88–40.

II. [Reserved for Discussion of Comments in Final Notice]

III. Allocation Formula

Of the funds available for FY 1995 for social services, $68,681,700 is proposed to be allocated to States in accordance with the formula specified below. A State's allowable allocation is calculated as follows:

1. The total amount of funds determined by the Director to be available for this purpose; divided by—

2. The total number of refugees and Cuban/Haitian entrants who arrived in the United States not more than 3 years prior to the beginning of the fiscal year for which the funds are appropriated and the number of Amerasians from Vietnam eligible for refugee social services, as shown by the ORR Refugee Data System. The resulting per capita amount will be multiplied by—

3. The number of persons in item 2, above, in the State as of October 1, 1994, adjusted for estimated secondary migration.

The calculation above yields the formula allocation for each State. Minimum allocations for small States are taken into account.

Proposed allocations for political prisoners are based on FY 1994 arrival numbers for this group in each State from the Refugee Data Center and are limited to States with 320 or more political prisoner arrivals. We have limited the population base to FY 1994 political prisoner arrival numbers because these funds are intended to

serve recent arrivals. We have not included States with fewer than 320 former political prisoners in the political prisoner allocations formula because the resulting level of funding would be insignificant. In these States, we believe the small number of political prisoners could be adequately served under the State's refugee social services program.

IV. Basis of Population Estimates

The population estimates for the proposed allocation of funds in FY 1995 are based on data on refugee arrivals from the ORR Refugee Data System, adjusted as of October 1, 1994, for estimated secondary migration. The data base includes refugees of all nationalities, Amerasians from Vietnam, and Cuban and Haitian entrants.

For fiscal year 1995, ORR's proposed formula allocations for the States for social services are based on the numbers of refugees and Amerasians who arrived, and on the numbers of entrants who arrived or were resettled, during the preceding three fiscal years: 1992, 1993, and 1994, based on final arrival data by State. Therefore, estimates have been developed of the numbers of refugees and entrants with arrival or resettlement dates between October 1, 1991, and September 30, 1994, who are thought to be living in each State as of October 1, 1994. Refugees admitted under the Federal Government's private-sector initiative are not included, since their assistance and services are to be provided by the private sponsoring organizations under an agreement with the Department of State.

The estimates of secondary migration were based on data submitted by all participating States on Form ORR–11 on secondary migrants who have resided in the U.S. for 36 months or less, as of September 30, 1994. The total migration reported by each State was summed, yielding in- and out-migration figures and a net migration figure for each State. The net migration figure was applied to the State's total arrival figure, resulting in a revised population estimate. Because Form ORR–11 now covers the full 36-month period through September 30, 1994, there will no longer be a need for ORR to reconsider State secondary migration estimates based on additional evidence submitted by States during the public comment period for this notice. Therefore, we are eliminating Section VI—State Evidence on Refugee Population—in this notice.

Estimates were developed separately for refugees and entrants and then combined into a total estimated 3-year refugee/entrant population for each State. Eligible Amerasians are included in the refugee figures.

Table 1, below, shows the estimated 3-year populations, as of October 1, 1994, of refugees (col. 1), entrants (col. 2), and total refugees and entrants (col. 3); the formula amounts which the population estimates yield (col. 4); and the proposed allocation amounts after allowing for the minimum amounts (col. 5). Table 1 also shows the number of former political prisoner arrivals in FY 1994 (col. 6); and the proposed allocation amounts for services to this population (col. 7).

These population estimates and proposed allocation amounts are intended to be as close to the final figures as was possible at the time they were developed. However, revisions may need to be made to reflect final adjustments in FY 1994 arrival data in some States.

V. Proposed Allocation Amounts

Funding will be contingent upon the submittal and approval of a State annual services plan, as required by 45 CFR 400.11(b)(2). The following amounts are proposed for allocation for refugee social services in FY 1995:

TABLE 1.—ESTIMATED 3-YEAR REFUGEE/ENTRANT POPULATIONS OF STATES PARTICIPATING IN THE REFUGEE PROGRAM AND PROPOSED SOCIAL SERVICE FORMULA AMOUNTS AND ALLOCATIONS FOR FY 1995; AND FORMER POLITICAL PRISONER ARRIVALS AND PROPOSED ALLOCATIONS FOR FY 1995

State	Refugees	Entrants	Total population	Formula amount	Proposed allocation	Former political prisoner arrivals from Vietnam in FY 1994	Former political prisoner proposed allocation
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
Alabama	760	22	782	$136,600	$136,600	18	$0
Alaska[a]	182	0	182	31,792	75,000	16	0
Arizona	3,759	138	3,897	680,727	680,727	299	0
Arkansas	323	0	323	56,422	97,688	84	0
California[b]	90,100	671	90,771	15,855,858	15,855,858	11,666	872,223
Colorado	3,617	1	3,618	631,991	631,991	359	26,841
Connecticut	3,362	138	3,500	611,379	611,379	154	0
Delaware	132	12	144	25,154	75,000	9	0
Dist. of Columbia	2,062	2	2,064	360,539	360,539	257	0
Florida	12,780	24,371	37,151	6,489,528	6,489,528	651	48,673
Georgia	9,479	66	9,545	1,667,318	1,667,318	1,784	133,383
Hawaii	905	0	905	158,085	158,085	172	0
Idaho	1,015	4	1,019	177,999	177,999	76	0
Illinois	13,606	116	13,722	2,396,956	2,396,956	526	39,327
Indiana	1,137	12	1,149	200,707	200,707	55	0
Iowa	3,147	2	3,149	550,067	550,067	323	24,150
Kansas	2,080	3	2,083	363,858	363,858	360	26,916
Kentucky[c]	1,942	28	1,970	344,119	344,119	205	0
Louisiana	2,316	116	2,432	424,821	424,821	458	34,243
Maine	580	0	580	101,314	101,314	4	0
Maryland	7,755	83	7,838	1,369,140	1,369,140	387	28,935
Massachusetts	11,454	347	11,801	2,061,396	2,061,396	772	57,720
Michigan	7,806	37	7,843	1,370,013	1,370,013	342	25,570
Minnesota	9,554	0	9,554	1,668,891	1,668,891	472	35,290
Mississippi	128	9	137	23,931	75,000	32	0
Missouri	5,432	14	5,446	951,306	951,306	367	27,439
Montana	167	0	167	29,172	75,000	3	0

TABLE 1.—ESTIMATED 3-YEAR REFUGEE/ENTRANT POPULATIONS OF STATES PARTICIPATING IN THE REFUGEE PROGRAM AND PROPOSED SOCIAL SERVICE FORMULA AMOUNTS AND ALLOCATIONS FOR FY 1995; AND FORMER POLITICAL PRISONER ARRIVALS AND PROPOSED ALLOCATIONS FOR FY 1995—Continued

State	Refugees (1)	Entrants (2)	Total population (3)	Formula amount (4)	Proposed allocation (5)	Former political prisoner arrivals from Vietnam in FY 1994 (6)	Former political prisoner proposed allocation (7)
Nebraska	1,916	0	1,916	334,686	334,686	365	27,290
Nevada [c]	714	335	1,049	183,239	183,239	8	0
New Hampshire	559	0	559	97,646	100,000	192	0
New Jersey	7,410	704	8,114	1,417,352	1,417,352	255	0
New Mexico	1,153	479	1,632	285,077	285,077	95	0
New York	70,291	990	71,281	12,451,349	12,451,349	530	39,626
North Carolina	3,081	23	3,104	542,206	542,206	306	0
North Dakota	1,181	0	1,181	206,297	206,297	24	0
Ohio	6,067	39	6,106	1,066,595	1,066,595	183	0
Oklahoma	1,390	1	1,391	242,980	242,980	363	27,140
Oregon	6,201	81	6,282	1,097,338	1,097,338	792	59,215
Pennsylvania	11,125	89	11,214	1,958,859	1,958,859	365	27,290
Rhode Island	943	11	954	166,645	166,645	12	0
South Carolina	493	2	495	86,466	100,000	127	0
South Dakota	777	0	777	135,726	135,726	8	0
Tennessee	3,457	32	3,489	609,458	609,458	267	0
Texas	17,827	533	18,360	3,207,121	3,207,121	3,252	243,140
Utah	1,646	0	1,646	287,523	287,523	221	0
Vermont	748	0	748	130,660	130,660	73	0
Virginia	6,221	31	6,252	1,092,098	1,092,098	678	50,692
Washington	16,598	1	16,599	2,899,510	2,899,510	1,938	144,897
West Virginia	69	0	69	12,053	75,000	0	0
Wisconsin	5,991	1	5,992	1,046,681	1,046,681	20	0
Wyoming	11	0	11	1,921	75,000	0	0
Total	361,449	29,544	390,993	$68,298,569	$68,681,700	29,925	$2,000,000

[a] The Alaska allocation has been awarded for a Wilson/Fish demonstration project.
[b] A portion of the California allocation is expected to be awarded to continue a Wilson/Fish project in San Diego.
[c] The allocation for Kentucky and Nevada is expected to be awarded to continue a Wilson/Fish project.

VI. Paperwork Reduction Act

This notice does not create any reporting or recordkeeping requirements requiring OMB clearance.

[Catalog of Federal Domestic Assistance No. 93.566 Refugee Assistance—State Administered Programs]

Dated: February 27, 1995.

Lavinia Limon,

Director, Office of Refugee Resettlement.

[FR Doc. 95–5667 Filed 3–7–95; 8:45 am]

BILLING CODE 4184–01–P

Social Security Administration

National Commission on Childhood Disability

AGENCY: Social Security Administration, HHS.

ACTION: Notice of public meeting.

SUMMARY: This notice announces the third meeting of the National Commission on Childhood Disability (the Commission).

DATES: Friday, March 10, 1995, 9:00 a.m. to 12:00 p.m. and 1:15 p.m. to 5:00 p.m., Saturday, March 11, 1995, 11:00 a.m. to 1:00 p.m.

ADDRESSES: The Washington Court Hotel on Capitol Hill, 525 New Jersey Avenue, NW., Washington, DC 20002, Telephone: 202–628–2100, On March 10, 1995, the meeting will be held in the Montpelier Room. On March 11, 1995, the meeting will be held in the Sagamore Hill East Room.

FOR FURTHER INFORMATION CONTACT: Elaine Fultz, Commission Staff Director, (202) 272–2228.

SUPPLEMENTARY INFORMATION:

I. Purpose

The National Commission on Childhood Disability was established by Congress to assess the Social Security Administration's eligibility criteria for Supplemental Security Income (SSI) childhood disability benefits and to consider alternative criteria. The Commission is chaired by the Honorable Jim Slattery and consists of 14 members.

II. Agenda

At this meeting, the Commission will:

- hear testimony from teachers and school officials in Louisiana about the impact of the SSI childhood disability program on their students and communities; and
- continue to analyze the Social Security Administration's Individualized Functional Assessment of children with disabilities by, first, discussing with the General Accounting Office its recent report detailing problems with the IFA and, subsequently, considering approaches to revising the assessment.

The Commission will also meet in task forces during its Friday afternoon session to consider specific questions in its statutory mandate. On both Friday and Saturday, the Commission will hold sessions devoted to general policy discussion.

The meeting is open to the public to the extent that space is available. Public officials, representatives of professional and advocacy organizations, concerned citizens, and Social Security and SSI recipients may submit written comments on the issues considered by the Commission. The Commission will not take testimony from the general

public at this meeting. Interpreter services for persons with hearing impairments will be provided.

A transcript of the meeting will be available at an at-cost basis. Transcripts may be ordered from the information contact shown above. The transcript and all written submissions will become part of the record of these meetings.

Dated: March 2, 1995.

Ron Sribnik,

Social Security Administration Regulations Officer.

[FR Doc. 95–5808 Filed 3–7–95; 8:45 am]

BILLING CODE 4190–29–P

Substance Abuse and Mental Health Services Administration

Minority Fellowship Program (MFP)

AGENCY: Center for Mental Health Services, Substance Abuse and Mental Health Services Administration (SAMHSA), HHS.

ACTION: Notice of planned award for a competing renewal clinical training grant for the Minority Fellowship Program (MFP) to the American Psychiatric Association.

SUMMARY: The Center for Mental Health Services (CMHS), within SAMHSA, plans to award a competing renewal MFP grant to the American Psychiatric Association for the clinical training of psychiatry trainees who are ethnic minorities for entry into service careers in mental and addictive health areas. The project period for the competing renewal grant is anticipated to be 3 years. The first year will be funded with approximately $221,000. This is not a general request for applications. The competitive renewal clinical training grant will only be made to the American Psychiatric Association (APA) based on the receipt of satisfactory application that is recommended for approval by an Initial Review Group and the CMHS National Advisory Council.

AUTHORITY: The award will be made under the authority of section 303 of the Public Health Service (PHS) Act. The authority to administer this program has been delegated to the Director, CMHS. The Catalog of Federal Domestic Assistance number for this program is 93.244.

BACKGROUND: CMHS has the responsibility for mental health workforce development, including the clinical training of mental health professionals concerned with the treatment of underserved priority populations including: Seriously mentally ill adults; seriously emotionally disturbed children; and elderly, ethnic minorities and rural populations with mental and addictive disorders. CMHS also has the responsibility for training ethnic minorities to become mental health professionals, which is a very significant task in light of the gap between the growing ethnic minority populations requiring mental and addictive health services (approaching 25% of the total population) and the much smaller number of ethnic minority mental health professionals (less than 10% of the total).

Over the past several decades, the Federal mental health clinical training program at CMHS (and previously at NIMH) has addressed this gap primarily by attempting to increase the numbers of ethnic minority professionals. Ethnic minority professionals understand the customs and language of their own particular ethnic group and, therefore, are more likely to render high-quality mental health services to mentally ill minorities.

The CMHS MFP is designed to facilitate the entry of minority students into mental health careers. The long-term goal is to increase the number of professionals trained at the doctoral level to teach and provide mental health services, especially to ethnic minority groups.

The MFP was started at NIMH in the 1970s. This program for clinical training provides grants to each of the four core mental health professional organizations: the American Nurses Association, the American Psychological Association, and the American Psychiatric Association, and the Council on Social Work Education. These four MFP grantees, in turn, conduct national competitions to make individual graduate fellowship awards to minority students throughout the country. Each of the four professional organizations has unique access to those students entering its profession. Each has recruited the best students, assured that all program requirements were satisfied, and monitored the progress of fellows during and after the fellowship period. In short, there has been no reason to change the program structure or the grantees administering the four-discipline program; thus, the mechanism of a peer-reviewed competing renewal clinical training grant has been appropriate.

Therefore, because the American Psychiatric Association's MFP grant support will end in FY 1995, the CMHS is providing additional support for up to three years via a competing renewal grant award. The American Nurses Association, the American Psychological Association and the Council on Social Work Education have ongoing CMHS MFP grant support.

FOR FURTHER INFORMATION: Questions concerning the CMHS MFP may be directed to Paul Wohlford, Ph.D., Human Resources Planning and Development Branch, CMHS, Room 15C–18, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443–3503.

Dated: March 2, 1995.

Richard Kopanda,

Acting Executive Officer SAMHSA.

[FR Doc. 95–5674 Filed 3–7–95; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–934–95–1610–00]

Diamond Mountain Resource Area Approved Resource Management Plan and Record of Decision

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969 (40 CFR 1550.2), and the Federal Land Policy and Management Act of 1976, the Department of the Interior, Bureau of Land Management (BLM), Vernal District provides notice of the availability of the Approved Resource Management Plan (ARMP) and Record of Decision (ROD) for the Diamond Mountain Resource Area (DMRA). This ARMP/ROD supersedes the existing management framework plans and other related documents for managing BLM-administered lands. The DMRA is responsible for management of BLM-administered lands and minerals in all of Daggett and Duchesne Counties and that portion of Uintah County northwest of the Green River. These counties are located in northeastern Utah. The DMRA is administratively responsible for 854,000 acres of surface and subsurface lands.

ADDRESSES: Copies of the ARMP/ROD are available upon request by contacting the Vernal District Office, Bureau of Land Management, 170 South 500 East, Vernal, Utah 84078. The telephone number is (801) 789–1362.

FOR FURTHER INFORMATION CONTACT: Ron Trogstad, Diamond Mountain Resource Area Manager, Bureau of Land Management, 170 South 500 East, Vernal, Utah 84078. He can be reached by telephone at (801) 789–1362.

SUPPLEMENTARY INFORMATION: The Diamond Mountain ARMP/ROD is

essentially the same as the Diamond Mountain Proposed Resource Management Plan and Final Environmental Impact Statement (PRMP/FEIS). No changes to the proposed decisions have been made. However, some clarifying language has been included as a result of four protests the BLM received on the PRMP/FEIS. The clarifying language concerned the intent of the priority management level concept as used in the PRMP/FEIS; current livestock forage assignments and practices as affected by wildlife reintroductions and recreation area developments; and corrective actions involving existing airports in trespass. Five alternatives that encompass a spectrum of realistic management options were considered in the planning process. The final plan is a mixture of the management objectives and actions that, in the opinion of the BLM, best resolve the issues and concerns that drove the preparation of the plan.

Wild and Scenic Rivers

The Upper Green River Segment (between Little Hole and the Colorado stateline) is determined to be suitable and recommended for designation as a scenic river.

The Lower Green River Segment (between public land boundary south of Ouray and the Carbon County line) is determined to be suitable as a scenic river. This segment is not recommended for designation because studies have not yet been completed on the adjacent downstream segment through Desolation Canyon.

Areas of Critical Environmental Concern (ACEC)

The plan designates the following seven areas as ACECs: Browns Park Complex (55,700 public acres), Lears Canyon (1,400 public acres), Lower Green River (7,900 public acres), Nine Mile Canyon (50,800 public acres), Pariette Wetlands (11,600 public acres), Red Creek Watershed (24,200 public acres), and Red Mountain-Dry Fork Complex (25,800 public acres). Coordinated resource management activity plans will be prepared for each ACEC to detail protective measures.

G. William Lamb,

Acting State Director.

[FR Doc. 95–5570 Filed 3–7–95; 8:45 am]

BILLING CODE 4310–DQ–P

[AK–932–1430–01; F–022963]

Conformance to Survey; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice provides official publication of the surveyed description for the Noatak National Guard Site at Noatak, Alaska. The site was withdrawn by Public Land Order No. 2020 for use by the Department of the Army. The plat of survey was officially filed in the Department of the Interior, Bureau of Land Management, Washington, D.C., on June 21, 1961. United States Survey No. 3778, Lot 3, containing 0.50 acre, represents the land that was previously described as follows:

A tract of land on the Noatak River, north of Kotzebue, at approximate latitude 67°35′ N., longitude 163°00′ W. Beginning at Corner No. 1 of U.S. Survey No. 2037, being the northwest corner thereof;
Thence along an extension of the west line of U.S. Survey No. 2037, N. 18°51′ E., 29 feet;
Thence N. 71°09′ W., 180 feet;
Thence N. 14°58′ W., 221.49 feet to the point of beginning;
Thence N. 68°18′ W., 140 feet;
Thence N. 21°42′ E., 200 feet;
Thence S. 68°18′ E., 220 feet;
Thence S. 21°42′ W., 200 feet;
Thence N. 68°18′ W., 80 feet to the point of beginning.

The area as described contained approximately 1.01 acres.

ADDRESSES: Inquiries about this land should be sent to the Alaska State Office, Bureau of Land Management, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: Sue A. Wolf, BLM Alaska State Office, 907–271–5477.

Dated: February 17, 1995.

Sue A. Wolf,

Chief, Branch of Land Resources.

[FR Doc. 95–5571 Filed 3–7–95; 8:45 am]

BILLING CODE 4310–JA–P

Fish and Wildlife Service

Finding of No Significant Impact for an incidental Take Permit for the Proposed Westminster Glen Subdivision, Austin, Travis County, TX

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Fish and Wildlife Service has prepared an Environmental Assessment for issuance of a Section 10(a)(1)(B) permit for the incidental take of the Federally endangered golden-cheeked warbler (*Dendroica chrysoparia*) during the construction and operation of a residential development in northwest Travis County, Texas.

Proposed Action

The proposed action is the issuance of a permit under Section 10(a)(1)(B) of the Endangered Species Act to authorize the incidental take of the golden—cheeked warbler.

The Applicant plans to construct single-family residences on 270 acres in northwest Travis County, Texas. The proposed development will comply with all local, regional, State, and Federal environmental regulations addressing environmental impacts association with this type of development. Details of the mitigation are provided in the MaBe, Inc., (Applicant) Westminster Glen Subdivision Environmental Assessment/Habitat Conservation Plan. Guarantees for implementation are provided in the Implementing Agreement. These conservation plan actions ensure that the criteria established for issuance of an incidental take permit will be fully satisfied.

Alternatives Considered

1. Proposed action,
2. Wait for issuance of a Regional 10(a) permit,
3. No action.

Determination

Based upon information contained in the Environmental Assessment/Habitat Conservation Plan, the Service has determined that this action is not a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969. Accordingly, the preparation of an Environmental Impact Statement on the proposed action is not warranted.

It is my decision to issue the Section 10(a)(1)(B) permit for the construction and operation of the Westminster Glen residential development in Travis County, Texas.

James A. Young,

Acting Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 95–5619 Filed 3–7–95; 8:45 am]

BILLING CODE 4310–55–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–366]

Certain Microsphere Adhesives, Process for Making Same and Products Containing Same, Including Self-Stick Repositionable Notes; Change of Commission Investigative Attorney

Notice is hereby given that, as of this date, Steven A. Glazer, Esq. of the Office of Unfair Import Investigations is designated as the Commission investigative attorney in the above-captioned investigation instead of James B. Coughlan, Esq.

The Secretary is requested to publish this Notice in the **Federal Register**.

Dated: February 28, 1995.

Lynn I. Levine,

Director, Office of Unfair Import Investigations.

[FR Doc. 95–5636 Filed 3–7–95; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 337–TA–368]

Certain Rechargeable Nickel Metal Hydride Anode Materials and Batteries, and Products Containing Same; Notice of Decision Not To Review Initial Determination Granting Joint Motion To Terminate the Investigation With Respect to Respondents Yuasa Corp. and Yuasa-Exide, Inc. on the Basis of a Settlement Agreement; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (ID) issued on February 3, 1995, by the presiding administrative law judge (ALJ) in the above-captioned investigation granting the joint motion of complainants Energy Conversion Devices, Inc. and Ovonic Battery Co., Inc. and respondents Yuasa Corp. and Yuasa-Exide, Inc. (collectively ''the Yuasa companies'') to terminate the investigation as to the Yuasa companies on the basis of a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Marc A. Bernstein, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, D.C. 20436, telephone 202–205–3087.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation, which concerns allegations of section 337 violations in the importation, sale for importation, and sale after importation of certain rechargeable nickel metal hydride anode materials and batteries and products containing same, on September 8, 1994. Complainants allege infringement of claims 1–17, 22, 23, 25, 27, and 32 of U.S. Letters Patent 4,623,597 (''the '597 patent'').

On January 18, 1995, complainants and the Yuasa companies filed a joint motion to terminate the investigation with respect to the Yuasa companies on the basis of a settlement agreement. The ALJ issued an ID granting the joint motion and terminating the investigation as to the Yuasa companies. Because the Yuasa companies were the only remaining respondents in the investigation, the ID also terminates the investigation in its entirety. No petitions for review of the ID were filed. No agency or public comments were received.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and Commission rule 210.42, 19 C.F.R. 210.42.

Copies of the nonconfidential version of the ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, D.C. 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

Dated: February 28, 1995.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–5635 Filed 3–7–95; 8:45 am]

BILLING CODE 7020–02–P

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–55 (Sub-No. 501X]

CSX Transportation, Inc.—Abandonment Exemption—in Lucas and Wood Counties, OH

CSX Transportation, Inc. (CSXT) has filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon approximately 2.15 miles of railroad between milepost CO–14.31 at River Road in Lucas County, OH and milepost CO–16.46 at Bates in Wood County, OH.

CSXT 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 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to use of this exemption, any employee 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 April 7, 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 March 20, 1995. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by March 28, 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: Charles M. Rosenberger, 500 Water St., J150, Jacksonville, FL 32202.

[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 this 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.

If the notice of exemption contains false or misleading information, the exemption is void *ab initio.*

CSXT has filed an environmental report which addresses the abandonment's effects, if any, on the environmental and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by March 13, 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 is 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: February 27, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–5511 Filed 3–7–95; 8:45 am]

BILLING CODE 7035–01–P

[Ex Parte No. 388 (Sub-No. 16)]

Intrastate Rail Rate Authority—Mississippi

AGENCY: Interstate Commerce Commission.

ACTION: Notice of recertification.

SUMMARY: Pursuant to 49 U.S.C. 11501(b), the Commission recertifies the State of Mississippi to regulate intrastate rail rates, classifications, rules, and practices for a 5-year period.

DATES: Recertification will be effective on April 7, 1995 and will expire on April 6, 2000.

FOR FURTHER INFORMATION CONTACT: Elaine Sehrt-Green, (202) 927–5269 or Beryl Gordon, (202) 927–5610. [TDD for the hearing impaired: (202) 927–5721.]

Decided: February 28, 1995.

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

Vernon A. Williams,

Secretary.

[FR Doc. 95–5615 Filed 3–7–95; 8:45 am]

BILLING CODE 7035–01–P

[Docket No. AB–12 (Sub-No. 166X)]

Southern Pacific Transportation Company—Abandonment Exemption—in Fort Bend and Wharton Counties, TX

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission, pursuant to 49 U.S.C. 10505, exempts Southern Pacific Transportation Company (SPT) from the prior approval requirements of 49 U.S.C. 10903–10904 to permit SPT to abandon two connecting branch lines, the Wharton Segment and the Palacios Segment, that meet in a ''Y'' shape at Wharton Jct., TX, and extend a total of 36.8 miles, in Fort Bend and Wharton Counties, TX. The exemption will be subject to standard employee protective conditions, environmental conditions, an historic condition, and a 90-day public use condition.

DATES: Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on April 7, 1995. Formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2)[1] must be filed by March 17, 1995, petitions to stay must be filed by March 23, 1995, requests for a public use condition conforming to 49 CFR 1152.28(a)(2) must be filed by March 28, 1995, and petitions to reopen must be filed by April 3, 1995.

ADDRESSES: Send pleadings, referring to Docket No. AB–12 (Sub-No. 166X) to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, 1201 Constitution Avenue NW., Washington, D.C. 20423; and (2) Petitioner's representatives: John MacDonald Smith and Gary Laasko, Suite 800, Southern Pacific Building, One Market Plaza, San Francisco, CA 94105; and Karl Morell and Louis E. Gitomer, Suite 1035, 1101 Pennsylvania Avenue NW., Washington, D.C. 20004.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–5610. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, 1201 Constitution Avenue NW., Washington, D.C. 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services at (202) 927–5721.]

[1] *See Exempt. of Rail Abandonment—Offers of Finan. Assist,* 4 I.C.C.2d 164 (1987).

Decided: February 22, 1995.

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

Vernon A. Williams,

Secretary.

[FR Doc. 95–5616 Filed 3–7–95; 8:45 am]

BILLING CODE 7035–01–P

[Docket No. AB–436X]

Bath and Hammondsport Railroad Company—Abandonment Exemption—In Steuben County, NY

Bath and Hammondsport Railroad Company (B&H) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon approximately .31 miles of rail line between milepost 8.86 and the end of the line at milepost 9.17, in the Village of Hammondsport, Steuben County, NY.

B&H 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 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to use of this exemption, any employee 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 expressions of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on April 7, 1995, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1]

[1] A stay will be routinely issued 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 involving environmental concerns is encouraged to file its

formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29[3] must be filed by March 18, 1995. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by March 28, 1995, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: William B. Joint, Cole & Latham, P.C., P.O. Box 232, 7 East Steuben Street, Bath, NY 14810.

If the notice of exemption contains false or misleading information, the exemption is void ab initio.

B&H has filed an environmental report which addresses the effects of the abandonment, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by March 13, 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 is available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.[4]

Decided: March 3, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–5794 Filed 3–7–95; 8:45 am]

BILLING CODE 7035–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (95–022)]

Intergovernmental Panel on Climate Change, Working Group II

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of the availability of draft report and request for comment.

SUMMARY: Working Group II of the Intergovernmental Panel on Climate Change (IPCC) has prepared a draft 1995 Assessment of Impacts, Adaptation, and Mitigation. The IPCC Secretariat requires comments on this report from national governments by April 28, 1995, so that the Secretariat can meet its obligations to member governments of the IPCC. The U.S. Government is expected to receive its copy of this assessment for formal government comment on March 6, 1995. Dr. Robert Harriss, Director, Science Division, Office of Mission to Planet Earth, on behalf of the U.S. Subcommittee on Global Change Research (SGCR) is responsible for coordinating the preparation of the comments of the United States Government. Through this notice, the SGCR is announcing the availability of the draft 1995 Assessment and requesting comments on this report from experts and interested groups and individual. These comments will be reviewed, combined, and incorporated as appropriate, in the process of preparing the set of official U.S. comments to the IPCC.

DATES: Written comments (hard copy and if possible on a 3.5 inch diskette in either Microsoft Word or WordPerfect format) on the draft 1995 Assessment should be submitted on or before March 31, 1995. the USGCRP does not anticipate extending this deadline because the member countries of the IPCC have established a timetable that requires input by April 28, 1995.

ADDRESSES: Comments should be submitted either by mailing to: IPCC WG II Comments, Office of the U.S. Global Change Research Program, 300 D Street, SW, Suite 840, Washington, DC 20024, or by E-mail in ASCII format on Internet to: wg2@usgcrp.gov''.

A list of chapters making up the draft 1995 Assessment is included with this notice, Review is sought by those having specific expertise or interest in the various aspects of the assessment. Copies of individual chapters making up the draft 1995 Assessment can be obtained by: (1) Telephone request to Mr. Earley Green at (202) 651–8240; (2) sending E-mail to ''office@usgcrp.gov''; (3) faxing a request to (202) 554–6715; or (4) sending a letter to the USGCRP Office directed to Mr. Earley Green at the address shown above.

FOR FURTHER INFORMATION CONTACT: Desiree Martinez, Science Division, Office of Mission to Planet Earth, at (202) 358–2102.

SUPPLEMENTARY INFORMATION:

I. Background

The Intergovernmental Panel on Climate Change (IPCC) was jointly established in 1988 by the United Nations Environment Programme and the World Meteorological organization to conduct periodic assessments of the state of knowledge concerning global climate change. The IPCC has formed working groups to study various aspects of climate change. Working Group I addresses the state of the science concerning what is happening and is projected to happen to the climate; Working Group II addresses the state of the science concerning (i) vulnerability to and impacts of climate change and (ii) adaptation and mitigation strategies; and Working Group III addresses the state of science and understanding concerning economics and cross-cutting issues associated with climate change. Each Working Group is charged with issuing periodic assessments. The first Scientific Assessment of Climate Change, for example, was prepared in 1990. Periodic assessment reports such as this provide a comprehensive statement of the state of knowledge concerning topics such as scientific information, environmental impacts, response strategies, and other issues concerning climate change. The draft 1995 Assessment represents the result of Working Group II efforts since its inception to address the consequences and impacts of climate change and response strategies focusing on mitigation and adoption.

II. Public Input Process

The member countries of the IPCC established a timetable that requires comments from governments be received by April 28, 1995, so that the IPCC Secretariat can meet its obligations for a timely completion of the 1995 IPCC Assessment. The Subcommittee on Global Change Research is responsible for coordinating preparation of the U.S. Government response, and through this notice is seeking the views of experts and interested groups and individuals to help in the formulation of its response. Comments that are provided will be reviewed, integrated, and used, as appropriate, in the preparation of the official U.S. comments.

In this review process, the emphasis should be on providing detailed recommendations on specific chapters for which the reviewer has established expertise or interest. To be most useful, comments should be specific in suggesting wording changes to the text of a particular chapter and, where appropriate, offer supporting

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.

[4] B&H states that the entire line is suitable for alternative public use and that it has contracted to sell the segment between milepost 9.07 and milepost 9.17 to the Town of Urbana, NY, for waterfront access and use as a park.

information and peer-reviewed references supporting the proposed changes. Comments on the overall tone and scientific validity of the chapter and comments expressing agreement and disagreement with specific major points in the Executive Summary of the chapters are also solicited.

Reviewers should request for review those specific chapters of the IPCC Working Group II Second Assessment Report for which they have expertise or special interest. The material available for review includes 25 chapters (with introductory materials and two appendices, as outlined below. A copy of the draft Summary for Policymakers will also be provided for each reviewer in order to provide an opportunity for the reviewer to consider the consistency of the chapter and the selection and representation of its major points in the draft Summary for Policymakers.

A. Chapters Relating to Assessment of Impacts and Adaptation Option for Ecological, Climatic, or Physiographic Systems

1. Forests
2. Grasslands and Rangelands
3. Desert Regions
4. Land Degradation, including Desertification
5. Mountain Regions
6. Non-Coastal Wetlands
7. The Cryosphere
8. Oceans and Large Lakes
9. Coastal Zones and Small Islands
10. Freshwater Systems and Hydrology

B. Chapter Relating to Assessment of Impacts and Adaptation Options for Socio-Economic Systems

11. Energy, Industry, and Transportation
12. Human Settlement
13. Agriculture
14. Freshwater Supply and Quality
15. Forestry
16. Fisheries
17. Insurance
18. Human Health

C. Chapters Relating to Assessment of Mitigation Options

19. Energy Supply
20. Industry
21. Transportation
22. Human Settlements
23. Agriculture
24. Forests
25. Cross-Sectoral Options

D. Appendices Relating to Methodologies and Inventories

26. Assessments of Impacts and Adaptation Options (Not available for review, having been previously reviewed and approved by IPCC).
27. Assessments of Mitigation Options
28. Inventory of Technologies, Methods, and Practices

III. Request for Submission of Public Comments

Interested persons and scientific experts are invited to submit comments on the draft 1995 Assessment. An information sheet providing specific requests for formatting submissions will be provided with each mailing of a chapter. Comments should be submitted to the address shown in the **ADDRESSES** section, and must be received by the date indicated in the **DATES** section of this notice. Submission should be made by mail (preferably providing a computer diskette in addition to paper copy), by fax (for short submissions, only, please) or by E-mail on Internet; comments submitted orally will not be accepted. All comments received will be available for public inspection in the NASA Library, which is located in Room 1J20, of the NASA Office Building, 300 E Street SW., Washington, DC 20546.

Charles F. Kennel,

Associate Administrator, Office of Mission to Planet Earth.

[FR Doc. 95–5670 Filed 3–7–95; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Literary Advisory Panel (Professional Development/Special Projects/ Overview Sections); Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that meeting of the Literature Advisory Panel (Professional Development/Special Projects/Overview Sections) to the National Council on the Arts will be held on March 16–17, 1995. The Professional Development/Special Projects Section will meet from 9:00 a.m. to 7:00 p.m. on March 16 and the Overview Section will meet from 9:30 a.m. to 3 p.m. on March 17. This meeting will be held in Room M–07, at the Nancy Hanks Center, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506.

The Overview Section of this meeting will be open to the public from 9:30 a.m. to 3:00 p.m. on March 17 for a program overview and policy and guidelines review.

The remaining portions of this meeting from 9:00 a.m. to 7:00 p.m. on March 17 are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of February 8, 1994, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506, 202/682–5532, TYY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne Sabine, Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202/682–5433

Dated: March 3, 1995.

Yvonne M. Sabine,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 95–5628 Filed 3–7–95; 8:45 am]

BILLING CODE 7537–01–M

Media Arts Advisory Panel (Film/Video Production Section); Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Media Arts Advisory Panel (Film/Video Production Section) to the National Council on the Arts will be held on March 22–23, 1995. The panel will meet from 9:00 a.m. to 6:30 p.m. on March 22 and from 9:00 a.m. to 5:30 p.m. on March 23 in Room 716, at the Nancy Hanks Center, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506.

A portion of this meeting will be open to the public on March 23 from 4:30 p.m. to 5:30 p.m. for a policy discussion.

Remaining portions of this meeting from 9:00 a.m. to 6:30 p.m. on March 22 and from 9:00 a.m. to 4:30 p.m. on March 23 are for the purpose of panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the

Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of February 8, 1994, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the Panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Washington, D.C., 20506, 202/682–5532, TYY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Committee Management Officer, National Endowment for the Arts, Washington, D.C., 20506, or call 202/682–5433.

Dated: February 27, 1995.

Yvonne M. Sabine,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 95–5629 Filed 3–7–95; 8:45 am]

BILLING CODE 7537–01–M

Museum Advisory Panel (Overview Section); Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Museum Advisory Panel (Overview Section) to the National Council on the Arts will be held on March 21–23, 1995 from 9:00 a.m. to 6:15 p.m. on March 21 and 22 and from 9:00 a.m. to 5:00 p.m. on March 23. This meeting will be held in Room M–14 on March 21 and 22 and Room 527 on March 23, at the Nancy Hanks Center, 1100 Pennsylvania Avenue, N.W., Washington, D.C., 20506.

This meeting will be open to the public on a space available basis.

Any interested person may observe meetings or portions thereof, which are open to the public, and may be permitted to participate in the discussions at the discretion of the meeting chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW Washington, D.C. 20506, 202/682–5532, TYY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202/682–5433.

Dated: March 3, 1995.

Yvonne M. Sabine,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 95–5630 Filed 3–7–95; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Engineering Education and Centers; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name and Committee Code: Special Emphasis Panel in Engineering Education and Centers (173).

Date and Time: March 23–24, 1995; 8 am to 5 pm.

Place: Room 375, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Lynn Preston, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1381.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Engineering Research Centers proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: March 3, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–5687 Filed 3–7–95; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Engineering Education and Centers; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name and Committee Code: Special Emphasis Panel in Engineering Education and Centers (173).

Date and Time: March 21–22, 1995; 8:00 AM to 5:00 PM

Place: Room 375, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Lynn Preston, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1381.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Engineering Research Centers proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: March 3, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–5688 Filed 3–7–95; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–247]

Consolidated Edison Co. of New York, Inc., Indian Point Nuclear Generating Unit No. 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from Facility Operating License No. DPR–26, issued to Consolidated Edison Company of New York, Inc. (the licensee), for operation of the Indian Point Nuclear Generating Unit No. 2 (IP2) located in Westchester County, New York.

Environmental Assessment

Identification of the Proposed Action

This Environmental Assessment has been prepared to address potential environmental issues related to the licensee's application of September 19,

1994, as supplemented on January 13, 1995, and February 3, 1995. The proposed action would exempt the licensee from the requirements of 10 CFR Part 50, Appendix J, Paragraph III.D.1.(a), to the extent that a one-time interval extension for the Type A test (containment integrated leak rate test) by approximately 24 months from the February 1995 refueling outage to the February 1997 refueling outage would be granted.

The Need for the Proposed Action

The proposed action is needed to permit the licensee to defer the Type A test from the February 1995 refueling outage, to the February 1997 refueling outage, thereby saving the cost of performing the test and eliminating the test period from the critical path time of the outage.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that the proposed one-time exemption would not increase the probability or consequences of accidents previously analyzed and the proposed one-time exemption would not affect facility radiation levels or facility radiological effluents. The licensee has analyzed the results of previous Type A tests performed at IP2 to show good containment performance and will continue to be required to conduct the Type B and C local leak rate tests which historically have been shown to be the principal means of detecting containment leakage paths with the Type A tests confirming the Type B and C test results. It is also noted that the licensee, as a condition of the proposed exemption, will perform the visual containment inspection although it is only required by Appendix J to be conducted in conjunction with Type A tests. The NRC staff considers that these inspections, though limited in scope, provide an important added level of confidence in the continued integrity of the containment boundary. The NRC staff also notes that the IP2 Containment Penetration and Weld Channel Pressurization System provides a means for continuously monitoring potential containment leakage paths during power operation. The change will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does involve features located entirely within the restricted area as defined in 10 CFR part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the NRC staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Indian Point Nuclear Generating Unit No. 2.

Agencies and Persons Consulted

In accordance with its stated policy, the NRC staff consulted with the New York State official regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated September 19, 1994, as supplemented by letters dated January 13, 1995, and February 3, 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 White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610

Dated at Rockville, Maryland, this 1st day of March 1995.

For the Nuclear Regulatory Commission.

Ledyard B. Marsh,

Director, Project Directorate I–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–5612 Filed 3–7–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–344]

Portland General Electric Co., Receipt of Decommissioning Plan and Decommissioning Environmental Report and Opportunity for Public Comments; Trojan Nuclear Power Plant

By letter January 26, 1995, Portland General Electric Company (PGE or the licensee) submitted the Decommissioning Plan and a supplement to the Environmental Report describing the decommissioning of the Trojan Nuclear Plant (Trojan or the plant). The licensee is the holder of Facility Operating License No. NFP–1 that was issued on November 21, 1975. The permanently shut down nuclear plant is located on the west shore of the Columbia River in Columbia County, Oregon.

Pursuant to the 10 CFR 50.82(e) the U.S. Nuclear Regulatory Commission (NRC) is providing this notice to interested persons prior to approval of the Decommissioning Plan. The Decommissioning Plan does not contain any requests for amendments to the Trojan Operating License. Therefore, an opportunity for a hearing under 10 CFR part 2 of Commission regulations, is not being offered by this notice. Should the Commission determine that a license amendment is necessary in connection with the proposed Decommissioning Plan, that action will be noticed separately.

Interested persons are invited to submit written comments or questions on the Decommissioning Plan or Environmental Report. Any written comments should be limited to the contents of the Decommissioning Plan and Environmental Report.

The staff will review and consider all comments that are received before taking final action on the proposed Decommissioning Plan. Written comments should be submitted within 120 days of the publication date of this notice and addressed to: Michael T. Masnik, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

In addition, the NRC is planning to hold a joint public meeting with the Oregon Department of Energy (ODOE) on Wednesday, March 29, 1995, at the St. Helens High School, U.S. Highway

30 and Gable Road, St. Helens, Oregon. The meeting will begin at 7:30 pm and will last approximately two hours. The purpose of the meeting is to provide the NRC and the ODOE an opportunity to explain their respective decommissioning review processes and to provide interested members of the public an opportunity to ask questions and provide comments on the decommissioning of the Trojan plant.

Copies of the Decommissioning Plan and Environmental Report are available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC 20555, and at the Local Public Document Room located on the fifth floor of the Branford Price Millar Library, Portland State University, 934 S.W. Harrison Street, P.O. Box 1151, Portland, Oregon 97207.

Dated at Rockville, Maryland, this 28th day of February 1995.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactors and Decommissioning Project Directorate, Division of Project Support, Office of Nuclear Reactor Regulation.

[FR Doc. 95–5613 Filed 3–7–95; 8:45 am]

BILLING CODE 7590–01–M

Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 6.9, ''Establishing Quality Assurance Programs for the Manufacture and Distribution of Sealed Sources and Devices Containing Byproduct Material,'' provides guidance acceptable to the NRC staff on the essential elements needed to develop, establish, and maintain a quality assurance program for the manufacture and distribution of sealed sources and devices.

Comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time. Written comments may be submitted 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.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Copies of issued guides may be purchased from the Government Printing Office at the current GPO price. Information on current GPO prices may be obtained by contacting the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013–7082, telephone (202) 512–2249. Issued guides may also be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5285 Port Royal Road, Springfield, VA 22161.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 13th day of February 1995.

For the Nuclear Regulatory Commission.

Eric S. Beckjord,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 95–5609 Filed 3–7–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–318]

Baltimore Gas and Electric Co.; Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–69 issued to Baltimore Gas and Electric Company (the licensee) for operation of the Calvert Cliffs Nuclear Power Plant, Unit No. 2, located in Calvert County, Maryland.

The proposed amendment would revise the Calvert Cliffs, Unit No. 2, Technical Specifications (TSs). Specifically, TS 4.G.1.2 would reference 10 CFR part 50, Appendix J directly, and any approved exemptions to the Type A testing frequently requirements, rather than paraphrase the regulation. The proposed wording is consistent with that used in NUREG–1432, ''Standard Technical Specifications—Combustion Engineering Plants,'' dated September 1992.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination 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 has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change revises Technical Specification 4.6.1.2.a to reference the testing frequency requirements of 10 CFR part 50, Appendix J, and to state that NRC-approved exemptions to the applicable regulatory requirements are permitted. The current Technical Specification 4.6.1.2.a paraphrases the requirements of Appendix J, paragraph III.D.1.(a) and necessitates a change to the Technical Specifications should the Appendix J language change or an exemption be granted. The proposed administrative revision simply deletes the paraphrased language and directly references Appendix J and any approved exemptions. No new requirements are added, nor are any existing requirements deleted. Any specific exemptions from the requirements of Appendix J, paragraph III.D.1.(a) will continue to require a submittal from Baltimore Gas and Electric Company under 10 CFR 50.12 and subsequent review and approval by the NRC prior to implementation.

The proposed change will provide a one-time exemption from the 10 CFR part 50, Appendix J, paragraph III.D.1.(a) leak rate test schedule requirement. This change will allow for a one-time interval between subsequent Type A test of approximately 72 months. It will also extend the second ten-year Type A testing service period to 12 years to coincide with the inservice inspection interval.

No physical or operational changes to the structure, plant systems or components would be made as a result of the proposed change. Furthermore, leak rate testing is not an initiating event in any accident, therefore this proposed change does not involve a significant increase in the probability of any accident previously evaluated.

Type A tests are capable of detecting containment leaks through containment penetrations and through the containment liner. The history at Calvert Cliffs Unit 2 demonstrates that Type B and C Local Leak Rate Tests (LLRTs) have consistently detected leakage through penetrations. With the exception of the first periodic Unit 2 Type A test in 1979, which failed and was promptly corrected, Type A tests have not

detected excessive leakage from the containment.

Administrative controls govern the maintenance, modification and testing of containment penetrations such that the probability of excessive penetration leakage due to improper maintenance or valve misalignment is very low. Following maintenance or modifications to any containment penetration, a leak rate test is performed to ensure acceptable leakage levels. Following any LLRT on a containment isolation valve, an independent valve alignment check is performed. Therefore, Type A testing is not necessary to ensure acceptable leakage rates through containment penetrations.

While Type A testing is not necessary to ensure acceptable leakage rates through containment penetrations, Type A testing is necessary to demonstrate that leakage through the containment liner is within limits assumed in the accident analyses. Structural failure of the containment is considered to be a very unlikely event, and in fact, since Calvert Cliffs Unit 2 has been in operation, the Type A tests have demonstrated no evidence that containment leakage will exceed that assumed in the accident analyses prior to the 1999 Type A test. Therefore, a one-time exemption increasing the interval between subsequent Type A tests will not result in a significant degradation in our ability to determine the leak-tightness of the containment structure.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Would not create the possibility of a new or different type of accident from any accident previously evaluated.

The proposed Technical Specification amendment is administrative and will not create the possibility of a new or different type of accident form any accident previously evaluated.

The proposed exemption request does not affect normal plant operations or configuration, nor does it affect leak rate test methods. The proposed change allows a one-time test interval of approximately 72 months for the Type A tests. As the test history of Calvert Cliffs Unit 2 has demonstrated no evidence that containment leakage will exceed that assumed in the accident analyses prior to the 1999 Type A test, the relaxation in schedule should not significantly decrease the confidence in the leak-tightness of the containment.

The proposed change would not change the design, configuration or method of operation of the plant. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Would not involve a significant reduction in a margin of safety.

The purpose of the existing schedule for Type A tests is to ensure that the release of radioactive materials will be restricted to those leak paths and leak rates assumed in accident analyses. A one-time extended interval between successive Type A tests does not change any frequency or methodology requirements for Type B and C LLRTs. Therefore, methods for detecting local containment leak paths and leak rates are unaffected by this proposed change. Given that the problems identified by the first periodic Type A test were promptly and effectively resolved, and the subsequent Type A test history for Unit 2 shows no containment degradation-related failures, a one-time increase of the test interval does not lead to a significant probability of creating a new leakage path or increased leakage rates.

The proposed Technical Specification change is administrative and eliminates the redundancy between the requirements of Technical Specification 4.6.1.2.a, and 10 CFR part 50, Appendix J, including any approved exemptions to Appendix J. It does not, in itself, change a safety limit, a Limiting Condition for Operation, or a surveillance requirement on equipment required to operate the plant. The NRC must approve any proposed change or exemption to Appendix J, paragraph III.D.1.(a) prior to implementation. As the proposed change does not affect the Type A test acceptance criteria, the margin of safety inherent in existing accident analyses is maintained.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

Although the licensee has included an evaluation of a proposed exemption to 10 CFR part 50, Appendix J, requirements in the above determination of no significant hazards consideration, only the part related to the amendment is pertinent to this notice of proposed amendment. The exemption request will be considered as a separate matter on its own merits. The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 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 30-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 30-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 and provide for opportunity for a hearing after 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 April 7, 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 Calvert County Library, Prince Frederick, Maryland 20678. 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 requiring 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 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 a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves a 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 no 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 Ledyard B. Marsh: 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 Jay E. Silbert, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037, 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 February 24, 1995, which is 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 Calvert County Library, Prince Frederick, Maryland 20678.

Dated at Rockville, Maryland this 1st day of March 1995.

For the Nuclear Regulatory Commission.

Daniel G. McDonald,

Senior Project Manager, Project Directorate I–1, Division of Reactor Projects—I/II, Office of Nuclear Regulation.

[FR Doc. 95–5611 Filed 3–7–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–369 and 50–370]

Duke Power Co.; 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 an amendment to Facility Operating License Nos. NPF–9 and NPF–17 issued to Duke Power Company (the licensee) for operation of the McGuire Nuclear Station, Units 1 and 2, located in Mecklenburg County, North Carolina.

The proposed amendments would revise Technical Specifications (TS) 3.8.2.1 and 3.8.3.1 to allow installation of a modification to replace the battery, main and tie breakers in response to an Electrical Distribution Systems Functional Inspection (EDSFI), conducted by the NRC in July 1991. The existing breaker arrangement could result in a trip of both the battery and main breakers if a fault occurs on one of the 125 VDC panelboards. The licensee committed to have these breakers replaced in 1995 with a better coordinated design to eliminate the concern.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination 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 has provided its analysis of the issue of no significant

hazards consideration, which is presented below:

Criterion 1

Operation of the facility in accordance with the requested amendments will not involve a significant increase in the probability or consequences of an accident previously evaluated. At no point during this temporary modification is power lost to the DC and AC panelboards. A normal plant procedure is used to transfer power for the AC panelboards back and forth between their inverters and their alternate regulated AC power supplies (1KRP and 2KRP). All inputs to the DC channel trouble alarm except those from the associated DC and AC panelboard undervoltage relays will be blocked during the 112 hour temporary modification period so that an undervoltage condition on any of the DC and AC panelboards this period will be detected immediately. Temporary cabling will satisfy cable separation criteria. Temporary cables and breakers meet all applicable safety class 1E and seismic requirements. There will be no degradation of distribution centers and panelboards as a result of temporary breakers being installed in them.

Criterion 2

Operation of the facility in accordance with the requested amendments will not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed TS changes will not create the possibility for an accident or malfunction of a different type that any previously evaluated. No new failure modes are being created by the proposed TS changes.

Criterion 3

Operation of the facility in accordance with the requested amendments will not involve a significant reduction in a margin of safety. The proposed TS changes will not reduce the margin of safety as described in the bases for any Technical Specifications. The bases for Tech. Specs. 3/4.8.2 and 3/4.8.3 (minimum specified independent and redundant A.C. and D.C. power sources and distribution systems to supple safety-related equipment for safe shutdown and mitigation/control of accident conditions) will not be impacted by these proposed TS changes. The proposed TS changes will not reduce the margin of safety since the temporary cables and breakers meet all applicable safety class 1E and seismic requirements. The use of temporary cables and breakers to facilitate the de-energization of a vital bus and connection of its loads to its same train vital bus for breaker replacement does not technically violate the applicable technical specifications since the intent of these technical specifications is to have uninterrupted power to the loads normally connected to this de-energized bus. Instrumentation during the temporary modification period remains valid to immediately detect an undervoltage condition in the affected DC and AC panelboards.

Based on the preceding analyses, Duke Power concludes that the requested amendments do not involve a significant hazards consideration.

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 30 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 30-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 30-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 and provide for opportunity for a hearing after 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 April 7, 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 Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina. 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 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-examines witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. 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 Herbert N. Berkow: petitioner's name and telephone number, date petition was mailed, plant name, and publication data 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 Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina, 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 February 23, 1995, which is 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 Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina.

Dated at Rockville, Maryland, this 3rd day of March 1995.

For the Nuclear Regulatory Commission.

Victor Nerses,

Senior Project Manager, Project Directorate II–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–5610 Filed 3–7–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–352 and 50–353]

Philadelphia Electric Co.; Notice of Withdrawal of Application for Amendment to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Philadelphia Electric Company (the licensee) to withdraw its August 25, 1993, application for proposed amendment to Facility Operating License Nos. NPF–39 and NPF–85, for the Limerick Generating Station, Units 1 and 2, respectively, located in Montgomery County, Pennsylvania.

The proposed amendment would have revised the Technical Specification Surveillance Requirement 4.5.1 to reduce the frequency for venting the Emergency Core Cooling System (ECCS) piping from once every 31 days to once every 6 months.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on September 29, 1993 (58 FR 50972). However, by letter dated December 21, 1994, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated August 25, 1993, and the licensee's letter dated December 21, 1994, which withdrew the application for license amendment. The above documents 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 Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Dated at Rockville, Maryland, this 21st day of February 1995.

For the Nuclear Regulatory Commission.

Frank Rinaldi,

Project Manager, Project Directorate I–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–5614 Filed 3–7–95; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–35422; File No. SR–BSE–95–05]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change Relating to Implementation of a Three-Day Settlement Standard

February 28, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on February 21, 1995, the Boston Stock Exchange, Incorporated (''BSE'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which items have been prepared by BSE. 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

BSE proposes to modify its rules to implement a three business day settlement standard for securities transactions.

[1] 15 U.S.C. 78s(b)(1) (1988).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, BSE 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. BSE 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

On October 6, 1993, the Commission adopted Rule 15c6–1 under the Act which establishes three business days after the trade date (''T+3'') instead of five business days (''T+5'') as the standard settlement cycle for most securities transactions.[2] The rule will become effective June 7, 1995.[3]

The proposed rule change will amend BSE's definitions of transactions nominated as ''Regular Way,'' ''Buyer's or Seller's Option,'' and ''Next Day'' contained in Chapter II, Section 6 of BSE's rules and will amend Chapter X, Section 1 of BSE rules regarding the settlement of ''Cash and Ex-Dividend Transactions.'' Under the proposed rule change, regular way settlement will occur on the third business day after the trade, and buyer's or seller's option trades will settle between four business days and 180 days following the contract date except that BSE may provide otherwise in specific issues or classes of securities. Next day trades will be able to settle on the first or second business day following the date of the contract. Securities will trade without (i.e., ''ex'') any dividend, right, or privilege on the second full business day preceding the record date except that when the record date is on a holiday the securities will trade ''ex'' on the third preceding full business day.

The proposed rule change also amends Chapter XV, Section 14 of BSE rules, ''Claims and Reports against Specialist.'' This proposed change will shorten the time periods in which members can file claims of erroneous or omitted transactions against specialists. Claims regarding lack of a comparison of a reported transaction will have to be made within three days of the original trade date of five days to comport with the changes in the settlement cycle. Claims regarding the omissions of reports and erroneous trade comparisons will have to be made within five business days instead of ten business days. The latter changes still will exceed the settlement cycle; however, they will exceed the settlement cycle by only two days instead of five thus reducing the risk associated with such claims. Finally, Chapter XXVIII, subparagraph (4) requires that customers provide their agent instructions within certain time frames for delivery versus payment and receipt versus payment transactions. The time frames contained in subparagraph (4)(i) and (ii) will be shortened by two business days.

The BSE's implementation of this proposed rule change will be consistent with the ''T+3'' conversion schedule which the National Securities Clearing Corporation has proposed for industry use. The schedule is as follows:

Trade date	Settlement cycle	Settlement date
June 2 Friday	5 day	June 9 Friday.
June 5 Monday	4 day	June 9 Friday.
June 6 Tuesday	4 day	June 12 Monday.
June 7 Wednesday.	3 day	June 12 Monday.

If the Commission determines to alter the exemptions currently provided in Rule 15c6–1, BSE may need to undertake additional rule amendments. It is intended that the proposed rule change will become effective on the same date as Commission Rule 15c6–1.

The proposed rule change is consistent with Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, processing information with respect to, and facilitating transactions in securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

BSE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which BSE 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, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of BSE.

All submissions should refer to File No. SR–BSE–95–05 and should be submitted by March 29, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secrtary.

[FR Doc. 95–5585 Filed 3–7–95; 8:45 am]

BILLING CODE 8010–01–M

[2] Securities Exchange Act Release No. 33023 (October 6, 1993), 58 FR 52891.

[3] Securities Exchange Act Release No. 34952 (November 9, 1994), 59 FR 59137.

[Release No. 34–35430; File No. SR–CBOE–94–48]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to the Placement of CBOE Memberships Into Trusts

March 1, 1995.

I. Introduction

On December 1, 1994, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt new Rule 3.25, which would enable an individual CBOE member to place his membership in trust for estate planning purposes, subject to certain requirements.

The proposed rule change was published for comment in Securities Exchange Act Release No. 35220 (Jan. 11, 1995), 60 FR 3889 (Jan. 19, 1995). No comments were received on the proposal.

II. Description of the Proposals

The Exchange proposes to adopt new Rule 3.25, which would permit individual members to place their memberships into trusts under certain conditions. The proposed rule lays out the framework of a permissible trust and imposes substantive as well as procedural obligations on a member transferring his membership into a trust (''trust member'').

The proposed rule provides the structure of a trust into which a member may transfer his membership. A trust member must be the sole trustee and sole beneficiary of the trust during his lifetime. The trust member must remain personally liable for all obligations and liabilities associated with the membership, which continues to be subject to the rules of the Exchange. Subject to the collateral deposit requirements of Rule 3.14(c), a membership in trust may be transferred during the lifetime of the trust member or at his death to an eligible family member who is approved for Exchange membership in accordance with Rule 3.14(c)(1) or during the lifetime of the trust member to a member organization in accordance with Rule 3.14(c)(3). A membership in trust may also be transferred back to the trust member to be held directly and not in a trust.

The proposed rule imposes substantive obligations on a member who seeks to transfer his membership by requiring that certain terms be included in the trust agreement. Specifically, a member's trust agreement must provide for a successor trustee for the purpose of transferring the membership in the event of the trust member's death, legal incompetence, or any other condition that substantially impairs the member's ability to transact ordinary business.[3] A legally qualified individual or institution may be appointed as successor trustee for this purpose.[4] A trust agreement also may provide the successor trustee with the authority to continue holding the membership in trust for the benefit of a trust member during any period of his legal incompetency or disability as long as the membership is leased during that period in accordance with Rule 3.16(b). In addition, the proposed rule requires trust agreements to exempt the Exchange from liability for any actions or inactions of the trust member or any successor trustee with respect to the administration of the trust or the management of the trust assets.

The proposed rule also contains procedural requirements in placing a membership in trust. The proposed rule requires an individual member who seeks to transfer his membership into a trust to provide the Exchange with a copy of the trust agreement with a certification by the attorney who prepared the agreement stating that it conforms to the requirements of proposed Rule 3.25. The Exchange reserves a right to disapprove the transfer if it finds that the trust agreement does not meet the requirements of the proposed rule. The Exchange will provide a member with a written notification if the proposed transfer is disapproved.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).[5] In particular, the Commission believes the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest.

The Commission believes that the new proposed Rule 3.25 achieves a reasonable balance between the Exchange's interest in providing members with the flexibility to plan their estate and its interest in regulating and protecting its membership. Under proposed Rule 3.25, a member may transfer his membership to a trust provided that the trust agreement contains certain provisions relating to (1) the applicable procedures for a subsequent transfer of the membership contained in the trust and (2) the exclusion of the CBOE from liability for certain trust actions or omissions.

Moreover, the trust agreement must be submitted to the Exchange for review and such trust agreement can be disapproved by written notice to a member if it fails to meet the above conditions or other requirements imposed by the proposed rule. The Commission believes that these conditions are an appropriate means of addressing the unique concerns in maintaining and/or transferring an exchange membership that is held in trust form. The proposed rule change does not affect the substantive requirements and duties of a member whose interest is held in trust. In particular, a ''trust member'' shall remain personally responsible for all obligations and liabilities associated with the membership and its use, and the membership will remain subject to all of the rules of the CBOE. Overall, this approach allows the Exchange to provide members with useful, but appropriately controlled estate planning flexibility.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[6] that the proposed rule change (SR–CBOE–94–48) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–5579 Filed 3–7–95; 8:45 am]

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[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] A physician who has personally examined or treated the trust member must certify in writing that the trust member has become disabled.

[4] The successor trustee must transfer the membership in accordance with the rules of the Exchange and subject to the right of the Exchange to offer the membership for sale in accordance with Rule 3.14(b)(1).

[5] 15 U.S.C. 78f(b) (1988).

[6] 15 U.S.C. 78s(b)(2) (1988).

[7] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–35431; File No. SR–CHX–95–04]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval to Proposed Rule Change by Chicago Stock Exchange, Inc. Relating to an Extension of a Pilot Program for Stopped Orders in Minimum Variation Markets

March 1, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on February 8, 1995, the Chicago Stock Exchange, Inc. (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The CHX has requested accelerated approval of the proposal. 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 extend the pilot program for stopped orders in minimum variation markets for an additional four (4) month period. This is the fourth requested extension of the pilot, originally approved on January 14, 1992.[3] The first requested extension of the pilot was approved on March 10, 1993.[4] The second requested extension of the pilot was approved on June 11, 1993.[5] The third requested extension of the pilot was approved on March 21, 1994.[6] The pilot program is set to expire on March 21, 1995. The Exchange has submitted its current monitoring report under separate cover. The report covers the period December 20, 1994 through January 20, 1995 and includes detailed data for January 4, 1995.

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b-4 (1991).

[3] *See* Securities Exchange Act Release No. 30189 (January 14, 1992), 57 FR 2621 (January 22, 1992) (File No. SR–MSE–91–10) (''1992 Approval Order'').

[4] *See* Securities Exchange Act Release No. 31975 (March 10, 1993), 58 FR 14230 (March 16, 1993) (File No. SR–MSE–93–04) (''March 1993 Approval Order'').

[5] *See* Securities Exchange Act Release No. 32457 (June 11, 1993), 58 FR 33681 (June 18, 1993) (File No. SR–MSE–93–14) (''June 1993 Approval Order'').

[6] *See* Securities Exchange Act Release No. 33790 (March 21, 1994), 59 FR 14434 (March 28, 1994) (File No. SR–CHX–93–30) (''1994 Approval Order'').

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to extend the pilot program implemented to establish a procedure regarding the execution of ''stopped'' market orders in minimum variation markets (usually an ⅛th spread market). In 1992, the Exchange adopted interpretation and policy .03 to Rule 37 of Article XX, on a pilot basis, to permit stopped market orders in minimum variation markets.[7] Prior to the pilot program, no Exchange rule required specialists to grant stops in minimum variation markets if an out-of-range execution would result. While the Exchange has a policy regarding the execution of stopped market orders generally, the Exchange believes it is necessary to establish a separate policy for executing stopped market orders when there is a minimum variation market.

The Exchange's general policy regarding the execution of stopped orders is to execution them based on the next primary market sale. If this policy were used in a minimum variation market, it would cause the anomalous result of requiring the execution of all pre-existing orders, even if those orders are not otherwise entitled to be filled.[8]

The Exchange's proposed policy would prevent unintended results by continuing a pilot program, established in 1992, for stopped market orders in minimum variation markets.[9] Specifically, the pilot program would require the execution of stopped market orders in minimum variation markets after a transaction takes place on the primary market at the stopped price or worse (higher for buy orders and lower for sell orders), or after the applicable Exchange share volume is exhausted. In no event would a stopped order be executed at a price inferior to the stopped price.[10] In the Exchange's view, the proposed policy would continue to benefit customers because they might receive a better price than the stop price, yet it also protects Exchange specialists by eliminating their exposure to executing potentially large amounts of pre-existing bids or offers when such executions would otherwise not be required under Exchange rules.

2. Statutory Basis

The Proposed rule change is consistent with Section 6(b) (5) in that it is designed to promote just and equitable principles of trade.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that no burdens will be placed on competition as a result of the proposed rule change.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No comments were received.

[7] *See* 1992 Approval Order, *supra*, note 3.

[8] For example, assume the market in ABC stock is 20–20 ⅛; 50 × 50 with ⅛th being out of range. A customer places an order with the Exchange specialist to buy 100 shares of ABC at the market, and a stop is effected. The order is stopped at 20⅛, and the Exchange specialist includes the order in his or her quote by bidding the 100 shares at 20. If the next sale on the primary market is for 100 shares at 20, adopting the Exchange's existing general policy to minimum variation markets would require the specialist to execute the stopped market order at 20. However, because the stopped market order does not have time or price priority, its execution would trigger the requirement for the Exchange specialist to execute all pre-existing bids (in this case, 5,000 shares) based on the Exchange's rules of priority and precedence. This is so even though the pre-existing bids were not otherwise entitled to be filled.

In the above example, Exchange Rule 37 (Article XX) requires the Exchange specialist to fill orders at the limit price only if such orders would have been filled had they been transmitted to the primary market. Therefore, the 100 share print at 20 in the primary market would cause at most 100 of the 5,000 share limit order to be filled on the Exchange. However, the Exchange's general policy regarding stopped orders, if applied to minimum variation markets, would require the 100 share stopped market order to be filled, and, as a result, all pre-existing bids at the same price to be filled in accordance with Exchange Rule 16 (Article XX).

[9] *See* 1992 Approval Order, *supra*, note 3.

[10] Exchange Rule 28 (Article XX) states.

An agreement by a member or member organization to ''stop'' securities at a specified price shall constitute a guarantee of the purchase or sale by him or it of the securities at the price or its equivalent in the amount specified. If an order is executed at a less favorable price than that agreed upon, the member or member organization which agreed to stop the securities shall be liable for an adjustment of the differences between the two prices.

III. 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 at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CHX. All submissions should refer to File No. SR–CHX–95–04 and should be submitted by March 29, 1995.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with Section 6(b)(5)[11] and Section 11(b)[12] of the Act. The Commission believes that proposed interpretation and policy .03 to Rule 37 should further the objectives of Section 6(b)(5) and Section 11(b) through pilot program procedures designed to allow stops, in minimum variation markets, under limited circumstances that offer primary market price protection for customers whose orders are granted stops, while still adhering to traditional auction market rules of priority and precedence.[13]

In its orders approving the pilot procedures,[14] the Commission asked the CHX to study the effects of stopping stock in a minimum variation market. Specifically, the Commission requested information on (1) the percentage of orders which received an out-of-range execution despite having been stopped; (2) whether limit orders on either side of the specialist's book were bypassed due to the execution of stopped orders at a better price (and to this end, the Commission requested that the CHX conduct a one-day review of all book orders in the five stocks receiving the greatest number of stops); and (3) specialist compliance with the pilot program's procedures.

The Exchange has submitted to the Commission several monitoring reports regarding its proposed interpretation of Rule 37. The Commission believes that, although these monitoring reports provide certain useful information concerning the operation of the pilot program, the Commission must conduct further analysis of the CHX data and, in particular, of the rule's impact on limit orders on the specialist's book before it can consider permanent approval thereof. To allow the Commission fairly and comprehensively to evaluate the CHX's use of its pilot procedures, without compromising the benefit that investors might receive under Rule 37, as amended, the Commission believes that it is reasonable to extend the pilot program until July 21, 1995.

First, the Exchange's latest monitoring report indicates that relatively few orders received an out-of-range execution despite having been stopped and, thus, did not benefit from the CHX proposal.[15] The Commission believes that the pilot procedures provide a benefit to certain investors by offering primary market price protection to customers whose orders are granted stops in minimum variation markets. According to the CHX report, moreover, virtually all stopped orders were for 2,000 shares or less. In this respect, the proposed amendments should mainly affect small public customer orders, which the Commission envisioned could most benefit from professional handling by the specialist.

Second, the CHX does not appear to believe that its proposed policy significantly disadvantages customer limit orders existing on the specialist's book.[16] This conclusion is based on the Exchange's analysis of limit orders on the opposite side of the market at the time a stop was granted pursuant to the pilot program. As part of its analysis (which included a one-day review of the five stocks receiving the greatest number of stops), the CHX determined how often book orders which might have been entitled to an execution had the order not been stopped, in fact, were executed at their limit price by the close of the day's trading. In addition to aggregated data, the Exchange provided a detailed breakdown of the disposition of each order.

The Commission historically has been concerned that book orders may be bypassed when stock is stopped, especially in a minimum variation market.[17] Based on the CHX's prior experience, the Commission did not have sufficient grounds to conclude that this long-standing concern had been alleviated. The Commission acknowledges, however, that the CHX's latest monitoring reports provide new information on this aspect of the pilot program. As a result, the Commission finds that additional time is necessary for the Commission to review such information and to ensure that Rule 37, as amended, does not harm public customers with limit orders on the specialist's book.

As for book orders on the same side of the market as the stopped stock, the Commission believes that the proposed requirements make it unlikely that these limit orders would be bypassed. Under the Exchange's pilot procedures, a stopped order can receive price improvement only if all preexisting CHX share volume at that price has been exhausted.

As for the pilot program's effect on limit orders on the same side of the market as the stopped stock, the CHX report suggests that a substantial majority of limit orders at the bid (for

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[11] 15 U.S.C. 78f (1988).

[12] 15 U.S.C. 78f (1988).

[13] For a description of CHX procedures for stopping stock in minimum variation markets, and of the Commission's rationale for approving those procedures on a pilot basis, *see* 1992 Approval Order, *supra*, note 3. The discussion in the aforementioned order is incorporated by reference into this order.

[14] *See supra*, notes 3–6.

[15] The Commission notes that this pilot program is intended to prevent orders from being executed outside the primary market range for the day (*i.e.*, from establishing a new high or new low). Consistent with that policy, the CHX requires the specialist to execute stopped stock based on the next primary market sale. Specifically, if the next sale is at a better price, the stopped stock may, depending on the depth of the specialist's limit order book at that price, receive price improvement. However, if the next primary market sale is at the stop price (or worse), the order can receive the stop price. If an order is executed at the stop price because the next sale creates a new primary market range, the pilot program may still have provided a benefit to investors, by preventing what would have been an out-of-range execution.

Conversely, an order may not benefit from the CHX proposal if, despite having been stopped, it ultimately receives an out-of-range execution. In a minimum variation market, this can occur if, by the close, (1) the primary market has not traded at the stop price and (2) *all* pre-existing limit orders on the CHX specialist's book at the better price have not been executed.

[16] When stock is stopped, book orders on the opposite side of the market that are entitled to immediate execution lose their priority. If the stopped order then receives an improved price, limit orders at the stop price are bypassed and, if the market turns away from that limit, may never be executed.

[17] *See, e.g.*, SEC, Report of the Special Study of the Securities Markets of the Securities and Exchange Commission, H.R. Doc. No. 95, 88th Cong., 1st Sess. Pt. 2 (1963). Commission, H.R. Doc. No. 95, 88th Cong., 1st Sess. Pt. 2 (1963).

stopped buy orders) or offer (for stopped sell orders) with time priority were executed by the close. The Commission recognizes the unintended consequences that can arise from the interplay between a regional exchange's price protection rules and its procedures for stopping stock.[18] In the Commission's opinion, the CHX data suggests that stopped stock generally has been executed in accordance with traditional auction market principles.

Finally, the CHX has responded to the Commission's questions about compliance with the pilot program procedures; at this time, the Exchange staff is not aware of any market surveillance investigations or customer complaints relating to the practice of stopping stock in minimum variation markets.[19] In the event, however, that the CHX identifies any instances of specialist noncompliance with the pilot procedures, the Commission would expect the Exchange to take appropriate action in response.

During the pilot extension, the Commission requests that the Exchange continue to monitor the effects of stopping stock in a minimum variation market and to provide additional information where appropriate. In addition, if the Exchange determines to request permanent approval of the pilot program or an extension thereof beyond July 21, 1995, the CHX should submit to the Commission a proposed rule change by April 15, 1995.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing thereof. This will permit the pilot program to continue on an uninterrupted basis. In addition, the procedures the Exchange proposes to continue using are the identical procedures that were published in the **Federal Register** for the full comment period and were approved by the Commission.[20]

It is therefore ordered, pursuant to Section 19(b)(2)[21] that the proposed rule change (SR–CHX–95–04) is hereby approved on a pilot basis until July 21, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[22]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–5578 Filed 3–7–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35427; File No. SR–MSRB–94–10]

Self-Regulatory Organization; The Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change Establishing Three Business Day Settlement Time Frame

February 28, 1995.

On August 9, 1994, the Municipal Securities Rulemaking Board (''MSRB'') submitted a proposed rule change to the Securities and Exchange Commission (''Commission'') pursuant to Section 19(b) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal appeared in the **Federal Register** on August 24, 1994.[2] The Commission received four comment letters.[3] This order approves the proposal.

I. Description of the Proposal

The purpose of the proposed rule change is to establish three business days after execution of a trade (''T+3'') as the standard settlement time frame for transactions in municipal securities. The proposal conforms the standard settlement time frame for municipal transactions to that for most other equity and debt securities transactions.[4] Currently, regular-way settlement is defined as five business days (''T+5'') in MSRB rules G–12 (''Uniform Practice'') and G–15 (''Confirmation, Clearance and Settlement Transactions with Customers''). The proposed rule change will be effective on June 7, 1995, the same day as the Commission's Rule 15c6–1.[5]

The proposed rule change allows alternate settlement time frames for municipal securities transactions in the secondary market by agreement of the parties at the time of each individual transaction. Thus, broker-dealers may not use standing instructions or master agreements to retain T+5 settlement as a standard practice.

The proposed rule change does not alter the current practice with respect to ''when, as and if issued'' transactions.[6] Currently, ''when, as and if issued'' transactions are not settled in five business days due to the various actions necessary to accomplish settlement with the issuer of municipal securities. Therefore, rule G–12(b) will continue to provide that ''when, as and if issued'' transactions will settle on a date agreed to by both parties but not earlier than the fifth day following the date the confirmation indicating the final settlement date is sent or the sixth day following the date the confirmation indicating the final settlement date is sent for transactions between a manager and a syndicate member.

The proposed rule change also will amend rule G–15(d)(i) relating to institutional customer delivery instructions on delivery versus payment or receipt versus payment (''DVP/RVP'') settlements to reflect a T+3 rather than T+5 settlement cycle. Pursuant to the amendment, a broker-dealer must obtain a representation from a customer with DVP/RVP privilege that the customer will deliver instructions to its agent with respect to the receipt or delivery of the securities involved in the transaction promptly and ''in a manner to assure that settlement will occur on settlement date.'' The MSRB has deleted references to specific agent instruction time frames.

II. Written Comments

In addition to the six comment letters the MSRB received prior to the filing of its proposal,[7] the Commission received

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[18] *See supra,* note 8 and accompanying text.

[19] Telephone conversation between David T. Rusoff, Foley & Lardner, and Beth A. Stekler, Attorney, Division of Market Regulation, SEC, on February 28, 1995.

[20] No comments were received in connection with the proposed rule change which implemented these procedures. *See* 1992 Approval Order, *supra,* note 4.

[21] 15 U.S.C. 78s(b)(2) (1988).

[22] 17 CFR 200.30–3(a)(12) (1991).

[1] 15 U.S.C. 78s(b) (1988).

[2] Securities Exchange Act Release No. 34541 (August 17, 1994), 59 FR 43603.

[3] Letters from R.N. Dillingham to Commissioners, Commission (September 12, 1994); Sarah A. Miller, Senior Government Relations Counsel, Trust and Securities, American Bankers Association, to Jonathan G. Katz, Secretary, Commission (September 14, 1994); P. Howard Edelstein, President, Electronic Settlement Group, Thomson Trading Services, Inc. (A Thomson Financial Services Company), to Jonathan G. Katz, Secretary, Commission (September 16, 1994); and Diane M. Butler, Director—Operations & Fund Custody, Investment Company Institute, to Jonathan G. Katz, Secretary, Commission (September 22, 1994). In addition, the MSRB received six comment letters prior to filing the proposed rule change with the Commission. *See infra* note 7.

[4] On October 6, 1993, the Commission adopted Rule 15c6–1 under the Act which establishes T+3 as the standard settlement cycle for most broker-dealer transactions. Rule 15c6–1 does not apply to transactions in municipal securities. While municipal securities were specifically exempt from the scope of the rule, the Commission stated its expectation that the MSRB would take the lead in moving municipal securities to a T+3 settlement time frame. Securities Exchange Act Release No. 33023 (October 6, 1993), 58 FR 52891.

[5] Rule 15c6–1, as adopted, was to become effective June 1, 1995. In order to provide for an orderly and efficient transition from T+5 settlement to T+3 settlement, the Commission has changed the effective date of Rule 15c6–1 to June 7, 1995. Securities Exchange Act Release No. 34952 (November 9, 1994), 59 FR 59137.

[6] ''When, as and if issued'' transactions are transactions in municipal securities which have not yet been issued.

[7] Letters from W. Pat Conners, Conners & Co., Inc., to Judy Somerville, MSRB (March 25, 1994);

four comment letters, two in support,[8] one in opposition,[9] and one suggesting that additional regulatory changes may be necessary to implement T+3 settlement.[10] Supporters cited benefits such as reduction in market risk and liquidity risk. Thomson Trading Services (''Thomson'') suggested an amendment to MSRB rules that require use of a registered clearing agency's facilities for automated confirmations and acknowledgments. R.N. Dillingham opposed the proposed rule change and asserted an inability on the part of retail investors to meet settlement obligations.

Prior to filing with the Commission, the MSRB received six letters commenting on T+3 settlement for municipal securities.[11] All six commenters are small retail broker dealers which are concerned with their ability to comply with the proposal, the proposal's increased economic costs, and its effect on their relationship with individual investors.

III. Discussion

As discussed below, the Commission believes that the MSRB's proposed rule change is consistent with Sections 15B and 17A of the Act.[12] By adopting a T+3 settlement time frame for municipal securities, the settlement cycle for municipal securities will be consistent with the settlement cycle for most corporate and investment company securities. Separate settlement cycles would impose unnecessary cost and operational difficulties on industry participants.[13] As more fully described in the T+3 adopting release, the Commission believes that faster trade settlement can reduce the potential for gridlock and foster investor confidence in securities markets during periods of high volume and price volatility by reducing systemic risk and liquidity risk in the municipal bond market.[14] As the Investment Company Institute noted in its comment letter, the proposed rule change also addresses the problems associated with a mutual fund's obligation to redeem shares daily at the fund's net asset value upon request by its shareholders.[15]

Thus, the Commission believes that the proposed rule is consistent with Section 15B. Section 15B, among other things, requires that the MSRB's rules be designed to foster cooperation and coordination with persons engaged in clearing, settling, and processing information with respect to, and facilitating transactions in, municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.[16] By reducing risk in the municipal securities market, the proposed rule change protects investors and the public interest. By eliminating the burden of separate settlement cycles, the proposal fosters cooperation and coordination with persons engaged in the clearing, settling, and facilitating transactions in municipal securities consistent with Section 15B.

In Section 17A, Congress set forth in its findings that linking all clearance and settlement facilities and the development of uniform standards and procedures for clearance and settlement will reduce unnecessary costs and increase the protection of investors and persons facilitating transactions by and acting on behalf of investors.[17] While municipal securities generally are defined as exempt securities under the Act,[18] municipal securities are specifically included for purposes of Section 17A of the Act.[19] By shortening the settlement time frame for municipal securities so that it is the same as the settlement time frame for corporate securities, the proposal should forward the goal of developing uniform standards and procedures as set forth in Section 17A.

Commenters opposed to the proposed rule change raised concerns previously considered in connection with the adoption of Rule 15c6–1. Four commenters expressed concern that their customers would not or could not pay for their securities purchases by T+3, thus forcing the broker-dealer to finance the customer's purchases for two days.[20] Several commenters raised similar concerns during the adoption process for Rule 15c6–1. In the adopting release, the Commission stated that:

> The Commission is sensitive to the costs necessary for transition to a shorter settlement time frame but on balance believes that the benefits to the financial system outweigh those costs. Moreover, the Commission believes Rule 15c6–1 creates an incentive for broker-dealers, particularly retail firms, to encourage timely customer payments, and improve management of cash flows * * *. [T]he Commission expects broker-dealers will have adequate notice to educate customers about the need for prompt payment and will have adequate time and incentive to implement changes to reduce the need for financing.[21]

The Commission continues to believe that the benefits in risk reduction outweigh the costs involved.

Several commenters were concerned about the ability of retail customers to meet T+3 settlement obligations, particularly given their heavy reliance on the mail to receive confirms, make payments, and deliver physical stock certificates.[22] The Commission believes that matters such as these can be handled by broker-dealers educating their customers on the need to send payment immediately after execution of trades and through employment of methods to speed delivery of confirmations and stock certificates. In most instances, checks mailed on trade date should reach the broker-dealer by T+3.

One commenter stated that its relationship with individual investors will be affected adversely because customers will believe that their broker is experiencing financial difficulties or that the broker believes that the

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Steve Harris, Executive Vice President, Golden Harris Capital Group, Inc., to David Clapp, Chairman, MSRB (April 11, 1994); Ronald E. Ott, President, Davidson Securities, Inc., to Judy Somerville, MSRB (May 10, 1994); Roger Springate, Jr., Springate & Company, to MSRB (May 11, 1994); Frederick Stoever, President, Stoever Glass & Co., to Chris Taylor, Executive Director, MSRB (undated); and Gene J. d'Ercole, Executive Vice President, Wulff, Hansen & Co., to David Clapp, Chairman, MSRB (June 9, 1994).

[8] Letters from American Bankers Association and Investment Company Institute, *supra* note 3.

[9] Letter from R.N. Dillingham, *supra* note 3.

[10] Letter from Thomson Trading Services, Inc., *supra* note 3.

[11] *Supra* note 7.

[12] 15 U.S.C. 78o–4 and 78q–1 (1988).

[13] In its comment letter, the American Bankers Association supported the rule because, among other reasons, settling municipal, securities on a T+5 basis while settling most other securities on a T+3 basis which require operating multiple settlement systems, which will be extremely burdensome and costly.

[14] By reducing the settlement time frame for municipal securities transactions from five business days to three business days, there will be fewer unsettled municipal securities trades subject to credit and market risk at any given time, and there would be less time between trade execution and settlement for the value of those trades to deteriorate. Such risk reduction was one of the major reasons the Commission adopted Rule 15c6–1.

[15] T+3 settlement for mutual funds could create problems in satisfying redemption requests, particularly for funds such as municipal bond mutual funds whose portfolios are invested largely in securities that are not subject to T+3. The Investment Company Institute states ''if a municipal bond mutual fund has to sell portfolio securities to meet redemptions, it might be unable to satisfy its obligations if redemption proceeds has to be paid to redeeming shareholders within three days while the fund could not be assured of receiving the proceeds from selling its portfolio securities until two days later.''

[16] 15 U.S.C 78o–4(B)(2)(C) (1988).

[17] 15 U.S.C 78q–1(a)(1)(D) (1988).

[18] 15 U.S.C 78c(a)(12)(A)(ii) (1988).

[19] 15 U.S.C 78c(a)(12)(B)(ii) (1988).

[20] Letters from Golden Harris Capital Group, Inc., Davidson Securities, Inc., Stoever Glass & Co., and Wulff, Hansen & Co., *supra* note 7.

[21] *Supra* note 4.

[22] Letters from Golden Harris Capital Group, Inc., Springate & Company, Conners & Co., Inc., R.N. Dillingham, and Wulff, Hansen & Co., *supra* notes 3 and 7.

customer is less credit worthy.[23] The Commission believes that by educating investors about the requirements of T+3 settlement, broker-dealer can limit such customer confusion.

Another commenter, Thomson, supports MSRB's efforts to shorten the settlement cycle for municipal securities transactions. Thomson, however, believes that the MSRB should amend rule G–15(d)(ii), which requires the use of a registered clearing agency's facilities for automated confirmation and acknowledgement of all DVP/RVP transactions.[24] Since Thomson's letter,[25] the MSRB has issued a letter which denied Thomson's request and which stated the MSRB's believe that providers of confirmation/acknowledgment services should be subject to regulatory oversight and should be linked into other providers of such services.[26]

The Commission believes that the issues raised by the Thomson letter need not be resolved prior to the approval of the proposed rule change. Discussions regarding Thomson's concerns are underway among the Commission, Thomson, and DTC. DTC has submitted a rule filing that will establish a linkage between DTC and vendors such as Thomson.[27] In denying Thomson's request, MSRB stated that it would consider any proposals arising from Thomson's discussions with the Commission. The Commission intends to consider whether self-regulatory organization rules should continue to preclude use of private vendor systems for confirmation/affirmation services in DVP/RVP trades. However, the Commission believes that T+3 settlement of municipal securities should not be delayed while these issues are being resolved.

As discussed above, Thomson's letter suggests that approval of the proposed rule change without amendments to MSRB rule G–15(d)(ii) raises competitive concerns. Under the Act, the Commission's responsibility is to balance the perceived anticompetitive effects of a regulatory policy or decision against the purpose of the Act that would be advanced by the policy or decisions and the costs associated therewith. The Commission notes that any anticompetitive effects pointed to by Thomson are not caused by the proposed rule change approved by this order but rather by an existing MSRB rule. The Commission is reviewing Thomson's claim but does not believe that approval of this proposal will itself create any burdens on competition. Moreover, as discussed above, the rule advances fundamental purposes under the Act, namely the efficient clearance and settlement of securities.

IV. Conclusion

For the reasons stated above, the Commission finds that MSRB's proposal is consistent with Sections 15B and 17A of the Act.[28]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[29] that the proposed rule change (File No. SR–MSRB–94–10) be, and hereby is, approved.[30]

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–5584 Filed 3–7–95; 8:45 am]

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[Release No. 34–35434; File No. SR–PTC–95–01]

Self-Regulatory Organizations; Participants Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Reduction of Certain Fees

March 2, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934[1] (''Act''), notice is hereby given that on January 31, 1995, the Participants Trust Company (''PTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by PTC. On February 7, 1995, PTC amended the proposal.[2] 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 text of the proposed rule change is as follows:

italics indicate additions
[brackets] indicate deletions

Participants Trust Company Schedule of Fees

FULL SERVICE PARTICIPANTS

[Effective April 1, 1995]

Service	Fee
Account Maintenance:	
First Six Business Accounts	$[2,500.00] *2,000.00*/month.
Additional Account	$250.00/account/month.
Book-Entry Delivery/Receipt*—(includes all DK's and FTX Transactions).	$[3.00] *2.00* each.
Repo Movement	$[3.00] *2.00* each.
Seg Movement ($.50/side)	$1.00 each.
MVC (Bulk Seg Movement—regardless of number of positions)	$50.00 each.

[23] Letter from Springate & Company, *supra* note 7.

[24] Thomson asserts that rule G–15(d)(ii) precludes vendors such as Thomson from competing with The Depository Trust Company (''DTC''), a registered clearing agency. Letter from Thomson, *supra* note 3. The self-regulatory organization confirmation rules limit confirmation and acknowledgment of institutional trades to the facilities of a registered securities depository.

[25] In an earlier letter, Thomson formally requested P. Howard Edelstein, President, Electronic Settlements Group, Thomson Trading Services, Inc. (A Thomson Financial Services Company), to Harold L. Johnson, Deputy General Counsel, MSRB (June 24, 1994).

[26] Letter from Harold L. Johnson, Deputy General Counsel, MSRB, to P. Howard Edelstein, President, Electronic Settlements Group, Thomson Financial Services (November 9, 1994).

[27] Securities Exchange Act Release No. 35332 (February 3, 1995), 60 FR 8102.

[28] 15 U.S.C. 78o–4 and 78q–1 (1988).

[30] 17 CFR 200.30–3(a)(12) (1994).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Letter from Leopold S. Rassnick, Senior Vice President, General Counsel and Secretary, PTC, to Jonathan Katz, Secretary, Commission (February 1, 1995).

FULL SERVICE PARTICIPANTS—Continued

[Effective April 1, 1995]

Service	Fee
Position Maintenance/P&I Disbursement (includes custody, P&I processing, redemptions and repo accounting).	$[1.50] *1.25*/security/month. $.50/Serial Note/month.
Bulk Transfers (transfers of collateral into LPA accounts, or caused by a Participant merger).	*$50.00/transfer (regardless of number of positions).*
Deposits	*$3.00/certificate.***
[Manual]	[$4.00/certificate].
[Automated Bulk (200–1,000 pools)]	[$3.50/certificate].
[Automated Bulk (more than 1,000 pools)]	[$3.00/certificate].
Withdrawals	$15.00 each.***
CLF/BFT Movements	$.50/position/side with a maximum charge of $50.00/side.
HIC Segregation	$50.00 each.
Interim Accounting Adjustments	$10.00 each side.
Publications (Participant Operating Guide, Data Entry Guide and PTC Rules).	*$50.00 each copy (first set free).*

**Receive transaction fee waived for transfer of positions to a new Participant.*

** Plus transfer agent fee, if applicable. GNMA MBS transfer agent fee is $10.00 per pool. PTC deposit fee is waived for new Participants.

*** Plus transfer agent fee, if applicable. GNMA MBS transfer agent fees are: $50.00 per certificate for same day availability, $25,00 per certificate for next day availability or $10.00 per certificate for two-business day availability.

LIMITED PURPOSE PARTICIPANTS

[Effective April 1995]

Service	Fee
Account Maintenance	$500.00/month.*
Book-Entry Delivery/Receipt**—(includes all DK's and FTX Transactions).	$[3.00] *2.00* each.
Seg Movement ($.50/side)	$1.00 each.
MVC (Bulk Seg Movement—regardless of number of positions)	$50.00 each.
Position Maintenance/P&I Disbursement (includes custody, P&I processing, redemptions and repo accounting).	$[1.50] *1.25*/security/month. $.50/Serial Note unit/month.
Bulk Transfers (transfers of collateral into LPA accounts, or caused by a Participant merger).	*$50.00/transfer (regardless of number of positions).*
Deposits	*$3.00/certificate.****
[Manual]	[$4.00/certificate].
[Automated Bulk (200–1,000 pools)]	[$3.50/certificate].
[Automated Bulk (more than 1,000 pools)]	[$3.00/certificate].
Withdrawals	$15.00 each.*****
CLF/BFT Movements	$.50/position/side with a maximum charge of $50.00/side.
HIC Segregation	$50.00 each.
Interim Accounting Adjustments	$10.00 each side.
Publications (Participant Operating Guide, Data Entry Guide and PTC Rules).	*$50.00 each copy (first set free).*

* A Limited Purpose Account opened by a Full Service Participant is subject to the fee schedule for a Full Service Participant.

** *Receive transaction fee waived for transfer of positions to a new Participant.*

*** Plus transfer agent fee, if applicable. GNMA MBS transfer agent fee is $10.00 per pool. PTC deposit fee is waived for new Participants.

**** Plus transfer agent fee, if applicable. GNMA MBS transfer agent fees are: $50.00 per certificate for same day availability, $25.00 per certificate for next day availability or $10.00 per certificate for two-business day availability.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, PTC 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. PTC 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 purpose of the proposed rule change is to reduce PTC's fees for five of its services (i.e., Account Maintenance, Book-entry Delivery and Receipt, Repo Movement, Position Maintenance/P&I Disbursement and Deposits) and to include additional fees with respect to certain incidental services that are not frequently utilized by PTC participants (i.e., Bulk Transfers and Publications). This proposed rule change will be effective April 1, 1995. PTC believes that the modification is appropriate based upon PTC's projected earnings and expenses, the desirability of paying dividends on its outstanding stock, and its level of capital.

PTC believes the proposed rule change is consistent with the requirements of the Act and specifically with Section 17A(b)(3)(D) of the Act because the proposal provides for the equitable allocation of fees amount PTC participants.

(B) Self-Regulatory Organizaton's Statement on Burden on Competition

PTC does not believe that the proposed rule change will have an

impact on or impose a 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 have been solicited or received. PTC will notify the Commission of any written comments received by PTC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) [3] of the Act and pursuant to Rule 19b–4(e)(2) [4] promulgated thereunder because the proposal effects a change in a dues, fee, or other charge imposed by PTC. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of PTC. All submissions should refer to File No. SR–PTC–95–01 and should be submitted by March 29, 1995.

For the Commission by the Division of Market Regulations, pursuant to delegated authority.[5]

[3] 15 U.S.C. 78s(b)(3)(A)(ii) (1988).

[4] 17 CFR 240.19b–4(e)(2) (1994).

[5] 17 CFR 200.30–3(a)912) (1994).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–5577 Filed 3–7–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35429; File No. SR–Phlx–94–59]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 2 to the Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Enhanced Specialist Participation in Parity Options Trades

March 1, 1995.

On November 18, 1994, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change: (1) clarifying when a specialist is entitled to receive an enhanced participation on parity equity and index options trades; and (2) altering the size of the enhanced specialist participation presently available pursuant to Phlx Rule 1014(g). Notice of the proposed rule change appeared in the **Federal Register** on December 30, 1994.[3] No comment letters were received on the proposed rule change. The Exchange filed Amendment No. 1 to the proposal on December 20, 1994,[4] and Amendment No. 2 on February 9, 1995.[5] This order approves the Exchange's proposal, as amended.

On May 25, 1994, the Commission approved an enhanced specialist participation for ''new equity option specialist units trading newly listed options classes where the specialist is on parity with two or more registered options traders (''ROTs'') (''New Unit Split'').[6] On August 26, 1994, the Commission approved, on a one-year pilot basis, an enhanced specialist participation whereby an equity option specialist on parity with one or more ROTs is counted as two crowd participants (''Two-for-One Split'').[7]

When either the New Unit Split or the Two-for-One Split apply, no customer order on parity is restricted to a smaller participation than any other crowd participant, including the specialist.[8]

At this time, the Exchange proposes to amend both Rule 1014(g) and Commentary .17 thereto to specify that the enhanced splits apply where equity and index option specialists are on parity with controlled accounts, not just with ROTs. The term ''controlled account'' includes accounts controlled by or under common control with a member broker-dealer.[9]

In addition to defining the circumstances under which the Two-for-One Split and the New Unit Split will be applied, the current proposal also serves to replace, in certain situations, the Two-for-One Split with a percentage distribution. Those situations are where there are orders for more than five contracts and where only one or two controlled accounts are on parity with the specialist for such orders. In those cases: where there is one controlled account on parity with

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1992).

[3] *See* Securities Exchange Act Release No. 35141 (December 22, 1994), 59 FR 67744 (December 30, 1994).

[4] *See* Letter from Gerald O'Connell, First Vice President, Market Regulation and Trading Operations, Phlx, to Michael Walinskas, Branch Chief, Office of Market Supervision (''OMS''), Division of Market Regulation (''Division''), Commission, dated December 14, 1994.

[5] In Amendment No. 2, the Phlx withdrew Amendment No. 1, inserted the effective date of the Two-for-One Split (as defined herein) into new Rule 1014(g)(ii), corrected an erroneous cross-reference in new Rule 1014(g)(ii), and clarified that the proposed exceptions to the Two-for-One Split are mutually exclusive. *See* Letter from Gerald O'Connell, First Vice President, Market Regulation and Trading Operations, Phlx, to Michael Walinskas, Branch Chief, OMS, Division, Commission, dated February 9, 1995.

[6] *See* Securities Exchange Act Release No. 34109 (May 25, 1994), 59 FR 28570 (June 2, 1994) (''Exchange Act Release No. 34109''). The New Unit Split was subsequently expanded to include index option specialists. *See* Securities Exchange Act Release No. 35028 (November 30, 1994), 59 FR 63151 (December 7, 1994) (''Exchange Act Release No. 35028'').

[7] The Two-for-One Split only applies to orders for more than five contracts. Additionally, it applies to all option classes listed after August 26, 1994, and to 50% of each specialist unit's issues listed prior to that date. Specifically, each specialist unit's issues are divided into quartiles based on the most recent quarterly contract volume; the specialist unit may choose one-half of the issues in each quartile, as long as the total number of issues does not exceed 50% of the unit's issues. *See* Securities Exchange Act Release No. 34606 (August 26, 1994), 59 FR 45741 (September 2, 1994) (''Exchange Act Release No. 34606'') As with the New Unit Split, this provision was subsequently expanded to include index option specialists. See Exchange Act Release No. 35028, *supra* note 6.

[8] *See* Phlx Rule 1014(g) (Two-for-One Split) and Commentary .17 thereto (New Unit Split).

[9] A controlled account is defined as ''any account controlled by or under common control with a member broker-dealer.'' *See* Phlx Rule 1014(g). Customer accounts are all accounts other than controlled accounts and specialist accounts. For purposes of Rule 1014(g), discretionary accounts are considered customer accounts. Telephone conversation between Edith Hallahan, Special Counsel, Phlx, and Brad Ritter, Senior Counsel, OMS, Division, Commission, on February 28, 1995. The Phlx represents that the rule will continue to prohibit the application of any such enhancement in instances that would lessen the pro rata participation of customer orders on parity.

the specialist, the specialist will receive 60% of the contracts and the controlled account will receive 40% of the contracts; and where there are two controlled accounts on parity, the specialist will receive 40% of the contracts and each controlled account will receive 30% of the contracts. In qualified situations where there are three or more controlled accounts on parity with the specialist, the existing Two-for-One Split will continue to apply whereby the specialist will be counted as two crowd participants.

The Exchange believes that in transactions where there are less than three controlled accounts on parity with the specialist, the current Two-for-One split becomes overly burdensome on those controlled accounts. For example, applying the Two-for-One Split to a 100 contract buy order in a trading crowd consisting of one ROT and the specialist, will result in the specialist selling 66 contracts and the ROT selling 34 contracts. Pursuant to the proposed amendment, in the above example the specialist's share will be reduced to 60 contracts and the ROT's share will increase to 40 contracts. As another example, where there are two ROTs on parity with a specialist, the present Two-for-One Split will entitle the specialist to sell 50 contracts and each ROT to sell 25 contracts. The proposal will reduce the specialist's share to 40 contracts and increase each ROT's share to 30 contracts. These results, the Exchange believes, demonstrate that while the specialist will continue to receive an enhanced split, the split will be reduced in small crowds where the impact on ROTs is more pronounced.

Finally, the Exchange also proposes to codify the Two-for-One and New Unit Split provisions, as amended herein, into new Options Floor Procedure Advice B–6 for ease of reference on the trading floor. Similarly, to improve the organization of Rule 1014, the Phlx also proposes to reorganize Phlx Rule 1014 by numbering the Two-for-One Split provisions as Rule 1014(g)(ii) and by moving the New Unit Split provisions from Commentary .17 to Rule 1014(g)(iii).

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)[10] in that the proposal is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and practices, and to protect investors and the public interest. Specifically, as the Commission stated in approving the New Unit Split and the Two-for-One Split, enhanced specialist participation for equity and index option parity trades may serve to aid the Exchange in attracting and retaining well capitalized specialist units to the Exchange without unreasonably restraining competition or harming investors.[11]

Further, the Commission believes that it is appropriate to amend the Two-for-One and New Unit Splits to state that the enhanced participations apply when an equity or index option specialist is on parity with controlled accounts and not just with ROT orders. The Commission's main concern in originally approving the enhanced specialist participations was ensuring that customer orders were not disadvantaged by the application of the enhanced splits.[12] Because the definition of controlled account excludes customer accounts, the protection afforded to customer orders is not in anyway diminished by this proposal.

Finally, the only other substantive amendment in the current proposal is to alter the Two-for-One Split in situations where the specialist is on parity with less than three controlled accounts. Because the effect of this amendment is merely to reduce the benefit given to specialists on parity trades and, accordingly, to minimize the impact of the Two-for-One Split on controlled accounts, the Commission believes that the proposal does not raise any new issues that were not adequately addressed when the Two-for-One Split was originally approved.[13]

The Commission believes that the remaining proposed amendments are non-substantive and, therefore, do not raise any material regulatory issues. Specifically, the proposal to reorganize the structure of Rule 1014 and to incorporate the New Unit and Two-for-One Splits, as amended, into a new Options Floor Procedure Advice, may reduce potential confusion by providing easier to use references to the enhanced participation provisions.

The Commission finds good cause for approving Amendment No. 2 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Specifically, Amendment No. 2 merely clarifies the manner in which the Two-for-One Split will be applied and corrects an erroneous cross-reference, neither of which raise any new regulatory issues that were not addressed in the original proposal. Accordingly, the Commission believes it is consistent with Section 6(b)(5) of the Act to approve Amendment No. 2 to the Phlx's proposal on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 2. 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 Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to the File No. SR–Phlx–94–59 and should be submitted by March 29, 1995.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[14] that the proposed rule change (SR–Phlx–94–59), as amended is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–5580 Filed 3–7–95; 8:45 am]

BILLING CODE 8010–01–M

[10] 15 U.S.C. 78f(b)(5) (1988).

[11] *See* Exchange Act Release Nos. 34109, *supra* note 6, and 34606 *supra* note 7.

[12] *Id.*

[13] *See* Exchange Act Release No. 34606, *supra* note 7.

[14] 15 U.S.C. 78s(b)(2) (1988).

[15] 17 CFR 200.30–3(a)(12) (1994).

[Rel. No. IC–20931; 812–8630]

Dean Witter Reynolds Inc., et al., Notice of Application

March 1, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Exemption Under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: Dean Witter Reynolds Inc. (the ''Sponsor''); and Dean Witter Select Municipal Trust, Dean Witter Select

Corporate Trust, Dean Witter Select Investment Trust, Dean Witter Select Equity Trust, and Dean Witter Select Government Trust (the ''Trusts'').

RELEVANT ACT SECTIONS: Order requested pursuant to section 6(c) for exemptions for sections 2(a)(32), 2(a)(35), 22(c), 22(d), and 26(a)(2)(C) of the Act and rule 22c–1 thereunder, and pursuant to section 11(a) to amend a prior order (the ''Prior Order'') granting relief from section 11(c).[1]

SUMMARY OF APPLICATION: Applicants seek to impose sales charges on a deferred basis and waive the deferred sales charge in certain cases, exchange Trust units having deferred sales charges, and exchange units of a terminating series of a Trust for units of the next available series of that Trust.

FILING DATES: The application was filed on October 8, 1993 and amended on October 31, 1994, January 30, 1995, and February 17, 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 applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 27, 1995, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of the date of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicants, Two World Trade Center, New York, NY 10048.

FOR FURTHER INFORMATION CONTACT: Fran Pollack-Matz, Senior Attorney, at (202) 942–0570 or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Each of the Trusts is a unit investment trust sponsored by the Sponsor. The Trusts are made up of one or more separate series (''Series''). Over seven hundred Series of the Trusts are currently outstanding.

2. Each Series is created by a trust indenture among the Sponsor, a banking institution or trust company as trustee, and an evaluator. The Sponsor acquires a portfolio of securities and deposits them with a trustee in exchange for certificates representing fractional undivided interests in the portfolio of securities (''Units''). Units currently are offered to the public through the Sponsor and other underwriters and dealers at a price based upon the aggregate offering side evaluation of the underlying securities plus an up-front sales charge. The sales charge currently ranges from 1.50% to 5.50% of the public offering price. The Sponsor may offer a discounted sales charge to unitholders within a Series based on the quantity of Units purchased. The sales charge may also vary among Series depending on the terms of the underlying securities.

3. Applicants seek an order under section 6(c) exempting them from sections 2(a)(32), 2(a)(35), 22(c), 22(d), and 26(a)(2)(C) and rule 22c–1 thereunder to let them impose sales charges on Units on a deferred basis and waive the deferred sales charge in certain cases. Under applicants' proposal, the Sponsor will continue to determine the amount of sales charge per Unit at the time portfolio securities are deposited in a Series. The Sponsor will have the discretion to defer collection of all or part of this sales charge over a period (''Collection Period'') following the settlement date for the purchase of Units. The Sponsor will in no event add to the deferred amount initially determined any additional amount for interest or any similar or related charge to reflect or adjust for such deferral.

4. The deferred sales charge (''DSC'') may be (a) deducted from the proceeds of a sale, exchange, or redemption of units or termination of the Series (''Disposition Amount''); or (b) deducted from (i) amounts received on the sale of portfolio securities, (ii) amounts received on the maturity of portfolio securities, (iii) income distributions on the Units, or (iv) a combination thereof (''Distribution Deductions''). Alternatively, the trustee may advance the DSC on behalf of the Series on a periodic basis, in which case the trustee will be reimbursed from the principal account of the Series upon the receipt of proceeds from the maturity or sale of portfolio securities or from the income account of the Series. The total of all these amounts will not exceed the aggregate DSC per unit. The DSC may be paid out of the principal or income accounts of the Series and securities may be sold in order to pay any portion of the DSC due on a certain date.

5. For purposes of calculating the amount of the DSC due upon redemption or sale of Units, it will be assumed that Units on which the balance of the sales charge has been collected from installment payments are liquidated first. Any Units disposed of over such amounts will be redeemed in the order of their purchase, so that Units held for the longest time are redeemed first.

6. The Sponsor may adopt a procedure of waiving the DSC payable out of net sales, exchange, or redemption proceeds, if necessary, so as not to jeopardize the tax-exempt nature of various investors such as Individual Retirement Accounts and employee benefits plans, if otherwise required for tax purposes, or for such other reasons as disclosed in the prospectus.

7. The Collection Period and the manner in which the Disposition Amount and/or Distribution deductions are calculated shall be stated in the prospectus, including the amount and date of each Distribution Deduction, if any. The prospectus for a Series will include disclosure that portfolio securities may be sold to pay the DSC if amounts in the income account are insufficient to pay the DSC or proceeds from portfolio securities are intended to pay the DSC. The confirmation received by a holder on the purchase, sale, exchange, or redemption of a Unit will indicate the sales charge as required by National Association of Securities Dealers, Inc. rules. The account statement of a holder will reflect a value of a Unit. The account statement, however, will not reflect the amount a holder paid for the up-front sales charge. At the end of every year, the Trust's annual report will reflect the aggregate amount of Distribution Deductions, both on a Series and per Unit basis.

8. The Prior Order permits applicants to allow unitholders to exchange Units of one Series for Units of another Series subject to a sales charge of up to 2.5% per Unit (generally 2.0% per Unit for equity Series and 2.5% per Unit for municipal bond series). When Units held for less than five months are exchanged for Units with a higher regular sales charge, the sales charge will be the greater of (a) the reduced sales charge or (b) the difference between the sales charge paid in acquiring the Units being exchanged and the regular sales charge for the quantity of Units being acquired,

[1] Dean Witter Reynolds Inc., *et al.* Investment Company Act Release Nos. 14934 (Feb. 12, 1986) (notice) and 14987 (March 13, 1986) (order).

determined as of the date of the exchange.

9. Applicants seek to amend the Prior Order to permit offers of exchange of Units subject to a DSC. The DSC, including Distribution Deductions uncollected at the time of the exchange, would be imposed at the time of the exchange. The sales charge imposed will be fixed at the time of the exchange, will be equal to the greater of a fixed dollar amount or the amount of the DSC remaining on the Units acquired, and may be comprised of an upfront and/or deferred amount, which deferred amount, if applicable, would include any portion of the sales charge not collected at the time of exchange. In the case where a Unit subject to a DSC is being exchanged, the proceeds due to the exchanging investor will be net of the DSC due upon the sale of a Unit at such time. Such net proceeds will be used to purchase the acquired Units. Those Units may be subject to the greater of a sales load of a fixed dollar amount or the amount of the DSC remaining on the Units acquired in the exchange.

10. The Sponsor may offer certain Series that have intermediate or short-term stated maturities. Upon termination of such Series, the Sponsor may create a new Series with the same investment objective, the same type of portfolio securities as the terminating Series, and in certain instances some of the same portfolio securities. Applicants wish to make Units of the new Series available to the unitholders of the new Units plus a reduced sales charge on an up-front and/or deferred basis (the ''Rollover Option''). Although applicants believe that the Prior Order already permits the Rollover Option, they request that the Prior Order be amended to cover the Rollover Option explicitly.

Applicants' Legal Analysis

1. Under section 6(c), the SEC may exempt any person or transaction from any provision of the Act or any rule thereunder to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

2. Section 2(a)(32) defines a ''redeemable security'' as a security that, upon its presentation to the issuer, entitles the holder to receive approximately his or her proportionate share of the issuer's current net assets, or the cash equivalent of those assets. Because the imposition of the DSC defers the deduction of a portion of the sales charge, applicants seek an exemption from section 2(a)(32) so that Units subject to a deferred sales charge are considered redeemable securities for purposes of the Act.[2]

3. Section 2(a)(35) defines the term ''sales load'' to be the difference between the sales price and the proceeds to the issuer, less any expenses not properly chargeable to sales or promotional expenses. Because a deferred sales charge is not charged at the time of purchase, an exemption from section 2(a)(35) is necessary.

4. Section 22(c) and rule 22c–1 require that the price of a redeemable security issued by an investment company for purposes of sale, redemption, and repurchase be based on the investment company's current net asset value. Because the imposition of a deferred sales charge may cause a redeeming unitholder to receive an amount less than the net asset value of the redeemed Units, applicants seek an exemption from this section and rule.

5. Section 22(d) requires an investment company and its principal underwriter and dealer to sell securities only at a current public offering price described in the investment company's prospectus. Because sales charges traditionally have been a component of the public offering price, section 22(d) historically required that all investors be charged the same load. Rule 22d–1 was adopted to permit the sale of redeemable securities ''at prices that reflect scheduled variations in, or elimination of, the sales load.'' Because rule 22d–1 may not be interpreted to extend to scheduled variations in deferred sales charges, applicants seek relief from section 22(d) to permit each Series to waive or reduce the DSC in certain circumstances. Any waiver or reduction will comply with the conditions in paragraphs (a) through (d) of rule 22d–1 under the Act.

6. Section 26(a)(2) in relevant part prohibits a trustee or custodian of a unit investment trust from collecting from the trust as an expense any payment to a depositor or principal underwriter thereof. Because of this prohibition, applicants need an exemption to permit the trustee to collect the DSC installments from Distribution Deductions or the principal account.

7. Applicants believe that implementation of the DSC program in the manner described above would be fair and in the best interests of the unitholders of the Trusts. Thus, granting the requested order would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

8. Section 11(c) prohibits any offers of exchange of the securities of a registered until investment trust for the securities of any other investment company, unless the terms of the offer have been approved by the SEC. Applicants assert that the reduced sales charge imposed at the time of exchange is justified by cost savings because that shareholder would require less explanation concerning the procedures and operations of the Trusts.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Whenever the exchange option is to be terminated or its terms are to be amended materially, any holder of a security subject to that privilege will be given prominent notice of the impending termination or amendment at least 60 days prior to the date of termination or the effective date of the amendment, provided that: (a) no such notice need be given if the only material effect of an amendment is to reduce or eliminate the sales charge payable at the time of an exchange, to add one or more new Series eligible for the exchange option, or to delete a Series which has terminated; and (b) no notice need be given if, under extraordinary circumstances, either (i) there is a suspension of the redemption of Units of the Trust under section 22(e) and the rules and regulations promulgated thereunder, or (ii) a Trust temporarily delays or ceases the sale of its Units because it is unable to invest amounts effectively in accordance with applicable investment objectives, policies, and restrictions.

2. The amount of the sales charge per Unit collected from a holder at the time of any exchange or conversion of a Unit will be lower than the sales charge collected on the initial purchase of the same Unit at such time.

3. The prospectus of each Trust offering exchanges and any sales literature or advertising that mentions the existence of the exchange option will disclose that the exchange option is subject to modification, termination, or suspension, without notice except in certain limited cases.

4. Each Series offering Units subject to a deferred sales charge will include in its prospectus the table required by item 2 of From N–1A (modified as appropriate to reflect the differences between unit investment trusts and open-end management investment

[2] Without an exemption, a trust selling units subject to a deferred sales charge could not meet the definition of a unit investment trust under section 4(2) of the Act. Section 4(2) defines a unit investment trust as an investment company that issues only ''redeemable securities.''

companies) and a schedule setting forth the number and date of each installment payment.

For the Commission, by the Division of Investment, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–5583 Filed 3–7–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–20932; 812–9454]

Dean Witter Select Equity Trust, et al.

March 1, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: Dean Witter Select Equity Trust and Dean Witter Reynolds Inc. (''Dean Witter'').

RELEVANT ACT SECTIONS: Order requested under sections 6(c) and 17(b) of the Act that would exempt applicants from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit a terminating series of a unit investment trust to sell portfolio securities to a new series of the trust.

FILING DATE: The application was filed on January 26, 1995 and amended on February 16, 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 applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 27, 1995 and should be 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 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 5th Street NW., Washington, DC 20549. Applicants, c/o Dean Witter Reynolds Inc., Unit Trust Department, Two World Trade Center, New York, NY 10048, Attn.: Thomas Hines.

FOR FURTHER INFORMATION CONTACT: Sarah A. Buescher, Staff Attorney, at (202) 942–0573, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. Dean Witter Select Equity Trust, a unit investment trust registered under the Act, consists of several series (each a ''Series''). All of the Series currently outstanding are Select 10 Series (''Select 10 Series''). Dean Witter is the Series' sponsor. Applicants request that the relief sought herein apply to future Series for which Dean Witter serves as sponsor.

2. The investment objective of each Selection 10 Series is to seek a greater total return than the stocks comprising the entire related index (e.g., the Dow Jones Industrial Average, the Hang Seng Index, or the Financial Times Ordinary Share Index) (each an ''Index''). Each Select 10 Series acquires approximately equal values of the tens stocks in the Index having the highest dividend yields as of a specified date, and holds those stocks for approximately one year. Dean Witter intends that, as each Select 10 Series terminates, a new Series based on the appropriate Index will be offered for the next year.

3. Each Series has a contemplated date (a ''Rollover Date'') on which holders of units in that Series (a ''Rollover Series'') may at their option redeem their units in the Rollover Series and receive in return units of a subsequent Series of the same type (a ''New Series'') which is created on or about the Rollover Date, and has a portfolio which contains securities (''Qualified Securities'') which are (i) actively traded (i.e., have had an average daily trading volume in the preceding six months of at least 500 shares equal in value to at least 25,000 United States dollars) on an exchange (a ''Qualified Exchange'') which is either (a) a national securities exchange which meets the qualifications of section 6 of the Securities Exchange Act of 1934 or (b) a foreign securities exchange which meets the qualifications set out in the proposed amendment to rule 12d3–1(d)(6) under the Act as proposed by the SEC and which releases daily closing prices, and (ii) included in an Index.

4. There is normally some overlap from one year to the next in the stocks having the highest dividend yields in an Index and, therefore, between the portfolio of a Rollover Series and the New Series. In the case of the Select 10 Industrial Portfolio 94–1 as compared to the Select 10 Industrial Portfolio 95–1, eight of the ten securities were identical. In connection with its termination, Series 94–1 sold all of its securities on the New York Stock Exchange as quickly as practicable. Likewise, the portfolio of Series 95–1 was acquired in purchase transactions on the New York Stock Exchange. This procedure creates brokerage commissions on portfolio securities of the same issue that are borne by the holders of units of both the Rollover Series and the New Series. Applicants, therefore, request an exemptive order to permit any Rollover Series to sell portfolio securities to a New Series and a New Series to purchase those securities.

5. In order to minimize overreaching, applicants agree that Dean Witter will certify in writing to the trustee, within five days of each sale from a Rollover Series to a New Series, (a) that the transaction is consistent with the policy of both the Rollover Series and the New Series, as recited in their respective registration statements and reports filed under the Act, (b) the date of such transaction, and (c) the closing sales price on the Qualified Exchange for the sale date of the securities subject to such sale. The trustee will then countersign the certificate, unless, in the unlikely event that the trustee disagrees with the closing sales price listed on the certificate, the trustee immediately informs Dean Witter orally of any such disagreement and returns the certificate within five days to Dean Witter with corrections duly noted. Upon Dean Witter's receipt of a corrected certificate, if Dean Witter can verify the corrected price by reference to an independently published list of closing prices for the date of the transactions, Dean Witter will ensure that the price of units of the New Series, and distributions to holders of the Rollover Series with regard to redemption of their units or termination of the Rollover Series, accurately reflect the corrected price. To the extent that Dean Witter disagrees with the trustee's corrected price, Dean Witter and the trustee will jointly determine the correct sales price by reference to a mutually agreeable, independently published list of closing sales prices for the date of the transaction.

Applicants' Legal Analysis

1. Section 17(a) of the Act generally makes it unlawful for an affiliated person of a registered investment company to sell securities to or purchase securities from the company. Investment companies under common control may be considered affiliates of one another. The Series may be under common control because they have Dean Witter as a sponsor.

2. Pursuant to section 17(b), the SEC may exempt a proposed transaction from section 17(a) if evidence establishes that: (a) The terms of the proposed transaction are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policy of each registered investment company concerned; and (c) the proposed transaction is consistent with the general purposes of the Act. Under section 6(c), the SEC may exempt classes of transactions if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants believe that the proposed transactions satisfy the requirements of sections 6(c) and 17(b).

3. Rule 17a–7 under the Act permits registered investment companies that might be deemed affiliates solely by reason of common investment advisers, directors, and/or officers, to purchase securities from or sell securities to one another at an independently determined price, provided certain conditions are met. Paragraph (e) of the rule requires an investment company's board of directors to adopt and monitor procedures for these transactions to assure compliance with the rule. A unit investment trust does not have a board of directors and, therefore, may not rely on the rule. Applicants represent that they will comply with all of the provisions of rule 17a–7, other than paragraph (e).

4. Applicants represent that purchases and sales between Series will be consistent with the policy of each Series, as only securities that would otherwise be bought and sold on the open market pursuant to the policy of each Series will be involved in the proposed transactions. Applicants further believe that the current practice of buying and selling on the open market leads to unnecessary brokerage fees on sales of securities and is therefore contrary not only to the policies of the Series but to the general purposes of the Act.

Applicants' Conditions

Applicants agree that the order granting the requested relief shall be subject to the following conditions:

1. Each sale of Qualified Securities by a Rollover Series to a New Series will be effected at the closing price of the securities sold on a Qualified Exchange on the sale date, without any brokerage charges or other remuneration except customary transfer fees, if any.

2. The nature and conditions of such transactions will be fully disclosed to investors in the appropriate prospectus of each future Rollover Series and New Series.

3. The trustee of each Rollover Series and New Series will (a) review the procedures relating to the sale of securities from a Rollover Series and the purchase of securities for deposit in a New Series and (b) make such changes to the procedures as the trustee deems necessary that are reasonably designed to comply with paragraphs (a) through (d) of rule 17a–7.

4. A written copy of these procedures and a written record of each transaction pursuant to this order will be maintained as provided in rule 17a–7(f).

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–5582 Filed 3–7–95; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 20937; 813–136]

EIP Inc.; Notice of Application

March 2, 1995.

AGENCY: Securities and Exchange Commission (the ''SEC'').

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: EIP Inc.

RELEVANT ACT SECTIONS: Applicant seeks a conditional order under sections 6(b) and 6(e) granting an exemption from all the provisions of the Act, and the rules thereunder, except section 9, certain provisions of section 17 and the related rules thereunder, and sections 36 through 53, and the rules thereunder.

SUMMARY OF APPLICATION: Applicant seeks to form limited partnerships (the ''Partnerships'') of which it will be the general partner and which will be employees' securities companies within the meaning of section 2(a)(13) of the Act, and to engage in certain affiliated and joint transactions with the Partnerships.

FILING DATES: The application was filed on September 1, 1994, and amended on November 1, 1994, January 13, 1995, and February 15, 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 March 27, 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 Fifth Street, NW., Washington, DC 20549. Applicant, South Tower, World Financial Center, 225 Liberty Street, New York, New York 10080–6123.

FOR FURTHER INFORMATION CONTACT: James J. Dwyer, Staff Attorney, at (202) 942–0581, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a Delaware corporation and an indirect wholly-owned subsidiary of Merrill Lynch & Co., Inc. (''ML&Co.''). ML&Co. is a diversified financial services holding company that through its subsidiaries provides investment, financing, insurance, and related services. Merrill Lynch, Pierce, Fenner & Smith Incorporated (''Merrill Lynch''), ML&Co.'s principal sudsidiary, is a registered broker-dealer. ML&Co. and its affiliated companies are herein referred to as the ''ML Group.''

2. Applicant or another direct or indirect wholly-owned subsidiary of ML&Co. formed for such purpose will be the ''General Partner'' of each of the Partnerships.[1] The General Partner proposes to establish Partnerships from time to time for the benefit of highly compensated key employees of the ML Group. The Partnerships will be part of a program designed to create capital buildings opportunities competitive with those at other investment banking firms for ML&Co.'s professionals and managers and to facilitate its recruitment of professionals and managers. Each Partnership will operate as a non-diversified closed-end management investment company and will meet the definition of an

[1] The ''General Partner'' refers to applicant or another wholly-owned subsidiary of ML&Co. in its role as the general partner of a Partnership or the functional equivalent with respect to any Partnership organized as a business trust or limited liability company.

''employees' securities company'' in section 2(a)(13) of the Act.

3. Interests in the Partnerships (the ''Interests'') will be offered only to ''Eligible Employees,'' who are current employees of the ML Group that meet the income standards for ''accredited investors'' of rule 501(a)(6) under Regulation D promulgated under the Securities Act of 1933 (the ''Securities Act''). Eligible Employees will be experienced professionals in the investment banking and securities business, or in related administrative, financial, accounting, legal, or operational activities, and will be sophisticated investors. Eligible Employees will be senior employees of the ML Group and will know or be known to, and have direct access to, other Eligible Employees.[2] Eligible Employees will be advised that the Interests will be sold in a transaction exempt under section 4(2) of the Securities Act and thus offered without the protections afforded by registration thereunder, and that the Partnerships will be exempt from most provisions of the Act. An Eligible Employee becomes a limited partner of a Partnership (a ''Limited Partner'') by investing in the Partnership.

4. The applicable partnership agreement may provide that a Limited Partner make a capital contribution in its entirety upon the formation of a Partnership or in installments. A Limited Partner who fails to pay an installment when due must pay interest on such installment, remain personally liable for the amount of the default and, to the extent permitted by law, will not be entitled to participate as a Limited Partner when making approvals or decisions.

5. All of the Partnerships will have minimum capital contributions and restrictions with respect to transferability of Interests. Interests will be non-transferable except with the express consent of the General Partner and in any event will be transferable only to Eligible Employees and members of a Limited Partner's immediate family. Upon the death of a Limited Partner or such Limited Partner becoming incompetent, insolvent, incapacitated, or bankrupt, such Limited Partner's estate or legal representative may succeed to the Limited Partner's Interests as an assignee for the purpose of settling such Limited Partner's estate or administering such Limited Partner's property, but may not become a Limited Partner. Interests will not be redeemable, except that the estate of a deceased Limited Partner may elect to have the Limited Partner's Interests repurchased by the General Partner or the Partnership at a price equal to the value of the Interests determined at the next succeeding appraisal date.

6. The purchase price of an Interest acquired upon the termination of a Limited Partner's employment (other than termination for cause) or upon the Limited Partner's bankruptcy or adjudication of incompetence will equal the amount that the Limited Partner would have received had the Partnership been liquidated on the valuation date as of the end of the immediately preceding fiscal year. If termination is for cause, the General Partner has the right, but not the obligation, to acquire the Interest of the Limited Partner at the lesser of the amount equal to (a) what the Limited Partner would have received had the Partnership been liquidated on the valuation date as of the end of the immediately preceding fiscal year, less any distributions made after such valuation date, or (b) the cost of the Limited Partner's investment on such valuation date, plus any undistributed ordinary income.

7. The General Partner will be a registered investment adviser. The General Partner will manage, operate, and control the Partnerships and will have the authority to make all decisions regarding the acquisition, management, and disposition of the investments of the Partnerships (the ''Investments''). All Investments and dispositions thereof will be approved by the General Partner's board of directors (the ''Board''), which will consist of five members. When considering investments for the Partnerships, the Board will receive the advice of members of a committee of advisers. The Board may consider investments proposed by unrelated third parties and investments offered by Merrill Lynch in public offerings or private placements and investments presented to the Partnership by affiliates of the General Partner. All investments selected by the General Partner will be evaluated independently of each other and chosen only if a majority of the Board determines that they are suitable for and in the best interest of the Partnerships.

8. Pending investment, Partnership funds will be invested in ''Temporary Investments,'' which consists of: (a) U.S. Government obligations with maturities of not longer than one year and one day; (b) commercial paper with maturities not longer than six months and one day and having a rating assigned to it by Standard & Poor's Corporation or Moody's Investors Service, Inc. (or, if neither organization shall rate such commercial paper at such time, by any nationally recognized rating organization in the United States) equal to one of the two highest ratings assigned by such organization; (c) interest-bearing deposits in U.S. or Canadian banks with an unrestricted surplus of at least $250 million, maturing within one year; and (d) any money market fund distributed and managed by ML&Co. or any affiliated person thereof or successor thereof. Consistent with section 12(d)(1)(A)(i), no Partnership making a Temporary Investment will acquire more than 3% of the total outstanding voting securities of an investment company.

9. The General Partner will make no cash contribution to the Partnerships other than a nominal contribution upon their formation. The General Partner will be allocated and receive 1% of the income, profit, loss, credit, expense, and deductions of the Partnership. Distributable cash generally will be allocated 1% to the General Partner and 99% to the Limited Partners. The General Partner is obligated to pay the operating expenses of the Partnerships and is entitled to receive from each Partnership annually up to 1½% of the Limited Partners' capital contribution to reimburse the General Partner for incurring such operating expenses. The General Partner's net worth will be adequate to meet the requirements of classifying the Partnerships as partnerships rather than as associations taxable as corporations for federal income tax purposes.

10. It is expected that new Partnerships would be formed on a periodic basis but would not be formed until the capital of the prior Partnership

[2] Pursuant to Merrill Lynch KECALP Growth Investments L.P. 1983, Investment Company Act Release Nos. 12290 (Mar. 11, 1982) (notice) and 12363 (Apr. 8, 1982) (order), amended, Investment Company Act Release Nos. 20280 (May 5, 1994) (notice) and 20328 (June 1, 1994) (order), an indirect wholly-owned subsidiary of ML&Co. may establish limited partnerships (the ''KECALP Partnerships'') that meet the definition of ''employees' securities companies'' under the Act and are exempt from most provisions of the Act. Interests in the KECALP Partnerships are offered exclusively to certain employees of ML&Co. and its subsidiaries and to non-employee directors of ML&Co. It is expected that the number of persons eligible to invest in a Partnership will be significantly smaller than the number eligible to invest in a KECALP Partnership. All Eligible Employees are expected to be eligible to invest in KECALP Partnerships organized in the future. To avoid any conflicts of interests between the KECALP Partnerships and the Partnerships, ML&Co. had adopted a policy that, with respect to investment opportunities in which both a KECALP Partnership and a Partnership may invest, such opportunities will first be made available to the KECALP Partnership. In addition, no person may be a member of both the boards of directors of the General Partner and of KECALP Inc., the general partner of the KECALP Partnerships.

has been invested or committed for investment, other than reserves maintained for follow-on investments or operating expenses. The General Partner may under certain circumstances deem it appropriate to allocate an investment between two Partnerships.

11. It is expected that a substantial percentage of Investments will be made available to a Partnership by the ML Group. Other affiliated persons of ML&Co. may also invest in the same Investments in which the Partnerships invest.

12. The General Partner will not have the power to require that a Limited Partner withdraw from a Partnership, except that the applicable partnership agreement may provide that the General Partner has the right, but not the obligation, to acquire the Interest of a Limited Partner following his or her termination of employment or bankruptcy. The General Partner may be removed by the vote of at least two-thirds of the outstanding Interests of a Partnership. The General Partner may assign or transfer its Interest to another wholly-owned subsidiary of ML&Co.

13. The General Partner has the right to dissolve the Partnership approximately six years after its formation. It is anticipated that the General Partner will dissolve the Partnership when a Partnership's equity investments have matured and disposition of other Investments can be effected.

Applicant's Legal Analysis

1. Section 17(a) prohibits an affiliated person of a registered investment company from selling to or purchasing from such investment company any security or other property. Applicant requests an exemption from section 17(a) to the extent necessary to permit a member of the ML Group to engage in principal transactions with a Partnership. The exemption would let the Partnerships (a) purchase Investments from members of the ML Group on a principal basis; (b) purchase interests or property in a company or other investment vehicle affiliated with ML&Co. or in which a member of the ML Group already owns securities; (c) sell, put or tender, or grant options in securities or interests in a company or other investment vehicle back to such entity, where that entity is affiliated with the ML Group; and (d) participate as a selling security holder in a public offering underwritten by a member of the ML Group or in which a member of the ML Group acts as a member of the underwriting or selling group. In addition, a Partnership may purchase from, or sell to, an affiliated person of such Partnership a Temporary Investment or other short-term investment. Applicant asserts that the requested exemption is consistent with the policy of the Partnerships and the protection of investors. The Limited Partners will be fully informed of the possible extent of the Partnerships' dealings with affiliates and, as professionals employed in the securities business, will be able to understand and evaluate the attendant risks.

2. Section 17(d) and rule 17d–1 prohibit an affiliated person of a registered investment company, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates. The section and rule might require the Partnerships to refrain from certain transactions in which any Limited Partner or a member of the ML Group is also a participant. Applicant requests an exemption from section 17(d) and rule 17d—1 to the extent necessary to let the Partnerships engage in transactions with ''Co-investors,'' as defined in condition 3 below, who may be affiliated persons of the Partnerships. Applicant believes that joint participation by the Partnerships in transactions with Co-Investors is consistent with the provisions, policies, and purpose of the Act. Each Limited Partner will receive a pro rata share of the income, profit, loss, credit, expense, and deduction of a Partnership based on the Limited Partner's investment in the Partnership, after the allocation to the General Partner of 1% of each such item. Any Investment made concurrently by a Partnership and a Co-Investor will be made on the same terms, though not necessarily in the same amount.

3. Section 17(f) requires that every registered investment management company deposit its securities and similar investments in the custody of certain specified entities. Rule 17f–1 requires that a member of a national securities exchange serving as custodian of the securities and investments of an investment company must, among other things, operate under a written contract approved by a majority of the investment company's board of directors. Applicant requests an exemption from section 17(f) and rule 17f–1 to let Merrill Lynch act as custodian without a written contract. Applicant asserts that, since there is such a close association between the Partnerships and Merrill Lynch, requiring a written contract would expose the Partnerships to unnecessary burden and expense where none is necessary. Furthermore, any funds or securities of the Partnership held by Merrill Lynch will have the protection of fidelity bonds. Applicant further requests an exemption from rule 17f–1(b)(4), which requires that the investment company's securities and investments be verified by actual examination by an independent public accountant at certain specified times. Applicant does not believe the expense of retaining such an independent accountant is warranted, in light of the community of interest of all parties involved and the existing requirement for an independent annual audit. The Partnerships otherwise will comply with rule 17f–1.

4. Section 17(g) authorizes the SEC to require by rules thereunder that certain officers and employees of a registered management investment company be bonded against larceny and embezzlement. Rule 17g–1 requires, among other things, that a majority of the company's board of directors approve at least annually the arrangements regarding the custody and safekeeping of the company's assets. Applicant requests an exemption from section 17(g) and rule 17g–1 to let the Partnerships comply with rule 17g–1 by having the General Partner's officers and directors take actions and make determinations set forth in the rule. In all other respects, the partnerships will comply with rule 17g–1.

5. Rule 17j–1 requires that every access person of a registered investment company report to such company with respect to transactions in any security in which the access person has, or by reason of the transaction acquires, any direct or indirect beneficial ownership in the security. Applicant requests an exemption from the rule, except for the antifraud provisions set forth in rule 17j–1(a). Applicant asserts that the other provisions of the rule are burdensome and unnecessary as applied to the Partnerships and that the exemption is consistent with the policy of the Act. Applicant contends that the community of interests among the Limited Partners by virtue of their common association in ML&Co. is the best insurance against any abuse at which the rule is aimed.

6. Section 6(c) permits the SEC to exempt any person, security, or transaction from any of the provisions of the Act, or of the rules thereunder, if and to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant submits that the requested exemption satisfies these standards.

7. The Partnerships will be conceived and organized by persons who will be investing in the Partnerships, either directly or indirectly, and will not be promoted by persons seeking to profit from fees or investment advice or from the distribution of securities. Applicant asserts that the requested exemptions are necessary or relevant to the operations of the Partnerships as an investment program uniquely adapted to the needs of the Eligible Employees.

Applicant's Conditions

Applicant agrees that the requested order shall be subject to the following conditions:

1. Each proposed transaction otherwise prohibited by section 17(a) or section 17(d) and rule 17d–1 (the ''Section 17 Transactions'') will be effected only if the General Partner determines that: (a) the terms of the transaction, including the consideration to be paid or received, are fair and reasonable to the partners and do not involve overreaching of the Partnership or its partners on the part of any person concerned; and (b) the transaction is consistent with the interests of the partners, the Partnership's organizational documents, and the Partnership's reports to its partners. In addition, the General Partner will record and preserve a description of such affiliated transactions, their findings, the information or materials upon which their findings are based and the basis therefor. All such records will be maintained for the life of the Partnerships and at least two years thereafter, and will be subject to examination by the SEC and its staff.[3]

2. In connection with the Section 17 Transactions, the General Partner will adopt, and periodically review and update, procedures designed to ensure that reasonable inquiry is made, prior to the consummation of any such transaction, with respect to the possible involvement in the transaction of any affiliated person or promoter of or principal underwriter for the Partnerships, or any affiliated persons of such a person, promoter, or principal underwriter.

3. As a condition to the relief requested from section 17(d) and rule 17d–1, the General partner will not invest the funds of any Partnership in any Investment in which a ''Co-Investor,'' as defined below, has or proposed to acquire the same class of securities of the same issuer, where the Investment involves a joint enterprise or other joint arrangement within the meaning of rule 17d–1 in which the Partnership and the Co-Investor are participants, unless any such Co-Investor, prior to disposing of all or part of its investment, (a) gives the General Partner sufficient, but not less than one day's, notice of its intent to dispose of its investment, and (b) refrains from disposing of its investment unless the Partnership has the opportunity to dispose of the Partnership's investment prior to or concurrently with, and on the same terms as, and pro rata with the Co-Investor. The term ''Co-Investor'' means ML&Co. and any person who is: (a) An ''affiliated person'' (as such term is defined in the Act) of the Partnership; (b) a subsidiary of ML&Co., or other company controlled by ML&Co. or its subsidiaries; (c) an officer or director of a subsidiary of ML&Co., or other company controlled by ML&Co. or its subsidiaries; (d) companies, partnerships, or other investment vehicles offered, sponsored, or managed by a member of the ML Group; (e) any entity with respect to which ML&Co. or its subsidiaries or controlled entities provides management, investment management, or similar services as manager, investment manager, or general partner or in a similar capacity, and for which it may receive compensation, including, without limitation, management fees, performance fees, carried interests entitling it to share disproportionately in income and capital gains or similar compensation; or (f) a company in which an officer or director of the General Partner acts as officer, director, or General Partner, or has a similar capacity to control the sale or other disposition of the company's securities. The restrictions contained in this condition, however, shall not be deemed to limit or prevent the disposition of an investment by a Co-Investor: (a) To its direct or indirect wholly-owned subsidiary, to any company (a ''parent'') of which the Co-Investor is a direct or indirect wholly-owned subsidiary, or to a direct or indirect wholly-owned subsidiary of its parent; (b) to immediate family members of the Co-Investor or a trust established for any Co-Investor or any such family member; (c) when the investment is comprised of securities that are listed on any exchange registered as a national securities exchange under section 6 of the Securities Exchange Act of 1934, as amended (the ''Exchange Act''); or (d) when the investment is comprised of securities that are national market system securities pursuant to section 11A(a)(2) of the Exchange Act and rule 11Aa2–2(T) thereunder.

4. Each Partnership and its General Partner will maintain and preserve, for the life of each such Partnership and at least two years thereafter, such accounts, books, and other documents as constitute the record forming the basis for the audited financial statements that are to be provided to the partners, and each annual report of such Partnership required by the terms of the applicable partnership agreement to be sent to the partners, and agree that all such records will be subject to examination by the SEC and its staff.[4]

5. The General Partner will send to each Limited Partner who had an interest in the Partnership at any time during the fiscal year then ended partnership financial statements audited by the Partnership's independent accountants. At the end of each fiscal year, the General Partner will make an appraisal or have an appraisal made of all of the assets of the Partnership as of such fiscal year end. The appraisal of the Partnership assets may be by independent third parties appointed by the General Partner and deemed qualified by the General Partner to render an opinion as to the value of Partnership assets, using such methods and considering such information relating to the investments, assets, and liabilities of the Partnership as such persons may deem appropriate, but in the case of an event subsequent to the end of the fiscal year materially affecting the value of any Partnership asset or investment, the General Partner may revise the appraisal as it, in its good faith and sole discretion, deems appropriate. In addition, within 90 days after the end of each fiscal year of each of the Partnerships or as soon as practicable thereafter, the General Partner shall send a report to each person who was a Limited Partner at any time during the fiscal year then ended, setting forth such tax information as shall be necessary for the preparation by the Limited Partner of his or her federal and state income tax returns and a report of the investment activities of the Partnership during such a year.

6. In any case where purchases or sales are made from or to an entity affiliated with a partnership by reason of a 5% or more investment in such entity by a director, officer, or employee of ML&Co. or any of its affiliates, any

[3] Each Partnership will preserve the accounts, books and other documents required to be maintained in an easily accessible place for the first two years.

[4] Each Partnership will preserve the accounts, books, and other documents required to be maintained in an easily accessible place for the first two years.

such individual will not participate in the General Partner's determination of whether or not to effect such purchase or sale.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–5645 Filed 3–7–95; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 20934; International Series Release No. 789; 812–9262]

Mellon Bank, N.A.; Notice of Application

March 1, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Mellon Bank, N.A. (''MBNA'').

RELEVANT ACT SECTIONS: Sections 6(c) and 17(f).

SUMMARY OF APPLICATION: MBNA seeks an order under section 6(c) of the Act granting an exemption from section 17(f). The order would allow United States registered investment companies other than investment companies registered under section 7(d) (a ''U.S. Investment Company''), for which MBNA serves as custodian or subcustodian, to maintain foreign securities and assets in the United Kingdom with Mellon Europe Limited (''MEL''), a wholly-owned subsidiary of MBNA.

FILING DATES: The application was filed on September 29, 1994 and amended on February 23, 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 March 27, 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. Applicants, Mellon Bank, N.A., One Mellon Bank Center, Pittsburgh, Pennsylvania 15258-0001.

FOR FURTHER INFORMATION CONTACT: Marianne H. Khawly, Staff Attorney, at (202) 942–0562, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Mranagement, 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. MBNA requests an order to allow MBNA, any U.S. Investment Company, and any custodian for a U.S. Investment Company to maintain foreign securities, cash, and cash equivalents (collectively, ''assets'') in the custody of MEL. For the purposes of this application, ''foreign securities'' includes: (a) securities issued and sold primarily outside the United States by a foreign government, a national of any foreign country, or a corporation or other organization incorporated or organized under the laws of any foreign country; and (b) securities issued or guaranteed by the Government of the United States or by any state or any political subdivision thereof of by any agency thereof or by any entity organized under the laws of the United States or of any state thereof which have been issued and sold primarily outside the United States.

2. MBNA is a national banking association organized and existing under the laws of the United States. MBNA is regulated by the Office of the Comptroller of the Currency and is subject to the National Bank Act. As of December 31, 1993, MBNA had aggregate capital, surplus, and undivided profits in excess of $2,460,000,000. MBNA is a wholly-owned direct subsidiary of Mellon Bank Corporation (''Mellon''), a Pennsylvania corporation qualified as a bank holding company under the Bank Holding Company Act of 1956.

3. MEL is a wholly-owned subsidiary of MBNA and is regulated by the Bank of England under the Banking Act of 1987. As of December 31, 1993, MEL had shareholders' equity slightly in excess of $10,000,000.

4. Boston Safe Deposit and Trust Company (''Boston Safe'') is a subsidiary of The Boston Company, Inc. Boston Safe is organized as a trust company under Massachusetts law and is regulated by the Massachusetts Commissioner of Banks. In May 1993, Mellon acquired The Boston Company, Inc. and its subsidiaries, including Boston Safe. A major business unit of Boston Safe is Global Securities Services, which provides international financial and securities processing services, including global custody, and is qualified to hold U.S. Investment Company assets under section 17(f) of the Act.

5. Mellon proposes to transfer the custody activities of the London branch of Boston Safe to MEL by transferring to MEL the operations and assets of the Global Custody Department of Boston Safe. Assets of U.S. Investment Companies held by the London branch of Boston Safe will not be transferred to MEL prior to the issuance of the requested order.[1] Thereafter, MBNA, as custodian or sub-custodian for a U.S. Investment Company, will deposit, or cause or permit a U.S. Investment Company to deposit, its assets with MEL. In the alternative, MEL, as custodian or subcustodian will receive and hold the assets of a U.S. Investment Company directly from such U.S. Investment Company, its custodian or subcustodian, other than MBNA but including Boston Safe.

Applicant's Legal Analysis

1. Section 17(f) of the Act requires every registered management investment company to place and maintain its securities and similar investments in the custody of certain enumerated entities, including bank having at all times aggregate capital, surplus, and undivided profits of at least $500,000. A ''bank'', as that term is defined in section 2(a)(5) of the Act, includes: (a) a banking institution organized under the laws of the United States; (b) a member bank of the Federal Reserve System; and (c) any other banking institution or trust company, whether incorporated or not, doing business under the laws of any state or of the United States, a substantial portion of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to national banks, which is supervised or examined by state or federal authority having supervision over banks, and which is not operated for the purposes of evading the Act.

2. The only entities located outside the United States which section 17(f) authorizes to serve as custodians for registered management investment companies are the overseas branches of qualified U.S. banks. Rule 17f-5 expands

[1] Until the requested order is issued, U.S. Investment Company assets will continue to be held by the London branch of Boston Safe or another custodian that qualifies under section 17(f) of the Act.

the group of entities that are permitted to serve as foreign custodians. Rule 17f-5(c)(2)(ii) defines the term ''Eligible Foreign Custodian'' to include a majority-owned direct or indirect subsidiary of a qualified U.S. bank or bank holding company that is incorporated or organized under the laws of country other than the United States and that has shareholders' equity in excess of $100,000,000. MBNA is a qualified U.S. bank since it is a bank as defined in rule 17f-5(c)(3) and it has aggregate capital, surplus, and undivided profits of at least $500,000.

3. MEL satisfies the requirements of rule 17f-5 insofar as it is a majority-owned direct or indirect foreign subsidiary of a qualified U.S. bank or bank holding company. MEL does not, however, meet the minimum shareholders' equity requirement of rule 17f-5. Accordingly, MEL is not an Eligible Foreign Custodian under rule 17f-5 and, absent exemptive relief, could not serve as a custodian for the assets of U.S. Investment Companies.

4. Section 6(c) provides, in relevant part, that the SEC may, conditionally or unconditionally, by other, exempt any person or class of persons from any provision of the Act or from any rule thereunder, if such exemption is necessary or appropriate in the public interest, consistent with the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Act. MBNA submits that its request satisfies this standard.

Applicant's Conditions

Applicant agrees that any order of the SEC granting the requested relief shall be subject to the following conditions:

1. The foreign custody arrangements proposed regarding MEL satisfy the requirements of rule 17f-5 in all respects other than MEL's level of shareholder equity.

2. MBNA, any U.S. Investment Company, and any custodian for a U.S. Investment Company, will deposit assets with MEL only in accordance with an agreement (the ''Agreement'') required to remain in effect at all times during which MEL fails to satisfy the requirements of rule 17f-5 (and during which such assets remain deposited with MEL). Each Agreement will be three party agreement among (a) MBNA, (b) MEL, and (c) the U.S. Investment Company or any custodian for a U.S. Investment Company (including Boston Safe) pursuant to which MBNA or MEL, as the case may be, will undertake to provide specified custody services. If MBNA is to provide such services, the Agreement will authorize MBNA to delegate to MEL such of the duties and obligations of MBNA as will be necessary to permit MEL to hold in custody the U.S. Investment Company's assets. If MEL is to provide service directly, no such delegation will be necessary. However, in either case, the Agreement will provide that MBNA will be liable for any loss, damage, cost, expense, liability, or claim arising out of or in connection with the performance by MEL of its responsibilities under the Agreement to the same extent as if MBNA had itself been required to provide custody services under the Agreement. Further, the Agreement will provide that, in the event of loss, the U.S. Investment Company or its custodian may pursue a claim for recovery against MBNA, regardless of whether MEL acted as MBNA's delegate or as direct custodian or subcustodian.

3. MBNA currently satisfies and will continue to satisfy the minimum requirements for a qualified U.S. bank set forth in sections 2(a)(5) and 17(f) of the Act.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–5581 Filed 3–7–95; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Honolulu District Advisory Council Meeting

The U.S. Small Business Administration Honolulu District Advisory Council will hold a public meeting on Tuesday, March 14, 1995 at 9:30 a.m. at the Business Information and Counseling Center, 130 Merchant Street, Suite 1030, Honolulu, Hawaii, 96813 to discuss matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. Andrew K. Poepoe, Director, U.S. Small Business Administration, 300 Ala Moana Boulevard, Room 2314, Honolulu, Hawaii 968503, (808) 541–2965.

Dated: February 27, 1995.

Dorothy A. Overal,

Director, Office of Advisory Council.

[FR Doc. 95–5608 Filed 3–7–95; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[Public Notice 2172]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea Working Group on Radiocommunications and Search and Rescue; Notice of Meetings

The Working Group on Radiocommunications and Search and Rescue of the Subcommittee on Safety of Life at Sea will conduct open meetings at 9:30 a.m. on Thursday, April 20, Wednesday, June 14, Thursday, August 17, Thursday, September 21, Thursday, October 19, Wednesday, November 15, and Thursday, December 21, 1995. These meetings will be held in the Department of Transportation Headquarters Building, 400 Seventh Street, SW., Washington, DC 20950. The purpose of these meetings is to discuss the papers received and the draft U.S. positions in preparation for the 1st Session of the International Maritime Organization (IMO) Subcommittee on Radiocommunications and Search and Rescue which is scheduled for February 19, 1996, at the IMO headquarters in London, England.

Among other things, the items of particular interest are:

—The implementation of the Global Maritime Distress and Safety System (GMDSS).

—Maritime Search and Rescue matters.

Further information, including meeting agendas, minutes, and input papers, can be obtained from the Coast Guard Navigation Information Center computer bulletin board, accessible by modem by dialing: (703) 313–5910. The computer is also accessible through Internet by entering: ''Telnet fedworld.gov.'' logging on, and entering: ''udd54'', at the first menu.

Members of the public may attend these meetings up to the seating capacity of the rooms. Interested persons may seek information, including meeting room numbers, by writing: Mr. Ronald J. Grandmaison, U.S. Coast Guard Headquarters, Commandant (G–TTM), Room 6306, 2100 Second Street, SW., Washington, DC 20593–0001, by calling: (202) 267–1389, or by sending Internet electronic mail to cgcomms/g-t@cgsmtp.comdt.uscg.mil.

Dated: February 21, 1995.

Charles A. Mast,

Chairman, Shipping Coordinating Committee.

[FR Doc. 95–5565 Filed 3–7–95; 8:45 am]

BILLING CODE 4710–70–M

[Public Notice 2173]

Shipping Coordinating Committee Subcommittee on Standards of Training and Watchkeeping; Notice of Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 10 am on Monday, April 10, 1995, in Room 2415 of the United States Coast Guard Headquarters Building, 2100 2nd Street SW., Washington DC 20593–0001. The purpose of the meeting is to review the outcome of the twenty-seventh session of the International Maritime Organization (IMO) Sub-Committee on Standards of Training and Watchkeeping (STW), particularly as it relates to the revision of the International Convention of Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW) and preparations for 1995 STCW Conference to be held at IMO from June 26 to July 7, 1995.

Members of the public may attend the meeting up to the seating capacity of the room. Interested persons may seek information by writing: Mr. Christopher Young, U.S. Coast Guard (G–MVP–4), Room 1210, 2100 Second Street SW., Washington, DC 20593–0001 or by calling: (202) 267–0229.

Dated: February 21, 1995.

Charles A. Mast,

Chairman, Shipping Coordinating Committee.

[FR Doc. 95–5564 Filed 3–7–95; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket 49152 and Order 95–2–44]

Order on Discussion Authority Regarding Limits and Conditions of Passenger Liability Established by the Warsaw Convention

SUMMARY: We are publishing the entire order as an appendix to this document.

DATES: Issued in Washington, D.C., February 22, 1995.

EFFECTIVE DATE: February 28, 1995.

FOR FURTHER INFORMATION CONTACT: Peter Bloch, U.S. Department of Transportation, Office of the Assistant General Counsel for International Law, Room 10105, 400 Seventh Street, S.W., Washington, D.C. 20590. (202) 366–9183.

Patrick V. Murphy,

Acting Assistant Secretary for Aviation and International Affairs.

Order

On September 24, 1993, the International Air Transport Association (IATA) filed an application requesting approval of, and antitrust immunity for, intercarrier discussions concerning the limits and conditions of passenger liability established by the Warsaw Convention (Convention).

IATA states that pending ratification and entry into force of Montreal Protocols Numbers 3 and 4 to the Convention, there is a need for interim passenger liability rules that are adequate to current day standards of compensation. The current regime, as embodied in the Montreal intercarrier agreement of 1966 (Agreement) and which covers all carriers serving the United States, establishes a liability limit of $75,000 for personal injury and death.[1] Adjusted for inflation, IATA notes that this amount would be over $300,000 in today's dollars. Despite this, adherence to the Agreement's $75,000 limit continues to be a condition for all carriers to operate to the Untied States. Against this background, IATA states that air carrier parties to the Agreement need the authority to discuss bringing the Agreement up to date. It states that such discussions may include possible amendments to, or replacements for, this Agreement. IATA states that its request for discussion authority and antitrust immunity is consistent with Department precedent.

No answers were filed in response to the IATA application.

Decision

The Department has decided to grant the requested discussion immunity subject to the conditions described below. The United States has a firmly-established policy that liability limits should be adequate to contemporary standards of compensation and that the current regime needs to be updated to provide sufficient protection to the traveling public. We are granting the application because the discussions proposed by IATA may bring about an interim solution that will serve either until Montreal Protocols 3 and 4 are ratified and enter into force, or until negotiation and entry into force of a new Convention meeting all U.S. requirements.

We may authorize intercarrier discussions and grant them antitrust immunity where we find that the discussions are necessary to meet a serious transportation need or to achieve important public benefits and that such benefits or need cannot be secured by reasonably available alternatives that are materially less anticompetitive.[2] 49 U.S.C. 41308, 41309.

The purpose of the discussions in this case is to secure the important public benefit of a liability regime that reflects contemporary standards of compensation. The discussions are consistent with a strong and long-standing Department policy of seeking a uniform set of passenger liability rules that meet today's needs.

We find that there are no reasonably available alternatives to the requested discussions having a materially less anticompetitive effect. The best alternative, of course, is an international agreement such as the Montreal Protocols and Supplemental Compensation Plan, but it is because that approach has proven to be such a complex and lengthy one, and given the pressing need to have an updated liability regime, that we are entertaining this discussion authority request. Another alternative would be to allow individual carriers to apply to the Department for modifications to their tariffs and conditions of carriage to implement individual new special contracts under Article 22 of the Convention. We do not believe that approach is workable. Some carriers would probably attempt this, while others would not. Those that did would likely offer contracts with different terms from one another. One clear and unacceptable result of such an approach would be that portions of the traveling public would not be adequately protected. A final alternative would be for the United States to unilaterally establish a regime that all carriers operating to the United States would have to abide by. This approach, however, could engender such significant opposition from our trading partners that our ability to implement the plan unilaterally could very well be jeopardized.

We also find that the requested approval and grant of antitrust immunity to discuss an interim liability regime is appropriately limited in nature and well-calculated to achieve a result consistent with our objective of having in place a liability regime that reflects contemporary standards of compensation. IATA seeks discussions geared toward producing a temporary arrangement, recognizing the immediate need to increase the liability limits through a uniform system of rules. This is fully consistent with our objectives. IATA would announce a place and date for such discussions and has said that it would invite all its member carriers.

IATA requests that we not impose conditions on such discussions that would restrict the ability of the participant carriers to consider all options in structuring a liability regime. We will not impose conditions other than those that we consider standard and which we have set out below. However, we believe that in constructing any intercarrier agreement, the participants should seek to reflect the basic objectives which we have pursued in our efforts to secure ratification of the Montreal Protocols and creation of a supplemental compensation

[1] The Warsaw Convention, to which the United States became a party in 1934, established a number of uniform rules regarding international air transportation, including in Article 22 an air carrier liability limit of approximately $10,000 for each passenger injury or death, absent a finding of willful misconduct. The Hague Protocol of 1955, which doubled the liability limit, was not ratified by the United States. Rather, in 1966, the carriers serving the United States agreed to adopt a special contract under Article 22, establishing what remains the current regime (Agreement CAB 18900, approved by Order E–23680, May 13, 1966) (Docket 17325). Under the Agreement's terms, these carriers also agreed not to avail themselves of the defense of non-negligence under Article 20(1) of the Convention for claims under that amount.

[2] We assume for the purposes of our decision here that the proposed discussions could reduce competition among carriers.

plan. We have strived for a uniform international system that allows U.S. victims to receive fair recoveries within a reasonable period of time. Specifically, we would expect that any agreement reached by the carriers would be consistent with the following guidelines: first, with regard to passenger claims arising from international journeys ticketed in the United States, passengers would be entitled to prompt and complete compensation on a strict liability basis with no per passenger limits and with measures of damages consistent with those available in cases arising in U.S. domestic air transportation; second, this coverage should be extended to U.S. citizens and permanent residents traveling internationally on tickets not issued in the United States.

We have decided to grant the request for discussion authority and antitrust immunity in this order, rather than through a show-cause proceeding. The discussions sought by the applicants seek to carry out our established public policy goal, the modernization of passenger liability limits. Implementing that goal as soon as possible will redound to the immediate benefit of the traveling public and therefore provide important public benefits. We are willing to grant antitrust immunity in this instance because, unlike most situations where it has been sought, the purpose of the discussions at issue here is fully consistent with the public interest. Furthermore, any agreement reached by the carriers may not be implemented without our approval, and interested persons will have an opportunity to comment on any application for such approval.

In addition, to minimize any adverse impact on the public interest, we will condition our approval and grant of antitrust immunity upon the following express conditions: (1) The discussion authority is limited to 120 days from the date of publication of this order; (2) advance notice of any meeting shall be given to all U.S. and foreign air carriers as well as to the Department of Transportation and the Department of Justice; (3) representatives of the Department of Transportation and the Department of Justice shall be permitted to attend the meetings authorized by this order; (4) IATA shall file within 14 days with the Department a report of each meeting held including inter alia the date, place, attendance, a copy of any information submitted to the meeting by any participant, and a summary of the discussions and any proposed agreements; (5) any agreement reached must be submitted to the Department for approval and must be approved before its implementation; (6) the attendees at such meetings must not discuss rates, fares or capacity, except to the extent necessary to discuss ticket price additions reflecting the cost of any passenger compensation plan; and (7) the discussions will be held in the metropolitan Washington, D.C. area.

Accordingly

1. The Department approves the request for discussion authority filed by IATA in this docket, subject to the restrictions listed below, under section 41308 of title 49 of the United States Code, for 120 days from the date of publication of this order, for discussions directed toward producing a uniform set of passenger liability limits;

2. The Department exempts persons participating in the discussions approved by this order from the operation of the antitrust laws under section 41309 of Title 49 of the United States Code;

3. The Department's approval is subject to the following conditions:

(a) Advance notice of any meeting shall be given to all identifiably interested U.S. air carriers and foreign air carriers, as well as to the Department of Transportation and the Department of Justice;

(b) Representatives of the entities listed in subparagraph (a) above shall be permitted to attend all meetings authorized by this order;

(c) IATA shall file within 14 days with the Department a report of each meeting held including inter alia the date, place, attendance, a copy of any information submitted to the meeting by any participant, and a summary of the discussions and any proposed agreements;

(d) Any agreement reached must be submitted to the Department for approval and must be approved before its implementation;

(e) Attendees at such meetings must not discuss rates, fares or capacity, except to the extent necessary to discuss ticket price additions reflecting the cost of any passenger compensation plan;

(f) The Department shall retain jurisdiction over the discussions to take such further action at any time, without a hearing, as it may deem appropriate; and

(g) Any meetings authorized by this order shall be held in the metropolitan Washington, D.C. area.

4. Petitions for reconsideration may be filed pursuant to our rules in response to this order;

5. We will serve a copy of this order on all parties served by IATA in this docket, as indicated by the service list attached to its application; and

6. We will publish a copy of this order in the **Federal Register**.

Patrick V. Murphy,

Acting Assistant Secretary for Aviation and International Affairs.

[FR Doc. 95–5588 Filed 3–7–95; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

[Summary Notice No. PE–95–11]

Petitions for Exemption: Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before March 28, 1995.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, D.C. 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. D. Michael Smith, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7470.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on March 1, 1995.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 27985
Petitioner: Captain Donald Herbert Fisher
Sections of the FAR Affected: 14 CFR 121.383(c)
Description of Relief Sought: To allow Captain Fisher to pilot an aircraft operated under part 121 of the FAR after reaching his 60th birthday.

Docket No.: 27988
Petitioner: Mr. Everett Eugene York
Sections of the FAR Affected: 14 CFR 121.383(c)
Description of Relief Sought: To allow Mr. York to be a pilot in operations conducted under part 121 of the FAR after reaching his 60th birthday.

Docket No.: 28002

Petitioner: Mr. Robert E. Salmen
Sections of the FAR Affected: 14 CFR 121.383(c)
Description of Relief Sought: To permit Mr. Salmen to be a pilot in operations conducted under part 121 of the FAR after reaching his 60th birthday.

Docket No.: 28035
Petitioner: Mr. Richard E. Randle
Sections of the FAR Affected: 14 CFR 121.383(c)
Description of Relief Sought: To permit Mr. Randle to act as a pilot in operations conducted under part 121 of the FAR after reaching his 60th birthday.

Docket No.: 28036
Petitioner: Mr. Kenneth A. Urdahl
Sections of the FAR Affected: 14 CFR 121.383(c)
Description of Relief Sought: To permit Mr. Urdahl to be a pilot in operations conducted under part 121 of the FAR after reaching his 60th birthday.

Docket No.: 28065
Petitioner: Mr. Russell C. Hazelton
Sections of the FAR Affected: 14 CFR 121.383(c)
Description of Relief Sought: To permit Mr. Hazelton to act as a pilot in operations conducted under part 121 of the FAR after reaching his 60th birthday.

Docket No.: 28075
Petitioner: Chelan County Fire District 1
Sections of the FAR Affected: 14 CFR parts 1 and 11; SFAR 38–2
Description of Relief Sought: To allow Chelan County to continue to operate its Bell UH–1B helicopter in a public aircraft status. The petitioner requests this exemption pursuant to the Public Aircraft Definition and Exemption Authority rule.

Dispositions of Petitions

Docket No.: 27122
Petitioner: Air Tractor, Inc.
Sections of the FAR Affected: 14 CFR 61.31(a)(1)
Description of Relief Sought/ Disposition: To extend Exemption No. 5651, as amended, which permits Air Tractor, Inc., and pilots of the Air Tractor models AT–802 and AT–802A to operate these airplanes without holding a type rating, although maximum gross weight of these airplanes exceeds 12,500 pounds. *Grant, January 18, 1995, Exemption No. 5651B*

Docket No.: 27966
Petitioner: Reeve Aleution Airways, Inc.
Sections of the FAR Affected: 14 CFR 121.356(a)
Description of Relief Sought/ Disposition: To allow Reeve Aleution Airway, Inc., permanent exemption from § 121.356(a) of the FAR to the extent necessary to permit Reeve Aleution to operate its three remaining Lockheed L–188 aircraft within the State of Alaska, after April 1, 1995, without installation of TCAS II technology. *Denial, February 16, 1995, Exemption No. 6030*

Docket No.: 27845
Petitioner: Learjet Inc.
Sections of the FAR Affected: 14 CFR 25.571(e)(1)
Description of Relief Sought/ Disposition: To permit Learjet Inc., to be exempt from the 4-pound bird strike requirement of § 25.571(e)(1) from Vc at sea level to 8,000 feet in favor of Vc at sea level or .85 Vc at 8,000 feet, whichever is greater. *Partial Grant, January 26, 1995, Exemption No. 6021*

[FR Doc. 95–5638 Filed 3–7–95; 8:45 am]
BILLING CODE 4910–13–M

[Summary Notice No. PE–95–10]

Petitions for Exemption: Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before March 28, 1995.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, D.C. 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Indpendence Avenue, SW., Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. D. Michael Smith, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7470.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on February 27, 1995.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 24466
Petitioner: Air Transport Association
Sections of the FAR Affected: 14 CFR 121.485
Description of Relief Sought: To extend Exemption No. 4317, as amended, which permits member carriers of the Air Transport Association to conduct flights of fewer than 12 hours duration with an airplane having a crew of three or more pilots and an additional flight crewmember without requiring the rest period following that flight to be twice the hours flown since the last rest period at his/her home base.

Docket No.: 28010
Petitioner: General Electric Company
Sections of the FAR Affected: 14 CFR 21.128(a)(2)
Description of Relief Sought: To permit General Electric to deliver certain pre-type-certificated prototype engines (CFM56–5C4) manufactured and assembled under conformity configuration control, without subjecting the engine to a test run that includes at least 5 hours of operation at rated maximum continuous power or thrust. For engines having a rated takeoff power or thrust higher than rated maximum continuous power or thrust, the 5-hour run must include 30 minutes at rated takeoff power or thrust.

Dispositions of Petitions

Docket No.: 23453
Petitioner: Hawaiian Airlines
Sections of the FAR Affected: 14 CFR 108.5(a)(1)
Description of Relief Sought/ Disposition: To permit Hawaiian Airlines to utilize its DC–9 aircraft without a security program that meets the requirements of § 108.7. The DC–

9 aircraft would be a last minute replacement for its DASH–7 equipment. Hawaiian Airlines has confirmed that this exemption is no longer necessary; therefore, this current exemption documents the termination of the original exemption. *Termination, February 8, 1995, Exemption No. 3796A*

Docket No.: 23980
Petitioner: United States Hang Gliding Association, Inc.
Sections of the FAR Affected: 14 CFR 103.1
Description of Relief Sought/ Disposition: To amend Exemption No. 4144, as amended, which allows unpowered ultralight vehicles to be towed aloft by powered ultralight vehicles operated by individuals authorized by the United States Hang Gliding Association, Inc. The amendment would have allowed an increase to the weight limit for single-place powered ultralight vehicles, used in air-to-air towing operations only, up to 360 pounds empty weight. Additionally, this petition would have allowed an increase to the weight limit for two-place powered ultralight vehicles, used in air-to-air towing operations only, up to 496 pounds empty weight. Exemption No. 4144, as amended, stand as is; the amendment is denied. *Denied, February 10, 1995, Exemption No. 6024*

Docket No.: 26067
Petitioner: SimuFlite Training International
Sections of the FAR Affected: 14 CFR appendix H of part 121; 135.293; 135.297; 135.299; 135.303; 135.337(a)(2), (a)(3), and (b)(2); and 135.339(a)(2), (b), and (c)
Description of Relief Sought/ Disposition: To extend and amend Exemption No. 5187B, which permits SimuFlite, subject to certain conditions and limitations, to use its qualified instructor pilots or pilot check airmen in approved simulators to train and check the pilots of part 135 certificate holders that contract with SimuFlite for training. The amendment restores the conditions and limitations that existed prior to the issuance of Exemption No. 5187B, except for some minor clarifications. *Grant, February 2, 1995, Exemption No. 5187C*

Docket No.: 26302
Petitioner: FlightSafety International
Sections of the FAR Affected: 14 CFR appendix H of part 121; 135.293; 135.297; 135.299; 135.337(a)(2), (a)(3), and (b)(2); and 135.339(a)(2), (b), and (c)
Description of Relief Sought/ Disposition: To extend and amend Exemption No. 5241D, which permits FlightSafety International (FSI), subject to certain conditions and limitations, to use its qualified instructor pilots or pilot check airmen in approved simulators to train and check the pilots of part 135 certificate holders that contract with FSI for training. The amendment restores the conditions and limitations that existed prior to the issuance of Exemption No. 5241D, except for some minor clarifications. *Grant, February 1, 1995, Exemption No. 5241E*

Docket No.: 27121
Petitioner: Tower Air
Sections of the FAR Affected: 14 CFR appendix H of part 121
Description of Relief Sought/ Disposition: To extend and amend Exemption No. 5596, as amended, which allows Tower Air to provide initial or upgrade training and checking in a Phase II (Level C) simulator and allows certain experienced pilots and flight engineers who have received training in a Phase II (Level C) simulator to be B747 seconds in command (SIC) in accordance with the training and checking provisions permitted under Phase III (Level D) of appendix H. The amendment revises the exemption to permit former military pilots with large turbojet experience to be trained and checked in a B747 Phase II (Level C) simulator without receiving any training or checking in the actual aircraft. *Grant, February 3, 1995, Exemption No. 5596C*

Docket No.: 27947
Petitioner: Jet Support Systems, Inc.
Sections of the FAR Affected: 14 CFR 135.165(b)(6) and (7)
Description of Relief Sought/ Disposition: To allow Jet Support Systems, Inc., to operate turbojet aircraft in extended overwater operations equipped with one high frequency communication system. *Grant, February 8, 1995, Exemption No. 6026*

Docket No.: 27968
Petitioner: Corporate Air
Sections of the FAR Affected: 14 CFR 121.345(c)(2) and 135.143(c)(2)
Description of Relief Sought/ Disposition: To permit Corporate Air to operate without a TSO–C112 (Mode S) transponder installed on its aircraft operating under the provision of parts 121 and 135. *Grant, February 7, 1995, Exemption No. 6025*

Docket No.: 27960
Petitioner: Atlas Air Inc.
Sections of the FAR Affected: 14 CFR appendix H of part 121
Description of Relief Sought/ Disposition: To extend and amend Exemption No. 5888, which allows Atlas Air Inc., to provide initial or upgrade training and checking in a Phase II (Level C) simulator and allows certain experienced pilots and flight engineers who have received training in a Phase II (Level C) simulator to be B–747 seconds in command (SIC) in accordance with the training and checking provisions permitted under Phase III (Level D) of appendix H. The amendment revises paragraph 4.a of the conditions and limitations to require two manual takeoffs and landings instead of the four manual takeoffs and landings currently required. *Partial Grant, February 3, 1995, Exemption No. 5888A*

Docket No.: 28058
Petitioner: Blackhawk International Airways
Sections of the FAR Affected: 14 CFR 135.143(c)(2)
Description of Relief Sought/ Disposition: To permit Blackhawk International Airways to operate without a TSO–C112 (Mode S) transponder installed on its aircraft operating under the provisions of part 135. *Grant, February 3, 1995, Exemption No. 6022*

Docket No.: 27859
Petitioner: Professional Airline Training, Inc.
Sections of the FAR Affected: 14 CFR 61.55(b)(2); 61.56(c)(1); 61.57(c) and (d); 61.58(c)(1) and (d); 61.63(c)(2) and (d)(2) and (3); 61.65(c), (e)(2) and (3), and (g); 61.67(d)(2); 61.157(d)(1) and (2) and (e)(1) and (2); 61.191(c); and appendix A of part 61
Description of Relief Sought/ Disposition: To permit Professional Airline Training, Inc., to use FAA-approved simulators to meet certain flight experience requirements of part 61 of the FAR. *Grant, February 3, 1995, Exemption No. 5988*

[FR Doc. 95–5637 Filed 3–7–95; 8:45 am]
BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Use the Revenues From a Passenger Facility Charge (PFC) at Albany County Airport, Albany, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to notice of intent to rule on application to use the revenues from a passenger facility charge (PFC) at

Albany County Airport, Albany, New York.

SUMMARY: This correction incorporates information from the public agency's application which were omitted from the previously published notice.

In notice document 95–4211 beginning on Page 9717 in the issue of Tuesday, February 21, 1995, on the second column, the last paragraph should read as follows:

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenues from a PFC at Albany County Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

On December 22, 1994, the FAA determined that the application to use the revenues from a PFC submitted by the County of Albany was substantially complete within the requirements of Section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than March 22, 1995.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: March 1, 1994.

Proposed charge expiration date: April 1, 2005.

Total estimated PFC revenue: $40,726,364.

Brief description of proposed projects:

—Terminal Building Renovation
—Runway and Taxiway Improvements
—Flood Management Improvements
—Air Traffic Control Tower
—Environmental Remediation
—New Interior Roadways
—Airport Studies
—Airport Equipment

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators (ATCO) filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports office located at Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Albany County Airport.

Issued in Jamaica, New York on February 28, 1995.

Anthony P. Spera,

Acting Manager, Airports Division.

[FR Doc. 95–5640 Filed 3–7–95; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Use the Revenue From a Passenger Facility Charge (PFC) at Capital Airport; Springfield, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Capital Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before April 7, 1995.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Chicago Airports District Office, 2300 East Devon Ave., Room 258, Des Plaines, Illinois 60018.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Robert W. O'Brien, Jr., Director of Aviation of the Springfield Airport Authority at the following address: Capital Airport, Springfield Airport Authority, Springfield, Illinois 62707.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Springfield Airport Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Louis H. Yates, Manager, Chicago Airports District Office, 2300 East Devon Ave., Room 258, Des Plaines, Illinois 60018, (708) 294–7335. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Capital Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

On February 17, 1995, the FAA determined that the application to use the revenue from a PFC submitted by the Springfield Airport Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than May 29, 1995.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Actual charge effective date: February 1, 1994.

Estimated charge expiration date: January 31, 2006.

Total approved net PFC revenue: $4,585,443.00.

Brief description of proposed project(s):

1. Acquisition of Miller Property
2. Rehabilitate Entrance Road
3. Acquisition of Proximity Suits
4. Acquisition of a Front End Loader
5. Terminal Building Expansion

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: On Demand Air Taxis.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Springfield Airport Authority.

Issued in Des Plaines, Illinois on February 28, 1995.

Benito De Leon,

Manager, Planning and Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 95–5639 Filed 3–7–95; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Lynchburg Regional Airport, Lynchburg, VA

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 Impose and use the revenue from a PFC at Lynchburg Regional under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before April 7, 1995.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Washington Airports District Office, 101 West Broad Street, Suite 300, Falls Church, Virginia 22046.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to David E. Blain Airport Manager at the City of Lynchburg, Virginia at the following address: 4308 Wards Road, Suite 100, Lynchburg, Virginia 24502–3532.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Lynchburg, Virginia under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Mendez, Manager, Washington Airports District Office, 101 West Broad Street, Suite 300, Falls Church, Virginia 22046.

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 impose and use the revenue from a PFC at Lynchburg Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

On December 29, 1995, the FAA determined that the application to impose and use the revenue from a PFC submitted by the City of Lynchburg was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than April 15, 1995.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: July 1, 1995.

Proposed charge expiration date: June 30, 1999.

Total estimated PFC revenue: $921,000.

Brief description of proposed project:

—Purchase ARFF Equipment
—Upgrade Airfield Signage
—Remove Obstruction, Runway 17/35 Approach Zone
—Master Plan
—FAR 107.14 Airfield Security
—Purchase Handicap Lift
—Rehabilitate Runway 3/21 Lights
—Land Acquisition Noise Mitigation
—Land Acquisition Part 77
—Overlay Runway 17/35
—Purchase Snow Blower (Impose Only)
—Construct Snow Equipment Maintenance Building (Impose Only)

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators (ACTO) Filing FAA From 1800–31.

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: Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Lynchburg Regional Airport.

Issued in Jamaica, New York State on February 28, 1995.

Anthony P. Spera,

Acting Manager, Airports Division, Eastern Region.

[FR Doc. 95–5641 Filed 3–7–95; 8:45 am]

BILLING CODE 4910–13–M

Federal Railroad Administration

Petition for Exemption or Waiver of Compliance

In accordance with Title 49 CFR §§ 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received requests for exemptions from or waivers of compliance with a requirement of its safety standards. The individual petitions are described below, including the party seeking relief, the regulatory provisions involved, and the nature of the relief being requested.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.*, Waiver Petition Docket Number RSOP–94–4) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. Communications received before April 10, 1995, will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) in Room 8201, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

The individual petitions seeking an exemption or waiver of compliance are as follows:

American President Lines, Limited and APL Land Transport Services, Inc. (APL) (Waiver Petition Docket Number RSOP–94–4)

The American President Lines, Limited and the APL seek a permanent waiver of compliance with certain provisions of the Railroad Operating Practices regulation (49 CFR Part 218) for derail and blue signal requirements. APL is seeking relief from the requirements of § 218.29(c)(1) which states: ''(c) Except as provided in paragraphs (a) and (b) of this section, when workers are on, under, or between rolling equipment on any track, other than main track: (1) A derail capable of restricting access to that portion of the track on which such equipment is located, will fulfill the requirements of a manually operated switch when positioned no less than 150 feet from the end [of] such equipment * * *''

A new container port facility and rail yard, which will be operated by an APL subsidiary, are being designed and built by the Port of Los Angeles. The new facility is designed to load and unload intermodal trains and is expected to be occupied by the first quarter of 1997. The yard will have the capacity to store up to 78 stack train cars with each such car being a maximum of 337 feet long. There will be 10 parallel spur tracks entering the yard from the north-end with a single run-around track to the north of the working tracks. The 10 spurs are arranged in sets of two parallel tracks which will be serviced by gantry cranes for loading and unloading. The 10 spurs rejoin at the south-end to service a single spur which runs along the wharf structure to a ''dead end.'' In the center of the yard is a 70-foot wide crossing aisle that divides each spur. On each side of the aisle, APL plans to load and unload three to five stack cars on each of the 10 tracks. The 10 tracks will each be about 2,800 feet in length, and the yard will be approximately 3,700 feet in length by 500 feet in width. APL intends to load or unload trains on all 10 spurs simultaneously. To protect its workmen, APL plans to install blue lights and derailers 5 feet beyond the edge on both sides of the aisle. The 5-foot area between the edge of the aisle and the derailer and blue light signal will be a surface that will immediately

dampen the progress of any car that is derailed, so that the car will stop moving before the face of the coupler reaches the aisle. The blue light, derail and red light will all be remotely and automatically controlled from a tower that is within 1,500 feet of the aisle and will have a continuous uninterrupted view of the yard. There will also be a blue light signal and derail across the aisle, 80 feet from the other blue light and derail, in essence providing dual protection for the workmen.

The facility will load and unload ships and intermodal unit trains. In a typical operation, a loaded train will enter the yard from the north, pulling enough cars to fill the first track. The speed limit in the yard will be 5 mph. The locomotive will pull these cars onto the first track, where a cut will be made just before the aisle, and those cars to be unloaded on the north side of the aisle will be set out. The locomotive will then pull the rest of the cars onto the track south of the aisle where they will be set out. The locomotive will then exit the first track, proceed north on the run-around track to the north of the yard and pick-up another cut of cars to fill the second track. This will continue until the incoming train is spotted or all 10 tracks are filled. Excess cars can be spotted in a storage yard northeast of and adjacent to the main yard. During the process, once each cut of cars is set out on the appropriate track, the blue lights and derails will be set.

At that point, from one to four gantry type cranes may be used to unload the railroad cars on any given spur. Tractors will move the trailers or containers either to a storage area, or directly to ships that are berthed at the facility. These tractors will use the aisle as the means of access to and from the yard with both chassis and containers. A similar process will be followed when loading unit trains from a ship or the container storage yard.

APL requests waiver of the 150 foot requirement for the blue lights and derail devices to be used in the center aisle in the yard. Each group of workmen will be protected by blue light signals 80 feet apart across the aisle. Each group of workmen will also be protected by two derail devices. The first will be within 5 feet of the coupling face, and the other will be 80 feet from the first derail device, across the aisle. Workmen will not begin working to load or unload the cars on any given spur until the cars have come to a complete stop and are protected as set out in this waiver request. They will be protected by two blue light signals and by two derail devices.

APL states that it ''is working with the Port in the process of designing the yard. One important facet of this design is that workmen be able to work in close proximity to the aisle to increase efficiency. As indicated in the Notice of Proposed Rulemaking, when certain criteria are present, a railroad may safely use different approaches to afford blue signal protection.'' APL states they will meet those criteria. ''First, slow speeds are involved since there is a 5 mph speed limit in the yard. Next, control over the movement of the equipment will be placed in the hands of individuals directly responsible for the people who need to be protected. In the Final Rule, FRA expressed its goal of assuring workers' safety.'' APL states that ''the combination of very low speed, a movement dampening surface, and derails in close proximity to cars that are standing still will limit travel to not more than 5 feet after derailment which is well within FRA's goal to: assure that rolling equipment will not travel more than 50 feet after derailment.''

APL states that ''the waiver sought by APL will allow construction of a modern and efficient rail yard as part of an intermodal facility at the Port of Los Angeles. By operating with a reduced distance for blue lights and derail devices, APL will be able to fit the yard to the property available. This project will substantially increase the amount of rail business at the Port and in the region. Shorter train movements in the yard will also reduce air emissions in the Port, thereby reducing harm to the environment.''

Issued in Washington, DC on February 23, 1995.

Phil Olekszyk,

Acting Deputy Associate Administrator for Safety Compliance and Program Implementation.

[FR Doc. 95–5689 Filed 3–7–95; 8:45 am]

BILLING CODE 4910–6–P

Federal Transit Administration

Environmental Impact Statement on the North-South Rail Link, Boston, Cambridge and Somerville, MA

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: The Federal Transit Administration (FTA) and the Massachusetts Bay Transportation Authority (MBTA) intend to prepare an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act (NEPA) on the proposed rail link connecting North and South Stations in Boston, Massachusetts. The FTA and the MBTA will prepare the EIS so that it also satisfies the requirements of the Massachusetts Environmental Policy Act (MEPA).

This effort will be performed in cooperation with the Massachusetts Highway Department and the Executive Office of Transportation and Construction.

The EIS/EIR will evaluate the following alternatives: A Build alternative consisting of an underground rail link tunnel (with an option of two or four tracks) connecting North and South Stations along the Central Artery alignment, a No-Build alternative, and a Transportation System Management alternative which will be identified during the scoping process. Although the Commonwealth of Massachusetts has elected to pursue the North-South Rail Link corridor within the Central Artery alignment, the FTA is interested in receiving comments regarding whether a rail link along the Congress Street alignment should be included in the Major Investment Study (MIS). Scoping will be accomplished through correspondence with interested persons, organizations, and Federal, State and local agencies, and through public meetings.

DATES: *Comment Due Date:* Written comments on the scope of alternatives and impacts to be considered should be sent to the MBTA by April 24, 1995. See **ADDRESSES** below. *Scoping Meeting:* A joint FTA and MEPA public scoping meeting will be held on Tuesday, March 21, 1995 at 2:00 p.m. at the State Transportation Building. See **ADDRESSES** below.

ADDRESSES: *Written comments* on the project scope should be sent to Mr. Andrew D. Brennan, Manager of Environmental Affairs, MBTA, 10 Park Plaza, Room 6720, Boston, MA 02116. A *Scoping Meeting* will be held at the following location: State Transportation Building, 10 Park Plaza, Boston, MA 02116.

See **DATES** above.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Beth Mello, Deputy Regional Administrator, Federal Transit Administration, Region 1, (617) 494–2055.

SUPPLEMENTARY INFORMATION:

I. Scoping

The FTA and MBTA invite written comments for a period of 45 days after publication of this notice (See **DATES** and **ADDRESSES** above.) During scoping,

comments should focus on identifying specific social, economic, or environmental impacts to be evaluated, and suggesting alternatives that are less costly or less environmentally damaging which achieve similar objectives. Comments should focus on the issues and alternatives for analysis, and not on a preference for a particular alternative. Individual preference for a particular alternative should be communicated during the comment period for the Draft EIS.

If you wish to be placed on the mailing list to receive further information as the project continues, contact Mr. Andrew Brennan at the MBTA (see **ADDRESSES** above).

II. Description of Study Area and Project Need

The proposed project consists of an approximately 3 mile rail tunnel linking North and South Stations in Boston, Massachusetts. The northern tunnel portals will be located to the north of the Gilmore Bridge and west of the I–93 highway viaduct in Somerville, Massachusetts. There will be two southern tunnel portals: one on the southern side of the Massachusetts Turnpike between Harrison and Shawmut Avenues, and the other in the vicinity of the railroad yard south of the West Fourth Street Bridge in South Boston. Three underground passenger stations are proposed: (1) At the existing South Station, (2) near the MBTA Blue Line adjacent to the Aquarium Station, and (3) between Haymarket and North Stations. The project will also define options for creating regional MBTA rail service by combining the two currently separate north and south side commuter rail networks.

The construction of the rail link tunnel will close the gap in intercity rail service along the Atlantic seaboard, and will create a unified rail system for metropolitan Boston by combining the two currently separate north and south side commuter rail networks. This will reduce rapid transit system congestion in downtown Boston, increase operational capacity at South Station, and improve regional air quality by diverting automobile trips to the rail system.

III. Alternatives

The alternatives proposed for evaluation include: (1) No-action, which involves no change to existing rail facilities at North and South Stations,

(2) construction of a rail link tunnel connecting North and South Stations along the Central Artery alignment. A two-track and a four-track tunnel option will be considered, and

(3) a transportation system management alternative that will be identified during the scoping process.

Although the Commonwealth of Massachusetts has elected to pursue the North-South Rail Link corridor within the Central Artery alignment, the FTA is interested in receiving comments regarding whether a rail link along the Congress Street alignment should be included in the MIS.

IV. Probable Effects

FTA and the MBTA will evaluate all significant environmental, social, and economic impacts of the alternatives analyzed in the EIS. Impacts include changes in the natural environment (air and water quality, rare and endangered species), changes in the social environment (land use and neighborhoods, noise and vibration, aesthetics, park lands, historic/archeological resources), disposal of excavated material, public safety and changes in rail service and patronage. An operational analysis of combined north and south side commuter rail networks will be performed and project capital and operating costs and revenues will be estimated. The impacts will be evaluated both for the construction period and for the long term period of operation, and financial information in support of the MIS will be provided. Measures to mitigate significant adverse impacts will also be addressed.

Issued on: March 2, 1995.

Richard H. Doyle,

Regional Administrator.

[FR Doc. 95–5587 Filed 3–7–95; 8:45 am]

BILLING CODE 4910–57–P

National Highway Traffic Safety Administration

[Docket No. 92–50; Notice 4]

Autokraft Ltd.; Grant of Application for Renewal of Temporary Exemption From Motor Vehicle Safety Standard No. 208

Autokraft Limited of Weybridge, Surrey, England, applied for a renewal of NHTSA Exemption No. 92–6, exempting its AC MkIV until January 1, 1995, from compliance with paragraph S4.1.4 of Federal Motor Vehicle Safety Standard No. 208 *Occupant Crash Protection*. The basis of the application was that compliance would cause substantial economic hardship to a manufacturer that has tried to comply with the standard in good faith.

Notice of receipt of the application was published on December 19, 1994, and an opportunity afforded for comment (59 FR 65428).

Autokraft was granted NHTSA Exemption No. 92–6 on December 21, 1992 (57 FR 60563), and its exemption from S4.1.4 of Standard No. 208 was scheduled to expire on January 1, 1995. Because the application for renewal of the exemption was filed ''not later than 60 days before the termination date'' (in this instance, October 27, 1994), the termination date has been stayed until the Administrator has acted upon the application (49 CFR 555.8(e)).

The applicant sought a further two-year exemption for its AC Mk IV passenger car, of which it has produced 15 in the year preceding the filing of its application. Although the company had projected sales of 150 units in the United States in the years 1992–94, in fact, there were only seven sales. According to its application, Autokraft ''has continued the process of researching and developing the installation of a driver and passenger side airbag system'' but ''we have been unable to achieve the fitting of a suitable system mainly due to the chassis design being based upon a classic 1960's design and not easily adaptable to suit air bag installation.'' The delay is also due to ''the project having insufficient funds generated by sales and available for completing the development.''

Autokraft concluded that the adaptation of an existing automatic restraint system is the only viable alternative. Its continuation of compliance efforts has given it ''significant knowledge into the areas of vehicle modification, computer simulation, design rough road testing and low, medium and high speed crash testing.'' Complicating its efforts is the need to use a different engine and transmission after October 1, 1995, and the possible effect that this will have upon compliance. It estimated the cost to achieve conformance would be $550,000, achievable by spreading these costs during the exemption period. Autokraft reported losses totalling 3,308,243 Pounds Sterling (approximately $5,624,000 at a rate of $1.70/1) for the years 1992–93, and projected a further loss for 1994.

The company argued that an exemption would be in the public interest and consistent with the objectives of motor vehicle safety because it meets all applicable EEC standards, and all U.S. Federal motor vehicle safety standards with the exception of the automatic restraint requirements of Standard No. 208 (its 3-point driver and passenger restraints meet the previous requirements). The production of the car makes available to

the public ''at a realistic price'' a replica of the original AC Cobra vehicle produced from the original AC Cobra tooling, manufactured during the 1960's predominantly for the American market. Autokraft is in the process of finalizing a U.S. distribution agreement and showed the car at the North American International Auto Show in Detroit in January 1995.

The applicant believes that it will comply with Standard No. 208 six months before January 1, 1997, when the 2-year extension of its exemption that it has requested would expire.

No comments were received on the petition.

Review of the application for renewal shows continued existence of the net loss position of the applicant upon which the agency first found that compliance would cause substantial economic hardship. The fact that only seven cars were sold in the United States under the previous two-year exemption demonstrates that the U.S. specification MkIV could not contribute to a significant offset of Autokraft's net losses. The examples on display at the Detroit Show were reported to have a suggested price of $95,000 each, making it unlikely that the applicant will increase its sales by a significant number of vehicles, even if it can enter a U.S. distribution agreement. The car, an open 2-seater, is of limited utility. NHTSA notes that the company's efforts to comply have been made more difficult by the vehicle's 1960's configuration, but that the company believes that it will be in a position to manufacture a fully-conforming vehicle by July 1996, thus it has not requested the maximum exemption of 3 years to which it would be entitled under the hardship provisions. NHTSA also recognizes that the MkIV is certified as meeting all applicable Federal motor vehicle safety standards except for S4.1.4 of Standard No. 208, and that each of its passenger positions is equipped with a three-point restraint system of a type that previously was sufficient to meet Standard No. 208's requirements for passenger cars. It is in the public interest that a variety of motor vehicles continue to be provided. Sales, even though small in number, will make a positive contribution to the economy through the employment afforded through the distribution, sales, and repair channels.

In consideration of the foregoing, it is hereby found that compliance with Standard No. 208 would cause substantial economic hardship to a manufacturer that tried to comply with the standard in good faith. It is hereby further found that an exemption is consistent with the public interest and 49 U.S.C. Chapter 301—*Motor Vehicle Safety*. Accordingly, NHTSA Temporary Exemption No. 92–6 from paragraph S4.1.4. of 49 CFR 571.208 Motor Vehicle Safety Standard No. 208 *Occupant Crash Protection* is extended to January 1, 1997.

Authority: 49 U.S.C. 30113; delegation of authority at 49 CFR 1.50.

Issued on: March 2, 1995.

Ricardo Martinez,

Administrator.

[FR Doc. 95–5690 Filed 3–7–95; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Art Advisory Panel—Notice of Closed Meeting

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of closed meeting of Art Advisory Panel.

SUMMARY: Closed meeting of the Art Advisory Panel will be held in Washington, DC.

DATES: The meeting will be held March 29 and 30, 1995.

ADDRESSES: The closed meeting of the Art Advisory Panel will be held on March 29 and 30, 1995 in room 118, beginning at 9:30 a.m., Aerospace Center Building, 901 D Street SW., Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Karen Carolan, CC:AP:AS:4 901 D Street SW., Washington, DC 20024. Telephone (202) 401–4128, (not a toll-free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988), that a closed meeting of the Art Advisory Panel will be held on March 29 and 30, 1995 in room 118 beginning at 9:30 a.m., Aerospace Center Building, 901 D Street SW., Washington, DC 20024.

The agenda will consist of the review and evaluation of the acceptability of fair market value appraisals of works of art involved in federal income, estate, or gift tax returns. This will involve the discussion of material in individual tax returns made confidential by the provisions of section 6103 of Title 26 of the United States Code.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that this meeting is concerned with matters listed in section 552b(c) (3), (4), (6), and (7) of Title 5 of the United States Code, and that the meeting will not be open to the public.

The Commissioner of Internal Revenue has determined that this document is not a significant regulatory action as defined in Executive Order 12866 and that a regulatory impact analysis therefore is not required. Neither does this document constitute a rule subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 95–5675 Filed 3–7–95; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review: Other On-the-Job Training Agreement and Apprenticeship Training Agreement and Standards, VA Form 22–8864, and Employer's Application to Provide Job Training, VA Form 22–8865

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s); if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Trish Fineran, Veterans Benefits Administration (20M30), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 273–6886.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, Room 3002, Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer by no later than April 7, 1995.

Dated: February 28, 1995.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

Extension

1. Other On-the-Job Training Agreement and Apprenticeship Training Agreement and Standards, VA Form 22–8864, and Employer's Application to Provide Job Training, VA Form 22–8865.
2. VA uses the information requested on VA Form 22–8864 (for on-the-job training and apprenticeship training) to determine if the trainee is entering an approved training program. The information requested on VA Form 22–8865 is used by VA to determine if the statutory requirements are met for approval of an employer's job-training program.
3. Business of other for-profit—Not-for-profit institutions—Farms—Federal Government—State, Local or Tribal Government
4. Estimated Total Annual Reporting Hours—225 hours
   a. VA Form 22–8864 112.5 hours
   b. VA Form 22–8865 112.5 hours
5. Estimated Average Burden Hour Per Respondent—45 minutes
   a. VA Form 22–8864 30 minutes
   b. VA Form 22–8865 90 minutes
6. On occasion
7. Estimated Number of Respondents—300
   a. VA Form 22–8864 225 respondents
   b. VA Form 22–8865 75 respondents.

[FR Doc. 95–5691 Filed 3–7–95; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 60, No. 45
Wednesday, March 8, 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

''FEDERAL REGISTER'' CITATION OF PREVIOUS ANNOUNCEMENT: 60 Fed. Reg. 12032, March 3, 1995.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:00 p.m. (Eastern Time) March 14, 1995.

CHANGE IN THE MEETING:

Closed Session

The closed session of the meeting has been cancelled.

CONTACT PERSON FOR MORE INFORMATION: Frances M. Hart, Executive Officer on (202) 663–4070.

Dated: March 6, 1995.

Frances M. Hart,

Executive Officer, Executive Secretariat.

[FR Doc. 95–5849 Filed 3–6–95; 3:51 pm]

BILLING CODE 6750–06–M

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS

Operations and Regulations Committee and Provision for the Delivery of Legal Services Committee; Joint Meeting and Hearing

TIME AND DATE: The Legal Services Corporation Board of Directors Operations and Regulations and Provision for the Delivery of Legal Services Committees will hold a joint meeting and hearing on March 17, 1995. The meeting and hearing will commence at 10:30 a.m.

PLACE: Legal Services Corporation, 750 1st Street, N.E., 11th Floor, The Board Room, Washington, D.C. 20002, (202) 336–8800.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

Open Session

1. Approval of Agenda.
2. Discussion of Proposed Policy Statement on Private Attorney Involvement/ Engagement.
3. Consider and Act on Other Business.

CONTACT PERSON FOR INFORMATION: Patricia Batie, (202) 336–8800.

Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments.

Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia Batie at (202) 336–8800.

Date Issued: March 6, 1995.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 95–5818 Filed 3–6–95; 1:41 pm]

BILLING CODE 7050–01–M

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS

Operations and Regulations Committee Meeting

TIME AND DATE: The Legal Services Corporation Board of Directors Operations and Regulations Committee will meet on March 17, 1995. The meeting will commence at 1:30 p.m.

PLACE: Legal Services Corporation, 750 1st Street, N.E., The Board Room, Washington, D.C. 20002, (202) 336–8800.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

Open Session

1. Approval of Agenda.
2. Approval of Minutes of February 17, 1995 Meetings.
3. Consider and Act Proposed Changes to the Corporation's Bylaws.
4. Consider and Act on Proposed Board Disclosure Form and Related Guidelines.
5. Consider Committee's Oversight Responsibilities for Corporate Operations.
6. Consider and Act on Other Business.

CONTACT PERSON FOR INFORMATION: Patricia Batie, (202) 336–8800.

Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments.

Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia Batie at (202) 336–8800.

Date Issued: March 6, 1995.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 95–5819 Filed 3–6–95; 1:41 pm]

BILLING CODE 7050–01–M

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS

Ad Hoc Structure Committee on Governance Meeting

TIME AND DATE: The Legal Services Corporation Board of Directors Ad Hoc Structure Committee on Governance will meet on March 17, 1995. The meeting will commence at 9:00 a.m.

PLACE: The Legal Services Corporation, 750 1st Street, N.E., The Board Room, Washington, D.C. 20002, (202) 336–8800.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

Open Session

1. Approval of Agenda.
2. Approval of Minutes of February 16, 1995 Meeting.
3. Consider Board's Relationship With the Corporation's Inspector General.
4. Consider Board's Relationship With Corporation Management.
5. Consider Issues Related to Board Meetings.
6. Consider and Act on Other Business.

CONTACT PERSON FOR INFORMATION: Patricia Batie, (202) 336–8800.

Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments.

Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia Batie at (202) 336–8800.

Date Issued: March 6, 1995.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 95–5820 Filed 3–6–95; 1:41 pm]

BILLING CODE 7050–01–M

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS

Provision for the Delivery of Legal Services Committee Meeting

TIME AND DATE: The Legal Services Corporation Board of Directors Provision for the Delivery of Legal Services Committee will meet on March 17, 1995. The meeting will commence at 1:30 p.m.

PLACE: Legal Services Corporation, 750 1st Street, N.E., 10th Floor, Conference Room, Office of the Inspector General, Washington, D.C. 20002, (202) 332–8800.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

Open Session

1. Approval of Agenda.
2. Approval of Minutes of January 27, 1995 Meeting.
3. Consider and Act on Status Report on the Client Engagement Initiative.
4. Report on Issues Related to the Provision of Technical Assistance to Grantees.
5. Report on Compliance Oversight of Grantees.
6. Consider and Act on Other Business.

CONTACT PERSON FOR INFORMATION: Patricia Batie, (202) 336–8800.

Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments.

Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia Batie at (202) 336–8800.

Date Issued: March 6, 1995.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 95–5821 Filed 3–6–95; 1:41 pm]

BILLING CODE 7050–01–M

LEGAL SERVICES CORPORATION

Board of Directors Meeting

TIME AND DATE: The Legal Services Corporation Board of Directors will meet on March 18, 1995. The meeting will commence at 9:00 a.m.

PLACE: Legal Services Corporation, 750 1st Street, N.E., Board Room, 11th Floor; Washington, D.C. 20002, (202) 336–8800.

STATUS OF MEETING: *Open*, except that a portion of the meeting may be closed pursuant to a vote a majority of the Board of Directors to hold an executive session. At the closed session, in accordance with the aforementioned vote, the Board may hear and consider the General Counsel's report on litigation in which the Corporation is or may become a party. Finally, the Board may be briefed by the Inspector General on Office of the Inspector General Activities.[1] The closing will be authorized by the relevant sections of the Government in the Sunshine Act [5 U.S.C. Section 552b(c)(10)], and the corresponding regulation of the Legal Services Corporation [45 C.F.R. Section 1622.5(h)]. The closing will be certified by the Corporation's General Counsel as authorized by the above-cited provisions of law. A copy of the General Counsel's certification will be posted for public inspection at the Corporation's headquarters, located at 750 First Street, N.E., Washington, D.C., 20002, in its eleventh floor reception area, and will otherwise be available upon request.

MATTERS TO BE CONSIDERED:

Open Session

1. Approval of Agenda.
2. Approval of Minutes of January 27–28, 1995 Meeting.
3. Approval of Minutes of January 27, 1995 Executive Session.
4. Chairman's and Members' Reports.
5. President's Report.
6. Inspector General's Report.
7. Consider and Act on Ad Hoc Structure Committee On Governance Report.
8. Consider and Act on Audit and Appropriations Committee Report.
9. Consider and Act on Provision for the Delivery of Legal Services Committee Report.
10. Consider and Act on Operations and Regulations Committee Report.
    a. Consider and Act on Proposed Changes to the Corporation's Bylaws.
11. Public Comment.

Closed Session

12. Consideration of the General Counsel's Report on Litigation.
13. Briefing of Board by the Inspector General on Office of the Inspector General Activities.

Open Session: (Resumed)

14. Consider and Act on Other Business.

CONTACT PERSON FOR INFORMATION: Patricia Batie, (202) 336–8800.

Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments.

Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia Batie at (202) 336–8800.

Date Issued: March 6, 1995.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 95–5828 Filed 3–6–95; 3:05 pm]

BILLING CODE 7050–01–M

[1] Briefings do not constitute ''meetings'' as defined by the Government in the Sunshine Act. Notice of this briefing is being provided solely as a courtesy to the public.

Corrections

Federal Register
Vol. 60, No. 45
Wednesday, March 8, 1995

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 673

[Docket No. 950223058-5058-01; I.D. 022395A]

RIN 0648-AH93

Scallop Fishery Off Alaska; Closure of Federal Waters To Protect Scallop Stocks

Correction

In rule document 95–4942 beginning on page 11054 in the issue of Wednesday, March 1, 1995, make the following corrections:

1. On page 11055, in the third column, in the fourth line from the bottom, ''optimum'' was misspelled.

§ 673.2 [Corrected]

2. On page 11056, in the third column, in § 673.2, in the definition for *Exclusive Economic Zone (EEZ)*, in the second line, ''*Scallops(s)* means'' should begin on the third line.

BILLING CODE 1505–01–D

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

48 CFR Parts 701, 703, 715, 731, 752, and Appendix G to Chapter 7

[AIDAR Notice 95-1]

Miscellaneous Amendments to Acquisition Regulations

Correction

In rule document 95–4111 beginning on page 11911 in the issue of Friday, March 3, 1995, make the following corrections:

1. The CFR parts should appear as set forth above.

2. On page 11913, in the first column, remove ''**PART 724—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION**'' and ''**724.170 [Amended]**''.

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–35326; File No. SR–Phlx–95–07]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange Relating to the Listing and Trading of Options on the Phlx USTOP Index

Correction

In notice document 95–3327 beginning on page 8104 in the issue of Friday, February 10, 1995 make the following correction:

On page 8104, in the third column, the formula for calculating the value of the Index was inadvertently omitted and should appear as follows:

The formula for calculating the value of the Index is as follows:[4]

$$\frac{(MV_1)+(MV_2)+\cdots(MV_{100})}{\text{Divisor}}\times 100$$

Where:

MV_n=Price × Shares outstanding for each component of the Index

Divisor=Number calculated to achieve a base value of 370 for the Index as of the close of trading on December 14, 1994.

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Office of the Under Secretary for Domestic Finance

17 CFR Part 402

Amendments to Regulations for the Government Securities Act of 1986

Correction

In rule document 95–4941 beginning on page 11022 in the issue of Wednesday, March 1, 1995 make the following correction:

§402.2e [Corrected]

On page 11026, in the first column, in §402.2e(a)(1), in the third line ''§402.2(a)'' should read ''§402.2''.

BILLING CODE 1505–01–D

[4] The formula for calculating the value of the Index is the same as that previously approved by the Commission for calculating the value of the Phlx Big Cap Index. See Securities and Exchange Act Release No. 33973 (April 28, 1994), 59 FR 23245 (May 5, 1994). Telephone conversation between Michele Weisbaum, Associate General Counsel, Phlx, and Brad Ritter, Senior Counsel, Office of Market Supervision, Division of Market Regulation, Commission, on February 2, 1995.

Federal Register

Wednesday
March 8, 1995

Part II

Department of Health and Human Services

Administration for Children and Families

Office of Community Services Fiscal Year 1995 Job Opportunities for Low-Income Individuals Program (Demonstration Projects); Request for Applications; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. OCS–95–08]

Request for Applications Under the Office of Community Services Fiscal Year 1995 Job Opportunities for Low-Income Individuals Program (Demonstration Projects)

AGENCY: Administration for Children and Families (ACF), DHHS.

ACTION: Announcement of availability of funds and request for applications under the Office of Community Services' FY 1995 Job Opportunities for Low-Income Individual Program (Demonstration Projects).

SUMMARY: The Administration for Children and Families (ACF), Office of Community Services (OCS), announces that competing applications will be accepted for new grants pursuant to the Secretary's discretionary authority under section 505 of the Family Support Act of 1988, as amended.

CLOSING DATES: The closing date for submission of applications is April 24, 1995.

FOR FURTHER INFORMATION CONTACT: Office of Community Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447, Telephone (202) 401–5282, Contact: Nolan Lewis.

This Announcement is accessible on the OCS Electronic Bulletin Board for downloading through your computer modem by calling 1–800–627–8886. For assistance in accessing the Bulletin Board, *A Guide to Accessing and Downloading* is available from Ms. Minnie Landry at (202) 401–5309.

Table of Contents

Part I—Preamble

A. Legislative Authority

The Senate Committee on Appropriations, in its recommendations, provides $5,500,000 for job creation demonstration activities authorized under section 505 of the Family Support Act of 1988, Pub. L. 100–485, as amended. Senate Report No. 103–318, 103d Cong., 2nd Session (1994), to accompany H.R. 4606. Section 505 of the Family Support Act of 1988 authorizes the Secretary to enter into agreements with not less than 5 nor more than 10 non-profit organizations (including community development corporations) for the purpose of conducting demonstration projects to create employment and business opportunities for certain low-income individuals. *The Social Security Act Amendments of 1994, Public Law 103–432, reauthorize Section 505 of the Family Support Act of 1988 through Fiscal Year 1996, and amends subsection (e) and changes the project period from three to six years. The six year project period applies only to grant awards beginning in Fiscal Year 1995.*

B. Eligible Applicants

Organizations eligible to apply for funding under this program are any non-profit organizations (including community development corporations) that are exempt from taxation under Section 501(a) of the Internal Revenue Code of 1986 by reason of paragraph (3) or (4) of section 501(c) of such Code. Applicants must provide documentation of their tax exempt status. The applicant can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in section 501(c)(3) of the IRS code *or* by providing a copy of the currently valid IRS tax exemption certificate, *and* by providing a copy of its Articles of Incorporation bearing the seal of the State in which the corporation or association is domiciled. Failure to provide evidence of non-profit status will result in rejection of the application.

C. Definition of Terms

For purposes of this Program Announcement the following definitions apply:

—*Budget Period:* The interval of time into which a multi-year period of assistance (project period) is divided for budgetary and funding purposes.

—*Community-Level Data:* Key information to be collected by each grantee that will allow for a national-level analysis of common features of JOLI projects. This includes data on the population of the target area, including the percentage on AFDC and other public assistance, and the percentage whose incomes fall below the poverty line; the unemployment rate; the number of new business starts and business closings; and a description of the major employers and average wage rates and employment opportunities with those employers.

—*Community Development Corporation:* A private, locally initiated, nonprofit entity, governed by a board consisting of residents of the community and business, civic leaders, and/or public officials which has a record of implementing economic development projects or whose Articles of Incorporation and/or By-Laws indicate that it has a focus in the area of economic development.

—*Hypothesis:* An assumption made in order to test its validity. It should assert a cause-and-effect relationship between a program intervention and its expected result. Both the intervention and result must be measured in order to confirm the hypothesis. For example, the following is a hypothesis: ''Eighty hours of classroom training in small business planning will be sufficient for participants to prepare a successful loan application.'' In this example, data would be obtained on the number of hours of training actually received by participants (the

intervention), and the quality of loan applications (the result), to determine the validity of the hypothesis (are eighty hours of training sufficient to produce the result?).

—*Intervention:* Any planned activity within a project that is intended to produce changes in the target population and/or the environment and that can be formally evaluated. For example, assistance in the preparation of a business plan and loan package are planned interventions.

—*Job Creation:* To bring about, by activities and services funded under this program, new jobs, that is, jobs that were not in existence before the start of the project. These activities can include self-employment/micro-enterprise training, the development of new business ventures or the expansion of existing businesses.

—*Non-profit Organization:* Any organization (including a community development corporation) exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 by reason of paragraph (3) or (4) of section 501(c) of such code.

—*Outcome Evaluation:* An assessment of project results as measured by collected data which define the net effects of the interventions applied in the project. An outcome evaluation will produce and interpret findings related to whether the interventions produced desirable changes and their potential for replicability. It should answer the question, *Did this program work?*

—*Private employers:* Third-party private non-profit organizations or third-party for-profit businesses operating or proposing to operate in the same community as the applicant and which are proposed or potential employers of project participants.

—*Process Evaluation:* The ongoing examination of the implementation of a program. It focuses on the effectiveness and efficiency of the program's activities and interventions (for example, methods of recruiting participants, quality of training activities, or usefulness of follow-up procedures). It should answer questions such as: Who is receiving what services?, and are the services being delivered as planned? It is also known as *formative evaluation* because it gathers information that can be used as a management tool to improve the way a program operates while the program is in progress. It should also identify problems that occurred and how they were dealt with and recommend improved means of future implementation. It should answer the question: ''How was the program carried out?'' In concert with the outcome evaluation, it should also help explain, ''Why did this program work/not work?''

—*Program Participant/Beneficiary:* Any individual eligible to receive Aid to Families with Dependent Children under Part A of Title IV of the Social Security Act and any other individual whose income level does not exceed 100 percent of the official poverty line as found in the most recent Annual Revision of Poverty Income Guidelines published by the Department of Health and Human Services. (See Attachment A.)

—*Project Period:* The total time a project is approved for support, including any extensions.

—*Self-Sufficiency:* A condition where an individual or family, by reason of employment, does not need and is not eligible for public assistance.

D. Purpose

The purpose of this program is to demonstrate and evaluate ways of creating new employment and business opportunities for certain low-income individuals through the provision of technical and financial assistance to private employers in the community, self-employment/micro-enterprise programs and/or new business development programs. A low-income individual eligible to participate in a project conducted under this program is any individual eligible to receive Aid to Families with Dependent Children (AFDC) under Part A of Title IV of the Social Security Act and any other individual whose income level does not exceed 100 percent of the official poverty line. (See Attachment A.) Within these categories, emphasis should be on individuals who are unemployed, those residing in public housing or receiving housing assistance, and those who are homeless.

Part II—Program Priority Areas

A. General Projects 1.0

The Congressional Conference Report on the FY 1992 appropriations for the Department of Labor, Health and Human Services, and Education and related agencies directed the ACF to require economic development strategies as part of the application process to ensure that highly qualified organizations participate in the demonstration [H.R. Conf. Rep. No. 282, 102d Cong., 1st Sess. 39 (1991)]. These strategies should include descriptions of how projects financed and jobs created under this program will be integrated into a larger effort to promote job and business opportunities for eligible program participants. Applicants should demonstrate how their proposed projects will impact the overall community/communities served by the applicant. OCS will only fund projects that create new employment and/or business opportunities for eligible program participants. Projects funded under this program must demonstrate how the proposed project will enhance the participants' abilities and skills in their progress toward self-sufficiency. Therefore, proposed projects must show promise toward progress of achieving self-sufficiency among the target population. OCS expects that the jobs and/or business/self employment opportunities to be created under this program will contribute to the goal of self-sufficiency. The employment opportunities should provide hourly wages that *exceed* the minimum wage and also provide benefits such as health insurance, transportation, child care, and career development opportunities.

Applicants must show that the proposed project will create a significant number of new full-time permanent jobs through the expansion of a pre-identified business or new business development, by providing opportunities for self-employment to eligible participants, or by *creating new non-traditional employment opportunities for women and minorities in highway construction and maintenance or in the machine tool industry as described below.*

While projected employment in future years may be included in the application, it is essential that the focus of employment opportunities concentrate on new full-time, permanent jobs to be created during the duration of the grant project period and/or on the creation of new business development opportunities for low-income individuals. OCS is particularly interested in receiving proposals in three areas:

1. Local Initiative. In the spirit of ''local initiative'' OCS looks forward to innovative proposals that grow out of the experience of applicants and the needs of their clientele and communities, and will make the fruits of local creativity available broadly to others seeking solutions to similar problems.

2. Highway Construction and Maintenance. At the same time, OCS is particularly interested in receiving a number of applications which seek to create non-traditional employment opportunities for women and minorities in highway construction and maintenance.

Approximately $20 billion a year goes to States for highway construction and repair, creating over 270,000 jobs with State Highway Agencies and 500,000+ jobs with contractors. The Federal Highway Administration (FHWA), in conjunction with the Department of Labor and the Women's Bureau, has been seeking ways to increase minority and women participation. State Highway Agencies now have the option to use up to ½ per cent of their Federal highway funds for On-the Job Training (OJT) and supportive services to expand employment opportunities for minorities and women, similar to programs such as Youth Build. In addition, the FHWA has developed and presented a training course, Women in Highway Construction, nationally to over 700 Federal and State Highway Agency personnel and highway contractors on strategies to increase participation of women on highway construction projects.

Because of the aging worker population, there is a serious shortage of qualified workers in highway construction and maintenance in many parts of the country. The shortages will become more critical as the population ages further. Consequently, unions are now taking advantage of opportunities to recruit women and minorities into non-traditional highway construction and maintenance jobs.

Applicants seeking further information about the efforts being undertaken by the FHWA, such as its training efforts and the OJT supportive services program, should contact the appropriate FHWA Regional Civil Rights Director. (See Attachment K.)

3. Machine Tool Industry. Another area from which OCS would welcome applications for creation of non-traditional employment opportunities is the machine tool industry. This industry is one into which it has traditionally been difficult for minority, women and low-income workers to gain entry. One possibility might be a strategy of small, high quality ''micro-enterprise'' machine shops organized in cooperative sub-contracting arrangements with existing industries or businesses.

The requirement for creation of new, full-time permanent jobs applies to all applications. OCS has determined that creation of non-traditional job opportunities for women and minorities in highway construction and maintenance and in the machine tool industry, which previously have been closed to these populations, meets the employment opportunity creation requirements of the JOLI legislation. OCS continues to require JOLI applications to propose the creation of jobs through the expansion of existing businesses, the development of new businesses, or the creation of employment opportunities through self-employment/microenterprise development. All applications for JOLI grantees must submit a signed written agreement with the State IV-A agency which administers the JOBS program and the appropriate local partners participating in the project. (See Part IV, Criterion VI).

The agreements should describe the cooperative partnerships and include the specific activities to be performed by each partner over the course of the grant period. For example, the agreement should include a description of the training to be provided the eligible participants and local hiring practices, apprenticeships arrangements, and relationship with local unions where applicable.

In the case of proposals for creating self-employment micro-business opportunities for eligible participants, the applicant must detail how it will provide training and support services to potential entrepreneurs. The assistance to be provided to potential entrepreneurs must include, at a minimum, technical assistance in basic business planning and management concepts, and assistance in preparing a business plan (See Part IV, Criterion III for requirements) and loan application.

Any funds that are used for training participants who are AFDC recipients and therefore eligible for JOBS support must be limited to providing specific job-related training to such eligible participants who have been selected for employment (expansion of an existing business, new business venture or non-traditional employment) and/or self-employment business opportunities. Where participants are not receiving AFDC and are therefore not eligible for JOBS support, project funds may be used to provide basic skills training and other support services.

In the review process, favorable consideration will be given to applicants with a demonstrated record of achievement in promoting job and enterprise opportunities for low-income people. Favorable consideration also will be given to those applicants who show the lowest cost-per-job created for low-income individuals. For this program, OCS views $15,000 in OCS funds as the maximum amount for the creation of a job and, unless there are extenuating circumstances, will not fund projects where the cost-per-job in OCS funds exceeds this amount. Only those jobs created and filled by low-income people will be counted in the cost-per-job formula. (See Part IV, Criterion IV.)

Technical assistance should be specifically addressed to the needs of the private employer in creating new jobs to be filled by eligible individuals and/or to the individuals themselves such as skills training, job preparation, self-esteem building, etc. Financial assistance may be provided to the private employer as well as the individual.

If the technical and/or financial assistance is to be provided to pre-identified businesses that will be expanded or franchised, written commitments from the businesses to create the planned jobs must be included with the application.

The creation of a revolving loan fund with funds received under this program is an allowable activity. However, OCS encourages the use of funds from other sources for this purpose. Points will be awarded in the review process to those applicants who leverage funds from other sources. (See Part IV, Criterion VI.) Loans made to eligible beneficiaries for business development activities must be at or below market rate.

Note: Interest accrued on revolving loan funds may be used to continue or expand the activities of the approved project.

Grant funds received under this program may not be used for construction.

A formal, cooperative relationship between the applicant and the agency responsible for administering the Job Opportunities and Basic Skills Training (JOBS) program (as provided for under title IV–A of the Social Security Act) in the area served by the project is a requirement for funding. The application must include a signed, written agreement between the applicant and the local State IV–A (public welfare) agency administering the JOBS program, or a letter of commitment to such an agreement within 6 months of a grant award (contingent only on receipt of OCS funds). The agreement must describe the cooperative relationship, including specific activities and/or actions each of these entities propose to carry out over the course of the grant period in support of the project.

The agreement, at a minimum, must cover activities that will be provided to the target population and which are related to one or more of the mandatory or optional components offered by the appropriate State's JOBS program. The mandatory activities offered by the States' JOBS programs consist of the following components and services: Basic educational activities (below

secondary level i.e. H.S., GED, ESL; job skills training; job readiness activities; job development and job placement; childcare; and other supportive services (45 CFR 250.44 and 255.0). The optional services offered by the States' JOBS programs must include two (2) of the following components of group and individual job search assistance: on-the-job-training experience; work supplementation; or community work experience (45 CFR 250.45). (See Attachment I for a list of the State IV–A agencies.)

Projects also must include an independent, methodologically sound evaluation of the effectiveness of the activities carried out with the grant funds in creating new jobs and/or business opportunities. (See Part I, C Definition of Terms, and Part IV, Criterion V).

Applications should include a plan for disseminating the results of the project after expiration of the grant period. Applicants may budget up to $2,000 for dissemination purposes.

Priority will be given to applications proposing to serve those areas containing the highest percentage of individuals receiving Aid to Families with Dependent Children (AFDC) under Title IV–A of the Social Security Act. (See Part IV, Criterion II.)

B. Community Development Corporations Set-Aside 2.0

For Fiscal Year 1995, a set-aside fund of $1 million will be included for Community Development Corporations. (For definition of Community Development Corporation, see Part I, C.)

Such projects must conform to the purposes, requirements, and prohibitions applicable to those submitted under Part II, General Projects 1.0.

Applications for these set-aside funds which are not funded due to the limited amount of funds available will also be considered competitively within the larger pool of eligible applicants.

Part III—Application Requirements

A. Background Information

1. Project and Budget Periods

The Social Security Act Amendment of 1994 which reauthorized the JOLI program also lengthened the project duration from a 3-year period to a 6-year period. In our effort to implement this change, OCS will approve FY 1995 grants for a project period of six years and an initial budget period of 36 months, or three years. This initial 36-month budget period will be considered the Operational Phase of the project, during which the Work Plan described in this announcement is to be carried out. The second 36 months, or three years, of the Project Period is to be considered a period of tracking workers in the newly created jobs, of providing them, as needed, with modest support and assistance, and of continuing Project Evaluation. Applications for continuation grants funded under these awards beyond the 36-month budget period but within the six (6) year project period will be entertained in subsequent years on a non-competitive basis, in a modest amount commensurate with the reduced level of effort, and subject to the availability of funds, satisfactory progress of the grantee, and determination that this would be in the best interest of the government.

2. Availability of Funds and Grant Amounts

The Office of Community Services expects to award approximately $5,000,000 by September 30, 1995 for new grants under this program (*$1 million of which will be awarded pursuant to the Joint OCS/EPA Announcement/NOFA described above*).

A maximum of $500,000 for the *first 36-month budget period* will be awarded to selected organizations under this program in FY 1995. OCS will award no less than 5 and no more than 10 grants under this program.

For Fiscal Year 1995 up to $1 million in JOLI funds is being made available, along with up to $500,000 of Community Services Block Grant (CSBG) Discretionary Economic Development grant funds, as part of a Joint Program Announcement/Notice of Funds Availability (NOFA) issued by the Office of Community Services (OCS) and the U.S. Environmental Protection Agency (EPA) to fund up to three projects addressing Community-Based Lead Abatement Training and Career Development and Lead Poisoning Prevention Education. EPA will be providing up to $1.5 million to public agencies, which together with the OCS funding to private non-profit agencies, will make possible the funding of three $1 million projects with the public and non-profit grantee agencies in partnership, each Federal agency contributing $500,000 to each of the three projects. These will be projects of job creation in community based lead abatement within the requirements of JOLI and CSBG Discretionary Programs; and the EPA funds will be available for worker and community training and education. Prospective applicants for these projects should obtain copies of the Joint OCS–EPA Announcement/ NOFA which will contain all necessary information, instructions and forms. Copies of the Joint Announcement will be published in the **Federal Register** *and will be available for downloading from the OCS Electronic Bulletin Board by calling 1–800–627–8886. For assistance in accessing the Bulletin Board, a Guide to Accessing and Downloading is available from Ms. Minnie Landry at (202) 401–5309.*

3. Mobilization of Resources

OCS will give favorable consideration in the review process to applicants who mobilize cash and/or third-party in-kind contributions for direct use in the project. (See Part IV, Criterion VI.)

4. Program Participants/Beneficiaries

Projects proposed for funding under this announcement must result in direct benefits to low-income people as defined in the most recent Annual Revision of Poverty Income Guidelines published by DHHS and individuals eligible to receive AFDC under Part A of Title IV of the Social Security Act.

Attachment A to this announcement is an excerpt from the guidelines currently in effect. Annual revisions of these guidelines are normally published in the **Federal Register** in February or early March of each year. Grantees will be required to apply the most recent guidelines throughout the project period. These revised guidelines also may be obtained at public libraries, Congressional offices, or by writing the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. They also are accessible on the OCS Electronic Bulletin Board for reading and/or downloading. (See **FOR FURTHER INFORMATION** at beginning of this announcement.)

No other government agency or privately-defined poverty guidelines are applicable for the determination of low-income eligibility for this program.

5. Cooperative Partnership Agreement With State IV–A Agency (JOBS Program)

A signed written agreement, or letter of commitment to sign such an agreement within six months of a grant award, between the applicant and the local State IV–A agency must be submitted with the application in order to be reviewed and evaluated competitively. The agreement/letter must describe the cooperative relationship and include specific activities and/or actions that each of the entities proposes to carry out over the course of the grant period in support of the project. (Please review PART II, General Projects 1.0 for additional specific information related to this agreement.)

6. Prohibition and Restrictions on the Use of Funds

The use of funds for new construction or the purchase of real property is prohibited. Costs incurred for rearrangement and alteration of facilities required specifically for the grant program are allowable when specifically approved by ACF in writing.

If the applicant is proposing a project which will affect a property listed in, or eligible for inclusion in the National Register of Historic Places, it must identify this property in the narrative and explain how it has complied with the provisions of section 106 of the National Historic Preservation Act of 1966 as amended. If there is any question as to whether the property is listed in or eligible for inclusion in the National Register of Historic Places, the applicant should consult with the State Historic Preservation Officer. (See Attachment D: SF–424B, Item 13 for additional guidelines.) The applicant should contact OCS early in the development of its application for instructions regarding compliance with the Act and data required to be submitted to the Department of Health and Human Services. Failure to comply with the cited Act will result in the application being ineligible for funding consideration.

7. Multiple Submittals

Due to the limited number of grants that will be made under this program, only one proposal from an eligible applicant will be funded by OCS from FY 1995 JOLI funds, be it pursuant to this announcement (Program areas 1.0 and 2.0) or the aforementioned Joint Announcement/NOFA with EPA.

8. Continuation and Refunding

OCS will not provide continuation funding or refunding to a previously funded grantee to conduct the same demonstration in the same target area.

9. Third-Party Project Evaluation

Proposals must include provision for an independent, methodologically sound evaluation of the effectiveness of the activities carried out with the grant and their efficacy in creating new jobs and business opportunities. There must be a well defined Process Evaluation, and an Outcome Evaluation whose design will permit tracking of project participants throughout the second 36 months of the project. The evaluation must be conducted by an independent evaluator, i.e., a person with recognized evaluation skills who is organizationally distinct from, and not under the control of, the applicant. It is important that each successful applicant have a third-party evaluator selected, and performing at the very latest by the time the work program of the project is begun, and if possible before that time so that he or she can participate in the final design of the program, in order to assure that data necessary for the evaluation will be collected and available.

10. Economic Development Strategy

In accordance with the legislative reference cited in Part II, Section A, applicants must include in their proposal an explanation of how the proposed project is integrated with and supports a larger economic development strategy within the target community. Where appropriate, applicants should document how they were involved in the preparation and planned implementation of a comprehensive community-based strategic plan, such as that required for applying for Empowerment Zones/Enterprise Community (EZ/EC) status, to achieve both economic and human development in an integrated manner, and how the proposed project supports the goals of that plan. (See Review Criterion II (ii) in Part IV A below.)

11. Maintenance of Effort

The application must include an assurance that activities funded under this program announcement are in addition to, and not in substitution for, activities previously carried out without Federal assistance.

Part IV—Application Review Process

Applications which pass the pre-rating review will be assessed and scored by reviewers. Each reviewer will give a numerical score for each application reviewed. These numerical scores will be supported by explanatory statements on a formal rating form describing major strengths and weaknesses under each applicable criterion published in the announcement.

The in-depth assessment and review process will use the following criteria coupled with the specific requirements described in Part III. Scoring will be based on a total of 100 points.

Note: The following review criteria reiterate the collection of information requirements contained in Part VI of this announcement. These requirements are approved under OMB Control Number 0970–0062, expiration 09–30–95.

A. Criteria for Review and Assessment of Applications in Priority Areas 1.0 and 2.0

Criterion I: Organizational Experience in Program Area and Staff Responsibilities (Maximum: 20 points)

(i) *Agency's commitment and experience in program area.* The application includes documentation which briefly summarizes two similar projects undertaken by the applicant agency and the extent to which the stated and achieved performance targets, including permanent benefits to low-income populations, have been achieved. Application notes and justifies the priority that this project will have within the agency including the facilities and resources that it has available to carry out the project. (0–10 points)

Note: The maximum number of points will be given only to those organizations with a demonstrated record of achievement in promoting job creation and enterprise opportunities for low-income people.

(ii) *Staff skills, resources and responsibilities.* The application must profile the two or three individuals who will have the most responsibility for shaping the project, connecting it to customers, and achieving performance targets. The focus should be on the qualifications, experience, capacity and commitment to the program of the Executive Officials of the organization and the key staff persons who will administer and implement the project. The person identified as Project Director should have supervisory experience, experience in finance and business, and experience with the target population. Because this is a demonstration project within an already-established agency, OCS expects that the key staff person(s) would be identified, if not hired.

The application must also include a resume of the third party evaluator, if identified or hired; or the minimum qualifications and a position description for the third-party evaluator, who must be a person with recognized evaluation skills who is organizationally distinct from, and not under the control of, the applicant. It is important that each successful applicant have a third-party evaluator selected and performing at the very latest by the time the work program of the project is begun, and if possible before that time so that he or she can participate in the final design of the program, in order to assure that data necessary for the evaluation will be collected and available. Plans for selecting an evaluator should be included in the application narrative. A third-party evaluator must have

knowledge about and have experience in conducting process and outcome evaluations, evaluating issues in the job creation field, expansion of businesses and the creation of self-employment and small business opportunities for low-income neighborhoods and a thorough understanding of the range and complexity of the problems faced by the target population. The competitive procurement regulations (45 CFR Part 74, Appendix H) apply to service contracts such as those for evaluators when the costs of such service will exceed $25,000. (0–10 points)

Criterion II: Analysis of Need (Maximum: 15 points)

(i) *Target area and population description.* The application includes a brief description of the geographic area and population to be served, indicating what the unemployment rates are and (to the extent practicable) how the proposed businesses and subsequent jobs will impact on the nature and extent of the problem. It should also include (with an identification of the source of the information) the number and percentage of individuals receiving AFDC and the total number of individuals which make up the population in the area where the project will operate. (0–5 points)

(ii) *Nature and extent of problems to be addressed.* Application includes an analysis of the identified personal barriers to employment and greater self-sufficiency faced by the population to be targeted by the project. (These might include such problems as illiteracy, substance abuse, family violence, lack of skills training, health or medical problems, need for childcare, or poor self-image.) Application also includes an analysis of the identified community systemic barriers which the project will seek to overcome. These might include lack of jobs; lack of transportation; lack of suitable clothing or equipment; lack of markets; unavailability of financing, insurance or bonding; inadequate municipal services (water, sewage treatment, street lighting, trash collection, electricity, traffic control); high incidence of crime; inadequate health care; or environmental hazards (such as toxic dumpsites or leaking underground tanks). If the jobs to be created by the proposed project are themselves designed to fill one or more of the needs so identified, this fact should be included in the discussion. (0–5 points)

(iii) *Community empowerment consideration.* Special consideration will be given to applicants who are located in areas which are characterized by poverty and other indicators of socio-economic distress such as a poverty rate of at least 20%, designation as an EZ/EC, high levels of unemployment, and high levels of incidences of violence, gang activity, crime, or drug use. Applicants should document that they were involved in the preparation and planned implementation of a comprehensive community-based strategic plan to achieve both economic and human development in an integrated manner and how the proposed project supports the goal(s) of that plan. (0–5 points)

Criterion III: Work Program (Maximum: 20 points)

The work plan and business plan(s), where appropriate, must be both sound and feasible. If the applicant is proposing to use project funds to provide technical and/or financial assistance for the establishment of an identified business, or to a third-party private employer to develop or expand a pre-identified business, the application must include a complete business plan (see ii, below). An application that does not include a business plan where one is appropriate may be disqualified and returned to the applicant.

The project must be responsive to the needs and problems identified in the Analysis of Need and Problems to be Addressed.

(i) *Work plan.* The work plan must describe the proposed project activities, or interventions, and explain how they are expected to result in outcomes which will meet the needs of the program participants and assist them to overcome the identified personal and systemic barriers to employment and self-sufficiency. In other words, what will the project staff do with the resources provided to the project and how will what they do (interventions) assist in the creation of employment and business opportunities for program participants in the face of the needs and problems that have been identified. The application should include a hypothesis or hypotheses that is (are) significant and include(s) the key interventions, and which permit(s) measurement of the extent to which the target population can achieve greater self-sufficiency as a result of its involvement in the project. The key interventions should include the types and sources of technical and financial assistance to be provided the participants, as well as any education, training, and support services and the problems or barriers they are designed to overcome. If the technical and/or financial assistance is to be provided to pre-identified businesses that will be expanded or franchised, written commitments from the businesses specifying their undertakings and levels of participation must be included with the application. The work program must set forth realistic quarterly time targets by which the various work tasks will be completed.

The application identifies and defines critical issues or potential problems that might impact negatively on the project and explains how they can be overcome and the project objectives reasonably attained despite such potential problems.

(ii) *Business plan (where required).* As noted above, a business plan is required whenever the applicant is proposing to establish a new, specific and identified business, or will be providing assistance to a private third-party private employer for the development or expansion of a pre-identified business. In these cases the business plan is one of the major components that will be evaluated by OCS to determine the feasibility of a jobs creation project.

Because the following guidelines were written to cover a variety of possibilities, rigid adherence to them is not possible nor even desirable for all projects. For example, a plan for a service business would not require a discussion of manufacturing nor product design.

With this understanding, the business plan should be prepared in accordance with the following guidelines:

1. *The business and its industry.* This section should describe the nature and history of the business and provide some background on its industry.

a. *The Business:* as a legal entity; the general business category;

b. *Description and Discussion of Industry:* Current status and prospects for the industry;

2. *Products and Services:* This section deals with the following:

a. *Description:* Describe in detail the products or services to be sold;

b. *Proprietary Position:* Describe proprietary features, if any, of the product, e.g. patents, trade secrets;

c. *Potential:* Features of the product or service that may give it an advantage over the competition;

3. *Market Research and Evaluation:* This section should present sufficient information to show that the product or service has a substantial market and can achieve sales in the face of competition;

a. *Customers:* Describe the actual and potential purchasers for the product or service by market segment.

b. *Market Size and Trends:* State the size of the current total market for the product or service offered;

c. *Competition:* An assessment of the strengths and weaknesses of competitive products and services;

d. *Estimated Market Share and Sales:* Describe the characteristics of the product or service that will make it competitive in the current market;

4. *Marketing Plan:* The marketing plan should detail the product, pricing, distribution, and promotion strategies that will be used to achieve the estimated market share and sales projections. The marketing plan must describe what is to be done, how it will be done and who will do it. The plan should address the following topics—Overall Marketing Strategy, Packaging, Service and Warranty, Pricing, Distribution and Promotion.

5. *Design and Development Plans:* If the product, process or service of the proposed venture requires any design and development before it is ready to be placed on the market, the nature and extent and cost of this work should be fully discussed. The section should cover items such as Development Status and Tasks, Difficulties and Risks, Product Improvement and New Products, and Costs.

6. *Manufacturing and Operations Plan:* A manufacturing and operations plan should describe the kind of facilities, plant location, space, capital equipment and labor force (part and/or full time and wage structure) that are required to provide the company's product or service.

7. *Management Team:* The management team is the key in starting and operating a successful business. The management team should be committed with a proper balance of technical, managerial and business skills, and experience in doing what is proposed. This section must include a description of: the key management personnel and their primary duties; compensation and/or ownership; the organizational structure; Board of Directors; management assistance and training needs; and supporting professional services.

8. *Overall Schedule:* A schedule that shows the timing and interrelationships of the major events necessary to launch the venture and realize its objectives. Prepare, as part of this section, a month-by-month schedule that shows the timing of such activities as product development, market planning, sales programs, and production and operations. Sufficient detail should be included to show the timing of the primary tasks required to accomplish each activity.

9. *Critical Risks and Assumptions:* The development of a business has risks and problems and the Business Plan should contain some explicit assumptions about them. Accordingly, identify and discuss the critical assumptions in the Business Plan and the major problems that will have to be solved to develop the venture. This should include a description of the risks and critical assumptions relating to the industry, the venture, its personnel, the product's market appeal, and the timing and financing of the venture.

10. *Community Benefits:* The proposed project must contribute to economic, community and human development within the project's target area.

11. *The Financial Plan:* The Financial Plan is basic to the development of a Business Plan. Its purpose is to indicate the project's potential and the timetable for financial self-sufficiency. In developing the Financial Plan, the following exhibits must be prepared for the first three years of the business' operation:

a. Profit and Loss Forecasts-quarterly for each year;

b. Cash Flow Projections-quarterly for each year;

c. Pro forma balance sheets-quarterly for each year;

d. Initial sources of project funds;

e. Initial uses of project funds; and

f. Any future capital requirements and sources.

(iii) *Facilities.* If the rearrangement or alteration of facilities will be required in implementing the project, the applicant has described and justified such changes.

Criterion IV: Significant and Beneficial Impact (Maximum: 20 points)

(i) *Quality of JOBS/business opportunities.* The proposed project is expected to produce permanent and measurable results that will reduce the incidence of poverty in the community. Expected results are quantifiable in terms of the creation of permanent, full-time jobs or business opportunities developed (or the creation of non-traditional employment opportunities in highway construction and maintenance or the machine tool industry). In developing business opportunities and self-employment for AFDC recipients and low-income individuals the applicant proposes, at a minimum, to provide basic business planning and management concepts, and assistance in preparing a business plan and loan package.

The application documents that:

—The business opportunities to be developed for eligible participants will contribute significantly to their progress toward self-sufficiency; and/or

—Jobs to be created for eligible participants will contribute significantly to their progress toward self-sufficiency; they provide, for example, wages that exceed the minimum wage, plus benefits such as health insurance, transportation, child care and career development opportunities. (0–15 points)

(ii) *Cost-per-job.* During the project period the proposed project will create new, permanent jobs through business opportunities or non-traditional employment opportunities for low-income residents at a cost-per-job below $15,000 in OCS funds, (e.g. cost per job is calculated by dividing the total amount of grant funds requested ($420,000) by the number of jobs to be created (60) which equals the cost-per-job ($7,000)). If any other calculations are used, please include your methodology in this section. [Note: Except in those instances where independent reviewers identify extenuating circumstances related to business development activities, the maximum number of points will be given only to those applicants proposing cost-per-job created estimates of $5,000 or less of OCS requested funds. Higher cost-per-job estimates will receive correspondingly fewer points.] (0–5 points)

Criterion V: Third-Party Evaluation (Maximum: 10 points)

A plan for a methodologically sound third-party (i.e. independent) evaluation of the demonstration project must be included in the application. Application indicates how the applicant will verify the extent to which the performance targets are achieved in this project.

The Evaluation Plan

—Includes a specific working definition of ''self-sufficiency'' (consistent with the broad definition contained in Part I) that permits the measurement of incremental progress of eligible individuals and their families from dependency toward self-sufficiency;

—Clearly defines the changes or benefits (outcomes) to be produced, the activities (interventions) that will produce the changes, and the measures of client progress toward self-sufficiency for which information will be collected (for example: increases in income, decreases in public assistance payments);

—Provides for the annual compilation of community-level data on the characteristics of the population in the project area, including percentage on public assistance, percentage below the poverty line,

unemployment rate, business starts and failures, and major employers;
—Provides for the conduct of a *continuing process evaluation.* This should include the periodic assessment of the following: client characteristics, pertinent policies and procedures; staffing; cooperative partnerships with state and local agencies; use of other community resources; client outreach and recruitment; client service delivery; cost of services; and, level of technical and financial assistance to employers. The types of data and information, measures and indicators to be used for the process evaluation, as well as the methods and timeframe for collecting and analyzing the required data should be indicated;
—Provides for the completion of two interim evaluation reports and a final report comprising both *process and outcome evaluation.* The final evaluation report will describe the program design and any changes from the original workplan, outreach and recruitment results, interventions, and accomplishments. The measurement instruments, data collection procedures, and analysis techniques should be discussed, and the report should yield conclusions as to how well the program works and why. It should also discuss the program's potential for replication in other communities; and
—Includes a realistic plan for disseminating the project findings to other interested organizations and public agencies.

Criterion VI: Public-Private Partnerships (Maximum: 10 points)

—The cooperative partnership arrangements are fully described and clearly relate to the objectives of the proposed project, and the activities include one or more of the mandatory or optional components of the State's JOBS program as described in Part II, Section A.
—In the case of projects involved in the creation of non-traditional employment opportunities in highway construction and maintenance or the machine tool industry, agreements with the appropriate partners (for example: highway departments, contractors, unions or businesses) should clearly identify the undertakings of each partner in terms of training, support, apprenticeships, career opportunities, and the like.
—The application documents that the applicant will mobilize from public and/or private sources cash and/or third-party in-kind contributions. Applications that document that the value of such contributions will be at least equal to the OCS funds requested, and demonstrate that the cooperative partnership arrangements clearly relate to the objectives of the proposed project, will receive the maximum number of points for this criterion. Lesser contributions will be given consideration based upon the value documented.
—Applicants should note that partnership relationships are not created via service delivery contracts; partners should be responsible for substantive project components or elements.
—The above requirements are also applicable to applications submitted in the area of non-traditional employment opportunities. (See Part II, A for minimum requirement to be included in the cooperative partnership agreement.)

Criterion VII: Budget Appropriateness and Reasonableness (Maximum: 5 points)

Funds requested are commensurate with the level of effort necessary to accomplish the goals and objectives of the project.

The application includes a detailed budget break-down for each of the budget categories in the SF–424A. The applicant presents a reasonable administrative cost if an indirect cost rate has not been negotiated with the cognizant Federal agency (See Part VI, Section B, Line 6j).

The estimated cost to the government of the project also is reasonable in relation to the anticipated results.

Part V—Application Procedures and Selection Process

A. Availability of Forms

Attachment B contains all of the standard forms necessary for the application for awards under this OCS program. This attachment and Parts VI and VII of this announcement contain all of the instructions required for submittal of applications. These forms may be photocopied for the application.

Copies of the **Federal Register** containing this announcement are available at most local libraries and Congressional District Offices for reproduction or accessible on the OCS Electronic Bulletin Board for downloading through your computer modem by calling 1–800–627–8886. If copies are not available at these sources, they may be obtained by writing or telephoning the office listed under the section entitled **FOR FURTHER INFORMATION** at the beginning of this announcement.

The applicant must be aware that in signing and submitting the application for this award, it is certifying that it will comply with the Federal requirements concerning the drug-free workplace and debarment regulations set forth in Attachments C and D.

Part VII, Section A contains instructions for the project narrative.

B. Application Submission

The closing date for submission of applications is noted under ''*CLOSING DATE*'' at the beginning of this Announcement.

1. *Deadlines.* Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date at the Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, SW., 6th Floor, (OCS–95–08) Washington, DC 20447, *Attention:* Maiso Bryant, or

b. Sent on or before the deadline date and received by the granting agency in time for them to be considered during the competitive review and evaluation process under Chapter 1–62 of the Health and Human Services Grants Administration Manual. (Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks are not acceptable as proof of timely mailing.)

2. *Applications submitted by other means.* Applications which are not submitted in accordance with the above criteria shall be considered as meeting the deadline only if they are physically received before the close of business on or before the deadline date. Hand delivered applications will be accepted at the Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 901 D Street SW., 6th Floor, ACF Guard Station, Washington, DC 20447 during the normal working hours of 8 a.m. to 4:30 p.m., Monday through Friday.

3. *Late Applications.* Applications which do not meet one of these criteria are considered late applications. The ACF Division of Discretionary Grants will notify each late applicant that its application will not be considered in this competition.

4. *Extension of Deadline.* The ACF may extend the deadline for all applicants because of acts of God such as floods, hurricanes, etc. or when there is a disruption of the mails. However, if the granting agency does not extend the deadline for all applicants, it may not

waive or extend the deadline for any applicant.

Applications once submitted are considered final and no additional materials will be accepted. One signed original application and four copies should be submitted.

C. Intergovernmental Review

This program is covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' and 45 CFR part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and Territories except Alabama, Alaska, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Minnesota, Montana, Nebraska, Oklahoma, Oregon, Pennsylvania, South Dakota, Virginia, Washington, American Samoa and Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs). Applicants from these nineteen jurisdictions need take no action regarding E.O. 12372. Applicants for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of E.O. 12372. Otherwise, applicants should contact their SPOCs as soon as possible to alert them of the prospective applications and receive any necessary instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has sixty (60) days from the application deadline to comment on proposed new or competing continuation awards.

SPOCS are encouraged to eliminate the submission of routine endorsements as official recommendations.

Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the ''accommodate or explain'' rule.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, SW., 6th Floor, Washington, DC 20447.

A list of the Single Points of Contact for each State and Territory is included as Attachment E of this announcement.

D. Application Consideration

Applications which meet the screening requirements in Part V, item E below will be reviewed competitively. Such applications will be referred to reviewers for a numerical score and explanatory comments based solely on responsiveness to the guidelines and evaluation criteria published in this announcement.

Applications will be reviewed by persons outside of the OCS unit which will be directly responsible for programmatic management of the grant. The results of these reviews will assist the Director and OCS program staff in considering competing applications. Reviewers' scores will weigh heavily in funding decisions but will not be the only factors considered. Applications generally will be considered in order of the average scores assigned by reviewers. However, highly ranked applications are not guaranteed funding since other factors are taken into consideration, including, but not limited to, the timely and proper completion of projects funded with OCS funds granted in the last five (5) years; comments of reviewers and government officials; staff evaluation and input; geographic distribution; previous program performance of applicants; compliance with grant terms under previous DHHS grants; audit reports; investigative reports; and applicant's progress in resolving any final audit disallowances on previous OCS or other Federal agency grants.

OCS reserves the right to discuss applications with other Federal or non-Federal funding sources to ascertain the applicant's performance record.

E. Criteria for Screening Applicants

1. Initial Screening

The receipt of applications that meet the published deadline for submission will be acknowledged in writing with an assigned identification number. This number, must be referenced in all subsequent communications concerning the application. If an acknowledgement is not received within three weeks after the deadline date, please notify ACF by telephone at (202) 401–9365.

All applications that meet the published deadline for submission will be screened to determine completeness and conformity to the requirements of this announcement. Only those applications meeting the following requirements will be reviewed and evaluated competitively. Others will be returned to the applicants with a notation that they were unacceptable.

a. The application must contain a Standard Form 424 *Application for Federal Assistance* (SF–424), a budget (SF–424A), and signed *Assurances* (SF–424B) completed according to instructions published in Part VI and Attachment B of this Program Announcement.

b. A project narrative must also accompany the standard forms. OCS requires that the narrative portion of the application be limited to 50 pages, typewritten on one side of the paper only with one-inch margins and type face no smaller than 10 characters per inch (cpi) or equivalent. Charts, exhibits, letters of support and cooperative agreements are not counted against this page limit. It is strongly recommended that you follow the format for the narrative in Part VII, A, 10.

c. The SF–424 and the SF–424B must be signed by an official of the organization applying for the grant who has authority to obligate the organization legally.

d. Application must contain documentation of the applicant's tax exempt status as required under Part I, Section B.

2. Pre-Rating Review

Applications which pass the initial screening will be forwarded to reviewers and/or OCS staff prior to the programmatic review to verify that the applications comply with this Program Announcement in the following areas:

a. *Eligibility:* Applicant meets the eligibility requirements described in Part I, Section B. Proof of non-profit status must be included in the Appendices to the Project Narrative (See Part VII, Section A, 11).

Applicants must also be aware that the applicant's legal name as required on the SF–424 (Item 5) *must match* that listed as corresponding to the Employer Identification Number (Item 6).

b. *Target Populations:* The application clearly targets the specific outcomes and benefits of the project to those types of low-income participants and beneficiaries described in Part III, Section A, Program Participants/ Beneficiaries.

c. *Grant Amount:* The amount of funds requested does not exceed the limits indicated in Part III, Section A, item 2.

d. *Cooperative Partnership Agreement.* The application contains a written agreement or letter of

commitment that includes, at a minimum, the activities cited in Part II, Section A. The agreement must be signed by an official of the State IV–A agency responsible for administering the JOBS program in the area to be served.

e. *Third-Party Project Evaluation.* A third-party project evaluation plan is included.

f. *Business Plan.* If a third-party private employer is part of the proposed project, a complete business plan is included in the application.

An application will be disqualified from the competition and returned if it does not conform to all of the above requirements.

Part VI—Instructions for Completing the SF–424

(Approved by the Office of Management and Budget under Control Number 0970–0062.)

The standard forms attached to this announcement shall be used to apply for funds under this program announcement.

It is suggested that you reproduce single-sided copies of the SF–424 and SF–424A, and type your application on the copies. Please prepare your application in accordance with instructions provided on the forms as well as with the OCS specific instructions set forth below:

A. SF–424—Application for Federal Assistance

Top of Page. Please enter the single priority area number under which the application is being submitted. An application should be submitted under only one priority area.

Item 1. For the purposes of this announcement, all projects are considered *Applications;* there are no *Pre-Applications.*

Prepare your application in accordance with the standard instructions given in Attachments B and C corresponding to the forms, as well as the OCS specific instructions set forth below:

Item 2. *Date Submitted* and *Applicant Identifier*—Date application is submitted to ACF and applicant's own internal control number, if applicable.

Item 3. *Date Received by State*—N/A

Item 4. *Date Received by Federal Agency*—Leave blank.

Items 5 and 6. The legal name of the applicant must match that listed as corresponding to the Employer Identification Number. Where the applicant is a previous Department of Health and Human Services grantee, enter the Central Registry System Employee Identification Number (CRS/EIN) and the Payment Identifying Number, if one has been assigned, in the Block entitled *Federal Identifier* located at the top right hand corner of the form.

Item 7. If the applicant is a non-profit corporation, enter *N* in the box and specify *non-profit* corporation in the space marked *Other.* Proof of non-profit status, such as IRS determination, Articles of Incorporation, or By-laws, must be included as an appendix to the project narrative.

Item 8. *Type of Application*—Please indicate the type of application.

Item 9. *Name of Federal Agency*—Enter DHHS–ACF/OCS.

Item 10. *The Catalog of Federal Domestic Assistance* number for OCS programs covered under this announcement is *93.647.* The title is *Social Services Research Demonstration.*

Item 11. In addition to a brief descriptive title of the project, indicate the priority area for which funds are being requested. Use the following letter designations:

JO—General Project
JS—Community Development Corporation Set-Aside

Item 12. *Areas Affected by Project*—List only the largest unit or units affected, such as State, county or city.

Item 13. *Proposed Project*—The ending date should be calculated based on a 72-month project period.

Item 14. *Congressional District of Applicant/Project*—Enter the number of the Congressional District where the applicant's principal office is located and the number of the Congressional district(s) where the project will be located.

Item 15a. This amount should be no greater than the amount specified under Part III, Availability of Funds and Grant Amounts.

Item 15b–e. These items should reflect both cash and third-party, in-kind contributions for the budget period requested.

Item 15f. N/A.

Item 15g. Enter the sum of Items 15a–15e.

B. SF–424A—Budget Information—Non-Construction Programs

See Instructions accompanying this form as well as the instructions set forth below:

In completing these sections, the *Federal Funds* budget entries will relate to the requested OCS funds only, and *Non-Federal* will include mobilized funds from all other sources—applicant, state, local, and other. Federal funds other than requested OCS funding should be included in *Non-Federal* entries.

Sections A, B, C and D of SF–424A should reflect budget estimates for the first budget period of the project.

Section A—Budget Summary

Lines 1–4

Col. (a):

Line 1—Enter *Social Services Research and Demonstration.*

Col. (b):

Line 1—Catalog of Federal Domestic Assistance number is 93.647

Col. (c) and (d):

Columns (c) and (d) are not relevant to this program and should not be completed.

Column (e)–(g):

For line 1, enter in columns (e), (f) and (g) the appropriate amounts needed to support the project. (Maximum $500,000)

Line 5—Enter the figures from Line 1 for all columns completed (e), (f), and (g).

Section B—Budget Categories

Please Note: This information supersedes the instructions provided following SF–424A.

Columns (1)–(5):

Column 1: Enter the *first* budget period of 12 months.

Column 2: Enter the *second* budget period of 12 months.

Column 3: Enter the third budget period of 12 months.

Column 4: Leave blank.

Column 5: Enter the total requirements for Federal funds by the Object Class Categories of this section.

Allocability of costs are governed by the cost principles set forth in OMB Circular A–122 and 45 CFR Part 74.

Budget estimates for national administrative costs must be supported by adequate detail for the grants officer to perform a cost analysis and review. Adequately detailed calculations for each budget object class are those which reflect estimation methods, quantities, unit costs, salaries, and other similar quantitative detail sufficient for the calculation to be duplicated. For any additional object class categories included under the object class *other* identify the additional object class(es) and provide supporting calculations.

Supporting narratives and justifications are required for each budget category, with emphasis on unique/special initiatives, large dollar amounts; local, regional, or other travels, new positions, major equipment purchases and training programs.

A detailed itemized budget with a separate budget justification for each major item should be included as indicated below:

Personnel-Line 6a. Enter the total costs of salaries and wages.

Justification: Identify the principal investigator or project director, if known. Specify by title or name the percentage of time allocated the project, the individual annual salaries, and the cost to the project of the organization's staff who will be working on the project. Do not include costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

Fringe Benefits—Line 6b. Enter the total costs of fringe benefits unless treated as part of an approved indirect cost rate which is entered on line 6j.

Justification: Provide a breakdown of amounts and percentages that comprise fringe benefit costs, such as health insurance, FICA, retirement insurance, taxes, etc.

Travel—Line 6c. Enter total costs of all travel by employees of the project. Do not enter costs for consultant's travel.

Justification: Include the total number of traveler(s), total number of trips, destinations, number of days, transportation costs and subsistence allowances. Travel costs to attend two national workshops in Washington, D.C. by the project director and the third-party evaluator should be included.

Equipment—Line 6d. Enter the total costs of all non-expendable personal property to be acquired by the project. *Non-expendable personal property* means tangible personal property having a unit cost of $5000 or more and having a useful life of one year.

Justification: Only equipment required to conduct the project may be purchased with Federal funds. The applicant organization or its subgrantees must not have such equipment, or a reasonable facsimile, available for use in the project. The justification also must contain plans for future use or disposal of the equipment after the project ends. An applicant may use its own definition of non-expendable personal property, provided that such a definition would at least include all tangible personal property as defined above. (See Line 21 for additional requirements).

Supplies—Line 6e. Enter the total costs of all tangible personal property (supplies) other than that included on line 6d.

Justification: Specify general categories of supplies and their costs.

Contractual—Line 6f. Enter the total costs of all contracts, including (1) the estimated cost of the third-party evaluation contract; travel costs for the chief evaluator to attend two national workshops in Washington, D.C. should be included; (2) procurement contracts (except those which belong on other lines such as equipment, supplies, etc.) and (3) contracts with secondary recipient organizations including delegate agencies and specific project(s) or businesses to be financed by the applicant.

Justification: Attach a list of contractors, indicating the names of the organizations, the purposes of the contracts, the estimated dollar amounts, and selection process of the awards as part of the budget justification. Also provide back-up documentation identifying the name of contractor, purpose of contract, and major cost elements.

Note: Whenever the applicant/grantee intends to delegate part of the program to another agency, the applicant/grantee must submit Sections A and B of this Form SF–424A, completed for each delegate agency by agency title, along with the required supporting information referenced in the applicable instructions.

The total costs of all such agencies will be part of the amount shown on Line 6f. Provide draft Request for Proposal in accordance with 45 CFR Part 74, Appendix H. Free and open competition is encouraged for any procurement activities planned using ACF grant funds. Prior approval is required when applicants anticipate evaluation procurements that will exceed $25,000 and are requesting an award without competition.

The applicant's procurement procedures should outline the type of advertisement appropriate to the nature and anticipated value of the contract to be awarded. Advertisements are typically made in city, regional, and local newspapers; trade journals; and/or through announcements by professional associations.

Construction—Line 6g. Not applicable.

Other—Line 6h. Enter the total of all other costs. Such costs, where applicable, may include but are not limited to insurance, food, medical and dental costs (noncontractual), fees and travel paid directly to individual consultants, space and equipment rentals, printing and publication, computer use, training costs, including tuition and stipends, training service costs including wage payments to individuals and supportive service payments, and staff development costs.

Total Direct Charges—Line 6i. Show the total of Lines 6a through 6h.

Indirect Charges—Line 6j. Enter the total amount of indirect costs. This line should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services or another cognizant Federal agency. With the exception of local governments, applicants should enclose a copy of the current rate agreement if it was negotiated with a cognizant Federal agency other than the Department of Health and Human Services. If the applicant organization is in the process of initially developing or renegotiating a rate, it should immediately upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the pertinent *DHHS Guide for Establishing Indirect Cost Rates,* and submit it to the appropriate DHHS Regional Office. Applicants awaiting approval of their indirect cost proposals may also request indirect costs.

It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool should not be also charged as direct costs to the grant.

Totals—Line 6k. Enter the total amounts of Lines 6i and 6j.

Program Income—Line 7. Enter the estimated amount of income, if any, expected to be generated from this project. Separately show expected program income generated from OCS support and income generated from other mobilized funds. Do not add or subtract this amount from the budget total. Show the nature and source of income in the program narrative statement.

Justification: Describe the nature, source and anticipated use of program income in the Program Narrative Statement.

Column 5: Carry totals from Column 1 to Column 5 for all line items.

Section C—Non-Federal Resources

This section is to record the amounts of *non-Federal* resources that will be used to support the project. *Non-Federal* resources mean those other than OCS funds. Therefore, mobilized funds from other Federal programs should be entered on these lines. Provide a brief listing of the non-Federal resources on a separate sheet and describe whether it is a grantee-incurred cost or a third-party in-kind contribution. The firm commitment of these resources must be documented and submitted with the application in order to be given credit in the Public-Private Partnerships criterion.

Except in unusual situations, this documentation must be in the form of letters of commitment from the organization(s)/individuals from which funds will be received.

Justification: Describe third-party, in-kind contributions, if included.

Grant Program—Line 8

Column (a): Enter the project title.
Column (b): Enter the amount of contributions to be made by the applicant to the project.
Column (c): Enter the State contribution. If the applicant is a State agency, enter the non-Federal funds to be contributed by the State other than the applicant.
Column (d): Enter the amount of cash and third-party in-kind contributions to be made from all other sources.
Column (e): Enter the total of columns (b), (c), and (d).
Grant Program—Lines 9, 10, and 11 should be left blank.
Grant Program—Line 12.
Carry the total of each column of Line 8, (b) through (e). The amount in Column (e) should be equal to the amount on Section A, Line 5, column (f).

Section D—Forecasted Cash Needs

Federal—Line 13. Enter the amount of Federal (OCS) cash needed for this grant, by quarter, during the first 12 month budget period.
Non Federal—Line 14. Enter the amount of cash from all other sources needed by quarter during the first 12-month budget period.
Totals—Line 15. Enter the total of Lines 13 and 14.

Section E—Budget Estimates of Federal Funds Needed for Balance of Project(s)

For new applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years).

Section F—Other Budget Information

Direct Charges—Line 21. Use this space and continuation sheets as necessary to fully explain and justify the major items included in the budget categories shown in Section B. Include sufficient detail to facilitate determination of allowability, relevance to the project, and cost benefits. Particular attention must be given to the explanation of any requested direct cost budget item which requires explicit approval by the Federal agency. Budget items which require identification and justification shall include, but not be limited to, the following:

A. Salary amounts and percentage of time worked for those key individuals who are identified in the project narrative;

B. Any foreign travel;

C. A list of all equipment and estimated cost of each item to be purchased wholly or in part with grant funds which meet the definition of nonexpendable personal property provided on Line 6d, Section B. Need for equipment must be supported in program narrative;

D. Contractual: major items or groups of smaller items; and

E. Other: group into major categories all costs for consultants, local transportation, space, rental, training allowances, staff training, computer equipment, etc. Provide a complete breakdown of all costs that make up this category.

Indirect Charges—Line 22. Enter the type of HHS or other cognizant Federal agency approved indirect cost rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied and the total indirect expense. Also, enter the date the rate was approved and attach a copy of the rate agreement.

Remarks—Line 23. Provide any other explanations and continuation sheets required or deemed necessary to justify or explain the budget information.

C. SF–424B Assurances—Non-Construction

All applicants must fill out, sign, date and return the *Assurances* with the application.

Part VII—Contents of Application and Receipt Process

A. Contents and Order of Application

Each application submission should include a signed original and four additional copies of the application. Each application should include the following in the order presented:

1. Table of Contents;
2. Completed Standard Form 424 which has been signed by an Official of the organization applying for the grant who has authority to obligate the organization legally. (Note: The original SF–424 must bear the original signature of the authorizing representative of the applicant organization.)
3. *Budget Information—Non-Construction Programs* (SF–424A);
4. A narrative budget justification for each object class category required under Section B, SF–424A;
5. Filled out, signed, and dated *Assurances—Non-Construction Programs* (SF–424B);
6. By signing and submitting this application, the applicant is certifying that it will comply with the Federal requirements concerning debarment regulations set forth in attachments E and F.
7. Restrictions on Lobbying, Certification for Contracts, Grants, Loans, and Cooperative Agreements: fill out, sign and date form found at Attachment H.
8. Disclosure of Lobbying Activities, SF–LLL: Filled out, signed, and dated form found at Attachment H, if appropriate.
9. Certification Regarding Environmental Tobacco Smoke—Signature on the application attests to the applicants intent to comply with the requirements of the Pro-Children Act of 1994. A signed form does not have to be returned with application.
10. An Executive Summary—not to exceed 300 words;
11. A Project Narrative consisting of the following elements preceded by a consecutively numbered Table of Contents that will describe the project in the following order:
(i) Eligibility Confirmation
(ii) Organizational Experience and Staff Responsibilities
(iii) Analysis of Need
(iv) Project Design/Work Program
(v) Business Plan (If appropriate)
(vi) Third-Party Evaluation
(vii) Cooperative Partnership Agreement
(viii) Budget Appropriateness and Reasonableness
12. Appendices—proof of non-profit status as outlined in Part I, Section B; proof that the organization is a community development corporation, if applying under the CDC Set-aside; commitments from officials of businesses that will be expanded or from franchises, where applicable; partnership agreement with State IV–A (JOBS Program) agency; Single Point of Contact comments, if applicable; Maintenance of Effort Certification and resumes.

The total number of pages for the narrative portion of the application package must not exceed 50 pages, excluding Appendices. Pages should be numbered sequentially throughout, excluding Appendices, beginning with the SF–424 as Page 1. The application may also contain letters that show collaboration or substantive commitments to the project by organizations other than the JOBS agency. Such letters are not part of the narrative and should be included in the Appendices. These letters are, therefore, not counted against the fifty page limit.

Applications must be uniform in composition since OCS may find it necessary to duplicate them for review purposes. Therefore, applications must be submitted on white 8½ x 11 inch paper only. They must not include colored, oversized or folded materials.

Do not include organizational brochures or other promotional materials, slides, films, clips, etc. in the proposal. They will be discarded if included. The applications should be two-hole punched at the top center and fastened separately with a compressor slide paper fastener, or a binder clip. The submission of bound applications, or applications enclosed in binders, is specifically discouraged.

Attachment J provides a checklist to applicants in preparing a complete application package.

B. Acknowledgement of Receipt

Applicants who meet the initial screening criteria outlined in Part V, Section E, 1, will receive an acknowledgement postcard with an assigned identification number. Applicants are requested to supply a self-addressed mailing label with their application which can be attached to this acknowledgement postcard. This number and the program letter code, i.e., JO or JS, must be referred to in all subsequent communications with OCS concerning the application. If an acknowledgement is not received within three weeks after the deadline date, please notify ACF by telephone (202) 401–9234.

Part VIII—Post Award Information and Reporting Requirements

Following approval of the applications selected for funding, notice of project approval and authority to draw down project funds will be made in writing. The official award document is the Financial Assistance Award which provides the amount of Federal funds approved for use in the project, the project and budget period for which support is provided, the terms and conditions of the award, and the total project period for which support is contemplated.

Project directors and chief evaluators will be required to attend two national evaluation workshops in Washington, D.C. A program development and evaluation workshop will be scheduled shortly after the effective date of the grant. They also will be required to attend, as presenters, the final evaluation workshop on utilization and dissemination to be held at the end of the project period.

Grantees will be required to submit semi-annual progress and financial reports (SF–269) as well as a final progress and financial report within 90 days of the expiration of the grant. Interim evaluation reports, along with a written policies and procedures manual based on the findings of the process evaluation, will be due 30 days after the first twelve months, and the second interim evaluation 30 days after the second twelve months, and a final evaluation report will be due 90 days after the expiration of the grant. This final report will cover 36 months of activities related to project participants. Reporting requirements for the remaining 36 months of the project period will be provided during the solicitation of applications.

Grantees are subject to the audit requirements in 45 CFR Parts 74 (non-profit organization) and OMB Circular A–133.

Section 319 of Public Law 101–121, signed into law on October 23, 1989, imposes new prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans. It provides limited exemptions for Indian tribes and tribal organizations. Current and prospective recipients (and their subtier contractors and/or grantees) are prohibited from using appropriated funds for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement or loan. In addition, for each award action in excess of $100,000 (or $150,000 for loans) the law requires recipients and their subtier contractors and/or subgrantees (1) to certify that they have neither used nor will use any appropriated funds for payment to lobbyists, (2) to submit a declaration setting forth whether payments to lobbyists have been or will be made out of non-appropriated funds and, if so, the name, address, payment details, and purpose of any agreements with such lobbyists whom recipients or their subtier contractors or subgrantees will pay with the *non-appropriated* funds and (3) to file quarterly up-dates about the use of lobbyists if an event occurs that materially affects the accuracy of the information submitted by way of declaration and certification. The law establishes civil penalties for noncompliance and is effective with respect to contracts, grants, cooperative agreements and loans entered into or made on or after December 23, 1989. See Attachment F for certification and disclosure forms to be submitted with the applications for this program.

Attachment G indicates the regulations which apply to all applicants/grantees under the Job Opportunities for Low-Income Individuals Program.

Dated: February 24, 1995.

Donald Sykes,

Director, Office of Community Services.

ATTACHMENT A.—1995 POVERTY INCOME GUIDELINES FOR ALL STATES (EXCEPT ALASKA AND HAWAII) AND THE DISTRICT OF COLUMBIA

Size of family unit	Poverty guideline
1	$7,470
2	10,030
3	12,590
4	15,150
5	17,710
6	20,270
7	22,830
8	25,390

For family units with more than 8 members, add $2,560 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)

POVERTY INCOME GUIDELINES FOR ALASKA

Size of family unit	Poverty guideline
1	$9,340
2	12,540
3	15,740
4	18,940
5	22,140
6	25,340
7	28,540
8	31,740

For family units with more than 8 members, add $3,200 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)

POVERTY GUIDELINES FOR HAWAII

Size of family unit	Poverty guideline
1	$8,610
2	11,550
3	14,490
4	17,430
5	20,370
6	23,310
7	26,250
8	29,190

For family units with more than 8 members, add $2,940 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)

BILLING CODE 4184–01–P

Attachment B

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: *Application* ☐ Construction ☐ Non-Construction *Preapplication* ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, state, and zip code)*:	Name and telephone number of the person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER (EIN):

8. TYPE OF APPLICATION: ☐ New ☐ Continuation ☐ Revision If Revision, enter appropriate letter(s) in box(es): ☐ ☐ A. Increase Award B. Decrease Award C. Increase Duration D. Decrease Duration Other *(specify)*:	**7. TYPE OF APPLICANT:** *(enter appropriate letter in box)* ☐ A. State H. Independent School Dist. B. County I. State Controlled Institution of Higher Learning C. Municipal J. Private University D. Township K. Indian Tribe E. Interstate L. Individual F. Intermunicipal M Profit Organization G. Special District N. Other (Specify): _____
	9. NAME OF FEDERAL AGENCY:
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐ - ☐☐☐ TITLE:	**11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:**
12. AREAS AFFECTED BY PROJECT *(cities, counties, states, etc.)*:	

13. PROPOSED PROJECT:		**14. CONGRESSIONAL DISTRICTS OF:**	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:		**16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?**
a. Federal	$ .00	a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE _____
b. Applicant	$ .00	
c. State	$ .00	b NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372
d. Local	$ .00	☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW
e. Other	$ .00	
f. Program Income	$ .00	**17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?**
g. TOTAL	$ .00	☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

BILLING CODE 4184–01–C

Instructions for the SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry

1. Self-explanatory.

2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).

3. State use only (if applicable).

4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.

5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.

6. Enter Employer identification Number (EIN) as assigned by the Internal Revenue Service.

7. Enter the appropriate letter in the space provided.

8. Check appropriate box and enter appropriate letter(s) in the space(s) provided.

—''New'' means a new assistance award.

—''Continuation'' means an extension for an additional funding/budget period for a project with a projected completion date.

—''Revision'' means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.

9. Name of Federal agency from which assistance is being requested with this application.

10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is required.

11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

12. List only the largest political entities affected (e.g., State, counties, cities).

13. Self-explanatory.

14. List the applicant's Congressional District and any District(s) affected by the program or project.

15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.

16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.

17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.

18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BILLING CODE 4184–01–M

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (4-88)
Prescribed by OMB Circular A-102

BILLING CODE 4184-01-C

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:
23. Remarks	

SF 424A (4-88) Page 2
Prescribed by OMB Circular A-102

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Instructions for the SF–424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a–k of Section B.

Section A. Budget Summary Lines 1–4, Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in *Column* (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4, Columns (c) through (g.)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Column (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provided for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the totals for all columns used.

Section B. Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a–i—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost.

Line 6k—Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)–(4). Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal Resources

Lines 8–11—Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals of Column (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)–(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16–19—Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to compete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)–(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

Assurances—Non-Construction Programs

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88–352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), which prohibits discrimination on the basis of age;

(e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd–3 and 290 ee–3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to non-discrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a–7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91–190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93–523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93–205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a–l et seq.).

14. Will comply with P.L. 93–348 regarding the protection of human subjects involved in research,

development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89–544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

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Attachment C

U.S. Department of Health and Human Services
Certification Regarding Drug-Free Workplace Requirements
Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the May 25, 1990 Federal Register, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the Department of Health and Human Services (HHS) determines to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HHS, in addition to any other remedies available to the Federal Government, may taken action authorized under the Drug-Free Workplace Act. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment.

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios.)

If the workplace identified to HHS changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see above).

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 USC 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15).

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace; (2) The grantee's policy of maintaining a drug-free workplace; (3) Any available drug counseling, rehabilitation, and employee assistance programs; and, (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and, (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or, (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant (use attachments, if needed):

Place of Performance (Street address, City, County, State, ZIP Code)_____

Check ___ *if there are workplaces on file that are not identified here.*

Sections 76.630(c) and (d)(2) and 76.635(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central receipt point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, S.W., Washington, D.C. 20201.

DGMO Form#2 Revised May 1990

Attachment D—Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR Part 76, certifies to the best of its knowledge and believe that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

(b) have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State of local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) have not within a 3-year period preceding this application proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Service (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled ''Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transaction.'' provided below without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (To Be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

(b) where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled ''certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions.'' without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Attachment E—Executive Order 12372—State Single Points of Contact

Arizona

Mrs. Janice Dunn, Attn: Arizona State Clearinghouse, 3800 N. Central Avenue, 14th Floor, Phoenix, Arizona 85012, Telephone (602) 280–1315

Arkansas

Tracie L. Copeland, Manager, State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, P.O. Box 3278, Little Rock, Arkansas 72203, Telephone (501) 682–1074

California

Glenn Stober, Grants Coordinator, Office of Planning and Research, 1400 Tenth Street, Sacramento, California 95814, Telephone (916) 323–7480

Delaware

Ms. Francine Booth, State Single Point of Contact, Executive Department, Thomas Collins Building, Dover, Delaware 19903, Telephone (302) 736–3326

District of Columbia

Rodney T. Hallman, State Single Point of Contact, Office of Grants Management and Development, 717 14th Street, NW., Suite 500, Washington, DC 20005, Telephone (202) 727–6551

Florida

Florida State Clearinghouse, Intergovernmental Affairs Policy Unit, Executive Office of the Governor, Office of Planning and Budgeting, The Capitol, Tallahassee, Florida 32399–0001, Telephone (904) 488–8441

Georgia

Mr. Charles H. Badger, Administrator, Georgia State Clearinghouse, 254 Washington Street SW., Atlanta, Georgia 30334, Telephone (404) 656–3855

Illinois

Steve Klokkenga, State Single Point of Contact, Office of the Governor, 107 Stratton Building, Springfield, Illinois 62706, Telephone (217) 782–1671

Indiana

Jean S. Blackwell, Budget Director, State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Telephone (317) 232–5610

Iowa

Mr. Steven R. McCann, Division of Community Progress, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone (515) 281–3725

Kentucky

Ronald W. Cook, Office of the Governor, Department of Local Government, 1024 Capitol Center Drive, Frankfort, Kentucky 40601, Telephone (502) 564–2382

Maine

Ms. Joyce Benson, State Planning Office, State House Station #38, Augusta, Maine 04333, Telephone (207) 289–3261

Maryland

Ms. Mary Abrams, Chief, Maryland State Clearinghouse, Department of State Planning, 301 West Preston Street, Baltimore, Maryland 21201–2365, Telephone (301) 225–4490

Massachusetts

Karen Arone, State Clearinghouse, Executive Office of Communities and Development, 100 Cambridge Street, Room 1803, Boston, Massachusetts 02202, Telephone (617) 727–7001

Michigan

Richard S. Pastula, Director, Michigan Department of Commerce, Lansing, Michigan 48909, Telephone (517) 373–7356

Mississippi

Ms. Cathy Mallette, Clearinghouse Officer, Office of Federal Grant Management and Reporting, 301 West Pearl Street, Jackson, Mississippi 39203, Telephone (601) 960–2174

Missouri

Ms. Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, P.O. Box 809, Room 430, Truman Building, Jefferson City, Missouri 65102, Telephone (314) 751–4834

Nevada

Department of Administration, State Clearinghouse, Capitol Complex, Carson City, Nevada 89710, Telephone (702) 687–4065, Attention: Ron Sparks, Clearinghouse Coordinator

New Hampshire

Mr. Jeffrey H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review, Process/James E. Bieber, 2½ Beacon Street, Concord, New Hampshire 03301, Telephone (603) 271–2155

New Jersey

Gregory W. Adkins, Acting Director, Division of Community Resources, N.J. Department of Community Affairs, Trenton, New Jersey 08625–0803, Telephone (609) 292–6613

Please direct correspondence and questions to: Andrew J. Jaskolka, State Review Process, Division of Community Resources, CN 814, Room 609, Trenton, New Jersey 08625–0803, Telephone (609) 292–9025

New Mexico

George Elliott, Deputy Director, State Budget Division, Room 190, Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone (505) 827–3640, FAX (505) 827–3006

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Telephone (518) 474–1605

North Carolina

Mrs. Chrys Baggett, Director, Office of the Secretary of Admin., N.C. State Clearinghouse, 116 W. Jones Street, Raleigh, North Carolina 27603–8003, Telephone (919) 733–7232

North Dakota

N.D. Single Point of Contact, Office of Intergovernmental Assistance, Office of Management and Budget, 600 East Boulevard Avenue, Bismarck, North Dakota 58505–0170, Telephone (701) 224–2094

Ohio

Larry Weaver, State Single Point of Contact, State/Federal Funds Coordinator, State Clearinghouse, Office of Budget and Management, 30 East Broad Street, 34th Floor, Columbus, Ohio 43266–0411, Telephone (614) 466–0698

Rhode Island

Mr. Daniel W. Varin, Associate Director, Statewide Planning Program, Department of Administration, Division of Planning, 265 Melrose Street, Providence, Rhode Island 02907, Telephone (401) 277–2656

Please direct correspondence and questions to: Review Coordinator, Office of Strategic Planning

South Carolina

Omeagia Burgess, State Single Point of Contact, Grant Services, Office of the Governor, 1205 Pendleton Street, Room 477, Columbia, South Carolina 29201, Telephone (803) 734–0494

Tennessee

Mr. Charles Brown, State Single Point of Contact, State Planning Office, 500 Charlotte Avenue, 309 John Sevier Building, Nashville, Tennessee 37219, Telephone (615) 741–1676

Texas

Mr. Thomas Adams, Governor's Office of Budget and Planning, P.O. Box 12428, Austin, Texas 78711, Telephone (512) 463–1778

Utah

Utah State Clearinghouse, Office of Planning and Budget, ATTN: Carolyn Wright, Room 116 State Capitol, Salt Lake City, Utah 84114, Telephone (801) 538–1535

Vermont

Mr. Bernard D. Johnson, Assistant Director, Office of Policy Research & Coordination, Pavilion Office Building, 109 State Street, Montpelier, Vermont 05602, Telephone (802) 828–3326

West Virginia

Mr. Fred Cutlip, Director, Community Development Division, West Virginia Development Office, Building #6, Room 553, Charleston, West Virginia 25305, Telephone (304) 348–4010

Wisconsin

Mr. William C. Carey, Federal/State Relations, Wisconsin Department of Administration, 101 South Webster Street, P.O. Box 7864, Madison, Wisconsin 53707, Telephone (608) 266–0267

Wyoming

Sheryl Jeffries, State Single Point of Contact, Herschler Building, 4th Floor, East Wing, Cheyenne, Wyoming 82002, Telephone (307) 777–7574

Guam

Mr. Michael J. Reidy, Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950, Agana, Guam 96910, Telephone (671) 472–2285

Northern Mariana Islands

State Single Point of Contact, Planning and Budget Office, Office of the Governor, Saipan, CM, Northern Mariana Islands 96950

Puerto Rico

Norma Burgos/Jose H. Caro, Chairman/Director, Puerto Rico Planning Board, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940–9985, Telephone (809) 727–4444

Virgin Islands

Jose L. George, Director, Office of Management and Budget, #41 Norregade Emancipation Garden Station, Second Floor, Saint Thomas, Virgin Islands 00802, Please direct correspondence to: Linda Clarke, Telephone (809) 774–0750.

Attachment F—Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee

of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form–LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

State for Loan Guarantee and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form–LLL ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the require statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

_____

Signature

_____

Title

_____

Organization

_____

Date

BILLING CODE 4184–01–M

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OI
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action: ☐ a. contract ☐ b. grant ☐ c. cooperative agreement ☐ d. loan ☐ e. loan guarantee ☐ f. loan insurance	**2. Status of Federal Action:** ☐ a. bid/offer/application ☐ b. initial award ☐ c. post-award	**3. Report Type:** ☐ a. initial filing ☐ b. material change **For Material Change Only:** year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity: ☐ Prime ☐ Subawardee Tier _____ *if known*: **Congressional District**, *if known*:	**5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:** **Congressional District**, *if known*:
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	**9. Award Amount**, *if known*: $
10. a. Name and Address of Lobbying Entity *(if individual, last name, first name, MI)*:	**b. Individuals Performing Services** *(including address if different from No. 10a)* *(last name, first name, MI)*:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment *(check all that apply)*: $ _____ ☐ actual ☐ planned	**13. Type of Payment** *(check all that apply)*: ☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify: _____
12. Form of Payment *(check all that apply)*: ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____	

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	**Signature:** _____ **Print Name:** _____ **Title:** _____ **Telephone No.:** _____ **Date:** _____

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BILLING CODE 4184–01–C

Attachment G—DHHS Regulations Applying to All Applicants/Grantees Under the Job Opportunities for Low-Income Individuals Program

Title 45 of the *Code of Federal Regulations:*

Part 16—Department of Grant Appeals Process
Part 74—Administration of Grants (non-governmental)
Part 74—Administration of Grants (state and local governments and Indian Tribal affiliates):
Sections 74.62(a) Non-Federal Audits
74.173 Hospitals
74.174(b) Other Nonprofit Organizations
74.304 Final Decisions in Disputes
74.710 Real Property, Equipment and Supplies
74.715 General Program Income
Part 75—Informal Grant Appeal Procedures
Part 76—Debarment and Suspension from Eligibility for Financial Assistance; Subpart F—Drug Free Workplace Requirements
Part 80—Non-Discrimination Under Programs Receiving Federal Assistance through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act of 1964
Part 81—Practice and Procedures for Hearings Under Part 80 of this Title
Part 83—Non-discrimination on the basis of sex in the admission of individuals to training programs
Part 84—Non-discrimination on the Basis of Handicap in Programs
Part 91—Non-discrimination on the Basis of Age in Health and Human Services Programs or Activities Receiving Federal Financial Assistance
Part 92—Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local Governments (**Federal Register**, March 11, 1988)
Part 93—New Restrictions on Lobbying
Part 100—Intergovernmental Review of Department of Health and Human Services Programs and Activities

Attachment H—Certification Regarding Maintenance of Effort

The undersigned certifies that:

(1) activities funded under this program announcement are in addition to, and not in substitution for, activities previously carried on without Federal assistance.

(2) funds or other resources currently devoted to activities designed to meet the needs of the poor within a community, area, or State have not been reduced in order to provide the required matching contributions.

When legislation for a particular block grant permits the use of its funds as match, the applicant must show that it has received a real increase in its block grant allotment and must certify that other anti-poverty programs will not be scaled back to provide the match required for this project.

_____
Organization

_____
Authorized Signature

_____
Title

_____
Date

Attachment I—Department of Health & Human Services Administration for Children and Families, Office of Family Assistance, Washington, DC 20447

February 1994

Jobs Program Directory

Alabama

Claire Ealy, Director, Office of Work and Training Services, Public Assistance Division, S. Gordon Persons Building, 50 Ripley Street, Montgomery, Alabama 36130, (205) 242–1950

Alaska

Charles Knittel, Work Programs Coordinator, Division of Public Assistance, Department of Health and Social Service, P.O. Box 110640, Juneau, Alaska 99811–0640, (907) 465–3347

Arizona

Gretchen Evans, JOBS Program Director, Dept. of Economic Security, P.O. Box 6123, Site Code 8011, Phoenix, Arizona 85005, (602) 542–6310

Arkansas

Ken Whitlock, Deputy Director, Project SUCCESS, Department of Human Services, P.O. Box 1437, Little Rock, Arkansas 72203, (501) 682–8375

California

Bruce Wagstaff, Chief, Employment & Immigrations Programs Branch, Department of Social Services, 744 P Street M/S 6–700, Sacramento, California 95814, (916) 657–2367

Colorado

Bob Henson, Director, Work Programs, Department of Social Services, 1575 Sherman Street, Denver, Colorado 80203, (303) 866–2643

Connecticut

Dawn Homer-Bouthiette, Planning Supervisor, Job Connection, Department of Social Services, 110 Bartholomew Avenue, Hartford, Connecticut 06106, (203) 566–7125

Delaware

Rebecca Varella, Chief Administrator, Employment and Training, Division of Social Services, P.O. Box 906, New Castle, Delaware 19720, (302) 577–4451

District of Columbia

Shari Curtis, Chief, Bureau of Training and Employment, Department of Human Services, 33 N Street NE., Washington, DC 20001, (202) 727–1293

Florida

Reggis Smith, Chief, Benefit Recovery and Special Programs, Department of Health and Rehabilitative Services, 1317 Winewood Boulevard, Bldg. 6, Tallahassee, Florida 32399–0700, (904) 487–2966

Georgia

Sylvia Elam, Chief, Employment Services Unit, Division of Family and Children Services, Department of Human Resources, 2 Peachtree St., 14th Floor, Room 402, Atlanta, Georgia 30303, (404) 657–3737

Guam

Diana Calvo, Social Services Supervisor, Department of Public Health and Social Services, P.O. Box 2816, Agana, Guam 96910, (011–671) 734–7286

Hawaii

Garry Kemp, Special Assistant to the Director, Department of Human Services, P.O. Box 339, Honolulu, Hawaii, 96809, (808) 586–7054

Idaho

Kathy James, Acting Bureau Chief, Bureau of Family Self Support, Department of Health and Welfare, 450 West State Street, Boise, Idaho 83720, (208) 334–5704

Illinois

Karan Maxson, Administrator, Division of Planning and Community Services, Department of Public Aid, 100 S. Grand, 2nd Floor, Springfield, Illinois 62762, (217) 785–3300

Indiana

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Iowa

Doug Howard, Coordinator, Employment and Training Programs,

Department of Human Services, Fifth Floor, Hoover State Office Building, Des Moines, Iowa 50319, (515) 281–8629

Kansas

Phyllis Lewin, Director, Employment Preparation Services, Department of Social and Rehabilitation Services, 300 SW Oakley, West Hall, Topeka, Kansas 66606, (913) 296–4276

Kentucky

Sharon Perry, Assistant Director, Center for Program Development, Department of Social Insurance, Cabinet for Human Resources, 275 E. Main Street, Frankfurt, Kentucky 40621, (502) 564–3703

Louisiana

Howard Prejean, Assistant Secretary, Department of Social Services, Office of Eligibility Determination, P.O. Box 3776, Baton Rouge, Louisiana 70821, (504) 342–4953

Maine

Barbara Van Burgel, ASPIRE Coordinator, Bureau of Income Maintenance, Department of Human Services, Statehouse Station #11, 32 Winthrop St., Augusta, Maine 04333, (207) 289–3106

Maryland

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Massachusetts

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Michigan

Alex D. Hawkins, Director, Job Skills Development Group, Michigan Jobs Commission, 201 North Washington Square, Third floor, Victor Centre, Lansing, Michigan 48913, (517) 373–7382

Minnesota

Bonnie Baker, Supervisor, Program Development, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155, (612) 296–2499

Mississippi

Jean Temple, Director, JOBS Branch, Office of Children & Youth, Department of Human Services, 421 W. Pascagoula, Jackson, Mississippi 29302, (601) 359–4855

Missouri

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Montana

Marylis Filipovich, Bureau Chief, Program & Policy, Department of Social and Rehabilitation Services, P.O. Box 4210, Helena, Montana 59604, (406) 444–4540

Nebraska

Margaret Hall, Public Assistance Administrator, Public Assistance Division, Department of Social Services, 301 Centennial Mall South, P.O. Box 95026, Lincoln, Nebraska 68509, (402) 471–3121

Nevada

John Alexander, Employment & Training Coordinator, Nevada State Welfare Division, Capitol Complex, 2527 North Carson Street, Carson City, Nevada 89710, (702) 687–4143

New Hampshire

Arthur Chicaderis, JOBS Administrator, Employment Support Services, Office of Economic Services, Division of Human Services, Department of Health and Human Services, 6 Hazen Drive, Concord, New Hampshire 03301–6521, (603) 271–4249

New Jersey

Marion E. Reitz, Director, Division of Family Development, Department of Human Services, CN 716, Trenton, New Jersey 08625, (609) 588–2401

New Mexico

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New York

Jack Ryan, Director, Bureau of Employment Programs, Department of Social Services, 40 North Pearl Street, Albany, New York 12243, (518) 473–8744

North Carolina

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North Dakota

Gloria House, JOBS Coordinator, Director of Public Assistance, Department of Human Services, State Capitol, New Wing 3rd Floor, Bismark, North Dakota 58505, (701) 224–4001

Ohio

Mary L. Harris, Deputy Director, Family Support and JOBS, Department of Human Services, State Office Tower, 31st Floor, 30 East Broad Street, Columbus, Ohio 43266–0423, (614) 466–3196

Oklahoma

Raymond Haddock, Division Administrator, Family Services Division, Department of Human Services, P.O. Box 25352, Oklahoma City, Oklahoma 73125, (405) 521–3076

Oregon

Debbi White, JOBS Program Manager, Adult and Family Services Division, Human Resource Bldg, 2nd Floor, Salem, Oregon 97310–1013, (503) 945–6127

Pennsylvania

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Puerto Rico

Migdalia Marrero, Special Asst. to Secretary, SOSEDF, Isla Grande, Building #10, P.O. Box 11398, Santurce, Puerto Rico 00910, (809) 722–2863

Rhode Island

Sherry Campanelli, Associate Director, Community Services, Department of Human Services, 600 New London Avenue, Cranston, Rhode Island 02920, (401) 464–2423

South Carolina

Hiram Spain, Executive Assistant for Self-Sufficiency, Department of Social Services, P.O. Box 1520, Columbia, South Carolina 29202, (803) 737–5937

South Dakota

Julie Osnes, Administrator, Office of Family Independence, Department of Social Services, Richard F. Kneip Building, Pierre, South Dakota 57501, (605) 773–3493

Tennessee

Wanda Moore, Director of Program Services, Department of Human Services, 12th Floor, 400 Deadericks, Nashville, Tennessee 37219, (615) 741–6953

Texas

Irma Bermea, Deputy Commissioner, Department of Human Services, Mail Code 521E, P.O. Box 2960, Austin, Texas 78769, (512) 450–3011

Utah

Helen Thatcher, Assistant Director, Office of Family Support, Department of Human Services, 120 North 200 West, Salt Lake City, Utah 84145–0500, (801) 538–8231

Vermont

Steve Gold, Director, REACH-UP Program, Department of Social Welfare, State Office Building, 103 South Main Street, Waterbury, Vermont 05676, (802) 241–2800

Virgin Islands

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Virginia

David Olds, Program Manager, Employment Services, Department of Social Services, 730 E. Broad St, 2nd Floor, Richmond, Virginia 23219–1849, (804) 692–1229

Washington

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West Virginia

Sharon Paterno, Director, Division of Work and Training, Department of Health and Human Services, Building 6, State Office Complex, Charleston, West Virginia 25305, (304) 558–3186

Wisconsin

Jean Rogers, Administrator, Division of Economic Support, Department of Health and Social Services, P.O. Box 7935, 1 West Wilson Street, Madison, Wisconsin 53707–7935, (608) 266–3035

Wyoming

Kirk McKinney, JOBS Coordinator, Self-Sufficiency Division, Department of Family Services, Hathaway Building, Rm 347, 2300 Capitol Avenue, Cheyenne, Wyoming 82002–0710, (307) 777–6849

Attachment J: Checklist for Use in Submitting OCS Grant Applications Job Opportunities for Low-Income Individuals (Optional)

The application should contain:

1. Table of Contents

2. A completed, *signed* SF–424, *Application for Federal Assistance.* The letter code for the priority area (JO) should be in the lower right-hand corner of the page.

3. A completed SF–424A, *Budget Information—Non-Construction.*

4. A narrative budget justification for each object class category required under Section B, SF–424A;

5. Filled out signed, and dated *Assurances—Non-Construction Programs* (SF–424B);

6. The applicant should sign Attachments E and F. In so doing, the applicant is certifying that it will comply with the Federal requirements concerning the drug-free workplace and debarment regulations set forth in Attachments E.

7. A *signed* copy of *Certification Regarding Anti-Lobbying Activities.*

8. A completed Disclosure of Lobbying Activities, if applicable.

9. An Executive Summary—not to exceed 300 words;

10. A Project Narrative beginning with a Table of Contents that describes the project in the following order:

(1) Eligibility Confirmation

(ii) Organizational Experience and Staff Responsibilities

(iii) Analysis of Need

(iv) Project Design/Work Program

(v) Business Plan (If appropriate)

(vi) Third-Party Evaluation

(vii) Cooperative Partnership Agreement

(viii) Budget Appropriateness and Reasonableness

11. Appendices, including proof of non-profit status; proof that the organization is a community development corporation, if applying under the CDC Set-aside; a *signed* copy of the Cooperative Partnership Agreement or letter of commitment with State IV–A agency (JOBS Program); commitments from officials of businesses that will be expanded or from franchises, where applicable; Single Point of Contact comments, if applicable; Maintenance of Effort Certification and resumes.

12. A self-addressed mailing label which can be affixed to a postcard to acknowledge receipt of application.

Attachment K

Federal Highway Administration, Regional Civil Rights Directors

Region One—Includes CT, ME, MA, NH, NJ, NY, RI, VT, Puerto Rico, and the Virgin Islands
Mr. Dennis Perrott
Albany, NY
(518) 431–4224, ext. 247

Region Three—Includes DE, DC, MD, PA, VA, WV
Ms. Jo Blackstone
Baltimore, MD
(410) 962–4030

Region Four—Includes AL, FL, GA, KY, MS, NC, SC, TN
Mr. Charles Stinson
Atlanta, GA
(404) 347–4791

Region Five—Includes IL, IN, MI, MN, OH, WI
Mr. Joe Forst
Olympia Fields, IL
(708) 283–3924

Region Six—Includes AR, LA, NM, OK, TX
Mr. Humberto Martinez
Fort Worth, TX
(817) 334–3671

Region Seven—Includes IA, KS, MO, NE
Mr. Glen Smith
Kansas City, MO
(816) 276–2747

Region Eight—Includes CO, MT, ND, SD, UT, WY
Ms. Teresa Banks
Lakewood, CO

Region Nine—Includes AZ, CA, HI, NV, Guam, and American Samoa
Mr. Harold Dorell
San Francisco, CA
(415) 744–3114

Region Ten—Includes AK, ID, OR, WA
Mr. Willie Harris
Portland, OR
(503) 326–2067

Attachment L—Certification Regarding Environmental Tobacco Smoke

Public Law 103–227, Part C—Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor routinely owned or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residence, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment.

Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1000 per day and/or the imposition of an administrative compliance order on the responsible entity.

By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act. The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for the children's services and that all subgrantees shall certify accordingly.

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